

[X] Ofcom's Proposed Plan of Work 2024-25– Response from the Welsh Government

The Welsh Government welcomes the opportunity to comment on *Ofcom's proposed Plan of Work 2024-25*. We also welcomed the in-person event held by Ofcom on 2 February to discuss the Plan of Work from a Welsh perspective.

We have provided comments below on the areas of Ofcom's proposed priorities and work plan which are of importance to the Welsh Government.

Nations

Welsh Government's relationship with Ofcom

As the communications landscape across Wales and the UK changes at an ever-increasing pace, continued dialogue and discussion is essential in ensuring that the general public receive services that they deserve, services that are fit for purpose, safe and regulated to the highest standards. The need to engage quickly and efficiently so we can respond at pace to issues and opportunities reiterates the value of a strong and effective relationship between the Welsh Government and Ofcom. As we move into a period of change at both Director and Board Member for Wales level, we want to build on our positive relationship with Ofcom in Wales in 2024/25 and strengthen links with policy leads centrally. During his term, the Welsh Government has liaised closely with David Jones as the Ofcom Board Member for Wales to ensure that the interests of Wales are appropriately represented on Ofcom's Board. We will continue to work closely with David's replacement over the coming year. We also recognise the invaluable contribution of the Ofcom Advisory Committee for Wales; the Content Board Member for Wales; and the Communications Consumer Panel Member for Wales.

We welcome Ofcom's continued commitment to engage with stakeholders in Wales, in both Welsh and English, to understand priorities and concerns, and the commitment to further support Wales's sectors as they apply to Ofcom's remit as Ofcom keeps pace with changes in audience demands. We also welcome Ofcom's commitment to continuing to work with Welsh Government in helping to reach a million Welsh speakers by 2050.

We note the commitment in the proposed Plan of Work to a workforce representative of the UK's population, and to continuing to grow Ofcom's presence in Cardiff. As Ofcom's remit evolves and the organisation takes on significant new responsibilities, it is essential that the Wales office has the capacity to respond to these changes in a positive and effective way. The Welsh Government is keen to work with Ofcom to identify opportunities to increase the number of individuals based in Cardiff to ensure the office is sufficiently resourced and to increase its visibility in Wales.

Memorandum of Understanding

We are pleased to have concluded the review of our Memorandum of Understanding between the Welsh Government, UK Government and Ofcom. It will allow us to help inform the Ofcom annual Plan of Work earlier in the development process.

We welcome Ofcom's continued commitment to engage with Welsh Government and the Senedd in implementing its contents, and look forward to further strengthening our

relationship as we work closely with the new Ofcom Board Member for Wales and new Ofcom Wales Director

In the draft Plan of Work Ofcom makes a commitment to provide technical and regulatory advice to the Scottish Government to support their initiatives. It would be helpful if the same commitment could be made to the Welsh Government and set out in the Plan of Work.

Horizon Scanning - Underpinning wider work across the sectors Ofcom regulates.

As the landscape of both media and telecommunications changes, we welcome the commitment by Ofcom to continue to work in understanding consumers' needs. The constant need to keep pace with developing markets, business models, changing technologies and consumer habits, and the impact these have on service delivery, especially in Wales, is essential for regulation. We note that the Plan of Work highlights the variety of ways in which Ofcom obtains evidence, intelligence and insights, including market research and intelligence; data engineering and analytics; and technology and we look forward to working with Ofcom in this area.

We would, however, welcome a further commitment by Ofcom to share any outputs of their horizon scanning work with the Welsh Government to support the work that we are doing in both the support for media and digital connectivity across Wales. We are keen to work with Ofcom as any action is taken to evolve its research plans in response to changing markets and the increasing convergence of the sectors it regulates.

Media we trust and value.

Broadcasting

The broadcasting landscape continues to change at a rapid pace that shows little sign of slowing, with the choice of content and content providers growing at an ever-increasing speed. This evolution brings a range of benefits to audiences, but the value placed on quality, trusted broadcasting remains fundamental to their needs. We welcome the growth of choice and acknowledge the importance of media plurality, there is an ever-greater need for media to be correctly policed to ensure impartiality and accuracy.

This shift presents an increasingly difficult challenge in terms of regulating content that audiences can access. As such, a robust regulatory body that protects audiences from harmful content, including that accessed from digital platforms, continues to be of paramount importance to meet the needs of audiences in Wales.

