

## EXPLANATORY MEMORANDUM TO

### THE STATEMENT OF STRATEGIC PRIORITIES FOR TELECOMMUNICATIONS, THE MANAGEMENT OF THE RADIO SPECTRUM, AND POSTAL SERVICES

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Digital, Culture, Media and Sport and is laid before Parliament by Command of her Majesty.

#### 2. Purpose of the instrument

- 2.1 The purpose of this Statement of Strategic Priorities for telecommunications, the management of the radio spectrum, and postal services (“the Statement”) is to give Ofcom context and guidance on the Government’s policy priorities and desired outcomes in a number of areas.
- 2.2 The power to designate a statement for Ofcom brings the legislative framework for Ofcom into line with other sectors such as energy and water, where the Government has similar powers.
- 2.3 Ofcom must have regard to the Statement when exercising its regulatory functions relating to telecommunications, the management of the radio spectrum, and postal services.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this statement is the whole of the United Kingdom.
- 4.2 The territorial application of this statement is the whole of the United Kingdom.

#### 5. European Convention on Human Rights

- 5.1 As the Statement is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### 6. Legislative Context

- 6.1 The Digital Economy Act 2017 inserted new sections 2A - 2C into the Communications Act 2003, which sets out the legislative framework for this

Statement. Under section 2A, the Secretary of State may designate a statement of the Government’s strategic priorities in the United Kingdom relating to telecommunications, the management of the radio spectrum, and postal services.

- 6.2 A statement cannot be amended within five years unless there is a general election or a significant change in Government policy, or the Secretary of State considers that the statement, or a part of it, conflicts with Ofcom’s general duties. Section 2A also stipulates that the statement may set out particular outcomes identified with a view to achieving the strategic priorities.
- 6.3 Under section 2C, before designating a statement, the Secretary of State must consult Ofcom and such other persons as he considers appropriate on a draft of the statement for at least 40 days. The Secretary of State must then make any changes to the draft that appear to him to be necessary in view of responses to the consultation and lay the draft before Parliament for a 40-day period, excluding Parliamentary recesses. The Secretary of State may then designate the statement unless either House of Parliament resolves not to approve the draft within that period.
- 6.4 Under section 2B, Ofcom must have regard to the statement when exercising relevant functions. Ofcom must explain what they propose to do in consequence of the statement within 40 days of the designation of the statement or such longer period as the Secretary of State may allow. Ofcom must also, as soon as practicable after a period of 12 months from the designation of the statement and after every subsequent period of 12 months, publish a review of what they have done in the period in question in consequence of the statement.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The Statement follows the publication of the Government’s Future Telecoms Infrastructure Review (FTIR)<sup>1</sup> and reflects the conclusions of that review. The FTIR, published in July 2018, set out the changes that need to be made to the telecoms market and policy framework to help secure world-class digital infrastructure. The FTIR set out a number of strategic priorities in relation to full fibre deployment, including: reducing the costs and barriers to the deployment of fibre networks; easy access to Openreach’s ducts and poles; the need for stable and long term regulation that incentivises investment and ensures competition; an “outside in” approach to full fibre deployment so that the most commercially difficult to reach premises are not left behind; and the need for a timely switchover to full fibre networks.
- 7.2 The FTIR also set out a number of strategic priorities to help create the conditions for a competitive mobile market that supports investment and innovation in 5G, in addition to priorities that enable the maximum economic and social value from the use of spectrum.
- 7.3 A number of the strategic priorities set out in the FTIR relate to Ofcom’s regulatory functions and are reflected in the Statement.
- 7.4 The Statement also sets out the Government’s strategic priorities and desired outcomes in a number of other key areas, including telecoms consumers, network security and resilience, and postal services.

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<sup>1</sup> The FTIR can be found [here](#)

- 7.5 In relation to telecoms consumers, the Government wishes to improve the consumer experience in the sector and as such strategic priorities set out in the Statement include: addressing harmful business practices, particularly those that affect the most vulnerable consumers; improving consumer engagement by helping consumers to better navigate the market by giving them the right information; removing the barriers to switching; and improving the overall quality of service for telecoms consumers.
- 7.6 The security and resilience of the UK's telecoms networks is of paramount importance and a strategic priority for the Government. The Government supports an engaged, proactive regulatory approach to the security of communications networks and services. This should incentivise network and service providers to respond to identified threats and risks, and lead to higher standards across the sector in the management of cyber security and resilience.
- 7.7 Finally, in relation to postal services, the Government expects Ofcom will review Royal Mail's contingency plans and mitigating actions where it is not reassured that Royal Mail is planning and investing appropriately.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 This instrument does not consolidate previous instruments.

## **10. Consultation outcome**

- 10.1 A 40-day consultation was published in February 2019<sup>2</sup> seeking views on a draft statement. There were two consultation questions, namely:
- Do you agree with the Government's strategic priorities and desired policy outcomes for telecommunications, the management of radio spectrum and postal services?
  - Does this document set out clearly the role of Ofcom in contributing to the Government's strategic priorities and desired outcomes?
- 10.2 There were over 70 responses to the consultation<sup>3</sup> from a range of stakeholders, including telecoms companies, trade bodies, consumer and rural groups, and local government.
- 10.3 Overall, most respondents broadly supported many of the Government's strategic priorities and desired outcomes. There was particularly strong - but not always unequivocal - support from rural and consumer bodies, alternative network builders, regional bodies, and those with an interest in neutral host infrastructure (technology capability where a third party can provide a part of the network, which can be shared). The larger telecoms companies, although often supportive, had more mixed views in some areas. Fewer respondents directly addressed the second consultation question.

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<sup>2</sup> The consultation document can be found [here](#)

<sup>3</sup> The consultation responses can be found [here](#) and the Government response to the consultation can be found [here](#). Confidential responses have not been published.

However, those who did respond broadly agreed that the Statement set out Ofcom's role in contributing to the strategic priorities and desired outcomes.

## **11. Guidance**

11.1 There is no proposal to lay guidance with the Statement.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this Statement because this Statement sets out the Government's strategic priorities and desired outcomes as they relate to Ofcom regulation in certain areas. Any regulatory decisions as a result of this Statement are for Ofcom to make.

## **13. Regulating small business**

13.1 The Statement does not apply directly to activities that are undertaken by small businesses. Any regulatory decisions as a result of this Statement are for Ofcom to make.

## **14. Monitoring & review**

14.1 The Statement cannot be amended within five years unless there is a general election or a significant change in Government policy, or the Secretary of State considers that the statement, or a part of it, conflicts with Ofcom's general duties.

## **15. Contact**

15.1 Hamza Elahi at the Department for Digital, Culture, Media and Sport, Telephone: 020 7211 2158 or email: hamza.elahi@culture.gov.uk, can be contacted with any queries regarding the Statement.

15.2 Henry Shennan, Deputy Director for Telecoms Markets and Consumers, at the Department for Digital, Culture, Media and Sport, can confirm that this Explanatory Memorandum meets the required standard.