

BT Response to Ofcom's proposed Plan of Work 2020/21

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Non-confidential version

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1.Introduction

- 1.1. We pride ourselves in being the leading communications services provider in the UK, selling products and services to consumers, small and medium sized enterprises and the public sector. We have invested over £2.5 billion in R&D over the last five years into areas ranging from optical fibre and next-generation broadband, 5G mobile technologies, Artificial Intelligence, Security, and the future of TV. This has enabled us to develop cutting-edge solutions that keep the UK, and our global customers, at the forefront of connecting people, businesses and communities in ways previously not possible.
- 1.2. Central to Ofcom's proposed annual plan of work are the themes of realising better connectivity for all and treating customers fairly, which is a vision wholeheartedly shared by BT. Connectivity is critical for the UK's economic success now and in the future, as digital networks continue to transform our everyday lives and support every aspect of our public services, businesses, and industries. We are committed to improving outcomes for consumers and have gone further than other industry players in signing up to Ofcom's fairness commitments.
- 1.3. We want to build a future in which every part of the country can benefit from the next wave of technology. Our size and scale mean that we are optimally situated to help the country thrive in a digital future. That's why we want to go Beyond Limits and continue to accelerate our fibre rollout plans, with an ambition to reach 15 million premises by the mid-2020's. We are also leading the industry on 5G.
- 1.4. Ofcom has a key role in delivering this connected future for all, and we are pleased that its annual plan is focussed on work that can unlock the UK's digital future. The industry is changing faster than ever, and we need a regulatory regime which is responsive, pragmatic and innovative in approach to reflect this whilst providing the long-term certainty and stability to enable the investment required. We want to work closely with Ofcom and industry to deliver these priorities for the whole of the UK. We note Ofcom's emphasis on some new areas such as online content, climate and security and provide some suggestions in sections 5,6 and 7 as Ofcom develops its plans.
- 1.5. We welcome the opportunity to comment on Ofcom's draft work plan for 2020/21. Many of the initiatives laid out in the draft work plan are in progress, and we are working well as an industry to deliver good outcomes for customers. We are pleased to see a continued shift towards outcomes in Ofcom's planning process and have provided some suggestions around early engagement and measuring success in section 7. We look forward to constructive dialogue in our ongoing work together with Ofcom and industry on many initiatives in 2020/21 and beyond.

2. Better broadband and mobile

Encouraging fibre investment:

- 2.1. BT is committed to upgrading the UK's digital infrastructure. We want to accelerate our investment and play the major role in realising shared ambitions to fibre up the whole of the UK as quickly as possible. Openreach is on target to deliver full fibre services to over four million homes and business by next year. A regulatory regime that provides long-term certainty and stability, and sufficiently recognises the significant risks involved in scale investment (including in harder-to-reach locations), is a vital enabler.
- 2.2. The proposals set out by Ofcom in its Wholesale Fixed Telecoms Market Review ('WFTMR') published in January 2020 are a significant step forward. In our response we will highlight where Ofcom can go further to unlock, in the shorter term, the greater investment required to deliver on our 2025 goals.
- 2.3. Ofcom's plan of work envisages publication of the final WFTMR statement in Q4 2020/21. However, earlier publication would ease regulatory uncertainty (ideally before the end of this calendar year as indicated in Ofcom's WFTMR consultation). Publication this calendar year would also enable the resulting measures to be implemented from April 2021.
- 2.4. Because the WFTMR will change the nature of fixed markets, we also need to ensure that BT Group's Commitments evolve to stay relevant to the competitive environment. As noted in 7.16, we will reach out to Ofcom and engage with the rest of industry on this.

Delivering universality of broadband services

- 2.5. BT is committed to providing the skills and resources to ensure as many people as possible have access to decent broadband. The broadband Universal Service Obligation (USO) is designed to provide a safety net for premises that cannot currently achieve broadband speeds of 10Mbps. It helps reach premises that have proven to be uneconomic even with the help of government funding to date.
- 2.6. Nonetheless, the financial burden of building the infrastructure necessary to make these services available on a universal basis cannot be for BT alone. The broadband USO is a policy choice, and without further government support, the net costs of delivering this essential infrastructure must be fairly shared by all industry participants.
- 2.7. We welcome Ofcom's proposals for a single framework of rules and processes for Universal Service Providers (USPs) to claim for any unfair cost burden involved in providing all USOs. It is critical to ensure that the framework is light touch, flexible, timely, efficient, simple and easy to administer to ensure USPs are able to recover efficiently incurred costs in a timely manner. We have suggested a number of improvements to Ofcom's proposals in this regard.

