

## **UKCTA RESPONSE**

### **DCMS CONSULTATION - A new broadband Universal Service Obligation (USO)**

#### **Introduction**

1. UKCTA is a trade association promoting the interests of competitive fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the interests of its members to Ofcom and the Government. Details of membership of UKCTA can be found at [www.ukcta.com](http://www.ukcta.com). UKCTA welcomes the opportunity to respond to this consultation since the subject matters which it encompasses are of fundamental importance to our member companies.
  
2. The Consultation poses three questions to respondents. We have provided answers to each of these below but also wish to make some more general points: -
  - Any decision to designate a USO must be technology neutral since favouring one technology over others would inevitably distort market driven solutions.
  - We believe it is likely that in assessing the case for introducing a broadband USO, the Government will conclude that a funding gap exists. Given that this is a political objective, and given that commercial entities would most likely pass on any resulting levy to customers and identify the same as being government derived, we believe that public funding of the USO is the least problematic option for bridging the gap.
  - We are concerned that setting an implementation date prematurely is likely to have unnecessarily disruptive effects on industry's efforts to deliver faster services. We are currently in a time of great change when industry is already investing and innovating – at present fibre investments are being made by KCom, Virgin, Sky, TalkTalk and Gigaclear to name but a few.
  - The USO has the potential to distort the market and therefore every effort should be made to minimise this. The USO should seek to strengthen rather than undermine alternative infrastructure investment and avoid a repeat of the BDUK process which in our view simply reinforced an incumbent monopoly.
  - Finally, given the Government considers that primary legislation is needed to enable Ofcom to introduce a broadband USO the sole purpose of this legislation should be to confirm the legal powers. It should then be left to Ofcom how best to design any USO scheme. In consultation with industry.

**DCMS Consultation questions**

Q1. Do you have any concerns about the approach that has been set out here?

3. Subject to the general points made above, and within the narrow confines of the question of needing to legislate in order to provide for legal certainty we do not have any additional concerns at this stage.

Q2. We do not propose to specify speed in primary legislation. Should speed be specified in primary or secondary legislation?

4. We do not consider that it is appropriate to include any details on the relevant qualifying headline broadband speeds, nor should the legislation define the technology to be used. We believe that functional internet access (considered appropriate for today's needs) should be defined by the regulator at the time of its USO assessment, in consultation with industry. We intend to respond to Ofcom's consultation on this matter.<sup>1</sup>

Q3. In terms of giving the Secretary of State a power to direct Ofcom to review the USO, should Government have a continuing role in the USO, or should this be a matter for Ofcom?

5. We do not consider that it is appropriate for the Secretary of State to be given the power to direct Ofcom to review the proposed broadband USO, nor indeed the broader USO obligations.
6. The broadband USO assessment should be driven by evidence base rather than by political considerations. In our view Ofcom is best placed to conduct such an assessment.
7. Clearly the Government remains a key stakeholder in the process, the broadband USO is a political initiative. As noted above we believe that the Government, as author of the objective, has an obligation to fund its delivery, but we believe that the independent NRA is better placed to handle the detailed implementation of the scheme in order to best meet the Government's policy objectives.

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<sup>1</sup> Ofcom (2016), Designing the broadband universal service obligation, Call for inputs, 7 April 2016, available at: <http://stakeholders.ofcom.org.uk/consultations/broadband-USO-CFI/>

