

**Response to the Department for Science, Innovation & Technology (DSIT) Consultation:
Digital Connectivity: Reviewing the broadband Universal Service Obligation**

Closing date: Monday 27 November 2023

By email to: uso@dsit.gov.uk

About Us

1. Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020,ⁱ we are accountable to the Scottish Parliament. The Act provides a definition of consumers which includes individual consumers and small businesses that purchase, use or receive products or services.
2. Our purpose is to improve outcomes for current and future consumers and our strategic objectives are:
 - to enhance understanding and awareness of consumer issues by strengthening the evidence base
 - to serve the needs and aspirations of current and future consumers by inspiring and influencing the public, private and third sectors
 - to enable the active participation of consumers in a fairer economy by improving access to information and support.
3. Consumer Scotland uses data, research and analysis to inform our work on the key issues facing consumers in Scotland. In conjunction with that evidence base we seek a consumer perspective through the application of the consumer principles of access, choice, safety, information, fairness, representation, sustainability and redress.
4. We work across the private, public and third sectors and have a particular focus on three consumer challenges: affordability, climate change mitigation and adaptation, and consumers in vulnerable circumstances.
5. Consumer Scotland welcomes the opportunity to respond to this consultation on reviewing the broadband Universal Service Obligation (USO) by the Department for Science, Innovation & Technology (DSIT).

Summary

6. Consumer Scotland supports the objectives of this Review. We recognise that the broadband USO remains a valuable mechanism to ensure that consumers in remote, rural and island communities across Scotland are able to access an affordable broadband connection that meets their needs . We note that the broadband USO is only part of a wider picture, including measures to encourage connections in hard to reach areas, and government funded voucher programmes.
7. We would welcome a review of the adequacy of the current minimum connectivity threshold of 10 Mbps. As research undertaken by Loughborough University has shown that 67Mbps would be more suitable to meet the needs of consumers,ⁱⁱ and the Scottish Government's Reaching 100% programme is delivering speeds of at least 30 Mbps, we are of the view that this minimum standard of delivery can be improved. Over 70% of premises across the UK are already accessing speeds of 30Mbps and higher and it is an important principle of consumer fairness that those reliant on the USO for a broadband connection should not experience a significantly poorer service than other consumers. Further, as average commercial broadband speeds increase year-on-year, it is important that USO provision maintains pace with these developments, to avoid creating an ever-growing divide in consumer experienceⁱⁱⁱ
8. Payment options should be introduced to make USO broadband more affordable and accessible to those consumers who are unable to pay for excess connection charges in full in advance.
9. Research by Which? has found that in 2022, 60% of consumers had not heard of social tariffs.^{iv} We agree that USPs could do more to proactively raise awareness of the USO amongst consumers and to ensure it is as easy as possible for them to understand whether they are eligible for USO broadband, and if so how to apply or if they have other options for obtaining connections.
10. We would welcome USPs reporting more frequently and at a more granular level around the level of applications made and approved, which will allow better information regarding which areas or types of premises are not being assisted by the USO. This includes reporting on progress on complaints on a more detailed level. In regard to complaints it would be helpful for the Communications Ombudsman to remain in open dialogue with Ofcom to flag up, on an anonymised basis, the nature and frequency of issues being raised by complainants surrounding the operation of the broadband USO.

