

## **FCS Response to Ofcom's Proposed Annual Plan 2018/19**

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### **Introduction**

The Federation of Communication Services represents companies which provide professional communications solutions to business users. Our members deliver telecommunications services via mobile and fixed line telephony networks, broadband, satellite, wi-fi and business radio. Our members' customers range from SMEs, home-workers and micro-businesses up to the very largest national and international private enterprises and public sector users. FCS is the largest trade organisation in the professional communications arena, representing the interests of around 350 businesses who supply B2B services nationwide.

### **Overview**

We are at a time of huge change in the communications marketplace: technologies are evolving and demands from business and residential consumers are increasing. With the PSTN "switch-off" only a few years away, it is vital that Ofcom does all it can to encourage the growth of full-fibre and ensures it does what it can to prevent anti-competitive behaviour as the fibre market develops.

### **Network Investment and Competition**

FCS members provide connectivity to thousands of SMEs across the UK. SMEs account for 60% of private sector employment and 47% of private sector turnover and it is vital that they have the tools required to work efficiently and boost the economy. The DCMS recognised the worth of the Broadband Voucher Scheme and the many positive outcomes generated which included:

42,500 small firms being able to substantially improve their internet connection: on average new services were 18 times faster.

The UK benefitting by at least £8 for every £1 spent.

One in four firms employing an extra full-time member of staff and each made an average of £1,300 more profit per annum, through being more efficient and effective, and providing more reliable and faster delivery of goods and services.

The FCS supports the development of FTTP as the technology of choice and our members work actively with the altnets in this area. The ability to compete needs to be assured, as does the knowledge that overbuilding will not be acceptable. We look forward to a future where coordination between industry players allows for consumer switching across platforms regardless of the technology.

Our concern with some of the products currently being developed by Openreach (SOGEA and SOGfast) is that they will operate on wholesale models with ISPs which will take our members one step further away from the relationship that they have with Openreach now in the WLR world. We will be looking to those wholesalers to build APIs that allow CPs to manage their portfolio seamlessly.

## **Openreach independence**

The FCS is concerned about the change in Ofcom's initial view of how it expected Openreach to be separated from BT:

*"our starting position is that Openreach should own those assets that it already controls under the current Undertakings" (26.7.16)*

to the later acceptance that:

*"While ultimate ownership of all assets would remain with BT plc, Openreach Limited will be empowered to control the underlying network used to provide Openreach products and services on behalf of BT, including investing in and maintaining that network in support of its overall strategy." (13.7.17)*

This surely leaves Openreach as simply a sub-contracted engineering task force which, as time goes on, will only be responsible for fibre connectivity, once the maintenance contracts on copper have expired. In a worst-case scenario this could mean that the Openreach management would not be sufficiently incentivised to invest in those assets, or BT Group could exert influence over their use.

Members feel that there is a need for more transparency on the principles around setting Openreach's budget and the margins which accrue to BT Group. This has a significant bearing on Openreach's ability to invest in the network quality of service to its customers

We urge Ofcom to rigorously monitor Openreach via the OMU and ensure that Openreach continues to evolve and operate as an independent supplier to the industry. We want to ensure that new entrants to the market are encouraged and able to prosper without suffering from an increasingly vertically integrated market. We also believe that the OMU should apply appropriate restrictions on movement of staff in and out of Openreach to and from other parts of BTG.

There is an underlying risk that BTG still has the capacity to withdraw products as they move away from SMP status. Additionally, the option for co-investment is likely to only be possible for the volume players which runs the risk of squeezing the smaller (generally B2B) players out of the market.

## **Other areas**

We welcome the excellent review of the General Conditions, the oversight and enforcement of competition law and the continued action to prevent consumer harm along with the focus on Openreach reform. We are pleased to see that Ofcom plans to review the costs of DQ services. Thoughts on other areas for consideration follow.

*Infrastructure:* Ofcom may wish to consider the argument that additional planning regulation might help to ensure that new developments for residential or commercial use are adequately served with the infrastructure for internet connectivity in the same way that they are mandated to be served for energy and water utilities. Influencing appropriate planning regulation is potentially of more value than simply seeking to reduce it.

*Porting:* Once again, the issue of porting is notable by its absence. This was not covered in the review of the GCs as Ofcom is leaving the industry to sort out the process. The problem is that the original process was not designed to work for chains of multiple providers and the good work that is being done by industry groups is not sufficient to solve the problems when some CPs choose not to follow the process: Ofcom needs to set expectations that processes will be followed. Our earlier proposal to “start again” and set up a central database still stands.

*Brexit:* There is reference to the effects of Brexit; we have commented in the past that the markets that Ofcom is constrained to consider under EU law do not really reflect the converged and new marketplaces that are emerging now. If Ofcom could move away from those constraints this could prove beneficial for future regulation

*Mobile:* Following on from the constraints mentioned above, Ofcom continues to see mobile as a fundamentally different and separate market. This could be as a result of the hugely different evolution of mobile networks and competition compared to the situation with BT SMP and the drive for creating competition in fixed line services, but also in part because of EU regulatory frameworks and how they are structured. However, mobile and fixed services are becoming increasingly converged in terms of business applications and the opportunities for technology to innovate and transform business operations (through connectivity and services being genuinely ‘any device anywhere’). Because the MNOs are not regulated to provide any form of equivalence of access through wholesale models, and it is deemed that competition between MNOs is adequate competition to drive consumer benefit, the business market is unable to realise the full potential of these converging technologies.

*Business Radio:* Ofcom needs to continue to ensure that adequate resources are devoted to increasing access to spectrum by the business radio sector which is much used and valued by the SME community. It is important that the radio interference service is adequately resourced to ensure that radio spectrum is not interfered with, either by unlicensed transmissions, faulty licensed radio systems and equipment not intended to emit radio energy, such as light fittings. Finally, the turnaround times for licence processing has increased significantly recently. This needs addressing to facilitate efficient business use of the radio spectrum.

## **Conclusion**

The FCS hopes that these comments are helpful to Ofcom in its considerations. We support the overall aims that Ofcom wants to achieve and are happy to work with Ofcom to develop any of the themes we have identified above.