Review of the wholesale broadband access markets: Update on the impact of fibre roll-out and further consultation on the proposed charge control

EE Limited consultation response

11 March 2014

Non-confidential version

Table of contents

Introduction and summary

Introduction

EE Limited ("EE") welcomes the additional research and analysis by Ofcom that underpins this current Wholesale Broadband Access ("WBA") market review consultation ("the Supplementary WBA Consultation"). EE is pleased to have an opportunity to respond to these further conclusions and proposals.

Many of the statements made in the Supplementary WBA Consultation are responsive to concerns raised by EE in its response to Ofcom's initial WBA market review consultation published in July 2013 ("the 1st WBA Consultation"). Regrettably, many of EE's concerns regarding Ofcom's initial proposed WBA Significant Market Power ("SMP") remedies endure under Ofcom's revised proposals. In this consultation response, we focus our comments on the new analysis and conclusions set out in the Supplementary WBA Consultation. However, where concerns raised by EE in response to the 1st WBA Consultation remain unaddressed, the comments made by EE in its initial response should be considered to stand.

The main body of this response answers the consultation questions set out in Annex 4 of the Supplementary WBA Consultation. However, sections 3 and 4 of the Supplementary WBA Consultation contain new analysis and conclusions by Ofcom on a number of matters which have a very material impact on the proposed WBA SMP remedies, but on which Ofcom has not expressly consulted[1]. EE nevertheless considers it imperative that Ofcom takes into account the feedback of affected stakeholders such as EE on the new analysis and conclusions, in order to ensure that Ofcom's SMP remedies (and the process for setting them) comply with Ofcom's relevant statutory objectives and duties. EE's written feedback on these matters is set out directly below. We would of course be happy to meet with Ofcom to explain our concerns in further detail, should Ofcom find this helpful.

Competitive impact of fibre roll-out covering Market A

EE welcomes Ofcom's updated assessment that there is now a very good degree of certainty regarding BT's fibre roll-out plans, as well regarding as the likely uptake of that fibre by other communications providers ("CPs") (§3.13).

However, we firmly disagree with Ofcom's conclusions that the *strength* of the competitive constraint provided by these fibre services is essentially so uncertain that Ofcom should place no weight on it in determining whether or not BT is likely to have SMP in the exchanges covered by these new fibre services by the end of the next charge control period.

1 With the exception of the generic "do you have any other comments" consultation question 12.

As Ofcom acknowledges in the Supplementary WBA Consultation, these conclusions run counter to Ofcom's position in the 1st WBA Consultation that competitive conditions are likely to be *the same* for a given exchange for both current and next generation access (§3.18). EE does not consider that Ofcom's rationale for reaching a different view in relation to Market A exchanges set out in the Supplementary WBA Consultation is credible, for the following reasons:

- **End-user take-up:** EE stands by the market evidence provided to Ofcom in response to the 1st WBA Consultation (cf §3.20). EE considers that this evidence is much more pertinent to the specific question regarding the likelihood of fibre take-up in Market A relevant to the current market review than the much more general (and older) UK wide statistics quoted at §§3.21-3.22. As Ofcom acknowledges, for example, take-up may be expected to be higher in Market A than in other parts of the UK, given the distance dependence of the speeds achievable on copper technologies, which do not apply to the same extent with fibre (§3.19). Fast and reliable internet access for remotely performing a plethora of social and business functions may also be expected to be a high priority in geographically isolated communities. Lastly, the impact of price variations between non-BT copper based offerings in Market A and elsewhere in the UK needs to be considered when assessing the relative attractiveness of copper and fibre pricing in Market A vs in other parts of the UK. Given the importance of the likelihood of end-user fibre take-up in Market A to Ofcom's forward looking SMP assessment, EE respectfully suggests that, to the extent that Ofcom considers it necessary to further validate the evidence from EE with a broader consumer survey (§3.21), then the onus is upon Ofcom to do this.
- **If and when CPs will deploy fibre in Market A exchanges:** EE disagrees with Ofcom's conclusion that this should be considered a key cause of any uncertainty (cf §3.18). Ofcom has admitted that it now knows that "the large majority" of fibre roll-out to cabinets in Market A will be served from Market B exchanges in which Sky and TalkTalk and potentially other CPs are already present (§3.13). Ofcom has also accepted that CPs offer fibre services in many, albeit not all, fibre-enabled exchanges (§3.23). The fact that there is not a 100% match is, EE considers, much more likely to be the simple result of a lag in competitor roll-out of their fibre offerings / CPs' plans to launch these offerings in a phased manner than an indication that CPs have no desire or plans whatsoever to do this over the course of the next charge control period (cf §3.23). To the extent that there is any uncertainty here, it could be readily resolved through an Ofcom information request to the concerned CPs.
- **The impact of fibre on competition in Market A:** Ofcom suggests two key reasons for concluding that it is uncertain whether or not fibre will be a competitive constraint on BT's copper WBA pricing in Market A, each of which EE considers should not be given any weight:
    - **BT could set high fibre prices in Market A:** this would enable BT to set high VULA prices, whilst still complying with its margin squeeze SMP obligations (§3.24). So far as EE is