Background

11. Consumer Scotland notes that since March 2020, the broadband USO has provided consumers, including small businesses, with a legal right to request an affordable broadband connection of at least 10 Mbps download and 1 Mbps upload, defined by Ofcom as “decent” broadband in 2016.^v The right is rooted in the Electronic Communications (Universal Service) (Broadband) Order 2018.^{vi} Only premises that cannot receive these speeds from existing fixed broadband, fixed wireless technologies, and mobile broadband are eligible for USO connections. The broadband USO thus acts as a ‘digital safety net’ where premises are not included in commercial, or government-funded, broadband rollouts in the near future.
12. The broadband USO is fully funded by the telecoms industry. Costs of up to a maximum of £3,400 per premise are covered by the industry, with excess to be paid by the applicant. BT (and KCOM in Hull) are the Universal Service Providers (USPs) responsible for fulfilling requests from eligible consumers. 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 number of properties in the cluster of USO premises in which they are located.
13. In May 2023, 0.6% of homes and businesses in Scotland were unable to access a “decent” broadband service and therefore eligible for a USO connection according to Ofcom’s *Connected Nations update: Summer 2023*.^{vii} Across the UK as a whole, this figure was 0.2%. The estimated UK total number of premises without access to USO broadband at that time was 62,000. Ofcom’s *Connected Nations 2022* report anticipates that by March 2025, there will still be 12,200 premises in Scotland without access to decent broadband, and which may therefore be eligible for the broadband USO.^{viii}
14. We note that the overarching policy objective of the USO is to enable all consumers to fully participate in society through enabling affordable, decent internet access. According to the Scottish Household Survey 2021, the percentage of adults in Scotland using the internet either personally or professionally increased from 92% in 2020 to 95% in 2021.^{ix} The primary reasons given for using the internet are to send and receive e-mails, and to search for information (95%), while 86% of internet users cited buying goods and services as a reason they go online.
15. With nearly all adults in Scotland using the internet for these key activities, it is increasingly important that consumers not only have an internet connection, but that their connection is reliable and fast enough to enable them to communicate and access

services at the required speed to engage with markets and services effectively. A literature review of consumer vulnerability recently published by Consumer Scotland notes that, while the availability of e-commerce and other digital transactions now offers consumers a wider range of choices in potentially global markets, a lack of access can result in sub-optimal outcomes for consumers.^x

16. In some markets, the proliferation of online options has contributed to a reduction in physical outlets of high street fashion retailers and services in particular, and therefore a general decline in access to these markets for those who are digitally excluded. Reporting on store openings and closures in Scotland from January to June 2023, consultancy firm PWC voiced concerns over the continued closure of service providers such as banks and estate agents as they move online.^{xi}
17. Furthermore, the rise in online markets also creates greater divergence in the consumer experience, and has led to bigger gaps emerging between those who are able to exploit the benefits of online markets, and those who are not - for reasons of access, confidence, skills and safety. According to research by Lloyds Banking in 2022, consumers with high or very high levels of digital engagement save around £659 more each year than those who spend less time online.^{xii}
18. We are aware that DSIT is currently also consulting on *Improving Broadband for Very Hard to Reach Premises* until 27 November.^{xiii} In addition, we note that there is also a separate Universal Service Obligation for postal services, which Ofcom is currently preparing to review and consult on.^{xiv} We would welcome a coordinated, holistic approach being taken in relation to these reviews, ensuring that the changing needs of communications services consumers can be met and considering the interdependencies between different communication methods. In particular we are concerned that the USO arrangements for post and broadband must be capable of meeting the needs of consumers in vulnerable circumstances and those consumers resident in rural and remote areas in Scotland.

Improving Affordability

19. The Communications Consumer Panel's (CCP) *The Struggle for Fairness* report notes that the costs of USO connections can be prohibitively expensive.^{xv} Cost is noted as one of the major frustrations for remote and rural consumers, especially where the required infrastructure may be in place and nearby. Respondents noted that the costs often reached into the tens or even hundreds of thousands of pounds, with one participant

stating that the cost of establishing a 10 Mbps service to their address would cost more than it did to buy the house.

