

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DIGITAL ECONOMY BILL

First Sitting

Tuesday 11 October 2016

(Morning)

CONTENTS

Programme motion agreed to.
Motion to sit in private agreed to.
Written evidence (Reporting to the House) motion agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 15 October 2016

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The Committee consisted of the following Members:

Chairs: MR GARY STREETER, † GRAHAM STRINGER

† Adams, Nigel (<i>Selby and Ainsty</i>) (Con)	† Mann, Scott (<i>North Cornwall</i>) (Con)
† Brennan, Kevin (<i>Cardiff West</i>) (Lab)	† Matheson, Christian (<i>City of Chester</i>) (Lab)
† Davies, Mims (<i>Eastleigh</i>) (Con)	† Menzies, Mark (<i>Fylde</i>) (Con)
† Debbonaire, Thangam (<i>Bristol West</i>) (Lab)	† Perry, Claire (<i>Devizes</i>) (Con)
† Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab)	Siddiq, Tulip (<i>Hampstead and Kilburn</i>) (Lab)
† Haigh, Louise (<i>Sheffield, Heeley</i>) (Lab)	† Skidmore, Chris (<i>Parliamentary Secretary, Cabinet Office</i>)
† Hancock, Matt (<i>Minister for Digital and Culture</i>)	† Stuart, Graham (<i>Beverley and Holderness</i>) (Con)
† Hendry, Drew (<i>Inverness, Nairn, Badenoch and Strathspey</i>) (SNP)	† Sunak, Rishi (<i>Richmond (Yorks)</i>) (Con)
† Huddleston, Nigel (<i>Mid Worcestershire</i>) (Con)	Marek Kubala, <i>Committee Clerk</i>
† Kerr, Calum (<i>Berwickshire, Roxburgh and Selkirk</i>) (SNP)	† attended the Committee

Witnesses

Sean Williams, Managing Director, Strategy, Portfolio, Legal and Regulatory Services, BT Group

Baroness Harding of Winscombe, Chief Executive Officer, TalkTalk

David Dyson, Chief Executive Officer, Three

David Wheedon, Director of Policy and Public Affairs, Sky

Daniel Butler, Head of Public Affairs, Virgin Media

Paul Morris, Head of Public Affairs and Sustainability, Vodafone

Pete Moorey, Head of Campaigns, Which?

James Legge, Head of Political Affairs, Countryside Alliance

Jeni Tennison, CEO, Open Data Institute

Mike Bracken, Chief Digital Officer, Co-operative Group

Public Bill Committee

Tuesday 11 October 2016

(Morning)

[GRAHAM STRINGER *in the Chair*]

Digital Economy Bill

9.25 am

The Chair: Before we begin, I have a few preliminary points. Please switch electronic devices to silent. Tea and coffee are not allowed during sittings. Today, we will consider the programme motion on the amendment paper. We will then consider a motion to allow us to deliberate in private about our questions before the oral evidence sessions, and a motion to enable the reporting of written evidence for publication. In view of the time available, I hope we can take those matters formally, without debate.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25am on Tuesday 11 October) meet—

- (a) at 2.00pm on Tuesday 11 October;
- (b) at 11.30am on Thursday 13 October;
- (c) at 9.25am and 2.00pm on Tuesday 18 October;
- (d) at 11.30am and 2.00pm on Thursday 20 October;
- (e) at 9.25am and 2.00 pm on Tuesday 25 October;
- (f) at 11.30am and 2.00pm on Thursday 27 October;

(2) the Committee shall hear oral evidence in accordance with the following Table:

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 11 October	Until no later than 10.00am	BT/EE TalkTalk Three
Tuesday 11 October	Until no later than 10.30am	Sky Virgin Vodafone
Tuesday 11 October	Until no later than 11.00am	Which? Countryside Alliance
Tuesday 11 October	Until no later than 11.25am	Open Data Institute The Co-operative Group
Tuesday 11 October	Until no later than 2.45pm	The British Board of Film Classification NSPCC
Tuesday 11 October	Until no later than 3.00pm	Dr Edgar Whitley, London School of Economics Wireless Infrastructure Group
Tuesday 11 October	Until no later than 4.00pm	Big Brother Watch Open Rights Group
Tuesday 11 October	Until no later than 4.30pm	ProjectsbyIF Open Corporates TUC
Tuesday 11 October	Until no later than 5.00pm	Professor Sir Charles Bean, London School of Economics The Royal Statistical Society

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Thursday 131 October	Until no later than 12.00pm	StepChange Citizens Advice Dr Jerry Fishenden
Thursday 131 October	Until no later than 12.30pm	OFCOM
Thursday 131 October	Until no later than 1.00pm	The Information Commissioner's Office

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 4; Schedules 1 to 3; Clauses 5 to 84; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00pm on Thursday 27 October.—(*Matt Hancock.*)

The Chair: On the basis of the motion, the deadline for amendments to be considered at the first line-by-line sitting of the Committee on 18 October is the rise of the House on Thursday 13 October.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Matt Hancock.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Matt Hancock.*)

The Chair: Copies of the written evidence that the Committee receives will be made available in the Committee Room. We will now go into private session to discuss lines of questioning.

9.27 am

The Committee deliberated in private.

Examination of Witnesses

David Dyson, Baroness Harding of Winscombe and Sean Williams gave evidence.

9.32 am

The Chair: Welcome to the Digital Economy Bill Committee. We will now hear evidence from BT/EE, TalkTalk and Three. Before calling the first person to ask a question, I should like to remind all Committee members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee has agreed. We have until 10 am for this session, so I ask Members and witnesses to be as concise and to the point as they can be.

Nigel Adams (Selby and Ainsty) (Con): Mr Stringer, may I put on the record and bring the Committee's attention to my declaration of interest? I am a director of two telecommunications companies and a shareholder in both; my wife is a shareholder in those companies as well.

Q1 The Chair: That is now on the record. Does anyone else wish to declare an interest? No. Could the witnesses please introduce themselves for the record?

David Dyson: David Dyson. I am the CEO of Three UK.

Baroness Harding: Dido Harding, chief executive of TalkTalk.

Sean Williams: Sean Williams, chief strategy officer at BT Group.

Q2 Louise Haigh (Sheffield, Heeley) (Lab): Thank you for coming to give evidence today. May I start with you, Sean? First, do you think that 2020 and 10 megabits per second are sufficiently ambitious targets for the universal service obligation?

Sean Williams: Yes, I do. We have made clear our willingness to deliver 10 megabits to every premises in the country by the end of 2020 without any further public funding and without even really progressing the USO regulations. On the way to doing that, we will be building on the fact that by the end of next year we should have fibre broadband coverage to 95% of the country.

As we get towards 2020, we will be building further fibre networks, so we expect to be getting more than 24 megabits to 97% or 98% of the country, and then fixed broadband of 10 megabits to 99%. We think that the last 1% needs to be done by 4G and satellite. Although we think about the issue as getting 10 megabits by 2020, in our view the vast majority will actually be getting a lot more than 10 megabits by then.

Q3 Louise Haigh: Baroness Harding, should the USO not have been an open tender process? If it had been, would it not have been right for it to have gone to more than one contractor, given the differences between the problems in inner city areas and those in rural areas?

Baroness Harding: Yes, maybe. I presume that you refer to the BDUK process that has taken place. I am actually very supportive of a universal service obligation. I do not agree with Sean Williams that 10 megabits will be sufficient as we look forward; it is very dangerous to try to set that number through primary legislation because technology is moving so fast. I fear that the rural communities who are furious that they do not have 10 meg today will be furious that they do not have 1 gigabit in three or four years' time. I think you should be more ambitious, otherwise the political problem will never go away.

In terms of how then to get value for money for any form of Government subsidy, taxpayers' money or levy going towards the final few per cent., I agree with the premise of your question. The more competition there is, the better, and it is a huge shame that there was none in the last process. To be fair to the Government of the time, I do not think that was because of how it was designed. The good news is that the market has changed quite a lot since then, and there are now a number of quite small providers building proper fibre-to-the-premises 1 gig services in rural areas, such as Gigaclear. I would be much more hopeful that, looking forward, it will be possible to design a process that is not reliant on one large incumbent.

Q4 Claire Perry (Devizes) (Con): As you know, I represent a very rural constituency. I support what has happened; it is clearly far better than it was five years ago. However, what happens if no USO provider is

willing to come forward to deal with the last 500 houses in the Devizes constituency? What should happen then?

The Chair: The acoustics in the room are terrible. If Members and witnesses could really speak up, that would be very helpful.

Sean Williams: To answer from our perspective, we are willing to enter into a binding legal commitment that we will deliver at least 10 megabit broadband to 100% of premises by the end of 2020. Our objective with this is really to give the Government and Ofcom comfort that we can get on and do this.

I would emphasise that I think that there is a lot of competition, as the Baroness just mentioned. We have Virgin expanding their network, we have Gigaclear and Hyperoptic expanding their network and we have the mobile operators expanding networks that can deliver 10 megabit broadband by 4G. There is a lot of competition to deliver this. For our part, we are willing to undertake to make sure that every single premises can get 10 megabits by the end of 2020.

Baroness Harding: The MP for Devizes raised a very good question. I am a firm believer that competition will do the majority of this, and we should try our damndest to make the private sector fund most of this through competition, but I think there is a fair chance that in three or four years' time a number of your constituents will not have broadband that they think is good enough.

I promise that I will not take up the whole session on this, but I think that the solution is to separate Openreach completely and put a universal service obligation on an independent Openreach. Once you have an infrastructure entity that is not owned by one of the retail providers, that takes away a lot of the industry issues with the public subsidy in some shape or form needed to get proper fibre for that final few per cent.

