



Department for  
Business & Trade

# Smarter Regulation: Consultation on extending the Growth Duty to the economic regulators Ofgem, Ofwat and Ofcom

Closing date: Extended to 24 August 2023



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## Foreword / Introduction



In May 2023, we published the Smarter Regulation to Grow the Economy Policy Paper – the first in a series of ambitious announcements in this space.

At the same time, this government has set out a clear goal – to become the world’s best regulated economy.

It will mean we will develop world-leading businesses and create strong foundations so the economy can thrive.

This government is also committed to boosting growth and easing the cost of living and this consultation seeks views about how we can increase growth in the sectors regulated by Ofgem, Ofwat and Ofcom, which need further investment to deliver better outcomes for today’s consumers, as well as tomorrow’s.

It is right that we look at all levers to improve our focus on delivering a strongly growing economy, and those that already form part of our regulatory framework have an important part to play.

That is why this consultation seeks views on whether we should extend the current growth duty as it applies to over 40 regulators including the Civil Aviation Authority, Food Standards Agency, Environment Agency and the Health & Safety Executive – to the following economic regulators: Ofgem for energy, Ofwat for water; and Ofcom for communications to ensure they give full consideration to growth.

This consultation forms part of the Smarter Regulation programme of regulatory reform announcements that began in May 2023 with the publication of Smarter Regulation to Grow the Economy. Through this consultation and further regulatory reform updates, the Government will take action to reduce the burdens on business, reduce the cost of living, deliver choice to consumers, turbocharge science and innovation and drive infrastructure development.

I would welcome views from stakeholders on this and on other ways we can improve growth – both in the short and long term.

The Earl of Minto

Minister of State (Minister for Regulatory Reform)

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## General Information

### Why we are consulting

The energy, water and communications sectors account for around four per cent of the UK's GDP, and over thirteen per cent of total UK private sector investment<sup>1</sup>. Given their economic importance, we want to explore how Ofgem, Ofwat and Ofcom, as the regulators for these sectors, can best contribute to future growth. This consultation therefore seeks views on whether these three regulators should be added to the scope of the growth duty provided for in the Deregulation Act 2015 ("the 2015 Act"). Views would also be welcomed on whether and how the growth duty would help ensure that Ofgem, Ofwat and Ofcom prioritise growth in their sectors, supporting businesses and the vital investment needed to ensure a quality service to current and future consumers.

The stakeholder feedback to this consultation will also inform His Majesty's Government's broader regulatory priorities relating to Ofgem, Ofwat and Ofcom. This work is part of an ongoing package that will see the government issue two further consultations later this year, with the aim of exploring further opportunities for regulators to foster growth. We intend to consult on reforms to these economic regulators (Ofgem, Ofwat, Ofcom), and on revised statutory guidance to assist regulators in fulfilling their responsibilities under the growth duty. Both consultations will consider the findings from the review of the growth duty, led by the Government Chief Scientific Adviser, Professor Dame Angela McLean, announced in the Budget earlier this year.

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<sup>1</sup> National Infrastructure Commission: Strategic investment and public confidence, October 2019, p9

## Consultation details

**Issued:** 20 July 2023

**Respond by:** 11:59pm 24 August 2023

**Enquiries to:**

Email: [betterregulation@beis.gov.uk](mailto:betterregulation@beis.gov.uk)

BRE Strategy  
Department for Business and Trade  
4th Floor, Area Victoria 3  
1 Victoria Street  
London  
SW1H 0ET

**Consultation reference:** Extending the Growth Duty to the economic regulators Ofgem, Ofwat and Ofcom

**Audiences:**

Regulators, Businesses, business groups or representatives, consumers, non-governmental organisations, all other interested parties.

**Territorial extent:**

United Kingdom

## How to respond

Respond online at: [Qualtrics](#)

or

Email to: [betterregulation@beis.gov.uk](mailto:betterregulation@beis.gov.uk)

Write to:

BRE Strategy  
Department for Business and Trade  
4th Floor, Area Victoria 3  
1 Victoria Street  
London  
SW1H 0ET

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

### Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.



## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [enquiries@trade.gov.uk](mailto:enquiries@trade.gov.uk).

