



Draft Annual Plan 2011/12

Consultation

Publication date: 7 January 2011

Closing date for responses: 1 March 2011

Contents

Section		Page
1	Executive summary	3
2	Understanding the changing behaviour of citizens and consumers	7
3	Setting Ofcom's future strategic direction	13
4	Delivering our duties and value for money	16
5	Priorities for 2011/12	20
6	Other major work areas for 2011/12	30
7	Services to stakeholders	43
8	Ofcom's approach to regulation and recent simplification initiatives	45
Annex		Page
1	Responding to this consultation	52

Section 1

Executive summary

Ofcom's Draft Annual Plan sets out our work programme for 2011/12

- 1.1 This Draft Annual Plan presents our strategic purposes, our proposed priorities and our work programme for the twelve months from 1 April 2011 to 31 March 2012.
- 1.2 We encourage those with an interest in Ofcom's work to respond to this consultation by 1 March 2011. Your views will help inform our Annual Plan for 2011/12, which will be published at the start of our next financial year (April 2011).

Consumer behaviour and new technologies are driving change in the communications market

- 1.3 Ofcom's principal duty is to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition. The needs of consumers and citizens are, therefore, at the heart of our programme of work.
- 1.4 There have been significant developments in the technology, devices and platforms available to consumers. While many traditional communications services still remain highly popular, consumers are also accessing new, converged services and media.
- 1.5 These changes in how consumers are using communications services create a range of challenges for regulation. Concerns such as mis-selling still need to be addressed and new issues are also emerging, for example where consumers seek to switch between services.

Ofcom's strategic focus to 2015 must respond to these developments

- 1.6 We have considered future market developments and the changing consumer use of communications services. We have also reviewed our role within the sector and concluded that:
 - Due to the characteristics of our sectors, *ex ante* competition policy is still required in certain areas to support the interests of citizens and consumers.
 - It will remain important to manage the efficient allocation and use of scarce public assets like spectrum and numbering.
 - Market failures within our sectors suggest that there are continued benefits from a carefully judged consumer policy in support of competition policy.
 - The need and public support for content protection remains clear, despite convergence making the role of content regulation more challenging.

- There is still demand from the government for Ofcom to offer its technical and industry knowledge to provide support on policy issues. Ofcom will focus on areas where we have clear powers that enable us to make a real difference.

1.7 In summary our strategic purposes to 2015 are to:

- Promote effective and sustainable competition.
- Promote the efficient use of public assets.
- Help communications markets to work for consumers.
- Provide appropriate assurances to audiences on standards.
- Contribute to and implement public policy defined by Parliament.

1.8 It is important that we are able to assess our progress against these strategic purposes to be sure we are delivering them effectively. Therefore we will identify clear and positive outcomes that we are seeking to secure for citizens and consumers. We will monitor our progress towards achieving these outcomes, reviewing both our output and wider market developments. We recognise, however, that these outcomes will depend on wider industry and consumer developments as well as on our own actions.

Ofcom must also respond to wider economic challenges

1.9 The government has set out its plans in the *Comprehensive Spending Review* to address the UK's public finances. Public sector bodies are expected to achieve a substantial saving in their budgets. We will play our part in meeting the public spending challenge.

1.10 Our target is to reduce our spending over the next four years. The majority of savings will be made in the first year and by 2014/15 this will deliver a 28.2% real-terms saving on Ofcom's current annual funding cap of £143m.

1.11 We have reviewed how we deliver effective and targeted regulation while striving to maintain value for money, and have prepared detailed proposals for reducing expenditure and delivering greater organisational effectiveness. These proposals allow us to provide high quality sector-specific regulation and deliver our strategic purposes within the financial constraints set by government.

1.12 Our proposals build on Ofcom's record of efficiency and value for money. We have delivered six consecutive years of like-for-like budget reductions in real terms. We have also sought to reduce regulatory burdens wherever appropriate.

1.13 Ofcom is well prepared to implement the necessary savings, albeit from a base that does not provide easy opportunities to further reduce our spending. We are therefore proposing to stop certain activities and deliver our objectives through different approaches which offer material efficiency gains.

1.14 We are planning to make significant changes to our governance structure and supporting advisory bodies to deliver savings and refine our decision-making process. However, some of these measures will depend on legislative changes in the Public Bodies Bill and the European Communications Framework.

- 1.15 As resources are limited we will make choices guided by our strategic purposes and our core duty to promote the interests of the citizen and consumer. We have already made a number of immediate cost savings including completing a two-year pay freeze, proposing to cease future defined benefit pension accruals, and reducing spend on key supplier contracts. Our ongoing work, such as our licensing and investigations procedures, will see a number of changes that will provide further savings. These may also benefit stakeholders where our approach simplifies interactions with Ofcom.
- 1.16 We believe these changes can ensure we meet our financial objectives without undermining our revised strategic purposes and core priorities. Inevitably, there will be more difficult choices to make in relation to resource priorities than at any point in Ofcom's history.

We are also implementing new or revised duties

- 1.17 There are several amendments to UK legislation implemented or proposed by government that will change our duties. Some of these enable us to reduce our costs while others will require us to undertake new responsibilities. They include:
- Implementing the provisions in the Digital Economy Act 2010 aimed at addressing online copyright infringement.
 - Orders under the Public Bodies Reform Bill, through which the government has proposed to reduce Ofcom's duties in some areas, for example, the frequency of the media ownership review and the public service broadcasting review.
 - The transfer of regulation of post to Ofcom from Postcomm, proposed in the Postal Services Bill.
- 1.18 There are also requirements for Ofcom to comply with specific provisions of the revised European Communications Framework. These include:
- Revising our General Conditions and Universal Service Conditions.
 - Changes to the disputes resolution and enforcement processes.
 - Amendments to our market review processes, for example the requirement for market reviews in certain markets to be conducted every three years.
- 1.19 We will also continue to engage with the European Commission (EC) on its Radio Spectrum Policy Programme, with a view to supporting proposals that are consistent with our Digital Switchover (DSO) and spectrum clearance timetable.

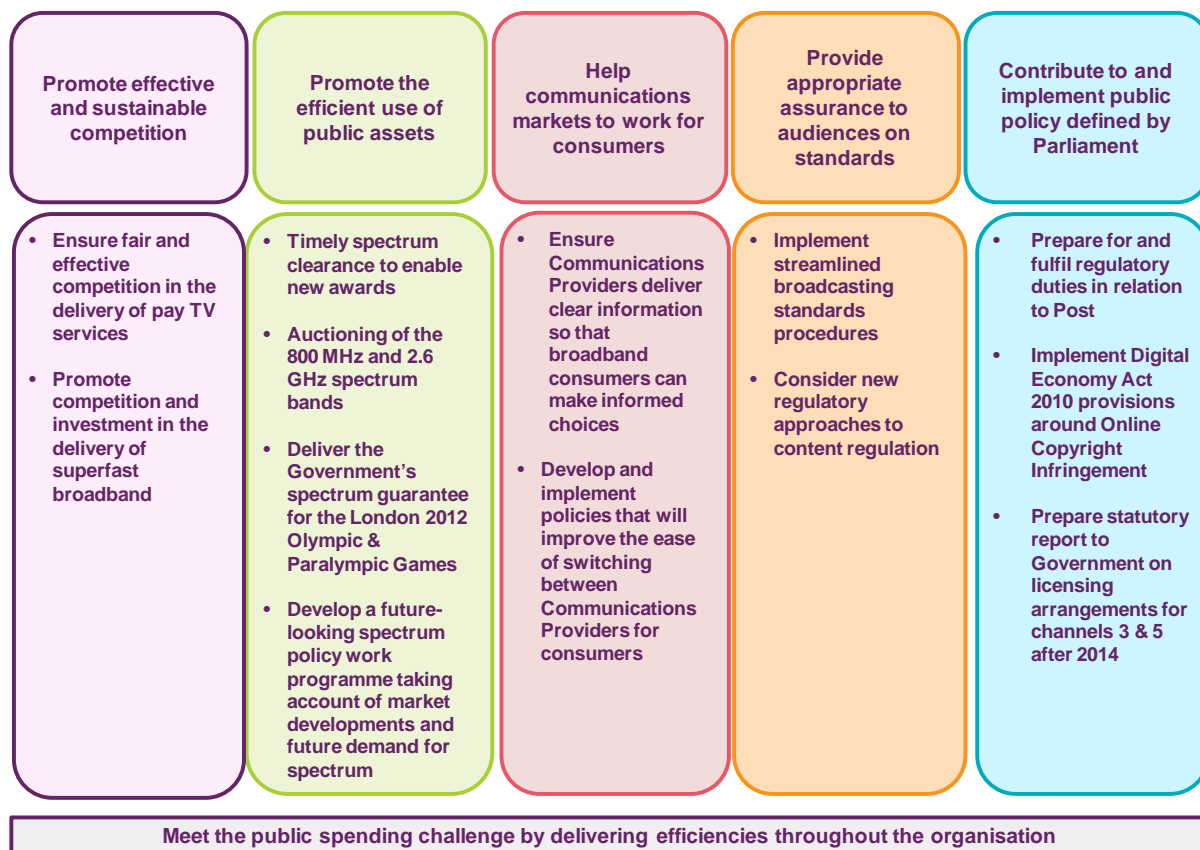
Our priorities for 2011/2012

- 1.20 Our priorities for the coming year are based on our revised strategic purposes and our programme of budget reductions and efficiencies. The priority issues we have identified for the next financial year will be our primary focus, and for each priority we have identified what we would like to achieve.
- 1.21 There are also a number of other important areas that require ongoing work across a number of years. We will continue to deliver important services to consumers and

other stakeholders, as well as a number of other major work areas which are an important part of our 2011/12 work programme.

- 1.22 We will also remain responsive to new issues, emerging market failures, specific issues for all consumers across the UK, and government requests based on where we can make the most difference.

Annual Plan 2011/12 proposed priorities



Section 2

Understanding the changing behaviour of citizens and consumers

Ofcom's approach is based on a detailed understanding of the communications market

- 2.1 Ofcom conducts a range of research to determine how the market is developing, and the implications for citizens and consumers. Our medium-term strategy and annual plan are based upon the needs of citizens and consumers.
- 2.2 This research includes the *Consumer Experience* and the *Business Consumer Experience* research reports¹, as well as broader market research published in our annual *Communications Market Report*². We also monitor the media literacy of adults and children through our Media Literacy Tracker research, as part of our Section 11 duty to promote media literacy.

Consumers' use of traditional services remains significant while use of new services is growing

- 2.3 Ofcom published the Communications Market Report (CMR) in August 2010. It presents our latest research into availability, take-up, satisfaction and cost of communications services.
- 2.4 The CMR found that the average consumer uses communications devices for 55% of their waking hours. Consumers are also increasingly using more than one device at once, fitting 8 hours 47 minutes of use into 7 hours of time.
- 2.5 Traditional content platforms continue to dominate overall use with television and radio representing over half of all media and communications activity. Despite rapid growth, catch-up TV still accounts for a low proportion of total TV viewing, although TV 'on-demand' services are used more often by 16-24 year olds.
- 2.6 Bundling of services is becoming more common and around half of all UK households now buy two or more communications services from a single supplier, up from less than a third five years ago. The price of bundled services is driving their popularity, with 70% of people saying this was their main reason for taking a bundle.

There is wide availability of communications services across much of the UK

- 2.7 The availability of the major broadcast and telephony services remained largely consistent during the year:

¹ <http://stakeholders.ofcom.org.uk/market-data-research/market-data/consumer-experience-reports/consumer-experience/>

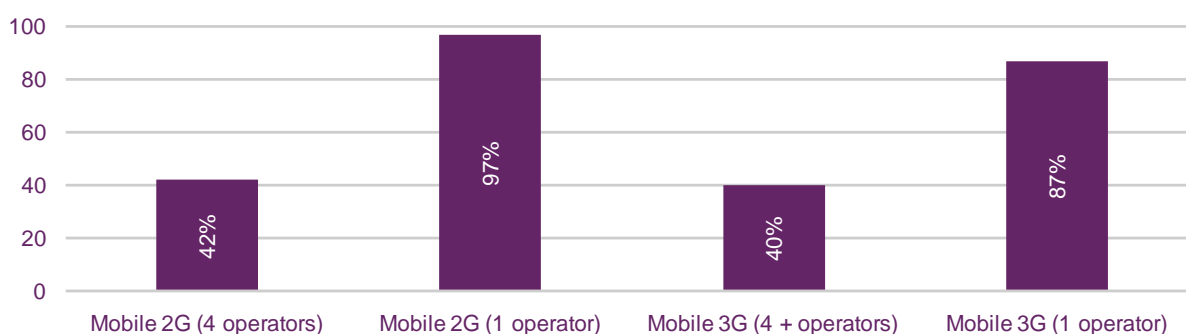
² <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr10/>

- Digital terrestrial TV signal is now available to 81% of households.
- Availability of local loop unbundling rose slightly to 85%.
- 87% of consumers have access to at least one 3G network, but for 2G and 3G services competition between four or more network providers is not widely available.

2.8 However, the availability of communications services differs significantly across the nations. 2G mobile coverage in Scotland, Wales and Northern Ireland is at least 10% lower than England. 3G mobile networks cover 91% of the population in England, but only 40% in Northern Ireland.

2.9 Spectrum auctions planned for early 2012 (particularly of the 800MHz and 2.6GHz spectrum bands) are likely to drive investment in next generation mobile broadband (4G services). More information about these auctions can be found on page 22.

Figure 1: Availability of mobile services



Source: Ofcom and GSM Association / Europa Technologies (Q1 2010)

2.10 The availability of superfast broadband has increased in the past year. In 2010 BT launched its BT Infinity product offering speeds of up to 40Mbps. BT is on track to deploy superfast broadband to up to 10 million premises by 2012, and has said that it intends to cover 66% of the UK population by 2015.

2.11 In the autumn of 2010, Virgin Media announced that 100,000 of its customers had signed up to its 50Mbps service while it prepares to launch a 100 Mbps service on its network on a commercial basis. However, cable broadband is currently available to only 23% of households in Wales; less than half the availability in England.