aware, in relation to both its copper and fibre retail pricing, BT Retail does currently and historically always has set uniform national pricing throughout the UK. Additionally, Ofcom has observed that the "large majority" of fibre cabinets in Market A are served from Market B exchanges. Where customers in Market B are served by those exchanges, it is to be assumed that competition will constrain BT's pricing. Considering the practicality of the matter such as implementation costs, it strikes EE as highly unlikely that BT would set VULA pricing at a cabinet level in order to be able to increase the fibre prices purely for the Market A areas covered by those same Market B exchanges. Unless and until Ofcom is provided with tangible evidence that BT plans to introduce differentiated retail or wholesale FTTC pricing during the course of the charge control period, EE considers that the mere theoretical possibility that BT may do so should be discounted.

- **The constraint from BDUK funded fibre is uncertain, because the pricing terms under the BDUK contracts are unclear (§3.25):** EE believes that the following comments very recently tabled in Parliament should ally any concerns that Ofcom may have in this regard:

  "Stephen Timms: To ask the Secretary of State for Culture, Media and Sport what steps she has taken to ensure that her Department's contracts with BT for the roll-out of rural superfast broadband include a reasonable market rate for (a) equipment costs and (b) other non-management costs.

  Mr Vaizey: Under the superfast broadband contracts between local authorities and the devolved Administrations and BT ***the supplier may only claim for eligible capital expenditure incurred in implementation of the network****. DCMS is able to provide comparison data on these costs to each of the local authorities and devolved Administrations.* ***BT has committed that the costs are the same as those used for its commercially-funded network. BT also bears part of the network installation costs itself so therefore has its own commercial incentives to minimise costs****. The local authorities and devolved Administrations and DCMS have full visibility of all implementation costs and the relevant invoices, including BT's contribution. The National Audit Office considered the controls that are in place to manage costs during implementation as part of its review of the rural broadband programme in 2013 and concluded that these appear robust"* (emphasis added)[2]

EE therefore considers that the risks to UK consumers of *under-regulating* in Market A have been very materially overstated by Ofcom – fundamentally

[2] http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140306/text/140306w0003.htm

undermining the validity of the regulatory balancing exercise conducted by Ofcom in the Supplementary WBA Consultation (§3.26; §§3.31-3.32).

EE also strongly disagrees with Ofcom's view that the risk of regulatory failure as a result of *over-regulation* is low (cf §3.27; §3.33):

- In response to the 1st WBA Consultation, EE has already explained to Ofcom the clear harm to the interests of UK consumers likely to be caused by the imposition of needlessly restrictive and distortive SMP conditions on BT's WBA pricing in Market A. The risks of inadvertently harming the interests of consumers through well intentioned pricing over-regulation are ever present in all markets and should never be underestimated by any telecoms regulator. Ofcom's duty to avoid such risks by ensuring that its regulatory activities are <u>in all cases</u> targeted only at cases in which action is needed is enshrined in section 3(3) of the *Communications Act* 2003, duly reflected in Ofcom's regulatory principle that it will "*<u>always</u> seek the least intrusive regulatory mechanisms to achieve its policy objectives*". In considering whether or not Ofcom should potentially allow over regulation of the WBA market, EE is very concerned that Ofcom's Supplementary WBA Consultation analysis and conclusions fail to give adequate weight to the seriousness of these risks and duties.
- EE also considers Ofcom's belief that the presence of state-aid funding in Market A alleviates the risk that over-regulation will distort investment decisions to be unfounded (cf §3.27; §3.30; §3.33). Over the course of the next charge control period, commercial investment decisions in both fibre and copper in Market A will inevitably be affected by the regulated WBA pricing Ofcom sets in Market A. The level of such private investment will in turn influence decisions regarding the need for any further state aid funded projects. Clearly Ofcom needs to be concerned in this regard not only with the impact of its regulations on investment plans and projects that may already be in train, but also with any distortive impact on future investment plans over the course of the charge control period.

