



**Three's response to
DCMS' *Statement of
Strategic Priorities for
telecommunications, the
management of radio
spectrum and postal
services***

Non-Confidential

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1. Introduction.

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- 1.1. This is Three's (Hutchison 3G UK Ltd) response to the Department for Digital, Culture, Media and Sport's (DCMS) consultation on the *Statement of Strategic Priorities for Telecommunications, the management of radio spectrum and postal services*.
- 1.2. Three is the UK's challenger mobile network. Since our launch in 2003, we have enabled our customers to make the most of their mobile through the development of innovative propositions such as 4G at no extra cost and Go Roam¹. Three carries nearly a third of the UK's mobile data traffic, with our customers using more than 7.6GB of mobile data per month - 3.5 times the industry average.
- 1.3. We will continue to act as the market challenger. We are the only UK MNO with 100MHz contiguous 5G spectrum and have already committed over £2bn worth of investment into our 5G network, which will launch commercially by the end of 2019.
- 1.4. In addition, Three does not have a fixed-line broadband business. This means we are able to embrace the future of converged services and 5G competing directly with fixed-line services, without having to protect historic revenue streams.
- 1.5. Three fully supports Government's ambitions for the UK become a world leader in 5G. We therefore welcome this first Statement of Strategic Priorities (SSP) for telecoms, published at a critical juncture for the sector. The advent

¹ Our offering which allows our customers to use their calls, texts and data allowances in over 71 destinations world-wide.

of 5G will be key in addressing the UK's data capacity crunch, as well as enabling a wireless home broadband offering that is a credible alternative to Full Fibre.

- 1.6. Yet if the UK is to meet Government's ambition and become a leader in 5G, the existing regulatory landscape will need urgent reform. A pro-competitive and pro-investment environment needs to be fostered, enabling operators to roll out the necessary infrastructure quickly and efficiently.
- 1.7. Currently, there is a risk that conflicting tensions will emerge within the policy frameworks established by regulator and legislator. This will inhibit investment and ultimately risks the UK lagging behind other nations when it comes to rolling out 5G. The SSP process – alongside that of Ofcom's Annual Plan - should encourage greater alignment between Government and Ofcom.
- 1.8. However, while we welcome the SSP and many of the subjects within it, we are concerned at the lack of prominence for certain critical issues. For example, Government needs to be stronger in areas where Ofcom policy will not achieve its objectives, for example in its approach to the award of the 700MHz and 3.6-3.8GHz spectrum bands
- 1.9. We are also disappointed that, while championing pro-competitive regulation, Government does not address either the need for a GPL switching process in mobile.
- 1.10. Finally, it is important to note that this SSP supports other Government workstreams such as the Future Telecoms Infrastructure Review and the Barrier Busting Taskforce. Three continues to engage with these existing workstreams and our response to this consultation should be read alongside this ongoing work.
- 1.11. Below are our thoughts on the specific areas of the Statement.

2. World-class digital infrastructure.

2. Effective Access to Passive Infrastructure

- 2.1. Three is pleased that the SSP reiterates the conclusions of the FTIR, with continued support for effective access to passive infrastructure.
- 2.2. The largest cost when deploying fibre networks is normally laying passive infrastructure, such as ducts and poles. Regulated access to this infrastructure can reduce roll-out time, costs and disruption, while supporting market entry from alternative networks.
- 2.3. Therefore, we fully support Ofcom's proposal to allow telecoms providers to access BT's ducts and poles², which is due to be imposed early 2019. This remedy will allow other fibre networks to be deployed and these new networks will then allow providers to offer dark fibre services to be used in mobile network operators' transmission networks.
- 2.4. Importantly, this will allow mobile operators to move away from current solutions where transmission costs are directly determined by traffic levels on dark fibre services. The decoupling of costs from capacity will allow mobile operators to provide the huge increase in capacity needed for 5G services, at lower prices than would otherwise be the case. This will be critical in ensuring that 5G deployment is timely and efficient.
- 2.5. Ofcom must impose this remedy as soon as possible, on a nationwide basis. Operators require certainty over whether dark fibre (enabled by Duct and Pole Access-based infrastructure investment) will be available for them to use in their transmission networks when planning 5G deployments. This urgency should be reflected in the SSP.
- 2.6. We also agree that access to telecoms infrastructure can be complemented by access to passive infrastructure owned by other utilities (e.g. water or energy) and by transport infrastructure providers such as Network Rail. It seems appropriate for Ofcom to work collaboratively with other regulators, including through the UK Regulators' Network, to ensure opportunities for passive infrastructure sharing with other utilities are explored and barriers addressed.