Q5 Calum Kerr (Berwickshire, Roxburgh and Selkirk) (SNP): Given that broadband speeds have doubled in the past three years, and that the pace of demand is accelerating, I find it staggering that we should say to rural constituents, "You are second-class digital citizens and must accept 10 megabits." How do we bring forward a scheme that ensures that, in areas where they want to go further to ensure that they keep up or even get ahead, the universal service obligation does not peg them at a low speed? How could we design a flexible, regional USO model? Has that been considered by anyone on the panel?

Sean Williams: I do not want to occupy a disproportionate amount of air time here. We think that, by the end of 2020, we will be able to deliver fibre broadband speeds to probably 97% or 98% of households across the whole country, and at least 10 megabits to everybody by then, unilaterally and without any public funding or a USO. That will continue to go on after that as we continue to innovate networks.

We also have a commitment to deliver ultrafast broadband—more than 100 megabits—to 10 million premises, and fibre-to-the-premises deployment to another 2 million premises by 2020. There is going to be an awful lot of network investment, which, by the way, can only happen in an integrated, end-to-end business case.

Q6 Calum Kerr: Mr Williams, do you think that a tactical, on-demand USO only provided by BT can really provide the strategic outcome—a direction toward “gigabit Britain”—that I think we all agree is a matter of when and not if? If we continue to do this in a piecemeal fashion surely all we are going to do is cement the digital divide, rather than close it.

Sean Williams: To get these networks out to as many premises as possible, by as many providers as possible, through competition and commercial market action is exactly the right solution. To get good networks out to everybody, both mobile as well as fixed, it is important that everybody has an incentive to invest. Through competition and commercial investment, we will get to the answer.

Q7 The Minister for Digital and Culture (Matt Hancock): I welcome the commitment from BT to reach 100% of premises by 2020, but I ask for a point of clarification on language. Mr Williams, you referred in the percentages to “fibre” and, separately, to “fibre to the premises”. Can you confirm that by “fibre” you mean a combination of fibre and copper and that by “fibre to the premises” you mean pure fibre? The use of the term “fibre” reflects statistics that I understand mean fibre to the cabinet, so I find confusing the offer to households being “fibre plus copper”. I would be grateful if you clarified that.

Sean Williams: I am happy to. When I use the term “fibre broadband”, I mean fibre to the cabinet, which is a combination of rolling out fibre further into the network but with copper into the end premises. When I use the term “fibre into the premises” I mean fibre all the way into the building. I apologise for being unclear.

When I say we will deliver fibre broadband, it will largely be, in my view, through a combination of fibre and copper, but we are also very positive about fibre to the premises and typically deploy fibre to the premises in all new building sites and in lots of Broadband Delivery UK areas. We are developing fibre to the premises solutions that are particularly targeted at small and medium-sized enterprises. We have made a commitment that we will get ultrafast broadband speeds, which is both fibre and copper, and also fibre-to-the-premises solutions to 1 million SMEs by 2020. We have heard the prioritisation that the Government have put on getting very good broadband speeds to small and medium-sized enterprises and we have made a commitment we will get that to 1 million of them by 2020 as well.

Q8 Claire Perry: I am conscious of what Baroness Harding said about perhaps not setting a quantum, but do you think there should be a separate quantum for SMEs? One of the challenges we have is that there is not enough. We do not have separate legislation or, indeed, powers for cabling to new business parks. If I may ask a supplementary question, in my experience the issue with the USO is often with the broadband speeds in the household; it is not just a question of getting the cable to the front door or the bricks. What could the process be for dealing with those claims and helping householders realise that that might be a problem?

One final question: we would like the USO to be an average speed, rather than being achieved 15% of the time, or whatever the current average regulations are.

What are your views on that? Are you prepared to commit to our offering an average USO of 10 megabits per second?

Baroness Harding: At the risk of being dangerously technical, I think we all try to summarise in the form of speed, but actually consumers and businesses would say that reliability and consistency are every bit as important as speed. The small businesses that are customers of TalkTalk would say, “It’s not the headline speed I need. I need it to work every single second when my customers are using the chip and pin machine in my small corner shop”, for example. So while speed is a useful proxy, it is not perfect.

The Minister gets to the nub of the issue: when you have a proper fibre network that goes all the way to the premises, you have upgrade potential. You just change the card in the rack of computers back at the exchange and you can go from 1G to 100G. You also have a much, much more reliable network. When it rains, water does not get into the copper and it does not stop working.

The small businesses that we talk to are very cross that the fibre-to-the-premises roll-out has missed out a lot of business parks—not necessarily because they want speed, but because they want a reliable service where they can upload as much as they can download and customers can always buy things from them.

I would therefore support being clearer in the detailed regulations that I presume Ofcom would set in specifying the service requirements for small businesses as opposed to consumers.

Q9 Christian Matheson (City of Chester) (Lab): What flexibility would you like to see within the legislation for either the Government or perhaps Ofcom to be able to deem the level of the USO in the manner that Baroness Harding described as technology increases?

David Dyson: I have a couple of points. Covering some of the previous questions, it is impossible to predict what will be the right speed in five years’ time. There are two elements to delivering that. One is effective competition. On the second, I agree with Baroness Harding that in those harder-to-reach less economic areas, the separation of Openreach is the only way that you will get assurance that those customers will get the right speed.

Fundamentally, Ofcom needs to have more powers to make the right decisions that effectively create the right competitive environment in the UK—an environment where it is not constantly worried about being litigated. At that point, you have a stronger regulator that will make the right decisions for the right reasons and a lot of these discussions will take care of themselves.

Baroness Harding: You can see from my nodding head that I agree with David. A lot of the provisions in the Bill are very good, pro-consumer, and I would encourage the Committee to look very favourably towards them. David has just alluded to one of them, which is to make sure that you have a stronger regulator that can get decisions taken faster without using up nearly 50% of the Competition Appeal Tribunal’s time.

Sean Williams: On the specific question about flexibility, as long as it is stable enough for network investors to deploy a certain investment in order to get to the target and then recover some of their investment money, it can

be flexible after that. If it is too flexible, you never quite know what you are supposed to be investing in, so I think it needs to be definitive for a period and then it can move on progressively as society and the economy moves on.

I agree with Baroness Harding on the subject of reliability. Reliability is a very important metric, but SMEs are not typically the most demanding broadband customers. A big household streaming lots of HD videos is a very demanding broadband supplier. SMEs and large households have different kinds of requirements and we need to work with Ofcom to establish exactly what those standards should be.

It is true that some of the problems happen within the home or within the business premises. It is important to make sure that all the retailers—TalkTalk and all the others—are able to support their customers in the business or home. Making sure those networks and wi-fi work well is also very important, to answer Mr Perry's earlier remarks.

Q10 Kevin Brennan (Cardiff West) (Lab): Sean, do you recognise the figure that improving wayleave rights under the ECC will reduce costs for providers by 40%? Would you like to tell us whether any surplus from that will be used to invest in local communities or will it be going to your profit margins?

Sean Williams: I do not recognise the particular figure, to be honest, but I would not necessarily dispute it.

Q11 Kevin Brennan: Is it in the right ball park? Is that what you are saying?

Sean Williams: It is 40% of what? I do not know exactly where that figure comes from, to be perfectly honest with you, but what I would say is that on the EE network we have a commitment to get to 99%-plus of premises getting 4G, and 95% of the geographical area of the country, by 2020, getting 4G services. Also, that requires us to roll out new masts and new services, and every cost reduction in that vein will support the agenda of rolling out 4G networks everywhere as far as we can.

Q12 Kevin Brennan: So all that will be reinvested into the—

Sean Williams: I think it is all supportive of delivering more roll-out by all the mobile networks, yes.

Q13 Kevin Brennan: Can I ask you, how will we have competition in next generation access? Will certain areas of the country be limited to 10 megabits in the future?

Sean Williams: As I say, I think we are getting lots of competition already. Virgin is rolling out. Hyperoptic, Gigaclear and others, all the 4G networks, Three, EE, Vodafone, O2 are all rolling out competitive networks, so I think the large majority of the country will have availability of choice of provider.

Q14 Kevin Brennan: Will certain areas be limited, do you think, in reaching the 10 megabits?

Baroness Harding: I think the way that you ensure that there is sufficient competition to drive investment and create choice is by having a very strong regulator that does not believe any of us, actually, when we say

“Trust us, we will be okay; we will do it for you.” If you live in any of the rural constituencies in the country, you do not have Virgin as an alternative. There is only one fixed line network provider. There are only two mast joint ventures for mobile networks, so I would argue that the telecoms market is not competitive enough at all and that the best way Government can ensure that all constituents across the country benefit is by having a much stronger regulator that forces competition. I think you should be very worried when you hear large incumbents saying, “Set up a universal service obligation but don't let it get too far ahead of what we've got in our business case.” That is not what business should be doing. Businesses will invest more if they are scared their customers will go elsewhere, not because they have been given a promise by Government.

David Dyson: But also you should be very worried when you hear statements about how BT is planning to take profits from the duct access and reinvest in that, and in cross-subsidising mobile access. That is just fundamentally wrong, and is not supportive of competition.

Christian Matheson *rose*—

The Chair: Is this on this point?

Christian Matheson: Not exactly.

Q15 Nigel Huddleston (Mid Worcestershire) (Con): Far fewer people switch broadband and phone providers than gas or electricity, for example. Do you support the Government's published principles of switching, which will make it easier for consumers to switch?

Baroness Harding: Yes, completely. I think it is extremely confusing for consumers, because how you switch depends on which network you are with today, and which one you are going to. It is not a level playing field among competitors, so, for example, someone leaving TalkTalk who takes mobile phone, broadband and TV—a proper quadplay customer—does not have to speak to TalkTalk at all, as they should not. They head off to whomever they want to go to, and the switching process will work its way through. On the other hand, someone leaving Virgin and going to BT, or leaving Sky TV and coming to TalkTalk, has to speak to Virgin or Sky respectively. We and, I think, Three as well have been campaigning for simpler switching for eight years. Finally we have a Bill that is very much on the consumer side, that will make switching easier and competition stronger. I think it is a great thing.

Sean Williams: And BT completely supports the position.