20. Consumers who are required to pay the excess for their connection, are at a disadvantage compared to those in urban areas, or those who do require a USO broadband connection costing less than the threshold. As the proportion of houses without a USO connection decreases, the average costs of the remaining connections are likely to rise as the complexity of the build is likely to be higher. In addition, if other premises within a cluster have already been connected, there will be less aggregated demand and there will be fewer premises within a cluster to split costs with than there may have been initially. We are of the view that further consideration will need to be given as to what appropriate and equitable models exist to meet the excess costs of these connections.
21. DSIT considers that introducing a range of payment options to help increase access and that may assist in reducing the likelihood of consumers needing to potentially accrue debt, to finance a decent broadband connection. We therefore support implementing a mechanism allowing consumers to pay in instalments for the connection.
22. We note that the consultation document highlights Ofcom's choice of uniform pricing,^{xvi} but it does not empower Ofcom to implement a mandatory social tariff for broadband USO. In their capacity as broadband providers, BT and KCOM have made their social tariffs available to USO consumers. As of February 2023, 53% of benefits claimants across the UK were unaware of social tariffs.^{xvii} Research by Which? has found that 63% of eligible consumers had not heard of social tariffs, of this 60%, half said that they would be likely to sign up having now heard about them.^{xviii}
23. We recommend that all the information USPs provide to potential USO applicants should include information about the available social tariffs, eligibility, and how to access them. USPs should be required to provide and report on the provision of such information at least annually, using common metrics across providers to allow for scrutiny by consumers and other stakeholders.

Meeting Consumer Needs for Broadband Usage

24. It is important that broadband is delivered to a standard that meets consumers' needs. In 2021, the Centre for Research in Social Policy at Loughborough University conducted a study to establish a benchmark for a minimum digital living standard for households with children. The report concluded that a minimum digital living standard includes having accessible internet, adequate equipment and the skills, knowledge and support people

need.^{xix} In research carried out in 2021, the Communications Consumer Panel also noted the increase in home working and ‘digital by default’ delivery of services and called for the UK Government to look into enshrining the concept of minimum digital access in law.^{xx}

25. The study also found that accessing home broadband with a stable, reliable connection and adequate speed was fundamental to having a minimum digital living standard and was required to allow families to engage in a range of different tasks on different devices at the same time without causing one another difficulty. Enabling all family members to be online at the same time and accessing the internet via a range of devices has implications for the speed of internet needed, as the required broadband speed would vary depending on the size of the household and how it is being used. Groups participating in the minimum digital living standard research raised the difficulties of having insufficient speed, noting examples where lagging or buffering inhibited their internet use, affecting their ability to participate socially and use technology for work and educational purposes.
26. Based on its own research findings, the Rural Services Network argued in its response to the House of Lords Communications and Digital Select Committee inquiry *Digital exclusion and the cost of living* (2023) that the USO minimum should be updated to superfast broadband download speeds of 25 to 30 Mbps, in order to meet current requirements for everyday essential uses.^{xxi} This corresponds with the Scottish Government’s Reaching 100% (R100) programme, which is delivering speeds of at least 30 Mbps.
27. Additionally, average broadband speeds will continue to increase over the next few years. According to Ofcom’s *Connected Nations update: Summer 2023*, nearly 22.4 million UK homes (75%) are now able to access gigabit-capable broadband. With 97% of homes and over 70% of all premises in the UK currently already accessing speeds of 30Mbps, maintaining the USO at only 10Mbps risks creating greater disparity between consumers in the very short term, and will lead to USO consumers experiencing ever worsening outcomes compared to their peers. Given the above, the commitment to deliver a connection capable of supporting only 10 Mbps can be considered outdated, inadequate, and in need of upgrading.
28. There is no set time period to change the 10 Mbps requirement; however, the House of Commons Scottish Affairs Committee already warned in 2018 that 10 Mbps would not meet consumer needs as early as in 2020, and recommended that the UK Government review the USO specifications within 6 months. In its report on digital exclusion in June

2023, the House of Lords Communications and Digital Committee recommended that Ofcom reviews the adequacy of the Universal Service Obligation and definition of a “decent broadband service”, taking into account the potential impact on private and Government investment that would arise from any changes.^{xxii} Consumer Scotland notes that consumer behaviours, including working and studying from home, have continued to evolve, leading consumers to require higher speeds, greater volumes of data and lower latency levels.