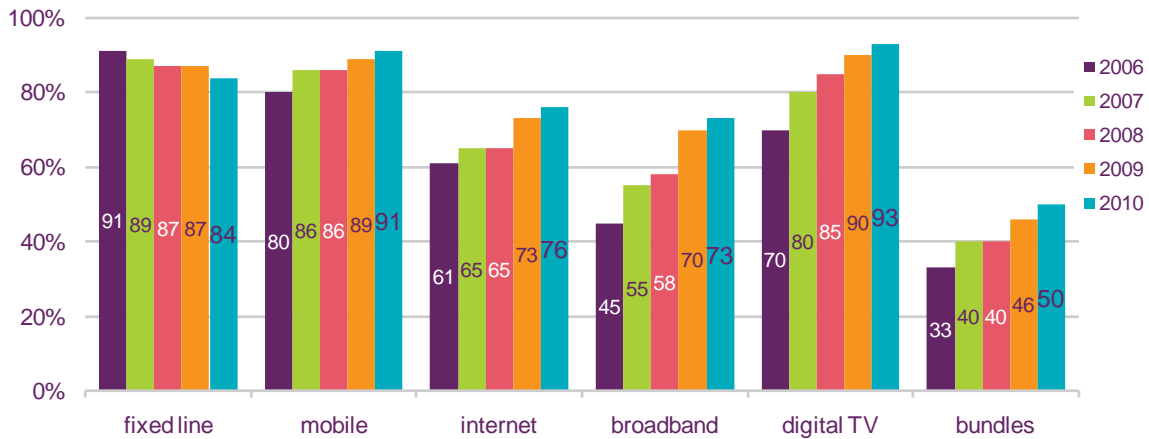
2.12 In addition to BT and Virgin Media, new entrants are investing in superfast broadband networks in specific areas and in new-build developments. The government has also announced its strategy for superfast broadband and for the universal service commitment in its document *'Britain's Superfast Broadband Future'*³.

³ <http://www.bis.gov.uk/assets/biscore/business-sectors/docs/b/10-1320-britains-superfast-broadband-future>

There has been an increase in the take-up of services, except for fixed line telecoms

2.13 The average take-up of fixed line communications services across the UK has fallen to 84% of households from 87% between 2009 and 2010. This compares to the 91% of individuals with a mobile phone. The proportion of mobile only households has almost doubled in the past five years; from 8% in 2005 to 15% in 2010. Take-up of digital television has also grown as a result of digital switchover.

Figure 2: Take-up of communications services

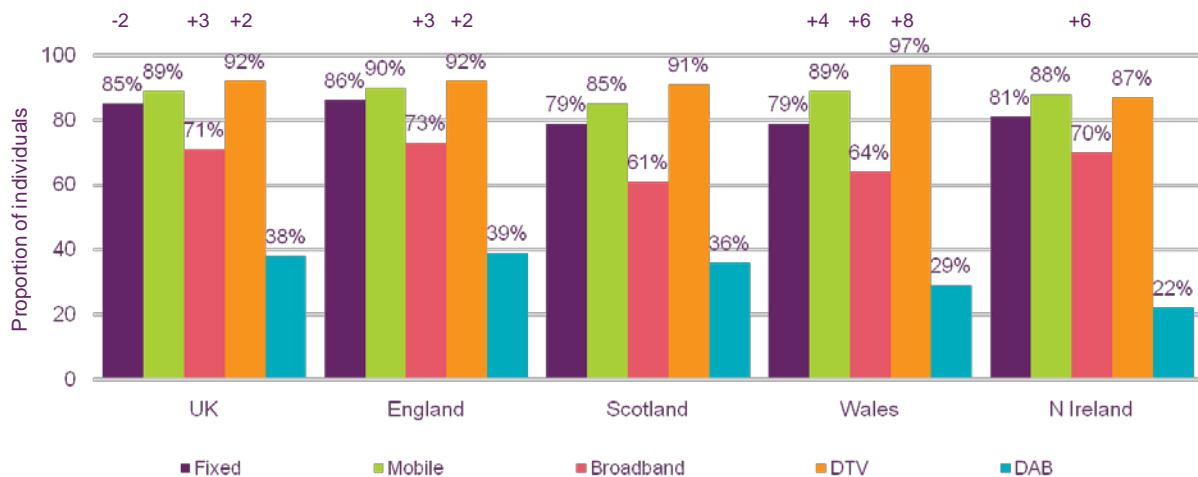


Ofcom Consumer Experience Research report, December 2010

Take-up of services varies across the UK nations and regions

2.14 As part of all our activities we consider how our work and its outcomes relate to the nations and regions of the UK.

Figure 3: Take-up of communications services across the nations



Source: Ofcom CMR, Q1 2010

2.15 Overall take-up of services varies by nation. In Q1 2010:

- Take-up of fixed lines was highest in England at 86%; 81% in Northern Ireland and 79% in Scotland and Wales.

- Broadband take-up across the UK stood at 71%. It was highest in England at 73%, marginally higher than Northern Ireland, but Wales and Scotland both had less than 65% take-up.
- Mobile phone take-up is comparatively consistent across the UK. The UK average was 89% in 2010, with the lowest take-up in Scotland at 85%.

2.16 Our work programme and ongoing consumer research take account of the needs and experiences of citizens and consumers across the UK and we are also advised on citizen and consumer issues by our Advisory Committees.

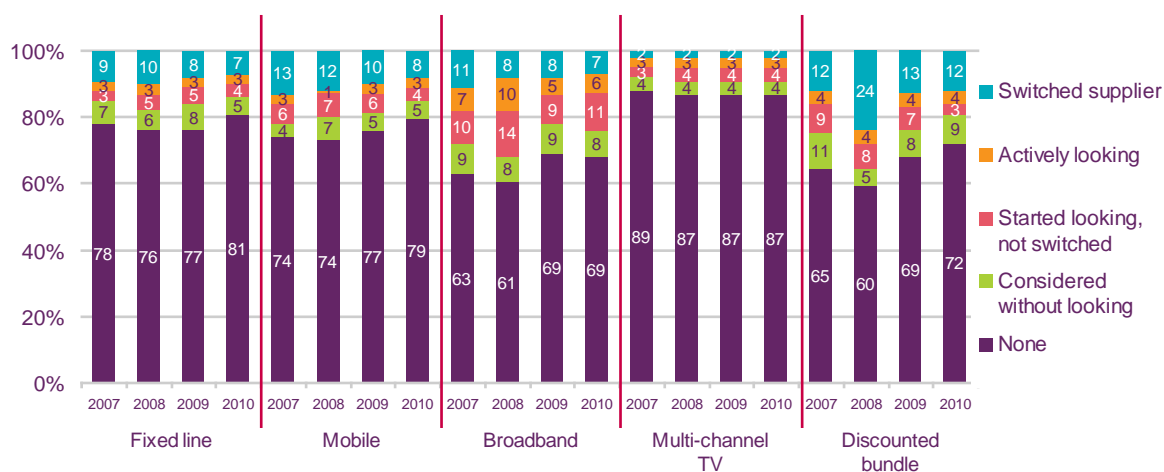
There are high levels of consumer satisfaction but challenges remain in relation to switching between services

2.17 Our Consumer Experience report (CER)⁴ research showed that overall levels of satisfaction with communications services have remained high (9 out of 10 consumers are ‘fairly’ or ‘very’ satisfied) but also identified areas for further attention such as the ability of consumers to switch between communications providers.

2.18 Since 2008 we have seen a reduced level of consumer switching in the fixed line, mobile and broadband markets. The growth in longer-term contracts may be one of the causes as 24-month contracts in the mobile market are increasingly common, accounting for 63% of all mobile phone contracts.

2.19 Bundling may be another factor, as our research revealed low switching rates among customers taking a bundle of services. This may be due to a combination of factors including high levels of satisfaction, contractual lock-in periods, and the difficulty of navigating multiple switching processes.

Figure 4: Switching activity in the previous 12 months



Source: Ofcom CER, December 2010

2.20 One of our 2011/12 priorities is to develop and implement policies that will improve the ease of switching between communications service providers for consumers.

⁴ <http://stakeholders.ofcom.org.uk/market-data-research/market-data/consumer-experience-reports/consumer-experience/>

The majority of business consumers are satisfied with their overall experiences, but there are still issues to address

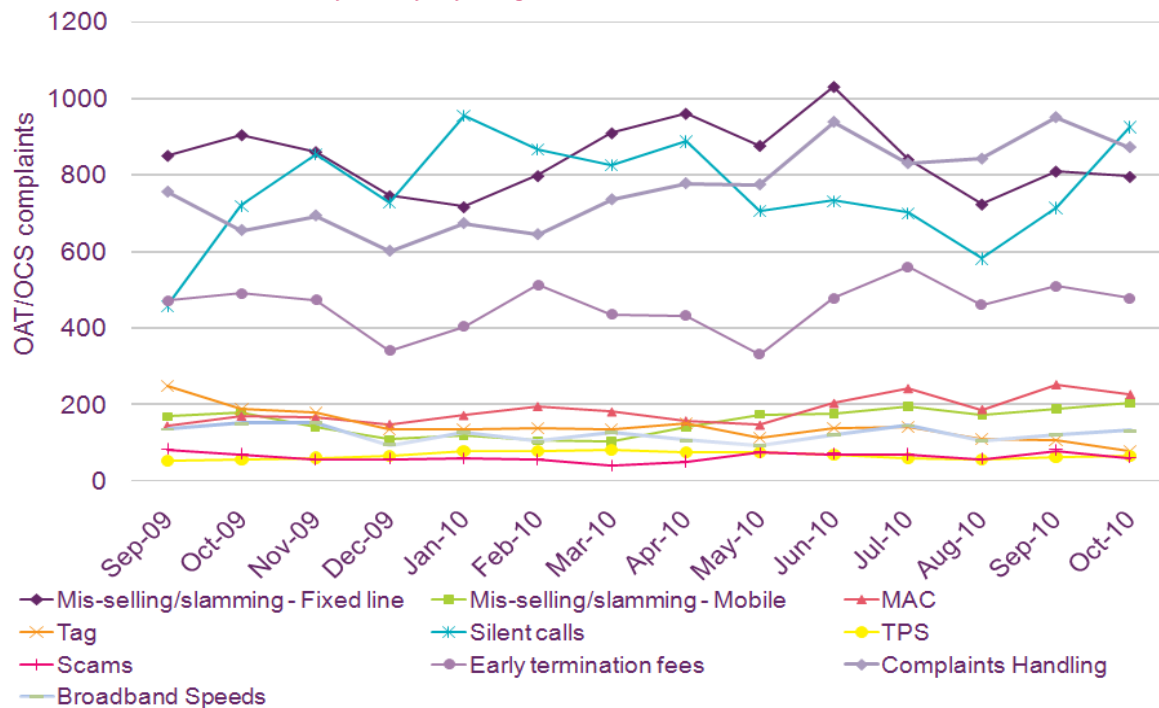
- 2.21 Our *Business Consumer Experience* report⁵ revealed that three quarters of business consumers rate the importance of mobile, internet and landline services to their business as at least 8 out of 10. A minority of business consumers buy residential services to fulfil their business needs (46% in the mobile market, 43% in online and 37% in fixed landline). This trend is much more prevalent among smaller businesses. For rural businesses, and those in the nations, service availability was a greater concern than for urban businesses, or those in England.
- 2.22 The majority of business consumers are satisfied with their overall experience. Their greatest concerns are about the coverage and speed of broadband services and the reliability and coverage of mobile networks.

Specific complaints remain, including silent calls and complaint-handling

- 2.23 By combining our market research with numbers of complaints made, we are able to identify areas of ongoing consumer harm.

Figure 5: Consumer complaints in telecoms

An overview of OAT/OCS monthly data by key categories



Source: Ofcom

- 2.24 Figure 5 above shows that there has been progress over the past year:

⁵ <http://stakeholders.ofcom.org.uk/market-data-research/market-data/consumer-experience-reports/consumer-experience/>

- Complaints about mis-selling of fixed-line services have fallen by 13%. This follows the introduction of regulation requiring service providers to provide clear and accurate information without misleading the consumer, and not to engage in aggressive conduct or slamming (where the service is changed without the consumer's consent).
- Complaints about broadband speeds have fallen slightly, by 3%. The majority of complaints were made about poor speeds or consistency. Many complainants also felt they had been mis-sold broadband services, as the speed they were experiencing was lower than advertised. One of Ofcom's ongoing priorities for 2011/12 is to ensure that service providers deliver clear information so that broadband consumers can make informed choices.

2.25 Resolving other problems has proved more challenging:

- Complaints about silent and abandoned calls rose by 23% in the twelve months to October 2010. Ofcom research does however indicate that the incidence of silent calls is in decline⁶. There have been two notable policy developments in this period which we think may have raised consumer awareness and contributed to the increase in complaints to Ofcom – the publication of new policy requirements⁷ about repeat silent calls (two or more silent calls a day from the same company) and an increase in the maximum penalty available to Ofcom to combat silent and abandoned calls⁸. We believe that our new requirement that consumers do not receive repeat silent calls (which comes into effect on 1 February 2011) and our continued enforcement supported by the increased penalty level, will lead to a further reduction in the incidence of silent calls.
- Concerns about the handling of complaints by service providers have increased by 25%. In response we will release a set of minimum standards for complaints-handling early in 2011. We will also continue to work with the established alternative dispute resolution (ADR) bodies, Otelco and CISAS.

Ofcom's consumer research underpins our strategic purposes and our priorities for 2011/12

2.26 The interests of consumer and citizen are at the heart of Ofcom's duties. We will continue to research the needs and experiences of citizens and consumers so that we can identify areas of harm and target any interventions as appropriate.

2.27 While there is evidence that residential and business consumers are satisfied with their communications services, there are specific areas that we will need to respond to. In setting our priorities for 2011/12 we have reflected these issues and we will proactively identify new areas as they emerge.

6 <http://stakeholders.ofcom.org.uk/binaries/research/consumer-experience/tce-10/consumer-experience-10.pdf> (figure 162)

7 <http://stakeholders.ofcom.org.uk/consultations/silent-calls/>

8 <http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=415608&NewsAreaID=2>

Section 3

Setting Ofcom's future strategic direction

- 3.1 This is a period of economic, technological and political change within the communications sector. Ofcom must respond to this to ensure that our approach to regulation continues to meet the interests of citizens and consumers.
- 3.2 To do this we have reviewed our medium-term strategic direction from now to 2015. We have considered our role and focus as a sector-specific regulator and how far our approach is appropriate to meeting the challenges facing our sector. The outcome of this work has guided our priorities for the year ahead.
- 3.3 We have identified five areas that capture the core of what we do:
- Promoting effective and sustainable competition.
 - Promoting the efficient use of public assets.
 - Helping communications markets work for consumers.
 - Providing appropriate assurance to audiences on standards.
 - Contributing to and implementing public policy defined by Parliament.
- 3.4 For each of these purposes we have assessed Ofcom's role as a sector-specific regulator and reviewed our approach to meeting our duties.