² <https://www.ofcom.org.uk/consultations-and-statements/category-1/physical-infrastructure-market-review?showall=1>

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- 2.7. We have experience of sharing infrastructure with other utilities through our partnership with SSE Telecommunications and Telefonica UK to deploy fibre in sewers in parts of London.
- 2.8. Although it is still at an early stage, the partnership has highlighted some complications with infrastructure-sharing across utilities. In particular, we have found that:
- Access to the infrastructure is far more difficult when it's housed in a sewer than in telecoms-specific infrastructure;
 - The deployment is not replicable where only small bore sewers exist; and
 - The economics of sharing utilities infrastructure is challenging and is unlikely to be scalable in less urban areas with lower population and/or site densities.
- 2.9. The above highlights that, although it might be feasible in a limited number of areas, the deployment of fibre in sewers is unlikely to be a substitute to widespread deployment of fibre in telecoms-specific infrastructure.

Differences in Geographic market conditions across the UK.

- 2.10. As we discuss above, we fully support Ofcom's proposals to provide regulated access to BT's ducts and poles to incentivise the deployment of competing fibre networks to BT's. However, we appreciate that competitive conditions in some areas of the UK will mean that this regulation may not drive nationwide infrastructure competition, at least in the medium-term.
- 2.11. In the areas where infrastructure competition does not arise, Ofcom should intervene to ensure that mobile operators are able to access a range of dark fibre products throughout the UK. This is important in ensuring that operators' transmission costs are decoupled from their traffic levels as traffic levels increase with 5G.

Mobile and 5G connectivity.

Rural Connectivity.

- 2.12. The problem of extending mobile coverage is one of the most difficult policy problems facing the UK. Good 4G services from all four MNOs is only available in 66% of the UK landmass. Partial Not Spots (PNS, or areas with good coverage from some but not all, MNOs) cover 25% of the landmass. They comprise the majority of homes and businesses without good quality coverage. Hundreds of thousands of consumers living in PNS do not have a good choice of provider, and visitors often lose connectivity in these areas. These are communities where competition alone will not extend coverage and it is

therefore right that Government has a leading role in considering feasible solutions.

- 2.13. As identified in SSP, Ofcom's upcoming 700MHz and 3.6GHz spectrum auction presents an opportunity to improve mobile services across the UK. However, Three has concerns that Ofcom's current proposals will not be effective and risk distorting competition.
- 2.14. Ofcom has proposed two 90% geographic coverage obligations. The obligation winners will receive discounts of £400-800m on the fees they pay for spectrum in the auction, around a third of which (£120-280m) will not be used to improve coverage at all. Instead, it will just end up in the pocket of the lowest cost provider (likely BT/EE).
- 2.15. As Ofcom recognises, most of the coverage extension from their proposals will be in PNS and will only benefit the customers of two networks. This is not a good use of taxpayer's money and it does not meet Government's objectives to comprehensively improve coverage across the UK.
- 2.16. Therefore, the SSP is an opportunity for Government to be much more explicit in setting out what its desired policy outcomes from this auction are and, if necessary, challenging Ofcom's proposed awards when they work against these objectives.
- 2.17. It is Three's view that having four MNOs providing 95% coverage is well within reach through a concerted effort between Government, Ofcom and industry.
- 2.18. All four MNOs can cover 91% of the landmass by sharing existing infrastructure via a Single Rural Network (SRN). This promises to eliminate PNS in 25% of the landmass for a fraction of the cost of the proposed coverage obligations. This is because few (if any) new sites would be required to get to 91%. Rather than be directed towards overbuilding existing networks in PNS, public funding could instead be used to build new shared sites in TNS, moving the industry towards Government's stated 95% coverage ambition. Crucially, the SRN would improve competition and service to all consumers, not just the customers of two MNOs, without distorting the auction.
- 2.19. However, the proposed coverage obligations undermine operators' incentives to agree on a SRN. By promising to (over-)fund the winners of the coverage obligations to increase their mobile coverage to 90% and, in doing so, gain a competitive advantage over their rivals, coverage obligations remove incentives for operators to agree on a SRN if they expect to win a coverage obligation.
- 2.20. We would like to see Government's support for a SRN referenced in the SSP.
- 2.21. Another alternative to the SRN is for Ofcom to include only one coverage lot and attach a mandatory rural roaming obligation to it. This would also eliminate

the PNS which exist in 25% of the country. Three therefore welcomes the openness to potential roaming solutions within the SSP.