## The proposals

In the decades since privatisation, we have seen the UK's approach to regulating the sectors regulated by Ofgem, Ofcom, Ofwat successfully deliver competition, infrastructure investment and consumer protection. We can be rightly proud that since privatisation, over £450 billion of private sector investment has enhanced our energy, water, and digital infrastructure<sup>2</sup>.

Given the size of these sectors and given that they are foundational parts of the economy that affect the costs of doing business in many other sectors, the government is committed to driving economic growth and efficiency in the sectors regulated by Ofgem, Ofwat and Ofcom. This is particularly important in the current economic context of high inflation, and businesses and consumers struggling with high prices and the cost of living. In the long run, productivity gains are a significant part of what determines the UK economy's capacity to grow sustainably without generating inflation.

However, we face investment challenges to efficiently deliver the infrastructure needs of current and future consumers of energy, water and telecoms, and ensure that these investment needs consider intergenerational fairness for consumers. We want these sectors to strive for maximum efficiency over a sustained period. A well-regulated system will deliver efficient outputs from its inputs, and thus drive economic growth and productivity. Hence it is through efficiency that it is possible to minimise bills for current consumers, bills for future consumers and protect the environment and consumers. Applying the Growth Duty to these regulators would help create an efficient system delivered through good growth-focused regulation.

This reflects the themes that we set out in our 'Smarter regulation to grow the economy' policy paper, that regulation provides the foundations for our economy to thrive, and that an important part of our agenda is to ensure that regulators help drive economic growth. Creating an economy that attracts businesses, supports innovation, provides better outcomes for households and consumers, and delivers prosperity will always be an objective we strive to boost.

The UK is home to world class regulators who protect consumers, protect competition and help drive forward progress in their sectors. The 2015 Act put in place requirements for specified regulators and regulatory functions to have regard to the desirability of promoting economic growth when carrying out their core functions. This is referred to as the 'growth duty'. The growth duty provides clarification for non-economic regulators that they need to consider growth alongside their other duties. Ofgem, Ofwat and Ofcom already have a number of duties, and we believe that extending the growth duty to them will make it clear that growth is a consideration alongside other duties.

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<sup>2</sup> Calculations using Office for National Statistics (2009) Multi-factor productivity estimates: Experimental estimates for October to December 2018. Industries used are Section D (Electricity, Gas, Steam and Air Conditioning Supply) and Section E (Water Supply; Sewerage, Waste Management and Remediation Activities). 2018 prices, using implied GFCG deflator.

This consultation therefore seeks views on whether Ofgem, Ofwat and Ofcom should be added to the scope of the growth duty provided for in the 2015 Act.

In the coming months, the government also intends to consult on further reforms to economic regulation – delivering on commitments made in the Economic Regulation Policy Paper<sup>3</sup> published last year to consider the regulators' wider duties, investment, competition, transparency and supporting consumers. It will also consider other mechanisms through which Ofgem, Ofcom and Ofwat can help deliver growth.

We also intend to consult on revised statutory guidance that assists regulators in fulfilling their responsibilities under the growth duty, both at a strategic and operational level, including the proper consideration that must be made before allocating resources, setting enforcement policies, and making sanctioning decisions. Both of these areas of work will take into account the findings from the review of the current growth duty that is being led by the Government Chief Scientific Adviser, Dame Professor Angela McLean.

### **The Growth Duty**

Most non-economic regulators are subject to a statutory duty to have regard to growth when carrying out their core functions, known as the 'growth duty'. The growth duty is set out in section 108 of the 2015 Act which establishes that any person exercising a regulatory function must have regard to the desirability of promoting economic growth in carrying out that function. In performing this duty, they must consider the importance for the promotion of economic growth of exercising the regulatory function in a way which ensures that regulatory action is taken only when it is needed, and any action taken is proportionate.

The Economic Growth (Regulatory Functions) Order 2017<sup>4</sup> specifies the regulators and regulatory functions that the growth duty applies to. This currently applies to more than 40 different regulators. The growth duty is supported by statutory guidance<sup>5</sup> issued under s110(1) of the 2015 Act. All those specified in the 2017 Order must have regard to the guidance when exercising their regulatory functions. The guidance assists regulators when they are giving consideration to allocating resources, setting enforcement policies, and making sanctioning decisions.