Ex ante competition policy is still required to support the interests of citizens and consumers

- 3.5 The combination of new technologies and convergence in the sectors we regulate is enabling cross-platform and cross-service competition. This has the potential to reduce market power, which could then allow for greater reliance on *ex post* competition powers as opposed to *ex ante* sector-specific regulation.
- 3.6 However, these changes exist alongside new pressures that may reinforce existing economic bottlenecks, or create new ones. These include continued pressure for industry consolidation and developments that could create new barriers to entry, in areas such as switching and bundling of services.
- 3.7 As a result, we believe that there continues to be a case for an *ex ante* regulatory framework to respond to developments in our regulated sectors. This will need to be balanced by constantly updating our market understanding to allow us to recognise opportunities for deregulation and so move to *ex post* approaches wherever possible.

The market alone is unlikely to secure efficient allocation and use of public assets like spectrum and numbering in all cases

- 3.8 We continue to favour a market-based approach to the allocation and efficient use of public assets like spectrum and number ranges. But the scarce nature of these assets requires us to ensure their maximum value to society. There continues to be a crucial role for longer term planning and direct management to achieve this. For

example, the international harmonisation of spectrum can add significantly to its overall social value, while still allowing liberalisation and trading of spectrum.

Market failures within our sectors suggest the continued need for consumer policy, in addition to competition policy

- 3.9 In determining how we approach consumer support and protection we have considered how far consumer interests can be served by horizontal consumer law alone. We have assessed whether consumer issues result from a number of potential demand side market failures, among other things:
- Limited incentives for switching processes.
 - Complex products and pricing.
 - Harm from technical processes such as silent calls.
 - High barriers for consumers seeking to leave their existing providers.
- 3.10 Delivering good consumer outcomes requires a consumer protection body that can draw on a range of horizontal and sector-specific tools in addition to general consumer law. We therefore believe that consumer protection still requires a sector-specific regulatory response.

The need and public support for broadcast content regulation has not diminished, but convergence of media poses longer term questions

- 3.11 It is clear from our research⁹ that the objectives of broadcast content regulation are valued by citizens and consumers. Delivering effective audience protection requires regulation to address areas of potential harm.
- 3.12 However, as noted in previous annual plans, wider reform of content regulation will need to respond to technological developments in the longer term. This will not be a rapid process; while new forms and sources of content are emerging, traditional platforms and viewing habits remain important. However, over time, it is likely that changing market dynamics will present two main challenges:
- Focus – are the objectives of content regulation still the right ones?
 - Scope – which content or platforms is it necessary or possible to regulate?
- 3.13 We will need to explore these questions and, where appropriate, contribute to the wider debate on these issues.

⁹ <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf> and <http://stakeholders.ofcom.org.uk/binaries/research/radio-research/language.pdf>

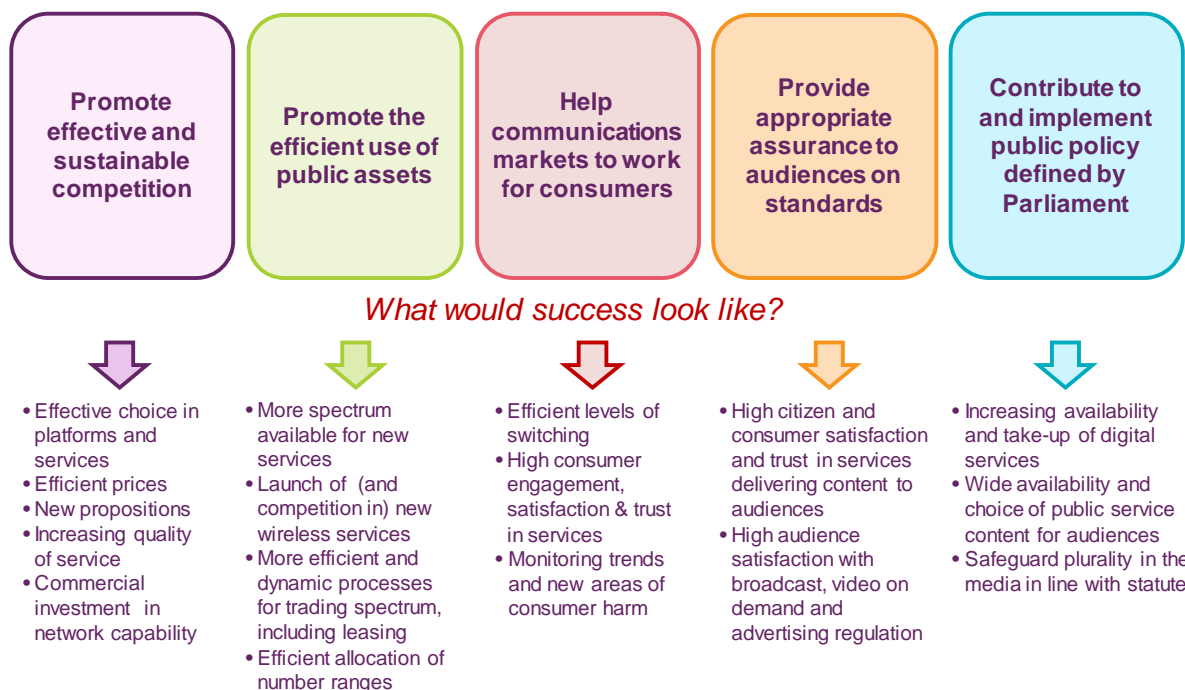
Ofcom will continue to contribute to wider public policy objectives, but we will focus on the areas where we can have the most impact

- 3.14 In the past, Ofcom has led or contributed to a number of wider public policy issues at the request of Parliament and government. We expect to continue to provide our sectoral and technical expertise where Parliament or government identifies a clearly defined role for Ofcom to deliver benefits in the wider public interest, such as our work on the broadband universal service and media plurality.
- 3.15 However, given our limited resources we must adopt a rigorous approach to prioritising our work and focusing our efforts where we can make a beneficial change.
- 3.16 In future, the prioritisation of our work will be based on the following assessments:
- i) Is the issue an Ofcom priority? Is it defined within our statutory duties?
 - ii) Is the issue a government priority? Has the government requested our assistance with a specific policy priority?
 - iii) Is it an area in which Ofcom can make a positive change? Can we make a difference for consumers or citizens by using our statutory powers or our soft powers, such as technical expertise and indirect influence?

We will seek to deliver positive outcomes by focusing on the following strategic purposes

- 3.17 Having reviewed our work areas, we have defined five strategic purposes that guide our approach to fulfilling our duties. We have also identified high-level outcomes to illustrate what successful delivery of our strategic purposes could look like.

Ofcom's strategic purposes



Section 4

Delivering our duties and value for money

Ofcom, like all public bodies, is doing its part to meet the public spending challenge

- 4.1 In the face of the deficit in the public finances the coalition government has set out its plans following the October 2010 Comprehensive Spending Review. A substantial saving is to be achieved by a reduction to public bodies' budgets, including Ofcom's.
- 4.2 We are responding to the government's challenge by reviewing how we deliver effective and targeted regulation, while maintaining value for money. We have considered how best to deliver our goals within the financial constraints set by government.
- 4.3 In addition to the economic challenge we are also responding to changes in UK and European legislation. We have been asked to take on new duties by the government in relation to online copyright infringement and (subject to legislation) responsibility for the postal sector. We may also be required to change our duties in other areas as set out in the Public Bodies (Reform) Bill. The European Communications Framework will also make a number of significant changes once it is transposed in May 2011.

We are planning to reduce significantly our spending

- 4.4 The government's Comprehensive Spending Review has introduced a new set of challenges for Ofcom to achieve further significant reductions to its budget. Our target is to reduce our spending over the next four years and the majority of savings will be made in the first year. By 2014/15 this will deliver a 28.2% real-terms saving on Ofcom's current funding cap of £143m.
- 4.5 In order to meet that challenge we have prepared detailed proposals for reducing expenditure while achieving greater strategic focus and organisational effectiveness.
- 4.6 Our proposals build on Ofcom's track record of:
 - Reducing our budget – Ofcom has already delivered six consecutive years of like-for-like real-terms budget reductions.
 - Securing the interests of UK citizens and consumers through effective competition, investment and by protecting audiences and consumers.
 - Reducing our regulatory burden wherever appropriate.
- 4.7 Ofcom is already delivering its duties with reduced resources that are 27% lower, in real terms on a like-for-like basis, than those of its predecessors.
- 4.8 In meeting the proposed budget reductions we have reviewed how we deliver our annual priorities and statutory duties. This review centred on four key areas:
 - Further improving efficiency in the delivery of regulatory and operational projects through improved prioritisation and governance.

- Reviewing all programmatic activity to deliver greater efficiency through streamlined processes and procedures.
- Reviewing expenditure with external suppliers and the costs of Ofcom's support functions.
- Reviewing specific areas of work and aligning them to the strategic purposes.

4.9 Some of our savings will come from efficiency initiatives that began before our spending review. These pre-existing initiatives will provide savings in 2010/11 and include:

- A pay freeze across the organisation, the second consecutive year that pay has been frozen.
- A proposal to cease future accruals to Ofcom's two legacy defined benefit plans.
- A re-tender of outsourced facilities management.
- The appointment of a managed service provider for temporary and agency staff.
- Completing the transition of outsourced ICT services to a newly appointed partner following an OJEU procurement process.
- The implementation of two framework agreements to streamline the OJEU procurement process for call off agreements while maintaining strict compliance with procurement regulations.

4.10 We have also identified a number of further initiatives that will improve the way we work. These include:

- Introducing a simplified governance structure including a reduction from 13 to nine bodies, panels and committees and shared membership between 4 of these (subject to the Public Bodies Bill and permission from the Secretary of State)
- Following Government agreement, ending our involvement in specific activities such as digital participation.
- Reviewing and reducing our market research activity.
- Re-focusing our technical studies on a lower resource base.
- Reviewing the way we run projects to further improve efficiency in terms of time, resources and costs.
- Rationalising programmatic activities to reduce time and costs.
- Further reducing our office costs (in the light of reduced headcount).
- A full review of Ofcom's major suppliers leading to renegotiation.
- Rationalising the ICT server estates to reduce our costs and carbon footprint.

- 4.11 Ofcom will also be reducing its headcount. The new organisational structure will be in place for 2011/12. As a consequence of these proposals, which are subject to consultation, approximately 170 posts will become redundant.
- 4.12 As part of the proposed reduction in Ofcom's governing bodies, the Consumer Communications Panel and the Advisory Committee on Older and Disabled Consumers will cease to exist as distinct bodies. We also propose the closure of the Advisory Committee for England.
- 4.13 As a result of these proposals, the Northern Ireland, Wales and Scotland advisory panels would take on responsibility for representing all consumers, including older and disabled people. This will allow us to continue to gather insights into the issues of the nations and regions and the particular issues of older or disabled consumers.
- 4.14 These changes will enable us to deliver further savings as well as streamline our decision making process. However, they will depend on legislative change delivered by the enactment of the Public Bodies Bill.

We will deliver high quality work and value for money

- 4.15 We have reviewed our project and programmatic work as well as our research programmes to see how a different approach can allow us to make greater savings. Where our resources are limited we will make choices guided by our strategy and duty to promote the interests of the citizen and consumer.
- 4.16 Where appropriate, we will consult externally on the changes proposed. For example, we are consulting on revised procedures for the investigation of breaches of broadcast licences and fairness and privacy complaints, as well as the consideration of statutory sanctions. Our revised procedures will enable us to conclude our investigations more quickly and deliver greater value for our stakeholders.
- 4.17 Although they are not without risk, we believe that these changes in our structure and approach will allow us to deliver high-quality regulatory outcomes that meet our strategic purposes and annual plan priorities within our new budget.

We are also taking on new duties and implementing proposed changes to existing legislation

- 4.18 Several existing or proposed changes to legislation in the UK will change our future responsibilities.
- 4.19 We are already implementing the provisions of the Digital Economy Act 2010, aimed at addressing online copyright infringement. We are also preparing for other changes to our responsibilities as a result of new legislation in the coming year:
- Under the Public Bodies Bill, the government has proposed to make an Order to amend or remove Ofcom's duties in areas such as the frequency of the media ownership review and the public service broadcasting reviews. As noted earlier, the Public Bodies Bill may also enable us to simplify our governance, allowing us to streamline our structure with corresponding savings. Should the Bill become law these changes will be enacted through secondary legislation and will come into force during 2011/12.

- The government has announced its intention, in the Postal Services Bill, to transfer the regulation of the postal sector from Postcomm to Ofcom. We are working to ensure that integration with Postcomm is managed effectively, while providing regulatory certainty for consumers and industry.
- 4.20 Ofcom will also be implementing the European Communications Framework. The Department for Business, Innovation and Skills (BIS) has recently closed its consultation on the Framework transposition and we will work with it to implement the resulting changes. In particular, Ofcom must revise a number of General Conditions by May 2011. Where the revised Framework contains new permissive powers we will keep the need to apply such powers under review. This may lead to further consultation in 2011/12.

The Draft Annual Plan for 2011/12 incorporates these changes

- 4.21 In developing our priorities for the year ahead we have sought to reflect consumer and market developments as well as any likely legislative changes. Our programme of work reflects where we expect to undertake significant new responsibilities, while still ensuring that sufficient resources are allocated to our existing duties.

Section 5

Priorities for 2011/12

Our priorities flow from our strategic purposes and reflect the consumer, economic and legislative environment

- 5.1 In response to market developments, economic constraints and changes to legislation our priorities balance new work with important ongoing commitments. They have been aligned to our five strategic purposes:
- Promote effective and sustainable competition.
 - Promote the efficient use of public assets.
 - Help communications markets to work for consumers.
 - Provide appropriate assurances to audiences on standards.
 - Contribute to and implement public policy defined by Parliament.

