Department for
Science, Innovation
& Technology

Digital Connectivity: Consultation on reviewing the broadband Universal Service Obligation

Closing date: 27 November 2023

October 2023

Any enquiries regarding this publication should be sent to us at: alt.formats@dsit.gov.uk

Ministerial Foreword

The government is committed to making the UK a global leader in digital connectivity. Levelling up means ensuring that premises have access to reliable, long-lasting gigabit-capable connections across the United Kingdom. Now, more than ever, it is important to have a fast and resilient telecoms network in place.

Digital connectivity is imperative to enable people to stay connected to their family and friends, run businesses and allow children and young people to access educational materials. We saw this at its fullest during the coronavirus (COVID-19) pandemic, and it will only continue to be the case in the years to come.

I am proud of the work that the telecoms industry, supported by the government and Ofcom, has done to increase the number of premises able to access a gigabit-capable connection with coverage now standing at 77% compared to just 6% in 2018.

However, the government recognises that for a small minority of premises, there remains more to be done to ensure they can access a decent broadband connection.

The broadband Universal Service Obligation (USO) was launched in March 2020, just as the world moved online due to the COVID-19 pandemic. It has enabled more premises to access an improved digital connection and as a result, stay connected. Since the programme was announced in 2015, the number of premises unable to access a decent broadband connection has fallen from c.2.4 million premises to a little over 50,000 premises, after accounting for anticipated subsidised deployments within the next twelve months, as a result of factors including commercial investment, improvements in 4G coverage, government programmes such as Superfast and Project Gigabit alongside the USO.

As of March 2023, a total of 7,000 premises now have a decent broadband service as a direct result of the broadband USO, with a further 800 further builds in progress. Many of these connections are in the most rural and remote areas that may otherwise not have had access to this improved connectivity.

However, the government is aware that the broadband USO has faced challenges. That is why the government is keen to take this opportunity to review what has worked well, as well as what improvements could be made. The consultation responses will help us to shape the scheme in the future and inform the government's approach. I look forward to receiving your responses.

Sir John Whittingdale

Minister of State for Data, and Digital Infrastructure

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Executive summary

The government has ambitious plans to ensure that premises across the United Kingdom can access a faster and better connected digital network. From delivering future-proofed gigabit-capable broadband to improving 5G coverage as soon as possible, our plans will enable both consumers and businesses to unlock significant social and economic benefits as we emerge from the COVID-19 pandemic.

Accessing world-class infrastructure both now and in the future is vital to unlocking economic and social potential. That is why we are working with industry to target a minimum of 85% gigabit-capable coverage by 2025 and to get as close to 100% as possible by 2030. We aim to ensure that 95% of the UK's geographic landmass has 4G coverage from at least one mobile network operator by 2025 through the Shared Rural Network programme. Looking ahead, we have set a new ambition for nationwide coverage of standalone 5G to all populated areas by 2030.

However, while the government, with the support of industry, is making significant progress in achieving these aims – including increasing gigabit-capable coverage from 6% in 2018 to 77% today – the government understands there is more to be done. This is especially the case for premises in rural and remote areas which are more likely not to have access to a Superfast connection, and sometimes even a 'decent broadband' connection.

The broadband Universal Service Obligation

The broadband USO is the legal right to request a decent broadband service of at least 10 Mbps (megabits per second) download and 1 Mbps upload from one of the 2 Universal Service Providers (USPs) designated by Ofcom:

- KCOM in Kingston-Upon-Hull
- BT in the rest of the United Kingdom

The broadband USO acts as a 'digital safety net' to ensure all consumers and businesses across the UK are able to legally request an affordable broadband connection that enables them full economic and social participation in society.

The intention to launch a broadband USO was announced in 2015, and after the introduction of legislation by the UK Government and subsequent operational planning by Ofcom and the designated providers, the programme was launched on 20 March 2020. It remains largely unchanged from its introduction. Ofcom, as the body responsible for implementing and designing the broadband USO based on the respective legislation passed by the UK Government, as well as its ongoing regulation, has made slight modifications following investigations into the way BT was carrying out its obligations.

To ensure the broadband USO continued to meet its policy objectives, a review trigger was introduced into the legislation. This trigger is reached once 75% of UK premises take up a 30 Mbps service. As of September 2022, 70% of premises have taken such a service. This figure does not take into account wireless networks whose available service has continued to increase in recent years – with more consumers using these services as substitutes for a fixed broadband service. It is likely that a formal review of the broadband USO will therefore be triggered shortly.

Furthermore, over the last 3 years the programme has been in place, a number of issues with its design and implementation have been raised by applicants, rural stakeholders and parliamentarians. Several of these identify outcomes that run counter to the original policy proposals envisaged by the government.

Finally, the broadband market environment in the UK has been fundamentally reshaped since the launch of the USO, with over 100 providers now active in the market and ongoing procurement programmes offering in excess of £2 billion of subsidies to providers willing to commit to build in areas that would otherwise be uncommercial. Ensuring that the mechanism conferring the right to request decent broadband remains effective throughout this market change is essential.

We, therefore, believe that there is an opportunity to consult on the future direction of the programme and how the aims of the broadband USO can continue to be assured, and may be better achieved, in light of the current broadband market.

Consultation Proposals

Based on previous discussions with stakeholders and correspondence the department has received from both applicants and parliamentarians affected by the broadband USO, we have identified the following areas we believe require review:

- Awareness of the broadband USO and the ability to apply for it
- Industry's delivery of the programme
- Costs associated with the programme, including the reasonable cost threshold
- The broadband USO’s funding mechanisms
- In addition to the above, we are also taking this opportunity to consult on the following areas:
- The policy objectives of the broadband USO
- The service requirements and eligibility of applicants

The consultation will look at each of these areas in turn, and the issues presented, but does not set out any individual mechanisms in detail. Instead, it sets out a range of potential means to address them and welcomes stakeholders' views on their viability.

The policy objectives of the broadband Universal Service Obligation

The broadband USO was designed to give homeowners and businesses the legal right to request an affordable, decent broadband connection. The broadband USO acts as a ‘digital safety net’ where premises have been left out of either commercial, or government-funded, broadband rollouts.

However, as the minimum standards required to participate in society increase over time, the government is committed to reviewing what the minimum standard of the USO should be and whether the original policy objectives remain compatible with today’s changing digital market.

While the broadband USO remains a stand-alone policy, it is important that it works effectively with both commercial delivery, government-funded rollouts, and any future policies on very hard to reach premises. We have therefore evaluated the current policy objectives to ensure that the USO policy still achieves its necessary aims.

The service requirements and eligibility of applicants

A minimum technical floor was introduced for the broadband USO based on technical analysis carried out by Ofcom before the programme's introduction. This was to ensure everyone could participate in society in both an economic and social capacity. These minimum standards apply to all broadband USO connections delivered and provide consumers with a transparent baseline to determine their eligibility.

The broadband USO remains technology agnostic. This means that any connectivity solution that can meet the minimum parameters can be used both to determine eligibility and also deliver a connection. However, this has led to issues where Universal Service Providers (USPs) believe that residents can access a Fixed Wireless Access (FWA) connection where the reality is not the same due to limitations such as capacity or signal strength.

We, therefore, think that changes need to be made to ensure the minimum quality parameters remain aligned to our policy objectives – to offer an affordable ‘digital safety net’ that allows for full participation in society in an economic and social capacity. We will also consider whether the current availability of FWA services is causing issues with the eligibility of some applicants.

Issues relating to awareness around the scheme and the way applicants can apply for the scheme

Since the launch of the current scheme on 20 March 2022, the number of USO-eligible premises has reduced from approximately 189,000 to 50,000 premises[1]. While this is excellent progress, the majority of this decrease has come as a result of factors other than the broadband USO itself. This could be increased understanding of the availability of ‘decent

[1] 62,000 premises lack access to decent broadband but of these 12,000 are expected to be upgraded within the next 12 months through ongoing UKG funded interventions. Connected Nations 2023, Summer Update 07 September 2023

broadband connections' by providers and/or the increased rollout of government-funded programmes.

We are aware that some premises may be able to access a connection under the broadband USO without any cost to themselves. Based on the most recent data, only 7,000 USO connections have been delivered. We, therefore, believe that further work needs to be undertaken to increase the awareness of the broadband USO and ensure that those applicants who are aware are not put off due to the application process.

Transparency and governance around how the scheme is administered

The Universal Service Providers are required to report to Ofcom every 6 months on a series of performance metrics to determine whether they are administering the scheme correctly. These metrics are determined by Ofcom and illustrate a number of areas of performance by the USPs including:

- USO requests
- ineligible requests
- confirmed orders
- time taken for delivery of service
- complaints
- quality metrics

While these metrics are in place to show how the USPs are complying with the universal service conditions as they apply, the government would like to consider if they can be utilised in order to help identify exactly how effective the broadband USO has been in delivering to available premises. The government is currently unable to accurately see where USO premises are located, where any premises connected are and the exact number of premises that have been passed by a USO connection[2].

We, therefore, believe that further consideration should be given to how the performance of the USO is tracked, what performance metrics would better enable the government to understand the delivery profile of USO premises and how regularly these updates should be provided.

The delivery of the scheme by the industry

Ofcom have the powers to designate Universal Service Providers. Following a call for expressions of interest in becoming a universal service provider in 2018, and assessment of subsequent applications, Ofcom designated BT and KCOM as the Universal Service providers in 2019.

[2] This refers to premises which have received an improved broadband connection as a result of a broadband USO rollout but have not taken a service package directly with the Universal Service Provider responsible for delivering the connection.

Since the original designation took place in 2019, the digital infrastructure landscape has changed significantly with gigabit-capable connectivity up from 6% in 2018 to 77% today. While much of this increase has been delivered by Virgin Media/O2, a growing proportion has been delivered by alt-nets in areas that may previously have been considered uncommercial.

This increase in the number of infrastructure providers and internet service providers (ISP) has helped to create a thriving broadband market that has increased choice for consumers and lowered costs as a result. However, premises that are unable to access an affordable decent broadband connection have been left behind during this period. For the majority of the UK, premises can only require BT to fulfil their legal right to request a decent broadband connection.

We, therefore, believe that it is appropriate to consider whether other providers should have the same obligations placed upon them to ensure that consumers and businesses have a wide variety of providers – or whether providers should have the opportunity to use the broadband USO to provide services to consumers in areas where they are otherwise unable to through their commercial programme.

Costs applicable to the scheme including the reasonable cost threshold and the cost to recipients

Broadband Universal Service Providers are required to provide a detailed quotation to any applicant, who asks for it, if the cost of connection is above the reasonable cost threshold (RCT) of £3,400 (excluding VAT). Costs below the RCT are borne by the USP and/or industry where an ‘unfair burden’ can be shown by the USP.

The current mechanism for providing quotations to consumers is limited, with little transparency about exactly what the quotation is made up of. In addition, consumers are required to pay the entire cost up front which can often be unaffordable given the likelihood of 4-figure connection costs for many.

Furthermore, following a decision by Ofcom to revise the Universal Service Conditions in light of an investigation into BT’s compliance, some consumers must now pay the full cost of connection up front, or agree with their neighbours to spread the cost between those in the eligible cluster.

We are seeking the views and feedback of both industry and applicants regarding how the current costs associated with the broadband USO are communicated, whether there is a better method for providing quotations and if the current thresholds represent the best value for both consumers and industry.

The mechanisms used to fund the scheme

The broadband USO is entirely funded by telecommunication providers up to the reasonable cost threshold of £3,400 (excluding VAT) per premises. Anything above this amount is paid for by the applicants if they wish to proceed with their application. Premises are not able to combine USO ‘funding’ with any funding provided by the government including Gigabit Broadband Voucher Scheme vouchers or Project Gigabit procurement funding.

Universal Service Providers are able to reclaim any costs that are deemed to be an ‘unfair burden’ and are not appropriate to be covered by the USP themselves. This determination is made by Ofcom on a case-by-case basis. As it stands, a Universal Service Fund has not yet been established as no claims have been raised by the USPs. Such a fund would only be established in the event that a claim was made.

We are therefore seeking the views of market participants and the industry as a whole to understand whether they have any comments on the current funding approach and whether, in light of discussions in other chapters on potential changes to the USO process, that changes should be considered as part of this review process.

The closing date for responses is 27th November 2023.

General information

Consultation details

Issued: 02 October 2023

Respond by: 27 November 2023 at 11:55pm

Enquiries to:

Correspondence Team

Department for Science, Innovation and Technology

100 Parliament Street

London

SW1A 2BQ

Email: correspondence@dsit.gov.uk

Consultation reference: Consultation on reviewing the broadband Universal Service Obligation

Audiences:

This is a public consultation. We particularly seek views from broadband and digital infrastructure suppliers involved in the deployment of digital infrastructure in the UK, local authorities and network delivery bodies, businesses, residential consumers, and representative organisations with an interest in the broadband USO.

Territorial extent:

The geographical scope of this consultation is the UK.

How to respond

Email to: uso@dsit.gov.uk

Write to:

FAO: Digital Infrastructure Investment Team

Digital Connectivity: Consultation on reviewing the broadband Universal Service Obligation

Digital Infrastructure Directorate

Department for Science, Innovation and Technology

100 Parliament Street

London

SW1A 2BQ

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.

[Add details of any elements specific to this consultation, such as longer retention periods (over 3 years) or third-parties processing the responses.]

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: beis.bru@beis.gov.uk.

1 Introduction

Overview

The broadband USO sets out the broadband connections and services that must be provided throughout the United Kingdom. It provides, in effect, a legal right to request a decent broadband connection of at least 10 Mbps download and 1 Mbps upload subject to meeting the necessary criteria.

This document asks whether changes to the broadband USO are required to ensure that it stays up to date with the current technical standards that are required in practice and delivers on the policy principles that the government set out to achieve when it was established.

This is an initial consultation to get the views of industry and other affected stakeholders at an early stage of policy development. The department has intentionally kept questions broad to enable respondents to provide full and detailed responses ahead of any future policy development.

The government recognises that some of the areas that are discussed within this document currently sit within the competence of Ofcom under the Communications Act and associated legislation. Should the government move ahead with any changes to the broadband USO, including to the areas that Ofcom is currently responsible for, a further consultation would be forthcoming to provide further information on the specific nature of the changes, including what legislative changes, or otherwise, would be needed to affect these amendments.

Providing a legal right to request

1.1 The broadband USO was introduced in March 2020 to provide eligible premises with the legal right to request a decent broadband connection of at least 10 Mbps download and 1 Mbps upload speed.

1.2 Premises are eligible for the broadband USO if they meet the following criteria:

- Have a download speed of less than 10 Mbps and an upload speed of less than 1 Mbps;
- Are only able to access a service meeting the minimum speed criteria for more than £54 month;
- They are not due to be connected to a publicly funded roll-out scheme within 12 months.

1.3 The policy has been designed to act as a ‘digital safety net’ for premises that would otherwise not be able to access a decent broadband connection through either a commercial or government-funded rollout in the short term. Providing the legal right to request enables consumers and businesses to access a connection that allows them full participation in both society and the economy.

1.4 The broadband USO is a demand-led policy. This means that a connection is provided on request by a consumer or business rather than being implemented pre-emptively by the Universal Service Providers (USPs).

1.5 Once a request has been made, one of the 2 USPs is then obliged to provide a connection up to a reasonable cost threshold of £3,400 (excluding VAT). Any costs above this level can be paid by the applicant themselves if they wish.

Policy design and implementation

1.6 The UK Government announced its intention to launch a consultation on implementing a broadband USO in November 2015[3]. Previous to this the government had implemented a non-statutory 'Universal Service Commitment' – the Better Broadband Scheme – that formed part of the government's commitment to make sure every home and businesses in the UK could access speeds of 2 Mbps by the end of 2015.

1.7 A short consultation on the government's proposed approach to introducing a broadband USO was published on 23 March 2016[4] and ran for 4 weeks. The consultation set out the government's rationale for a broadband USO, the proposed legislative measures that would be required and a timeline for its implementation.

1.8 As a result of the responses received to the consultation, the then Secretary of State for the Department of Culture, Media and Sport commissioned Ofcom[5] [6] to undertake detailed analysis of the key factors that would inform the design of the broadband USO. This was to include, among other things, analysis of any minimum speed requirements, appropriate cost thresholds and affordability and pricing of a broadband USO.

1.9 Ofcom provided its technical analysis to the government in December 2016[7]. It set out a range of options for the potential design of the broadband USO and how to achieve a decent broadband connection for all. However, it left the final decision up to the government. Further information on the design proposals for the broadband USO's speed, price, and reasonable cost thresholds are provided below.

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[3] Broadband Universal Service Obligation

[4] A New Broadband Universal Service Obligation Consultation, 23 March 2016

[5] New Broadband Universal Service Obligation Consultation, Summary of Responses and Government response, 17 May 2016

[6] Commissioning Letter to Ofcom, 22 March 2016

[7] Achieving decent broadband connectivity for everyone: Technical advice to UK Government on broadband universal service, 16 December 2016

Speed

1.10 There were mixed views initially on what level a minimum speed should be set at to achieve the stated aims of the government. Initial evidence showed that a 10 Mbps connection speed would enable both business and consumers to access a broadband connection that enabled full and effective social and economic participation.

1.11 Ofcom stated in its technical analysis to the UK Government that its evidence showed that a download speed of 10 Mbps would meet the government's stated policy aims around inclusion but that a number of other technical requirements should also be considered.

1.12 Ofcom specifically noted that in the future upload speeds would continue to become more important as sharing of videos and photos became more commonplace. While separately network congestion, or contention ratios, should also be reviewed to ensure network speeds didn't reduce beyond a certain level.

1.13 To provide a range of scenarios, Ofcom put forward several different technical options for consideration by the government (Figure 1). This took into account the need for any broadband USO to consider upload speed, as well as latency, contention ratio, and data caps. It also queried whether a higher download speed should be considered.

Figure 1: The three scenarios for technical specifications (2016)[8]

	Scenario 1	**Scenario 2**	**Scenario 3**
	Standard broadband (10 Mbps download speed)	More highly specified standard broadband +1 Mbps upload	Superfast broadband (30 Mbps download + 6 Mbps upload)
Download speed	10 Mbps	10 Mbps	30 Mbps
Upload speed	None defined	1 Mbps	6 Mbps
Latency	None defined	Medium response time	Fast response time
Contention ratio/ Committed Information Rate (CIR)	None defined	50:1	CIR: 10 Mbps

[8] Achieving decent broadband connectivity for everyone: Technical advice to UK Government on broadband universal service, 16 December 2016

Data monthly usage cap	None defined	100 GB	Unlimited

1.14 The UK Government subsequently decided that Scenario 2 in the table above (**Figure 1**) provided the best balance between meeting households' typical needs and taking a proportionate approach to costs, while also avoiding potential impacts on the functioning of a competitive market.[9]

1.15 It was believed that this specification would allow access to services such as '*web browsing, and email and effective delivery of HD video streaming and multiple users on a broadband connection*'. In addition, it would also support simultaneous access to '*various services, such as online news, banking, buying and selling goods and services, accessing public services …*'.

1.16 While the majority of stakeholders agreed with the level that the broadband USO was originally set at, it was agreed that minimum specifications would need to evolve in the future to reflect the changing connectivity needs of both consumers and businesses.

1.17 The Digital Economy Act 2017, therefore, included a clause to enable the Secretary of State for Digital, Culture, Media and Sport to review the USO at any time. The Act also stipulated that it must also be reviewed once 75% of premises in the UK took up a superfast broadband service providing broadband speeds of at least 30 Mbps.

1.18 Delivery of the broadband USO is technology-neutral. This means that the USPs can meet their obligations by providing the minimum service specifications through any technology that meets those standards. In addition, premises that can already access a broadband connection meeting the service standards from an already available technology (such as Fixed Wireless Access) are not eligible for a broadband USO connection.

Price

1.19 The Universal Service Directive initially indicated that any universal service should be available to end-users at an 'affordable price'. Member States could take specific measures to ensure affordability for consumers in particular areas or with certain social needs.

1.20 Ofcom's technical analysis indicated that in 2016, only a small minority (3%) of consumers reported having difficulties paying for their fixed broadband connection. The average monthly spend, based on 2015 prices, on residential fixed broadband

[9] A new broadband Universal Service Obligation: Government's response to consultation on design, 28 March 2018

(excluding line rental), was £15.05. This made up approximately 0.65% of the average gross household salary at that time[10].

1.21 Subsequently, in its statement Delivering the broadband Universal Service[11], Ofcom determined that Universal Service Providers should be required to offer USO customers the same prices as the equivalent products offered to non-USO customers. This uniform pricing approach was supported by the government although they suggested that the need for a specific social tariff requirement in the broadband USO was not necessary at the time.