Section 16 of the Enterprise Act 2016 inserted a new section 110A into the Deregulation Act 2015 and requires persons in scope of the growth duty to publish an annual performance report including the regulator's assessment of the views of business on the effect of the Growth Duty and the impact of the Growth Duty on them. Section 110A has not yet been commenced.

We intend to review the growth duty statutory guidance in the coming months. The amended guidance, together with consideration of whether we should commence statutory reporting, will be subject to a further consultation in coming months.

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<sup>3</sup> <https://www.gov.uk/government/publications/economic-regulation-policy>

<sup>4</sup> The Economic Growth (Regulatory Functions) Order 2017:  
<https://www.legislation.gov.uk/ukxi/2017/267/made>

<sup>5</sup> Growth duty: statutory guidance <https://www.gov.uk/government/publications/growth-duty>

## **The current duties of Ofgem, Ofwat and Ofcom**

Duties are an important part of effective independent regulation. It is vital that the three regulators, Ofgem, Ofwat and Ofcom, have appropriate and coherent duties and consumer protection and service will always be a priority. Each of these regulators have different priorities including sector specific duties (e.g. securing efficient use of radio spectrum, used for mobile phones and other wireless devices for Ofcom). A summary of these regulators' duties is included in **Annexes A-C**.

However, as noted in the government's Economic Regulation Policy Paper, the current framework of duties poses three challenges to regulators; existing duties have become increasingly complex; the transparency and predictability of the current framework could be improved to provide greater certainty to regulators and stakeholders; and the divergence in duties across the utilities sectors has reduced the ability of regulators to collaborate effectively on shared long-term goals, for example the government's net zero target.

The Department for Business and Trade has been considering the framework of duties that these three regulators operate under. The government notes and agrees with the conclusion of the National Infrastructure Commission that the duties of the regulators need to be coherent "to ensure stable and predictable regulation over the long term".<sup>6</sup> We are also conscious of the risks of layering additional duties upon one another, which is why the government uses other tools to support regulators and provide direction in their core functions. Co-ordination between government and regulators on issues such supporting vulnerable consumers, supports this objective, as do Strategic Policy Statements (and in the case of Ofwat, also a Strategic Priorities and Objectives Statement set by the Welsh Government). Used effectively these can represent a comprehensive package to share government's view on desired sector outcomes.

The government will be revisiting the issue of Ofgem, Ofwat and Ofcom regulators' duties in our consultation on reform to economic regulation autumn consultation. We believe that, in the long-term, regulators' duties should be reviewed and if necessary, rationalised to ensure activity is focussed on key priorities. The government must also respond to emerging opportunities and challenges while making sure regulators are equipped to do the same. This is why the government is, through the Energy Bill, introducing a Net Zero duty for Ofgem, clearly demonstrating the government's commitment to net zero, and expectation that this be factored into decision-making.

We are keen to do the same for growth. These sectors underpin the economy, and it is right that sustained economic growth is among regulator priorities.

## **Building on existing pro-growth activity**

Ofgem, Ofwat and Ofcom already help to deliver growth in their sectors. This consultation is exploring whether we can build on this work and maximise its impact. For example, Defra's Strategic Policy Statement<sup>7</sup> sets out the government's expectations of Ofwat and industry to deliver significant investment to improve our water environment and explore opportunities

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<sup>6</sup> National Infrastructure Commission: Strategic investment and public confidence, October 2019, p12

<sup>7</sup> [Government's strategic priorities for Ofwat](#), February 2022 [Government's strategic priorities for Ofwat](#), February 2022

for growing some of nascent markets within the water sector. We welcome the sector's work to deliver against this expectation and this consultation is exploring whether extending the growth duty would facilitate even more pro-growth activity.

Similarly, we note that Ofgem support network innovation by direct provision of funding including the Strategic Innovation Fund, a five-year programme with up to £450 million available to promote innovation. Additionally, the Innovation Link was established in 2016 and Ofgem have provided feedback to 470 innovators with many now delivering new products and services to consumers and to other energy sector actors, in areas such as Electric Vehicles, storage and flexibility services.

