

Summary and assessment of Ofcom USO funding Statement

On May 22nd, Ofcom issued its “*Statement on the funding process and the making of funding regulations under section 71 of the Communications Act 2003*”. This Statement followed Ofcom’s earlier decision (2018) that BT and KCOM are the USO providers in the UK.

The May 22nd 2020 Statement addresses how any net costs of providing the USO should be funded, should BT and/or KCOM be able to prove that their net costs of delivering USO is unfair.

Ofcom has decided that it is the responsibility of BT/KCOM to prove that the USO burden is unfair. In doing so they have to prove that the net costs are unfair, taking into account any benefits they gain from being the USO provider. Until such time that they prove that, there is no source of funding of the USO outside the two USO providers.

KCOM has stated that it does not consider there to be any USO burden in Kingston, so it would only be BT who could potentially make a claim.

Ofcom estimates the total costs of BT providing USO to be in the region of £55m. Once any USO benefits are offset (to calculate the net costs), this number will be significantly reduced. It is difficult to imagine that a cost of that order would be considered an undue burden on BT.

If, however, BT proves that it does face an unfair USO burden, then Ofcom will establish an industry fund to cover that burden. It should, however, be remembered that, as the largest provider, BT would be the largest contributor to that fund. This means that the contribution received by BT from other providers would be rather small.

Assessment

Given the overall size of the potential USO costs and the fact that BT would have to perform extensive modelling to prove the undue burden and then contribute the lion’s share towards a USO fund, should Ofcom establish it, it seems unlikely that BT will pursue that route.