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Statement of Strategic Priorities Consultation
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CONSULTATION ON UK GOVERNMENT STATEMENT OF STRATEGIC PRIORITIES FOR TELECOMMUNICATIONS

SCOTTISH GOVERNMENT RESPONSE

This response focuses primarily on section 1 of the statement, which expands upon the five key strategic priorities outlined in the Future Telecoms Infrastructure Review.

The Scottish Government welcomes the headline ambitions for digital connectivity set out in the Future Telecoms Infrastructure Review (FTIR) and in this consultation on the UK Government's Statement of Strategic Priorities for telecommunications.

We share these ambitions and are keen to work together with the UK Government, Ofcom and industry to develop a long-term strategy for digital infrastructure that will extend world-class connectivity across all of Scotland.

Delivering that will need a genuinely new approach – involving Government at all levels, industry and Ofcom. The reality is that too many rural areas across the UK have been left behind as telecoms networks have been rolled out in recent decades.

For too long, the regulatory environment has been unable to incentivise commercial investment in areas where there is little or no competition, and, as a result, an infrastructure deficit has been created. This has been felt most acutely in Scotland, where the commercial case for investment can often be more challenging due to our rurality, our geography and our population density.

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To mitigate this, we have seen substantial public investment in programmes aimed at extending digital infrastructure into rural areas. In Scotland, this includes the Digital Scotland Superfast Broadband programme – a £400 million+ investment from the Scottish Government, UK Government, local authorities, the European Union and Openreach – which has transformed fibre broadband access across Scotland, connecting over 920,000 premises so far that would not otherwise have received a service under a commercial proposal.

More targeted public investment will be needed if rural coverage is to improve and, given that responsibility for telecommunications remains reserved to Westminster, the onus is on the UK Government to take the lead and commit the resources needed to deliver the full fibre and 5G ambitions outlined in the statement.

Full Fibre Connectivity

In the absence of any equivalent plans on the part of UK Ministers, the Scottish Government has committed £579 million (96.5% of the total £600 million investment) to the Reaching 100% (R100) programme that seeks to deliver superfast broadband even further into rural Scotland. Procurement is well underway now and we expect to award contracts later this year and are confident that the programme will deliver extensive full fibre coverage in some of the most challenging areas in the British Isles, putting parts of rural Scotland ahead of the curve in relation to the availability of digital services, perhaps for the first time.

However, it is important to recognise that the R100 programme's primary objective is to deliver universal access to superfast broadband. With a UK Government contribution of just £21 million (3.5% of the total investment), the reality is that R100 does not currently have the budget to deliver full fibre access across all of Scotland, and we have stated that we will need to develop 'aligned interventions' to supplement the programme.

A joint approach is needed to address this, which is why we urge the UK Government to work with us to ensure that their plans for a Rural Gigabit Voucher Scheme are fully integrated with R100 delivery. It is vital that we co-ordinate public sector investment and ensure that it delivers the most future-proofed solution possible. Opportunities to further consolidate this with the delivery of the Universal Service Obligation should also be explored with Ofcom

Collaboration in this area would allow us to jointly assess how far on-demand interventions are able to deliver full fibre access and whether alternative models might need to be explored.

An 'Outside In' Approach to Deployment

A headline objective around promoting and pursuing an 'outside-in' approach to deployment will only have real meaning if there is a clear strategy in place to deliver it. As part of the R100 procurement, the Scottish Government mandated coverage in some of our most challenging rural areas, where there were clear strategic gaps in infrastructure provision, and other areas will receive additional weighting in the scoring process for tenders. More targeted investment of that kind is likely to be required in the coming years.

Regulation and Access to Passive Infrastructure

Regulation has a key part to play in the delivery of these connectivity objectives, working alongside public investment and incentivising commercial investment.

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We support efforts to ensure effective access to passive infrastructure in telecoms and other utilities. This is entirely sensible. The work that Ofcom are taking forward in relation to accessing Openreach's duct and pole network will be crucial to stimulating further commercial investment and network growth. In parallel, we support the development of effective dark fibre access products.

We believe that there is also scope to integrate the planning of new digital infrastructure with that of other sectors, notably transport and energy, and start to cultivate a more cohesive whole-system approach. That will require continued collaboration with public sector partners across the UK, with regulators and with industry.

We have raised this issue with both Ofcom and Ofgem in recent years. Both regulators do not appear to believe that there are material regulatory or legal barriers to infrastructure sharing but accept that this area requires further attention. To that end, we have arranged an industry roundtable next month, involving telecoms suppliers, utilities and both regulators, to explore infrastructure sharing in more detail.