1.22 Although a safeguard cap and social tariff were not implemented in the original Universal Service Conditions, Ofcom did set an eligibility price threshold, such that premises which could potentially access a decent broadband connection of 10 Mbps download and 1 Mbps upload, but only for a recurring monthly cost above that threshold would still be considered eligible. In part, this mechanism was designed to ensure that leased lines and fibre-on-demand services which are potentially available on request but priced beyond the reach of many consumers (and often also include very high initial works charges) did not negate eligibility for a right to request universal broadband access.

1.23 This threshold was originally set at by Ofcom £45 a month (2019) for a 10 Mbps service. The threshold was set based on the upper end of a portfolio of broadband tariffs using a methodology determined by Ofcom. In its Statement on Delivering the Broadband Universal Service, Ofcom indicated that 'setting a threshold below the average price for broadband in the UK is likely to result in a threshold that is lower than is necessary to ensure affordability'. It was concerned that by doing so, more premises would be eligible for the broadband USO than was consistent with policy objectives – having an impact on the cost of delivery and therefore an increased impact on industry and consumers.

1.24 Ofcom also set an escalator within the Universal Service Conditions that allows the threshold to rise in line with the Consumer Price Index[12] (CPI) each March. The current threshold as of March 2023 is £54.

1.25 In addition to the eligibility price threshold, voluntary commitments were also sought from both USPs that they would offer their broadband social tariffs to USO customers who were otherwise eligible for them. Both BT and KCOM agreed to these measures.

1.26 Since the broadband USO was launched in March 2020, the availability of social tariffs has increased substantially. This is largely due to market engagement by DSIT (formerly as DCMS), particularly during the COVID-19 pandemic, which led to substantially greater voluntary offer of such tariffs by telecoms providers. However,

[10] Annual Survey of Hours and Earnings: 2015 Provisional Results, 18 November 2015
[11] Delivering the Broadband Universal Service, 6 June 2019
[12] The Consumer Price Index is a measure of the average change overtime in the prices paid by consumers for a basket of goods and services

non-voluntary mechanisms for social tariff provisions also exist in current legislation. We discuss this further in Chapter 2.

Reasonable Cost Threshold

1.27 The technical advice provided by Ofcom to the UK Government indicated that the final 1% of premises that did not have access to a decent broadband connection would likely be significantly more expensive to connect. Analysis carried out (in 2016) by Analysys Mason stated that the cost of connecting the most expensive premises could be as much as £45,000 in all three of the scenarios listed (**Figure 1**).

1.28 It was also noted in the design of the broadband USO that many of the other Universal Services including Digital Terrestrial Television, telephony and water all had a reasonable cost limit of some variety.

1.29 Examples provided included the telephony USO where connections costing more than £3,400 (excluding VAT) were not required to be provided, while Digital Terrestrial Television coverage was set at 98.5% of all UK homes. This means that the most expensive 1.5% of homes were not required to be connected to that technology (although many of these premises would be able to access digital television through other means, i.e. direct broadcast satellite (DBS) services.

1.30 To achieve the stated policy objectives of the government, it was decided that the best way to maximise broadband coverage was by setting a fixed reasonable cost threshold. The threshold was set at £3,400 (excluding VAT) per premises. This was to ensure costs to both the industry, and consumers through any increase in their bills, was proportionate.

1.31 Any costs above this threshold could be paid for by the consumer, with those costs below it being borne by the Universal Service Provider, and potentially the industry as a whole through a Universal Service Fund (USF).

1.32 Analysis carried out for Ofcom[13] estimated that the cost of a broadband USO with a specification of 10 Mbps download and 1 Mbps upload would be £1.7 billion in 2016, falling to ~£1.5 billion by the end of 2017 and ~£1 billion by the early 2020s. Based on the 2016 figures, using the lowest cost option, this would equate to an average cost per premises of £770.

1.33 Additionally, to ensure the first premises in a cluster of USO eligible premises did not bear the entire cost of connecting the cluster, Ofcom stated that there should be some form of demand aggregation. This would mean that the cost would be spread amongst the eligible premises regardless of whether they had applied or not, and would encourage more efficient network building under the USO.

[13] Technical advice on a broadband USO Updated cost estimates, 31 July 2017

1.34 Demand aggregation was therefore taken to be an essential feature of the broadband USO's policy design and implementation to ensure as many people as possible were able to access a connection.

1.35 The Universal Service Conditions set the demand aggregation at 70% of premises in the cluster. Where the number of premises requesting a connection could be proven to be higher than this, the Universal Service Providers were required to aggregate the cost based on the actual demand. If this additional calculation took the cost below the reasonable cost threshold per single premises then there would be no additional cost to pay.

1.36 Ofcom has subsequently made amendments to the way that BT calculates demand aggregation as a result of an investigation into BT's compliance with its obligations as a broadband Universal Service Provider[14]. We go into more detail on this in **Chapter 7**.

Current legislation

1.37 The broadband USO is currently legislated within the Communication Act 2003 as amended by the Digital Economy Act 2017. This gave the Secretary of State the power to introduce a broadband USO.

1.38 The majority of the broadband USO specifications are set out in secondary legislation, primarily the following statutory instruments:

a. the Electronic Communications (Universal Service) (Broadband) Order 2018,

b. the Electronic Communications (Universal Service) (Broadband) Regulations 2018,

c. the Electronic Communications (Universal Service) (Costs) Regulations 2020 (as amended)

1.39 Under s.67 Communication Act 2003, Ofcom introduced the necessary Universal Service Conditions that each Universal Service Provider must follow.

The broadband USO's delivery profile

1.40 Both the percentage and the actual number of premises unable to access a decent broadband connection has fallen significantly since the broadband USO was first proposed in 2015.

1.41 According to Ofcom data, in 2014, 15%[15] of UK premises (~4.2 million) were unable to receive a broadband connection of at least 10 Mbps from either their current supplier

[14] Investigation into BT's compliance with its obligations as a broadband universal service provider, 29 November 2021
[15] Ofcom Infrastructure Report 2014, 8 December 2014

or an alternative fixed network provider. By 2016, this figure had reduced to just 5% of UK premises totalling around 1.4 million households and businesses. This reduction was largely achieved as a result of government-funded rollouts such as the Superfast Broadband Programme, rather than solely commercially funded network upgrades.

1.42 Of the remaining 1.4 million premises in 2016, approximately 70% of them were located in rural areas, with proportionately more in Wales, Scotland and Northern Ireland. This is largely due to their geography, their distance from the exchange, and the prevailing use of asymmetric digital subscriber line (ADSL) and Fibre to the Cabinet (FTTC) technologies for broadband delivery at that time.

1.43 After the consultations for the broadband universal service occurred, and whilst legislation was being enacted, service providers increased their upgrades in some areas, and investments continued in Superfast from UK Government interventions. By the end of December 2020, more than 5.3 million premises had received subsidised coverage[16] through these programmes.

1.44 By 2019, Ofcom estimated that the number of premises unable to get a decent broadband connection from fixed-line infrastructure had been reduced to around 600,000 premises or 2% of all UK households. This decrease in eligible premises was substantially faster than Ofcom's original projections. As part of its technical analysis in 2016, Ofcom forecasted that this figure would not be reached until the '*Early 2020s*'.

1.45 Immediately prior to the launch of the broadband USO in March 2020, eligibility had further reduced to 189,000. This reduction was largely due to the increased availability of 4G Fixed Wireless Access coverage from BTEE.

1.46 Although 4G Fixed Wireless Access (FWA) was always deemed to be eligible, monitoring of BT's 4G home broadband service (provided through EE) enabled Ofcom to better understand its capabilities to deliver the technical specification of the USO.

1.47 Developments in the capabilities of fixed wireless broadband services between 2016 and 2019 enabled a significant number of premises to be able to access a decent broadband connection via this technology. Based on Ofcom's analysis, it is believed that in 2019, there were over 100 small wireless Internet Service Providers (WISPs) in the UK able to provide decent broadband to consumers through a wireless link.

1.48 For BTEE specifically, they reported that the average download speed for their 4G home broadband service was 31 Mbps with speeds of up to 100 Mbps achieved in trials in the Cumbrian Northern Fells. This, therefore, suggested to Ofcom that it could be a cost-effective alternative to fixed wired broadband services.[17]

[16] Superfast Broadband Programme – Synthesis Report, October 2021
[17] Delivering the Broadband Universal Service, 6 June 2019

Post-launch Delivery

1.49 Since launch, the total number of eligible premises has reduced from 189,000 to approximately 62,000 premises, before accounting for premises expected to be covered by the rollout of publicly funded schemes within the next 12 months. There are a number of reasons for this reduction:

a. **Government-funded programmes**: Such as Project Gigabit, Gigabit Broadband Vouchers as well as existing Superfast programme extensions have decreased the number of eligible premises.

b. **Commercial rollout**: Since the launch of the broadband USO, the availability of gigabit-capable networks has increased from 6% to 77%. The majority of this is in urban and suburban areas which are unlikely to be USO-eligible today.

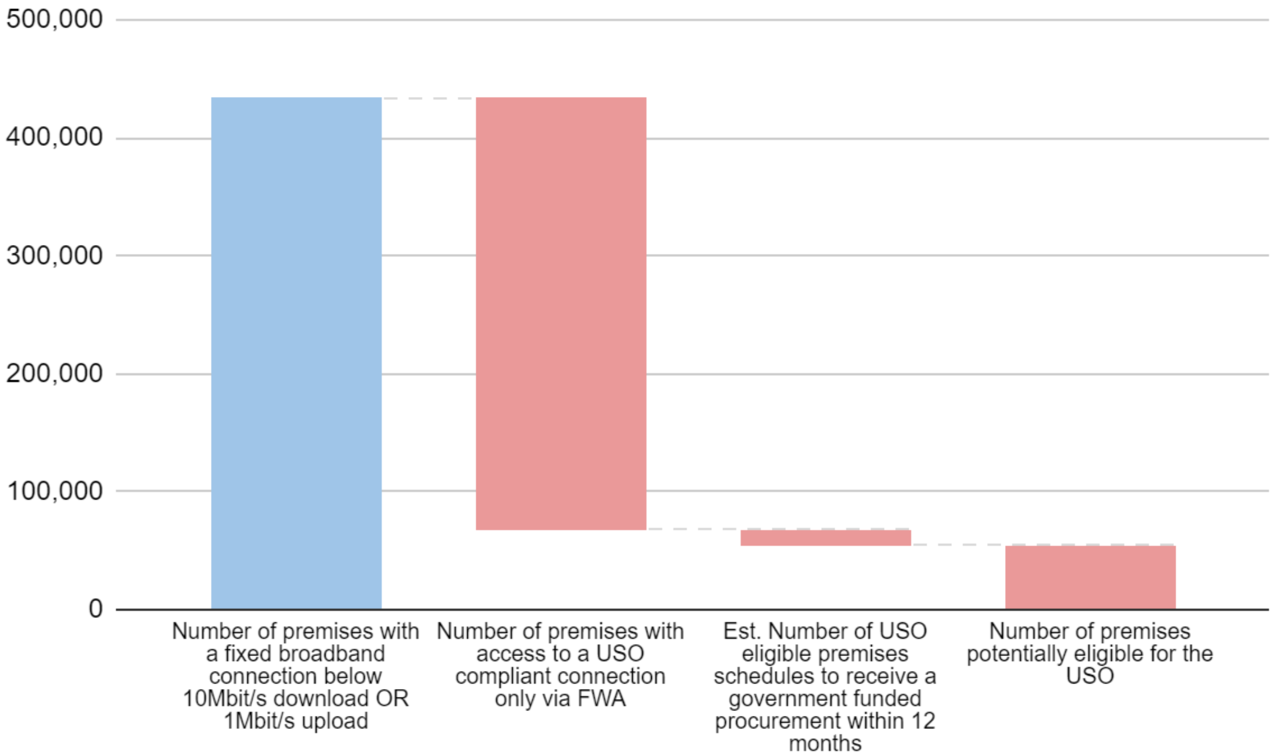
c. **Increased data gathering**: Ofcom has continued to refine its data collection methodology since the USO was launched. In particular, it now has a much better understanding of the current FWA and WISP network availability. This is likely to have contributed to the decrease in USO-eligible premises.

d. **USO connections delivered**: Since launch, BT has delivered '*USO connection to over 7,000 premises, with more than 800 further builds in progress*'. The true number is likely to be higher with this number not accounting for premises passed that have not taken a USO connection from BT.

1.50 Since the broadband USO launched, BT has reported receiving a total of 26,865 requests to its USO helpdesk, of which 10,134 were eligible for a connection. This has led to a total of 1,707 orders covering over 7,000 premises across the UK, with a further 800 builds in progress.

1.51 Given its almost ubiquitous Fibre to the Premises (FTTP) network, KCOM (the designated Service Provider in Kingston-Upon-Hull) has seen virtually no requests and no eligible orders placed for a USO connection.

Figure 2: Premises potentially eligible for a broadband USO connection[18]



[18] Connected Nations Spring 2023 Update: Interactive Report

2 Policy objectives and principles

Introduction

2.1 The broadband Universal Service Obligation is a demand-led government initiative that ensures consumers have the legal right to request a decent broadband connection from the designated Universal Service Provider in their area.

2.2 The broadband USO is funded by the telecommunications industry and, where an excess cost is applicable, applicants themselves.

2.3 It is a crucial piece of the government's commitment to delivering improved connectivity across the United Kingdom and has directly delivered gigabit-capable broadband connections to nearly 7,000 premises in some of the most challenging areas in the country.

2.4 Indirectly the broadband USO, alongside other barrier-busting measures, has influenced supplier behaviour and helped to ensure that millions more premises across the UK are now able to access a decent broadband connection – and in many cases speeds often in excess of this.

2.5 However, since the broadband USO was introduced in March 2020 there have been significant changes in not only the digital connectivity market but also the social and economic sphere as well – primarily due to the COVID-19 pandemic. We, therefore, need to understand whether the broadband USO's current policy objectives are still right in today's market, or whether they will need to be amended to ensure that everyone can effectively participate in society through digital means.

2.6 We have already engaged extensively with many of the providers, customers and representative organisations that provide solutions to premises in rural and remote parts of the UK through our work on very hard to reach premises, including our call for evidence which was published in March 2021.[19] It should be noted that, while similar, the 2 groups of premises affected by these policies are not equivalent, and therefore, may have different policy requirements leading to different policy solutions.

2.7 For more information on the government's work on very hard to reach premises, please see our latest government consultation on GOV.UK.

[19] Call for Evidence: Improving connectivity for Very Hard to Reach premises, 19 March 2021

Current broadband USO policy objectives

2.8 When first being designed, the broadband USO was drawn up to provide both consumers and businesses with the legal right to request a decent broadband connection that would allow them to participate in society and the economy.

2.9 The broadband USO, therefore, acts as a ‘digital safety net’ for premises that have been left out of either a commercial or government-funded, broadband intervention – or are unable to access a government-funded broadband build within the foreseeable future.

2.10 As a ‘digital safety net’ the broadband USO was designed to ensure that applicants had the basic speed necessary to access a range of digital information and services required as more services became increasingly ‘digital by default’.

2.11 It is not designed to provide the ‘best available speeds’ to premises, nor the ‘best affordable speeds’. However, in nearly all cases the department is aware of, under the USO, BT has delivered gigabit-capable broadband network infrastructure. Of course, the commercial or subsidised delivery of other networks that are not gigabit-capable has also made some premises ineligible for the USO, and means that they do not have gigabit-capable services today.

2.12 As the broadband USO is a demand-led programme it is up to consumers to understand the other services that may be available to them, and also understand their legal rights should these services not meet the ‘decent broadband’ standard. As discussed in **Chapter 4** this approach of depending on consumer action may have contributed to the lower than expected take up of broadband USO connections, even where there is no obligation on the applicant to contribute to the cost.

2.13 When designing the policy, the government required that the minimum standards set would enable everyone at a fixed location, irrespective of where they lived or worked, the availability to get online. However, it was recognised that as time went on, these minimum standards, including speed, latency and other quality parameters that made up a ‘decent’ broadband connection, may need to be increased to ensure that they kept pace with digital connectivity needs.

2.14 The government, therefore, committed to reviewing the broadband USO as necessary to ensure it continues to meet its policy objectives. The Communications Act 2003, recognises this and provides a mandated review mechanism once 75% of all UK households have taken up a broadband service of at least 30 Mbps.

2.15 This mechanism requires the Secretary of State to direct Ofcom to review the broadband USO, and report to the Secretary of State. This mechanism is further discussed in **Chapter 3**.

2.16 As of September 2022, the last update from Ofcom, it is estimated that approximately 70% of all households in the UK have taken a superfast broadband connection (>30 Mbps). This had risen from 60% in September 2020 (a rise of 10%).

2.17 These increases were due to a combination of more widely available networks offering Superfast speeds, consumers choosing faster packages from amongst available services as their needs increased, and the migration of consumers by operators automatically to faster packages.

2.18 In light of the changing economy in recent years, the government expects that the 75% review trigger is likely to be reached within the next 12 to 18 months.

2.19 It is also possible that the reporting by Ofcom of the extent of Superfast uptake is understated once all means of broadband access are considered. In particular, some consumers in urban areas rely on dongles and tethering to mobile data devices to access affordable connectivity. Some households, particularly low-income households, rely purely on mobile devices and do not pay for fixed-line rental or broadband services in addition. Some of these modes of use are not captured by the Ofcom statistics above, and this behaviour may increase as 5G networks offer substantially faster services.

Impact of the broadband USO

2.20 The government announced in November 2015 that it would be introducing a broadband USO. Since then, there have been significant changes in the broadband and digital connectivity landscape. These changes have seen average speeds increase and the number of premises unable to receive a decent broadband connection decrease rapidly.

2.21 Analysis by Ofcom in preparation for the introduction of a broadband USO, estimated that 1.4 million premises in the UK were unable to receive a broadband speed of at least 10 Mbps[20]. The majority of premises at this time were still being served by copper connections offering Fibre to the Cabinet (FTTC) with speeds unlikely to be greater than 80 Mbps.

2.22 Since 2016, the UK Government has introduced a series of measures and initiatives to ensure better connectivity for premises across the country. This includes both government-funded measures such as the Superfast broadband programmes (2010 to 2021) and more recently through the launch of Project Gigabit. In addition, the development of a Barrier Busting Taskforce[21] as ensured that commercial providers

[20] Achieving decent broadband connectivity for everyone: Technical advice to UK Government on broadband universal service, 16 December 2016
[21] Corporate report, Barrier Busting Task Force: next steps, 19 March 2021

have also been able to increase the speed and scale of their commercial delivery programmes.

2.23 Prior to the formal implementation of the broadband USO, the programme also had a significant impact on the number of premises unable to receive a decent broadband connection.

2.24 Both Universal Service Providers undertook work to increase the speeds and connectivity available to premises in their area. KCOM, who are the USP in Kingston-Upon-Hull, ensured that their entire network was able to access either an FTTP or an FTTC connection that offered USO speeds.

2.25 As a result of the work undertaken by KCOM, it has not had any successful requests for a broadband USO connection.[22]

2.26 BT, as the USP for the rest of the United Kingdom, similarly increased the availability of decent broadband connections to consumers. This was largely done as a result of its FWA products. As a result, in October 2021, approximately two-thirds of the original 650,000 premises that Ofcom had originally identified as being unable to receive a decent broadband connection were covered by a BTEE 4G FWA product.

2.27 Subsequently, BT has also committed to increasing its investment in Openreach to deliver full fibre broadband to a further 6.2 million rural and hard to reach premises by the end of 2026[23]. This is likely to reduce the number of USO-eligible premises further still.

2.28 As discussed in the introduction above, BT has delivered a total of just under 7,000 broadband USO connections. This only accounts for those premises that have taken up a service directly with BT and so the number of premises passed is likely to be higher than this figure.

2.29 The government also expects that the total number of USO eligible premises, which has reduced from 189,000 to 50,000[24] to reduce further. This will be due to a combination of BT delivering USO connections and rollout from both commercial providers and Project Gigabit delivers gigabit-capable connectivity to more premises.

Changes to the UK Digital Connectivity Landscape

2.30 Since 2016, the UK's digital connectivity landscape has undergone a significant transformation with a number of new technologies becoming commercially available to both consumers and businesses, as well as the number of providers offering these services.