Facilitating the launch of new mobile services for consumers and industry, including 5G

- 2.8. Delivering great coverage wherever our customers live, work and travel has been our key driver when investing in building our UK-leading mobile network since we launched 4G in 2012. We want to go further still and support the Government's 95%

geographic coverage ambition. So, we've been working with the other operators, DCMS and Ofcom to develop the Shared Rural Network programme and we hope to finalise the agreement as soon as possible.

- 2.9. Ofcom's focus on spectrum related work items that will underpin future delivery of services, such as 5G, is welcome. We support the award of new spectrum at 700MHz and 3600 MHz as a priority. We would however welcome greater clarity on what Ofcom proposes under the work heading "Enabling additional spectrum for mobile including 5G services" in particular Ofcom's plans to make further bands available such as 26GHz. For the item on Spectrum management strategy we would ask that Ofcom includes the proposed timing of the consultation document in the final version of the work plan.
- 2.10. We support Ofcom's strategic priority to ensure that everyone can access fast and reliable broadband and mobile services, regardless of where they live, work and travel. The initiatives outlined above will take us further towards the goal of universal connectivity. As we move forward as an industry with this work, it is important that we continue to take an innovative approach, to ensure any solution is future-proofed and continues to focus on the right consumer outcomes. We expect there to be a mix of technologies, some known (e.g. satellites) and others currently unknown, which will contribute towards universal coverage. We encourage Ofcom, industry and government to keep this in mind, testing customer use-cases as they emerge then mapping how various technologies deliver against these.

3. Fairness for customers

- 3.1. We are committed to improving outcomes for consumers and have gone further than other industry players in signing up to Ofcom's fairness commitments. We have committed to upgrading 700,000 BT customers from copper to superfast broadband at no extra cost, capping consumer broadband out-of-contract price jumps, price rises of no more than inflation and, for EE consumer mobile handset customers, introducing a percentage discount after the end of their contract. We welcome discussions about monitoring the right outcomes, taking an evidence-based approach using feedback from our customers. For example, monitoring whether customers are paying a fair price, regardless of whether they are in contract or out of contract.

European Electronics Communication Code (EECC)

End-user rights

- 3.2. We note that Ofcom is currently consulting on the implementation of the end-user rights section of the EECC. We believe that the relevant provisions should be transposed into the General Conditions in a way that ensures an improved customer experience and better outcomes for customers, whilst supporting innovation and investment, by avoiding being disproportionately burdensome on providers.
- 3.3. In the majority of areas, the regulations proposed by Ofcom meet this aim and we support their implementation. However, in certain cases we consider the proposals are unnecessary and disproportionate resulting in unintended negative consequences. This risks creating a worse experience for customers, by reducing innovation and competition and reducing customer engagement.
- 3.4. In particular, we have concerns around the requirement to provide pre-contractual information to customers (i.e. before they are bound by a contract), as well as the ability of customers to terminate their contracts (including bundles) for any contractual changes that are not exclusively to their benefit. The proposed changes will require a number of major changes to our commercial strategy, systems, advisor training and to our third-party contracts. We believe that Ofcom should only implement the provisions where there is demonstrable customer harm or a customer interest argument and urge Ofcom to reconsider the 21 December 2020 implementation deadline given the scale of the significant changes proposed.
- 3.5. The EECC also sets out that the process for switching must be a gaining-provider led one. To date, industry has been working with both Ofcom and Government to ensure that the needs and wishes of the customer are met and the resulting end switching process is as smooth and cohesive as possible. We note the short timeframe proposed and would urge Ofcom to be wary of rushing to a solution that may not ensure that the resultant switching process is both aligned with regulatory and policy goals but is also an approach that is practicable and end-user friendly.

Review of Universal Service Conditions

- 3.6. We welcome Ofcom's commitment to work with communication providers to ensure that consumers are protected and disruption is minimised as we move to voice-over-IP future. The goal of full fibre coverage and realising the resultant benefits of copper

retirement will only be attainable once the UK customer base has been migrated across to voice-over-IP. In that context, we welcome the ongoing comprehensive engagement between BT and Ofcom and look forward to continuing those discussions in the coming year as customers increasingly make the switch to new VoIP products.