29. Consumer Scotland’s definition of consumers includes small businesses (>50 employees) that purchase, use or receive products or services^{xxiii} and we are aware of a range of pressures being experienced by small businesses. A study by Ofcom covering the period from January to April 2022, showed that rural Small and Medium Sized Enterprises (SMEs) are particularly likely to be dissatisfied with the geographic availability, reliability and service of broadband connections.^{xxiv}
30. Given all of the above, Consumer Scotland takes the view that upward revision of the minimum Mbps speed related to the USO should be established to at least Superfast levels of 30Mbps and preferably above the level of 50Mbps. Although this would represent a considerable increase in current USO speeds, in practice, we are aware that many USO connections are gigabit capable and we consider a higher speed would help to future proof the USO.
31. Consumer Scotland would welcome the publication of more frequent and detailed reporting by USPs, to allow for awareness and scrutiny by consumers and other stakeholders, and to identify which areas are experiencing relatively lower take-up of USO connections compared to other areas. Such data should be used to inform further measures to help reach the very hardest to reach consumers and premises, as the most complex and remote premises are likely to be the ones to be connected last.

Awareness and Information

32. Consumer Scotland notes DSIT’s assessment that awareness of the broadband USO remains low. As per the consultation document, by March 2023, three years after the launch, applications had been received for 10,135 eligible premises out of the 50,000 that were at that point eligible across the UK. We would welcome research into the discrepancies between eligibility, awareness, and take-up of USO connections.
33. We agree that in any case, USPs must do more to ensure consumers in eligible premises are aware and able to apply for and benefit from the broadband USO. Consumers may move house, their needs and financial circumstances may change. We recommend that

addresses that are eligible should receive notifications through their letterbox initially, but also each time circumstances change that may impact on their decision to apply for USO broadband, such as:

- A change in the prospective connection cost changes, in particular when it becomes less expensive
- When other eligible premises within their cluster have registered an interest or applied for USO broadband

34. We recommend that USPs should be required to annually post notifications to premises that are eligible for USO broadband. We would also encourage DSIT to consider other routes through which potential eligibility for USO broadband might be promoted. This could include, for example, information being provided in local services such as public libraries, post offices and health centres in geographic areas where there may be a relatively significant number of eligible premises.

35. DSIT also recognises that applicants are often typically unaware that they may be able to access a USO level of connection via a 4G or 5G Fixed Wireless Access service. We would welcome putting measures in place that make it easier for consumers to find out that this is the case, and which providers offer the required speeds.

36. DSIT is considering whether more transparency is needed in relation to price breakdowns for USO applicants. Consumers must be given sufficient information to make an informed decision on whether to purchase a good or service. Cost transparency is an important element of enabling the consumer to determine what action to take. The consultation document acknowledges that there is confusion amongst applicants and those supporting them, about exactly what costs a quotation is comprised of.

37. Consumer Scotland would welcome more clarity and transparency on the website of the designated USP for all of Scotland, BT.^{xxv} Quotes are currently broken down into the costs for planning and surveys, cable and jointing, and civil engineering works. However, the website does not contain any information on how price breakdowns are made up. We recommend including, in the Frequently Asked Questions section of the website, a worked example to help consumers understand exactly how the pricing structure works. To increase consumer understanding, quotations should also include information regarding the choice of technology being used.

