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Ofcom

12 February 2024

## **CONSULTATION – OFCOM’S PROPOSED PLAN OF WORK 2024-25**

Thank you for your correspondence of 15 December 2023 inviting me to respond to the Ofcom consultation on the proposed Plan of Work for 2024-25. My full response is in the Annex to this letter.

I note that this year Ofcom has taken on a new role as regulator of online safety; the Scottish Government will continue to engage with Ofcom on the implementation of the Online Safety Act 2023 in Scotland. I draw your attention to the comments I have made on this important subject in the Annex under the “We live a safer life online” section.

I have also included a section on consumer protection and regulation of postal services, which is part of the portfolio of Tom Arthur, Minister for Community Wealth and Public Finance.

A separate response will be sent from Angus Robertson, Cabinet Secretary for the Constitution, External Affairs and Culture, on the “Media we trust and value” section which falls under his portfolio interests.

For the purpose of confidentiality, I am happy for Ofcom to publish any reference to the content of my response. If you would like to discuss any of the content in the Annex, please do not hesitate to contact my private office to arrange a meeting at [ministersbitt@gov.scot](mailto:ministersbitt@gov.scot)



**RICHARD LOCHHEAD**

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## ANNEX

### OFCOM'S PROPOSED PLAN OF WORK 2024-25

#### INTERNET WE CAN RELY ON

##### Digital Connectivity

The Scottish Government has prioritised investment in digital connectivity in the 2024/25 budget, recognising that it is a key building block for a green and growing economy. It is therefore pleasing to see that the availability of high-quality networks where they are needed remains a priority outcome for Ofcom in the year ahead.

##### Wholesale Fixed Telecoms Market Review

It is interesting to note that, during 2024/25, there will be a consultation on the fixed telecoms market for the period 2026-2031. We look forward to having the opportunity to contribute our thoughts on how the regulatory framework could evolve to support the telecoms market in Scotland deliver future-proofed digital connectivity and ensure that Scotland's most hard-to-reach rural communities are able to reap the benefits of this improved connectivity in the same ways as their urban counterparts. I am especially keen to explore how this work will take into account the UK Government's plans for Project Gigabit deployment, and hope that there will be early engagement with Scottish Government officials on these matters.

##### Reaching 100% (R100) contracts

To that end, delivery of our over £600 million investment in the R100 contracts continues to deliver at pace with the number of connections delivered almost doubling between 2022 to 2023. Over 36,000 properties are now connected as a direct result of contract build and over 9,000 additional properties connected by our contract partner, Openreach, outwith the scope of the contracts. Our R100 contracts are now solely providing full-fibre, gigabit capable connections. However, while we saw an increase in take-up of full fibre services between 2022 and 2023, the figure remains relatively low in Scotland at just 28%. We would welcome the opportunity to discuss with Ofcom what more could be done to raise awareness of the benefits of full fibre connectivity to homes and businesses across the country.

##### R100 Scottish Broadband Voucher Scheme

We also continue to see a sustained uptake in vouchers through the R100 Scottish Broadband Voucher Scheme, which enables alternative network providers to deliver a minimum of superfast services through various technology types including fibre, fixed wireless, fixed mobile and satellite. Over 3,600 connections have now been delivered through utilisation of these vouchers. I read with interest Ofcom's commitment to work with the Welsh Assembly to help raise awareness of alternative technologies and I would welcome something similar in Scotland. With the emergence of low-earth orbit (LEO) satellite broadband solutions, there is more that we can do in collaboration to help aid awareness and understanding.

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## **Broadband Universal Service Obligation (USO)**

We welcome Ofcom's continuing commitment to providing relevant data, as well as technical and regulatory advice on digital connectivity matters. I am also aware that discussions are underway to explore what support the Scottish Government might provide in assisting Ofcom to better assess eligibility for the Broadband USO. I am sure you will agree that this kind of collaboration is vital, and I look forward to the continued development of this relationship in the coming years.