In 2019, the Government published its first Statement of Strategic Priorities in relation to telecommunications, the management of radio spectrum, and postal services, which included pro-competition and pro-growth priorities to deliver world-class, gigabit-capable digital connectivity across the UK. Ofcom has introduced a number of pro-growth measures, such as requiring Openreach to allow competitors access to its national network of passive infrastructure, and providing long-term certainty on wholesale price regulation, have resulted in the largest growth in fixed telecoms investment ever seen in the UK, with over £35 billion announced in the private sector alone. This investment has seen coverage of gigabit-capable networks in the UK increase from just 6% in 2019 to over 76% today, as well as growth in the availability of basic 5G from 42% in 2021 to over 82% of premises today.

Examples of how these regulators' already support pro-growth activity can be found at annex D.

### **Pro-growth decision making**

Ofgem, Ofwat and Ofcom are important in shaping the UK economy. They set strategies and make decisions that significantly affect the types, the scale and the locations of economic activity in important sectors. However, regulatory decisions involve the balancing and trading-off of multiple duties and objectives, including economic growth, environmental responsibilities and consumer protection.

Whilst the Growth Duty promotes economic considerations in decision making, it is not our intention to undermine environmental or consumer protection; environmental protection for example is enshrined in the Environment Act 2021. The growth duty requires that regulators be mindful of the economic consequences of their actions and that any regulatory action taken is considered and proportionate. We are therefore seeking views on whether giving Ofgem, Ofwat and Ofcom the growth duty will help them deliver increased growth in their sector.

To support regulators in meeting their duty, the [statutory guidance](#) for the growth duty was introduced in 2017. Later this year, we intend to consult on revised guidance that will outline how the government is seeking sustainable growth in the medium to long-term, to maximise the positive impact on the economy. We believe regulators have a key role in improving the attractiveness of their sector to investors, bringing new products to market by encouraging innovation and ensuring competition to deliver the best service to consumers. The growth duty is not intended to require regulators to pursue growth at the expense of necessary protections, but to ensure that they give due consideration to the potential impact of their activities and decisions on economic growth.

When taking regulatory decisions, the regulators must comply with their duties. For these regulators, there are competing pressures of raising investment, minimising bills, and ensuring that costs are shared fairly. An effective regulator will set a strategy that strikes the right balance between competing pressures, informed by an understanding of what approach might lead to maximum growth.

In assessing how to promote economic growth, these regulators will continue to deliver on the objectives that are already reflected in their existing duties, such as competition. However, the regulators will also be empowered to consider other areas which may not be reflected, or may only be partly reflected, in their duties, such as promoting innovation or trade. Thus we believe that applying the Growth Duty to Ofgem, Ofwat and Ofcom will empower the regulators to take a comprehensive and holistic approach to deliver economic growth.

These regulators also affect economic growth by the way in which they regulate. The approach to regulation and the behaviour of these regulators sets a regulatory environment in their sectors. A good regulatory environment emerging from the attentive and responsive stewardship of an effective regulator can create the conditions for business confidence and investment, sensible risk-taking and innovation, and proportionate and streamlined regulation.

There are many ways that regulators can demonstrate their regard to growth in the way that they foster a good regulatory environment. For example this could include, but isn't limited to:

- showing speed and agility in decision making
- supporting businesses by providing regulatory certainty
- supporting resilient new entrants to the market
- supporting existing businesses to innovate and change their business model
- responding quickly to wider changes in their sectors – for example geopolitical events such as the war in Ukraine or the Covid pandemic

We believe that applying the Growth Duty to Ofgem, Ofwat and Ofcom will require these regulators to place greater emphasis on creating a regulatory environment that supports growth. That emphasis could be stronger if the government provides amended guidance and requires regulators to report on actions they take to meet the Growth Duty, which are issues that the government will consult on in the coming months.

### **Alternative approaches**

Many short- and medium-term decisions on growth have already been made, for example through the price review process for Ofgem (RIIO-2 for gas and electricity networks), Ofwat (PR24) and Ofcom (WFTMR 2021-26). During the price review process, companies put forward their business plans for regular price control periods' to the relevant regulator. The regulator then makes determinations of the investments, targets and returns that the companies can make and challenges them on whether their plans can be delivered more effectively and at least cost. These price reviews run into the mid to late 2020s; if the growth duty was extended to these regulators, it would not apply to current price reviews or previous decisions.