We also see a role for Government in maximising the use of public assets, notably ducts and fibre along key transport routes. In 2018, the Scottish Government and Transport Scotland submitted a funding proposal to DCMS aimed at enhancing and opening up publicly owned roadside assets for telecoms use. The aim was to build a new 5G-ready infrastructure platform that industry could effectively engage with, enabling improved connectivity across key transport routes. We were disappointed that this proposal was rejected by DCMS but would welcome further dialogue to explore how collaborative proposals such as this could be funded, developed and implemented in Scotland

Spectrum Management

Avoiding the mistakes of the past when constructing the regulatory framework around 5G is one such opportunity. The case for prioritising coverage in rural areas, as opposed to maximising revenues from future spectrum auctions appears irrefutable. It is vital that the UK Government delivers this.

The publication of a 95% target for mobile geographic coverage by 2022 is welcome, however we are clear that we would expect this target to apply in Scotland (and each of the other constituent nations of the UK) and not just be a UK average. We are keen to understand in more detail the regulatory and policy levers (including direct intervention) the UK Government will take forward to achieve this target, and to ensure that it is fair to Scotland.

The consultation references the importance of 700 MHz and 3.6-3.8 GHz spectrum to improving mobile connectivity. We believe that the forthcoming auction for these spectrum bands represents one of the biggest regulatory levers currently at Ofcom's disposal to improve coverage.

The UK Government will be aware that Ofcom's recently concluded consultation on this spectrum sets out coverage proposals which fall short of the 95% target set out in this Statement, with Ofcom proposing geographic coverage obligations of just 74% in Scotland. We have made clear to Ofcom that this is an unacceptable outcome for Scotland, and urge the UK Government to consider what action – legislative if necessary – could be taken to

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ensure that much more ambitious coverage obligations which deliver the UK Government's 95% geographic target are set – and for this this level to apply across all UK nations.

We share the view of the UK Government that national roaming has the potential to improve customer choice and address partial notspots. In our response to the 700 MHz and 3.6-3.8 GHz consultation, the Scottish Government has asked that Ofcom considers how a roaming requirement could be implemented effectively in the UK. We are aware that, in 2014, national roaming was considered by DCMS and we would support this issue being re-visited by UK Ministers and consideration of how legislation could achieve the desired outcome.

We believe that further consideration should be given to the implementation of “use-it-or lose-it” requirements as part of spectrum management. We have previously received representation from an alternative provider who had sought access to MNOs' unused spectrum in certain geographic areas to deliver mobile services and, therefore, coverage uplift. We are keen that, where such proposals are feasible, all relevant parties work together to deliver a mutually acceptable outcome. We ask that DCMS considers how – through legislation or regulation – MNOs could be required to work with alternative providers to facilitate the delivery of solutions in areas where the MNOs have no planned use of their spectrum.

Mobile and 5G Connectivity

We note that DCMS has reiterated its commitment to supporting the development of 5G, including through the 5G Testbeds and Trials programme and would welcome clarity on what funding support for 5G deployment will be provided to the Devolved Administrations. It is, so far, disappointing that, in the first two phases of this programme, only a small proportion of funding has been allocated to projects in Scotland (via elements of two projects which are not ring-fenced for addressing Scotland's needs).

DCMS is asked to provide clarity on the timeline associated with the next phase of this programme which we understand to be focused on rural connectivity. Given Scotland's high level of rurality and some 93 inhabited islands to cater for, Scotland is a natural fit for testing the challenges of rural 5G delivery and we would welcome a further dialogue with DCMS on how this funding could be most effectively targeted in Scotland and how we can work together to ensure its impact is optimised. And, outwith the programme, we would welcome a discussion on how a bespoke 5G trial for Scotland could be designed and funded. As above, we were disappointed that our proposition focusing on roadside connectivity was rejected by DCMS in 2018 and would welcome an opportunity to revisit this – or a project of a similar nature – as part of the Scottish Government's own 5G strategy, which is currently under development.

Supporting the growth of infrastructure models, that promote competition and investment in network densification and extension to rural areas, is a key area of interest to the Scottish Government, and this has parallels with a “neutral host” pilot we are developing for deployment as part of the Scottish 4G Infill Programme. We are developing this in response to the MNOs' need to make viable business cases for deployment in deep rural areas, even when capital costs of infrastructure are fully subsidised. Furthermore, we understand that the MNOs have collectively approached DCMS with view to developing collaborative rural connectivity solutions. We believe that the Scottish 4G Infill Programme could provide a ready-made testbed for outputs arising from this work and would welcome the opportunity to discuss how we could work with you to realise this ambition through our Programme.