EE would accordingly urge Ofcom to reconsider its proposals not to reduce the size of Market A to remove those exchanges in which a competitive constraint from BDUK funded fibre is currently known to be likely (i.e. those referred to at §3.29). In addition, we firmly agree with Ofcom's proposals to closely monitor the competitive impact of fibre in Market A and to re-open its consideration of this issue in the event that (as seems currently virtually inevitable) evidence emerges that fibre services are providing a stronger competitive constraint than Ofcom has anticipated (§3.35).

Anchor pricing – charge control impact of customers moving to BDUK funded fibre

A core tenet of Ofcom' anchor pricing approach to cost modelling, confirmed in the Supplementary WBA Consultation, is that "*Consumers should not be made worse off as a result of the SMP operator changing the technology that it uses to provide the service*" (§4.23).

In cases where BT has actively chosen to bid for BDUK funding and to work with BDUK in rolling out fibre in Market A (with the clear intent that some or all of BT's existing IPstream based customers in the concerned Market A areas would migrate across onto the new fibre network), EE remains firmly of the view that it is completely inconsistent with this key element of the anchor pricing approach for Ofcom to exclude volumes of customers moving to this BDUK funded BT fibre network when calculating the price per WBA customer payable by those continuing to be served by the legacy IPstream technology.

The manifest impact Ofcom's exclusion of these BDUK fibre customers is to artificially inflate the price per customer payable by the remaining IPstream customers in Market A – tangibly making those customers "worse off" as a result of BT's commercial decision to work with BDUK to facilitate changes to the technology BT uses to supply broadband in Market A. There is simply no argument that this outcome complies with Ofcom's stated consumer protection anchor pricing principles.

We agree with Ofcom that, potentially, the situation may be different if BTs Market A IPstream customers decided of their own volition to migrate across to BT fibre services provided over third party BDUK funded fibre infrastructure the rollout of which had absolutely nothing to do with BT and its commercial investment decision making. However, so far as EE is aware, that is simply not the case in relation to any of the current or planned BDUK fibre projects affecting Market A. Rather, in relation to each of these projects, we understand that BT has been intimately involved in bidding for the relevant BDUK funding, in scoping the project with the concerned local authorities, and contributing BT's own funds along with those of BDUK into the project.

There are countless more examples that we could provide to Ofcom, however we believe that the following quotes from BT and its top management make it obvious that the statements in the Supplementary WBA Consultation that "*BDUK is an* ***external event****, very different from a normal commercial decision on whether to invest in new technology by BT. This loss of economies of scale is not directly an effect that BT can take into account,* ***as it is not its commercial decision to roll out the BDUK funded fibre****, which offers the migration opportunity to customers*" (§4.28, emphasis added) are completely factually inaccurate:

> *"As well as deploying fibre under its own steam,* ***BT is working with councils and devolved authorities to take fibre to areas outside the private sector's current and projected footprint. Eighteen BDUK contracts 1 have been signed to date****, from Hampshire to the Highlands and Islands of Scotland,* ***with BT having pledged hundreds of millions of pounds of additional investment to support them****. The company hopes to sign further BDUK related deals in the coming months"*[3]

3 BT Press Release, 9 April 2013, http://www.btplc.com/news/articles/showarticle.cfm?articleid=%7B0b783057-2416-4a4d-8c8c-82a779f1c807%7D (emphasis added)

> "*So what are going to be some of the most important things over the next few years for BT? Firstly, we'll be spreading the fibre revolution even further. We are delighted that recently published research shows that the UK is already outperforming the major European economies on key measures for superfast broadband: coverage, average take-up, average speeds, and price.* ***We are going to push that even further. We are working with the government body BDUK to deliver the rural fibre programme****, with the aim of increasing the UK's overall fibre coverage from two thirds to 90% in the next year or so and potentially further in the future*"[4]

EE considers that the inaccurate characterisation of BDUK fibre roll-out as an event independent of and external to BT's own commercial decision making set out in the Supplementary WBA Consultation entirely vitiates Ofcom's policy decision not to include Market A customers using broadband provided over BDUK fibre in its Market A charge control volume forecasts. EE therefore urges Ofcom to avoid falling into serious legal error, by instead *including* these customers in the volume forecasts used to set the charge controls in its final statement.