Maintaining investor confidence in our regulatory regime is key, and this also means stability of the regulatory regime. Without investors, growth cannot happen and should it become more difficult to attract investors then this could result in the need to increase the rate of return offered to investors, which pushes up bills for consumers. Growth also needs resources (labour and construction materials) to ensure new infrastructure can be built.

The key aim of these regulators is to support reliable services to households and businesses and ensure protections. This should remain their key focus. We believe that supporting a pro-growth economy will deliver benefits to society as a whole and a growth duty should not detract from the regulators' core purpose.

However, we recognise regulators would need to balance multiple duties alongside growth, including environmental and consumer protection. It also has the potential to increase legal risk to the regulators who already need to balance many duties. On the other hand, it may also reduce risk, where regulators can point to a clear duty to support their activity.

We would welcome view from consultees on where they perceive potential tensions with the growth duty, and how these tensions might be addressed in the supporting guidance. We also welcome views on other ways that growth can be incentivised and supported by the regulators in these sectors e.g. to ensure new infrastructure can be built; government guarantees (e.g. Regulated Asset Base model or Contracts for Difference); National Planning statements, etc. We would also welcome views on any potential equalities impacts that may be relevant to extending the scope of the growth duty.

## Consultation questions

1. Do you agree that Ofcom, Ofgem and Ofwat should be included in the scope of the growth duty specified in the Deregulation Act 2015?
2. What additional guidance would be beneficial to support effective implementation of the growth duty?
3. How would you envisage a regulator's actions changing as a result of a growth duty? Please outline any benefits you can foresee.
4. How do you foresee the growth duty interacting with existing statutory duties? Please provide examples.
5. Is there any evidence that this will add significant costs to regulators or business? If so, why and what would those costs be?
6. Are there alternative or additional means by which we could improve growth outcomes in these regulated sectors?



## Next steps

This consultation will close four weeks after launch. The responses will be used to help the government decide whether or not to amend the [Economic Growth \(Regulatory Functions\) Order 2017](#) to add Ofgem, Ofwat and Ofcom to the regulators covered by the growth duty specified in the Deregulation Act 2015.

This consultation is part of the government's drive to deliver Smarter Regulation and includes separate forthcoming consultations on the statutory guidance that accompanies the growth duty and on wider reforms to economic regulation.

## **Annex A: summary of Ofgem's statutory duties**

[Source: [www.ofgem.gov.uk/publications/our-powers-and-duties](http://www.ofgem.gov.uk/publications/our-powers-and-duties)]

The Authority determines strategy, sets policy priorities, and makes decisions on a wide range of regulatory matters, including price controls and enforcement.

The Authority's powers and duties are provided for in statute: these include, but are not limited to the Gas Act 1986, Electricity Act 1989 and Utilities Act 2000.

As set out in statute, the Authority's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems. The interests of such consumers are their interests taken as a whole, including their interests in the reduction of greenhouse gases and in the security of the supply of gas and electricity to them.

The Authority must carry out its functions in the manner which it considers best calculated to further the principal objective, wherever appropriate by promoting effective competition within the electricity and gas sectors.

Before deciding to carry out its functions in a particular manner with a view to promoting competition, the Authority must consider the extent to which the interests of consumers would be protected by that manner of carrying out those functions and whether there is any other manner (whether or not it would promote competition) in which the Authority could carry out those functions which would better protect those interests.

The Authority must also, have regard to the need to secure that all reasonable demands for electricity and gas are met; the need to secure that licensees can finance their regulated activities, and the need to contribute to the achievement of sustainable development. Furthermore, it must have regard to the interests of vulnerable individuals, including those who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.

Ofgem has powers under consumer protection legislation, including the Competition Act 1998, Consumer Rights Act 2015 and the Business Protection from Misleading Marketing Regulations 2008, to investigate and enforce against breaches of consumer protection law.

The Future System Operator (FSO) is currently being established as part of the Energy Bill. Ofgem will also be the regulator of the FSO and will be responsible for approving the FSO's business plan through the price control process and delivering performance management.