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[22] As of March 2023.
[23] BT to increase and accelerate FTTP build to 25m premises by the end of 2026, 13 May 2021
[24] Ofcom Connected Nations Update: Summer 2023

2.31 Gigabit-capable technologies are now the most prevalent fixed-wired connectivity types by number of premises with a total of 77%[25] of all UK households able to access them through either a full fibre or hybrid fibre-coaxial (HFC) connection. By 2025, the government has committed to delivering gigabit-capable connections to at least 85% of all premises in the UK – with the remainder being delivered as soon as possible after that.

2.32 The extent of supplier diversity has risen substantially in the last decade, increasing the extent of service provider and consumer choice, though the extent of this diversity is variable by nation and geography.

a. There are over 150 broadband providers in the UK, with a large growth in alternative networks as well, including approximately 120 Wireless Internet Service Providers with an estimated premises base of 2.15 million[26]. Ofcom have granted code powers[27] to more than 240 parties.

b. The number of suppliers involved in the delivery of the Superfast programme has risen from a sole supplier (BT/Openreach), to more than 40[28], with a total of 144 contracts awarded to network providers under the Superfast Broadband Programme[29].

c. Over 90 suppliers are registered for the current Gigabit Voucher scheme, and further suppliers are involved in the Scottish Government's scheme[30].

d. Interest in the ongoing programme for Gigabit Instructure Subsidy-based procurements is strong, with a diverse range of suppliers from all nations of the UK and of varying size and local delivery capability.

2.33 The development of wireless technologies continues at pace with the availability of 5G now covering between 76% to 85% of all premises outdoors from at least one mobile network operator (MNO)[31]. Earlier this year, the government launched its Wireless Infrastructure Strategy that included a new ambition on 5G, information on its aim to deploy and adopt 5G and advanced wireless connectivity, alongside its 6G strategy for the UK. More information is available here.

2.34 The availability of Fixed Wireless Access (FWA) solutions (either 4G or 5G) has risen with almost 95% of UK premises now able to access an FWA solution from one of the three Mobile Network Operators (MNOs) that offer it (Three, BT EE and Vodafone)[32].

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[25] Thinkbroadband, 23 June 2023
[26] UKWISPA, 27 June 2023
[27] Further information on Code Powers [Accessed 27 June 2023]
[28] Superfast Broadband Programme – State Aid Evaluation Report 2020
[29] Superfast Broadband Programme – Synthesis Report, October 2021
[30] Scottish Broadband Voucher Scheme
[31] Ofcom Connected Nations Update: Summer 2023

[32] Ofcom Connected Nations Update: Summer 2023

2.35 Alongside the rise in FWA available from MNOs, Wireless Internet Service Providers (WISPs) have also increased their availability. WISPs are often located in localised geographies with a focus on delivering in rural and remote areas often underserved by fixed connectivity. As of September 2022, Ofcom reported that 7% of UK premises could access an FWA connection from a WISP although this varied by nation with 32% of Welsh premises able to access such a connection with 0% in Northern Ireland and 2% in Scotland.[33]

2.36 Satellite infrastructure has continued to develop with the introduction of commercial Low Earth Orbit (LEO) satellites now allowing consumers and businesses to access faster speeds and lower latency than is possible with Geostationary satellites (GEO).

2.37 These LEO satellites continue to see heavy investment from commercial operators with platforms including Starlink, OneWeb, and Amazon all announcing plans for their own constellations[34].

2.38 At present, both Starlink and OneWeb have constellations with current availability and projections noted below (**Figure 4**).

Figure 4: Current satellite availability/future projections

Operator	Current constellation size	Future constellation size	Commercial model
Starlink	C. 4,500 *(June 2023)*	C.12,000 *(Generation 1)* C.7,500[35] *(Generation 2)*	Direct to Consumer and wholesale through distribution partner
OneWeb	634 *(May 2023)*	648 *(Generation 1)*	Wholesale, business focus

2.39 Starlink and OneWeb, the 2 current biggest providers of LEO satellite solutions, have different commercial models – showing 2 distinct routes to market.

2.40 Starlink is currently providing its LEO service direct to the consumer and has coverage across most of Northern American and Europe as well as large parts of Australasia

[33] Ofcom Connected Nations 2022
[34] A satellite constellation is a group of satellites that work together to form a network of global, or near-global, coverage.
[35] As licensed by the USA's Federal Communications Commission (FCC) in December 2022. SpaceX had submitted for a constellation of up to 30,000, which the FCC did not grant but said it would reconsider closer to launching.

and South America. In the UK, this means consumers in all 4 nations can access a service (subject to any satellite capacity constraints).

2.41 OneWeb is taking a wholesale approach to delivering its LEO connectivity instead choosing to work with communication providers directly. In the UK, OneWeb has signed distribution agreements with several parties, including BT[36], Eutelsat[37], and Clarus Networks[38], who are currently testing the capability of the solution to understand how best it can meet the needs of their customers.

2.42 Whilst wireless connectivity solutions, including both satellite and fixed wireless access, will continue to offer a potential solution for rural and remote premises today, additional technology solutions may also be on the horizon. High Altitude Platform Systems (HAPS) offer a potential 'third way' to delivering connectivity to premises which cannot access a decent broadband connection via existing wireless or fixed technologies, but are not yet commercially available in the UK.

Social tariffs

2.43 The broadband USO does not currently impose a social tariff provision, or a 'price cap' on either USPs or other communication providers.

2.44 As part of its original *Statement on Delivering the Broadband Universal Service*, Ofcom, following assurances from the 2 Universal Service Providers, deemed it unnecessary to impose a 'safeguard cap' on USO connections and services to ensure affordability.

2.45 Ofcom alternatively chose to require the USPs to practise uniform pricing so customers, in taking up a USO connection, paid no more than customers in other areas for an equivalent service. In addition, both BT and KCOM committed to providing services below the affordability threshold (currently set at £54 a month).

2.46 Both USPs have also committed to ensuring that their social tariff products are accessible to USO customers in the same manner as non-USO customers (**Figure 5**). This is possible in part because the designated providers are also retail service providers.

Figure 5: Universal Service Provider social tariffs

[36] BT secures industry-first global partnership with OneWeb, 2 November 2021
[37] Eutelsat and OneWeb sign global distribution partnership to address key connectivity verticals, 22 March 2022
[38] OneWeb Welcomes The Clarus Networks Group as Distribution Partner to Improve Connectivity for Construction and Energy Sectors in Europe, 17 February 2022

Package	Price	Average speed	Eligibility requirement[39]
BT Home Essentials	£15 a month	Around 36 Mbit/s	Various benefits (in and out of work)
BT Home Essentials 2	£20 a month	Around 67 Mbit/s	Various benefits (in and out of work)
KCOM Full Fibre Flex	£14.99 a month	30 Mbit/s	Various benefits (in and out of work)

2.47 Since the launch of the USO in March 2020, we have seen further social tariffs offered by other providers with varying levels of discounts and eligibility (**Figure 6**). These are typically not available to USO customers initially, until they have completed any contractual minimum term with their Universal Service Provider.

Figure 6: Available social tariffs[40]

Package	Price	Average speed	Eligibility requirement
4th Utility Social Tariff	£13.99 a month	30 Mbit/s	Various benefits (in and out of work)
B4RN Social Tariff	£15 a month	1 GB/s	Council Tax Support
Community Fibre Essential	£12.50 a month	20 Mbit/s	Open to all
Country Connect Social Tariff	£15 a month	50 Mbit/s	Various benefits (in and out of work)
EE Basics	£12 a month	Up to 25 Mbit/s	Various benefits (in and out of work)

[39] Eligibility requirements may vary between companies, with all those listed as requiring in or out of work benefits accepting receipt of Universal Credit, unless otherwise stated.
[40] As of February 2022

G.Network Essential Fibre Broadband	£15 a month	50 Mbit/s	Various benefits (in and out of work)
Grayshott Gigabit Connect	£22 a month	100 Mbit/s	Various benefits (in and out of work)
Hyperoptic Fair Fibre 50	£15 a month	50 Mbit/s	Various benefits (in and out of work)
Hyperoptic Fair Fibre 150	£20 a month	150 Mbit/s	Various benefits (in and out of work)
Lightning Fibre Social Tariff	£15 a month	50 Mbit/s	Various benefits (in and out of work)
Lothian Broadband Social Tariff	£19.99 a month	100 Mbit/s	Open to all
NOW Broadband Basics	£20 a month	36 Mbit/s	Various benefits (in and out of work)
Sky Broadband Basics	£20 a month	36 Mbit/s	Various benefits (in and out of work)
SMARTY Social Tariff	£12 a month	5G where available	Various benefits (in and out of work)
Virgin Media Essential Broadband	£12.50 a month	15 Mbit/s	Various benefits (in and out of work)
Virgin Media Essential Broadband Plus	£20 a month	54 Mbit/s	Various benefits (in and out of work)
Vodafone Essentials Broadband	£12 per month	38 Mbit/s	Various benefits (in and out of work)
Wildanet Helping Hand Social Tariff	£20 a month	30-100 Mbit/s	Universal Credit only
WightFibre Essential Broadband	£17.50 a month	100 Mbit/s	Various benefits (in and out of work)

2.48 Although providers have introduced social tariffs largely on a voluntary basis, the government introduced a legislative option as part of amendments to the Communication Act 2003.

2.49 The legislation gives the Secretary of State the ability to direct Ofcom '*to review the affordability of qualifying services for individuals on low incomes or with specifical social needs …*'.[41]

2.50 Similarly to the introduction of the broadband USO, this legislative option has proved an important component in bringing providers to the table, and pushing industry to implement the necessary social tariff provisions in a voluntary manner. This has likely occurred faster than could otherwise be achieved through the measures imposed by legislation.

Is a 'digital safety net' still required?

2.51 During the initial design and implementation of the broadband USO, the requirement for it to be a 'digital safety net' was a core policy objective. This meant that consumers and businesses should be aware of what the basic minimum speed they could request was, and that the broadband USO should provide the mechanism for them to do this.

2.52 However, the size and scale of the development in the availability of broadband solutions discussed above should be discussed in the context of whether a 'digital safety net' is still required, and what its purpose should be.

2.53 In addition, a 'digital safety net' also needs to be considered in light of the government's commitment to deliver either a commercial, or government-funded broadband intervention, to at least 85% of the UK within the next three years, and as close to 100% as possible thereafter.

2.54 Despite the pace of ongoing commercial and government-supported rollouts, our initial view is that a 'digital safety net' is still required. Our rationale is that:

a. the USO provides a mechanism through which consumers can request a service, subject to the eligibility and costing/contribution conditions

b. by providing this right, the USO reduces the prospect of operators leaving behind premises when designing their networks, where they might be commercially viable but are not convenient or expedient to deliver to, relative to other business imperatives

c. the USO also provides a mechanism to ensure that this safety net is extended as far as can be reasonably afforded, beyond nominally

[41] S72D Communication Act 2003

commercial premises, by facilitating fiscal mechanisms for excess costs and unfair burdens

d. absent the USO, we believe that network and service availability in the UK would have been lower in the past, and we believe that a mechanism such as the USO is still required to encourage build

2.55 We, therefore, believe removing the USO entirely would increase the potential for digital exclusion due to lack of broadband infrastructure or services.

Interactions with other policy objectives and programmes

2.56 The broadband USO remains a stand-alone policy that is demand-led by applicants. However, it is important that it works effectively with commercial delivery, government-funded rollouts for gigabit-capable infrastructure and any future policy proposals to improve connectivity to very hard to reach premises that may be beyond the reach of Project Gigabit.

2.57 The broadband USO is different to all three of the categories of delivery noted above, specifically:

- **Commercial delivery**: Delivery of broadband by infrastructure providers using capital from their own business. The location and technology type of any delivery is largely encouraged by commercial interests, relative competition and risk appetite. It may involve network design decisions that do comprehensively address all premises within an area, and often also replicate investment through the overbuilding of existing networks.
- **Subsidised and/or government-funded delivery**: Broadband rollout that is funded by central government, devolved administrations, or local authorities. Infrastructure is typically delivered where commercial providers are unable to deliver without further financial incentive. Such delivery, whether by procurement processes or voucher-based terms and conditions, avoids wherever possible overbuilding existing fixed infrastructure that meets the same service requirement, to ensure maximum value for money. Coverage is incentivised and maximised wherever possible through procurement design, within the fiscal and delivery limits of the programmes.
- **Very hard to reach premises**: We anticipate some remote rural premises may be beyond the reach of both commercial rollouts and subsidised delivery from Project Gigabit by 2030. We currently anticipate there to be fewer than 100,000 premises in the UK within this category, and for which we are exploring other solutions and policy measures as set out in our consultation[42].

[42] Consultation on Improving Broadband for Very Hard to Reach Premises

2.58 The USO includes mechanisms to avoid conflict with these other mechanisms of delivery, as follows:

a. premises are unable to request a USO connection if there is already a connection which satisfies the criteria for a USO connection. This prevents unnecessary overbuild of any existing provider in the area by the Universal Service Provider, who has recourse to compensation for excess burden from the industry fund

b. premises which are due to be delivered a connection from a government-funded rollout, currently within twelve months, are ineligible for the USO. Suppliers delivering infrastructure using government funds are required to provide their immediate build plans to Ofcom to avoid such outcomes

c. policy measures to address any remaining premises which may be very hard to reach are yet to be announced but will be designed to fit within the current and future market structure, including consideration of the broadband USO

2.59 Any policy proposals arising from the review of the broadband USO similarly ought to work in tandem with the objectives of the government at both a policy and technological level to ensure there are no cooling, or other detrimental effects, on market competition.

Policy principle of technology neutrality

2.60 In line with our approach to Project Gigabit, our overall policy goal is for the deployment of, resilient, future-proof, gigabit-capable services where this is possible and affordable. We, therefore, propose to maintain a policy preference for delivery via these mechanisms.

2.61 Where this is not possible, within a reasonable timeframe and/or in conjunction with the rollout of Project Gigabit across the country, our policy preference would be ‘next best’ technologies wherever possible, potentially including sub-Gigabit terrestrial wireless and satellite-based services, where they can meet the technical and service requirements as set out.

2.62 This, we believe, will help to ensure premises retain the legal right to request a decent broadband connection that meets the necessary standards required for both residential and commercial premises to participate in both society and the economy. It will also maintain the basis for a ‘digital safety net’ to ensure premises which cannot access an FTTP connection are able to be provided with an alternative option.

2.63 In addition, where possible, consumers should be made aware of the availability of other technologies that may already be available in their area and where there is reasonable evidence to suggest new connectivity may be available in the near future. This will enable them to make the most effective decision for them at a given time. This is explored further in **Chapter 4**.

Consultation questions

Question 2.1

Do you agree with our initial assessment that a broadband USO is still, and will still be, required to ensure a legal right to request decent broadband service? Why?

Question 2.2

Do you agree that the broadband USO should remain a policy separate from commercial delivery and other government-funded interventions?

Question 2.3

What is your opinion of the impact of the broadband USO since it was first announced?

Question 2.4

Do you agree with our policy principle that the broadband USO should be, wherever practicable, technology-neutral?

Question 2.5

Should the broadband USO continue to consider the affordability of service, and what is your view on the current ‘price cap’ mechanism?

All consultation questions are collated in Annex A

3 Service requirements and eligibility

Introduction

3.1 The broadband USO when originally introduced in March 2020 offered a minimum connection speed of 10 Mbps download and 1 Mbps upload. As currently set out, the Communication Act 2003 specifies that the broadband USO must have a connection speed of at least 10 Mbps.

3.2 While the most notable quality parameter, the download and upload speeds are not the only parameters provided to any broadband USO connection. Further quality parameters were also introduced in the Electronic Communications (Universal Service) (Broadband) Order 2018 which are set out below (**Figure 7**).

Figure 7: Current USO quality parameters

Quality parameter	Limit
Download speed	10 Mbps
Upload speed	1 Mbps
Contention Ratio	50:1
Latency	*'capable of allowing the end-user to make and receive voice calls over the connection effectively'*
Data usage	Minimum 100 GB per month

3.3 The current quality parameters were decided upon by UK Government based on Ofcom's 2016 technical consultation.[43] This was commissioned by the government to get a better understanding of what the requirements for a 'decent broadband' connection should be and how this would affect its delivery. Previously the government had simply stated that it should be at least 10 Mbps.

3.4 Ofcom, on the basis of its technical consultation which considered the current and future anticipated needs of households and businesses, recommended that the speed and quality parameters be set as per **Figure 7**. These parameters remain in place today.

[43] Achieving decent broadband connectivity for everyone: Technical advice to UK Government on broadband universal service, 16 December 2016

3.5 By putting in place the quality parameters as suggested by Ofcom, the government met requirements for 'functional internet access' as well as balancing the importance of providing households with a service that met their needs and placed a proportionate burden on industry.

3.6 The government deemed that the specification would allow[44] 'access to services such as web browsing, and email and effective delivery of HD video streaming [video-on-demand services] and multiple users on a broadband connection.' In addition, it would also support simultaneous access to various services, such as:

a. online news,

b. banking,

c. buying and selling goods and services,

d. accessing public services

3.7 However, to ensure the broadband USO remained up to date and was 'future-proofed'[45] a statutory review mechanism was introduced. This mechanism empowered the Secretary of State to direct Ofcom to review and report on any provision made, or that could be made, by the universal service order. In addition, the mechanism compels the Secretary of State to direct Ofcom to carry out such a review (and to report) once 75% of UK premises take up a broadband service of at least 30 Mbps (download speed).

3.8 As discussed in **Chapter 2**, as of September 2022, Ofcom reported that 70% of all UK premises had taken up a connection of at least 30 Mbps. The government expects the 75% threshold is likely to be reached within the next 12 to 18 months.

3.9 The present juncture, with the review of very hard to reach premises[46] and the ongoing rollout of Project Gigabit, provides a timely opportunity for the government to carry out policy work in this area, before the threshold for a statutory review by Ofcom is reached.

Service requirements and eligibility: the issues

3.10 The current speed and quality parameters have enabled many premises to access an improved broadband connection. We now believe as part of this review that it is important to consider whether they should be increased to reflect the evolving needs of

44 A new broadband Universal Service Obligation: Government's response to consultation on design, 28 March 2018
45 A new broadband Universal Service Obligation: Government's response to consultation on design, 28 March 2018
46 Consultation on Improving Broadband for Very Hard to Reach Premises

today's consumers and businesses. This consideration is implicit in the linking of the trigger mechanism to market-wide service speed adoption levels.

3.11 In 2016, when the original requirements were drawn up, 83% of premises (24 million) in the UK could access a Superfast broadband connection (<30 Mbps) with that number falling by over half to 37% (1.1 million premises) in rural areas. Furthermore, 2.4 million premises, of which 1.5 million were in rural areas, were unable to access a speed greater than 10 Mbps.[47]

3.12 Given the lower availability of Superfast broadband infrastructure, and the relatively new installation for many premises, take up was also substantially lower. In 2015 it was estimated by Ofcom that only 27% of all UK premises[48] had taken up a Superfast broadband package, with 42% taking up a speed slower than 30 Mbps. 22% took up no broadband at all.

3.13 Since then, the availability of Superfast broadband and the number of consumers and businesses taking them has increased significantly. As of September 2022, 98% of premises are able to access a fixed Superfast broadband connection, with approximately 73% taking advantage of such a connection. This does not fully account for the availability of FWA, therefore, these figures are likely to be even higher.

3.14 These increases now present a number of challenges for the current level of the 'digital safety net' and how it should be set and delivered to ensure it keeps pace with the minimum requirements for full participation in society and the economy.

3.15 We are therefore seeking stakeholder views and suggestions on the following considerations:

a. Speed requirements for a broadband USO

b. Other quality parameters required for a broadband USO

c. Broadband USO eligibility requirements

3.16 We believe changes are likely to be required in the face of evolving needs of consumers and businesses. This includes an increase in the amount of data consumed both at home and on mobile, changes in working patterns brought about because of both COVID-19 experiences and new distributed workplace technologies, and the increased availability of alternatives to fixed broadband such as wireless solutions discussed in **Chapter 2**.

[47] Connected Nations 2015
[48] Connected Nations 2015

Service Requirements and Eligibility

Issue 1: Speed requirements

The current position

- A broadband Universal Service connection must deliver a minimum speed of at least 10 Mbps download and 1 Mbps upload.
- Premises are not eligible if they can access a broadband connection delivering 10 Mbps download, and 1 Mbps upload from either a fixed or a fixed wireless access broadband service.

Discussion

3.17 The broadband USO was designed as a safety net to ensure consumers could continue to participate fully in both society and the economy.

3.18 Since its introduction on 20 March 2020, there has been an increased reliance on digital services as a result of the COVID-19 pandemic. Both businesses and consumers are more reliant on good connectivity with a need to access work, social, health, and educational services from home.