Immediate roll-back of regulation in competitive Market 1 exchanges

Finally, we note that, whilst Ofcom is presently proposing to decline to reduce the proposed size of Market A further from the proposals set out in the 1st WBA Consultation as a result of fibre coverage of the relevant geographic area, the consultation responses appear to have cast little doubt on the correctness of Ofcom's initial proposals to set a smaller Market A than the current Market 1. In order to allow the free operation of market forces in areas in which SMP has been found no longer to be present as early as possible following the expiry of the current set of SMP remedies on 31 March 2014, EE would urge Ofcom to issue amendments to the current SMP remedies rolling them back from the Market 1 exchanges in which it is clear that BT no longer has SMP. EE considers that this approach will bring clear benefits to efficient and effective competition and thus to consumers through the lower prices likely to be stimulated by allowing competitive forces to flourish. We can see no reason why these amendments could not be made in advance of the finalisation of the relevant charge controls (and any further reductions in the size of Market A) as per Ofcom's final statement on the current review to follow in Spring 2014.

Response to consultation questions

Question 1 - Do you agree with Ofcom's proposal to use 2012/13 as the base year but to exclude all BT's new allocation methodologies set out in its 2013 RFS?

---

4 Transcript of Gavin Patterson comments to Enders investment event, Media & Telecoms: 2014 and Beyond, 5 March 2014 (emphasis added)

Yes. This is the approach that Ofcom has proposed under its latest consultation proposals for the WLR and LLU charge controls, and EE strongly agrees with Ofcom's conclusion that Ofcom should adopt a consistent approach across the WBA, WLA and WFAEL markets (§4.19). EE considers that this is necessary in order to avoid any inadvertent discrimination against or distortion of competition between operators using different technologies to supply voice and broadband services. In the case of each market, the impact of any further delay to the implementation of Ofcom's new charge controls as Ofcom takes additional time to assess BT's proposed new allocations is also likely to be equally harmful to the interests of consumers and to fair and efficient competition (§4.19).

Question 2 - Do you agree with Ofcom's proposal to make adjustments to SG&A Broadband and ATM Network Interface, Switching and Transmission costs presented in the October 2013 RFS Report?

In order to achieve the policy objectives of setting the Market A WBA charge controls, EE wholeheartedly agrees with Ofcom that it is imperative that adjustments are made to BT's proposed allocation methods where these would otherwise result in costs being attributed to Market A that are not relevant to serving Market A customers – for example the costs of "stranded" DSLAMs that have become redundant due to BT's IPstream to WBC migration programs in Market B (§§4.30-4.31; §4.35).

However, EE disagrees with Ofcom's proposals to allocate a greater proportion of its forward looking fixed IPStream costs to Market A, purely because BT has chosen to migrate customers in Market B off of its IPstream network and on to its WBC and fibre networks (§4.29). Ofcom's initial suggestion that this proposal runs counter to its anchor pricing principles (§4.29) is entirely correct, and should not have been ignored by Ofcom. Certainly it is true that competitive pricing in Market B may not allow BT to recover the same share of the forward looking fixed costs of IPStream from Market B as it did previously. Presumably, BT has factored this into its commercial decisions to nevertheless migrate customers off of this network and onto its WBC and fibre networks on the basis of counter-veiling benefits to BT of increased profits and/or efficiencies from serving customers using the new technologies and/or the ability to also to some extent ultimately reduce the scale of its fixed IPstream costs as the legacy customer base dwindles. It is right and correct that competitive forces should prevent BT from, *in addition*, being able to charge a price premium to recover its excess remaining legacy Market B fixed IPstream costs. In these circumstances, EE considers that it is completely wrong that Market A customers should be penalised (and BT given a windfall) by allowing BT to additionally recover some of these Market B fixed costs from its Market A regulated pricing. This would never happen in Market A were it subject to normal competitive pricing constraints. Accordingly, Ofcom shouldn't allow this to happen under its charge control – which is designed to replicate the benefits for consumers of a healthy competitive market in Market A and to ensure that those customers are not made worse off as a result of BT technological investment decisions.