David Dyson: Three has campaigned for more than a decade on this issue. It is a complete joke that it has taken so long, and it fundamentally goes back to the point that Ofcom needs more powers to make decisions that are in the consumer interest. We are the bottom of the class from a global perspective, in terms of switching. I think Papua New Guinea ranks alongside us as the only country that still has donor-led porting. It is a joke. Ofcom tried to legislate on that five years ago, and Vodafone litigated on a technicality and won. Since then it has been kicked into the long grass. It is a major issue, but the more fundamental issue is that Ofcom does not have the power, right now, to make decisions that are fully in the interests of consumers and competition.

Q16 Nigel Huddleston: Baroness Harding, you mentioned that this is a consumer-friendly Bill in various degrees. Mr Dyson and Mr Williams, are there any other elements of the Bill that you see as consumer friendly that would benefit my constituents, for example?

David Dyson: Absolutely. The electronic communications code reform is critical in being able to roll out more coverage, more capacity and better quality from a mobile perspective. That is a really important step. We hear a lot about coverage, capacity and quality. Ofcom recognises that there is a major issue in consistency of access not just for operators across the country, but for different technologies. That will certainly help, but for me the most important element of the Bill is effectively to give Ofcom the powers to create competition in this market.

Fundamentally for us, the most important decision that Ofcom needs to take in mobile in the next five years is going to happen before the Bill comes through in that spectrum. The UK is bottom of the class not only in mobile number portability, but in spectrum distribution in this market. It is the most fundamental input in terms of a level competitive playing field and Ofcom is about to take that decision in the context that it is always worried about being litigated. The facts speak for themselves. We have a terrible position in the UK right now and I am worried that it will not get any better unless Ofcom has more powers.

Q17 Christian Matheson: I am hearing mixed messages about this industry and its ability to achieve a USO. On one hand, we hear that market forces will achieve it and, on the other hand, we hear that Ofcom does not have enough power and that there is a fear of litigation. Should this Bill be giving greater powers to Ofcom? For example, in areas such as Devises, which Claire Perry talked about, where there are broadband not spots, should Ofcom deem a provider to provide for that area?

Baroness Harding: The key thing in the Bill is to reform the appeals regime. As David Dyson has just alluded to, between 2008 and 2013, which are the most up to date stats I could get last night, Ofcom accounted for just under 50% of all cases in the Competition Appeal Tribunal. Our industry is important, but it is not that important compared with the whole of the rest of competition issues because the standard of appeal is much lower in telecoms than in any other regulated sector. That means there is a very cautious regulator.

BT has managed to raise \$45 million from private equity funds to fund its litigation pot. Ofcom spent £10 million in the last two years on litigation. That is awful use of taxpayers' money. It means you have an industry that is used to appealing every single decision the regulator takes, so the regulator is too cautious. That is why we are saying, "Give them the powers and competition will do the job for you."

Sean Williams: I am sorry, but I completely disagree with that point. First, it is not true to say that everything gets appealed. BT did not appeal a charge control this very year that took a billion pounds of profitability out of BT—in fact out of Openreach—over a three-year period. We did not appeal the previous charge control, which did a similar thing and we did not appeal the one before either.

Ofcom is an extremely powerful regulator that is accountable to nobody but the Competition Appeal

Tribunal. No one in the Government can tell it what to do. It has extremely wide discretion. You will not get better decisions out of Ofcom if you reduce the standard of appeal to judicial appeal standard. Is it reasonable, is it fair, is it just that Ofcom can take £3 billion of shareholders' equity value away from them on a judicial review standard? It is not. It is thoroughly unjust.

To keep Ofcom accountable, to keep its decisions high quality and to comply with the regulatory scheme, it is of the utmost importance to require an appeal on its merits. It is required across the communications sector across the whole of the European Union. It is not by any means unique. Ofcom makes many very impactful decisions and that is why it gets many of its decisions appealed to the Competition Appeal Tribunal, very often by the small players in the industry. The organisation that is appealing Ofcom's most recent charge control is CityFibre Holdings, which thinks that Ofcom's decision to drive down Openreach prices will kill off its business plan, not just Openreach's. It is not BT that is appealing that decision. It is very important that the one piece of this that really needs to come out is the change to the appeal regime.

It is also true to say that the Supreme Court of the United Kingdom, only about two years ago, was absolutely clear that the scheme provides for an appeal on the merits.

David Dyson: There are two important points on this. First, Three is 100% supportive of the changes in the Bill in this regard. Secondly, it is really important to note that all the Bill proposes to do is raise the standard of appeal that Ofcom has to the same level as regulators in other industries, which does not feel excessive to me.

Sean Williams: Except that Ofcom has many more powers than any other regulator, including a dispute resolution power that is not available to any other sectoral regulator. That is the cause of many of the disputes and appeals that happen.

The Chair: Order. I am afraid that that brings us to the end of the time allotted. I thank our witnesses on behalf of the Committee.

Examination of Witnesses

Daniel Butler, Paul Morris and David Wheeldon gave evidence.

10.1 am

The Chair: Welcome to this session of the Digital Economy Bill Committee. We will now hear oral evidence from Sky, Virgin Media and Vodafone. We will finish this session at 10.30 am. The time is very tight. May I ask the witnesses to identify themselves?

Paul Morris: I am Paul Morris, head of government affairs and sustainability at Vodafone.

Daniel Butler: I am Dan Butler, head of public affairs and policy at Virgin Media.

David Wheeldon: I am David Wheeldon, group director of policy and public affairs at Sky.

Q18 Louise Haigh: I will start with the question that I asked the last panel. Do you think that 10 megabits per second by 2020 is ambitious enough?

David Wheeldon: That is a very hard question to

answer. The flexibility within the Bill for the universal service obligation threshold to change makes sense, in order to address the likely customer needs. Our view— we have said it very publicly—is that we have to be much more ambitious in terms of connectivity in this country.

We would like to see ubiquitous fibre to the premise, and we believe ultimately that the economy is going to depend on that. The USO will be a useful interim measure until we can get there, but one might hope that, over time, a USO will not be necessary if we have full connectivity across the country.

Q19 Louise Haigh: Are you saying fibre to 100% of premises?

David Wheeldon: Eventually, that is the ambition we should aim for.

Q20 Louise Haigh: How would that be achievable?

David Wheeldon: We believe there is an opportunity to create the right market structure to bring a lot more investment into the industry. We are being held back at the moment by relying on the copper network. There is an argument we have made, as you know, about Ofcom's communications review with regard to the structure of Openreach. That is not directly relevant to this Bill, but ultimately, as far as the USO is concerned, it makes a lot of sense to be able to set a threshold that you may want to vary over time.

Daniel Butler: Virgin Media's starting point is to ask what the purpose of a USO is and what it is designed to achieve. The definition is quite clear: it is to underpin a series of activities that produce some economic and social externalities that are to the broader benefit of society. Ofcom defines those as email, web browsing, maybe a little bit of video streaming and maybe some IP voice. Its use case for a four-person household is that 10 megabits is sufficient to enable all those activities to happen simultaneously.

We view 10 megabits as appropriate for that definition of a universal service obligation. We think that more bandwidth-intensive activities, such as HD streaming and real-time gaming, have a looser connection to the underlying principles of a universal service obligation, because the benefits of those types of activity are primarily to the individual, not to society as a whole, so why should they be subsidised?

I will make one final point, which is that the debate around future-proofing the USO lacks one crucial bit of analysis. Bandwidth requirements might increase over time, but so too does the sophistication of networks in processing higher bandwidth applications. Video streaming is a case in point. When video streaming became ubiquitous, companies started investing in better video compression, and as a result video compression rates have halved every seven years. Networks are getting better at dealing with higher bandwidth applications.

Q21 Louise Haigh: Why should we be limiting ourselves to something that is barely sufficient now? What changes could we see in the Bill that would give us anything like the connectivity that Mr Wheeldon just mentioned?

Paul Morris: You have to make sure that the USO does not get in the way of future ambition. We have to think about how we move from what we have today,

which is largely a copper and fibre mix, with the exception of Virgin. We still have telephone lines running broadband, essentially; as David says, we have to move on and be more ambitious. The point is to make sure that the USO does not get in the way of that ambition to do better and to use fibre for homes and businesses. We should make sure that the smaller networks have an option to be involved in the USO, and, if they have the ambition, that they know that a USO provider is not going to over-build them.

There is lots to be done outside the legislation, and clearly we do not need to repeat the mistakes of BDUK. We need to know where the assets are, who can do the work and where the green cabinets are. It needs to make sense and we need to have some kind of register. We need a practical approach and money needs to follow results—not the other way round, which was the other issue with BDUK. We can learn from some issues from the past, and we need to make sure that this USO does not get in the way of what we need to do next, which is to have much more fibre in the ground across the whole country.

Q22 Claire Perry: I represent a fairly rural constituency and I was interested to know what would happen if no USO provider came forward to do the right thing. What should happen in that case? How will the Government be able to mandate that provision?

Daniel Butler: We are not convinced that that situation will arise. What Mr Williams from BT just outlined was that BT was willing to enter into a legal obligation in which it would be the national provider for a universal service obligation. That is how it works today under the fixed telephony USO. Up to a relatively high cost threshold, BT is not allowed to pick and choose which areas and premises it connects and which it does not; it has a legal obligation to fulfil. The model does not need to radically change as we move to a broadband USO.

Paul Morris: Basically, you have to remember that most of these premises will have a telephone line—although not all, I grant you. That is a good start. It is about how we use what is already there well, and how we upgrade it.

Q23 Claire Perry: Exactly, but as I know from personal experience, having a copper line does not guarantee anything like the advertised speeds today. My previous question related to small businesses. Some of the most frustrated people in my constituency are small businesses in business parks, who could benefit hugely from an upgrade. Do you think the Government should be setting a separate USO for a small business, versus a household?