3.19 Many small and medium-sized enterprises now rely on digital services to carry out day to day business activities. We expect this to continue to rise, with those without decent broadband connectivity likely to have worse business outcomes as a result. This has further been accelerated as a result of the COVID-19 pandemic.

3.20 While 10 Mbps download and 1 Mbps upload has remained adequate for many to be able to access these services, it is unlikely to be enough in the future given changes in the digital economy that have resulted from the COVID-19 pandemic.

Consumer

3.21 Since 2016, the amount of data being consumed by consumers has increased significantly. Ofcom reported that in 2016, consumers were regularly consuming 132 GB of data per month, by September 2022, this had increased by over 265% to 482 GB per month. These averages reflect both consumers on connections with very high (gigabit) speeds and unlimited data packages, and those whose consumption was limited by quality of connection and/or affordability thresholds.

3.22 The increase in data consumption is also due to the increase in the number of devices that people are using, often simultaneously. Ofcom's *Online Nation Report 2021*[49] noted that 54% of UK households have at least 5 devices, with only 14% of UK households having either no device or one device.

3.23 This information is coherent with the information we received from the government's *Call for Evidence on Improving Broadband for Very Hard to Reach Premises* which

[49] Ofcom Online Nation 2021 Report, 9 June 2021

indicated that households in rural and remote areas also possess multiple devices for accessing the internet. Many of these premises are likely to have a connection that is below the USO threshold.

3.24 This, therefore, highlights the increased reliance on accessing the internet for an ever increasing range of tasks which are requiring greater speeds. A 10 Mbps connection is therefore unlikely to be able to continue to keep up with the demand of a modern household, especially where multiple occupants and unattended devices (such as security cameras and other Internet of Things (IoT) devices) are online at the same time.

3.25 One of the biggest causes for the increase in data consumption is the increase of Video on Demand (VOD) services such as iPlayer, itvX, Channel 4, My5, Netflix, Amazon Prime Video, and Disney+. In addition, growing markets such as gaming and video conferencing software have increased the need not only for a faster download speed, but also for faster upload requirements, and lower latency as well.

3.26 The ever increasing use of video conferencing and file sharing is going to mean that upload speeds will continue to need to keep pace with download speeds. As a result, we may need to consider whether the current 10:1 ratio between download and upload speeds remains the correct position to take in the future.

3.27 Download file sizes for periodic updates continue to increase with new generations of equipment. With typical households owning multiple devices, and these often being set for preference download over fixed/Wi-Fi connections, these requirements could consume a very substantial proportion of a total package allowance for some households.

3.28 Across the commercial market more broadly suppliers are placing a greater emphasis on upload speeds with full fibre networks now allowing for symmetrical upload and download speeds. In other evidence supplied to DSIT (formerly as DCMS), stakeholders cited a preference for increased upload speeds and rebalancing of contention ratios to reflect greater use of video conferencing and high capacity applications.

Business

3.29 The speed requirements for many small and medium enterprises (SMEs) will be largely similar to those identified by consumers, albeit likely multiplied based on the size of the businesses and their own operations. The need to send large data packages including photos and videos will also become increasingly important.

3.30 In 2016, research from Ofcom found that 100% of SMEs had an internet connection, with 9 in 10 also having a standard landline. Only 69% had a smartphone. Furthermore, only 12% of SMEs connected to the internet via an alternative to a fixed broadband connection.

3.31 Today, 78% of micro businesses and 62% of medium sized businesses use a mobile for business purposes. Ofcom reports that rural SMEs are also more likely to be dissatisfied with mobile reliability and internet connectivity, availability and speed[50].

3.32 There is likely to be an increasing need for businesses to remain online constantly to ensure that a variety of tasks can be undertaken outside of normal business hours. This could be across a range of activities including accessing client communications (IE email/video calls) or ensuring that servers can continue to operate.

3.33 Ofcom reported in 2021[51] that the vast majority of micro, small and medium enterprises were able to access at least a superfast broadband connection. (**Figure 8**)

Figure 8: Businesses Broadband Availability 2021[52]

Size of business premises	**Superfast Broadband availability**	**Full fibre availability**	**Gigabit-capable availability**
Micro *(1-9 employees on-site)*	93%	26%	46%
Small *(10 - 49 employees on-site)*	89%	23%	36%
Medium *(50 - 249 employees on-site)*	85%	21%	33%

3.34 Ofcom noted that 'micro' businesses were often located in residential premises, or in residential areas and so, therefore, could make use of residential services not available to small and medium-sized businesses.

3.35 Ofcom also reported the number of premises unable to receive a decent broadband connection from a fixed line (**Figure 9**). This showed a similar story with micro businesses seeing better connectivity than small and medium businesses.

[50] Ofcom SME Consumer Experience in the Communications Market 2022, October 2022
[51] Ofcom Connected Nations 2021, 16 December 2021
[52] Coverage does not include lease lines

Figure 9: Businesses unable to receive decent broadband from a fixed-line 2021

Size of business premises	Total	Urban	Rural
Micro *(1-9 employees on-site)*	3%	1%	12%
Small *(10 - 49 employees on-site)*	4%	3%	12%
Medium *(50 - 249 employees on-site)*	6%	4%	15%

Consultation questions

Question 3.1

Do you agree that the government should amend the minimum speed requirements of the broadband USO?

If so:

Question 3.1(a)

What do you think the broadband USO minimum download speed should be?

Question 3.1(b)

What do you think the broadband USO minimum upload speed should be?

Question 3.2

What level of service provision (i.e. web browsing, video calling, video on demand etc.) do you think a USO connection should be capable of delivering?

Question 3.3

If the government amends the minimum speed requirements, should the government set a new review threshold?

Question 3.3(a)

If yes, at what level do you think that the review threshold should be set at?

All consultation questions are collated in Annex A

Issue 2: Other quality parameters *(Contention Ratio, Latency, Reliability)*

The current position

- The broadband Universal Service Providers (USPs) are required to provide a connection which delivers a contention ratio of at least 50:1 and latency that is '*capable of allowing the end-user to make and receive voice calls over the connection effectively*'.
- There is a minimum data usage allowance of 100 GB a month.

Discussion

3.36 In addition to reviewing the speed parameters that any broadband USO connection requires it is also important to consider the other quality parameters that help to deliver a strong, stable connection. This includes the contention ratio, latency requirements, any data caps and the reliability of the connection that is installed.

3.37 While there are currently measures in place for both the contention ratio and the data caps, there is no specific measure for either latency or reliability. Instead, Ofcom recommended, less specific requirements, for the USPs to meet - such as a 'medium response time' for latency.

3.38 For latency, Ofcom indicated the connection must be '*capable of allowing the end-user to make and receive voice calls over the connection effectively*'. While this was adequate when the original technical analysis was carried out during the design of the broadband USO, it is unlikely to continue to provide an adequate guide in the future.

3.39 As an example, it is generally accepted that a latency lower than 150 ms is required to support a decent voice call with no video. However, Ofcom's home broadband report 2021[53] indicates that for most online activities a response time of less than 100 ms is required to provide the user with a '*good experience*'. For activities such as online gaming, a response time of less than 50 ms is preferred.

3.40 Reliability is not currently defined within the broadband USO. Instead, Ofcom state that USPs must provide[54] '*at least the same quality of service levels relating to:*

a. *fault repair;*

b. *missed appointments; and*

c. *the provision of Broadband Services'*

as the USP provides in commercially or publicly-funded services meeting the technical specification.

[53] Ofcom UK Home Broadband Performance, 9 September 2021
[54] Universal Service Legal Instruments

3.41 Furthermore if data caps had kept pace with the increase in the data usage reported by Ofcom then the cap would have risen by 265% from 100 GB a month to 482 GB a month.

3.42 The government does not propose setting out the minimum requirements for new quality parameters within this review. However, it welcomes the views of both industry and consumers on what they believe would be an appropriate level at which to set each of the parameters noted above.

3.43 Specifically in light of the information provided above, whether the current requirements on both latency and data caps still meet the basic needs required for a 'digital safety net'.

Consultation questions

Question 3.4

Not including speed, do you think the government should review the current broadband USO service specifications?

If so:

Question 3.4(a)

Which of the following specifications do you believe need to be updated:

- Contention Ratio
- Latency
- Data Caps
- Reliability

Question 3.4(b)

Please provide your reasoning for your response to Question 3.3(a)

All consultation questions are collated in Annex A

Issue 3: Eligibility requirements

The current position

- Applicants are only eligible for a broadband USO connection if they meet the following criteria:
    - Have a download speed of less than 10 Mbps and an upload speed of less than 1 Mbps;

    - Are only able to access a service meeting the minimum speed criteria for more than £54 a month;
    - Their property is not due to be connected to a publicly funded roll-out scheme within 12 months;
- Applicants are then required to contact the respective USP who will confirm this for them.

Discussion

3.44 Both consumers and businesses are currently required to show that they cannot meet the minimum service requirements for the broadband USO before a connection is made.

3.45 Based on the information provided to them by Ofcom, the 2 Universal Service Providers, BT and KCOM, will run an initial eligibility check either when an applicant makes a request or via an online postcode checker.

3.46 Although these checks are carried out using data made available by Ofcom from various providers, the department has received correspondence that indicates this data may not always be correct. For example, some applicants have noted that the Ofcom speed checker shows they can access a connection in excess of the broadband USO's minimum requirements but that providers, typically on the Openreach network, will not guarantee a speed that meets this threshold.

3.47 For other applicants, as is discussed in greater detail in **Chapter 4**, BT requires them to try a Fixed Wireless Access service. While this is perfectly acceptable under the terms of the Universal Service Condition, coverage in USO-eligible areas can often be lower than stated by providers due to topography or other unique factors.

3.48 Where this is the case, customers are required to prove to the USPs that they cannot access a USO-compliant service. Although this process can be quick, there is no clear process for proving eligibility where real world data conflicts with the USPs own information.

3.49 This is because broadband speeds received by the applicant can be affected by a number of factors, some of which may be in the control of the applicant themselves. This could include for example having an old router, an incorrectly placed or configured router, or having thick walls that a Wi-Fi signal cannot penetrate.

3.50 Proving the issue can therefore be difficult and often leads to weeks or months of communications with the USP to determine exactly what the eligibility of the customer is. This process can be frustrating for the applicant, however it may be necessary to ensure premises are USO-eligible before application. We would therefore like to know whether this process could be made smoother for both applicant and USP in future.

3.51 Issues with applicants misunderstanding their eligibility have also been raised with the department. Many applicants wrongly believe that if their BT/Openreach connection is unable to provide a USO level of service then they may be entitled to a connection.

3.52 Furthermore, applicants are also typically unaware that they may be able to access a USO level of connection via a 4G or 5G Fixed Wireless Access service. The USPs will often also provide an external antenna where necessary to help boost reception for those that struggle to get a strong signal. The delivery of 4G Fixed Wireless Access by USPs is further explored in **Chapter 4**.

3.53 The government wants to ensure everyone who is eligible for a connection under the broadband USO is able to access one in as smooth a manner as possible. However, it is important that these checks are carried out by USPs to ensure they do not overbuild competitors, potentially with industry funding, who could already deliver a USO-compliant connection.

Consultation questions

Question 3.5

Should the government consider differentiating the eligibility requirements for businesses and consumers?

If so:

Question 3.5(a)

How should those requirements be differentiated?

Question 3.6

Should the eligibility criteria for the broadband USO be amended?

If so:

Question 3.6(a)

Which of the following criteria should be amended and why?

- Currently available download/upload speed
- The ‘price cap’
- The expected availability of a government-funded rollout within 12 months

Question 3.7

Could the process for determining eligibility be changed to make it easier for applicants, Ofcom or USPs to establish or prove a customer's eligibility?

All consultation questions are collated in Annex A.

4 Scheme awareness and application journey

Introduction

4.1 The broadband USO was launched on 20 March 2020 during the COVID-19 pandemic, just after the then Prime Minister announced that people should '*start working from home where they possibly can'*[55].

4.2 This announcement led to both Universal Service Providers, along with the rest of the industry, being required to quickly adapt all of their customer service operations so they and their staff could operate remotely. As a result, it was agreed between Ofcom and the government that the broadband USO would be soft-launched with no formal communications being sent out as initially planned to ensure the USPs had the necessary capacity to deal with inquiries.

4.3 As a result of this, many consumers who were not already aware of the scheme, were unaware that the scheme had launched in March 2020. The department was aware from other communications and correspondence that a small number of well-informed consumers, some of whom had already correspondence with the department and Ofcom during the design stages of the USO, nevertheless, were able to make applications.

4.4 BT eventually began sending out letters in waves during the summer of 2020, with all premises eligible at that time (c.189,000) thought to have received this correspondence by the end of the year. However, anecdotally the department has heard that many premises were unaware of what the broadband USO was, what they were able to receive and crucially, how they could apply to receive it.

4.5 Since the introduction of the broadband USO, the department and Ofcom have engaged with BT in an effort to improve awareness of the scheme and in particular that those affected by subsequent amendments to the Service Conditions are aware of how these changes affect their eligibility.

4.6 Furthermore, the department has spent considerable time responding to correspondence applicants and engaging with parliamentarians representing constituents who have tried to apply for a connection only to be informed that they are not eligible. While this is often for a legitimate reason, such as the availability of a commercial 4G Fixed Wireless Access service, this was regularly not communicated to consumers effectively (according to correspondents).

[55] Prime Minister's statement on coronavirus (COVID-19): 16 March 2020

4.7 In addition, consumers were also not made aware that alternatives were often available from multiple providers, though this is a permitted course of action for the Universal Service Provider under the current implementation of the scheme.

4.8 Consumers also raised concerns and questions about the difference between the broadband USO and the Gigabit Broadband Voucher Scheme (GBVS). While these often cover similar premises, they are separate schemes with different eligibility terms and delivery mechanisms and cannot be used in conjunction with each other at the current time.

4.9 As a result, the government wants to review how awareness of the scheme interacts with other government programmes including Project Gigabit and Very Hard to Reach Premises. On the USO specifically the government wants to review whether the current customer journey is having a detrimental impact on uptake. We are therefore proposing a series of amendments to make the application process smoother and the scheme overall more visible.

Scheme awareness and application journey: the issues

4.10 Anecdotally, consumers have told the government they find it difficult to navigate the current application process for the broadband USO.

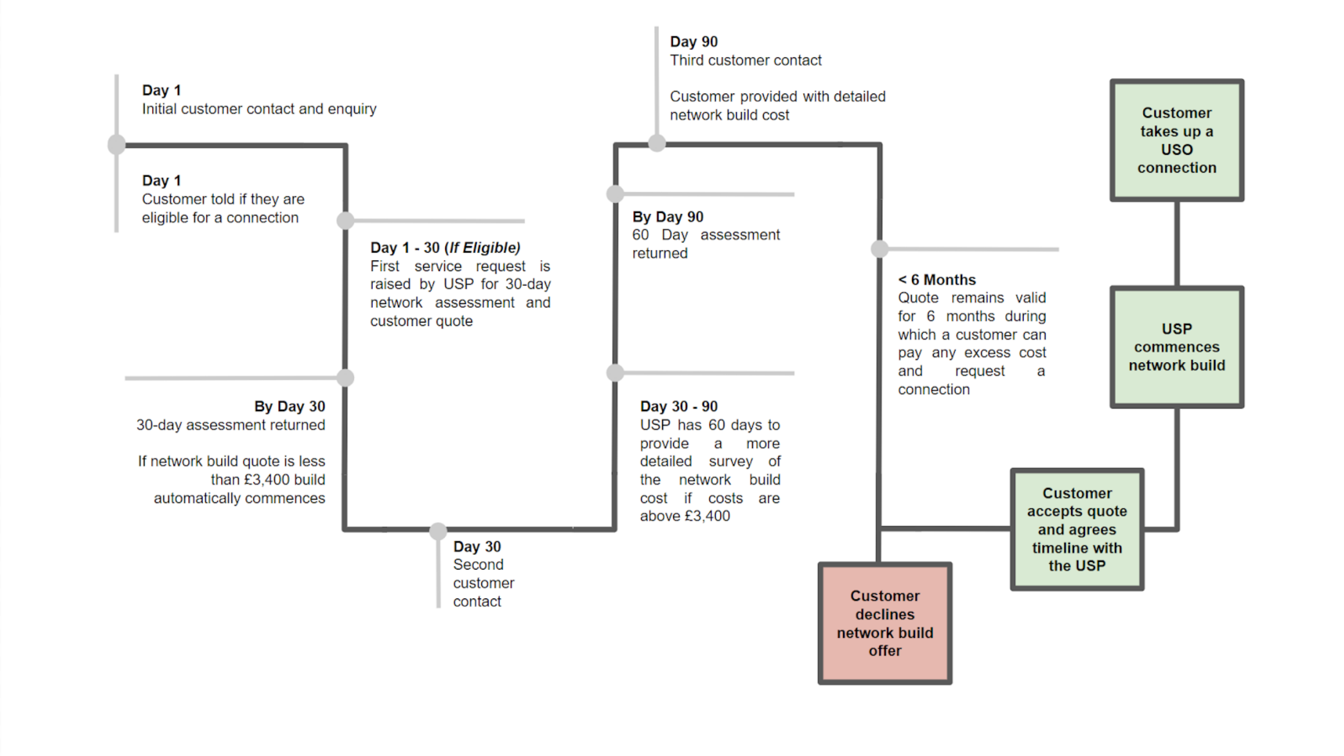
4.11 As it currently stands, the programme requires applicants to contact the relevant USPs Helpdesk to check their eligibility. An initial screening of eligibility is achievable by postcode/address check on the BT website, but premises must also then contact their respective helpdesk by telephone.[56],[57]

4.12 The USP then checks if the premises can access speeds that meet the service standard either via a fixed or fixed wireless network. This can be with either the USP themselves or another provider if that data is available.

[56] BT: Monday to Friday only 09:00 to 17:00

[57] KCOM: Monday to Friday 08:00 to 20:00, Saturday, 08:00 to 17:00, Sunday 10:00 to 16:00

Figure 10: Current USO application process



4.13 Should a USP believe that a service meeting the minimum service specification is available, the USP will normally attempt to market that service to the consumer by referring them to an appropriate team (or alternative provider).

4.14 In cases where the consumer contends that this service is not actually available or does not meet the specifications, it is often up to the consumer to prove that this is the case. This is therefore likely to include signing up to a new contract for the service, potentially also changing provider, and running the necessary speed tests once connected. In the event of a 4G or 5G FWA product, it may also mean having an external antenna installed at the premises as well.

4.15 For consumers who are able to access an improved commercial service otherwise meeting the requirement via this route, this satisfies the objective of the USO whilst not employing a USO service.

4.16 However, for situations where the network or service is not actually available or fails to meet the requirements, this substantially prolongs the process of consumers being able to access their legal right to request and also requires consumers to be fully aware of any cancellation rights in the event that the service does not meet the required expectations.

4.17 Furthermore, even where consumers are aware of such rights or have requested to cancel their contract we have heard anecdotally that it is not always an easy process for the applicant. This potentially leaves the applicant to pay for a sub-USO service for the remainder of their minimum contract term.

4.18 Consumers and businesses are therefore unlikely to want to take up such a service if they are unsure whether they will be able to cancel in the event that the product does not meet the minimum USO requirements. This in turn prevents them from accessing a potential broadband Universal Service connection despite them potentially being eligible.

4.19 Initial awareness-raising of the broadband USO during the COVID-19 pandemic led to limited cut-through to applicants who may be eligible. Those who did contact the USPs helpdesks often found the process to be confusing and unclear.

4.20 For those who were eligible, high quotations often bred further confusion amongst applicants in a cluster due to the lack of clearly available information from the USPs. This meant premises being provided with the full quotation for all the premises in the cluster rather than simply their ‘fair share’.

4.21 Subsequent communication from BT has meant some of these issues have been resolved, although for many residents the initial confusion regarding the quotations received and frustration with the scheme has meant this increase in communication has not had the intended effect.

4.22 Consumers are not made aware of any new infrastructure build that may affect their circumstances in the future. For instance, while premises that are due to be connected via a government-funded scheme within twelve months are unable to apply for a USO connection, there is no mechanism for informing customers about any future commercial build or programme of works that is due to take place (at any time) or government-funded works outside of the twelve month period.

4.23 In the context of a rapidly changing market environment, where a substantial majority of the UK has gone or will go through, a public review process identifying (anonymously) future commercial build intentions, and where most government-funded rollout programmes are multi-year, substantially more relevant information would seem available to the consumer.