In relation to SG&A and ATM network costs, we understand that BT has adopted in its October 2013 RFS Report costs which are broadly consistent with the methods Ofcom used in the 2011 WBA Charge Control (§4.39).

However, EE understands that Ofcom is proposing to reject BT's proposed allocations of SG&A Broadband, ATM Network Interface and Switching and Transmission costs according to *forecast* rather than actual revenues and volumes – reducing the relevant operating costs included in BT's October 2013 RFS Report by circa £2.8m. On the basis of this understanding, EE currently has no objection to Ofcom's proposals. However, in an environment where the number of customers served using IPstream is expected to continue to fall, the material fluctuations in the costs recoverable from BT's Market A competitors driven by the volume assumptions adopted does cast some doubt on the appropriateness of the overall current charge control calculation methodology for achieving Ofcom's relevant policy objectives (to protect fair and sustainable competition in Market A and to promote the best interests of Market A consumers).

Question 3 - Do you agree with Ofcom's proposal to update our one-off non recurring cost adjustments, our market size adjustment and our DSLAM cost adjustment?

In relation to Ofcom's proposed one-off non-recurring costs adjustment, EE has no objection to Ofcom's continued proposal to remove £1.2m in Market 1 operating costs categories as "Other CCA adjustments" (§4.52).

EE is not in a position to comment in any level of detail on Ofcom's proposal not to make any adjustment for revised market size from Market 1 to Market A in its charge control model (§4.59). We agree with Ofcom that the aim under Ofcom's anchor pricing approach is to achieve a reasonable estimate of the costs that would be incurred by all WBA customers within Market A assuming they consume IPstream services (§4.59). If Ofcom believes that the level of restated IPstream costs in BT's October 2013 RFS Report is a reasonable proxy for this (§4.59) and is not liable to lead to BT over-recovering its costs, then EE has no basis on which to challenge Ofcom's judgement in this matter.

EE's position in relation to Ofcom's proposed DSLAM adjustment (§4.62) remains as set out in EE's response to the 1st WBA Consultation.

Question 4 - Do you agree with Ofcom's proposal to update the HON adjustment in line with that made in the 2013 WBA Consultation but to adjust the asset lives?

Yes. EE welcome's this adjustment, for the reasons set out in EE's response to the 1st WBA Consultation as well as the additional supporting analysis of asset lives that Ofcom has conducted subsequently (§§4.74-4.75). Our only comment is that the new proposed asset lives of 13 years (Table 4.3) may continue to allow BT to over-recover costs, given that 13 years seems to be the *lower end* of the actual physical asset lives deployed by BT (§4.74), and given the assumptions of longer asset lives that should be assumed to apply to an HON network (§4.48).

Question 5 - Do you agree with Ofcom's proposal to exclude 21CN costs from the charge control?

EE wholeheartedly agrees with this proposal. It is clearly inconsistent with Ofcom's anchor pricing principles for BT to be able to recover from the charges for its regulated Market A IPstream services the costs of 21CN assets that are not utilised by those regulated services (§§5.5-5.6). As Ofcom rightly concludes in the Supplementary WBA Consultation, allowing such cost recovery is likely to make Market A customers worse off as a result of BT's decision to use new technology (§5.14; §§5.18-5.22).

We also agree with Ofcom that:

- it violates the fundamental Ofcom pricing and cost recovery principle of cost causality for customers who do not use a service to be required to contribute towards its costs (§5.17);
- it is not clear whether Market A 20CN IPstream customers will indeed ever benefit from this 21CN expenditure by BT (§5.14; §5.16), hence allowing BT to recover these costs from its 20CN services is also very likely to violate another fundamental Ofcom pricing and cost recovery principle of distribution of benefits (§5.17); and
- It is clearly contrary to Ofcom's 20CN HON network modelling approach to add in 21CN asset costs that duplicate the functionality of 20CN assets already costed. It is not clear that 21CN technology is the most efficient way to deliver IPstream – e.g. as it may deliver a higher quality than is necessary for that product. If it was, it is to be expected that adding in the 21CN costs and removing the duplicated 20CN costs would result in *overall lower not higher* costs (§5.14; §§5.25-5.27).

Question 6 - Do you agree with Ofcom's proposed changes to the compliance formulae to reflect relevant EOI charges?