## **Annex B: summary of Ofwat's statutory duties**

[source: [www.ofwat.gov.uk/about-us/our-duties](http://www.ofwat.gov.uk/about-us/our-duties)]

This summary is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

The duties for most of Ofwat's work as the economic regulator of the water sector are laid down in sections 2 and 3 of the Water Industry Act 1991 (WIA91) as amended.

### **Ofwat's duties**

**Under section 2 of WIA91 as amended, Ofwat must carry out most of its work as an economic regulator in the way Ofwat consider will best:**

- further the consumer objective to protect the interests of consumers, wherever appropriate by promoting effective competition
- secure that water companies (meaning water and sewerage undertakers) properly carry out their statutory functions
- secure that water companies can (in particular through securing reasonable returns on their capital) finance the proper carrying out of their statutory functions
- secure that water supply licensees and sewerage licensees properly carry out their licensed activities and statutory functions
- further the resilience objective to secure the long-term resilience of water companies' water supply and wastewater systems; and to secure that they take steps to enable them, in the long term, to meet the need for water supplies and wastewater services

**Subject to the main duties above, Ofwat must also regulate in the way it considers will best:**

- promote economy and efficiency by water companies in their work
- secure that no undue preference or discrimination is shown by water companies in fixing charges
- secure that no undue preference or discrimination is shown by water companies in relation to the provision of services by themselves or by water supply licensees or sewerage licensees
- secure that consumers' interests are protected where water companies sell land
- ensure that consumers' interests are protected in relation to any unregulated activities of water companies
- contribute to the achievement of sustainable development

Ofwat must also have regard to the principles of best regulatory practice. These include that regulatory activities should be transparent, accountable, proportionate, consistent and targeted.

Ofwat must also act in accordance with the statutory strategic policy statements published by Defra and the Welsh Government.

Ofwat also have general environmental and recreational duties in section 3 of WIA91.

### **Licensed Infrastructure Providers**

Ofwat also have similar duties to those that apply in relation to water companies when regulating licensed infrastructure providers, such as Tideway. This is set out in the Water Industry (Specified Infrastructure Providers) (English Undertakers) Regulations 2013

## **Annex C: summary of Ofcom's statutory duties**

[Source: Ofcom's Plan of Work 2023-24, [www.ofcom.org.uk/about-ofcom/annual-reports-and-plans](http://www.ofcom.org.uk/about-ofcom/annual-reports-and-plans)]

This summary is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

A1.3 Ofcom was established under the Office of Communications Act 2002 and operates under a number of Acts of Parliament. The Communications Act 2003 states that Ofcom's principal duty in carrying out its functions 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. In postal services, Ofcom's duty is to carry out its functions in a way that Ofcom considers will secure provision of a universal postal service in the UK. Ofcom implements and enforces communications, competition and consumer protection laws; Ofcom's competition powers are outlined later in this section.

### **Ofcom's main legal duties guide the direction of Ofcom's work**

A1.4 Ofcom's main legal duties in carrying out its work include securing that:

- the UK has a wide range of electronic communications services;
- optimal use is made of the radio spectrum;
- a wide range of high-quality television and radio programmes are provided by a range of different organisations, appealing to a range of tastes and interests;
- people are protected from harmful or offensive material, unfair treatment and unwarranted invasion of privacy on television and radio;

Ofcom also has functions in respect of the BBC. Ofcom's role is to ensure that the BBC is delivering for audiences, and to hold it to account for fulfilling its Mission and Public Purposes. Ofcom also regulates the BBC's editorial standards and complaints and works to protect fair and effective competition.

A1.5 In November 2020, new rules entered into force giving Ofcom responsibility for ensuring that video-sharing platforms established in the UK take appropriate measures to protect consumers who engage with those services from the risk of viewing harmful content. The Government has announced its intention to appoint Ofcom as the online safety regulator in the Online Safety Bill, which is currently undergoing Parliamentary scrutiny. The Online Safety Bill will, among other things, introduce a new duty for Ofcom to secure in the exercise of its functions the adequate protection of citizens from harm presented by content on regulated services, through the appropriate use by providers of such services of systems and processes designed to reduce the risk of such harm.