Making it Easier to Deploy Mobile Infrastructure.

2.22. While we recognise that the workstreams related to Electronic Communication Code (ECC) and further planning reforms are being led by Government, we welcome their brief inclusion in the SSP document.

2.23. If the UK is to become a leader in 5G, it is vital that these reforms are addressed, and quickly. Otherwise mobile operators will not be able to efficiently build out the most effective 5G networks.

5G test-bed and trials.

2.24. We note that Government have referenced in the SSP the continuing funding of 5G test-bed and trials.

2.25. While Three agrees with this inclusion, we believe that Government could provide more explicit direction as to what they would like to see achieved from these trials. The application process for funding has proved extremely resource intensive; the more clarity provided by Government, the less risk of wasted resources.

2.26. It is Three's view that such trials should look at the deployment issues associated with 5G and potential new applications of the technology. This will support the commercial deployment of 5G, potentially giving the UK an advantage over other countries when it comes to the roll out of networks.

Spectrum management.

2.27. The management and awarding of spectrum will fundamentally shape the UK's 5G future. Therefore, if the UK is to succeed in becoming a world leader, it is right that Government make their views on spectrum issues clear within the SSP.

2.28. We agree that Ofcom must complete the 700MHz and 3.6GHz spectrum award so that MNOs can increase mobile coverage and provide the extra capacity needed for 5G. Ofcom has recently consulted³ on the format of the upcoming auction and Three has provided a detailed submission in response.

2.29. It is important that in future spectrum decisions the objectives of Government and Ofcom are aligned. Otherwise, Ofcom's spectrum policies may constrain, or even contradict, Government's ambitions. This creates significant uncertainty for businesses, resulting in unnecessary costs and delay in telecoms rollout.

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<https://www.ofcom.org.uk/consultations-and-statements/category-1/award-700mhz-3.6-3.8ghz-spectrum>

Lessons must be learnt from the rollout of 4G, to ensure that the UK does not end up lagging behind other countries.

- 2.30. In Three's view, the design of past spectrum awards has not always met Government's policy objectives. As discussed above, we believe that Ofcom's current proposals for the 700MHz auction do not align with Government priorities set out in this draft SSP. It is hoped that the existence of this SSP will help foster greater alignment in the future.
- 2.31. Aside from the matter of how to improve mobile coverage, Three supports the imposition of an overall spectrum cap of 37%, to address the risk of weaker competition due to asymmetry in spectrum holdings. There should also a cap on sub-1GHz spectrum to avoid an extreme asymmetry in holdings.⁴ We believe that Government should include concerns on the impact of asymmetric spectrum holdings.

Release of new spectrum.

- 2.32. Three agrees with Government that ensuring additional spectrum is brought forward should be a priority for Ofcom, ensuring MNOs can increase mobile coverage and provide the extra capacity needed.
- 2.33. It is also right that, where possible, that access to spectrum should be brought forward in a timely manner. It is Three's hopes that the additional clarity on Government's desired outcomes included in the SSP will enable Ofcom to do this, by designing spectrum awards which meet public policy objectives.

Spectrum Sharing.

- 2.34. It is important that Government includes their views on flexible sharing models within the SSP.
- 2.35. It is Ofcom's failure to permit spectrum leasing held under the Mobile Trading Regulations which has limited the adoption of spectrum leasing by MNOs. We therefore welcome that the Government is asking Ofcom to clarify, through amendments to its Spectrum Trading Guidance Notes, that leasing or pooling spectrum is not prohibited.
- 2.36. Ofcom has recently consulted on a set of proposals to promote wider spectrum access.⁵ In its Consultation, Ofcom proposes: a) to broaden spectrum sharing in three spectrum bands: 3.8GHz to 4.2GHz, 1800MHz and 2300MHz; and b) an Ofcom managed sharing regime for the awarded mobile bands. Three has provided a detailed submission in response.