Strategic Purpose 1: Promote effective and sustainable competition

- 5.2 We believe that there is a case for an ongoing *ex ante* regulatory framework to respond to the dynamic and pace of our regulated sectors. We have identified two particular priorities for 2011/12, which respond to market developments and which are intended to deliver significant benefits to citizens and consumers.

Ensure fair and effective competition in the delivery of pay-TV services

- 5.3 The pay-TV sector has delivered substantial benefits, with more than 12 million consumers now paying for a wider choice of content, and with a greater degree of control, than has historically been available from free-to-air television.
- 5.4 Following three consultations on the pay-TV market, we came to the view that BSkyB's behaviour was limiting consumer choice and the development and innovation of television platforms. We published a statement setting out our decision in March 2010, requiring that Sky Sports 1 and 2 should be offered to retailers on platforms other than Sky's, at prices set by Ofcom.
- 5.5 We will continue to monitor consumer take-up of the new services resulting from this remedy, and investigate any complaints relating to its implementation. Meanwhile we will be defending our decision against appeals brought against it.
- 5.6 We also made a market investigation reference to the Competition Commission under the Enterprise Act 2002 on the subscription film sector, particularly subscription video-on-demand services. The Competition Commission is now carrying out this investigation, and we shall contribute as requested.

Promote competition and investment in the delivery of superfast broadband

- 5.7 Ofcom published a Statement in October 2010 setting out the conclusions of the *Wholesale Local Access* market review. This review required BT to offer virtual

unbundled local access (VULA) to its next-generation fibre infrastructure and to open up access to the ducts and poles in its local access network. These are new obligations which will have an important role in facilitating competition and investment in superfast broadband services.

- 5.8 Our priority is to ensure that these remedies are effective. This will involve working closely with BT, the Office of the Telecoms Adjudicator (OTA) and industry stakeholders, to ensure that BT's wholesale products are appropriately specified and to resolve any issues related to product design, pricing and delivery.
- 5.9 This work will support the roll-out of next-generation access (NGA) facilities by BT and other providers, and increased availability and competition in the retail market for superfast broadband services.
- 5.10 Over the course of 2011-12, we also expect to produce further guidance for industry on the regulatory environment for investment in the next-generation access infrastructure. This will consider how the new provisions on infrastructure sharing in the European Communications Framework might be applied, and provide support as required for the government's broadband initiatives.

Strategic Purpose 2: Promote the efficient use of public assets

- 5.11 Ofcom is responsible for ensuring the optimal use of electro-magnetic spectrum. Given the potential value to citizens and consumers of services that are enabled by spectrum resources, managing spectrum is a significant responsibility. Assessing how spectrum is used, and if appropriate taking steps to enable its use to change, is important to delivering the best outcomes for citizens and consumers.

Preparing for auctioning of the 600 MHz, 800 MHz and 2.6 GHz spectrum bands

- 5.12 The digital switchover (DSO) of television services presents the opportunity to release significant amounts of spectrum below 1 GHz (the digital dividend) in frequency bands that are particularly suitable for broadcasting and wireless broadband applications. The digital dividend consists of a lower band at 550-606 MHz (the 600 MHz band) and an upper band which we are currently aligning with the spectrum released in other European countries by clearing additional frequencies. This will create a 72 MHz block of spectrum harmonised across Europe at 790-862 MHz (the 800 MHz band).
- 5.13 In addition to the digital dividend, 190 MHz of high-quality spectrum in the 2.6 GHz band (2500-2690 MHz) is largely unused. The characteristics of this spectrum make it particularly suitable for the deployment of mobile networks, including networks using technologies such as LTE and WiMAX.
- 5.14 The key spectrum bands that we hope to auction in the year 2011/12 are the 800 MHz, 2.6 GHz bands, and the 600 MHz band, resources permitting
- 5.15 We aim to start the auction for awarding the licences to use the 800 MHz and 2.6 GHz bands by the end of 2011/12 or early in 2012/13. To achieve this we will first have to:
- consult on our assessment of future competition in mobile markets and our consequent proposals for the design of the combined auction;
 - publish our final decisions on these matters;

- consult on and make Auction Regulations (secondary legislation), and publish an Information Memorandum, and
 - finalise software to run the auction and train prospective bidders in its use.
- 5.16 While it is possible that the auctions for the 800 MHz and 2.6 GHz bands will be complete within the financial year 2011/12, we are likely to issue the relevant licences in the first half of the financial year 2012/13. Our aim is to award licences for use of the 600 MHz band on a similar timescale.

Timely spectrum clearance

- 5.17 To be able to hold the awards for spectrum in the 800 MHz and 2.6 GHz bands, we are undertaking significant work to clear the spectrum. We are moving services that currently use the 800 MHz band – digital terrestrial television, and programme making and special events – to other spectrum. We are also assessing the impact that the launch of mobile broadband in the 800 MHz and 2.6 GHz bands could have on adjacent services, including radar in the 2.7 GHz band (also known as S-band) and, if necessary and appropriate, taking steps to mitigate that impact.
- 5.18 We will complete our assessment of the impact of mobile services on users in adjacent bands, in time for the Information Memorandum referred to above.
- 5.19 In 2011/12, we will continue our work to move existing users from the 800 MHz band:
- From March 2011, we will start making payments under the funding scheme to help programme-making and special events (PMSE) users move out of channel 69, at the top of the 800 MHz band. The scheme will run until the end of 2012/13.
 - Throughout 2011/12 we will continue to work with multiplex operators, Digital UK and Arqiva to clear DTT from channels 61 and 62 at the bottom of the 800 MHz band, assessing applications and making payments related to the reasonably incurred costs of carrying out this work.
- 5.20 We will also continue working closely with the Civil Aviation Authority (CAA), the MoD and industry to define the necessary programme of upgrades required to remediate S-band radars to emissions from 2.6 GHz and 3.4 GHz spectrum users.

Deliver the government's guarantee of wireless spectrum for the London 2012 Olympic and Paralympic Games

- 5.21 The London 2012 Olympic and Paralympic Games will take place between 27 July and 9 September 2012, and will be staged across the UK. Organising spectrum to support these applications is crucial to the Games' success.
- 5.22 Ofcom is responsible for organising a full spectrum plan for the London 2012 Games, arranging all the licences and ensuring that wireless services are free from harmful interference. Our objective is to contribute to a successful event by ensuring that spectrum is used effectively, with the least disruption to existing users.
- 5.23 These responsibilities stem from guarantees given by the UK government to the International Olympic Committee (IOC). They cover the allocation of the spectrum required for the organisation of the Games and the waiving of spectrum fees otherwise payable by members of the Olympic Family. The government is committed

to the successful and safe delivery of the Games, and Ofcom's role is essential for broadcasters, organisers, athletes and emergency services to fulfil their roles.

- 5.24 Ofcom also recognises the contribution of services not covered by the UK government's spectrum guarantees to the success of the London 2012 Games and the importance of 'day-to-day' services. We are working to ensure that any spectrum requirements generated by the Games and other related events are met and coordinated with day-to-day spectrum use as far as possible. Ofcom began planning for these tasks in 2006 and will complete them after the Games end in 2012.
- 5.25 During 2011/12 we will finish building the capabilities that allow us to discharge our responsibilities to the Games. By the end of 2011/12 we will:
- Publish a final version of the detailed spectrum plan of the frequencies to be used at the Games.
 - Use our Information Services platform to undertake technical assignment of frequency licences for Olympic users, co-ordinate these with assignments for non-Olympic users and manage the administration of these licences.
 - Implement licensing processes which meet the needs of the Games organisers and the spectrum users.
 - Issue the majority of licences to meet the requirements of the Games users.
 - Have our network of sensor equipment in operation, monitoring spectrum use in key locations to ensure that frequencies are free of interference.
 - Test and further prepare our direction-finding equipment to pinpoint any harmful interference to Games users.
 - Recruit and train experts who can provide assurance of spectrum availability and freedom from interference during the Games.
 - Design and exercise a process for pre-commissioning, testing and tagging all wireless equipment to ensure that it is consistent with the conditions of spectrum use.
 - Successfully exercise these capabilities and test their resilience in test events that simulate Games conditions as closely as possible.
 - Implement the necessary links between Ofcom and other government agencies to ensure accurate and timely reporting of spectrum matters and the speedy resolution of any problems.
- 5.26 In the immediate run-up to the Games we will complete licensing and conduct further tests to refine our capabilities. Ofcom is also responsible for providing a full de-brief to the IOC and to our successors in other Olympic cities.

Develop a medium term spectrum policy work programme, taking account of market developments

- 5.27 In Ofcom's last *Spectrum Framework Review* we described our Spectrum Vision as:

- Spectrum should be free of technology and usage constraints as far as possible. Policy constraints should be used only where they can be justified.
- It should be simple and transparent for licence holders to change the ownership and use of spectrum.
- Rights of spectrum users should be clearly defined and users should feel comfortable that these rights will not be changed without good cause.

5.28 Ofcom will continue to be guided by this Vision, taking account of our experiences since publishing the *Spectrum Framework Review* and the *Spectrum Framework Review: Implementation Plan* in 2005. We will also develop our understanding of the likely demand for spectrum beyond currently planned releases taking a ten-year view of developments affecting spectrum use

Strategic Purpose 3: Help communications markets work for consumers

5.29 Communications markets are developing quickly and consumers face a number of demand side failures which require sector-specific regulation. We are focusing on concerns about switching, in particular, as well as considering how to provide information on services such as broadband.

Develop and implement policies that will improve the ease of switching between communications providers

5.30 Markets are changing, with more bundled services offered. As the boundaries between services become less clear, consumers may face confusion.

5.31 An ongoing priority for Ofcom is to continue to make significant progress in ensuring the effectiveness of switching procedures. Ofcom is currently undertaking a review of switching processes across fixed and mobile telecommunications, broadband and pay TV.

5.32 We are focusing on delivering two key outcomes:

- We want to ensure that the consumer experience of switching is easy and convenient, both now and in the future. We want to ensure that there are no undue process barriers to switching for single services and for bundles.
- We want to ensure that switching processes do not get in the way of providers competing to deliver benefits to all consumers, in terms of lower prices, greater choice and innovation, and value for money.

5.33 Switching between communications providers is often complex and involves co-ordinating steps between different providers in ways that do not arise in other markets. The way consumers switch providers today varies; sometimes, these processes have been developed by industry, while some have been designed with input from Ofcom (or Oftel). There are different processes, with different features and experiences for consumers.

5.34 We published a consultation document in September 2010 setting out the key issues and problems with the current switching processes and a strategic vision of our preferred model of a switching process.

- 5.35 We have considered gaining provider-led (GPL) and losing provider-led (LPL) switching processes. GPL switching processes are where the consumer is able to rely on the new provider to arrange for their services to be transferred from their previous provider to the new provider. LPL switching processes are where the consumer needs to get a code from their existing provider before they can switch their service to the new provider. We have also considered the situation in which no switching processes exist and the consumer co-ordinates the end of service from the previous provider and the start of service from the new provider.
- 5.36 Our view, which we are consulting on, is that usually GPL processes will be preferable to LPL processes. We believe that GPL processes normally perform better than LPL processes in terms of both consumer and competition outcomes. This is based on evidence and analysis, which suggests that:
- GPL processes are easier for consumers to navigate.
 - GPL processes are also more likely to deliver lower prices, greater choice and innovation, as they force providers to compete vigorously for rivals' customers.
 - Slamming concerns (i.e. the situation in which a consumer is switched to a new provider without their knowledge or consent) can be successfully addressed within a GPL process through appropriate consumer protection measures – as experience in other countries has shown.
- 5.37 Subject to consultation, we will undertake further work to consider how this applies to current switching processes. Our assessment to date has not taken into account the costs of moving from the current process to any new process for specific services. We will be working with industry via our Switching Working Group (SWG) to develop detailed options and cost estimates to feed into the next consultation document.
- 5.38 We plan to issue a second consultation in summer 2011, setting out detailed proposals for reform, if any, of the current GPL and LPL switching processes in fixed-line and broadband services. Subject to consultation we expect to publish a statement by the end of 2011.

Automatic renewable contracts (ARCs)

- 5.39 We are concerned about the existence of automatically renewable contracts (ARCs or 'rollovers') to residential consumers because these contracts are an example of a potential contractual barrier to switching.
- 5.40 With ARCs, consumers sign up to a minimum contract period (MCP) that is automatically renewed unless the consumer explicitly tells the provider they do not want this to happen. Some providers issue a reminder letter to the customer before the MCP is renewed. If a consumer wants to leave during an MCP, they usually have to pay an early termination charge (ETC) under the terms of their contract. We have concerns about the potential impact of rollovers on the competitive process, particularly given the increase in bundling and the risk that these types of contracts will become more common.
- 5.41 This project has sought to establish whether ARCs are harmful to the competitive process and so to consumers as a whole. Our evidence to date demonstrates that there is harm and we are considering how to protect consumers and markets.

- 5.42 We will publish a document setting out Ofcom's approach to ARCs, proposing remedies if appropriate, and next steps early in 2011. As a longer-term outcome, we want to ensure that efficient switching and competition are not constrained by ARCs.

Additional charges in contracts for communications services

- 5.43 On 19 December 2008, Ofcom published the final Statement in its *Review of Additional Charges* in contracts for communications services (including non direct debit and early termination charges). This includes our sector-specific guidance on the application of the Unfair Terms in Consumer Contracts Regulations 1999 to certain standard contract terms for the supply of communications services. In April 2009, Ofcom opened an enforcement programme to ensure compliance with this guidance. We updated the guidance in November 2010.
- 5.44 Ofcom concluded the first stage of its work under the Additional Charges Enforcement Programme in the fixed voice sector in June 2010. Following constructive discussions, BT, TalkTalk and Virgin Media have agreed to significantly reduce their ETCs for fixed voice and voice plus broadband services (without agreeing that their charges were unfair). We are now continuing work in the fixed voice sector and voice plus broadband sectors with other providers. We will also consider other sectors, and may take action where appropriate, and so have extended this work into 2011/12.
- 5.45 As part of our enforcement action, Ofcom may initiate separate investigations of named providers. We expect to achieve similar outcomes with a number of fixed-line and broadband providers to those recorded in June 2010.