A1.6 On 1 October 2022, the new regulatory regime established by Telecommunications (Security) Act 2021 formally commenced. The Act places new strengthened security duties on telecoms providers, with new powers for the Government to set out security requirements and gives Ofcom new responsibilities to make sure providers comply.

A1.7 Ofcom can enforce consumer law on behalf of consumers but does not have the power to resolve individual consumer complaints about telecoms or postal services, unlike

in TV and radio. Where appropriate, Ofcom provide advice to complainants and refer them to the alternative dispute resolution (ADR) schemes that Ofcom have approved.

### **Ofcom's competition law powers**

A1.8 In addition to the regulatory responsibilities set out above, Ofcom have powers in relation to communications matters to:

- enforce the prohibitions on anti-competitive agreements and abuse of a dominant position, set out in the Competition Act 1998; and
- investigate markets and make references under the Enterprise Act 2002 to the Competition and Markets Authority (CMA).

A1.9 Ofcom consider whether it is more appropriate to exercise Competition Act or sectoral powers in any given case, subject to the specific legislative requirements.

## Annex D: Examples of Ofcom, Ofgem, and Ofwat Pro-Growth Activities

### Ofgem Examples:

<p><b>Supporting innovation:</b> Ofgem supports innovation through multiple mechanisms. Innovation in technologies, products, services and methodologies can attract new investment, unlock business opportunities and create jobs. Network innovation is supported by direct provision of funding including the Strategic Innovation Fund, a five-year programme with up to £450m available to promote innovation. In 2022, the SIF identified four innovation challenge areas: supporting a just energy transition; preparing for a net zero power system; improving energy system resilience and robustness; and accelerating decarbonisation of major energy demands. Ofgem also assists innovators via Innovation Link and our regulatory sandbox, which can offer bespoke guidance, provides comfort for trials and derogations from specific regulatory rules. The Innovation Link was established in 2016 and we have provided feedback to 470 innovators with many now delivering new products and services to consumers and to other energy sector actors, in areas such as Electric Vehicles, storage and flexibility services. Case studies of the support we've provided to innovators are hosted on our <a href="#">website</a>.</p>	<p><b>Supporting government investment:</b> Ofgem supports the build and operation of large-scale assets through multiple regulatory regimes. Looking to the future, this will include CCUS (Carbon capture, utilisation and storage), where Ofgem is supporting DESNZ with developing a Regulatory Asset Base (RAB) framework for CCUS Transport and Storage (T&amp;S) networks to support up to £20bn of government investment. CCUS will be essential to meeting the UK's 2050 net zero target, playing a vital role in levelling up the economy, supporting the low-carbon economic transformation of our industrial regions, and creating new high value jobs. The T&amp;S networks will enable CCUS for users who often have no viable alternative to achieve decarbonisation. The RAB framework will enable stable investment in CO2 T&amp;S networks and provides investors with a clear sight of the long-term revenue model to allow them to earn a reasonable regulated return on their investment.</p>
<p><b>Supporting net zero:</b> Ofgem continue to support government's net zero ambitions and this will be strengthened by the new Net Zero Duty that is being legislated for via the Energy Bill. For example, through the Accelerated Strategic Transmission Investment framework which will apply to around £20bn of onshore transmission network investment and bring delivery dates forward. The new Net Zero duty will replace a general duty regarding the</p>	<p><b>Strategy and Policy Statement:</b> DESNZ is currently consulting on its SPS for Energy Policy and aiming to designate it by the end of the year. Ofgem (and the FSO) are required to have regard to the SPS when undertaking their regulatory functions. The SPS has a strong growth focus. For example, it requires Ofgem to have regard to "addressing undue barriers to entry, growth and innovation", and "ensuring electricity</p>

<p>reduction of greenhouse gases emissions in electricity and gas supply. These networks are critical to delivering energy to meet consumer demand and drive economic activity today and will need to evolve to transport increasingly decarbonised energy to homes and businesses tomorrow. Access to cost-effective, low carbon energy is a key requirement for growth. The current RII0-2 price controls included over £50bn of upfront funding for network operation and investment, with further funding available.</p>	<p>network infrastructure is delivered at scale and pace, ahead of need, to meet the demands of a decarbonised energy system as electrification grows, while controlling system costs by facilitating a smart, flexible and digitalised energy system”.</p>
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**Ofcom Examples:**