⁴ Section 4, Three's response to Ofcom's consultation.

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<https://www.ofcom.org.uk/consultations-and-statements/category-1/enabling-opportunities-for-innovation>

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- 2.37. We support Ofcom's aim to further innovation and the adoption of new technologies, and we understand Ofcom's ambition to promote wider access to spectrum. Indeed, Three is leading the way on 5G services. However, we have concerns with both proposals, and do not support their adoption in the current form as proposed by Ofcom.
- 2.38. In Three's view, Ofcom's proposals for the three shared bands, particularly the 3.8 GHz – 4.2 GHz band, are significantly flawed. Ofcom has not considered Three's planned 5G Fixed Wireless Access (FWA) deployment when designing its proposals. Access to our 3.9GHz spectrum is critical for Three to bring competition to the home broadband market.
- 2.39. Ofcom's proposals for the shared access bands threaten these plans and dilute Three's rights to use our 3.9 GHz spectrum. Therefore, we have urged Ofcom to carve-out our existing spectrum holding from its sharing proposals.
- 2.40. In our view, alternative approaches, which enable MNOs to enter into commercial arrangements with new spectrum users, will deliver a better outcome for consumers and competition. We have urged Ofcom to consider either spectrum leasing or a hybrid form of concurrent licensing in these spectrum bands. Either of these approaches would much better meet Ofcom's objectives and would enable existing licence holders to negotiate with new users.
- 2.41. We therefore believe that Government should continue to include the text on spectrum sharing in the final SSP.

3. Furthering the interests of telecoms consumers.

1. Mobile is a highly competitive market, and a combination of private investment and competition has delivered some of the best value mobile telephony in Europe⁶. UK consumers now benefit from significantly improved coverage and generous text, call and data allowances for ever lower prices. Continued investment in customer service is also providing consumers with more control and choice.
2. This has resulted in high-levels of consumer satisfaction with 91% of mobile contract customers satisfied with overall service provided and 84% satisfied that their service provides value for money.⁷
3. As the challenger, Three has a track-record of campaigning for positive changes to the mobile market. We have engaged closely with Ofcom, Government and other stakeholders, on many consumer initiatives, over many years, including spending over 10 years campaigning for an effective mobile switching process. In the last 18 months, we have been pushing for new solutions to handset financing and highlighting regulatory barriers to innovation in this area.
4. While we welcome Government's overarching commitment to pro-competition regulation in this SSP, we are concerned that some of the priorities proposed seem to be focused on trying to dictate market outcomes rather than promoting competition. Dictating market outcomes can have unintended consequences and risks distorting competitive incentives, ultimately undermining the vibrancy of the sector.

Switching.

⁶ UK has comparatively low prices in Ofcom International comparison between EU5 (France, Italy, Germany, Spain and UK) and USA. Across three mobile phone baskets used in Ofcom analysis, the UK ranked 2/6 (after France) in terms of average prices and 1/6 for lowest available prices. (Ofcom International Communications Market Report 2017, see Figure 5 Comparative mobile phone pricing) (p.42)

⁷ Customer Satisfaction Tracker 2018, Ofcom

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5. Before we comment on the strategic priorities included in this consultation, Three is disappointed that Section 2.3 on consumer switching is restricted to broadband switching. This is a mistake.
 6. As recognised in the draft SSP, ‘simply relying on “engaging” consumers by providing them with more information has been shown not to be sufficient.’ An easy and effective switching process is the foundation of an open and competitive market. Without it, any benefits associated with additional reforms to promote consumer choice will not be fully realised.
 7. While we recognise that Ofcom have recently introduced some welcome changes to the mobile switching process, it still falls well short of full Gaining Provider-Led (GPL) switching that would have ensured even easier switching for UK mobile consumers⁸. The SSP is an opportunity for Government to be explicit in their expectation that GPL should be introduced in the telecoms sector.
 8. The SSP should also reflect the importance of ensuring an effective and quick handset unlocking regime, to complement any switching reforms. Three does not lock our handsets but for other operators it can take up to 10 days for a customer’s handset to be unlocked. This will act as a disincentive to switch and will slow down the process for those who decide to proceed.