Ensure that communications providers deliver clear information so that broadband consumers can make informed choices

- 5.46 Broadband speeds are a key aspect of consumers' satisfaction with broadband services. However, speed claims in advertising are rarely achievable and so consumers are unable to make reliably informed choices. Ofcom has already commenced several initiatives aimed at ensuring that consumers have access to reliable information on broadband speeds.
- 5.47 There are two strands¹⁰ to this work, which will continue through 2011/12:
- ensuring compliance with the newly revised Code of Practice¹¹ (tested through mystery shopping); and
 - publishing two comparative broadband speeds reports for consumers.
- 5.48 Following the transposition of the European Communications Framework in May 2011, Ofcom will acquire new powers in relation to traffic management. We believe that greater transparency of traffic management practices is a necessary part of a well-functioning broadband market and we will work with industry, as well as preparing our own analysis, to determine how this is best provided.

¹⁰ <http://consumers.ofcom.org.uk/2010/11/get-the-most-out-of-your-broadband/>

¹¹ <http://stakeholders.ofcom.org.uk/telecoms/codes-of-practice/broadband-speeds-cop-2010/code-of-practice/>

Strategic Purpose 4: Provide appropriate assurance to audiences on standards

5.49 While the media landscape continues to evolve, providing appropriate assurances to audiences on standards remains an essential part of our role. We are considering the current framework for this and future requirements for content regulation.

Implement streamlined standards procedures

5.50 The assessment of complaints about, and investigations into, possible breaches of broadcasters' licence requirements play a crucial role in ensuring that the public is protected, particularly in areas such as the protection of under-18s, harmful or offensive material, unfair treatment and infringements of privacy.

5.51 It is vital that our procedures for conducting these investigations and, where necessary, imposing sanctions, are as effective as possible.

5.52 As part of a wider review of how Ofcom carries out its work we are consulting on proposed revisions to our procedures for:

- Investigating breaches of broadcast licences.
- Investigating fairness and privacy complaints.
- Considering statutory sanctions.

5.53 These revised procedures are intended to make our investigations faster and to deliver greater value to our stakeholders. Following consultation we intend to implement any revised procedures in 2011.

Where appropriate, consider new regulatory approaches to content regulation

5.54 In addition, we will continue to review our wider regulatory approach to content regulation to ensure that it remains fit for purpose and that it continues to serve the interests of citizens, consumers and stakeholders.

5.55 There will be a number of challenges in this area. Changes in technology, including the emergence of mass-market IPTV services in the UK, and the evolution of on-demand services, will challenge the existing regulatory structures, which were designed predominantly for a linear broadcasting world. We will continue to work with our co-regulators, such as ATVOD, to develop these regulatory structures, and we will consider how regulatory approaches to content regulation might further evolve to remain fit for purpose and proportionate.

Strategic Purpose 5: Contribute to and implement public policy defined by Parliament

5.56 Ofcom has led or contributed to a number of wider public policy issues at the request of Parliament and government. We expect that this will continue, where Parliament identifies a clearly-defined role for Ofcom. We have prioritised preparing for our proposed new duties in relation to post, and fulfilling our responsibilities under the Communications Act and the Digital Economy Act in relation to online copyright infringement.

Prepare for and fulfil regulatory duties in relation to post

- 5.57 Following publication of the Postal Services Bill, Postcomm and Ofcom are working together to secure transition of regulatory responsibility with minimal disruption for industry, users and staff, and to progress ongoing work to change the current regulatory framework prior to and following Royal Assent of the new Bill.
- 5.58 As currently drafted, the Bill requires Ofcom to carry out its postal services functions in a way that it considers will secure the provision of a universal postal service. In doing so, Ofcom will be required to have regard to the need for the universal postal service to be financially sustainable and efficient. In addition, the Bill proposes to replace the existing licensing regime for providers of postal services with a general authorisation system, subject to regulatory conditions imposed by Ofcom, such as already applies to communications providers.
- 5.59 The Bill is subject to Parliamentary approval. Following Royal Assent, the date for the transfer of regulatory responsibility for the postal sector from Postcomm to Ofcom will be set by the Secretary of State for Business, Innovation and Skills.
- 5.60 In the period leading up to the transfer of regulatory responsibility, Postcomm and Ofcom have agreed to work together as far as practicable to maintain regulatory stability for postal users and operators and to ensure a smooth transition. Ofcom will have responsibility for implementing a new regulatory framework when the Bill comes into effect. In the meantime, Postcomm remains the regulator for the postal sector and continues to be the contact for postal industry stakeholders.

Implement Digital Economy Act 2010 online copyright infringement provisions

- 5.61 Ofcom will take forward its responsibilities for implementing a number of provisions under the Digital Economy Act 2010 (DEA). Under the DEA, the implementation and regulation of these obligations must be set out in a code. In the absence of an approved code drawn up by industry, Ofcom has a duty to make a code in accordance with the requirements of the DEA. We will also consult on a tariff for the processing of copyright infringement reports by ISPs and on establishing an independent body to hear subscribers' appeals against reports.
- 5.62 In preparing for Ofcom's reporting duties, we will look to engage with stakeholders about how we can identify and capture relevant information, including that which relates to the development and promotion of lawful services, initiatives to raise public awareness of copyright and online infringement, and enforcement actions taken by copyright owners against alleged infringers. We are required to report quarterly on estimated levels of online copyright infringement, with the first report covering the first full quarter after implementation. Separately, we will report annually on a broader range of measures, as required by the Act.

Prepare statutory report for government on licensing arrangements for channels 3 and 5 after 2014

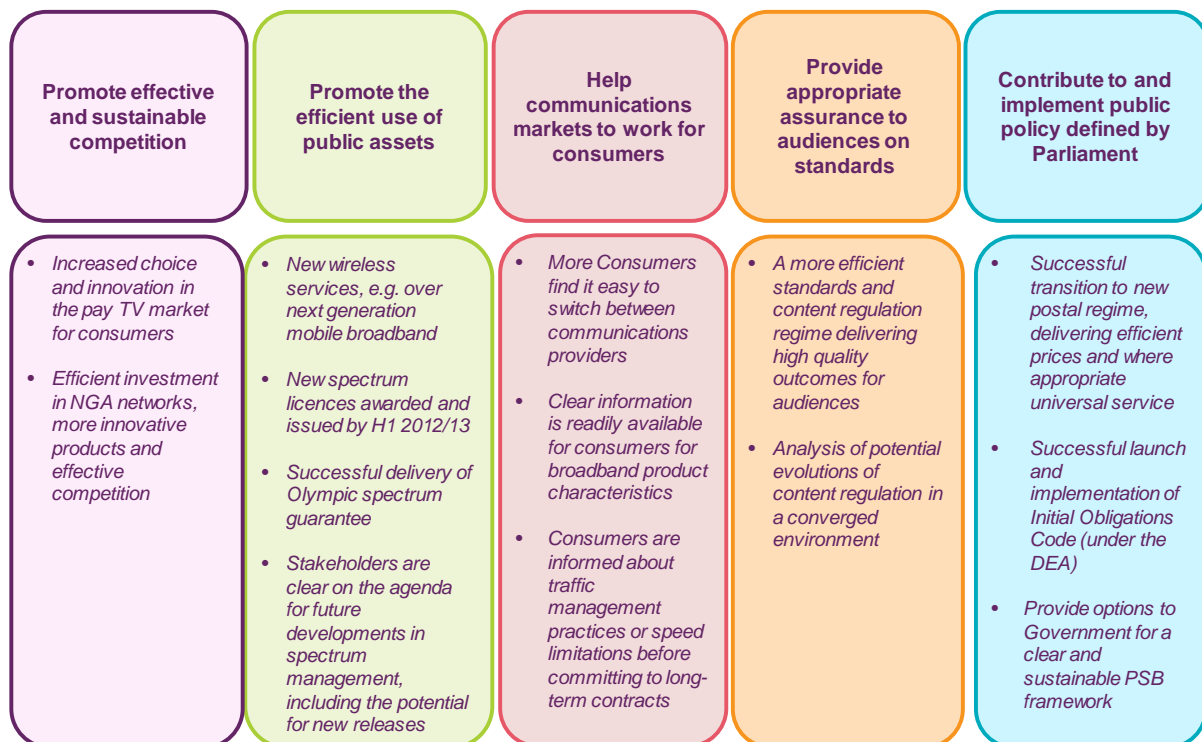
- 5.63 Under the Communications Act, Ofcom must prepare and submit a channel 3/5 licensing report to the Secretary of State, no later than June 2012, ahead of the expiry of the current licences in December 2014.
- 5.64 In that report Ofcom must give its opinion on the arrangements for renewal, and the relevant licence conditions, relating to the capacity of each licensee to contribute to the purposes of public service broadcasting at a commercially sustainable cost.

5.65 Ofcom must also give any recommendations on whether the Secretary of State should make an order preventing renewal of one or more licences. In the light of opinions and any recommendations from Ofcom, the Secretary of State can make an order providing that one or more specified licences should not be renewed.

We have considered our objectives for these priorities

5.66 It is important that we are able to assess the successful delivery of our proposed annual priorities. We therefore need to have a clear sense of the positive outcomes we are seeking to secure for citizens and consumers. To achieve this, we have identified outcomes for each of our priorities and we will assess our progress towards delivering them.

Illustrative outcomes of our priorities 2011/12



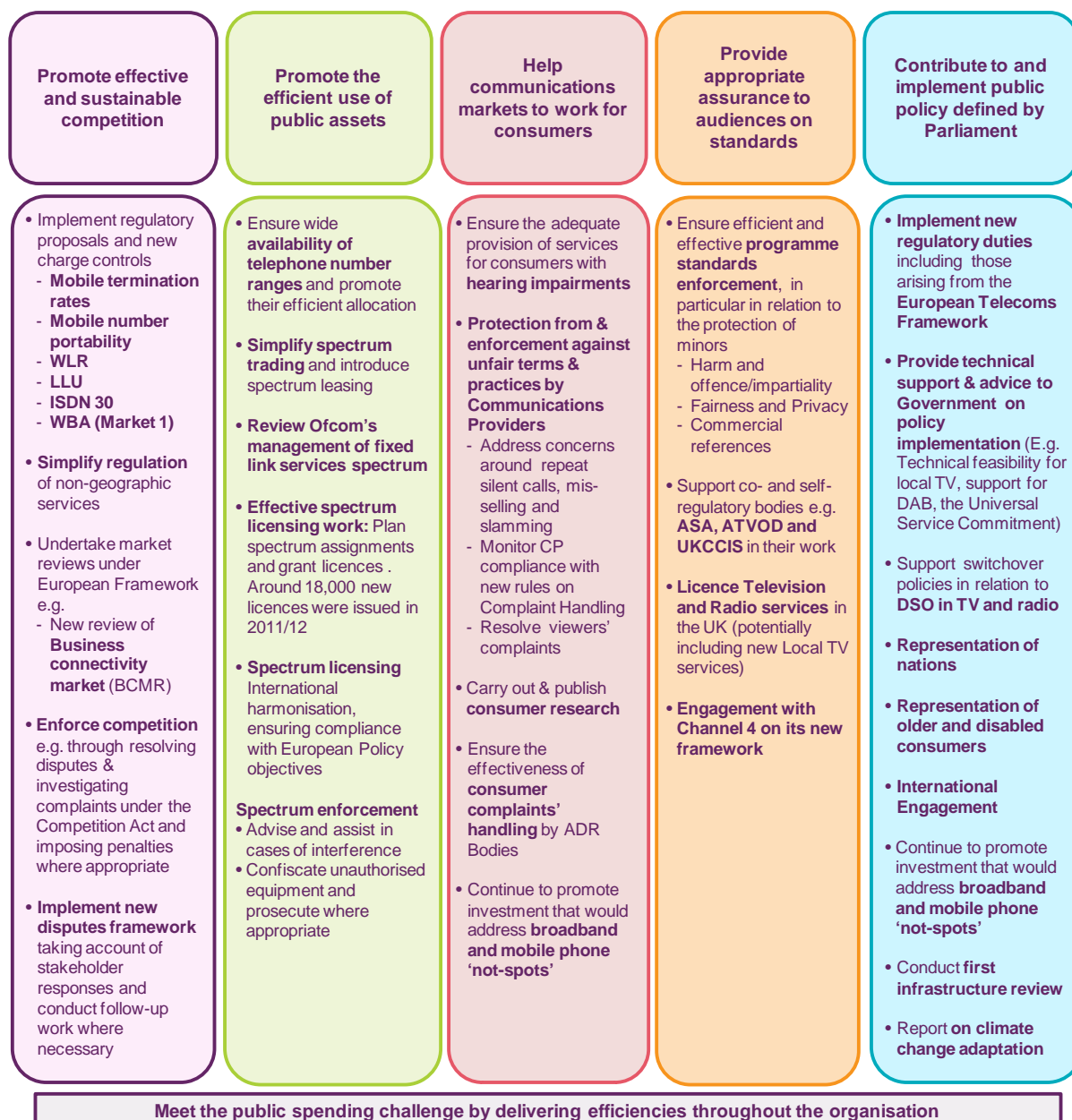
Section 6

Other major work areas for 2011/12

In addition to our priorities we will undertake other work

6.1 We have planned for a number of major work areas for 2011/12, based on our strategic purposes, which are in addition to our annual priorities. They are:

Ofcom's major work areas 2011/12



Strategic Purpose 1: Promote effective and sustainable competition

Implement proposals in relation to mobile termination rates

- 6.2 The current rules that set wholesale call termination charges are due to expire on 31 March 2011. We have initiated a market review to consider what rules should apply when the current regime ends. We plan to publish our conclusions on appropriate remedies, including charge controls, in early 2011.

Implement changes to facilitate mobile number portability

- 6.3 In the summer of 2010, following a public consultation, Ofcom published its decision to introduce changes in relation to mobile number portability, to shorten the time taken for consumers to port a number. We also proposed rules requiring providers to give a Porting Authorisation Code (PAC) to consumers who ask for it, either immediately over the phone or by SMS within two hours. The changes proposed are also aligned with European proposals for one-day porting across the EU. We have been working with industry and consumers to secure, and raise awareness of, the new regulatory scheme that will come into effect in April 2011.

Establish new charge controls for local loop unbundling (LLU) and wholesale line rental (WLR)

- 6.4 Current controls on charges for local loop unbundling (LLU) and wholesale line rental (WLR) expire in 2011. The current proposition is that any new charge controls will establish new charge ceilings to ensure that charges for LLU and WLR services tend towards cost over the period to March 2014. They will also provide incentives for Openreach to provide these services as efficiently as possible.