- 3.7. Ofcom proposes to commence their consultation on legacy Universal Service Obligations (USO) services in Q4 2020/21. This review will need to encompass the USOs on public call boxes, phonebooks, itemised billing and directory enquiry facilities, and, due to the EECC, must be concluded by 21 December 2021.¹
- 3.8. Although not included in the scope of Article 84 EECC, it would be a missed opportunity if Ofcom does not include facsimile services in its review as use of facsimile has changed significantly and is ripe for review.
- 3.9. We believe the work on these reviews should commence earlier than Ofcom proposes as these reviews are already long overdue and will take significant time and resource. To do a comprehensive review Ofcom will need to conduct consumer research, gather evidence from industry and consult widely on its recommendations covering several distinct areas well before the deadline to allow Government enough time to implement those recommendations.
- 3.10. Furthermore, migration from PSTN to IP will require significant investment in the public call box estate, designing new compatible technologies and physically upgrading the infrastructure. BT requires regulatory certainty as soon as possible in order to design solutions that better meet customers' needs in future and complete the transition before the PSTN switch off.

Social Tariff

- 3.11. We are supportive of the introduction of a social tariff across industry. Today BT offers BT Basic + Broadband to address the needs of customers with acute affordability challenges and broadening the availability of this across CPs will remove barriers to digital engagement and enable all customers to benefit from digital inclusion.
- 3.12. In reviewing legacy USOs, it is also important to align policy on Broadband social tariffs and the migrations from PSTN to IP with consideration of the existing obligation on BT to 'make available to Consumers one or more schemes the effect of which would be to assist consumers who have difficulty affording telephone services including, in particular, consumers on low incomes or with special social needs.'² Given that removal of the PSTN network will require a change to the way these services are provisioned, that an IP solution is a possible replacement and that there are plans to make broadband accessible to those who have difficulty affording it, consideration of these issues must be joined up.

Future of Numbering

- 3.13. It is important to ensure that the numbering plan remains fit for purpose as the UK migrates from PSTN to IP services. We look forward to continuing to engage with Ofcom's Future of Numbering policy review to support this.

¹ European Electronic Communications Code (EECC), article 87

² Universal Service Conditions (July 2003), Condition 2.1

- 3.14. Ofcom should also take this opportunity to clarify the existing rules around numbering which can address some of the anomalies in charging that Ofcom refers to in its proposed plan. In particular Ofcom should make it explicit that artificially inflating traffic by sharing revenues with callers is not legitimate on any number range (as they have with the 03 range). Ofcom should also continue to explore how it can ensure all providers that use UK numbers follow the regulations in place, even if they are outside of the UK regulatory regime. Action in these areas would feed through to clearer pricing for consumers.
- 3.15. Finally, we note that Ofcom has yet to conclude its 2016 review of the geographic number charging 'pilot' scheme. This planned two-year pilot is now stretching into its seventh year, and it is no longer clear to what extent the risk of number exhaustion remains, and if it does, how effective this scheme is at mitigating it. If, as we believe, the risks of number exhaustion have reduced over the past seven years then Ofcom should terminate this pilot scheme and continue to track number usage so that it can take action only if necessary.

4.Supporting UK broadcasting

- 4.1. We welcome Ofcom's plans to consider the future of the Public Service Broadcasting (PSB) system and suggest that Ofcom includes the future of TV distribution and in particular the increasing popularity of viewing TV content online in this process.
- 4.2. Ofcom could helpfully connect this review to its work streams on fibre rollout, to ensure that all fibre providers factor in the needs of TV distribution, as one of the lead use-cases.
- 4.3. We recommend that Ofcom could link its work on investing in fibre networks with its work looking at the future of public service broadcasting, and in particular to consider what technical standards or access standards network providers may need to deliver to ensure that universal services such as TV delivery or smart metering are enabled
- 4.4. We urge Ofcom to develop a long-term plan for the future of PSB distribution through its work on the future of public service broadcasting (3.7) and then to approach PSB re-licencing in this context.