Daniel Butler: The evidence suggests that 10 megabits is sufficient for the average small business. An extensive study conducted by Communications Chambers for the Broadband Stakeholder Group found that in 2015, the average bandwidth requirement for a small business was 5 megabits per second. That was likely to increase to about 8 megabits per second by 2025.

As Mr Williams pointed out in the previous session, the bandwidth requirement of the average small business is likely to be less bandwidth-intensive than the average household. The heavy-bandwidth applications that place the most pressure on a household connection—

simultaneous usage and HD video—are less pronounced in a small business environment, where the majority of usage involves accessing Government websites, accessing websites more generally, sending emails and so on.

Q24 Claire Perry: That rather depends on the sort of small business. While that might be true for a farmer, for example, what I want in my constituency is the ability to have the sort of businesses that would locate to silicon roundabout come to a beautiful part of the country where property is much cheaper. I would be cautious about writing off rural areas as only ever being able to access Government websites and check their emails one at a time. I think we should be doing something much more ambitious with obligations—particularly for small business parks, so you have clusters of fibre around those.

David Wheeldon: We would probably part company with Virgin Media here, in as much as we do not think you should be constraining by type of usage in quite that way. All the history and evidence of the data that goes across our networks means we are seeing a continued exponential increase in data usage. Going back to what Daniel said earlier, it is hard to say that specific usages are worthy of a USO intervention and others are not. Those things will change over time, including small businesses—their use cases will change over time.

In the case of businesses and business parks, it is extraordinary that there are business parks, not just in rural areas but in city areas, that do not have sufficient fibre connections. Very often that is to do with the distortions in the market where it is to the benefit of the network operator to be selling expensive leased lines to businesses rather than investing in fibre to all premises.

When we come down to it, this is a problem based around the quality of the infrastructure we have at the moment and the incentives to continue to invest. As Paul Morris said, it is important that we get the USO right, but it must not stand in the way of the massive further investment we believe is required of the nation's network.

Q25 Thangam Debbonaire (Bristol West) (Lab): I am a little shocked to hear Mr Butler say that 10 megabits is okay for the average small business. In my constituency, high-tech industries and digital creative industries need something much more reliable, much more secure and a lot greater than 10 megabits. They are not just uploading the odd film; they are making the films. Can I push you on that? They need secure, reliable, consistent bandwidth. What on earth has blocked the roll-out of that so far in city centres as well as rural areas? What else could the Bill do to push business, provide the infrastructure or give Ofcom the teeth—whatever is needed—to help the high-tech and creative industries grow?

Daniel Butler: This is one part of the market where Paul's concerns about market distortion are particularly pronounced, because the market for small business connectivity is evolving at a rapid pace. Broadband providers are beginning to target the types of use cases you outlined there: high-tech but small business where, realistically, a leased line is not an affordable solution. Virgin Media has been at the vanguard of product innovations to make symmetric business broadband connections available to high-tech businesses in London,

but also outside of London, at more affordable, residential-type price points. This is one example where the market is evolving at a very rapid pace.

Business connectivity is starting to address the challenges you have identified. The use requirements I outline are what the evidence suggests is the typical requirement of a small business. Obviously, there will be outliers where the market is the right mechanism to deliver for those companies.

Q26 Thangam Debbonaire: I am not just talking about outliers, Mr Butler. You talked about providing to London and some areas outside London. London is overheating, with great respect to my London colleagues. A lot of these industries are looking to other cities and if they cannot get what they need they are going to stay put in London—and that is not good for the economy, both rural and urban. What else can be done by business or what else do you need in the Bill for this to be put right?

Paul Morris: As you will know, telecoms has got a lot going on at the moment. There are other things going on: we have an Ofcom strategic review, which is looking, in part, at how the relationship between Openreach works with the rest of the industry. There are a number of moving parts, not necessarily in the Bill, that need to be thought about.

I suggest we need to think about what we do next—that is, post-BDUK. I do not necessarily mean Government programme support, but what the ambition of the country is when it comes to traditional infrastructure. We have probably looked at other traditional infrastructure first; now it is time to look more at digital. That is beyond the Bill but it is something that needs to be done, certainly within this Parliament. We also need to start thinking about delivery because, frankly, that will take 10-plus years to do.

We need to look at the strategic review, including the relationship with Openreach. At least two of us here have that as businesses; frankly, that can be a bit more ambitious, deliver a better service, and be in control of its own investment, board and everything. Openreach needs to be independent. If that cannot work, then we have made the case to say that Openreach needs to be separate from BT. That is something that Ofcom needs to look at.

Within the Bill, the universal service obligation—you have both identified an issue. If you look at the Ofcom figures, small businesses are disadvantaged probably more than consumer households because you are not on the traditional phone network, effectively, if you are in a business park. So you have got the right point.

I would suggest that, with the USO the way it is today, we make a small step in the right direction with this idea of how we do more. I think Dan is right: there are connectivity options coming in as well. So it is a mixed picture, but I do agree—I do not think that 10 megabits is enough for most small businesses, unless of course they are one-person bands doing stuff for which they need the phone more than the computer. Again, it all comes down to a mixture of things going on that are in and around the legislation. There are a number of things going on.

Daniel Butler: I add one final point on provisions in the Bill that would help. There are provisions in the Bill

that will reduce the cost of network expansion in the UK—an exercise that Virgin Media is currently undertaking with our £3 billion network expansion. That network expansion is benefiting business parks and small stay-at-home businesses. Last month, we announced 90 new business parks that we were connecting under Project Lightning. The specific way in which the Bill can support that is through reform of the electronic communications code that will lower the cost of and time taken to achieve a wayleave agreement. The measures in the Bill take us part of the way towards that reform, but could be more ambitious.

The Chair: Can I remind Members and witnesses to be as brief as possible? I call the Minister.

Q27 Matt Hancock: No—I was going to ask for more details on which bits of the Bill could help.

The Chair: I will come back to you.

Q28 Kevin Brennan: I remember one of your predecessors in a predecessor company, Mr Butler, explaining to me why they were digging my street up in the 1990s. They basically said, “We are installing a straw to suck money out of people’s houses”, which I think is the best explanation I ever received of what was involved. On the electronic communications code, how can you assure us that its reform will actually benefit consumers principally and not just allow you to keep more of the money that you suck out of people’s houses?

Daniel Butler: The reforms that are envisaged will transform the economics of roll-out. The figures discussed in the previous session were a 40% reduction in the cost of roll-out. The primary way in which that benefits consumers is that that allows us to build to more premises on a commercial basis.

Virgin Media currently plans to build to 4 million premises by 2020. Wayleaves are a considerable line item on the balance sheet for that investment, and also it takes a lot of time to get agreement, so anything we can do to reduce the cost and improve the efficiency of getting those will have the consumer benefit of allowing us to connect up more premises. I mentioned that Government could be more ambitious in this regard. In effect, the Government’s reforms will deal with the worst abuses of the systems—that is communications providers’ exposure to ransom rents—but Ministers and the Secretary of State increasingly talk about broadband being equivalent to a utility and the reforms do not quite go that far. Water companies have the most advantageous wayleave regimes under their statutes. They do not pay what is called in the valuation jargon “consideration” and, as a result, they pay 60% less—these are Government’s figures—than communications providers.

Matt Hancock: I think the explanations coming from the witnesses are excellent. I did not have any other questions.

Q29 Nigel Huddleston: Are the switching proposals in the Bill, which make it easier for customers to switch and give them more power and information, a step in the right direction?

David Wheeldon: They clarify Ofcom’s existing powers, so to that extent they are a welcome clarification. We have some concerns about the direction of travel that Ofcom is going in, not least because we see and operate in a market where there is already extensive switching and all the customer satisfaction surveys suggest that the vast majority of customers are happy with it.

What we are worried about is that Ofcom might go down a direction that tries to mandate a certain type of switching between networks that do not have any obvious need or reason to engage with each other. It is one thing in telecoms where you have to exchange customer information and data, but in TV, where you do not have any need to speak to a different TV network or operator, the idea of putting in place a new system where we are required to talk to each other could end up being quite burdensome and bureaucratic.

I hope that, as we engage with Ofcom, we avoid doing that. In the end we want to make this as easy as possible for customers, because that is in all our interests. We compete pretty ferociously with each other on a day-to-day basis, so a system that works for customers is in all our interests. The provisions in the Bill that clarify Ofcom’s role are fine.

Q30 Matt Hancock: Could you remind me what proportion of the market Sky has?

David Wheeldon: In the overall broadband market we are below 40%, I believe. In TV, it is 60%—I am not sure quite what the breakdown between us and other pay TV providers is. We compete not just with Virgin and BT and others but increasingly with Netflix and free-to-air. Many of our customers will go to take a free-to-air package from us. So the market is pretty dynamic and I think that at the moment it seems to be working pretty well for customers.

Q31 Drew Hendry (Inverness, Nairn, Badenoch and Strathspey) (SNP): I want to go back to the average speed, which we were talking about earlier. When you provide businesses with average services, and you give them average speed—give them the minimum they need to be average—you are locking them into being average businesses; you are not giving them the opportunity to be more ambitious. How do you square that with a programme of ambition for the 21st century, taking people forward? What do you do to encourage devolved Administrations such as the Scottish Government, and councils, where they want to go further and have faster speeds?

Paul Morris: We have got to figure out a way, and this is going to be a combination of things. We talked about the code earlier; that is part of it. How do you build the network? How do we make that easier? How do we focus on support that, frankly, has been there for more traditional infrastructure? We have talked about some of the other areas, such as how we ensure that Openreach serves its customer base better and has more ambition. That would get you to a point.

As you know, the Scottish Government have been thoughtful in this area. What do we do after that? I know you have got the 100% ambition, and there I think it is a case of a mixture of things. A better Openreach that is more independent, serves its customers better and is more ambitious gets you to a point. You

then have either USO or some kind of intervention potentially in some areas where the industry can look at support and how that works across technologies.

