

Ofcom – Strategic Review of Digital Communications – Discussion Document

Welsh Government Response

8 October 2015

Set out below is the Welsh Government response to the Strategic Review of Digital Communications discussion document.

Mobile

The rural and very rural nature, scattered population centres, and topography of much of Wales means that in spite of a competitive market across the UK large areas of Wales remain unserved by usable mobile. In many parts of Wales competition has failed in terms of availability of service.

A usable level of service should be one where the service is such that it meets the needs of most users. For instance it is the ability to make uninterrupted voice calls, from wherever the caller is, whether they are static or on the move. Similarly it is the ability to use data services to transfer data, use the internet etc. without interruption in service on the move or statically.

We anticipate that the announcement by the UK Government in late 2014 that mobile operators had agreed to extend mobile coverage to 90 per cent of landmass promises to go a long way to addressing these issues. The coverage obligation on Telefonica through the 4G auction also contributes to coverage. Nevertheless, this will still leave 10 per cent of the landmass of Wales without a usable mobile signal for data or for voice. Unfortunately the UK Government's Mobile Infrastructure Project has not yet delivered the expansion in mobile coverage first envisaged.

Competition can only go so far in ensuring investment in rural and very rural areas. As with broadband, there may be a case for Government intervention to address market failure in 4G, 3G and voice coverage beyond centres of population, however, this will always be an act of last resort given the multiple competing pressures on the public purse. Government has a role to play in engaging with network operators and may have justifiable case to support improved coverage through capital investment in infrastructure. However, regulatory intervention has the potential to yield a stronger and more sustainable long term impact and should be considered, possibly on a geographic basis, to support and encourage investment by network operators now and into the future. This may be increasingly important in light of mergers, particularly BT and EE.

There are two key issues for mobile in Wales. The first is providing coverage to those areas without or with very poor mobile coverage. The second is the need to ensure that customers are able to use devices across Wales regardless of the network operator they are contracted to.

The first issue is one of economic viability. Network operators are understandably unwilling to commit to capital costs and more importantly the operating costs associated with running and maintaining masts where they will never get a return on their investment.

With network operators requiring fibre to provide backhaul, there is an opportunity, particularly given the significant investment of public funds in the Openreach network via the superfast broadband programmes, to create a class of price regulated fibre products for use by MNOs in rural areas. This could reduce operating costs and make investment a more realistic proposition.

BT has a near monopoly position in Wales with businesses and other communications providers almost entirely reliant on BT for fixed fibre infrastructure provision.

The acquisition by BT of EE, and the potential for cross subsidising backhaul costs for one operator at the expense of the others, brings this issue into sharp relief.

At present mobile network operators invest in their own infrastructure and while sharing agreements are in place for economic and technical reasons operators are very reluctant to share infrastructure with the whole market. Price regulation of fibre for use by mobile networks will also help encourage wholesale infrastructure providers to invest in those areas that are currently economically marginal.

Geographic coverage obligations should be built into future auctions of spectrum to encourage a move towards coverage as close to 100 per cent as practicable and to ensure that key communications routes, such as the road and rail networks, have consistent coverage.

Secondly, enabling customers to connect with whatever network is available and to switch seamlessly between networks would greatly improve the usability of mobile across Wales and therefore the customer experience. The introduction of mobile roaming would be welcome in rural areas where, for example, there may only be a usable signal available from one network operator. MNOs will no doubt argue that rural roaming is a disincentive to investment in rural areas. However, given the commitments already made by MNOs to achieve 90 per cent geographic coverage, and the likelihood that once achieved, this level of coverage is likely to stabilise and plateau, then there is a case for considering alternative approaches for the final 10% outside that agreement .

Consideration should also be given to explore the benefits and challenges of establishing a supplier neutral wholesale network for mobile infrastructure. The introduction of price regulated fibre products, particularly for rural areas as outlined above, would help to make this a more attractive option for potential infrastructure suppliers.

Broadband

With significant investment in superfast broadband by both the public and private sectors in Wales, broadband availability is gradually being addressed.

However, there is still an argument for the introduction of a broadband USO to ensure that premises beyond the reach of private and public investment are able to receive a usable level of broadband. For fixed broadband a usable service is one which meets the needs of most users most of the time.

The current USC only focuses on telephony, a usable level of service is just as important for broadband if not more so. We believe that the bandwidth goals of current UK public sector broadband delivery projects are directly relevant to a discussion on USO. If Governments are investing in infrastructure capable of extending the reach of 24Mbp-30Mbps services as far as possible through the public purse, then this must surely become the de facto starting point for a debate on the USO. If a USO is restricted to 5-10Mbps there will be a perpetual gap which Government will come under pressure to fill.

The USO level should not be cast in stone but should be annually reviewed and updated to maintain its ongoing relevance to an ever-innovating market. A broadband USO would have the direct benefit in terms of a usable broadband at new build premises negating the impact on homebuyers where developers and the telecoms market have fail to provision modern services.

Access to dark fibre is of direct interest to the Creative Industries, ICT and Financial and Professional Services sectors in Wales and these sectors. Diversity and resilience of supply of these services is an issue in Wales. This will be brought into sharper relief by the acquisition of EE by BT.

Ofcom should mandate BT to offer open and equal wholesale access to dark fibre services on a price regulated basis. This would allow other businesses to quickly gain access to these services and other providers to compete on a more level playing field. The UK is reliant on BT's competitors to offer dark fibre services. Areas beyond London are poorly served by these competitors, so businesses which require such service are far less likely to invest in other parts of the UK beyond London.

Providing access to Openreach dark fibre would have positive economic benefits in helping attract major organisations to base headquarters and major operational functions in Wales.

Openreach

The apparent lack of accountability of Openreach, and a lack of competition, is causing concerns among consumers and businesses. Slippage of dates for completion of work is a particular issue.

The Welsh Government has regular correspondence from consumers and businesses alike that say that Openreach engineers have not kept appointments and that it has taken numerous engineer visits to resolve issues with often conflicting advice given to the consumer as to the cause and solution for the problems. Retail providers sometimes seek to blame Openreach for delays in rectifying service issues.

Welsh Government would want to see a greater focus on scrutiny of the performance of Openreach by Ofcom.

Welsh Government would want to see Ofcom produce a detailed analysis of the relative merits and disadvantages of structural separation versus the current functional separation to inform a revised position.

Consumer issues

In the current competitive broadband retail market there are a range of deals for consumers which at first glance seem very attractive. However, Welsh Government feel it would be much more transparent if the headline advertised monthly costs contained all of the relevant costs, for example, line rental rather than just a headline figure.

Also, the bundled nature of many consumer packages makes it difficult for consumers to determine the best option for them. They are faced with up to four services (TV, phone, broadband and mobile) with a range of offers often expressed through myriad numbers such as speeds, usage limits, call packages etc. Work should be undertaken to standardise the information given to consumers in much the same way as has happened in the energy market.