Ofcom's regulatory actions	Results
<ul style="list-style-type: none"> <li>• In 2019, the Government published its first Statement of Strategic Priorities. Ofcom has introduced a number of pro-competition pro-growth measures in its 2021-2026 Wholesale Fixed Telecoms Market Review and beyond.</li> <li>• It has required Openreach to allow competitors access to its national network of 23,000 km of ducts and 140,000 poles, significantly reducing barriers to entry and expansion for new providers. This intervention reduces the cost of deployment by around half.</li> <li>• It has set an ambitious and flexible pricing strategy for Openreach that protects customers from excessive prices whilst continuing to incentivise them to deploy higher-speed services.</li> <li>• It has provided long-term pricing stability, giving investors the confidence to invest over a long time horizon.</li> <li>• It has set out a One Touch Switching (OTS) process, which makes it simpler for consumers to switch between providers to incentivise market competition. This is not yet in place, but Ofcom has opened an enforcement programme to ensure that providers deliver OTS in accordance with the</li> </ul>	<ul style="list-style-type: none"> <li>• There are now over 80 companies investing over £35 billion to deploy gigabit-capable networks in the UK, with coverage rising from 6% in 2019 to over 76% today.</li> <li>• We expect to meet our stated target of at least 85% coverage of gigabit-capable networks by 2025.</li> <li>• Over 25% of premises are now covered by an alternative network, with altnets (alternative networks) collectively planning to invest £24 billion by 2030.</li> <li>• Over 2 million premises in rural and hard to reach areas are now covered by an altnet.</li> <li>• Basic 5G services are now available to over 82% of the population, increasing from 42% in 2021, with 4G available to over 99%.</li> <li>• Total annual expenditure on telecoms in the UK has grown by £1.2 billion since 2019, with over £7 billion invested in 2021.</li> <li>• Data traffic also continues to increase, with average monthly fixed data traffic in the UK reaching 482 GB per connection, higher than the US, Singapore and the EU.</li> </ul>

agreed specifications as quickly as possible, in light of the industry's delays to date.	
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**Ofwat Examples:**

<p><b>Supporting innovation:</b></p> <p>The Ofwat <a href="#">Innovation Fund</a>, established in 2019, has made £500m available until 2030 (and awarded £105m thus far) to bring forward transformational innovative solutions to help the sector meet the significant environmental and resilience challenges it faces.</p> <p>So far, Ofwat has funded entries to support achievement of goals on net zero, develop the sector's capability to deliver open data, advance efforts around operational resilience and operational efficiency, restore rivers, catchments and groundwater sources and support vulnerable customers.</p> <p>Awards are issued through a series of competitions which invite innovative ideas against broad thematic areas which align with the priorities set out in the Welsh Government and UK Government SPSs and the sectors' own innovation needs.</p> <p>Ofwat is also driving complementary activities to support innovative thinking and access to the water sector, including <a href="#">Streamline</a>, which brings together Ofwat, the DWI and the EA to provide advice to help innovators and businesses understand and navigate through water sector regulations.</p>	<p><b>Supporting government ambitions:</b></p> <p>Government has a Strategic Policy Statement (SPS) for Ofwat, and Ofwat is legally bound to work in accordance with it. The SPS sets out the government's expectations of Ofwat and industry to deliver significant investment to improve our water environment and explore opportunities for growing some of nascent markets within the water sector.</p> <p>Water companies are investing £51 billion in Price Review 2019 (2020-25), which is an increase of £7 billion from PR2014 (2015-2020).</p> <p>Ofwat has also approved water companies investment of £4.9 billion in new infrastructure to support the country's green economic recovery from Covid-19 and to accelerate infrastructure to improve our water resilience and protect the environment.</p> <p>Water companies' plans for the Price Review 2024 period outline a significant increase in environmental ambition and investment.</p> <p>To further encourage growth and investment, Ofwat has also increased the number of Outcome Delivery Incentives for Price Review 2024, which can unlock significant financial outperformance rewards for companies and their investors.</p>
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