5. Ensuring online communications work for people and businesses

- 5.1. We, like Government, see the case for Ofcom's remit to be extended to the area of online harms, owing to its established framework and body of expertise in regulating broadcast content - which has many synergies with online harms.
- 5.2. It is key that obligations on providers should be clear, that Ofcom has both the appropriate regulatory powers and resources available to carry out its work effectively and that regulation is transparent, proportionate, consistent, targeted only at cases in which action is needed,³ and not overly onerous to enforce.
- 5.3. In our response to the Department for Digital, Culture, Media & Sport (DCMS) on its Online Harms White Paper consultation we noted the deliberate exclusion from scope of economic harms (piracy and fraud), data breaches and losses, cyber security and the dark web as being dealt with under other legislation or by other government agencies. This does invoke a risk that the multiple regimes provide a complicated environment for users and companies to operate in, and we would ask that Ofcom ensures that the regimes and agencies involved work to create a coherent and consistent umbrella framework which is consistent with international standards, particularly those which safeguard people's rights when online.
- 5.4. We are expecting further clarification from Government on enforcing the regulatory regime proposed in the Online Harms White paper. We would encourage a regulator of Online Content to provide direction on how service providers should deal with illegal content, harmful content with a less clear definition, and how this can be balanced with rights to freedom of expression, especially in tricky cases.
- 5.5. We would also hope, given the global nature and challenges of enforcement inherent to the online world, that Ofcom continues its collaboration with international regulatory partners working towards common European and global standards. Similarly, we trust that Ofcom will continue to engage with the ICO, whose Age Appropriate Design Code raises related themes around children's rights online.

³ Communications Act 2003, section 3(3)(a).

6. Enabling strong, secure networks

- 6.1. We welcome Ofcom's aim to build a centre of excellence for security and resilience and support a collaborative approach that takes account of industry views in developing initiatives in this area.
- 6.2. The availability and integrity of our networks and the confidentiality of the data we process is at the heart of our ability to keep our customers safe and protect their privacy– cyber security is a top priority for BT.
- 6.3. We have: invested significantly in developing world-leading capabilities to combat cyber threats; developed a long-standing partnership with the National Cyber Security Centre (NCSC) focused on improving the resilience of the UK's telecommunications infrastructure; established clear and consistent network architecture policies to minimise vendor risk; and have strong governance arrangements in place, with BT's Security Council providing Executive-level oversight of all cyber security issues, including the use of all external suppliers in the network. Our collaboration in the multi-stakeholder Global Network Initiative shows our commitment to privacy and free expression whilst conducting these activities.
- 6.4. The recent conclusions of the Government's Telecoms Supply Chain Review represent an important clarification for the industry regarding the use of 'high risk vendors' as well as setting out a new baseline through the Telecoms Security Requirements (TSRs). We ask Ofcom to continue to work closely with industry and other stakeholders including DCMS and the NCSC on the new TSRs to further enhance the UK's approach to cyber security risk, whilst ensuring that solutions remain operationally workable.
- 6.5. We agree with Ofcom that ensuring the safety and security of the UK's communications networks is increasingly more vital. We welcome Ofcom's aim to identify best practice in this area but acknowledge the recruitment challenges to find people with the right skills. We would be happy to facilitate a conversation on sharing expertise and best practice, such as through secondments.

7.Areas of focus (and ongoing work)

Innovation in regulation and data to help consumers and businesses

- 7.1. Ofcom's continued focus on adopting an innovative approach to regulation and data in the interests of aiding consumers and businesses is welcomed. The fast-paced nature of the sector and the rate of change in both technology and needs and demands of the people and society it is serving necessitates a forward-looking approach from the regulator and the framework supporting it.
- 7.2. We are supportive of Ofcom's plans as an evidence-based regulator to create a Data Innovation Hub. We're continuously improving our processes regarding data collection and data sharing, particularly in relation to Statutory Information Requests (SIRs). As Ofcom is aware, we're also open to collaborating with Ofcom and with industry to share best practice in this area. We would therefore welcome a collaborative approach to the creation of a Data Innovation Hub and would urge Ofcom to consider liaising with industry to discuss its implementation. We're particularly keen to find out more about how this would work in practice, and how this would affect the information sharing tools we already have in place.

Open Communications

- 7.3. We are supportive of Ofcom's work on Open Communications and are working collaboratively with Ofcom and industry to come to a solution that works for consumers and meets the Government's stated objectives for this work. We believe this work will enable innovation to improve the experience of UK consumers when engaging with the broadband, mobile and TV marketplaces.
- 7.4. We believe it is important for consumers that as an industry we move away from the current state of comparisons on speed, coverage and price of services, as this misses the opportunity to capture the entirety of service offerings and benefits (such as customer service, reliability, freebie offerings etc).