4.24 Furthermore, where new infrastructure has been delivered after a customer has requested a USO connection, but before a USO connection is delivered, there is no mechanism currently for updating the consumer with a new quotation where the relevant costs may have decreased.

4.25 We are therefore seeking stakeholder views and suggestions in the following areas:

a. awareness of the broadband USO

b. customer journey

Scheme awareness and application journey

Issue 1: Awareness of the broadband USO

The current position

- Awareness of the broadband USO appears to still be low. As of March 2023, there have only been 26,865 applications of which only 10,135 are eligible. This is out of an eligible premises base, as of May 2023, of approximately 50,000 (and higher previously).
- The USPs have a legal obligation to raise awareness of the broadband USO but have the freedom to decide the best method to do this.

Discussion

4.26 BT's reports on progress against the broadband USO indicate that awareness of the broadband USO remains low, despite it being launched three years ago.

Figure 11: BT USO progress report figures[58]

	Reporting period 1 (March 2020 to September 2020)	**Reporting period 2** (October 2020 to March 2021)	**Reporting period 3** (April 2021 to-September 2021)	**Reporting period 4** (October 2021 to March 2022)	**Reporting period 5** (April 2022 to September 2022)	**Reporting period 6** (October 2022 to March 2023)	**Total since launch**
Number of USO eligible premises[59] (*estimated in Ofcom Connected Nations report closest to reporting period end*)	189,000	134,000	123,000	99,500 (**78,600** *after interventions by UKG within 12 months)*	80,000 (**65,000** *after interventions by UKG within 12 months)*	68,000 (**54,000** *after interventions by UKG within 12 months)*	n/a

[58] March 2020 to March 2023
[59] Prior to consideration of ongoing UK Government-funded interventions

Requests to the USO helpdesk *(eligible for a connection)*	9,168 *(4,037)*	7,863 *(2,260)*	3,136 *(755)*	3,200 *(1,186)*	2,460 *(937)*	1,038 *(959)*	26,865 *(10,134)*
Requests deemed ineligible due to a broadband network build supported by a government scheme within 12 months *(% of otherwise eligible prems)*	202 *(4.8%)*	226 *(9.1%)*	72 *(2.2%)*	295 *(8.4%)*	131 *(8.6%)*	207 *(19.9%)*	1,133 *(4.2%)*
Confirmed USO orders (which required a customer contribution)	512 *(5)*	458 *(18)*	318 *(28)*	170 *(78)*	200 *(40)*	49 *(8)*	1,707 *(177)*
USO services delivered[60]	7	82	909	1,118	699	756	3,571
Complaints received by BT	267	184	89	73	57	16	686

4.27 **Figure 11** shows the number of eligible premises as estimated by Ofcom during that reporting period as well as the number of requests that BT has received to its Universal Service Helpdesk.

[60] This is not total homes passed and excludes projects still in delivery.

4.28 The figures show that the number of successful broadband USO applications, confirmed USO orders and subsequent builds remain low compared to the number of potentially eligible premises. Furthermore, Ofcom has previously estimated that, on past analysis, approximately 56,500 premises may have been able to receive a USO connection at no additional cost to the applicant. It, therefore, stands to reason that the primary contributing factor is likely to be a lack of awareness amongst applicants, some of whom may have received no follow-up communication from BT since the initial letter was sent 2 years ago.

4.29 Both BT and KCOM, as the Universal Service Providers, have a legal obligation to take '*reasonable steps, including disseminating information in appropriate formats through appropriate channels, to raise awareness of the potential availability of Broadband Services…*'. However, the department believes that this has not been happening on a rolling basis, instead, premises are alerted when they are eligible and then rarely contacted again.

4.30 The department, therefore, believes that more could be done to inform customers of their current legal right to request as well as providing further information as to the estimated cost of connection. Where there is no cost to the consumer or business, this could be made clearer to the premises, including what steps need to be taken to access improved connectivity.

4.31 This could include measures such as informing customers:

a. When the cost of connection has reduced and where such a reduction is substantial, and

b. where further information is available to Ofcom and subsequently the USP about a provider who is able to offer a USO-compliant connection to the premises

4.32 The department would also welcome comments on whether it should be the responsibility of the USPs to provide this information to applicants or whether a different approach should be taken. This is discussed further in **Chapter 5**.

4.33 Currently the USO regulations put the onus on the customer to contact their USP at a later date as connectivity provisions change to receive new information on their quotation or connectivity options. It is unlikely that consumers are in the best position to make this observation, based on information readily available to them.

4.34 Furthermore, USPs could also make new applicants aware of circumstances and developments that may affect their decision to take on a broadband USO connection including:

a. where the USP is aware of future government-funded builds,

b. where the USP is aware of commercial activity or intent within the area that is disclosed as part of the OMR/PR process and is publicly available

c. current availability in their area including possible 4G FWA and satellite connectivity regardless of the provider

Consultation questions

Question 4.1

Should applicants be informed of future government-funded build regardless of whether it is within 12 months or not?

If so:

Question 4.1(a)

Should applicants be informed only when it is potentially specific to their premises or when it applies more broadly to their local area?

Question 4.2

Should applicants be informed of future commercial build intentions where this information is already in the public domain?

Question 4.3

Should applicants be informed where there has been a material change in the applicant's USO circumstances such as a change in the price of a connection or a new ISP?

Question 4.4

Should broadband Universal Service Providers be required to advertise, or communicate to eligible parties, the availability of the broadband USO on a continual basis?

Question 4.5

Should applicants be informed when they can access the USO at no additional cost on a regular basis (i.e. yearly)?

Question 4.6

Should targets be set for the number of USO-eligible premises that fall below the reasonable cost threshold, that Universal Service Providers should be required to contact each year, to help increase take up?

All consultation questions are collated in Annex A

Issue 2: Customer journey

The current position

- Customers who wish to exercise their legal right to request a broadband USO connection must contact the respective Universal Service Provider for their area.
- The USPs are required to fulfil the stages of the request within a certain time period as set out by Ofcom (**Figure 10**).
- USPs are able to put forward their own broadband packages, even when cheaper or better options may be available to the applicant from a third party.

Discussion

4.35 Customers who do contact the Universal Service Provider's Helpdesk have anecdotally told the department that the journey from application to connection can be confusing.

4.36 As it currently stands, the Universal Service Providers are required to use '*any relevant information held by BT and Ofcom*' to determine whether a premises can access a 'decent broadband connection'.

4.37 This means that the USPs are able to put forward their own tariffs in the first instance where they are available and offer a USO-compliant service. USPs are not obliged to inform applicants of other available services or that other providers may be able to offer an alternative to that offered by the USP.

4.38 Applicants to the broadband USO are therefore substantially directed, if not unnecessarily limited, to the choices that the USPs provide.

4.39 Given that awareness of alternative broadband products such as Fixed Wireless Access remains lower than that of fixed broadband, consumers may also not be aware of the average price and speeds of these products – thereby being unable to make a comparison to the services offered by the USP.

4.40 As discussed in the introduction to **Chapter 4**, applicants who apply for the broadband USO are often expected to be able to access a 4G or 5G FWA service that should be able to meet the USO eligibility criteria.

4.41 However, the department has heard that for some applicants, despite the assurances of the Mobile Network Operator (MNO), this is not the case. It then falls to the applicant to provide evidence that this solution is not USO-compliant. In some cases, this can mean trying multiple providers. For example, where an applicant has taken an FWA service from one provider which for some reason does not meet the necessary USO eligibility criteria, they are likely to be required by the USP to try a connection from another provider before a USO service is offered.

4.42 Consumers and businesses have told the department that they are frustrated that they are a) not believed despite having previously tried a similar product and b) unsure whether they can exit a contract before the minimum contract term has been met if the product does not meet the USO's minimum service standards.

4.43 We are therefore considering whether measures would be appropriate to ensure that consumers have better access to the information necessary to choose the best product for their needs. This could for example include:

a. Making consumers more aware of all the broadband services that are available to them that meet the USO criteria, where this information has been provided to Ofcom and/or the Universal Service Providers or is already in the public domain.

b. Making it easier for consumers to show evidence that their current connection and/or any fixed wireless access connection is unable to deliver the speeds necessary to meet the USO criteria.

4.44 For those premises that are offered a broadband USO quotation, it remains difficult to understand exactly which premises in their neighbourhood will be covered by any infrastructure build. While this is not necessarily important for an individual applicant if there is no excess cost to cover, where there is an excess cost above £5,000 it makes it materially harder for groups of premises to crowdfund the necessary excess cost.

4.45 In March 2021, BT launched their USO 'Shared Cost Option' in coordination with crowdfunding platform Spacehive. This allows 'backers' to make contributions to the excess costs of a scheme. However, potential USO applicants are not made collectively aware of exactly which premises might be covered within an area – although they are provided with a letter stating the number of premises that are assumed to be included.

4.46 It is then up to individuals within the cluster of premises to ensure there is enough support from within the community to make the programme viable and to reach the necessary funding target. This is challenging in the absence of clear information on potential beneficiaries.

4.47 We are therefore considering what changes can be made to better inform premises that are within a cluster that may benefit from any upgrade in infrastructure as a result of the broadband USO – where excess cost payments above £5,000 are required.

Consultation questions

Question 4.7

Should applicants be informed which premises within their cluster are eligible for the broadband USO?

Question 4.8

Should applicants be informed of all available technology solutions that meet the service requirements of the broadband USO at application?

Question 4.9

Should broadband Universal Service Providers be able to provide information on their own tariffs ahead of those of any third parties?

Question 4.10

Should it be made easier for USO applicants to leave current contracts where they cannot access a USO eligible connection and are able to access a broadband USO connection? How should any consequences to the industry of this change be mitigated?

All consultation questions are collated in Annex A

5 Sufficiency of data and governance

Introduction

5.1 The broadband USO is administered and implemented by Ofcom as the UK's independent telecommunications regulator. Ofcom implemented requirements set out in the broadband Universal Service Conditions that require both BT and KCOM to report every 6 months on a series of performance metrics.

5.2 These performance metrics (Figure 12) were implemented by Ofcom based on their understanding of the Universal Service Directive. Additional metrics were also included to allow Ofcom to monitor how and/or whether the USPs were meeting the universal service conditions.

Figure 12 - Universal Service performance metrics

Requirement
The number of requests received in each month
The number of confirmed orders received each month
The number of confirmed orders received each month that involved a customer agreeing to pay excess costs
The number of requests in each month where the USP informed USO customers that they did not meet the criteria set out in Condition A.3, together with an explanation of the reason(s) why each request was not eligible;

5.3 Ofcom also uses other formal information gathering powers that they have to monitor the USPs performance against their obligations – especially where areas of concern are identified. This is typically reported through their annual Connected Nations report released each December.

5.4 Where complaints are raised which cannot be resolved by the USPs, the Ombudsman Services provides recourse through the Alternative Dispute Resolution (ADR) scheme. This is in line with both BT and KCOMs existing complaints procedure.

Sufficiency of Data and Governance: The issues

5.5 As currently enacted the government has limited oversight of the delivery of the broadband USO. While it sets the broad policy objectives and necessary legislation, it is up to Ofcom, the USPs and the Ombudsman Services to ensure these objectives are fulfilled.

5.6 In addition there remain issues over the way that data is handled between Ofcom, USPs, and the government (including BDUK as an executive agency) to ensure it is clear, not only which premises are eligible, but also which premises have been connected by the broadband USO.

5.7 The government, therefore, wants to take a further look to understand whether the regulation and governance of the broadband USO is set up correctly to ensure there is the appropriate provision of information between all parties..

5.8 In the following sections we discuss a range of issues relating to transparency and governance of the broadband USO and its effective implementation. The issues considered are:

a. Governance

b. USO reporting

c. Data transparency

d. USO complaints procedure

5.9 We do not seek to undermine the independence of either the regulator or the Ombudsman Services. However, we do consider that further discussion is required to:

a. ensure there is broad agreement that Ofcom remains the right body to continue to implement the broadband USO, including any changes proposed by the government or Ofcom

b. improve the provision of information between the regulator, the government and the Universal Service Providers – including understanding whether the current rules around data transparency are leading to the appropriate outcomes for eligible applicants

c. whether the reporting of USO delivery and complaints is sufficiently detailed and transparent

d. understand whether the complaints process is proving to be an effective tool to resolve disputes between parties relating to the USO.

Issue 1: Governance

The current position

- The broadband USO is administered by Ofcom which sets the Universal Service Conditions in line with the legislation
- The Universal Service Providers (USPs) are required to meet Universal Service Conditions

Discussion

5.10 Ofcom are responsible for setting and modifying broadband Universal Service Conditions, and enforcing them, as the telecommunications regulator for the United Kingdom.

5.11 The Communications Act 2003 sets out a number of provisions for which Ofcom are responsible, including, but not limited to, the designation of USPs to whom the Universal Service Conditions are applicable.

5.12 As the telecommunications regulator, Ofcom is responsible for setting and modifying universal service conditions for all the universal services (not just the broadband USO), and for enforcing them. Since the launch of the broadband USO in March 2020, Ofcom has a duty to monitor the regulatory conditions that it has imposed on the USPs to ensure they are being met.

5.13 This means that Ofcom, rather than the government, are responsible for opening any investigations into the way the USPs seek to meet the Universal Service Conditions.

5.14 This process, as currently set out, can have implications for both the implementation of the government's policies and for applicants looking to ensure issues are raised in a coherent manner. As the independent regulator, Ofcom is not responsible for handling complaints raised by consumers. Instead, these go either to the USP themselves, in the first instance, or if they cannot be resolved, the Ombudsman Services.

5.15 As the department responsible for policy relating to the broadband Universal Service, we have also received a significant number of complaints regarding the way the broadband USO was being implemented, in the opinion of these complainants. These complaints were not seen by Ofcom and it is therefore incumbent on either the Ombudsman Services (if they were contacted), or more readily the government department, to pass on the issues being raised. This was often only possible with the consent of the complainant.

5.16 The broadband USPs are required to provide details of the number of complaints they have received during any given reporting period as part of the broadband USO Service Conditions. This includes:

a. number of complaints received

b. number of complaints resolved

c. number of complaints not resolved

d. number of complaints referred to the ADR scheme

5.17 We are therefore considering whether Ofcom remains the best organisation to oversee the implementation of the broadband Universal Service and/or whether changes should be made to ensure wide-scale issues are brought to the attention of the regulator in a prompt and timely manner.

Consultation questions

Question 5.1

Who do you think should be responsible for the implementation of the broadband USO?

Question 5.2

Based on your answer to Question 5.1, do you think this organisation should be responsible for both the setting, and the enforcement of, the broadband Universal Service Conditions?

Question 5.3

Do you think there should be a separate body governing the broadband USO that is responsible for handling complaints raised by applicants to the broadband Universal Service?

If so:

Question 5.3(a)

Should that organisation simply be responsible for handling complaints or should they have a wider remit over the implementation of the broadband USO such as potentially providing information to applicants on their eligibility?

Question 5.4

Should broadband Universal Service Providers and the chosen Alternative Dispute Resolution provider be compelled to provide Ofcom with more information regarding the complaints received to allow them to be notified of wide-scale issues sooner?

All consultation questions are collated in Annex A

Issue 2: USO Reporting

The current position

The current position is that both KCOM and BT, as the Universal Service Providers, are required to report every 6 months on a series of metrics as set out by Ofcom in the Universal Service Conditions

This includes reporting of:

- the number of USO requests received each month and whether they are eligible or ineligible
- the number of confirmed orders received in each month, including those that involved a customer agreeing to pay excess costs the number of broadband services delivered in each month, including information on the time taken to deliver said broadband service
- complaint and dispute Resolution relating to the broadband USO
- quality of Service Measurement for broadband USO services

Discussion

5.18 The broadband USPs are required by Ofcom to report on a series of metrics every 6 months to ensure they are meeting their Universal Service Conditions and to understand how many premises are being connected via the scheme.

5.19 As of April 2023, 6 of these reports have been published. However, in its current format, the way that the legislation is written and the guidance that has been provided to Ofcom in relation to the reporting requirements of the USPs has meant that the data provided is limited in scope.

5.20 This limitation in the data available to the government means that the department is unable to identify whether any challenges are being experienced by the USPs or the applicants themselves.

5.21 As the reports are only produced every 6 months, it is hard for both the government and Ofcom to understand the difficulties that have been experienced and how they might be addressed. This means that rectifying errors and/or understanding if the scheme, beyond changing market supplier behaviour prior to launch, is delivering the necessary policy objectives is difficult to ascertain and takes significantly longer than would otherwise be the case if the numbers were reported more regularly and there was greater detail.

5.22 In addition, as it stands, neither Ofcom nor the government is able to accurately identify exactly where USO premises have been connected and if the numbers accurately reflect the services that have been provided by the USPs. Furthermore, it is unclear exactly when premises have been connected and how many premises are due to be connected within 12 months or beyond.

5.23 A more regular and detailed update on delivery against the broadband USO would enable the government and Ofcom to spot any irregularities sooner and understand if specific areas have any noticeable trends that can be replicated in other parts of the UK.

5.24 We are therefore consulting on whether changes should be made to the information provided by USPs to ensure what is provided is done in a timely manner, that best achieves the policy objectives of the broadband USO.

Consultation questions

Question 5.5

How regularly do you think the Universal Service Providers should report their metrics on how many USO connections have been delivered?

Question 5.6

Do you think that the current set of metrics as set out by Ofcom are appropriate?

If not:

Question 5.6(a)

What additional metrics do you think that the Universal Service Providers should report on?

Question 5.6(b)

Would you support more granular reporting of where broadband Universal Service connections have been delivered?

Question 5.6(c)

If the Universal Service Providers continue to refer or cross-market their own products over those of other providers through the USO platform/helpdesk, should they be required to report on the extent to which this occurs and whether it results in new service subscriptions and/or customers?

Question 5.6(d)

Do you think any additional reporting should be made available to the public or should any additional data only be made available to Ofcom and the government to enable them to confirm that the broadband USO is being delivered in a fashion that meets the obligations and the policy objectives of the scheme?

All consultation questions are collated in Annex A

Issue 3: Sufficiency of Data

The current position

The current position is as follows:

- the Universal Service Providers (USPs) are only required to provide a limited amount of information based on the metrics set out by Ofcom in the Universal Service Conditions
- USPs are not required to inform Ofcom or the government as to where premises have been delivered or the number of premises that have been passed

- Ofcom provides the USPs with access to an application programming interface (API) which discloses information on whether a premises is USO eligible based on data gathered for Ofcom's annual Connected Nations reports
- providers are not required to inform Ofcom of any commercial plans but are required to provide information on any publicly funded rollouts that are due to commence within 12 months

Discussion

5.25 As discussed under '*Issue 2: USO reporting*' above, the data provided to both the government and Ofcom on the delivery of the broadband USO is limited. This leaves both organisations unaware of where current broadband USO-eligible premises are located and where those which have been connected are.

5.26 It is the government's belief that based on our current understanding these issues largely centre on the ability to pass data between one organisation and another with constraints between BT, Ofcom, and the UK Government including both DSIT and BDUK (as an executive agency).

5.27 The lack of data being provided to the government means that we cannot make an informed decision as to whether the broadband USO is delivering in the areas expected. In addition, without this information, it is hard to help ensure premises which could access a USO connection for free (i.e. are below the cost threshold) have access to the information required to make an informed decision.

5.28 While we appreciate that the USPs are unable to provide a detailed quotation until applicants have applied, modelling from BT's Chief Engineer's model is able to determine how many premises are likely to be below the reasonable cost threshold with BT reporting to Ofcom that, as of November 2021, approximately 66,500 premises were above the reasonable cost threshold. While DSIT has not seen publicly available data since, it is likely that a significant number of premises remain below the reasonable cost threshold and are eligible for a connection without paying any additional costs.

5.29 We, therefore, believe that the lack of information and restrictions on its flow between the USPs, Ofcom and UK Government is potentially impeding the successful delivery of the broadband USO.

5.30 In addition, the lack of information on where USO premises are currently located may be having a knock-on effect on both the commercial broadband market and government-funded procurements.

5.31 Supplying unique property reference numbers (UPRN) would enable the government to more accurately understand where these premises are and when they have been connected to a USO level solution. Some information is already provided at a postcode level as part of Ofcom Connected Nations reports but it does not offer the level of detail required to accurately identify where these premises are.

5.32 Increased information about where USO premises are located may enable commercial providers who are active in the area to pick up these premises within current build plans and to ensure they are not left without a decent broadband connection.