The degree and pace of change means that there is indeed significant work to do in supporting the UK media sector and its mix of content providers and its range and diversity of services for audiences. We welcome Ofcom's continued commitment to work in setting and enforcing content standards, and the reiteration of taking robust enforcement action where necessary. We also welcome Ofcom's prioritisation of implementing rules relating to potential online harm for audiences of all ages.

We are pleased to see the clear commitment by Ofcom to continue their enforcement of such standards and look forward to working together, in line with the Media Bill, to help protect Welsh audiences from unbiased broadcast.

But it is not just these evolutionary changes that impact audiences across Wales, it is also the content, especially news output, that Ofcom will need to closely monitor as we move through the coming months and years. The COVID pandemic shone a light on the problems that Wales, and all of the devolved nations, faced in the broadcast of news relevant to their communities. The 2022 Cardiff University report '*Reporting the nations and devolved issues on network news: An analysis of television and online coverage*', reported that although UK news providers had enhanced their coverage of issues relating to the devolved nations, this was due largely to the reporting of rules relating to the pandemic. As was seen during the crisis, concerns were raised at the lack of difference between rules set by the UK Government and Governments in Cardiff, Edinburgh and Belfast. While we welcome the increase of coverage of news relevant to Wales from UK news providers, Ofcom should continue to monitor this area of broadcast to ensure that information relevant to communities across Wales, especially that that is different to the UK, is prominent and accurate.

Whilst the Welsh Government still holds some concerns regarding the changes to the PSB quota system, the proposed regulatory changes to Ofcom's remit concerning the system and Video on Demand services are welcomed along with the changes to the regulatory constraints impacting radio broadcast in line with the increased use of digital platforms.

We welcome the continued commitment by Ofcom to work with broadcasters in Wales to help ensure that audiences in Wales are well served on both television and radio in Welsh as well as in English, and to fulfilling its obligations related to the BBC, ITV Cymru Wales, S4C and Channel 4.

Media Bill Reform

The UK Government's introduction of the Media Bill, and its proposed reforms have been broadly welcomed by the Welsh Government. Industry and Government have widely acknowledged that the regulatory framework governing media in the UK requires modernisation to allow the industry to evolve, meet the needs of changing audience behaviours and effectively operate in an increasingly global market. We seek close, continued dialogue during the remaining stages of the passage of the UK Government's Media Bill. However, the measures as set out in the Media Bill will only be effective if Ofcom's oversight and intervention role once the legislation is in place is robust. We look forward to working closely with Ofcom in this area in future to support the implementation of changes to regulatory responsibility brought about by the Media Bill, to ensure audience interests in Wales are served with a fit for purpose system.

Monitoring BBC performance and market impact

Impartiality and editorial standards sit at the heart of the BBCs operations, and we agree that any moves to improve transparency in this area are essential for public trust.

Holding the BBC to account for the delivery of its Mission and Public Purposes across its public services is essential with changes to audience behaviour and consumption. The decision set out in the Media Bill to extend Ofcom's regulatory powers in regard to online material is sensible given the move in audience content consumption, and we welcome the commitment by Ofcom to provide the highest levels of scrutiny of the corporation.

Although broadly content with the operations and conduct of the BBC, there have remained concerns from stakeholders regarding the ability of the organisation to address complaints in a timely, comprehensive manner.

Although the BBC First complaints process was fit for purpose, we believed that there was room for improvement. The introduction of independent scrutiny by Ofcom of the complaint's procedure will help to provide confidence to complainants as well as focus to the BBC, a move that we wholeheartedly support.

The BBC is regarded as an organisation providing quality, balanced and impartial news and world class content. Following the delivery of the Mid-Term Review recommendations we look forward to continuing dialogue with both the UK Government and Ofcom regarding changes to the Framework Agreement and its re-publication.

Safeguarding media plurality

Media plurality is the backbone to any functioning, democratic society and its safeguarding is paramount to ensuring informed, balanced news provision. However, the ever-changing media landscape, prevalence of media outlets and platforms as well as evolving consumption habits means that comprehensive regulation is required to protect against misinformation.

As such, we welcome Ofcom's continued work in understanding the impact of online news on media plurality and the commitment to review the Media Ownership Rules.