Addressing harmful business practices

9. It should be recognised that mobile phone consumers benefit from significant regulatory protections through sector-specific consumer protection regulation. These are imposed on Communications Providers in the General Conditions of Entitlement and general ‘horizontal’ consumer protection rules.⁹ However, we recognise that there remains some business practices that can result in consumer harm, either generally impacting people across market segments or particularly impacting certain groups of consumers. Below are our views on the specific harms identified in the SSP, and potential remedies. It is important that any action to tackle consumer harm is proportionate, appropriately targeted, and does not distort competition.

⁸ Under GPL, the consumer only needs to contact the provider they want to join. This arrangement entirely removes the need for the consumer to contact their losing provider in order to switch. This is the case for broadband switching in the UK, but not for mobile switching where the customer is still forced to contact the losing provider in order to switch.

⁹ The consumer protection rules are in Part C of the General Conditions and include requirements around form and content of contracts (condition C1), to provide consumers with and publish detailed information about their products and services (condition C2), and measures to meet the needs of vulnerable consumers (condition C5). General consumer protection measures include: the Consumer Rights Act 2015, Consumer Contract (information, Cancellation and Additional Charges) Regulations 2013.

Handset Financing.

10. As mentioned in the SSP, there may be some issues that Ofcom cannot resolve effectively without support from Government. One such area where intervention by Government may be required is handset financing, through removing restrictions and inconsistencies in the current framework.
11. When customers pay for handsets and airtime within the same contract, there is a risk that consumers who do not switch at the end of the minimum contract period end up paying for a handset they have already paid off. Three shares the concern that this can be unfair, which is why we have been in discussions with Government, Ofcom and organisations such as Citizen's Advice to find a fair solution.
12. It is often suggested that requiring providers to offer split contracts, i.e. have separate contracts for the handset and airtime elements, would be a neat solution. However if such a blanket regulation was introduced, it has the potential for significant detriment to consumers and industry. Operators would need to comply with unnecessarily duplicative and different regulatory regimes, overseen by multiple regulators, including Ofcom and the Financial Conduct Authority (FCA).
13. This could lead to consumer confusion and hassle, such as uncertainty around the rules that apply to the maximum length of contracts; potential confusion around who consumers could complain to in the event of problems; and the need for additional consumer credit checks, with a disproportionate impact on vulnerable consumers.
14. In addition, split-contracts may represent poor value for some customers. For example, some handsets currently sold on credit as part of a split contract are linked to specific airtime contracts and the price of this airtime component can be inflated compared to the service provider's equivalent SIM only tariff. Moreover, the 'retail price' of the handset in split contracts can be significantly more than an equivalent handset purchased from an alternative provider.
15. Instead, to enable consumer choice and to reduce the regulatory burden on both consumers and businesses, Three has previously argued that Government should work with the FCA and Ofcom to introduce a carve-out from the Financial Services and Markets Act for handsets sold with an airtime agreement. This approach has worked for the insurance industry, where a recent carve out allowed for 12 payments over 12 months for products offered at 0% APR. Three is seeking a change in the law to extend carve out to mobile and allow 36 payments over 36 months for handsets sold on credit, if this credit is linked to a service airtime contract.

Loyalty penalty

16. As recognised in the draft SSP, the Competition and Markets Authority (CMA) has found that the so-called “loyalty penalty” disproportionately harms fixed broadband customers.¹⁰ Of the £1.3bn per year cost of the alleged loyalty penalty in the communications industry including the broadband and mobile markets per year, £1bn of that estimated cost was for broadband. It is therefore important that any remedies do not have unintended consequences for the mobile sector.
17. Three is worried at how a ‘loyalty penalty’ is defined by Government and regulators. We understand that there is a concern that disengaged consumers pay more for their services than engaged consumers who have taken an alternative service, for example a SIM only contract. However, Three does not consider it necessarily problematic that different consumers pay different prices, depending on their level of engagement.¹¹ This is especially true where consumers have good information about their current tariff and the options available to them. This type of differential pricing is a common feature of competitive markets, in which operators offer lower prices to win new customers.
18. In fact, price discrimination as a pricing strategy in the mobile market allows mobile providers to serve more consumers than in a world with uniform pricing. If providers were required to offer the same prices to all consumers, some of the most competitive offers in the market would likely disappear. This could result in higher prices for all consumers and it may result in engaged consumers, who have affordability constraints, being priced-out of the market for services they would otherwise have been able to afford. Prohibiting price differentiation could undermine consumer engagement, reward customer inertia, and chill switching and consequently competition in the mobile market.
19. In addition, migrating consumers onto default tariffs at the end of the minimum contract period automatically would harm long-term competition by reducing switching in the market. Consumers are likely to stay with the same provider when they come out of contract rather than researching offers from other providers. This would reward consumer staying with the same provider, entrenching the market shares of larger companies and harming both existing and potential market entrants. Consumer acquisition in these market conditions would be extremely difficult, and in fact it is a market strategy that consolidates the market position of larger competitors in the mobile market.
20. Ofcom are already doing welcome work to tackle identified harm in this area, particularly in relation to end-of-contract notifications. We believe that Ofcom’s