5.33 Furthermore, government-funded rollouts are based on Open Market Reviews (OMR) of the current broadband market in an area, where commercial providers are due to connect within the next three years. Having additional information on which premises are USO-eligible and/or are not going to be connected via commercial rollouts will help to ensure procurements (where possible) target these premises in the first instance and are not missed from build plans.

5.34 However, the government is aware that as it currently stands some operators are reluctant to provide their data to Ofcom and, as a result, BT, in their role as the USP. This means that premises which can access a decent broadband connection through an alternative provider are not always being informed of this at the most appropriate point in time and are therefore missing out.

5.35 As discussed in **Chapter 4** the lack of awareness around the available solutions for consumers often means that consumers are not being provided with the best solution for their particular needs. Instead, the USPs are able to pass the applicants onto their consumer teams which are allowed to offer their services in the first instance as long as they meet USO eligibility criteria.

5.36 Further provision of data between the necessary organisations may help to ensure the USPs have the necessary information to provide further details to applicants.

Consultation questions

Question 5.7

Should the broadband Universal Service Providers and industry be required to provide Ofcom and the government with a full list of USO-eligible unique property reference numbers (UPRNs) on a regular basis?

Question 5.8

Whose responsibility should it be to provide Ofcom with the necessary information on the current status of government-funded procurements, and any expected voucher-funded delivery?

Question 5.9

Should the broadband universal service providers be required to provide Ofcom and the government with a list of UPRNs for all premises that they have connected, and therefore no longer consider are USO-eligible, on a regular basis?

If so:

Question 5.9(a)

How regular should the universal service providers be required to provide this data?

Question 5.9(b)

Should the data be provided at a UPRN level or should it be aggregated to a higher geographical level (i.e. local authority/constituency/postcode)

Question 5.10

Should applicants be informed that they may potentially be able to access a broadband Universal Service below the reasonable cost threshold?

Question 5.11

Should non-USO service providers be informed of premises, identified by UPRN, that are currently unable to access a broadband Universal Service-compliant connection, to better address these premises?

All consultation questions are collated in Annex A

Issue 4: USO complaints procedure

The current position

The current position is:

- the Ombudsman Services provide the alternative dispute resolution service for both, BT and KCOM, as the Universal Service Providers
- applicants to the broadband USO are required to go through the USPs own complaints process first. Applicants must wait 8 weeks or receive a deadlock letter before they can take their complaint to the ADR service
- the Ombudsman Services are only able to adjudicate complaints relating to the USPs and they cannot resolve complaints relating to third parties involved in the USO process, including Openreach

Discussion

5.37 Both broadband Universal Service Providers (BT and KCOM) are required to establish a USO complaints handling procedure as part of the Universal Service Conditions. Both KCOM and BT decided to use their existing complaints policy to handle USO complaints, including using an ADR scheme run by Ombudsman Services: Communications.

5.38 The Ombudsman Services[61] provide an independent dispute resolution service ensuring that consumers are put back into the position they were in before the issue occurred. Any decision reached by the Ombudsman is binding on the Universal Service Provider.

5.39 Since the broadband USO launched in March 2020, BT has received a total of 686 complaints, of which 161 have been referred to the Ombudsman. KCOM has received no complaints given it has had almost no enquiries for the USO.

5.40 When setting out the Statement on Delivering the Broadband Universal Service Obligation there was widespread support for Ofcom’s proposed approach based on its consultation. This, Ofcom stated, was mainly due to the fact it mirrored existing telecoms complaints handling and dispute resolution procedures. It was therefore believed to be understandable and simple for consumers and businesses.

5.41 We would like to know whether the current dispute resolution system remains an effective tool for applicants to raise complaints and if the current ADR scheme is helping to resolve disputes between parties relating to the USO.

Consultation questions

Question 5.12

Is the current complaints process for the broadband Universal Service Obligation leading to effective resolutions for applicants?

Question 5.13

Should the alternative dispute resolution provider (currently the Ombudsman Services) be required to publish the number of complaints they have received in relation to the broadband USO?

If so:

Question 5.13(a)

Would it be appropriate for the alternative dispute resolution provider to provide information on the nature of the complaints received?

All consultation questions are collated in Annex A

[61] Ombudsman Services

6 Industry delivery

Introduction

6.1 Since the initial development of the broadband USO in 2019, the broadband delivery market has changed significantly with an increase in both the number of providers and the types of connectivity being delivered.

6.2 The increase in providers and the various technologies now available could play a significant role in the delivery of the broadband Universal Service with a single USP in any one area (KCOM in Hull and BT in the UK) potentially no longer being the most logical, cost-effective or fastest delivery mechanism for at least some parts of the country.

6.3 It is also expected that increased commercial rollout of gigabit-capable networks as well as government-funded schemes including Project Gigabit and the Superfast extension programme will mean the market continues to expand – increasing the possibility for new providers to handle Universal Service requests, rather than solely bearing any potential excess cost burden.

6.4 As the market changes and expands over the coming years it is increasingly possible that delivery of the broadband Universal Service could be handled by a network of providers rather than a single USP. While the current legislation does allow for Ofcom to review the designations of the USPs, and to designate multiple providers, the timing of this consultation, and any subsequent review by Ofcom, provides an opportunity to better understand whether stakeholders agree that the current system exploits the full potential of the market to achieve the best possible outcomes for applicants to the USO.

6.5 Enabling different providers to cover different areas will help to ensure the benefits of existing infrastructure are taken into account – providing a connection faster and in a more efficient manner than may otherwise be possible under the current framework.

6.6 Further consideration of other providers may also enable Ofcom and the government to overcome the policy and implementation challenges that currently exist in relation to supporting or associating USO funding with other public funding sources.

6.7 While there are some safeguards already in place through the Communication Act 2003 and Ofcom's own funding regulations, UK government has concerns that additional risks arise from allowing Universal Service Providers to utilise other government funding sources (i.e. voucher schemes), the ability of the Universal Service Providers to utilise the broadband USO to promote their own services over third parties and the ability for providers to limit access to shared use infrastructure until the excess costs of delivery have been paid by the respective premises.

Industry delivery: the issues

6.8 In the following sections we discuss a range of issues relating to industry delivery of the broadband USO. The issues considered are:

a. third parties' availability and willingness to deliver a USO connection

b. supplier neutrality

c. market competition

6.9 We are seeking the views and feedback of industry, applicants and other stakeholders regarding how the USO currently operates in conjunction with both the commercial market and also government-funded rollouts. In particular, we are interested in ways that this will affect the commercial market and what effect market participants believe this will have on the delivery of the USO in the future.

6.10 Any feedback received as a result of the consultation will be considered to make the best judgement on the next steps for the USO including whether any legislative changes are required, and how it interacts with other government policy considerations including policy for both Project Gigabit and very hard to reach premises.

Issue 1: Third parties' availability and willingness to deliver a USO connection

The current position

The current position is:

- the broadband USO is currently met by 2 Universal Service Providers (BT and KCOM), designated by Ofcom. They are required, subject to conditions, to deliver the connections, and have potential recourse to industry funds for any proven excess cost burden arising
- no other provider is under any legal obligation to provide a decent broadband connection, whether or not they are able to do so and they have no recourse to industry funds for this but may be required to contribute to funds for the designated providers
- the USPs cannot delegate their legal responsibilities to provide a broadband USO connection within the Universal Service Conditions set out by Ofcom

Discussion

6.11 Currently the broadband USO is delivered by the USPs as designated by Ofcom. Under the legislation (Communications Act 2003) Ofcom can designate any communications provider to act as a USP. As it currently stands the Universal Service Providers are KCOM (in Kingston-Upon-Hull only) and BT (in the rest of the UK).

6.12 It is only the designated USPs that are able to access any potential Universal Service Fund once established and make any claim for unfair burden. No other provider is able to make a claim and the USPs are unable to delegate their legal responsibilities to another provider if they believe they are more capable of delivering the connection, including if they could do so more quickly or at a lower overall cost.

6.13 Since the initial design of the USO (2016 to 2019), the designation of the USPs in 2019, and the launch of the broadband USO in March 2020, a significant number of additional providers have begun delivering gigabit-capable networks and other alternative networks – including fixed wireless access (FWA) and satellite services – that could potentially support USO eligible connections.

6.14 These alternative providers, or alt-nets, often build their network in an area or community ahead of other providers and may therefore be in a better position to connect premises which would otherwise be eligible for the USO. Some earlier entrants have already substantially upgraded their networks to be gigabit-capable, including the largest such UK provider, Virgin Media O2.

6.15 As a potential first mover or incumbent in an area, alt-nets may also be able to deliver the connection in a more cost-efficient manner reducing, or completely eliminating, the need for an excess cost payment from applicants. Some alt-nets have already substantially completed the build of some areas of the country, or plan to do so.

6.16 However, given the data transparency discussion in Chapter 5 and the inability of these alt-nets to make a claim on any potential Universal Service Fund, these connections are often deemed not to be cost-effective. Even with the use of Project Gigabit Broadband Vouchers many premises which are USO-eligible may still not be cost-effective to connect given the large cost required to connect them.

6.17 We, therefore, believe it is worth considering:

a. Whether BT and KCOM as the USPs should be redesignated based on any substantive changes to the requirements of the scheme.

b. Whether the USPs should be redesignated based on the increase in commercial capability and reach since 2019 to enable providers with a strong local presence in some areas to take on the designation of a Universal Service Provider

c. Whether, when there are situations where more than one potential provider within a given area (of appropriate design) might be able to provide a Universal Service, more than the one provider should be designated or to better harness the potential capacity of the whole of the industry to deliver the USO

d. How USPs could transfer their legal responsibility for providing a broadband USO connection to a third party where the third party agrees to complete the build and can do so at a lower cost, or faster than the USP is able to deliver. In addition, we wish to consider whether this is something that applicants could request themselves or if it should be the decision of the USP

e. Whether creating a distinct Universal Service delivery entity which is responsible for collating all USO-eligible UPRNs together and providing the information to commercial providers to deliver. Any provider delivering to a USO-eligible premises would have recourse to any potential Universal Service Fund subject to any appropriate terms and conditions set

6.18 Some of the approaches to imposing a broadband universal service obligation set out in this document may already be possible to introduce under the current legislative framework. However, given the changes that have taken place in the broadband market since the initial designation process took place in 2019 and the commencement of the government's Project Gigabit programme, we believe it is now worth consulting on those approaches as well as ones which may require further legislation to implement, to better understand market appetite for them.

6.19 The government is conducting this consultation with an open mind to understand the effects of the legislative framework and decisions made within that framework that are within the scope of its subject matter. Accordingly, no inference should be drawn from the mere fact of consultation that the government has concluded that the relevant legislation or any decision made under it is in any respect defective.

Consultation questions

Question 6.1

If changes are made to the broadband USO, should consideration be given to running a new designation process for the Universal Service Providers?

If so:

Question 6.1(a)

Should there be one or more USPs for the entire country?

Question 6.1(b)

Should designation of USP-specific areas (of appropriate design) be based on the commercial market and broader supplier capability and capacity in that area?

Question 6.2

Should USPs be able to transfer their legal responsibilities to another undesignated commercial provider where that alternative provider is able to deliver a connection in a more efficient manner?

If so:

Question 6.2(a)

Do you have any suggestions as to how delivery could be ensured?

Question 6.2(b)

Should applicants be able to request the transfer to another provider or should it be the responsibility of the USP?

Question 6.2(c)

What safeguards should be considered to ensure accountability for delivering the USO connection?

Question 6.3

Should a distinct Universal Service delivery entity, responsible for collating all eligible USO UPRNs and passing them to USPs, and where appropriate, commercial providers, to deliver be considered?

All consultation questions are collated in Annex A

Issue 2: Supplier neutrality

The current position

The current position is:

- the USPs are currently allowed to offer their services in the first instance to applicants to the broadband USO where they can offer a service providing a decent broadband connection
- where they are unable to offer a decent broadband connection they are required to provide the details of an alternative provider where those details have been made available to the USP

Discussion

6.20 As discussed in Chapter 3, the 2 USPs are able to provide their services to USO applicants where they are able to deliver a USO-compliant connection – even if another provider has indicated that they can also provide a USO-compliant service to that address.

6.21 This means that applicants are often provided with a tariff that may not best suit their needs as a result of inappropriate data caps, high monthly costs or low download/upload speeds.

6.22 Many providers were initially reluctant to provide information on their available services to Ofcom due to fears regarding competition and overbuild by the USPs. These fears, we believe, have been overcome somewhat since the USO was introduced. This is partly due to market engagement by Ofcom, and partly due to broader transparency on their builds (on the ground) and through other publications and procurement-related mapping for Project Gigabit.

6.23 In addition, several mobile network operators now market a much larger array of fixed wireless access products which has led to the cost of many of these services being reduced. However, these products are often not advertised widely either by comparison websites or by individual providers.

6.24 Furthermore, Wireless Internet Service Providers (WISPs) who also deliver Fixed Wireless Access services have limited advertising budgets and typically only operate in small clusters in a particular locality. While many are now deploying more fixed networks, most still operate large FWA networks, the capabilities of which can be unreported.

6.25 We consider that the fact that the relevant USP would be the exclusive recipient of an application does not justify the USP providing only a limited summary of the products and services available to the applicant.

6.26 We, therefore, wish to consider whether applicants should be presented with a range of potential options in a balanced and supplier-neutral way.

6.27 Broadband USPs should not be disadvantaged by being obliged to meet the conditions set out for them by Ofcom. However, their compulsion, where designated, should not give them an advantage compared with other providers in serving these premises either. While fewer than 68,000 premises are eligible for the broadband USO under current terms, we are aware that many more do not have access to a fixed connection that meets the broadband USO technical specification but are covered by other technologies.

6.28 These applicants are therefore likely to form a substantial part of the group that contacts their USP and are most likely marketed a 4G/5G FWA solution from that USP without being informed of any alternative providers that could connect them. This is further noted in BT's annual reports which show a significantly higher level of enquiries than actual eligible applications. This likely accounts for many of the premises which approach the current USP but are not ultimately eligible for a USO connection.

Consultation questions

Question 6.4

Should applicants be made aware of all potential options for a USO-eligible connection when applying for a USO connection, insofar as it is possible to do so?

Question 6.5

Should there be a supplier-independent 'first point of contact' for USO applicants to ensure they get neutral and objective information on other available schemes and commercial products?

All consultation questions are collated in Annex A

Issue 3: Market competition

The current position

The current position is:

- under EU state aid and, more recently, the UK subsidy control regime, the UK Government is cautious to consider providing direct state funding to premises that are USO eligible where it may distort market competition
- there is currently only a single universal service provider in any given part of the UK (and for most of the UK), and that provider was designated
- the government has previously been careful not to allow recourse to USO industry funding and other aid (for example government-funded vouchers), given the potential risk of market distortion that might result
- this means that recipient premises may not benefit from government-funded vouchers under Project Gigabit in conjunction with any USO industry funding
- combined with the sufficiency of data challenges noted above, this also impedes any community-level projects that would attempt to mix USO funding (for eligible premises) with other funding (for other premises, based on other eligibility terms)

Discussion

6.29 Current market conditions do not allow applicants to combine the industry funding under the broadband USO and government funding such as the Gigabit Broadband Voucher or other voucher funding offered by the Devolved Administrations. This is due to the government's interpretation of the risks arising previously from EU state aid rules and now, following the UK's departure from the EU, the UK's own subsidy control regime.

6.30 Although possible under the terms of the current legislation as set out, given the designation of only 2 USPs, and only one in each area, the UK Government is reluctant to provide this funding as it would have a potentially distorting effect on the market due to the limited number of providers that would be able to access it.

6.31 Furthermore, given the current limited number of USPs there is a further risk regarding the inequality of opportunity available for other providers to access this funding.

6.32 If the UK were to pursue a Universal Service mechanism which was genuinely open to, and leveraged, a wider group of potential providers, this may go some way toward mitigating the potential risks associated with allowing a Universal Service Provider access to voucher funding (for the same premises) as USO industry funds in the case of proven unfair excess cost burdens.

6.33 However, we are also aware of the potential downsides to such an approach, including the risk of distortion based on any thresholds or requirements set to become an eligible USP in general and to be selected for a given area of the country.

Consultation questions

Question 6.6

Should USPs be able to combine government funding with industry funding from the Universal Service Fund, if this can be achieved without market distortion?

If so:

Question 6.6(a)

What changes in market structure and/or USO delivery do you think would be required for this to be reasonable?

Question 6.7

Should there be a limit on the amount of excess burden an individual provider can claim and/or the number of premises that they are able to claim for?

Question 6.8

Should other providers be made aware of the claim and be able to challenge the claim where they can show that the premises already have a USO-compliant connection available to them, and that information was made available to Ofcom and/or the USP?

All consultation questions are collated in Annex A

7 Costs, including the Reasonable Cost Threshold and costs to recipients

Introduction

7.1 BT and KCOM, as the Universal Service Providers, are required to provide applicants with a quotation for the cost of connection within 30 days of applicants applying to the scheme.

7.2 As discussed in Chapter 1, the Reasonable Cost Threshold was set at £3,400 (excluding VAT) based on Ofcom's 2016 Technical Analysis. This analysis highlighted that many of the other Universal Services including Digital Terrestrial Television, telephony and water all had a Reasonable Cost Limit of some variety. Examples included:

a. Telephony USO: £3,400 (excluding VAT)

b. Digital Terrestrial Television: Set at 98.5% of all UK homes

7.3 Ofcom provided advice to the Government which noted the available options and estimated the potential impact of those options in terms of how many premises would be captured depending on where the Reasonable Cost Limit was set.

7.4 It was decided by the Government to set the threshold at £3,400 (excluding VAT) per premises. This was to ensure that costs for both industry, and consumers through any increase in their bills, was proportionate.

7.5 Quotations that are below the reasonable cost threshold of £3,400 (excluding VAT) are delivered at no additional cost to the applicant, and instead, the costs are fully borne by the Universal Service Provider. Any burden that is then found to be 'excessive' can be reclaimed from the industry fund which is set up and administered by Ofcom with the fund made up of contributions from the industry.

7.6 Any costs above the £3,400 (excluding VAT) reasonable cost threshold are borne by the applicant(s)[62]. These 'excess costs' are required to be paid in advance of work being started.

7.7 In November 2021, Ofcom made a series of adjustments to the Universal Service Conditions applicable to BT to reduce their exposure to high unpaid excess costs from applicants. This was in response to an investigation Ofcom had carried out regarding BT's compliance with its obligations as a broadband USP.

[62] Crowdfunding and USO, 12 February 2021

7.8 As a result of the changes, premises which have an excess cost at or below £5,000 (below a total quotation of £8,400) are able to pay their excess costs on a 'fair share' basis, calculated based on the cluster of USO premises in which they are located. USO premises can be in clusters numbering between 2 and c. 30, but can also be single premises not in a cluster. This means that they are only liable for their portion of the excess costs and, once those costs have been paid, work commences on the entire cluster. However, only those premises that have paid their fair share of the excess cost are then able to access the infrastructure provided.

7.9 Premises with an excess cost above £5,000 (above a total quotation of £8,400) are required to pay the entire excess cost for the cluster up-front prior to work commencing. BT launched a project with the crowd-funding platform 'Spacehive'[63] in March 2021 to help facilitate this approach, allowing multiple premises (and any other contributors) to group together to fund this work.

7.10 Where a quotation presents an excess cost to the consumer, the Universal Service Providers are required to proceed with the production of a detailed quotation based on a full survey. This must be carried out within 60 days of the applicants' confirmation that they would like a full survey. Ofcom states that any detailed quotations should clearly explain the work required to deliver the specific connection and an explanation of the various costs involved.

7.11 Furthermore, applicants should be offered the opportunity to do some of the work themselves to help reduce the costs including self-digging trenches where they have the ability to do so.

Costs: The issues

7.12 In the following sections we discuss a range of issues relating to the costs of the broadband USO. The issues considered are:

a. quotation breakdown/transparency

b. reasonable cost threshold vs excess cost threshold

c. requirement for up-front payment

d. issue of costs for non-applicant beneficiaries

e. self-dig and contributory works by applicants

7.13 We are seeking the views and feedback of industry, stakeholders and applicants regarding how the cost issues currently associated with the USO can be better communicated and if current thresholds are suitable for the future.

[63] Spacehive, Broadband Universal Service Obligation – Shared Cost Option

Issue 1: Quote breakdown/transparency

The current position

The current position is:

- quotes are currently broken down by the following categories:
    - Planning and Survey
    - Network Build – Cable and Jointing
    - Network Build – Civil Engineering Works
- beyond this, consumers are not made aware of how the quotation is made up including what technology is being used to provide the USO connection. However, they are told the size of the cluster within their quotation.
- this has led to applicants and Parliamentarians being confused as to how the quotations are derived and whether USPs are charging appropriately for the connections delivered under the USO.