The Consumer Journey

38. The consultation document highlights that in some cases, the Ofcom speed checker shows consumers 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. The consultation cites evidence received by DSIT from applicants, stating they have had to prove that in practice this was not the case, in some cases requiring a contract to be taken out, with minimum commitment periods. While Consumer Scotland has no access to this evidence, consumers should not have to enter into a contract they cannot make use of, with associated costs, to prove eligibility for a government programme and if this is a current practice, we recommend exploring alternative options are offered to ascertain eligibility, or measures to ensure such contract costs are waived or paid for by the USP if eligibility has been proven.
39. The BT website refers to the possibility of consumers being able to split the excess costs with other premises in their cluster and refers to a free of charge USO help desk number. However, it is left to the consumer to then contact other premises in the cluster to organise sharing of costs and crowdfunding, placing a substantial burden on consumers. Rather, we recommend that USP should be encouraged to take a stronger role in advising other eligible premises in a cluster of the opportunities to engage.
40. Currently, consumers in Scotland should file complaints regarding the broadband USO process with their local BT Universal Service Helpdesk. If the matter has not been resolved after eight weeks, the consumer can approach the Communications Ombudsman (formerly Ombudsman Services). In order for Ofcom to become aware of trends, it would be helpful if USPs reported progress on complaints on a more detailed level, and the Communications Ombudsman remains in dialogue with Ofcom to flag up, on an anonymised basis, the nature and number of complaints. Such information will enable Ofcom to investigate, in the same way it previously investigated BT's compliance as a broadband USP.^{xxvi}
41. In the period from 1 April until 30 September, BT received 15 new complaints, resolved 9 complaints, closed 14 complaints without resolving them, and referred 3 complaints to Alternative Dispute Resolution.^{xxvii} We recommend that USPs should provide a more detailed record of the type of complaints and the breakdowns of those that tend to be resolved and those which are not. This will help to identify trends in unresolved complaints, and will provide wider clarify and understanding on the underlying reasons for complaints that are not resolved.

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- i [Consumer Scotland Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)
 - ii [MDLS-UK-report_Final-2.pdf](#)
 - iii [Reviewing the broadband Universal Service Obligation - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
 - iv [Broadband social tariffs research - Which? Policy and insight](#)
 - v [Achieving decent broadband connectivity for everyone \(ofcom.org.uk\)](https://ofcom.org.uk)
 - vi [The Electronic Communications \(Universal Service\) \(Broadband\) Order 2018 \(legislation.gov.uk\)](https://legislation.gov.uk)
 - vii [Connected Nations - Summer Update 2023 \(ofcom.org.uk\)](https://ofcom.org.uk)
 - viii [Connected Nations 2022 \(ofcom.org.uk\)](https://ofcom.org.uk)
 - ix [Scottish Household Survey 2021 Telephone Survey – key findings \(www.gov.scot\)](https://www.gov.scot)
 - x <https://consumer.scot/media/tiqattu5/literature-review-on-consumer-vulnerability.pdf>
 - xi [Store openings and closures H1 2023 - PwC UK](#)
 - xii <https://www.lloydsbank.com/banking-with-us/whats-happening/consumer-digital-index.html>
 - xiii [Digital Connectivity: Consultation on Improving Broadband for Very Hard to Reach \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
 - xiv [Ofcom to produce potential options for the future of the universal postal service - Ofcom](#)
 - xv [ccp-acod-the-struggle-for-fairness---rural-and-remote-communities-research-report-\(july-2023\).pdf \(communicationsconsumerpanel.org.uk\)](https://communicationsconsumerpanel.org.uk)
 - xvi [Statement: Delivering the Broadband Universal Service \(ofcom.org.uk\)](https://ofcom.org.uk)
 - xvii [Half of low-income households in the dark over broadband social tariffs - Ofcom](#)
 - xviii [Broadband social tariffs research - Which? Policy and insight](#)
 - xix [MDLS-UK-report_Final-2.pdf](#)
 - xx [Feeling 'up to speed' and staying connected \(communicationsconsumerpanel.org.uk\)](https://communicationsconsumerpanel.org.uk)
 - xxi committees.parliament.uk/writtenevidence/119015/html/
 - xxii [Digital exclusion \(parliament.uk\)](https://parliament.uk)
 - xxiii [Consumer Scotland Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)
 - xxiv [SME consumer experience in the communications market \(ofcom.org.uk\)](https://ofcom.org.uk)
 - xxv [Universal Service Obligation \(USO\) for Broadband \(bt.com\)](https://bt.com)
 - xxvi [Investigation into BT's compliance with its obligations as a broadband universal service provider - Ofcom](#)
 - xxvii [BT report on progress against the Broadband USO - October 2023](#)