Charge control on the wholesale broadband access (WBA) services (Market 1)

- 6.5 We will complete our work on the proposed charge control on the wholesale broadband access (WBA) services supplied by BT in Market 1 exchange areas.
- 6.6 Market 1 consists of exchanges where BT is the only network provider of WBA services; this covers 11.7% of UK premises. BT was found to have SMP in this market in the WBA market review, which concluded with a statement published in December 2010. The proposed charge control will protect consumers of broadband services by ensuring that BT's charges for the wholesale services purchased by ISPs in Market 1 tend towards cost over the period to March 2014.

Simplify regulation of non-geographic services

- 6.7 Non-geographic calls (NGCs) are those made to 03, 05, 070/076, 08, 09, and 116/118 ranges. Ofcom is concerned that the current market is failing consumers and the providers of the services using these ranges. We consider that there is a strong case for regulatory reform.
- 6.8 In early 2011/12 Ofcom will complete a strategic review of the market and begin the process of implementing the policy outcomes of the consultation. The implementation will be based on expected changes to the Communications Act in 2011 as a consequence of the amendments to the European Communications Framework. These will clarify Ofcom's powers to intervene in this area for the purposes of consumer protection.

Conduct reviews of the business connectivity market and the leased lines charge control

- 6.9 During 2011-12, Ofcom will make substantial progress on the next business connectivity market review (BCMR) and the associated leased lines charge control. The review will assess the extent to which competitive conditions have changed in the UK markets for leased lines, and whether the regulatory obligations applied to BT and KCOM in these markets should be amended.
- 6.10 If the market review finds a continuing need for a leased lines charge control, which applies to the wholesale services (partial private circuits and Ethernet services) provided by BT in the markets in which it has significant market power, we will undertake a specific review of that control. We plan to complete both the market review and (if required) the charge control before the end of September 2012, when the current charge control is due to expire.

Determine price control for BT's ISDN30 services

- 6.11 BT's wholesale ISDN30 services are used primarily by businesses with a need for eight or more telephone lines at a site. The review of retail and wholesale ISDN30 markets found that Openreach had SMP in the market for the provision of wholesale ISDN30 services and the price of these services was above the competitive level. We will publish our statement in summer 2011.
- 6.12 The ISDN30 price control project will:
- Investigate Openreach's profitability for wholesale ISDN30 services;
 - assess whether there is a relevant risk of Openreach fixing and maintaining prices at an excessive level; and
 - determine the form and level of any price control deemed to be appropriate to impose on these services.

Resolve disputes and investigate complaints under the Competition Act and impose penalties where appropriate

- 6.13 We will continue our work on ongoing competition investigations and disputes, and address any new issues emerging in 2011/12. We are under a statutory obligation to perform this function and will make adequate resources available to ensure that it is fulfilled in a timely manner.
- 6.14 Over the past two years Ofcom has seen an increase in appeals, litigation and disputes brought by some stakeholders, particularly in the telecoms sector. This has presented us with a fresh challenge. It can mean a delay in implementing our decisions (and the consumer benefits they will bring). It also presents us with an additional operational and financial challenge in defending our decisions in what is often a prolonged and detailed appeals process.
- 6.15 The resulting incremental costs of these appeals must be recovered from the relevant stakeholder sector in accordance with our statement of charging principles. We are currently consulting on changes to the dispute resolution process that aim to improve both its efficiency and its effectiveness. These changes are due to be implemented in early 2011.

Strategic Purpose 2: Promote the efficient use of public assets

Ensure availability of geographic telephone number ranges to communications providers and promote their efficient and effective allocation

- 6.16 Geographic numbers are fixed-line telephone numbers whose dialling codes begin with 01 and 02. They are widely recognised and valued by consumers. Ofcom is responsible for administering this public resource and for ensuring that sufficient numbers are available to communications providers (CPs) to enable them to provide a choice of services to consumers.
- 6.17 Ofcom has recently published a consultation on proposed changes to how we would manage geographic numbers in the future. The proposals are designed to maintain Ofcom's ability to meet CPs' future requirements for geographic numbers in all areas of the UK. Our proposals do not affect the geographic telephone numbers currently in use as these continue to meet consumers' needs at present.
- 6.18 Subject to consultation, if we proceed with our proposals they would mean that:
- At some point in the future, phone users in some areas would need to dial their area code when making local calls from fixed-line phones. This would create more numbers in the areas concerned, by allowing the use of numbers in which the first digit after the area code is '0' or '1'.
 - CPs would pay, initially in a pilot scheme, for allocated geographic numbers in area codes where there are particular concerns about scarcity. The purpose of doing this would be to increase CPs' incentives to use geographic numbers efficiently, and so reduce the need to create more numbers in some areas.
 - We would strengthen our administrative procedures for allocating geographic numbers to CPs, and monitor their use.
- 6.19 Ofcom plans to publish a statement and carry out further consultation during summer 2011 and to publish a final statement later in 2011. In 2012 Ofcom aims to implement policy decisions reached in 2011. Ofcom also intends to help the industry to implement plans to create new supplies of geographic numbers where they are needed.

Spectrum trading

- 6.20 Spectrum trading is an important mechanism for securing optimal use of the radio spectrum by allowing users to access spectrum through the market; it acts as a catalyst for innovation and competition in wireless services. We consulted in September 2009 on changes to make the trading process simpler and more dynamic, including taking advantage of a change to the European Communications Framework that allows for a new way to trade called 'spectrum leasing'.
- 6.21 We announced in April 2010 our intention in principle to proceed with these changes and we plan to do so, possibly in the second half of 2011, resources permitting.

Review Ofcom's management of fixed-link services spectrum

- 6.22 Following our consultation on the framework for spectrum pricing in March 2010, we published our Statement on 17 December in which we outlined that we had received considerable support for reviewing the fees charged for licences in the spectrum

bands used by fixed links. As highlighted in that Statement, Ofcom recognises that fees represent only one of its spectrum management levers, and that changes to fees are not the answer to every issue that may arise in relation to spectrum access and use. Ofcom anticipates pursuing the review, subject to resource availability, in the course of 2011-12.

Offering more e-services to our stakeholders

6.23 Ofcom is planning to introduce new communications channels for its stakeholders, improving access for consumers and licensing customers through an improved web portal. By offering e-services via the web Ofcom will extend its service availability beyond normal office hours and will provide better value for money. More detail on Ofcom's e-services initiatives can be found in section 8.

Develop a stable international framework to support our spectrum agenda

6.24 International engagement is essential for the effective management of the radio spectrum. Ofcom will continue to participate in relevant international fora at bilateral, European and international levels, to ensure a stable international framework to underpin our spectrum awards programme and to co-ordinate our use of spectrum. We will continue to be active in CEPT and ITU and in particular, will participate in European preparations for the next World Radio Conference, to take place in Geneva in January 2012.

Ensuring compliance with European policy objectives

6.25 Ofcom has delegated powers under the Communications Act, and Ministerial Directions, to represent HMG at the Radio Spectrum Committee (RSC) and Radio Spectrum Policy Group (RSPG).

6.26 We are also actively involved in areas of EU spectrum policy where we do not have explicit delegated powers, but where our input is important to ensure the best possible outcome for UK citizens and consumers. These areas include the Radio Spectrum Policy Programme and the implementation of the spectrum provisions of the recently revised European Communications Framework. We seek to ensure that European Decisions are consistent with UK spectrum management policies, designating spectrum and regulating its use only where justified to maximise the benefits of spectrum liberalisation and trading.

6.27 In 2011/12 we will focus on a number of specific activities:

- The Radio Spectrum Policy Programme (RSPP); as a result of new provisions in the amended European Communications Framework, the Commission has come forward with legislative proposals for a Radio Spectrum Policy Programme. This will set a path for spectrum management in the EU for the next four to five years. This draft legislation is progressing through the co-decision process and is likely to be a key area of focus for Ofcom for the next 12 months.
- The implementation of the revised European Communications Framework; Ofcom will implement new spectrum management practices (e.g. spectrum leasing) and will amend existing ones (e.g. all licences must be reviewed within a five-year period to ensure consistency with new provisions on technology and service neutrality).

Spectrum enforcement

6.28 Ofcom's work on spectrum enforcement encompasses:

- confiscating unauthorised equipment and prosecuting installers and owners where appropriate (in relation to illegal broadcasting);
- adopting a new approach to illegal broadcasting, working with other agencies, such as local authorities, housing associations and the police to minimise harmful interference and related anti-social behaviour;
- making additional efforts to address online sales of illegal apparatus. We will implement an enhanced mechanism for targeting, educating and informing stakeholders and enable swift measures against deliberate non-compliance;
- providing advice and assistance in cases of interference; and
- increasing our focus on instances of unlicensed use of business radio spectrum, clamping down on licensees who fail to pay their licence fees on time.

Strategic Purpose 3: Help communications markets to work for consumers

Ensure the adequate provision of services for consumers with hearing impairments

6.29 As part of our duty to have regard to the needs of disabled and older people, we will complete our review of relay services, which help consumers with hearing and speech impairments to make and receive telephone calls. We will look at the existing text relay service, which is provided under the universal service obligation, and the possibility of enhanced or additional relay services. Where we identify gaps in provision and areas for enhancement, we will consult on proposals for improvement.

Protection from and enforcement against unfair terms and practices by communications providers

6.30 As in previous years, Ofcom will work towards ensuring that appropriate consumer protection regulations and mechanisms are in place, taking enforcement action against communications providers where necessary.

6.31 We will make progress on ensuring that consumers are protected from the potential for mis-selling and slamming of fixed-line voice services, including our work with the Office of the Telecommunications Adjudicator to address problems of consumers being switched in error. We will continue our work on unfair terms relating to additional charges in consumer contracts, focusing on early termination charges. We will also step up enforcement work on silent calls, focusing on using our new policy, and increased fining powers, to prevent repeat silent calls, which can cause consumers considerable concern and anxiety.

6.32 Following the introduction of proposed new rules on complaint handling in January 2011, we will ensure compliance with these rules to reduce anxiety and harm caused by CPs' failure to deal with consumer problems satisfactorily.

- 6.33 New issues may emerge during the year and we will reserve a proportion of our resources to enable us to respond to these effectively.
- 6.34 We will also consider viewers' complaints to Ofcom relating to a number of areas such as the protection of under-18s, harm and offence, fairness and privacy, and impartiality and accuracy in news.

Conduct and publish consumer and market research to inform our work

- 6.35 We are committed to evidence-based decision-making. This requires us to understand consumer attitudes, which we achieve through a comprehensive programme of market research, and to understand market developments, which we do through gathering and analysing market intelligence (see section 2 of this document).

Continue to promote investment that will address mobile phone 'not-spots'

- 6.36 'Mobile not-spots' are areas where people cannot access mobile services. Investigating this issue was one of our 2010/11 priorities. We prioritised it due to consumer and stakeholder concerns and this issue is frequently raised by our Advisory Committees as a particular concern for those living in less densely populated parts of the UK including Scotland, Wales and Northern Ireland.
- 6.37 In 2010/11 we developed an evidence base to understand this issue and clarified the scope of Ofcom's role in reaching solutions. In November 2010 we published our research so far, and our next steps. We identified five distinct types of problem – complete not-spots (no coverage at all), 3G not-spots (no mobile broadband coverage), partial (operator-specific) not-spots, interrupted coverage on the move and indoor coverage. We found that mobile operators are making progress on some of these issues – particularly 3G not-spots, partial not-spots and indoor coverage.
- 6.38 But market forces alone will not solve these problems. In particular, complete not-spots, which exist mostly in rural areas, are likely to persist to some degree as there is limited scope for commercially-driven improvements.
- 6.39 We are undertaking a number of activities to build on our research and move towards practical solutions that are within the scope of our duties and powers.
- 6.40 Mobile use has changed dramatically in the past decade and is still evolving. As devices become 'smarter', offering new applications, expectations about the availability of mobile services will rise further. We will monitor this issue; more specifically, we will focus on mobile coverage issues in the following areas:
- *Consider the need to improve coverage information:* We will look at how coverage information is provided to consumers, how accurate it is, how consumers use it and its impact on them. Our longer-term goal is to explore how improved consumer information can make switching easier, which may increase competition between operators over coverage.
 - *Examine scope to facilitate coverage on the move:* We are seeking to help facilitate an improvement in coverage for UK consumers as they travel, an issue which particularly affects business consumers. We will extend our Devon

research¹² to measure mobile signal strength on key arterial roads in the UK. We will also explore, with the rail industry in the context of wider industry issues, ways to improve mobile coverage on its network.

- *Continue to engage with government:* Where market developments are less likely to address not-spots, we will continue to advise government and the devolved administrations in support of their public policy goals. For example, our first infrastructure report under the Digital Economy Act is due in summer 2011 and will include high-level findings about mobile coverage. We will use this report to develop practical recommendations where there are coverage issues which may be more relevant for the government to consider rather than Ofcom.
- *Take forward spectrum release:* Subject to the government's proposed Direction, we will progress the release of spectrum suitable for next-generation mobile broadband services.

6.41 Mobile coverage issues will remain important to consumers and will continue to raise wider public policy issues due to the reliance society places on mobile phones. Outcomes from Ofcom's mobile coverage work are likely to be realised over a longer period of time than 2011/12, as they will depend on actions taken by mobile operators, often only following commercially or publicly incentivised investment.

Ensuring the effectiveness of consumer complaints' handling by ADR bodies

6.42 All consumers have the right to take unresolved complaints about their provider to an Ofcom-approved dispute resolution scheme. Ofcom is reviewing the performance of the two schemes it has approved (Otelio and CISAS) to ensure that their operations, structure and rules are meeting the needs of consumers.

Promoting the availability of easily-usable apparatus

6.43 Ofcom has a duty under Section 10 of the Communications Act to promote the development and availability of easy-to-use consumer equipment. The recently revised Universal Service Directive also places an obligation on Member States to encourage the availability of terminal equipment offering the necessary services and functions in order to be able to adopt and implement specific arrangements for disabled end-users.

6.44 The Department of Business, Innovation and Skills (BIS) has indicated that this obligation will be discharged through Ofcom's duty under Section 10 (although this refers to usability in a wider sense than accessibility for disabled end-users) and the BIS e-accessibility forum. We will continue to engage with the Forum and other organisations to promote usability and accessibility.