So I think it is a combination of commercial roll-out, see how far we get—we will not know that until we reform the market—and then look at what is left and see where we go from there. I agree with you. I note that there is not a speed limit in the Bill and I think we do need to be more ambitious. Of course, we cannot solve this tomorrow, but we need to recognise that the data usage trajectory is upwards and we need to think in those terms. We do not build a little bit of a better railway; we build a much better railway. We need to think like that.

David Wheeldon: I absolutely concur with that. We look at this as a national service provider. We want to sell our TV services to every customer in the country if we can. We are agnostic about the kind of technology that we use, but increasingly using broadband services to do that is the way we are going. Therefore, if we are going to be ambitious, to enable companies like ours to continue to grow, invest and innovate, we need a national solution, and a national solution will depend upon the national network owner, which is Openreach. In the end, all these roads lead back to Openreach. That is why the structure of the industry does matter; the ability to get capital into the industry to invest in the kinds of future networks we need is critical. That is why we have made such a big noise about the structure of the industry and the Ofcom review. We really believe that it matters, not so much as a broadband provider, but as a user of the network. We want to be able to have a national solution.

Q32 Drew Hendry: Given that Openreach is pinning its position on getting 95% coverage by 4G by 2020, that surely leaves 5% in areas where they will be forced to use satellite. That is a group of consumers that cannot switch and cannot go across. What do you do for those people who find themselves in those geographically disadvantaged areas, where they are not going to be reached by that plan? How can you get that sense of ambition going for those people?

Daniel Butler: The first objective is to minimise the extent to which a backstop intervention, as you characterise it, is required. To our mind, Ofcom said a few things over the summer—it did not just talk about structural separation; it also talked about what the 10-year strategic direction for our sector should be and what conditions would best deliver for investment and for the consumer. It was unambiguous in saying that network competition, having multiple network operators in the ground and available to consumers, is the best driver of investment incentives, the best driver of superfast broadband penetration and the best driver of consumer outcomes.

To tie your two questions together, the Scottish Government have the opportunity to create the best possible environment for the deployment of new infrastructure using the devolved planning powers that they have at their disposal. Virgin Media is in the process of quite an extensive roll-out of our network in Scotland and I think there is an opportunity there to minimise the gap that is required for a universal service obligation to apply.

Q33 Nigel Adams: Returning to broadcast, I have a question for Daniel which may not come as a surprise, since I alluded to it on Second Reading. If you take out line rental and broadband charges, what is the cheapest way that someone can access a public service broadcasted channel, and how much does it cost on your platform?

Daniel Butler: Sorry, Nigel, if you debundle—?

Nigel Adams: The cost of the line rental and broadband charges, what would the charge be?

Daniel Butler: Our basic TV tier does not have a premium. If, as a customer, you get a triple-play bundle with a freeview-like TV service, it is effectively free; there is no added charge for the TV element. We do not sell TV as an individual product, if that is what you are asking.

Q34 Nigel Adams: Yes; it is all bundled in that cost. The reason I allude to it is that, clearly, there is currently no payment made to, effectively, the rights holders. A fair proportion—I would think maybe half—of your content is potentially driven through PSBs. I just wonder why you think that that is a reasonably fair position.

Daniel Butler: We think it is a fair outcome because there are flows of value in both directions—for the pay-TV operators in this market and the PSBs. As part of entering into the public service bargain, the public service broadcasters get a series of regulated benefits. The biggest of those are gifted spectrum and EPG prominence on our platform. EPG prominence guarantees them viewership, which translates into advertising revenue. From them, we get access to content, which is very valuable to our customers—it is much-loved content. That is the UK's PSB bargain. Ofcom assesses that to be a balanced bargain, it does not think that either side is losing out as a result of that bargain, and the fact that PSBs continue to enter into that bargain reinforces the fact that they see it as sufficiently valuable too.

The Chair: I am afraid that brings us to the end of the time allotted for the Committee to ask questions. I thank the witnesses very much on behalf of the Committee for the evidence they have given.

Examination of Witnesses

Pete Moorey and James Legge gave evidence.

10.30 am

The Chair: We will now hear evidence from Which? and the Countryside Alliance. We have until 11 am for this session. Would the witnesses please introduce themselves for the record?

James Legge: I am James Legge, and I am head of political at the Countryside Alliance.

Pete Moorey: I am Pete Moorey, and I am head of campaigns at Which?

Q35 Louise Haigh: Should this Bill not contain a USO for mobile coverage?

James Legge: Yes, we think that it should.

Q36 Louise Haigh: What should that USO be?

James Legge: I think that a minimum at the moment should probably be about 3G but, a little like the USO for broadband, we need to be a bit more ambitious. We also have to realise that there is a big infrastructure problem for about 50% of rural premises. The infrastructure is not there to carry more than 10 megabits per second, and for one in five premises it will not carry more than 5 megabits. So there is not only the level at which the USO is set to begin with, but also the issue of upgrading infrastructure.

Q37 Louise Haigh: Do you think that there is potential for the USO to actually limit the investment for infrastructure in the future?

James Legge: It is important that it is seen in addition to the Government's ambition to deliver superfast broadband at—at the moment—a speed of 24 megabits to 90% to 95% of premises. In my opinion it should really be seen as a safety net, as opposed to a situation in which we say, "Well, we've reached 10 megabits, we can leave it there." If you take into consideration that universal access in the EU is being set at 30 megabits by 2020, and Sweden is looking at 100 megabits in the same timeframe, where we are is good but we have a way to go yet.

Pete Moorey: There is clearly a big issue in terms of mobile coverage. You may have seen the research we did with OpenSignal last week which pointed to the fact that in many parts of the country you can get access to a 4G signal only 50% of the time, while in London it is 70% of the time. Obviously, that is way behind countries such as the US and Canada where it is 80% of the time, and countries such as South Korea and Japan where it is 90% of the time. We have not specifically taken a position on a USO for mobile, but it is definitely something that needs consideration.

The other issue here is around what mobile operators themselves are doing with customers when they are in the phone shop and choosing a package. This includes the information that operators are providing to customers about the signal that they can expect, and indeed the opportunity that customers have to be able to get out of the contract when they are unable to get a signal.

Q38 Louise Haigh: What could the Bill do to achieve the level of investment in infrastructure that is necessary? Is separation of BT from Openreach absolutely vital for this?

Pete Moorey: We are satisfied with the position that Ofcom is taking on Openreach at this stage. One area where we are more concerned is around the way that Ofcom is seeking to regulate the standards for Openreach. We think there is a danger that actually regulators are not often well placed to do that and, as they set very prescriptive rules that operators have to achieve, operators are driven by those rules rather than good consumer outcomes. We would like to see Ofcom flip the way that they are looking at the new standards for Openreach and ensure that they are much more focused around consumer outcomes. That would drive the business to achieve against those measures rather than a set of prescriptive standards, which Openreach or others can say that they have achieved but actually has not resulted in a better service for customers.

Q39 Mark Menzies (Fylde) (Con): On a slightly different point, I have a question for Which? around data sharing. Clearly, there are mixed views as to whether it is a good or a bad thing. I would like to understand what you think that the benefits would be, particularly to vulnerable groups, of the Government having access to this data?

Pete Moorey: In broad terms, we support the measures in the Bill and we see this from two perspectives. There is the work that we have done in our campaigning, particularly on areas such as energy, where we know that year after year the energy suppliers have said that they would like to be able to better target energy efficiency schemes at the most vulnerable households, and that they have struggled to do that. We think a lot of good steps could be taken as a result of that.

The other side is around the role we play in providing products and services for consumers. We run a number of excellent websites—Which? University, Which? Birth Choice, and Which? Elderly Care—which provide people with all the information they need to enable them to make a choice when they come to that decision. We have been hamstrung on occasion in being able to provide the richness of information that people would want when trying to make that decision where local authority data or other public service data have not been available. Taking steps in this direction would help not only Which? to do that better, but a lot of the other service providers in that space.

Q40 Kevin Brennan: On the point about coverage of broadband and mobile, where would we come in the European champions league of coverage? Will the Bill push us up the league at all, in your opinion?

James Legge: I cannot give you a precise figure. I am afraid I do not know the answer to where we lie in the overall league table of Europe.

Kevin Brennan: What do you think?

James Legge: I do not know. Our ambition certainly seems to be less than what the European Union intends to see delivered. I think there is scope for saying 10 is great, but we should be looking at more. We should also make sure that the USO moves up—I think the Bill makes provision for this—because there is no point in leaving it at 10 when we have 300.

Q41 Kevin Brennan: You listed a lot of countries that do better than us when you gave your answer earlier. If the Bill potentially brings some progress, are we running fast enough to keep up with our colleagues on the continent?

Pete Moorey: I think it was me who gave the list of countries. We can come back to you on that with the data we have on 3G and 4G and also on broadband.

Q42 Kevin Brennan: It would be very helpful if you could do that before we meet next week.

Pete Moorey: On the 10 megabit point, clearly for a lot of consumers it will not be enough; for others, it will be a godsend. Ofcom has done a pretty decent piece of work in understanding average consumer use at the moment. It has developed a speed that is probably appropriate to start, but will have to be addressed in

time. The really important issue is how it does that and how it involves consumers in the process. There is a real danger that we get into an arbitrary point of view and say, "Well, it should be 15 or 20 megabits" rather than setting the speed with consumers themselves.

Q43 Claire Perry: I want to focus questions directly on Mr Legge. I represent a very rural constituency. We are very anxious about home building. We now have effective neighbourhood plans that rather than mandating giant developments plonked down wherever anybody wants them, require developers—often small developers—to work with communities. The preamble is to ask you whether you think the new law coming in next year to require automatic superfast broadband connection for sites of more than 100 homes is suitable for rural areas, or whether we ought to be going further and effectively making it a utility provision for all home builders.