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We are keen to understand more about how DCMS and Ofcom will work to ensure flexibility in the policy and regulatory framework to support fixed and mobile network convergence, including allowing MNOs to benefit from unrestricted use of Openreach's passive infrastructure for the provision of backhaul services. We have previously received representation from a MNO who asserts that the current unrestricted access to ducts and poles is insufficient, and for that the UK to be a world leader in 5G, it also requires access to Openreach's dark fibre. We would welcome DCMS's consideration of how best a forward-looking dark fibre remedy which meets the needs of all parts of the telecoms industry can best be implemented.

We support the policy intent of the new Electronic Communications Code – facilitating the rapid deployment of telecoms infrastructure on a fairer financial basis – but seek to understand what assessments DCMS have made of the new Code's impact, and what measures DCMS will use to ensure the new Code's intent is fully realised. We are aware some telecoms operators are using the new Code to drive aggressively priced agreements, resulting in stalled negotiations with landowners that cause lengthy delays to deployment. This concern was raised in recent engagement with Scottish Land and Estates, who represent the landowners' interests.

For example, we are aware of stalled negotiations around a mast in a geographically remote location. The landowner asserts they cannot agree to the operator's offer (made under the terms of the new Code) as it is significantly to their economic disadvantage. The operator is unwilling to raise their offer. Due to this stalemate, the local community are denied the wider economic and social benefits of 4G access. The mast is located in an area under several designations that severely limits consideration of alternative sites for a mast. We regard this current outcome as entirely counter to the new Code's purpose, and presumably counter to UK Ministers' intent, and would ask how DCMS intends to remedy this situation.

Infrastructure resilience

We are pleased to note the emphasis on security and resilience of telecoms infrastructure which is of particular importance to rural areas and the islands of Scotland where both fixed and mobile services can suffer from more regular and longer disruption. However it is also fair to note the improvements that have taken place over recent years. As highlighted in Ofcom's Connected Nations 2018 report, the Scottish Highlands and Islands are more likely to have neither decent fixed broadband or good mobile services available and, although work carried out through the broadband USO and mobile coverage obligations is a positive step forward, we believe there is scope for greater ambition and also that there needs to be a continued focus on the resilience of these services to mitigate against a variety of threats and hazards, ranging from severe weather events to major power outages.

We anticipate that the Emergency Services Network project should go some way to increasing the mobile service availability in some of the less well served areas of Scotland, however the need for sufficient resilience provision - in the form of generator and battery backup, adequate parts supply and a sufficient compliment of engineers to affect repairs and upgrades - should be entrenched in all telecommunications improvement work going forward to ensure members of the public have accessible and reliable telecommunications links.

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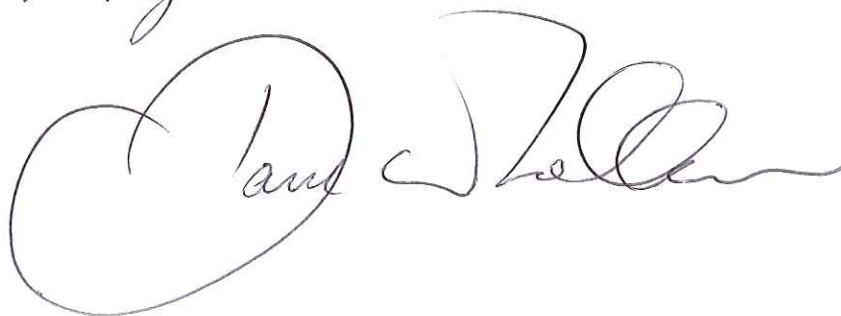


Summary

As recognised earlier, the regulation and legislative oversight of telecommunications remains the responsibility of the UK Government; but, given the economic importance of high quality digital connectivity to communities and businesses across our country, the Scottish Government has a key interest. We stand ready to work with you to deliver these shared objectives. Collaboration and partnership is needed and the work around voucher schemes will be an important demonstration of commitment to this.

We recognise that delivering a step change in the quality and capacity of digital infrastructure is not in the gift of any Government alone. It requires a genuine partnership between Government, the regulator and industry. We are determined to play our part – using the powers that we have, alongside targeted investment, to create an environment where the private sector can invest further. We want to work with Ofcom to help shape the regulatory environment in a way that recognises and responds to the unique challenges posed by Scotland's low population density and geography; and with the UK Government, to ensure that UK Ministers are making available the required level of funding to extend full fibre and 5G access across all of Scotland, and that it is targeted effectively to deliver optimised outcomes, in terms of benefits to the economy and the communities of Scotland that are served.

Kindest regards



Paul Wheelhouse