¹² We are undertaking a pilot study to measure mobile signal strength in one rural region of the UK – Devon - to measure mobile 2G and 3G signal strength by operator across a sample of roads in the region. This should allow us to compare actual coverage levels with those reported by the operators in their postcode coverage checkers.

Strategic Purpose 4: Provide appropriate assurance to audiences on standards

Ensure efficient and effective programme standards enforcement, in particular in relation to the protection of minors

- 6.45 We will continue to ensure that the Broadcasting Code remains fit for purpose in the context of the developing broadcast environment, taking into account the relevant statutory criteria including: the need to ensure appropriate audience protection; the views and needs of citizens and consumers; and our duty to reduce regulatory burdens on broadcasters.
- 6.46 Ofcom will continue to apply the Broadcasting Code by assessing and identifying compliance issues across television and radio services and, where appropriate, investigating and taking enforcement action.
- 6.47 In particular, we will ensure strong enforcement focus on:
- Audience protection – especially in relation to the protection of minors and other audiences from potential harm.
 - Consumer protection – ensuring the compliance of the new regulatory regime for commercial references in television and radio programming, and keeping under review the emerging television product placement market.

Support co- and self-regulatory bodies e.g. ASA, ATVOD and UKCCIS

- 6.48 Ofcom will continue to support the work of the co- and self-regulatory bodies that it works with. This will include continuing our relationship with the ASA in relation to its oversight of broadcast advertising and in its new role overseeing advertising on video on demand services. We will also support ATVOD as it moves into its first full year of work regulating editorial content on video-on-demand services and supporting the work of the UK Council for Child Internet Safety.

Licence television and radio services in the UK (potentially including new local TV services)

- 6.49 Ofcom will continue to license television and radio services which come under UK jurisdiction, to provide consumers with a range of services. This will include scoping the possibility for a third round of licensing of community radio stations. We will work with the government to develop a new licensing regime for local television services.

Engagement with Channel 4 on its new framework

- 6.50 The Digital Economy Act 2010 established a new framework for the regulation of Channel 4 Corporation (C4C), known as the Statement of Media Content Policy. This emphasises new priorities for Channel 4, including feature films, content for older children and young adults, and developing talent within the media industry.
- 6.51 Ofcom is responsible for reviewing the performance of Channel 4 under this new framework, and in 2011/12 we will engage with Channel 4 on the content of its annual Statements, the first of which will be published in May 2011.

Strategic Purpose 5: Contribute to and implement public policy defined by Parliament

Implement new regulatory responsibilities including those arising from the revised European Communications Framework

- 6.52 Much of Ofcom's detailed work in both telecoms and spectrum management takes place within a Framework of European Union rules laid out in the 2002 European Communications Framework. The Framework was revised in 2009, and the resulting changes must be implemented in UK law by May 2011. The primary responsibility for implementation rests with the government, but Ofcom will contribute to this process in a number of specific areas.
- 6.53 Ofcom must complete its revision of a number of General Conditions (obligations directed to Electronic Communications Networks and Services providers) by May 2011, in order to bring them into line with the revised Framework. In addition, there are a number of other areas in which the revised Framework grants Ofcom new or altered powers, such as in relation to the enforcement of regulatory obligations, the imposition of penalties for breaches of regulatory obligations and dispute resolution procedures. Ofcom intends to either consult on, or publish revised guidelines ahead of the May implementation deadline on these areas. Where the revised Framework contains new permissive powers, Ofcom intends to keep under review the need to apply such powers, from May onwards.

Engaging with European and wider international policy development

- 6.54 Ofcom's work is often affected by international policy developments. We must therefore understand, contribute and adapt as necessary to the policies developed in the European and wider international context. Over the course of the coming year, we will continue to engage with the development of international regulatory frameworks within which the UK, Ofcom and our stakeholders operate, to ensure that they are practical, proportionate and best serve the interests of UK citizens and consumers.
- 6.55 An important change has been the replacement of the European Regulators' Group (ERG) by the Body of European Regulators in Electronic Communications (BEREC), a stronger network with a wider set of functions and a formal role in the implementation of the revised European Communications Framework. Ofcom will devote resources to ensure the success of BEREC and the delivery of its work programme for 2011. Major areas include net neutrality, regulatory remedies for NGA, the promotion of competition in superfast broadband and mobile roaming.
- 6.56 We will also continue to engage with the European institutions, as the Commission develops its European Digital Agenda, and contribute in areas where we can add value. Ofcom needs to be able to contribute constructively to legislative proposals which directly affect us and our stakeholders, such as spectrum reform (including the Radio Spectrum Policy Programme), broadband roll-out, USO, the digital single market for content, copyright enforcement and consumer protection.
- 6.57 Ofcom will also continue to work with communications regulators in other European countries, both bilaterally and through regulatory networks such as BEREC, the Radio Spectrum Policy Group (RSPG), and the European Platform of Regulatory Authorities (EPRA), to pursue, where appropriate, a coherent and coordinated approach to international communications services regulation.

- 6.58 Ofcom can benefit from other countries' experiences of tackling regulatory challenges. For this reason it is important to share examples of best practice from around the world to inform our own policy development. We will strengthen our relationships with regulatory counterparts around the world and continue our activities in the OECD and other relevant international fora, as appropriate, to ensure that outputs are consistent with UK regulatory practice. We will also engage in the CEPT and the ITU, especially in relation to spectrum activities prior to the next World Radio Conference, taking place in Geneva in January 2012

Provide technical support and advice to government on policy implementation

Provide technical advice for the feasibility of local TV over interleaved spectrum

- 6.59 The government has set out its intentions to secure ten to 20 local TV stations by the end of 2015. Ofcom has provided technical advice and assistance to the government as it formulates its policy.
- 6.60 We will continue to assist the government in its policy development. In addition, depending on the model of local TV chosen, Ofcom may be required to begin the implementation of government policy.

Support the development of the digital audio broadcasting (DAB) platform

- 6.61 The government, via the Digital Radio Action Plan, has asked Ofcom to play a technical supporting role in developing government policy and working towards the digitisation of broadcast radio. Specifically, we have been asked to report annually on the digital radio market, and to lead a planning process for the build-out of DAB coverage to required levels. This work is ongoing in 2011/2.
- 6.62 We propose to publish the second annual *Digital Progress Report for Radio*. We will also deliver a report to government with recommendations for technical transmission planning to increase DAB coverage levels. We may be required to take on a longer-term role relating to DAB build-out, if government and industry take this forward.

Support the government's universal service commitment (USC)

- 6.63 We are providing support to the government in its 'universal service commitment' to make broadband available to virtually every home in the UK by 2015. This programme is being led by the department of Business, Innovation and Skills (BIS)¹³. We are providing ad-hoc support in relation to the size and scope of the problem, and sharing our technical knowledge.

Representation of the nations

- 6.64 We will continue to work towards promoting greater availability and more effective use of communications services for consumers across the UK. In doing so we will continue to monitor the take-up and availability of services in the nations, especially where this differs to the average UK experience.
- 6.65 This is reflected in a number of our priorities and work areas. For example, our work in relation to mobile not-spots will be likely to contribute to reducing the disparities in the availability of some communications services. We will also use our experience on

¹³ <http://interactive.bis.gov.uk/comment/bduk/>

specific issues, e.g. lessons from the London 2012 Olympic Games that we can be applied to the Commonwealth Games in Scotland in 2014.

Representation of older and disabled consumers

- 6.66 As part of Ofcom's duties, we are required to have regard to the needs of disabled and older people, in carrying out our work. This includes promoting the availability of appropriate communications services.
- 6.67 In 2011/12, as noted earlier, Ofcom will complete its review of relay services that help consumers with hearing and speech impairments to make and receive telephone calls. Ofcom will also continue to promote the usability and accessibility of consumer equipment, as well as carry out an in-depth research programme to investigate the extent of media literacy in the UK.

Support Digital Switchover (DSO) for TV and radio

- 6.68 Ofcom will continue to support digital TV switchover in 2011/12. Ofcom has statutory duties to: amend broadcaster licences; manage the radio spectrum; and ensure that statutory TV coverage requirements are met. Ofcom will work with Digital UK, the UK government, broadcasters, the Digital Television Group and other stakeholders.
- 6.69 Ofcom will complete its work leading a coverage planning process to report to government on how DAB coverage can be increased to reach FM equivalence. This work will feed in to the government's considerations of any future radio switchover. Ofcom will also continue to support the government's Digital Radio Action Plan, working with broadcasters, Digital Radio UK and Arqiva.

Conduct first infrastructure review, in accordance with the Digital Economy Act 2010

- 6.70 The Digital Economy Act 2010 gives Ofcom a new duty to report to the Secretary of State every three years on the state of the UK's communications infrastructure. The first report will be delivered in August 2011. The Act specifies a number of reporting areas, including the use of spectrum for wireless telegraphy, the capacity, availability and coverage of networks and services, the degree of infrastructure sharing and wholesale access, and operator risk assessments and emergency response plans.
- 6.71 We plan to report on the most widely-available and commonly-used voice, data and digital broadcasting networks and services, with a particular focus on mobile and broadband coverage. We will also seek to capture developments in important emerging technologies such as next-generation fixed and mobile broadband access. The report will draw on existing Ofcom data, supplemented with new data from operators where appropriate.

Report on climate change adaptation in accordance with the Climate Change Act 2008

- 6.72 Ofcom has been directed to prepare its first report to the Secretary of State for the Environment, Food and Rural Affairs on adaptation to climate change. Our report will be delivered by September 2011. The Act requires public bodies and statutory undertakers to report to the Secretary of State on how organisations are preparing to adapt to the impacts of a changing climate.

Media literacy

6.73 We will continue our research programme to investigate the extent of media literacy in the UK and to identify emerging media literacy issues. We also aim to promote our research widely to ensure that it is used to best effect and to avoid duplication. Our data are frequently sought both by private and public sector organisations and are widely quoted nationally and internationally. They directly inform the work of bodies such as UKCCIS, Get Safe Online and Race Online 2012.

Other ongoing work areas supporting Ofcom's duties and objectives

6.74 In addition to the work areas above, we will undertake other projects as appropriate:

- We will conduct BBC market impact assessments as required, working closely with the BBC Trust.
- We will work with the Office of Fair Trading (OFT) and stakeholders to ensure that we understand the potential benefits associated with local newspaper mergers, conducting local media assessments as appropriate.

6.75 Supporting our overall work programme, we will also work to develop a clear view on:

- How the communications sectors are likely to evolve over time.
- What implications this will have for consumers and citizens, both positive and negative.
- What implications these developments will have for regulation.

Consultation questions

6.76 We are seeking views from all of our stakeholders on our proposed priorities and major work programme for 2011/12. In particular, it would be helpful if you could consider the following questions:

- i) What are your views on Ofcom's proposed priorities for 2011/12?
- ii) What are your views on Ofcom's proposed work areas for 2011/12?

6.77 See Annex 1 for details of how to respond to this consultation.

Section 7

Services to stakeholders

Ofcom delivers a number of essential services for consumers and other stakeholders

- 7.1 We have a wide range of responsibilities which we fulfil by undertaking specific projects or by offering services to consumers.

Responding to consumers enquiries and complaints from the public

- 7.2 Ofcom's Central Operations team deals with enquiries and complaints from consumers about telecommunications services, TV and radio services, and use of the radio spectrum. We aim to help consumers resolve their enquiries and complaints by directing them to useful advice and by liaising with service providers.
- 7.3 People often complain to us directly about TV and radio programmes. We consider complaints relating to a number of areas such as protection of under-18s, harm and offence, fairness and privacy, and impartiality and accuracy in news. However, we do not consider issues relating to impartiality and accuracy in BBC programmes as these are the responsibility of the BBC Trust. We also deal with complaints about programme sponsorship and alleged commercial influence.
- 7.4 Ofcom's Advisory Team (OAT) provides early warning of consumer concerns. New areas of concern arise all the time and these create unexpected increases in the number of complaints we receive.

Keeping the radio spectrum free from interference

- 7.5 We monitor the radio spectrum and take appropriate action to prevent harmful spectrum interference. Increasing demand for, and use of, spectrum leads to a corresponding increase in the risk of interference. Ofcom continues to modernise its resources to prevent interference and to mitigate it when it occurs.
- 7.6 Our Spectrum Engineering and Enforcement team handles around 5,000 cases per year, taking action to:
- protect safety-of-life communications, including emergency services and air traffic control;
 - prevent illegal use of the radio spectrum;
 - enable legitimate use of spectrum by, for example, providing advice and assistance to spectrum users; and
 - Ensure that non-compliant equipment is removed from the market

Licensing access to the radio spectrum

- 7.7 Ofcom controls access to the radio spectrum by issuing, renewing and revoking licences. Where necessary, we make frequency assignments, perform site clearances and coordinate the use of spectrum internationally. In the past year we

have issued around 18,000 spectrum licences, (excluding renewals) covering satellite, fixed links, private business radio, amateur, maritime and other users.

- 7.8 The Ofcom Licensing Centre (OLC) achieved ISO 9001 accreditation in October 2010, an international quality management system standard. This is a significant achievement that recognises our ongoing commitment to raising our standards.

Providing information services

- 7.9 Ofcom provides information to the public about use of the radio spectrum. This is an important contribution to the efficient coordination of spectrum use. Ofcom also facilitates the trading of spectrum licences by stakeholders.

Publishing market research and communications market reports

- 7.10 We publish research on the communications sector and the attitudes of citizens and consumers. This includes the *Communications Market Reports*; the *PSB Annual Report*; the *Digital Radio* annual report; and the annual *Business and Consumer Experience* reports.
- 7.11 We also publish research in support of Ofcom's projects and publications. Our approach to research ensures that we are able to gather evidence that allows us to deliver our statutory obligations to promote equality. We also comply with the Statistics Act by making our research and market statistics available in a timely way.

Adopting sustainable practices

- 7.12 Ofcom seeks to adopt sustainable practices and, following an initial carbon audit in 2007, we set ourselves a target to reduce carbon emissions by 25% by 2012/13. We have already achieved a 15% reduction and in 2011/12 we will continue to work towards the last 10%. This will be based on making savings by using greener data centres, reviewing printing use and promoting sustainable travel.