James Legge: My view is very much that it should be seen as a utility provision. The whole way in which we have looked at the housing problem in rural areas has transformed over the last 10 years from the idea of plonking mini-towns on the edge of existing communities. We have realised that if you try to do that, all you do is create massive local opposition and nothing gets built. What you want is small-scale development that is sensitive and local to the community, provides local housing, and is affordable, often affordable in perpetuity.

The idea that you will only get broadband provision when you build 100 premises on the edge of a village or in a rural area is undesirable, simply on the grounds that where new properties are going in and we are putting in an infrastructure, it seems absurd not to take the opportunity. We would not say we are not going to put in electricity, water or, ideally, gas as well, although we do not have mains gas everywhere, to be fair. I think broadband is too important.

It is also important to realise that the population trend at the moment is a move from towns to rural areas. There is enormous potential. If you take a population of 10,000, there are more start-up businesses in rural areas. I think London and some of the major urban city centres exceed. The countryside is a largely missed opportunity, but all the signs are there that if it gets broadband it is ready to fire and go further; so the figure of 100 is too urban-centric in thinking.

Q44 Christian Matheson: Mr Legge, you talk about the need for a fair system of site rents for country landowners in terms of wayleaves and access.

James Legge: I do not think that I did—

Christian Matheson: There needs to be,

"clarity over the new system of valuation for site rents that is fair and equitable as well as a robust Code of Practice to ensure landowners, infrastructure providers and mobile phone operators are clear".

Is there not a danger of conflict between looking after the needs of large landowners to get fair wayleave agreements on their properties and potentially preventing the roll-out of broadband and infrastructure services to other rural residents because we are keeping costs higher to benefit the landowners?

James Legge: I think we recognise that the new communications code must reduce the cost of putting in the infrastructure, both on public and private land, and must also encourage the sharing of masts and

access to infrastructure. There is a difference between saying that we will do it and, say, paying a private landowner nothing, and paying them something that is reasonable and fair, taking account of the way in which we treat other utilities. I know that our view differs slightly, though, from some of the other landowning organisations that are focused on land ownership. We are very much focused on delivery to the consumer, but we think it should be fair, equitable and clear.

Q45 Matt Hancock: May I clarify that? You said that the new communication code must do those things. Did you mean by that, that it does do those things and that that is right, or that you do not think it fits what you set out? What you set out is entirely concurrent with the Bill.

James Legge: Yes, and we are supportive of that. We support the fact that we have got to start seeing broadband on the same par as a utility, as opposed to something where there is a premium cost to the provider, which limits provision—

Q46 Matt Hancock: I was seeking clarification on whether you are looking for something more than is in the Bill. You were saying that that is what is in the Bill and it is right that that goes through.

James Legge: Not at this stage.

Q47 Nigel Adams: I suspect that the Bill is not going to be subject to the most detailed discussion around the country. However, as a question to both of you, having had an opportunity to analyse the Bill, if we were all pitching this to our constituents across the country, what do you see as the key benefits for consumers?

Pete Moorey: The telecoms sector needs to catch up with where consumers are. That is part of what the Bill is trying to do: we need to recognise that people increasingly see their mobile phones and broadband as essential items. Yet we know that customer satisfaction is very low and that people are increasingly frustrated about their inability to get a signal or to get the broadband speed they are paying for.

There are critical things in the Bill that will start to bring the telecoms sector kicking and screaming into the 21st century. For me, those elements include switching—I think it is incredible that we do not have provider-led switching in the telecoms sector. Automatic compensation is very important. With water, electricity and gas, if we lose a connection we get a compensation payment, but that is not the case in telecoms. The appeals process, which we have heard a lot about this morning, has had a chilling effect on the regulator's ability to introduce measures that would both improve competition in the sector and better protect consumers.

The final area, for us, is nuisance calls, which we know are some of the biggest bugbears that people face—they are sick to death with receiving annoying calls and texts. To put the ICO guidance on nuisance calls into statute is another step towards tackling that everyday menace.

James Legge: Yes, I think that switching and compensation are important: it is important to hold the feet of the telecoms companies to the fire. But there is possibly an opportunity in the legislation to empower the consumer. At the moment, we have a sort of opaqueness

around data and provision. We do not have address-level data. If I want to decide where I am going to get my mobile or broadband from, I cannot just put in my address and find out that the company that provides the best service is x. I have to sign up to someone. Then I can test the level of my service through their internet connection as a customer.

If there was more transparency, and if people had the information to hand, they would be able to make better choices. The market would also be more competitive for mobile or broadband providers, because if they do not provide the coverage, they will lose customers. It is no good waiting for someone to sign up and then find out that switching is jolly difficult, so customers say, “Well, I’ll just put up with this and complain”. We do that terribly well.

We should be able to say, “No, sorry. You didn’t tell me this. I didn’t have the data. Your service is appalling. I’m switching, and it is easy.” The level of switching at the moment is extremely low. A previous witness suggested that there was general contentment, which is not my experience.

Q48 Calum Kerr: There has been a lot of discussion in this session about fixing mobile coverage. Do you think that the Bill will achieve that? It comes down to licence obligations. If we want to do it, we need to set the right licence obligations. I accept that you are going to get less money.

On the electronic communications code changes, if we want the measures to be about driving more coverage, should we actually just exclude existing sites—you will have a lot of landowners and we will have local government bodies that will lose a lot of money—and say, “Access will change but, in terms of valuations, let’s exclude existing sites; this is about you going to new sites and doing them more cheaply”?

James Legge: I had thought—if I have understood the question correctly—that the Minister indicated previously to the House that it was not going to be retrospective.

Q49 Calum Kerr: It is not retrospective, so you will not revisit deals. Essentially, when a site comes up for renewal, the valuation of that land will be treated differently, so costs will drop dramatically. My suggestion is that they should be excluded from a valuation perspective, and the old rules apply for valuation.

James Legge: So you keep the old rules at the renewal point for old sites.

Calum Kerr: So you will still see some price erosion, but not as much.

James Legge: I would have thought that anything that brings the cost down for the providers when it comes to rolling out and upgrading infrastructure—

Q50 Calum Kerr: This is existing infrastructure.

James Legge: But a lot of it needs upgrading.

Q51 Calum Kerr: They will be allowed to do it, but the rental cost of that land would go down.

James Legge: Well, we would agree with that. If the rental goes down and it costs less to upgrade the infrastructure, that is a good thing from our point of view. Presumably that would be under the newer system,

not the older one. My understanding—and this may be wrong—is that the new code values land and access in a slightly different way, and the cost should be less to the person putting the infrastructure in. I had a discussion with the Local Government Association about that issue. The LGA said that it would potentially get slightly less money on public land, but that there are savings at the other end. If, for example, you have more efficient provision of digital government—“digital by default”—there could be savings at the other end. The LGA has a slightly mixed view. Yes, it might lose some income but, ditto, landowners will—

Calum Kerr: Okay. I do not think you understood my question, but I will leave it there.

Q52 The Parliamentary Secretary, Cabinet Office (Chris Skidmore): Mr Moorey, let us return to your comments about Which? being hamstrung by a lack of data sharing. Could you give a fuller explanation of that? Will you put on record the views of Which? about the public services delivery power, and the potential benefits that it might bring, particularly to the most vulnerable in society?

Pete Moorey: As I said, we are broadly supportive of the measures in the Bill. We are hamstrung from two perspectives. The first is a service delivery perspective. When we are delivering something such as our Which? elderly care website, we want to have the richest possible data available to help people make decisions. Yet on occasions when we have gone to certain local authority providers or certain care home providers, we have had an inability to gather that data and provide it in a comparable way. There is also the need to get that information in a clear and comparable format so that organisations like us can do that much better. It is something we have worked on a lot over the past few years with regard to universities. We are starting to see some of the data coming through at the kind of level that students want when they are making those choices. Clearly, having such legislation would better allow us to do that.

Q53 Chris Skidmore: Any comments on, particularly, the public services power, and how that might affect it?

Pete Moorey: No, no specific other comments on the Bill itself.

Q54 Thangam Debbonaire: I particularly direct this question at Mr Moorey, because I noticed you mentioned unsolicited calls and the problem of people receiving them despite registering with the Telephone Preference Service. I can declare that I am one of those. I am particularly concerned about the example of a constituent in a neighbouring constituency to mine, Olive Cook, who was one of Britain’s longest-serving poppy sellers, having started in 1938. She fell to her death after being plagued by nuisance callers, particularly from charities. My experience has been that there are also private companies making them. Who is it? Who makes nuisance calls? How are they being dealt with? Does the Bill go far enough to ensure that those companies are held responsible—the directors, if necessary? Should they be made more accountable? Can you tell me some more, please?

Pete Moorey: We have made a lot of progress, I think, on nuisance calls over the last three or four years. That is thanks to an awful lot of people around this table. The Government have made progress with the action plan that we have had, and then in setting up the taskforce, which Which? chaired. We have seen changes to the powers of the Information Commissioner's Office, and it is now much better able to take action against nuisance callers, and hit them with bigger fines. Caller line identification has been introduced. However, you are right that there is still an awfully long way to go.

Nuisance calls come from a range of places, all over the place. Frequently they come from claims management companies and lead generators. Sometimes they come from reputable businesses. Sadly, too often they also come from scammers and fraudsters. The important measure in the Bill is putting the Information Commissioner's code into statute, which I think will give it more clout. However, we agree that more could be done about director-level accountability. We recognise that many MPs support that, as do the Scottish Government. Indeed, the Information Commissioner herself, who I believe you are seeing this afternoon, has made supportive noises about it.

We would like director-level accountability to be introduced. It is important, because while in recent years the ICO has used its powers to fine companies, it has collected only four out of the 22 fines it has imposed in the past year. We are concerned that some of the more disreputable firms simply abolish themselves once they are fined—and they are phoenixing. Directors pop up elsewhere and continue the behaviour of making nuisance calls and sending texts. That behaviour needs to be stopped. We need to ensure that those directors are struck off, and that they cannot do the same thing again.