Energy Efficiency and Carbon Emissions Reduction

- 7.5. Regarding supporting and promoting energy efficiency and carbon emissions reduction, we welcome Ofcom's recognition of the role that the digital industry can play in reducing the carbon footprint of people and organisations. We ask that Ofcom champions the role of ICT as enabler of decarbonisation, in particular in setting science based 1.5 degree aligned and net zero targets.
- 7.6. With the UK this year hosting the 26th Conference of the Parties, focussing on producing an international response to the climate emergency, BT intends to play a central role in advocating for progress and lead by example. From setting the first carbon reduction target in 1992 to our pledge in 2018 to be a net zero carbon emissions business by 2045, we will work through partnerships to raise and deliver on our ambitions. We see big potential for our products and services to reduce emissions.
- 7.7. Investing in ICT could reduce the UK's carbon emissions by an estimated **24%** in 2030.⁴ Our carbon-saving products and services include broadband, cloud networking and Internet of Things (IoT) solutions. These helped customers save **11.7** million tonnes of

⁴ <https://www.btplc.com/Digitalimpactandsustainability/Ourapproach/Ourpolicies/UK-Carbon-targets-May-2016.pdf>

CO2e in FY 18/19. We are also working to reduce our supply chain carbon emissions. Over two thirds of our carbon emissions come from our supply chain. Since 2016/2017 we've achieved a reduction of 7.3% and are working towards a 29% reduction by 2030.

- 7.8. As Ofcom commences its initiative to understand how it can support and promote energy efficiency and combat climate change, it would be particularly helpful if Ofcom, as a first measure, undertook research to develop UK specific forecasts and scenarios of the sector's emissions and energy consumption. Solid understanding of the sector will be key in ensuring confidence in data, direction of travel and in understanding what opportunities there are from a regulator's perspective. We'd suggest that Ofcom starts with historical carbon emissions data via the CDP, to ensure it is audited and consistent.

Ongoing Work and Working Together

Delivering Good Outcomes for Consumers

- 7.9. We note that this year Ofcom has included a chapter in its proposed plan devoted to delivering good outcomes for consumers, outlining the outcomes to be achieved under each strategic priority. We welcome this continued shift towards outcomes as it helps industry to focus on the right challenges and ensures that consumer needs are met with effective competition coupled with proportionate and innovative regulation.
- 7.10. We would encourage Ofcom to go further in embedding such outcomes throughout its work in 2020/21. For example, including a similar section in each consultation published. In addition, it would be helpful if Ofcom outlined desired outcomes early in the policy development process and engaged industry and external stakeholders to find innovative solutions to the right challenges. Such outcomes could then be measured at appropriate junctures in the policy cycle and adjusted where necessary.

Roadmap Planning and Keeping Stakeholders informed

- 7.11. We welcome the opportunity to comment on Ofcom's proposed plan. We find the work plan very useful for setting our own work schedule. In addition to this work plan, we invite Ofcom to issue long-term milestones in the form of a multiyear roadmap. In doing so, we along with other CPs, would be able to plan more effectively.
- 7.12. We appreciate that sometimes timescales shift unavoidably, and for this reason we would also request that updates to the work plan are provided on a regular basis, for example online in real time, or via a monthly update. This would allow stakeholders to see what changes have been made so they can adjust their own planning accordingly. This is particularly important if a shift in dates leads to several consultations being published at the same time.
- 7.13. Finally, we note that Ofcom's work plan is very well developed before it is published for comment by stakeholders. To ensure that stakeholders can provide useful input, we would encourage Ofcom next year to consider taking an iterative approach, engaging stakeholders earlier in the planning process, again focussing on the desired outcomes rather than specific outputs. This might allow for more innovative ways to resolve regulatory challenges.

Future regulatory financial reporting

- 7.14. We welcome Ofcom's proposals to remove unnecessary and irrelevant information from the published statements and we will work with Ofcom to define new reporting measures to reflect the proposed new regulation in the WFTMR.
- 7.15. BT takes its reporting obligations very seriously and is committed to producing Regulatory Financial Statements that are focused and relevant. We will continue to work with Ofcom to provide proportionate financial information that is linked to the regulatory obligations, particularly in the context of evolving regulation.

Openreach monitoring reporting

- 7.16. We would welcome working with Ofcom over the next year to make sure that BT Group's Commitments can evolve to continue to stay relevant and reflect market changes

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