¹⁰ <https://www.gov.uk/cma-cases/loyalty-penalty-super-complaint#response-to-super-complaint>

¹¹ Please note this presumes that the consumer is not a vulnerable consumer. We support protection for vulnerable consumers, which is set out in detail in later sections of this response.

proposals will be effective at prompting consumers to engage with the market at this critical time. We think this approach is a far more effective means of protecting consumers, rather than any regulation favouring one particular sales model over another in respect of the mobile market. These initiatives should be given an opportunity to bring the benefits they promise before policymakers, legislators or regulators move to introduce more intrusive measures that could potentially distort markets and harm consumers.

Access to better data & information for consumers

21. We believe that consumers should be able to fully engage in the market to share the benefits of competition. Our customers already have easy access to their usage data via the My3 app where they can see the amount calls, texts and data they've used. This enables our customers to have access to the information they need, at the relevant time, in order to assess the choices available and make informed purchasing decisions.
22. As the market challenger, we are supportive of measures that further help empower consumers to make better decisions. Yet any measures that are introduced by Government must be proportionate and lawful, as well as reflecting learnings from past efforts such as midata¹² into account.
23. Our views on the individual information remedies suggested in the SSP can be found below:

Mobile coverage data:

24. Three, along with the other operators, work closely with Ofcom to ensure that we provide reliable and relevant coverage data that informs consumers. While we understand the Government's ambition to increase the granularity of this data, consideration needs to be given to the reliability of this information, especially taking into account varying factors such as building materials. Three will continue to work with Ofcom in this area.

Improving Quality of Service reports:

¹² The 2010-2015 Government set out its plans for midata in the [consumer empowerment strategy 'Better Choices: Better Deals'](https://www.gov.uk/government/news/the-midata-vision-of-consumer-empowerment) see 3 November 2011
<https://www.gov.uk/government/news/the-midata-vision-of-consumer-empowerment>

25. Three already works closely with Ofcom for their Quality of Service reports, including providing constructive input into how certain metrics could be measures. However, it is important to note that different systems and measurements employed by different communication providers can make it difficult for certain information to be comparable.

Smart Data Review

26. As already stated, Three is continuing to ensure our customers have access to up-to-date and relevant information to make the best choices. We are therefore keen to understand how our experience can support the Smart Data Review.

27. We agree that a priority for the review must be to establish a regulatory and policy framework which builds consumer trust in data portability and intermediaries. This is a prerequisite to building the consumer support necessary to create an effective market for these services.

28. We also believe that this review should ensure that lessons are learnt from past Government initiatives such as midata, specifically that there is not a one-size fits approach for different sectors, or even different subsections within that sector. The flexibility of offerings in mobile, driven by demand for choice in the market, can make it difficult to compare competing tariffs. For example, offerings such as Three's Go Roam can save customers thousands of pounds when travelling abroad but may not be considered in a simple price-based comparison. This may also be the case for subscriptions to online services included within bundles.

29. In addition, it is important for the Review to consider the achievable consumer benefits of any reforms, and if such action is proportionate. As a first step, Three would recommend that if Government want to look at benefits should it instruct the Competitions Markets Authority (CMA) to conduct a review of the impact of open-banking on consumer engagement and outcomes in banking.