## **Electronic Communications Code (the Code)**

Stakeholders have responded positively to the UK Government amendments to the Electronic Communications Code informing us that it is having an impact on their build plans within Scotland. It is important to ensure that the Physical Infrastructure Access (PIA) remedy works to facilitate the rollout of digital infrastructure on existing ducts and poles apparatus and supports efficient network deployment.

## **Openreach – Planned Exchange Closures**

Our ongoing engagement with industry has also highlighted the importance of clear industry-wide communication of Openreach plans to decommission older network infrastructure, such as through the Exchange Exit Programme. A recent meeting that I held with operator signatories to Scotland's Full Fibre Charter highlighted this, and we welcome Openreach's commitment to evaluating communications on planned exchange closures.

## **Mobile Coverage**

We are supportive of Ofcom's intention to work with industry to improve the accuracy and consistency of mobile coverage reporting. We're keen to understand how Ofcom's current methods could be enhanced and how the Scottish Government could feed into this discussion following our own activity in this area as part of our measurement of coverage delivered by the Scottish 4G Infill programme, and to help ensure that Scotland's future mobile connectivity needs – both coverage and performance can start to be adequately assessed.

## **WE LIVE A SAFER LIFE ONLINE**

Keeping children and young people safe online is a key priority for the Scottish Government. Today, the vast majority of homes in Scotland have access to the internet. Our children and young people are going online for entertainment, socialising, help with schoolwork and creativity, as well as to find out what is going on in the world. However, we recognise that whilst the internet provides many opportunities, it also carries with it risks.

We are supportive of Ofcom's new role as regulator of the online safety regime as well as the prominence given to the priority outcome that '*We live a safer life online*'. The Scottish Government will continue to engage with Ofcom on the implementation of the [Online Safety Act 2023](#) in Scotland, including responding to relevant consultations.

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## ENABLING WIRELESS SERVICES IN THE BROADER ECONOMY

### Affordability of Internet Services

Our [Digital Strategy](#) states that there should be no barriers to getting online and benefiting from digital technology. People must be able to access technology, understand its benefits and limitations, develop the skills they need to be safe and creative online, and control how their personal information is used.

The most recent figures from the Lloyds Digital Index Survey (2023) show that 2.1m people are offline across the UK – that is 4% of the total population, with 15% of this number being under the age of 50. In this survey, 36% of people stated that the rising cost of living has impacted their ability to pay for online access.<sup>[1]</sup>

In order to make Internet access more affordable for users, Ofcom should continue to work with ISPs to make their social tariffs more affordable, easier to access and proactively publicised to potential customers who might be eligible. Your own report from April last year showed that only 3.2% of Universal Credit claimants were on social tariffs, with 69% citing lack of awareness as the reason. Awareness is not the only barrier, with others including the affordability of social tariffs; misunderstandings about service levels or eligibility; and fees and disruption resulting from the need to change provider.

### Spectrum

We are encouraged by Ofcom's continued work on spectrum, with a particular interest in how ongoing spectrum management and new planned releases can most effectively support and drive efficiency and innovation in the emergence of advanced wireless communication technologies, including 6G, to deliver wireless services across Scotland in the future. We are also keen to ensure that any changes to governance around spectrum use and new releases ensures that the needs of all potential users of spectrum – from mobile network operators to users in rural areas – can be delivered. This would include steps to encourage more localised spectrum use and identifying and remedying factors which inhibit widespread such use.

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<sup>[1]</sup> [231122-lloyds-consumer-digital-index-2023-report.pdf \(lloydsbank.com\)](#)

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## **Migration to Voice-Over-IP Services**

I am pleased to see that Ofcom are working with communication providers to ensure issues raised by their migration to voice-over-IP services are identified and addressed with the aim of protecting consumers from harm and minimising disruption.

