

Consultation on Draft GSR-23 Best Practice Guidelines

Regulatory and economic incentives for an inclusive sustainable digital future

The Office of Communications (Ofcom) is the United Kingdom's independent communications regulator. Our job is to make communications work for everyone, and our remit covers a wide range of areas – spectrum, post, communications networks, broadcasting, video-sharing platforms, and soon, online safety.¹

Effective regulation relies on key regulatory foundations.

Innovations in regulatory frameworks need to be founded in good regulatory practice generally, and we suggest that the best practice guidelines should continue to stress the importance of evidence-based, inclusive decision-making and regulatory independence.

- *Inclusive decision-making:* We find that evidence-based regulation is strongest when it is informed by the perspectives and experiences of a wide range of stakeholders. This can come from public consultations and calls for evidence that allow private sector, civil society, and others to contribute to the decision-making process, as well as through less formal dialogue. We recommend that consultations are conducted as openly as possible and the regulator responds in summary to the statements it receives. A practical illustration of this comes from [our consultations on emergency video relay](#), which included videos in British Sign Language as part of the consultation and notification process.
- *Regulatory independence:* Being independent from both government and industry is crucial for the legitimacy of regulatory decision-making. Being sufficiently resourced is also critical to ensuring a regulator's ability to carry out its functions independently. Indeed, this challenge is particularly acute as regulators need new skills and capacities for regulation of the digital space. As these guidelines consider regulators' roles with emerging technology, they should stress the importance not just of new trends but long-term institutional capacity to address them.

No single 'perfect solution' exists for covering gaps in rural and remote areas.

The United Kingdom has seen a range of policy and regulatory interventions to improve connectivity and increase internet use in rural and remote areas:

- *Universal service:* Regulatory instruments, such as universal service obligations, can help ensure adequate coverage in rural and remote areas where the market does not naturally fill all gaps. The introduction of [fixed broadband universal service obligations](#) in 2018 was implemented in consultation with the two service providers to whom these obligations

¹ Contact point for this contribution: Teddy Woodhouse, International Policy Manager at Ofcom
<teddy.woodhouse@ofcom.org.uk>

apply. Through this, since then just under [9,500 homes](#) have received new fixed broadband connectivity.

- *Infrastructure sharing:* Covering rural and remote areas can present particularly challenging business cases for network operators. In addition to *ex post* measures, such as universal service obligations, *ex ante* regulatory measures like infrastructure sharing can enhance the market's capacity to provide services to these areas. Shared infrastructure, especially in rural and remote areas where an appropriate return on investment might be more difficult to secure, can help reduce the costs of meeting coverage obligations. Our [Shared Rural Network](#) project offers a recent example of public-private partnership that reduces the capital costs per operator, brings together multiple sources of capital for network expansion, and offers improved quality of service and better coverage for mobile customers. Through this programme, [over 150 new masts have been constructed](#) and more have been upgraded. Regulators have a role to play in such partnerships through monitoring and evaluating service performance and enforcing compliance with the terms of the sharing agreements, as well as monitoring for competition concerns.
- *Demand-side interventions:* In addition to influencing the supply side of network build-out, the regulator might have a role alongside Government in the form of demand-side interventions, particularly targeting unserved and underserved communities, that can then precipitate better market conditions for investment. In some areas lower user demand might be addressed through promoting digital skills and media literacy. Under our [Making Sense of Media](#) programme, Ofcom carries out research to understand the user capacities and perceptions across the country and convenes and commissions local organisations involved in developing digital skills. As well as informing our understanding of consumer use of ICT services, this work also informs our efforts to empower users to increase online safety.

Regulators need resources and the capacity to respond to the challenges posed by emerging technologies.

Existing established regulatory regimes face novel challenges as new technologies enter into and disrupt traditional communications markets. In some cases, communications regulators might be given new statutory duties and see extensions to their remit. To address these challenges, regulators need the regulatory capacity not just for traditional market supervision and enforcement but also to support research and ensure they can anticipate and understand the impacts of those new technologies on the regulated markets. Ultimately, all stakeholders (both industry and users) will benefit from regulators having the capacity to anticipate technological and market developments, which enables them to operate strategically rather than merely reactively, being proportionate and targeted in their regulation.

- *Research capacity:* Ofcom has used its research capacity to explore and anticipate new regulatory challenges. This includes research into themes such as [emerging technologies](#), the [Internet of Things](#), [online content](#), and [consumer policy for vulnerable groups](#). This research allows us to engage and share knowledge with industry and civil society stakeholders and develop institutional capacity to address harms more quickly as relevant powers are assigned to us. In addition, carrying out and publishing research allows regulators to identify areas of potential policy concern, signalling to the market where their concerns might lie and informing eventual conversations with industry stakeholders on how to respond to them. The evidence collected also helps inform more appropriately targeted and hopefully more effective regulatory interventions.
- *Regulatory coordination in the digital landscape:* It is increasingly clear that the digitalisation of the communications markets requires proactive coordination between different adjacent regulatory regimes, including telecommunications, data protection, and market competition. With all three regimes potentially intervening in the digital space, there is a risk of regulators inadvertently undermining each other's activities or indeed missing opportunities to coordinate their activities for more effective outcomes. Ofcom has joined with the UK's Competition and Markets Authority (CMA) the Financial Conduct Authority (FCA) and the Information Commissioner's Office (ICO) to establish the [Digital Regulation Cooperation Forum \(DRCF\)](#). The DRCF is an informal network bringing together these regulators to support greater regulatory cooperation, help ensure coherent approaches to digital regulation, and share expertise. Indeed, this kind of cooperation between national regulators also helps to address the increased demand for digital skills and resources, providing the opportunity for work to be done jointly and duplication to be avoided. Examples of issues currently being discussed in the DRCF include [end-to-end encryption](#), [age assurance](#), and online safety/[market competition](#).