30. The existing legislative framework on data portability should also be taken in to account before introducing new legislation in this area. Consumers enjoy data portability rights under non-sector specific legislation such as the General Data Protection Regulation (GDPR) which protect their rights¹³. Imposing sector-specific data portability requirements that are separate or different from non-sector specific data portability rights could lead to overlapping parallel obligations on mobile

¹³ Article 20, GDPR see also guidance from the ICO on the data portability right. <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-data-portability/>.

providers. This could increase the regulatory burden without bringing any additional benefit to consumers.

31. Finally, Government should recognise how competitive the mobile market is at the retail level, and that Three recognises the important role data and its portability will play for consumers switching between providers. Therefore, legislation mandating data portability may not in fact be necessary and competition may lead to those same intended outcomes.

Supporting the most vulnerable telecoms consumers.

32. Three welcomes the inclusion of this strategic priority for Government, and we are always keen to ensure that our vulnerable customers are well supported.
33. Currently, vulnerable consumers already have significant protections above and beyond general consumer protection rules through Ofcom's General Conditions.¹⁴
34. Three has recently updated our staff training relating to how we identify and treat such consumers. We will continue to revise our policies in this area to reflect best practice. For example, if a Three customer (or their authorised contact) advise us that they're suffering from poor health, we have various measures in place to help. If customers are severely ill, we write off the balance of their outstanding contract so that the customer pays no termination fee. We sometimes also migrate them to a pay-as-you-go option or transfer the contract to a friend or family member, again with the balance written off and no termination fees.
35. To engage with some vulnerable customers more effectively, Three has moved beyond an offer built around traditional contact centres, and we now use a variety of channels to contact our customers and for them to contact us. This includes the growth of customer support via social media and also the ability to self-service via the my3 portal.

¹⁴ These protections are set out in Part C of the conditions and include requirements These are around contracts (condition C1), to provide consumers with and publish detailed information about their products and services (condition C2) and measures to meet the needs of vulnerable consumers (condition C5). These conditions were reviewed last year, with new and amended conditions coming into force as recently as 1 October 2018. The General Conditions also require providers to have clear and effective policies and procedures for identifying vulnerable consumers, offer accessible bills, deal with complaints promptly and effectively and have fair debt-collection and disconnection practices in place. In addition, these consumer protections will be strengthened by the European Electronic Communications Code (EECC)

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36. We are also engaged in Ofcom's ongoing work which seeks to understand why some consumers, especially vulnerable consumers, face difficulties engaging in communications markets. The most recent example of possible solutions is Ofcom's proposals for out-of contract notifications, which Three supports.
37. We therefore agree that Ofcom should play a role in implementing workstreams set out in the Government's Consumer Green Paper. It is right that Ofcom has a role in assessing the effectiveness of different approaches in supporting vulnerable consumers. Ultimately, to achieve the best outcomes for vulnerable consumers, Government, Ofcom and industry must be aligned in support of an evidence-based approach built around specific and agreed outcomes. This will help direct a clear cross-industry approach, with simple and consistently applied principles.
38. The SSP also refers to non-financial data sharing on vulnerability between companies. Data sharing, especially relating to vulnerability, can be contentious and citizens will expect law-makers to create the necessary legal framework. It is therefore right that Government and Ofcom work together on this issue.
39. In terms of reforming the consumer advocacy arrangements, Three believes that Ofcom's Consumer Panel has been doing a good job in what is an already heavily regulated market. In addition to regulation and the panel, there are already several other consumer and business interest groups active in holding MNOs to account. This includes organisations like the Which?, Citizen's Advice, BCC (British Chambers of Commerce) and the FSB (Federation of Small Business). Therefore, any additional arrangements seem unnecessary.





4. Secure and resilient telecoms infrastructure.

1. It is right that security and resilience of the UK's telecoms networks is a strategic priority for the Government, Ofcom and the mobile industry.
2. The UK has a robust and effective security regime. Going forward this regime must remain evidence based. Additional security comes at a cost that will ultimately only be borne by the consumer.
3. As consultations points out, under the Communications Act 2003 Ofcom are responsible for ensuring that network and service providers take appropriate measures to manage cyber security risks, and we agree with Government that an engaged, pro-active regulatory approach is necessary. Three has been, and continues to be, fully engaged with the Government's Security of Supply Review. This review is an important process to ensure that the 5G supplier market in the UK is both competitive and secure.