Discussion

7.14 The Department of Science, Innovation and Technology (formerly as DCMS) has received a large amount of correspondence relating to the quotation breakdown and transparency from the USPs when applicants are requesting a detailed quotation.

7.15 The correspondence indicates some correspondents believe that the quotations are designed to deter applicants from going through with a USO quotation.

7.16 However, there are a number of constraints on the ability for Universal Service Providers to provide a full breakdown of costs. This includes commercial confidentiality when dealing with a third party, including Openreach, as well as competitive constraints to ensure other providers are not able to work out a USPs cost model.

7.17 As it stands, the Universal Service Conditions provide USPs with a limited outline requirement of what they must put forward within a detailed quotation. This means that applicants are often confused as to why the cost is so high – especially when network routing doesn't always make sense to the applicant and/or the specific premises being addressed by the infrastructure have not been communicated.

7.18 Applicants in rural areas corresponding with us take a particularly high interest in the potential routing of the infrastructure being quoted for. This is often because they have large curtilages, adjoining land and other wayleaves on their properties. Some also express a desire to help optimise the routing and/or contribute to the construction (such as a 'self-dig' option).

7.19 In addition, some applicants have noted that there is often a substantial difference in the costs between USO quotations, quotations for applications for a Community Fibre Partnerships (supported typically by voucher schemes), and single premises Fibre-on-Demand network construction. Whilst there are good reasons why these discrepancies are manifest, they are not always clearly explained, leading to confusion for some applicants.

7.20 We are, therefore, considering ways that might help to make the quotations received by consumers more transparent as to why the costs of connection are what they are. The government accepts that for a large number of the remaining USO-eligible premises the cost of connection will be higher than the current reasonable cost threshold, but it is important that this is clearly communicated to applicants when they are applying.

7.21 This could include the number of applicants in their cluster, the connection type that is being delivered, and what the cost per premises is including the total cost that any applicant will have to pay (less the reasonable cost threshold and the demand aggregation).

Consultation questions

Question 7.1

What information do you believe applicants should expect to receive from Universal Service Providers regarding the costs of connection?

Question 7.2

How much information should applicants receive regarding which other premises will potentially be served by the broadband USO proposed infrastructure?

Question 7.3

Should USPs be required to provide additional information on why the cost of connection is above a certain threshold and/or be required to communicate with premises when/if that cost decreases?

All consultation questions are collated in Annex A

Issue 2: Reasonable Cost Threshold vs Excess Cost Threshold

The current position

- The reasonable cost threshold is currently set at £3,400 (excluding VAT) per premises. The USPs are required to aggregate costs for all the premises in the cluster up to an assumed demand level of 70% unless applicants can demonstrate a higher level of demand.
- Unlike the affordability threshold for retail pricing of USO services, the reasonable cost threshold does not have an inflation indexing mechanism. As such, over time, the level of the Reasonable Cost Threshold reduces
- Following Ofcom's investigation into BT, premises with an excess cost of £5,000 (excluding VAT) or below are able to request a connection once they have paid the excess cost associated with their premises.
- For premises above the £5,000 (excluding VAT) excess cost they must pay the entire excess cost for the cluster or get the necessary premises to pay their fair share prior to BT initiating a network build.

Discussion

7.22 The original reasonable cost threshold was based on technical analysis in 2016 from Ofcom as a result of information provided by Analysys Mason (2016). It was decided that a reasonable cost threshold could help to mitigate the potential cost of any intervention to the industry to balance the obligation on USPs to deliver a connection versus the potentially much higher costs of doing so without a reasonable cost threshold.

7.23 A figure of £3,400 was put forward by Ofcom in their technical analysis as it matched the voice telephony universal service's own reasonable cost threshold of £3,400. It also noted at the time that there were similar provisions in place for the Digital Terrestrial Television (DTT) coverage and the provision of water services across the UK. However, DTT coverage is set at 98.5% of UK homes rather than a strict cost threshold.

7.24 The level of the reasonable cost threshold was set to be consistent with the UK Government's policy objectives at the time. This took into account the wider social benefits derived from connecting these customers.

7.25 Ofcom's initial technical analysis expected that a total of 60,000 eligible premises would be above the cost cap. This was calculated to represent a potential reduction in exposure of ~£400 million to suppliers. Ofcom's analysis at the time suggested that the total exposure could add up to £1.34/month to UK broadband consumer bills, if directly recharged by operators. This was seen as unlikely, due to the low amounts involved.

7.26 At the introduction of the Electronic Communications (Universal Service) (Broadband) Order 2018, the government's Impact Assessment[64] estimated there was an overall total net present value of £2.4 billion with a benefit-cost ratio (BCR) of 3.4. It was noted that the legislation would generate significant benefits, striking the right balance between meeting consumer needs and minimising market distortion more than the other options available.

7.27 The costs to business were those associated with building the necessary infrastructure to deliver the network required. Those costs amounted to £1.02 billion in 2017 values based on a reasonable cost threshold of £3,400 (excluding VAT) per premises. This would mean an annual net cost to the Universal Service Providers of £30.5 million over a period of 17 years.

7.28 It is our belief that the cost to industry so far has been far less than the Impact Assessment calculation, given the number of connections that have been delivered to date.

7.29 Ofcom's initial technical analysis indicated that a total of 59,000 eligible premises may be left unserved as a result of a cost threshold of £3,400 (excluding VAT). These were largely within the final 1% according to Ofcom and were the most expensive premises to connect. They are therefore likely to make up many of the premises that still remain unserved today.

7.30 The reasonable cost threshold was set as a fixed cap to ensure transparency for consumers to understand their eligibility and any costs they may be required to pay above this level.

7.31 Providers are also required to aggregate demand based on an assumed take-up level of at least 70%. This was set to allow for multiple premises to share the reasonable cost threshold per premises and reduce shared costs between themselves thus lowering any total quotation. Where applicants can demonstrate a higher take-up than 70% the Universal Service Providers should use that as their starting point instead.

7.32 Demand aggregation was considered as part of Ofcom's investigation into BT's compliance with the Universal Service Conditions. They noted that BT was not aggregating demand appropriately in its approach to calculating excess costs. This approach, therefore, required consumers to pay all the relevant excess costs for the cluster rather than simply their 'fair share'. BT has now applied a new approach and the Universal Service Conditions have been amended so that premises with an excess cost at or below £5,000 per premises are able to simply pay their share. We discuss this in further detail below.

7.33 The ability to amend the current reasonable cost threshold is already within the Secretary of State's power, by amending the broadband Universal Service Order or

[64] The Electronic Communications (Universal Service) (Broadband) Order 2018 Impact Assessment, 29 January 2018

making a new order. We therefore now wish to consider whether the reasonable cost threshold is set at an appropriate level or whether we should look to re-evaluate it based on new evidence and the reduction in the number of USO eligible premises that now exist.

Consultation questions

Question 7.4

Should the reasonable cost threshold be amended?

If so:

Question 7.4(a)

At what level would you recommend the reasonable cost threshold be set? What evidence or analysis can you provide to support your recommendation?

Question 7.4(b)

Should the reasonable cost threshold continue to be uprated? If so, how should this be achieved?

Question 7.5

Should the excess cost threshold at which applicants are required to pay the entirety of the excess costs themselves – or split between neighbours – be amended?

If so:

Question 7.5(a)

At what level would you recommend the excess cost threshold be set? Do you have any evidence or analysis to back up your recommended level?

Question 7.6

Should the aggregate demand threshold of 70% be amended?

All consultation questions are collated in Annex A

Issue 3: Requirement for up-front payment

The current position

- Premises are currently required to pay any excess cost up-front prior to BT commencing network build.
- This is a decision that has been taken by BT. Ofcom indicated as part of their Statement on the USO that USPs were to decide in the first instance on how best to reach an agreement with consumers on how they will pay the excess costs.

Discussion

7.34 The Universal Service Conditions state that payment of any excess cost can be decided by the USP. As it stands BT requires payment up-front prior to commencing any work on a broadband USO connection.

7.35 Currently, Ofcom has allowed Universal Service Providers to decide on how consumers will pay these costs. The government does not believe that providing USPs this flexibility was, or is, unreasonable.

7.36 However, given the large amounts of money that are often required to be paid, the government would like to consult on different options potentially providing a range of options for how applicants could pay in full.

7.37 The decision to consult on this area reflects the reality of the policy since its launch and the decision by BT to require payment up front in all cases which the department has seen – rather than consider alternative approaches on a case-by-case basis such as allowing consumers to pay via instalments.

7.38 Any unpaid costs would be claimable under a potential Universal Service Fund if an unfair excess burden could be proven.

Consultation questions

Question 7.7

Should applicants have a range of different payment options to pay for an excess cost of connection? Please explain your rationale.

Question 7.8

Should applicants who are unable or unwilling to pay the full cost initially be able to access the USO connection until such time as they have paid the full excess cost?

If so:

Question 7.8(a)

How would you propose mitigating the risks of future default to providers?

All consultation questions are collated in Annex A

Issue 4: Issue of costs for non-applicant beneficiaries

The current position

- Premises which have an excess cost at or below £5,000 (excluding VAT) but who have not paid the excess cost are unable to access any USO funded infrastructure built to their cluster prior to making the necessary payment.
- This means that while premises have a gigabit-capable connection potentially available to them, they are not able to access it until they have made a payment, BT has either reclaimed the costs from the industry fund and/or it has written off the costs.

Discussion

7.39 As explained above, premises that are provided with an excess cost quotation below £5,000 (£8,400 total quotation) are able to pay the excess cost up-front and receive a broadband USO connection from their USP.

7.40 In doing this, the USP will deliver infrastructure capable of supporting a connection to all the premises within the cluster. However, premises will only be able to receive a USO connection once one of a number of scenarios has taken place to compensate BT for the excess cost. This includes:

a. the applicants pay the full excess cost

b. BT waives the excess cost

c. BT makes a claim on the Universal Service Fund and is either successful or Ofcom deems there to be no unfair burden in which case the connection is then made available to the cluster without an excess cost payment.

7.41 Any claim on the Universal Service Fund is expected according to Ofcom to take place between 18 to 24 months after the connection has been delivered and BT has had an undisclosed period of time in which to understand what interest there is in the scheme.

7.42 This amendment to the broadband Universal Service Conditions was made following the investigation by Ofcom into BT's compliance with its obligations as a broadband USP, but a number of issues with the scheme were not necessarily clear at the time of consultation on this.

7.43 We, therefore, want to consider whether the current system meets the policy objectives as set out by the government and whether there are other ways of ensuring that the 'lock-in' fee is paid and customers can access a decent broadband connection.

7.44 This is especially important as once BT has delivered an improved service to the area it is potentially less likely that other providers will be as inclined to overbuild, thus, leaving the premises without a broadband connection potentially in perpetuity and/or until a claim on the Universal Service Fund is made.

Consultation questions

Question 7.9

Do you agree with the current process through which consumers are required to pay any excess cost fee as part of the broadband USO?

Question 7.10

Should applicants be able to take up a broadband service on infrastructure delivered through the broadband USO without paying the lock-in fee where it can be shown that the costs to BT have diminished sufficiently?

Question 7.11

Is there any other circumstance where applicants should be able to take up a broadband service on their USO line without paying the lock-in fee?

All consultation questions are collated in Annex A

8 Funding Mechanisms

Introduction

8.1 The broadband USO is entirely industry-funded up to and including the £3,400 (excluding VAT) per-premises reasonable cost threshold. Anything above this threshold is paid for by the applicants with the government currently not funding any aspect of the scheme.

8.2 Section 70 and 71 of the Communications Act 2003 as set out in further detail below sets how Ofcom reviews the costs of compliance with the broadband USO by Universal Service Providers (USPs) (Section 70) as well as how any burden should be shared across the market (Section 71).

8.3 Section 71 also provides Ofcom with the power to set the necessary funding regulations for determining how to compensate USPs where there is an unfair burden placed upon them.

8.4 Ofcom previously consulted on, and set out, these funding regulations[65] in November 2019 and brought them into force in May 2020 shortly after the broadband USO was launched. While the regulations have not been tested to date, the government wants to take this opportunity to ask stakeholders whether the current approach is compatible with any future changes that the government has suggested elsewhere in the consultation.

8.5 This is particularly relevant given the changes in the market that have occurred since 2019. As discussed elsewhere in this consultation, the increase in the number of alternative providers (alt-nets) during this period means that there are now many more communication providers that may be within scope of Ofcom's regulations.

8.6 A short summary on how the funding regulations currently operate is provided below with further detail provided later in the chapter corresponding to the relevant topic area.

8.7 However, it should be noted that the Communication Act 2003[66] as it is currently written specifies that it is for Ofcom to make and enforce these regulations.

8.8 The USPs are able to make a claim on a potential fund for any costs which they feel would not be appropriate for them to cover themselves and which represent an 'unfair burden'.

8.9 However, the USP can only request funding for the cost of delivering the USO minus any benefits that are associated with being a Universal Service Provider (i.e. net cost). Appropriate information to support the USP's request for funding must be provided at

[65] The Electronic Communications (Universal Service) (Costs) Regulations 2020
[66] Communication Act 2003 s70 and s71.

this stage with specific financial information also required to be provided to Ofcom in order for them to be able to make an accurate assessment.

8.10 Should Ofcom determine that there has been a net cost on the USP it will be up to the regulator to determine whether it would be unfair for the provider to bear some, or all of that cost. This approach, set out in the Statement compensating providers delivering the universal services[67] will include the cost to Ofcom and industry of administering an industry fund, the effect on the provider of bearing these costs alone, the method of designating the USPs and the outcome of any previous determinations.

8.11 The Universal Service Fund is only established once a claim is made upon the fund. Providers are required to contribute to the fund based on a determination by Ofcom. This includes a threshold below which any contributions are not required.

8.12 Monies are then collected from the industry and the USP is compensated. The USP is paid on a monthly basis once contributions are received.

8.13 As of June 2023 no claim has yet been made and therefore no fund has been established. As such the government has no real-world evidence as to whether the current funding mechanism is appropriate for the USO.

Funding mechanisms: the issues

8.14 In the following sections we discuss a range of issues relating to the funding mechanisms of the USO. The issues considered are:

a. degree of unfair burden

b. access to the Universal Service Fund

c. contributions to the Universal Service Fund

8.15 We are seeking the views and feedback of market participants and the industry to understand how the current funding mechanisms work and if changes need to be made as part of any review of the broadband USO.

Issue 1: Degree of unfair burden

The current position

- The USPs are required to demonstrate that an unfair burden has been placed upon them when installing any broadband Universal Service connections when making a claim on any potential Universal Service Fund.
- Ofcom does not set out what specific circumstances might give rise to an unfair burden. Current case law states that an unfair burden 'is a burden which, for each undertaking

[67] Ofcom, Compensating providers delivering universal services, 22 May 2020

concerned, is excessive in the view of the undertaking’s ability to bear it, having taken account of the undertaking's own characteristics’.

- However, Ofcom does present a series of factors that should be taken into account when deciding whether there is an unfair burden or not:
  - the degree to which the USP is exposed to competition (since firms with greater market power are less likely to suffer a competitive disadvantage or other adverse effects from bearing a net cost); and
  - the extent to which the USP is constrained by regulation in the market in question, or a closely related market (which could limit the ability of a firm with market power to set prices and so will limit its ability to bear a net cost).

Discussion

8.16 Section 71 of the Communications Act 2003 deals with the sharing of the burden of universal service obligations placed upon a designated service provider. This is the case when Ofcom has reviewed the extent of the financial burden for a particular designated universal service provider under Section 70.

8.17 Section 71 also requires that Ofcom determine whether they would consider it unfair for that provider to bear the whole or any part of such a financial burden.

8.18 As previously highlighted, Ofcom consulted on, and set out, the funding regulations[68] on compensating providers for universal services in accordance with the powers provided to it by the Government under Section 71 of the Communications Act 2003.

8.19 These regulations were considered in November 2019 and brought into force in May 2020 shortly after the broadband USO was launched. Currently when considering whether an unfair burden has been placed on the USP Ofcom has said it would take into account a range of factors including the impact that the net cost will have on the USP in question and the specific characteristics and circumstances prevailing at that time. However this has not yet been tested.

8.20 Ofcom decided when setting out the funding framework that unfairness should take into account:

a. the degree to which the USP is exposed to competition (since firms with greater market power are less likely to suffer a competitive disadvantage or other adverse effects from bearing a net cost); and

b. the extent to which the USP is constrained by regulation in the market in question or a closely related market (which could limit the ability of a firm with market power to set prices and so will limit its ability to bear a net cost).

8.21 Furthermore, Ofcom will also consider the method of designation as a relevant question of whether a verified net cost might constitute an unfair burden. Where a

[68] The Electronic Communications (Universal Service) (Costs) Regulations 2020

provider is directly designated (i.e. not through a competitive procedure) and has relatively limited control over the universal service conditions it faces, Ofcom has stated that it is more likely to find the associated burden unfair, other things being equal.[69]

8.22 These burdens will also be considered against the administrative costs of setting up and administering a Universal Service Fund required to compensate USPs. Ofcom has noted that it would be unlikely to set up such a fund if the cost of administering it is disproportionate to the costs being claimed.

8.23 At the present time, no claim has yet been made for an unfair burden and neither Ofcom nor the government has been able to practically implement the various conditions set out previously.

8.24 However, Ofcom has previously noted that it would take account of relevant case law to understand the full extent of an unfair burden based on previous determinations. It should also, therefore, be considered through this consultation process whether Ofcom should continue to assess the degree of any unfair burden as it has previously stated it would do if a claim was to be made.

Consultation questions

Question 8.1

Should the government consider amending the current approach previously set out by Ofcom regarding the determination of an unfair burden against a Universal Service Provider, if other amendments are made to the USO process? Please explain your reason.

Question 8.2

What costs should Universal Service Providers be able to claim for when making a claim on the Universal Service Fund?

Question 8.3

Should Ofcom continue to interpret the degree of any unfair burden as they have done previously?

All consultation questions are collated in Annex A

[69] Ofcom, Statement: Compensating providers delivering universal services, May 2020

Issue 2: Access to the Universal Service Fund

The current position

- USPs have access to the Universal Service Fund once Ofcom has decided that there is an unfair burden and that it should be redressed through the fund.
- Once Ofcom has collected the industry contributions it will then transfer these contributions to the USP once per month – unless Ofcom considers it would be inappropriate to do so.
- The USP can, if it so wishes, waive its right to receive sums it would otherwise be entitled to. It is up to the USP to decide whether, in any given circumstance, it is prepared to do so.

Discussion

8.25 Any potential Universal Service Fund is only available to the USPs designated as such by Ofcom. If additional suppliers were designated by Ofcom to provide a USO connection then they would also have access to this fund.

8.26 As discussed in other chapters of the consultation document (**Chapter 6**) the department is considering as part of this review whether or not additional suppliers should be designated as USPs. This is based on a number of reasons, further details of which are provided in **Chapter 6**.

8.27 A potential option is to not designate a single provider but instead allow all providers to have access to any potential Universal Service Fund where they deliver a Universal Service connection to a premises that does not currently have a decent broadband connection.

8.28 We are therefore welcoming comments on whether access to a potential Universal Service Fund should be expanded to accommodate providers who are not a designated Universal Service Provider.

Consultation Question

Question 8.4

Should providers, other than the designated Universal Service Providers, who connect a premises which are unable to access a decent broadband connection be able to make a claim on any potential Universal Service Fund subject to the terms and conditions stipulated by the fund?

All consultation questions are collated in Annex A

Issue 3: Contributions to the Universal Service Fund

The current position

- Section 71(6) of the Communications Act 2003 states that any sharing mechanisms should be transparent, proportionate, non-discriminatory, and result in the minimum distortion to competition and customer demand.
- While there is no hierarchy between the 4 principles, Ofcom will take into account all 4 and how they interrelate with the weight given to each principle decided on a case by case basis.
- As a result Ofcom did not, and as of yet has not, specified a particular set of contributors in the funding regulations it has set out.
- However, Ofcom has further clarified that the government can contribute through public funds if it decides it wishes to do so – although it is under no obligation and cannot be compelled.

Discussion

8.29 Under the current funding regulations set out by Ofcom in 2020, neither of the 2 Universal Service Providers have yet made a claim for an ‘unfair burden’ and as a result, the broadband Universal Service Fund has not been set up.

8.30 Therefore, while Ofcom has set out a range of parameters and observations for how such a fund would operate, the government has no real world information on how such a fund would operate in practice.