I am aware that security and resilience of the Communications Sector, including telecommunications, is wholly reserved to the UK Government and that the Public Switched Telephone Network (PSTN) is a privately-owned telecoms network and the decision to upgrade it has been taken by the telecoms industry. I also understand that the PSTN migration does not affect the Universal Service Obligations set in the Electronic Communications (Universal Service) Order 2003 which require the designated providers to offer telephony services throughout the UK, and providers will remain bound by their existing statutory responsibilities.

I am however particularly concerned about the potential impacts to vulnerable customers in the event of power disruption following migration to VOIP services. We have seen with clarity the real impact to telecoms access from protracted power disruption, with access to 999 Emergency Services impacted in affected areas for both fixed line and mobile telecoms.

I am aware that Ofcom imposed a regulatory obligation under General Condition A3.2(b) which states that Regulated Providers “must take all necessary measures to ensure uninterrupted access to Emergency Organisations”. In recent years, with the duration of some widespread power cuts being days not hours, the recommendation of a minimum of one hour’s protection to ensure customers can access Emergency Organisations during a power cut seems inadequate.

I look forward to the result of the consultation on revised guidance for communications providers on the resilience of their networks and services, which is due to be published next year.

I am also keen to understand more generally about the work that Ofcom are doing with the UK Government and with telecoms industry to protect or maintain access to Emergency Organisations during protracted power disruption events.

## **OTHER**

### **Consumer Protection and Regulation of Postal Services (Universal Service Obligation USO)**

We welcome Ofcom’s plans to further enhance measures to protect consumers online and its continuing work in scams prevention. We also welcome the work Ofcom is carrying out in the parcel delivery market especially the work around the treatment of disabled consumers. However, the recent Call for Input on a range of options for redesigning the universal postal service raises significant concerns. We have said consistently that the Universal Service Obligation must be maintained. Scotland is unique among the four nations as we have many communities and businesses in rural and remote areas, as well as an ageing population. These heighten the importance of being able to rely on receiving mail in a timely fashion, and at a reasonable cost – one which is not inflated unfairly due to their postcode. It is essential

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that Ofcom treats and considers these issues seriously before making recommendations to the UK Government.

## **Artificial Intelligence (AI)**

We are supportive of Ofcom's collaboration with other regulators through the Digital Regulation Cooperation Forum on an "AI & Digital Hub" pilot (4. How we deliver – Partnerships), and we would like to ask Ofcom to keep the Scottish Government and relevant devolved regulators updated on progress to ensure that the Hub delivers for Scottish businesses and citizens. We also welcome Ofcom's internal AI capability building efforts (4. How we deliver – Growing skills and capabilities) and we urge the UK Government to provide Ofcom and other relevant regulators with the resources they require to take on new responsibilities on AI regulation, as outlined in the UK Government's White Paper.

## **Ethical Digital Nation**

Our [Digital Strategy](#) also makes a commitment to positioning Scotland as an ethical digital nation. An expert academic group considered the key issues on digital ethics and made recommendations in their detailed report, [Building Trust in the Digital Era: achieving Scotland's aspirations as an ethical digital nation](#).

We published our response to this report early last year and are currently working with stakeholders to produce a prioritised action plan that will bring the principles behind this report into play across digital public life.

Ofcom can support this work by ensuring that the actions in your Plan of Work are ethically tested, in the same way that equality and sustainability are key considerations across the board.

## **Climate Change Resilience (Adaptation)**

Another area of increasing significance is Climate Change Resilience (Adaptation). Scotland's climate has already changed, with rainfall having increased by 27% since the early 1960s. As a result, flooding is an ever-increasing risk which can severely impact telecommunications infrastructure and services. One example was in August 2020 when 120,000 customers in Edinburgh lost broadband services after flash flood waters entered the Edinburgh Donaldson telephone exchange causing significant damage. It is essential that climate change adaptation strategies are embedded into new infrastructure builds and mitigation measures are implemented at existing high risk infrastructure facilities.

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