Corporate responsibility

- 7.13 Ofcom is committed to being not only a responsible employer but also to managing its impact on the wider community. Our corporate responsibility purposes are:
- To treat all colleagues with dignity and respect in an inclusive and fair working environment. To promote equality of opportunity for all, not only within Ofcom but also in the sectors we regulate.
 - To reduce our carbon footprint, provide value for money and ensure that Ofcom's practices are environmentally sustainable.
 - To engage, inspire and develop colleagues while proactively seeking to support our local community.
- 7.14 We have made good progress in achieving the objectives we set ourselves in our Single Equality Scheme. In 2011/12 we will build on this strong foundation, setting additional targets where necessary, to take the new Equality Act into account.
- 7.15 We continue to run our popular reading scheme for Ofcom volunteers to support local primary school children, and in 2011/12 we will explore the opportunity to use volunteering to support further colleague development and team effectiveness.

Section 8

Ofcom's approach to regulation and recent simplification initiatives

We seek to minimise regulatory burdens on stakeholders in line with Ofcom's duties

8.1 In fulfilling our duties and meeting our strategic purposes, we follow a defined set of regulatory principles. These principles ensure that our work addresses issues effectively and in a timely, robust and comprehensive manner. They also help us clarify our regulatory approach and simplify and reduce regulation, while maximising value for money, where possible.

8.2 Our regulatory principles are:

When we regulate

- Ofcom will operate with a bias against intervention, but with a willingness to intervene promptly and effectively where required.
- Ofcom will intervene where there is a specific statutory duty to work towards a goal that markets alone cannot achieve.

How we regulate

- Ofcom will always seek the least intrusive regulatory methods of achieving our objectives.
- Ofcom will strive to ensure that interventions are evidence-based, proportionate, consistent, accountable and transparent in both deliberation and outcome.
- Ofcom will regulate with a clearly articulated and publicly reviewed annual plan, with stated priorities.

How we support regulation

- Ofcom will research the communications market and will aim to remain at the forefront of technological understanding.
- Ofcom will consult widely with all relevant stakeholders and assess the impact of regulatory action before imposing regulation on a market.

8.3 Our bias against intervention aims to ensure that we regulate only where necessary. Unnecessary intervention could distort or stifle the development of competitive and innovative markets. However, where intervention is required we will act quickly and decisively.

8.4 Section 6 of the Communications Act 2003 ('Section 6') places a duty upon Ofcom not to impose burdens that are unnecessary or maintain burdens that have become unnecessary. Section 6 also requires Ofcom to publish a statement every 12 months,

showing how it has fulfilled this duty. We fulfil this requirement through this *Simplification Plan* which is presented in the context of our draft *Annual Plan*.

Our approach to regulation is designed to minimise burdens

- 8.5 Ofcom's annual planning process seeks to set out our future work programme with our approach to regulation in mind.
- 8.6 In addition to our regulatory principles, there are several themes that are important to our work. These will remain important throughout 2011/12:
- Considering how our work and how outcomes relate to each nation of the UK. Ofcom's work is increasingly influenced by the implications of institutional changes and differences in the nations.
 - Adhering to Ofcom's consumer interest toolkit as a way of ensuring that Ofcom identifies and addresses consumer interests across its work. The toolkit includes a series of questions that every internal team should ask, to ensure that consumers are appropriately considered.
- 8.7 The Communications Act explicitly states that we should fulfil our duties in a manner consistent with the principles of Better Regulation. This requires regulatory intervention to be evidence-based, transparent, accountable, proportionate, consistent, and targeted only at cases where action is needed.
- 8.8 Impact Assessments (IAs) form a key part of our regulatory action. They provide a way of clearly identifying the problems to be addressed, considering different options for regulation (including not regulating) and then selecting the option which maximises expected benefits and minimises the costs of intervention.
- 8.9 Section 7 of the Communications Act 2003 says that Ofcom must carry out and publish an Impact Assessment where it appears to us that our proposal is important. However, because Impact Assessments form part of good regulatory practice, we carry out Impact Assessments in relation to the vast majority of our decisions.
- 8.10 Targeted and proportionate regulation has had a key role in the delivery of positive outcomes for UK citizens and consumers. Although the imposition of burdens on regulated companies is inherent in the practice of regulation, we believe that interventions are justified where the cost of these burdens are outweighed by the overall benefits that result from their implementation.
- 8.11 In analysing the costs and benefits of regulation, it is necessary to apply the principle of proportionality, which means it will often be appropriate to focus on the most significant costs and benefits and not spend a disproportionate amount of time considering those which are relatively minor. Furthermore, the amount of information we request from stakeholders to carry out our analysis must also be proportionate.
- 8.12 When assessing options for intervention, we consider a range of alternative solutions. These range from no regulation at all, to industry self-regulation (where industry administers a solution without formal oversight or regulatory back-stop powers), co-regulation (where the government or the regulator does have a back-stop powers and a degree of oversight), through to full statutory intervention.
- 8.13 Throughout 2009 and 2010 Ofcom has developed internal project management guidance to ensure that every project manager understands and considers impact

assessments, equality impact assessments, risk, co- and self-regulation, and defining metrics of success, and so tailors his or her approach to address each area of concern.

We regularly review regulation to examine whether it is still fit-for-purpose and to remove burdens that are no longer justified

- 8.14 Once regulation is in place, we subject it to periodic review to take account of changing market conditions, stakeholder needs and statutory requirements to conduct formal reviews at given intervals. We also evaluate major interventions in relation to the outcomes that they were originally intended to achieve. Reviews and evaluations are very important for us to determine whether current regulations and their associated burdens are still necessary and justified.
- 8.15 Since its inception Ofcom has had a strategic approach to regulation, publishing wide-ranging sectoral reviews. While these can result in administrative burdens on stakeholders through information requests and the consultation process, they are necessary for us to assemble an evidence base for analysis. On the other hand, a strategic approach to regulation reduces the likelihood of the imposition of multiple, un-coordinated layers of regulation that result in unnecessary burdens.

Simplification update on 2010/11 and case studies for 2011/12

- 8.16 Given our spending review we have undertaken a number of activities that simplify our activities. We will be consulting on some of these proposals and these have been covered in section 4. This section presents more detail on other significant initiatives that we have undertaken during 2010 and will continue through 2011.

Ongoing simplification initiatives from 2010/11

Ofcom implements a new financial reporting data extraction tool

- Ofcom has developed a tool to enable it to better interrogate regulatory accounting data provided by BT Plc.
- This tool is used for initial detailed financial analysis of BT's costs and has been used to support charge control projects and financial analysis of disputes between operators. It enables Ofcom to directly interrogate and query BT regulatory accounting data, leading to a reduced number of more ad-hoc information requests.
- The benefits of this are two-fold. There are direct savings to Ofcom and there has also been a significant reduction in the administrative burden placed upon BT.

Ofcom simplified the regulation of BT's single transit services

- Transit services allow traffic to be sent where communications providers cannot efficiently interconnect their networks directly. The primary beneficiaries of regulation in this market are communications providers, but the benefits of the regulation are ultimately reflected in products sold to end consumers.
- In reviewing this market we have assessed whether BT has market power, in particular in relation to its single transit service, based on the level of interconnection it has in the UK and the extent to which it could impact on other communications providers by not offering services based on this level of interconnection.
- This work stemmed from the obligatory review of wholesale narrowband markets under the European Communications Framework. Ofcom published its statement in February 2010 and we concluded that while BT continues to have significant market power in this market, a reduced set of obligations was appropriate to reflect the size of the market and the nature of services provided by BT.
- BT is therefore allowed pricing flexibility as long as its pricing is not discriminatory between communications providers. We consider that this approach ensures that all communications providers continue to be treated fairly when purchasing this service from BT while reducing the burden on BT to meet its regulatory obligations.

Ofcom re-launched its website

- In July 2010, Ofcom revamped its website to provide simplified access to information and advice. This was the first major overhaul of the website's design and architecture since Ofcom was created.
- The new design was based around the four main groups who use the website: consumers, licensees, industry stakeholders and media/analysts.
- One of the main objectives of the redesign was to make the website simpler for users to locate and access relevant information. For example, stakeholders can now access all open consultations from one click from the home page.
- The new website has grouped consumer guides and advice in a dedicated section, one click from the home page. The number of clicks required to register a compliant (e.g. about something on TV) has also been reduced.
- Furthermore, licensees can obtain information and apply for a radio-communications, radio-broadcast or TV-broadcast licences direct from the homepage.
- Overall, this has improved the efficiency of our web services. It is the first step in a wide strategy to ensure our stakeholders can find what they need easily on the web.

Ofcom reviews Airtime Sales Rules

- At the end of March 2010, we published a consultation proposing the removal of the Airtime Sales Rules – two rules which relate to how broadcasters sell TV airtime. The rules were originally intended to ensure fair and effective competition in relation to broadcasting and connected services.
- The 'withholding rule' meant that all airtime available on ITV1, C4 and Five must be sold. The 'conditional selling rule' applied to all broadcasters, prohibiting them from forcing advertisers and media buyers, who wanted to buy airtime on one channel, to purchase airtime on additional channels. The rules were last reviewed in 2003 and Ofcom is obliged to review them periodically, to check whether they are still appropriate and fit for purpose.
- Ofcom considered the ongoing need for the rules in the light of key changes in the TV sector which we believed had enhanced competition in the supply of TV advertising airtime. We noted that the large increase in the number of TV channels and in digital TV take-up, along with a shift in viewing from PSBs toward digital channels, had provided more opportunities for buyers to secure advertising from non-PSBs.
- In addition, Ofcom considered the incentives for broadcasters to engage in behaviour prohibited by the rules. Ofcom concluded that there appeared to be no real incentive to withhold airtime. Ofcom also believes that it is appropriate to treat possible anti-competitive conditional selling by broadcasters on a case by case basis.
- Following its consultation, Ofcom received no new evidence to change its conclusions that it was appropriate to remove the rules so they were lifted on 1 September 2010 – ahead of the next deal season for TV advertising airtime.
- Ofcom believes that where possible and appropriate should reduce and simplify complex or unnecessary regulation. Lifting unnecessary regulation can enable sectors to develop and, in this case, may give broadcasters and advertisers more flexibility to run their businesses – and so it may in turn also have positive impacts on innovation and investment which could ultimately deliver benefits for consumers.

New simplification and deregulatory initiatives 2011/12

We will establish best practice initiatives to support the London 2012 Olympics

- In common with the government agencies involved in the London 2012 Games, Ofcom is making detailed preparations to achieve a safe and successful Games. We are working to achieve this in a way that delivers significant value for money when compared to regulators in previous Olympic cities.
- For Ofcom this includes providing special spectrum licences for specific Games uses, testing and commissioning the relevant equipment and ensuring that any cases of harmful interference are dealt with particularly quickly. All this involves tasks beyond what we would normally do.
- An example of this is our implementation of a network of sensors across the Games venues which will monitor the spectrum and pinpoint any interference. Previous games have employed some 300 people to do this job manually.
- The net effect of this is a significant simplification of our processes and a major cost saving for stakeholders.

Revision of regulation of localness in commercial radio

- Ofcom is aware that the current changes in the advertising market, along with greater competition for audiences' attention and technological developments, mean that the radio industry is facing significant challenges and has to change.
- Previously the statutory framework required that local commercial radio stations broadcast local content produced in their licensed areas. This amounted to a substantial operational constraint for stations who wished to network programming.
- However, the Digital Economy Act allows Ofcom to take steps to de-regulate commercial radio to improve viability, while ensuring that stations continue to deliver programming that consumers and citizens value.
- These changes came into effect on 8 June 2010. Because they are implemented via changes to stations' formats, written into their broadcasting licences, station operators must request these changes to take advantage of the new rules. The changes in regulation are as follows:
 - Regional FM stations may ask to stop local programming, allowing them to share their programming across a number of regions, if they broadcast a national version of the service on DAB. This will foster competition and choice in UK-wide services, encourage a greater diversity of content for consumers, and provide the potential for new investment in programming. Due to the specific needs of the devolved nations, regional stations in Scotland and Wales must still broadcast local programmes for a number of hours a day.
 - Local stations may ask to co-locate and share programmes within approved areas. This effectively allows larger, more viable stations. Ofcom will need to be satisfied that the stations involved will continue to provide local material relevant to the listeners in the licensed areas. Requests for co-location and programme sharing across area boundaries will be considered on a case by case basis.
 - FM local stations may retain the current commitment of at least ten hours of locally made programming daily, or ask to reduce this to at least seven hours in return for broadcasting local news, regularly refreshed and updated, at least hourly during weekday daytimes.
 - Local AM stations may ask to drop all local programming – but must broadcast at least ten hours a day of daytime programming (including breakfast) on weekdays from within their home nation.
- These changes have the effect of allowing stations much greater operational flexibility, while still protecting localness on commercial radio stations that listeners value. To date, over a third of all commercial licensees have requested changes to their formats.

We will implement a new e-services initiative

- Linked to our website improvements we are launching an e-services initiative aimed at encouraging consumers and licensing customers towards a 'Web First' or 'self-serve' strategy via the Ofcom web portal. This will apply to telecom complaints, queries and licensing applications, renewals, payments and general queries.
- This will make Ofcom more accessible to consumers and licensing customers by enabling an improved customer experience and effectively extending our service availability beyond normal office hours.
- Through the new licensing and consumer portal, we hope to reduce the volume of calls into our call centre, the Ofcom Advisory Team (OAT), by some 50% leaving our associates to deal with more complex calls that cannot be resolved via the web and to provide services for consumers not yet online. Equally, we hope to ease licensing customers' contact for registration, payment and management of their licenses portfolio.
- The aim of this work is to offer our stakeholders an improved and more efficient service for telecoms advice and on-line licensing products.

Annex 1

Responding to this consultation

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made by 5pm on 1 March 2011.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/draftap1112/>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (below), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email ed.leighton@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Ed Leighton
- Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3706
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at the end of section 6. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Ed Leighton on 020 7981 3540

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement at the end of March or beginning of April 2011.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's consultation champion:
- A1.16 Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW
- Tel: 0141 2297401
Fax: 0141 229 7433
- Email vicki.nash@ofcom.org.uk

Ofcom's consultation principles

- A1.17 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

- i) Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

- ii) We will be clear about who we are consulting, why, on what questions and for how long.
- iii) We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
- iv) We will consult for up to 10 weeks depending on the potential impact of our proposals.
- v) A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.
- vi) If we are not able to follow one of these principles, we will explain why.

After the consultation

- vii) We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Consultation response cover sheet

- A1.18 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A1.19 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A1.20 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.

- A1.21 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A1.22 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your coversheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)