Q55 Thangam Debbonaire: Is the Telephone Preference Service system now completely pointless? My constituents say to me that they feel completely unprotected by it. Could the Bill do more to strengthen it?

Pete Moorey: It is not pointless. Our research shows that if people sign up to the TPS they usually have a reduction in calls. The problem is that there are too many firms out there that either just abuse the Telephone Preference Service and call people who are on the list, or indeed have consumers' consent to call them, because, sadly, the customers have incorrectly ticked a box at some point, and thought they were not giving consent when they were giving it. More needs to be done about the data consent issue. I know that the Information Commissioner's Office is doing more about it.

Q56 Kevin Brennan: So just to be clear, you would welcome amendments to the Bill that would strengthen action, including direct action against directors to avoid the shutting down of shell companies. Is there a case for some kind of aggravated offence where people are on the Telephone Preference Service, or where older people are specifically targeted in such a way?

Pete Moorey: I know there is a local police commissioner who is looking at the issue at the moment—particularly around making scam calls a hate crime. That is an interesting development. There is more that could be looked at in that area. I think a good start in the Bill would be the introduction of director-level accountability.

Kevin Brennan: I introduced a ten-minute rule Bill on this in 2003, so it is depressing that it is still a problem.

Chris Skidmore: I am sure you are delighted at the progress.

Kevin Brennan: It is according to the Government that there has been much progress.

Q57 Rishi Sunak (Richmond (Yorks)) (Con): Mr Moorey, to elaborate on what you said about the provisions in the Bill to reform the appeals process, I think you described the current set-up as having a chilling effect on competition and pro-consumer impacts. It would be great if you would elaborate on what the Bill will do to improve that situation.

Pete Moorey: I think it has. I think the reason why we do not have things like a gain in provider-led switching and automatic compensation in the sector is in part due to the fact that the regulator has not felt able to move ahead with those things without appeal. Indeed, the speed at which the regulator acts is also a result of the appeals mechanism. We see proposals coming from Ofcom, particularly around things like switching, where it seems to go through a process of repeated consultation really out of a fear of being appealed by the companies. So I think it has had a chilling impact, and those are a couple of examples.

As other panel members have said, moving to a system that every other economic regulator in the country uses, which means that you are able to challenge on the process rather than the merits, would therefore be a significant change. I simply do not see the case for the telecoms sector being any different from energy or any other economically regulated sector.

Q58 Nigel Huddleston: A great frustration in rural areas in particular is being promised mobile coverage or broadband speed that is not delivered. What in the Bill can ensure that those speeds are delivered and that coverage is acceptable?

Pete Moorey: The automatic compensation element is an important part of that. If you are not receiving the speed or signal required, there could be a case for compensation. Clearly, a big issue that we want to see addressed that is not in the Bill is around the Advertising Standards Authority code and the fact that companies can advertise that you will get a certain speed when actually only 10% of their customers get that. I know that the ASA and its committees are looking at that, but I think that needs to move forward much quicker. That is clearly not something for the Bill, but it is something we would support.

Q59 Nigel Huddleston: What about terminating contracts?

Pete Moorey: Ofcom has taken a lot of steps in recent years to allow people to terminate contracts when they are not getting the speed they want. I think that is an area that needs to be looked at with regard to mobiles as well. Vodafone has introduced a new rule that means that you can get out of a contract within 30 days if you are not getting the signal you expected. Again, I do not think that is necessarily something for the Bill, but it is certainly something the regulator should be looking at.

The Chair: This will probably be the last question.

Q60 Claire Perry: I wanted to confirm with Mr Legge that he was aware that there are provisions in the Bill to report broadband speed by household. That is something I welcome, and I hope he does too. I suppose that, like me, he is concerned about Mr Huddleston's point about the provision of service speed to many households in rural areas. I hope that, as a representative of a large chunk of the country, he will welcome that as a positive step for many rural households.

James Legge: Yes, we absolutely think the Bill is very much a step in the right direction, but it is like everything: one can always ask for more and hope for more. Certainly, from our point of view, increasing competition and empowering the consumer is one of the most important aspects of the Bill. Otherwise, people are not in a position to make choices and then take action when the companies do not deliver. As I said, it is important that that is seen as a first step and not as, "We have got 10 megabits—then what?"

The Chair: It was not the last question.

Q61 Calum Kerr: Have you considered whether automatic compensation should be not just for download speed but for upload speed? On the USO, have you put forward proposals on other, more granular levels, such as cost and latency as well as upload and download?

Pete Moorey: Our general view on compensation is that it really should be down to the regulator to set the specific areas that are covered. It needs to do that with consumers, and it needs to be based on consumer expectations. We need to look hard at what the consumer expectations in this world are. If you look at things like water and energy, actually a lot of those compensation levels and what they cover have not been reviewed for some time. We would not want a situation in telecoms where an arbitrary figure of £30 or £40 was set for particular things and then over time that was not addressed.

Q62 Calum Kerr: They are on or off-type services, though, which, to go your point, should do what it says on the tin. There should be a more granular—

Pete Moorey: Absolutely, and it should meet customers' expectations for that service.

The Chair: I am afraid that brings us to the end of the time allotted for the Committee to ask questions. On behalf of the whole Committee, I thank the witnesses for their evidence. Thank you very much.

Examination of Witnesses

Jeni Tennison and Mike Bracken gave evidence.

11.2 am

Q63 The Chair: We will now hear oral evidence from the Open Data Institute and the Co-op Group. We have until 11.25 am for this session. Will the witnesses please introduce themselves for the record?

Jeni Tennison: My name is Jeni Tennison. I am the CEO at the Open Data Institute.

Mike Bracken: My name is Mike Bracken. I am the Chief Digital Officer at the Co-operative Group.

Q64 Louise Haigh: Mike, to what extent do you think the Government have achieved their stated objective of open policy making by default?

Mike Bracken: I do not have a strong opinion on that. You would have to ask the person responsible overall for policy in Government or the Minister responsible.

Q65 Louise Haigh: Do the proposals on Government data sharing give you assurance that the Government have sufficiently considered safeguards on privacy, personal data and criteria for data sharing and time limitations?

Mike Bracken: In short, no. The sentiment behind many aspects of the Bill is to be applauded. The Co-op is a big supporter of open data and we see it as the catalyst of a digital economy. There are many complicated issues in this space, privacy and security being highest among them. While we applaud the sentiments of the Bill, there is much detail in the operational management of how data can and should be shared around Government Departments.

While we, of course, are looking for our members' interests in accessing open sets of public data, it is not yet clear that the current sharing agreements of data within Government are appropriate and it would appear that the move away from open registers of data may hamper the appropriate levels of sharing data in Government. It also may be the case that the friction that our members and members of society feel in dealing with duplicate sets of data, inconsistent sets of data and so on, which lead to substantial problems in accessing Government and their services, may not be improved by the current sharing policies as set out.

Q66 Louise Haigh: Do you think it is a backward step in public trust in Government data handling?

Mike Bracken: We think the Bill is a positive forward step in terms of the sentiment behind it—

Q67 Louise Haigh: But in terms of public trust in Government data handling?

Mike Bracken: I could not comment on that. The sentiment of the Bill overall is a positive one, but there is not enough detail on the sharing arrangements within Government and within Government Departments.

Q68 Louise Haigh: Jeni, my first two questions to you, please.

Jeni Tennison: I agree with much of what Mike has said. The important thing for securing public trust in the measures in the Bill is to have them clearly communicated to the public. Currently, the way they are written is quite complicated and it is quite hard to understand what they really mean.

It is also hard to understand the measures in the Bill in the context of the existing data-sharing agreements in the public sector. We would like to see a lot more transparency around what existing measures there are within Government for data sharing and how the Bill fits with those existing measures so that people can really get to grips with the way in which data are flowing through Government.

Mike Bracken: May I add to that? I completely support what Jeni has said. The issue is that, while we agree that making services and data better and easier to

access—the current sharing arrangements are opaque at best—we question the sentiment behind widening those sharing arrangements when they are currently not fully understood. It would appear that that sentiment is driven more by the operational structures of Whitehall and Government agencies than by the needs of users accessing that data.

Q69 Rishi Sunak: Jeni, do you mind giving us some specific examples that I can explain to my constituents about where increased use of data sharing can help their lives, and where public services can be improved, especially for those who are more vulnerable and benefit from public services? Where will data sharing help them to get the right policies to them?

Jeni Tennison: I tend to work in the open data area rather than around data sharing so many of the examples I tend to use are around data that are openly available for anyone to access using Share. The example I tend to use, which helps people to get to grips with it, is Citymapper, which makes data available to us to enable us to navigate around cities very easily.

When you look at the public sector and the kind of decisions it needs to make, such as planning decisions about where to place schools or transport links, where to put more infrastructure, such as physical infrastructure like mobile masts, for example, you can see that having better access to data about people's needs—who they are and what their requirements are—might enable it to make better decisions about where those facilities are needed.

Q70 Thangam Debbonaire: This is for Jeni Tennison about the evidence in the Open Rights Group's submission. In points 37 and 38 in your objections to the definition of pornographic material, you objected to the inclusion of all 18 materials.

Louise Haigh: That is a different witness. That is the Open Rights Group.

Thangam Debbonaire: I am sorry. I mixed you up with someone else. I withdraw my question.

Q71 Chris Skidmore: Mr Bracken, you were responsible for launching the Government's data programme when you were head of the Government Digital Service, so I think that some of the measures in the Bill are very much trying to build on your fantastic work when you were setting a vision for transforming the management and use of data within the Government and driving the use of data as a tool when making decisions in Government. Do you have thoughts about your work in GDS and how the Bill is now building on that work? How do you feel that the powers in the Bill will try to unlock some of the opportunities for better use of data?

Mike Bracken: Obviously, I am here as a member of the Co-op, so I am not going to give a review of my time in Government.

Chris Skidmore: You were closely integrated into this approach.