Video on Demand

VOD continues to play an increasingly important role in the ways in which audiences, in particular younger views, consume content. It provides greater flexibility in programme accessibility and gives viewers more control on how they schedule their viewing habits. However, this increased flexibility, especially around the platforms on which VOD emanates, requires regulatory control that provides viewers with the same reassurances that are applied to more traditional broadcast content. We welcome Ofcom's commitment to ensuring statutory requirements are adhered to by providers, especially around harmful content, and plans to draw up a new Code for designated VoD services in 2024.

Radio

Local radio continues to play an important role in the lives of many across Wales, particularly older citizens and those in remote communities who view its content as an essential part of their news, current affairs and entertainment consumption.

In light of this, the Welsh Government welcomes Ofcom's commitment to undertake consultation in 2024 on "localness" output and to further bolster regulation around local news provision on analogue radio.

The continued licensing of new small-scale DAB digital services throughout the UK and licenses for supporting multiplexed along with and the commitment to continue work on the delivery of TV and audio content over IP is also encouraging, especially in light of the concerns raised by the Broadcast 2040+ campaign regarding the potential loss of free to air services. Recognising this, we would again encourage Ofcom to seek the views of stakeholders and audience on any need to consider the extension of digital TV and radio in future.

Diversity

Greater diversity within the media industry remains an issue of high importance to allow for increased diverse content that represents all people and all communities. The media industry in the UK continues to see calls for a more diverse workforce and more diverse content that represents and reflects all people and communities, echoed in Wales as the population increasingly becomes more diverse, with a need for all individuals to be reflected in television and radio, ensuring a fully inclusive and modern society.

Content provision that reflects people and places across Wales is essential to greater audience engagement, something that can only be achieved with increased diversity behind the camera.

On the back of the EDI Toolkit launched in 2022, we welcome Ofcom's planned work around the data harvested from the EDI strategy and look forward to continued conversations with Ofcom, and the UK's broadcasting industry, to foster collaboration to improve and promote equity, diversity and inclusion, a priority for the Welsh Government.

We look forward to continuing discussion with Ofcom on these matters over the coming year.

Internet we can rely on.

The proposed Plan of Work highlights one key priority as an '...internet we can rely on' and further defines this '...fast and reliable connections and services for everyone, everywhere'. It also states that 'Communications services should meet the needs and of people and businesses regardless of their geographical location' and also recognises the challenges of deployment in rural areas.

The pattern of topography and population density in some rural and remote areas in Wales makes the deployment of digital infrastructure difficult. While we actively support industry efforts to deliver better connectivity, there is a risk that hard and very hard to reach premises will continue to get left behind, exacerbating the digital divide.

There needs to be more in the Plan of Work on how Ofcom will use the regulatory and other levers at its disposal to drive the reach of both broadband and mobile connectivity further to improve the prospects of these premises and so address the hardest to reach premises. A commitment within the Plan of Work to explicitly set out

the precise action that Ofcom plans to take to on this stated priority would be welcome.

The Plan of Work also states that in Wales 'In the hardest to reach areas, where the deployment of fibre networks is both complex and costly, we will collaborate to raise awareness of alternative technologies such as fixed wireless access and low earth orbit satellites, that may offer workable solutions for some communities.' Again, while we welcome the sentiment, the statement of intent lacks tangible detail and is vague. More detail on how this will be achieved would be welcome.

Enabling wireless services in the wider economy

Telecommunications

The Digital Strategy for Wales sets out how we will use the levers at our disposal to support the public sector, businesses and homes in Wales to receive the connectivity they need to engage in digital activities. Our response sets out how we think Ofcom can play a central in supporting our ambitions.

Mobile Coverage

We welcome Ofcom's commitment to work with the industry to improve the accuracy and consistency of mobile coverage information and how the presentation and positioning of this information can be improved so that consumers and stakeholders can use it most effectively. This data should be shared with the Welsh Government to support policy initiatives to extend mobile coverage in Wales.

We remain concerned that the Mobile Network Operators (MNOs) delivering the Shared Rural Network (SRN) programme will not deliver on their commitments to extend 4G in Wales by the deadline of June 2024. In addition to the commitment in the Plan of Work to assess MNOs compliance with their mobile coverage obligations under the SRN, Ofcom should do everything in its powers to ensure that the commitments are met and to hold Mobile Network Operators to account if the deadline is missed. This should be set out in the annual Plan of Work.

There are, however, additional approaches that should be considered to further extend mobile coverage beyond the scope of the current SRN commitments. Consideration of these should form part of Ofcom's work over the next year.