We agree with Ofcom that EOI charges which are subject to a separate charge control under Ofcom's Fixed Access Market Reviews should be excluded from the WBA charge control (§6.9). Accordingly, this needs to be reflected in Ofcom's compliance formulae (§6.10). In the cases where there are multiple EOI services consumed by a single regulated WBA product, we agree with Ofcom that the compliance formulae should be explicit as to which charge controlled WBA products consume which EOI input services, and what the calculations should be in relation to the volumes of EOI input services consumed (§§6.10-6.11).

Question 7 - Do you agree with Ofcom's proposal to include a carry-over provision within the legal instrument?

The Supplementary WBA Consultation is undesirably unclear as to exactly what Ofcom is proposing here, as there is minimal detail actually provided at §§6.15-6.17. To assist stakeholders to provide informed responses, it would have been helpful if Ofcom had at least provided cross-references to the exact clauses of the proposed legal instruments intended to give effect to these proposals. From EE's review of Annex 8, it seems that SMP Condition 7.13 contains a form of "carry-over" provision, in that it allows Ofcom to direct adjustments to be made after the end of the Third Relevant Year. SMP Condition 7.10 also seems to be relevant, in that it requires excess revenue to be repaid where there are excess charges in any Relevant Year.

EE is concerned that SMP Condition 7.10 is drafted in a very loose fashion, requiring BT to make repayments of excess charges only "to the extent reasonably possible" and "as soon as reasonably practicable". In terms of timing for such re-payments, EE considers that a hard back-stop date for completing this should be included into the SMP Condition – e.g. within the first 30 or 60 days of the end of the Relevant Year. EE also considers that Ofcom should explain in its Statement that it would only be in exceptional circumstances that Ofcom would consider it not to be "reasonably practicable" for BT to make such repayments, and to elaborate on what these may be (EE cannot presently imagine any other than circumstances outside of BT's control such as the relevant CP ceasing to exist or failing to provide details for the making of the repayment upon reasonable written request for the same).

Question 8- Do you agree with Ofcom's proposal to change the definition of cease charges that are to be set to £0?

EE supports and welcomes Ofcom's proposals to set to £0 the cease charges for all WBA provided in Market A (i.e. including those for, inter alia, WBC as well as for IPstream Connect Max and Max Premium) (§6.23). EE agrees with Ofcom that this is an important step reducing costs and in keeping switching charges between operators to a minimum, thus promoting competition within Market A (§6.21).

Question 9 - Do you agree with Ofcom's proposal in relation to migration and connection charges?

EE welcomes Ofcom's clarification in the Supplementary WBA Consultation that "*the WBA migration charge in Market A should be similar to the IPStream Connect Max and Max premium migration charge*" (§6.30). EE assumes this to mean that, in the event of any allegation of non-compliance with BT's SMP conditions, any higher WBC migration charges imposed in Market A will be regarded as unfair and unreasonable, in violation of BT's SMP conditions.

Nevertheless, for the reasons set out in EE's response to the 1st WBA Consultation, EE remains of the view that an express charge control price cap should be set on Market A WBC connection and migration charges. Whilst reported revenues for these services may be small in terms of the overall revenues generated by BT (§6.29), these charges do have a key impact on wholesale and retail competition to BT in Market A. Even the current "relatively small" unjustified £2.50 price premium charged by BT to connect WBC vs IPStream Max/Max Premium does directly harm both competition and consumers in Market A. We therefore strongly disagree with Ofcom that the risk of regulatory failure of not directly controlling these charges is low (§6.33). EE considers that this makes a direct control on these charges both necessary and proportionate, irrespective of the overall level of revenues generated. EE further notes Ofcom's observations that already nearly 20% of WBA customers in Market A consume WBC rather than IPstream products (§4.55), with this trend expected to continue. EE considers that this heightens the need and proportionality of directly controlling these charges over the course of the next 3 years of the charge control period.

Question 10 - Please provide any further relevant evidence you may have in relation to the appropriate efficiency improvement target for BT for WBA markets.

EE has no further evidence to provide in addition to the comments made in EE's response to the 1st WBA Consultation.

Question 11 - Please provide any comments you may have on the proposed range of X values of -15.2% to -8.7%.

EE's comments on the relevant adjustments made by Ofcom to its proposals in the 1st WBA Consultation have already been provided in response to questions 1-10 above and in the introduction and summary section of this response.

Question 12 – Do you have any other comments on the issues raised in this consultation?

Please see the comments set out in the introduction and summary section of this response.