Mike Bracken: Of course. The first thing is to recognise the positive sentiment in the Bill. There is much in it to admire and applaud and I believe it builds on some of

the sentiment for providing better public services that certainly ran through my time in Government, pressed by various Ministers in the Cabinet Office, one of whom is sitting next to you now.

As I said earlier, I think the concern is not the sentiment and support, but in the lack of detail and the operational change that goes with that. Much of the work done previously, to date, has centred around things like single, canonical sets of data, so that there are accurate datasets about individuals, about place, about location, and that they are used within Government. That sentiment too often flies in the face of Whitehall's demand to own its own data, or what it perceives to be its own data, in every piece of Government. That leads to the current sharing agreements around Whitehall, which are opaque at best and create friction for our members, friction for members of society and friction for business. It is harder to find accurate data, it adds an economic downside to people dealing with Government. The Bill currently seems to move away from the sentiment of sorting that problem out. It seems to reinforce the primacy of Whitehall's willingness to share more data in ways that it has been sharing data over time. So while the sentiment of the Bill overall is positive, this area of how data are shared does not seem to be looking at the sort of open registers, those single approaches, that we started to look at in the latter part of the previous Parliament.

Q72 Matt Hancock: Do you agree that those areas in addition that you are looking for are essentially administrative rather than legal changes? That is to say, the Government need to move in that direction, I would argue that they are moving in the direction that you set out, but you would not put that in a Bill; you need to make it happen.

Mike Bracken: Yes. Absolutely, Minister. Too often, there was an assumption that those things would need regulatory or Bill backing. My experience was pretty much 100% that that was not the case; these are largely about administrative and operational management of data across Whitehall and across Departments. Clearly, there are some areas, security being an obvious one, where you need more legal oversight, but primarily it is not so much about a Bill.

Q73 Kevin Brennan: First, I agree with what Jeni said about Citymapper; it has changed my life, it is absolutely fantastic—I actually use the bus now. However, either witness, will the Bill in any way help to avoid another care.data type of scandal?

Jeni Tennison: I will go back to what I was saying around transparency and public trust. For me, the important part of any dealing with private, personal data has to be that we drive towards trust by being open about what is being done with those data, by being transparent about how they are being used, what decisions are being made with them, whom they are being shared with and under what circumstances. Those principles of having openness around the handling of personal data are what will drive public trust in their use. We are in a very difficult space here between trying to balance the right to privacy of an individual with the public good we can get from the use of data. It is a fuzzy and difficult one, one we are going to be working through

for many years, but having transparency and openness about it enables us to have an informed debate about where we are making that balance.

Q74 Kevin Brennan: Will the Bill make a care.data scandal in the future less likely, more likely or make no difference?

Jeni Tennison: For me, it does not go far enough in the need for transparency around where the sharing is going on, which is what I think would be necessary in order to avoid that.

Q75 Kevin Brennan: Finally, should the Bill be strengthened in some way in order to achieve that, and could that be done by an amendment to it, either of you?

Jeni Tennison: I think it could be strengthened by adding some provisions around openness and transparency, putting that at the heart of what you need to do whenever there is a data-sharing arrangement.

Q76 Claire Perry: I appreciate that point, but does either of you agree that there is a real asymmetry of concern between data which an individual may share with a public body and data which individuals share with a corporate body? One thing I am fascinated by, and it relates to so many provisions in the Bill, is that we knowingly or unknowingly give away rights to all kinds of information with every keystroke we make on the internet. We give huge chunks of personal information to corporate bodies which do not have the definition, as per clause 31, of improving the welfare of the individual, but are simply in it for profit. How would either of you help us to address that? Perhaps the Government—rightly, as an elected organisation—are being scrutinised about this, but my constituents are willy-nilly giving away vast chunks of their data, and in some cases giving away private data to very insecure storage facilities, almost without knowing it. It is frustrating for a Government who are trying to do the right thing to make digital government far more effective—as you did, Mike, during your time—to constantly be facing concerns and criticisms that ought properly to be applied to corporate bodies, but never are.

Mike Bracken: I completely understand your point about asymmetry and I agree with that. I would suggest that in corporate, public and private life it is a fair assumption that many people in the country are waking up to how their data have been used, how they have released that data and, increasingly, the repercussions of that, whether on social media, transactional data with a private company or, indeed, the public sector. There is a general awareness of and unease about some of the practices in all three of those sectors.

Having said that, the Government are held to a different account. Our members—we are a member-based organisation—hold the Co-op to a different account. We are the custodian of their data, and we are owned by our members. Many of the services we provide or help to provide to our members, such as wills, probate and funeral care, are deeply emotive at a certain time of life. These services often depend on Government data being in very good shape about place, location and identity. It is a fair correlation to draw that there should be a symmetry between how an organisation like us should be governed and managed, and the rules that should apply to public sector data. That is not to say that all the

data regulations which apply to all corporations and trading organisations need to be exactly the same as those for the Government. That would be a political issue far beyond my position to comment on. The Co-op would look to see that the Government uphold the highest possible standards, so that our members can get the best possible use of that public data.

Jeni Tennison: Perhaps I can add a couple of things. Mike has made the point well that the Government need to act as a model for how to do data sharing well, and how to be open and transparent about handling people's personal data. The Government are in a position of authority there. However, the other thing to bring up is that we have a mixed economy for the delivery of public services, including the private sector, charities and social enterprises. There should be some scrutiny over the way in which those organisations are handling personal data in the context of delivering those public services.

Q77 Nigel Huddleston: Do you believe that there is a lot of work to do in terms of clarity, in order to allay some of the fears about which data are being used here? I have had emails from constituents, and there is a perception that Excel spreadsheets will be floating around universities with personal financial data and personal health records. It is nothing like that, is it? It is aggregated and anonymised. What can we do, what can Government do and what can you do to help clarify the opportunity, move the debate on to those opportunities and allay some of those fears about data protection?

Jeni Tennison: I completely agree that there needs to be greater clarity about which data are being shared with whom, and why and how. You say that we are talking here about the transfer of aggregate and anonymised data, but that is not necessarily the case for some of the pieces of data sharing that are in the Bill. Some of it is the sharing of individual-level data, but it is not clear whether those are bulk Excel spreadsheets or through APIs. Those are the kinds of details that actually make a difference to how anybody might think about this trade-off between privacy and the public good.

Mike Bracken: Perhaps another way of thinking about that would be to question whether there needs to be sharing at all. As Jeni said, the sharing of data in Government has many different forms. Hopefully, many of those are secure and anonymised. I have doubts about our overall data-sharing operations, simply because Government is so distributed and there are so much data. Adding more sharing, without a clear landscape under which that is happening, seems to add more risk of privacy violation and more risk to security. Perhaps a way to think about it is access rather than sharing. Many Government Departments, and many organisations, are able to provide individual data points at point of request to people who they trust. You can query a dataset using an application programming interface rather than sharing an entire dataset with Departments. I suspect it is that willingness to share very large sets of data in different ways for the convenience of Government Departments and agencies that is the root cause of the unease around the data sharing part of the Bill.

Q78 Nigel Huddleston: Forgive me, but is that not the point? I said let us focus on the opportunities but already we have gone on to the negatives and the

[Nigel Huddleston]

concerns. It is often commented that by sharing health records we could cure cancer in 10 years. If I asked my constituents if they would share their health information with a university, 99 out of 100 people would say yes. We have to be more ambitious on the communication of the opportunities as well, have we not?

Mike Bracken: The opportunities are great and we are very supportive of that, but I suspect you did not ask each individual constituent if we should share everybody's health data. That is the point. When we ask for data sharing it is down to an individual's point of view. The Government use bulk data too often when what is actually required is only a small amount of data by another Government Department. There are different mechanisms that can do that more safely.

Q79 Chris Skidmore: The research power for data sharing, as presented, has been welcomed by many academics and civil society groups as a means of unlocking data for research for public benefit. Looking particularly at that data sharing with non-public bodies, do you recognise the benefits of that power? In terms of your point about communicating the value of the Bill, we have the research power and other things. Looking at vulnerable groups, such as troubled families, we have other powers that are there for public benefit. How do you feel we should express that public benefit?

Jeni Tennison: The benefits of each of the individual pieces of the Bill are different kinds of benefits to different kinds of people. I think they need to be separated out in some ways and not be muddled up together. That is one of the challenges with the Bill.

Q80 Matt Hancock: Can you set out what some of those might be?

Jeni Tennison: The benefits?

Matt Hancock: Yes.

Jeni Tennison: The research power enables us to provide data to researchers and academics who can then draw broad conclusions about, for example, the state of our economy, or who can give more accurate and up-to-date information about the way in which we are functioning as a society in general. Having those is

of great benefit to society. The pieces around fuel poverty and so on are more specific benefits to both individuals who would be touched by that and to the efficiency of the public sector.

Q81 Matt Hancock: And in terms of the data measures to tackle fraud?

Jeni Tennison: I have not looked at the detail of the individual measures for those kinds of benefits.

Q82 Louise Haigh: Is the point not that these benefits cannot be achieved unless the risks are tackled head-on, which is exactly what happened with the care.data issue in the last Parliament? That health data could not be shared because the public did not trust the Government or insurers with that risk. I worked in insurance at the time and that came as quite a blow. Is the point not that the Government need to take on the issues around transparency and trust in this Committee? Mike, on your point about data access, do you think Government are currently geared up to allow that, rather than bulk data sharing?

Mike Bracken: "Government" is a very broad organisation. There are promising moves around registers of data and around reinstating an address register. I do not know quite where that is now. There was a promising move but that now seems to be a little on the backburner—I am not sure. The point is that that question needs to be asked to 20-plus Government Departments and more than 300 agencies and non-departmental public bodies, each of which has a different answer. It is hard to summarise where "government" is at any one point without any open standards between those and without any clear framework under which Government data are already being shared.

The Chair: Order. That brings us to the end of the time allotted to the Committee to ask questions. On behalf of the Committee, I thank the witnesses for their evidence.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.