Coverage obligations connected to the auction of spectrum have been somewhat successful in driving mobile connectivity into more rural areas and these should be explored again as and when appropriate spectrum is auctioned.

Some form of financial incentive should also be considered to drive mobile connectivity further into unserved and underserved areas. One such approach could be a reduction in the amount paid for either new spectrum through the auction process or a reduction in the annual licence fee in return for a commitment to extending coverage in rural and remote areas. Whether through the auction process, or a reduction in annual spectrum license fees, progress against coverage in these areas would need to be tracked to ensure that any commitments made are delivered.

Taking this approach to its conclusion would require a fundamental change to the basis of spectrum auctions or the annual license fee but could precipitate a larger coverage uplift across the UK and establish equity of coverage. This would provide a real financial investment to deploy in rural and remote areas.

Wholesale Fixed Telecoms Market Review

We recognise that one-size fits all regulation based on competition does not result in equity of coverage, those regulatory approaches that make sense in a city do not necessarily do so in a rural environment. In light of this we have long called for a geographically differentiated approach to regulation.

The Wholesale Fixed Telecoms Market Review (WFTMR) in 2021 took a step in the right direction by focusing on different approaches to regulation in different parts of the UK. It would be helpful to understand, as part of the work ahead of the next WFTMR outlined in the consultation, the extent to which the WFTMR has helped to drive connectivity in remote rural areas. An appraisal of how further changes would help drive commercial deployments of fixed broadband connectivity deeper and more quickly into these areas would be useful.

Therefore, we welcome the commitment to assess whether the framework put in place in 2021 remains appropriate and to the continued monitoring of the implementation of the current WFTMR.

Ofcom should also formally engage with the Welsh Government as it develops its proposals for the next WTMFR ahead of the proposed consultation in Q4 2024/25 to ensure they reflect the challenges of deploying digital infrastructure in Wales.

Migration from Legacy Services

The migration from legacy services such as the switch over from the Public Switched Telephone Network (PSTN) to Voice over Internet Protocol and the sunsetting of 2G and 3G mobile services have the potential to impact on customers across Wales, particularly in rural areas.

Ofcom has a critical role to play in the transition away from legacy services and we welcome the commitment to work with industry to ensure that customers are supported and protected through such transitions. As part of this work, Ofcom should also consider how it can work with industry to support other stakeholders, such as public bodies. It would be helpful if Ofcom could provide more detail on how it plans to work with industry and other stakeholders. Ofcom must also exercise all available regulatory levers to ensure that the telecommunications industry cannot and does not proceed until the safety concerns and safety mitigations around loss of power are fully addressed.

Universal Service Obligation

We responded to the UK Government consultation last year and welcomes Ofcom's continued monitoring of the scheme. We remain unconvinced by the ability of the Universal Service Obligation as currently designed to act as a digital safety net. The cost cap remains a significant barrier to adoption and the performance criteria do not adequately reflect the ever-growing digital needs of residents and businesses. The

current approach only serves to confirm those premises that are difficult or costly to connect without then offering a practical solution to resolve that issue in many cases. The entire model needs overhauling if the USO is to become a meaningful regulatory tool.

We live a safer life online.

In a broadcasting environment where there is an ever-increasing amount of choice and product availability, it is imperative that standards are upheld, and broadcasters made fully aware of responsibilities.

Following the Online Safety Act's confirmation of Ofcom as the regulator of online safety, we welcome the continued commitment to stringently enforce content standards, to protect the viewing and listening audiences from potentially harmful output. Similarly, we welcome the focus on the protection of users of video-sharing platforms (VSPs) established in the UK and proposed work to continue improving media literacy through the "Making Sense of Media" program.

With younger people becoming increasingly exposed to broadcast content, we would encourage continued focus on the protection of children's online interaction, in particular around exposure to violent and sexual broadcast material. Similarly, we would also encourage greater regulatory focus on online safety for younger people accessing content in the Welsh language. Anecdotally we are aware of instances of the Welsh language being used in a negative way by scammers, with confusing and inappropriate targeting of younger users. This is a unique issue to Wales, and we seek Ofcom's assurances that this problem is included in this particular area of work.

We continue positive engagement with Ofcom regarding online harms to ensure that future activity reflects priorities in Wales and recognises differences in devolved areas, such as education and the curriculum, safeguarding and the Welsh language.