8.31 Since the broadband USO was introduced in March 2020, a number of other funding mechanisms have come on stream including the Gigabit Broadband Voucher Scheme which launched in April 2021 (after its predecessor was stopped).

8.32 We have already discussed, in **Chapter 6**, whether providers should be able to claim through both the Universal Service Fund and government funding.

8.33 While currently theoretical, the government also wishes to understand whether, since Ofcom ran its consultation on ‘compensating providers for universal services’ in November 2019, changes in the market structure, such as the rise in the number of alt-nets, could impact the process for claiming any ‘unfair costs’.

8.34 In particular, we are interested in hearing from industry as to whether they have any comments or observations on the current system for contributing to a Universal Service Fund.

8.35 The government also welcomes comments on whether the fund should remain permanently fixed once set up, or continue to be created when a claim is made and then dissolved once the claim has been finalised and paid.

Consultation questions

Question 8.5

Should the Universal Service Fund be permanently set up and contributed to by providers or remain as it currently is and only created once Ofcom believes there has been an unfair burden placed upon a provider and then subsequently dissolve the fund after the claim has been paid?

Question 8.6

What further information should be set out on who may be potentially required to contribute to a broadband Universal Service Fund?

Question 8.7

Do you have any comments or observations on the current process for contributing to a potential broadband Universal Service Fund?

All consultation questions are collated in Annex A

Annex A: Consultation Questions

The following questions seek views on the issues raised in this document and on the changes we are considering. The questions are set out in order of the chapters and topics covered.

Responses should be provided in writing and submitted to: uso@dsit.gov.uk

It would be helpful, if throughout your replies, respondents indicate which question(s) you are answering and provide reasons for your responses.

Evidence or data that supports or explains consequences should be provided wherever possible.

Chapter 2: Policy Objectives

Question 2.1

Do you agree with our initial assessment that a broadband USO is still, and will still be, required to ensure a legal right to request decent broadband service? Why?

Question 2.2

Do you agree that the broadband USO should remain a policy separate from commercial delivery and other government-funded interventions?

Question 2.3

What is your opinion of the impact of the broadband USO since it was first announced?

Question 2.4

Do you agree with our policy principle that the broadband USO should be, wherever practicable, technology-neutral?

Question 2.5

Should the broadband USO continue to consider the affordability of service, and what is your view on the current ‘price cap’ mechanism?

Chapter 3: Service requirements and eligibility

Issue 1: Speed requirements

Question 3.1

Do you agree that the government should amend the minimum speed requirements of the broadband USO?

If so:

Question 3.1(a)

What do you think the broadband USO minimum download speed should be?

Question 3.1(b)

What do you think the broadband USO minimum upload speed should be?

Question 3.2

What level of service provision (i.e. web browsing, video calling, video on demand etc.) do you think a USO connection should be capable of delivering?

Question 3.3

If the government amends the minimum speed requirements, should the government set a new review threshold?

Question 3.3(a)

If yes, at what level do you think that the review threshold should be set at?

Issue 2: Other quality parameters (Contention Ratio, Latency, Reliability)

Question 3.4

Not including speed, do you think the government should review the current broadband USO service specifications?

If so:

Question 3.4(a)

Which of the following specifications do you believe need to be updated:

- Contention Ratio

- Latency
- Data Caps
- Reliability

Question 3.4(b)

Please provide your reasoning for your response to Question 3.3(a)

Issue 3: Eligibility requirements

Question 3.5

Should the government consider differentiating the eligibility requirements for businesses and consumers?

If so:

Question 3.5(a)

How should those requirements be differentiated?

Question 3.6

Should the eligibility criteria for the broadband USO be amended?

If so:

Question 3.6(a)

Which of the following criteria should be amended and why?

- Currently available download/upload speed
- The ‘price cap’
- The expected availability of a government-funded rollout within 12 months

Question 3.7

Could the process for determining eligibility be changed to make it easier for applicants, Ofcom or USPs to establish or prove a customer's eligibility?

Chapter 4: Scheme awareness and application journey

Issue 1: Awareness of the broadband Universal Service Obligation

Question 4.1

Should applicants be informed of future government-funded build regardless of whether it is within 12 months or not?

If so:

Question 4.1(a)

Should applicants be informed only when it is potentially specific to their premises or when it applies more broadly to their local area?

Question 4.2

Should applicants be informed of future commercial build intentions where this information is already in the public domain?

Question 4.3

Should applicants be informed where there has been a material change in the applicant's USO circumstances such as a change in the price of a connection or a new ISP?

Question 4.4

Should broadband Universal Service Providers be required to advertise, or communicate to eligible parties, the availability of the broadband USO on a continual basis?

Question 4.5

Should applicants be informed when they can access the USO at no additional cost on a regular basis (i.e. yearly)?

Question 4.6

Should targets be set for the number of USO-eligible premises, that fall below the reasonable cost threshold, that Universal Service Providers should be required to contact each year, to help increase take up?

Issue 2: Customer journey

Question 4.7

Should applicants be informed which premises within their cluster are eligible for the broadband USO?

Question 4.8

Should applicants be informed of all available technology solutions that meet the service requirements of the broadband USO at application?

Question 4.9

Should broadband Universal Service Providers be able to provide information on their own tariffs ahead of those of any third parties?

Question 4.10

Should it be made easier for USO applicants to leave current contracts where they cannot access a USO eligible connection and are able to access a broadband USO connection? How should any consequences to the industry of this change be mitigated?

Chapter 5: Transparency and governance

Issue 1: Governance

Question 5.1

Who do you think should be responsible for the implementation of the broadband USO?

Question 5.2

Based on your answer to Question 5.1, do you think this organisation should be responsible for both the setting, and the enforcement of, the broadband Universal Service Conditions?

Question 5.3

Do you think there should be a separate body governing the broadband USO that is responsible for handling complaints raised by applicants to the broadband Universal Service?

If so:

Question 5.3(a)

Should that organisation simply be responsible for handling complaints or should they have a wider remit over the implementation of the broadband USO such as potentially providing information to applicants on their eligibility?

Question 5.4

Should broadband Universal Service Providers and the chosen Alternative Dispute Resolution provider be compelled to provide Ofcom with more information regarding the complaints received to allow them to be notified of wide-scale issues sooner?

Issue 2: USO reporting

Question 5.5

How regularly do you think the Universal Service Providers should report their metrics on how many USO connections have been delivered?

Question 5.6

Do you think that the current set of metrics as set out by Ofcom are appropriate?

If not:

Question 5.6(a)

What additional metrics do you think that the Universal Service Providers should report on?

Question 5.6(b)

Would you support more granular reporting of where broadband Universal Service connections have been delivered?

Question 5.6(c)

If the Universal Service Providers continue to refer or cross-market their own products over those of other providers through the USO platform/helpdesk, should they be required to report on the extent to which this occurs and whether it results in new service subscriptions and/or customers?

Question 5.6(d)

Do you think any additional reporting should be made available to the public or should any additional data only be made available to Ofcom and the government to enable them to confirm that the broadband USO is being delivered in a fashion that meets the obligations and the policy objectives of the scheme?

Issue 3: Data transparency

Question 5.7

Should the broadband Universal Service Providers and industry be required to provide Ofcom and the government with a full list of USO-eligible unique property reference numbers (UPRNs) on a regular basis?

Question 5.8

Whose responsibility should it be to provide Ofcom with the necessary information on the current status of government-funded procurements, and any expected voucher-funded delivery?

Question 5.9

Should the broadband universal service providers be required to provide Ofcom and the government with a list of UPRNs for all premises that they have connected, and therefore no longer consider are USO-eligible, on a regular basis?

If so:

Question 5.9(a)

How regular should the universal service providers be required to provide this data?

Question 5.9(b)

Should the data be provided at a UPRN level or should it be aggregated to a higher geographical level (i.e. local authority/constituency/postcode)

Question 5.10

Should applicants be informed that they may potentially be able to access a broadband Universal Service below the reasonable cost threshold?

Question 5.11

Should non-USO service providers be informed of premises, identified by UPRN, that are currently unable to access a broadband Universal Service-compliant connection, to better address these premises?

Issue 4: USO complaints procedure

Question 5.12

Is the current complaints process for the broadband Universal Service Obligation leading to effective resolutions for applicants?

Question 5.13

Should the alternative dispute resolution provider (currently the Ombudsman Services) be required to publish the number of complaints they have received in relation to the broadband USO?

If so:

Question 5.13(a)

Would it be appropriate for the alternative dispute resolution provider to provide information on the nature of the complaints received?

Chapter 6: Industry delivery

Issue 1: Third parties' availability and willingness to deliver a USO connection

Question 6.1

If changes are made to the broadband USO, should consideration be given to running a new designation process for the Universal Service Providers?

If so:

Question 6.1(a)

Should there be one or more USPs for the entire country?

Question 6.1(b)

Should designation of USP-specific areas (of appropriate design) be based on the commercial market and broader supplier capability and capacity in that area?

Question 6.2

Should USPs be able to transfer their legal responsibilities to another undesignated commercial provider where that alternative provider is able to deliver a connection in a more efficient manner?

If so:

Question 6.2(a)

Do you have any suggestions as to how delivery could be ensured?

Question 6.2(b)

Should applicants be able to request the transfer to another provider or should it be the responsibility of the USP?

Question 6.2(c)

What safeguards should be considered to ensure accountability for delivering the USO connection?

Question 6.3

Should a distinct Universal Service delivery entity, responsible for collating all eligible USO UPRNs and passing them to USPs, and where appropriate, commercial providers, to deliver be considered?

Issue 2: Supplier neutrality

Question 6.4

Should applicants be made aware of all potential options for a USO-eligible connection when applying for a USO connection, insofar as it is possible to do so?

Question 6.5

Should there be a supplier-independent 'first point of contact' for USO applicants to ensure they get neutral and objective information on other available schemes and commercial products?

Issue 3: Market competition

Question 6.6

Should USPs be able to combine government funding with industry funding from the Universal Service Fund, if this can be achieved without market distortion?

If so:

Question 6.6(a)

What changes in market structure and/or USO delivery do you think would be required for this to be reasonable?

Question 6.7

Should there be a limit on the amount of excess burden an individual provider can claim and/or the number of premises that they are able to claim for?

Question 6.8

Should other providers be made aware of the claim and be able to challenge the claim where they can show that the premises already have a USO-compliant connection available to them, and that information was made available to Ofcom and/or the USP?

Chapter 7: Costs, including the Reasonable Cost Threshold and Costs to Recipients

Issue 1: Quote breakdown/transparency

Question 7.1

What information do you believe applicants should expect to receive from Universal Service Providers regarding the costs of connection?

Question 7.2

How much information should applicants receive regarding which other premises will potentially be served by the broadband USO proposed infrastructure?

Question 7.3

Should USPs be required to provide additional information on why the cost of connection is above a certain threshold and/or be required to communicate with premises when/if that cost decreases?

Issue 2: Reasonable cost threshold vs excess cost threshold

Question 7.4

Should the reasonable cost threshold be amended?

If so:

Question 7.4(a)

At what level would you recommend the reasonable cost threshold be set? What evidence or analysis can you provide to support your recommendation?

Question 7.4(b)

Should the reasonable cost threshold continue to be uprated? If so, how should this be achieved?

Question 7.5

Should the excess cost threshold at which applicants are required to pay the entirety of the excess costs themselves – or split between neighbours – be amended?

If so:

Question 7.5(a)

At what level would you recommend the excess cost threshold be set? Do you have any evidence or analysis to back up your recommended level?

Question 7.6

Should the aggregate demand threshold of 70% be amended?

Issue 3: Requirement for upfront payment

Question 7.7

Should applicants have a range of different payment options to pay for an excess cost of connection? Please explain your rationale.

Question 7.8

Should applicants who are unable or unwilling to pay the full cost initially be able to access the USO connection until such time as they have paid the full excess cost?

If so:

Question 7.8(a)

How would you propose mitigating the risks of future default to providers?

Issue 4: Issue of costs for non-applicant beneficiaries

Question 7.9

Do you agree with the current process through which consumers are required to pay any excess cost fee as part of the broadband USO?

Question 7.10

Should applicants be able to take up a broadband service on infrastructure delivered through the broadband USO without paying the lock-in fee where it can be shown that the costs to BT have diminished sufficiently?

Question 7.11

Is there any other circumstance where applicants should be able to take up a broadband service on their USO line without paying the lock-in fee?

Chapter 8: Funding mechanisms

Issue 1: Degree of unfair burden

Question 8.1

Should the government consider amending the current approach previously set out by Ofcom regarding the determination of an unfair burden against a Universal Service Provider, if other amendments are made to the USO process? Please explain your reason.

Question 8.2

What costs should Universal Service Providers be able to claim for when making a claim on the Universal Service Fund?

Question 8.3

Should Ofcom continue to interpret the degree of any unfair burden as they have done previously?

Issue 2: Access to the Universal Service Fund

Question 8.4

Should providers, other than the designated Universal Service Providers, who connect a premises which are unable to access a decent broadband connection be able to make a claim on any Universal Service Fund subject to the terms and conditions stipulated by the fund?

Issue 3: Contributions to the Universal Service Fund

Question 8.5

Should the Universal Service Fund be permanently set up and contributed to by providers or remain as it currently is and only created once Ofcom believes there has been an unfair burden placed upon a provider and then subsequently dissolve the fund after the claim has been paid?

Question 8.6

What further information should be set out on who may be potentially required to contribute to a broadband Universal Service Fund?

Question 8.7

Do you have any comments or observations on the current process for contributing to a potential broadband Universal Service Fund?

Annex B: Glossary

Category	Term/acronym	Meaning
Broadband technology	**FTTP/FTTH**	**Fibre to the Premises/Fibre to the Home** - This refers to an access network structure in which the optical fibre runs from the local exchange to the end user's living or office space. Also known as 'full fibre'.
	FTTC	**Fibre to the Cabinet** - An access network structure in which the optical fibre extends from the exchange to the cabinet. The street cabinet is usually located only a few hundred metres from the subscriber's premises. The remaining part of the access network from the cabinet to the customer is usually copper wire.
	Cable	Telecommunications infrastructure which uses cable networks, such as Data Over Cable Service Interface Specification (DOCSIS-3) networks.
	Contention Ratios	Contention ratio is how many other people are sharing the same internet connection at any one time. The higher the contention the more likely the broadband connection is to slow down at peak times.
	Superfast Broadband (SFBB)	Download speeds from 30 Mbps up to 100 Mbps.
	Ultrafast Broadband (UFBB)	Able to deliver download speeds equal to or greater than 100 Mbps.
	ADSL	**Asymmetric Digital Subscriber Line** - A technology used for sending data quickly over a conventional copper telephone line. It is used in current internet services with download speeds up to 24 Mbps.
	Application Programming Interface	The **Application Programming Interface** is a software intermediary which allows 2 or more computer programmes to communicate with each other.

	Gigabit	A unit measurement of data. One gigabit is the equivalent of 1,000 Megabits. Gigabit-capable broadband provides a broadband connection of at least 1 Gigabit per second (Gbps) data download speeds.
	Gigabyte	A unit measurement of data. The equivalent of 8 gigabits (or 8,589,934,592 bits of information). Each byte is 8 bits.
	Terabit	A unit measurement of data. The equivalent of 1,000 Gigabits. In test environments, FTTP connections have achieved speeds of more than 1 terabit per second.
	Terabyte	A unit measurement of data. There are 1000 gigabytes in a terabyte (or 1,024 in a Tebibyte, if using binary prefixes).
Wireless technology	**Wireless**	High-speed internet access where connections to the premises use radio signals rather than cables.
	4G	4th-generation mobile phone standards and technology. Provides faster mobile data speeds than the 3G standards it succeeds.
	5G	The term used to describe the next generation of wireless networks beyond 4G mobile networks. 5G is expected to deliver faster data rates and better user experience.
	GEO	**Geosynchronous Orbit satellites**, operating c.35,800km from Earth. Typically communication, TV, and weather satellites, they stay over the same point of the equator by matching the direction and speed of the Earth's rotation.
	LEO	**Low Earth Orbit satellites**, operating between 180 and 800km from Earth. Currently, they are typically Earth observation satellites, whose close orbits enable better visibility of the Earth's surface. LEO satellites are increasingly used to provide digital connectivity through companies like Starlink and OneWeb.
	FWA	**Fixed Wireless Access**. Internet access provided over the airwaves using wireless network technology, rather than a physical connection through traditional fibre or copper wiring.
	HAPS	**High altitude platforms**. Non-terrestrial but also non-space based technologies used to support communications networks (and sometimes other

		applications, such as near-earth imaging). ITU radio specifications consider HAPS as being deployed within the stratosphere, normally between 20km and 50km about the earth.
Broadband/ connectivity Terminology/ regulation	**Backhaul**	The connection from a mobile mast (or fixed network access node) back to a data centre (or other point of interconnection). While a backhaul can be done via a wireless or satellite connection, typically it is conducted via fibre networks wherever possible.
	Benefits Cost Ratio	A benefit cost ratio is an indicator of the overall value for money of a project, showing the relationship between costs and benefits of a proposed project. Where a project's benefits cost ratio is greater than 1.0 it is expected to deliver a positive net present value.
	Connected Nations	A report published or updated by Ofcom three times a year, reporting on statistics for broadband and mobile coverage in the UK.
	Latency	The time it takes for data to travel from an end-user to a data centre server and back. High latency means broadband connections feel slow to end-users and cause issues for certain activities, like online gaming.
	Premises	Used to describe both business and residential end-users who may be able to benefit from a broadband Universal Service Obligation connection.
	VHTR	**Very Hard to Reach premises** - a premises that is unlikely to receive a gigabit-capable broadband connection from either a commercial or government-funded broadband intervention.
Government market interventions and other relevant programmes	**GBVS**	**Gigabit Broadband Voucher Scheme** - Since April 2021, eligible homes and businesses in rural areas that are part of a group project have been able to access a voucher to help fund an improved connection.
	SRN	**Shared Rural Network** - An initiative led by DSIT (formerly as DCMS) to get 4G mobile connectivity to 95% of the UK's landmass, working with 4 leading mobile operators.

	Superfast Broadband Programme	A BDUK-led programme committed to subsidising the roll-out of broadband infrastructure in harder-to-reach areas. The programme launched in 2010 and has predominantly focused on providing superfast (30 Mbps) broadband speeds.
	Project Gigabit	A £5 billion programme to support the rollout of gigabit-capable broadband in hard to reach parts of the United Kingdom. Project Gigabit is managed by Building Digital UK.
	USO	**Broadband Universal Service Obligation** - a digital 'safety net' for premises currently unable to access a decent broadband connection of at least 10 Mbps download and 1 Mbps upload. The USO was launched in March 2020 and gives every premises the legal right to request a decent, affordable broadband connection subject to meeting the necessary eligibility criteria, up to a reasonable cost limit. It is overseen by Ofcom and funded by the telecoms industry.
	Telephony USO	A requirement on BT and KCOM to provide telephony services throughout the UK, including public call boxes. It was established in legislation in 2003 and is aimed at ensuring rural areas and vulnerable customers, who the market may not otherwise serve, receive a telephony service.
Type of telecoms provider	**ISP**	**Internet Service Provider** – An organisation which provides households / businesses access to the internet. ISPs do not always own the infrastructure used to provide services, and can use the infrastructure owned by network providers to provide services.
	WISP	**Wireless Internet Service Provider** - As 'ISP' above, but specifically using a wireless network for services.
	Network provider	Telecommunications providers which own infrastructure which is used to deliver internet services.
	Alt-nets	**Alternative network** – Smaller network providers that are typically not reliant on the Openreach network (though they may make some use of Openreach's passive infrastructure).
	MNO	**Mobile Network** Operator - a provider of wireless communications services. The UK's 4 largest

		mobile networks are EE (BT), O2, Three and Vodafone.
Public sector organisations involved in policy, regulation or delivery	**BDUK**	Building Digital UK, an Executive Agency of DSIT.
	DSIT	Department for Science, Innovation and Technology, created in February 2023. Responsibility for digital infrastructure previously sat with DCMS as the Department for Digital, Culture, Media and Sport.
	DEFRA	Department for Environment, Food and Rural Affairs.
	Local Bodies	Local Authorities and Devolved Governments responsible for delivering local Superfast Broadband Programme projects. Some also deliver other digital infrastructure projects or have provided ‘top-ups’ to the Gigabit Broadband Voucher Scheme.
	Ofcom	Office for Communications. Ofcom is the independent regulatory body responsible for telecoms and digital infrastructure issues, amongst other topics.

This consultation is available from: www.gov.uk/government/organisations/department-for-science-innovation-and-technology

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