

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Business connectivity market review

To (Ofcom contact): BCMR@ofcom.org.uk

Name of respondent: [REDACTED] Redacted for publication

Representing (self or organisation/s): BUUK

Address (if not received by email): [REDACTED] Redacted for publication

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input checked="" type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Due to site specific commercial information we require Appendix one not to be published.

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name [REDACTED] Redacted for publication

Signed (if hard copy)

18th January 2018

BCMR
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

By email only : BCMR@ofcom.org.uk

Dear Sir/Madam

Response to DDCMS consultation: New build developments: Delivering gigabit-capable connections.

BUUK owns both a fibre infrastructure provider, Open Fibre Networks Limited (OFNL) and a fibre only retail service provider business, Independent Fibre Retail Limited, which trades as "seethelight". This response is a consolidated response on behalf of both of these companies.

In this document BUUK sets out its response to Ofcom's Main Consultation Documents (volumes 1 and 2) and the 22 appendices published on 2nd November 2018 as part of its Business Connectivity Market Review ("BCMR").

BUUK remains strongly supportive of Ofcom's continued mandation of a dark fibre remedy to BT's SMP in CISBO markets. Subject to the two reservations set out below, BUUK considers that the remedy remains technically feasible and will continue to improve the overall level of competition in the telecoms industry in the UK.

Firstly, with regards to the service level targets for the provision of Ethernet Access Direct (EAD) we remain concerned that the use of clock stops and the scope of the SLA measure of performance are leading to significant delays in the provision of certain types of services. We have completed some analysis on the actual length of time it has taken Openreach to deliver EAD Circuits once BUUK have agreed Excessive Construction Charges (ECCs), this is the time between obtaining permits (KCI2 in BT process) and customer handover (KCI3 in BT process). For the two years 2017 and 2018 the average elapsed time (ignoring clock stops) is 226 days against a target timescale of 30 days with only two projects delivered within the target timescales and some projects outstanding for more than 2 years. To help illustrate the type of issues we have provided three specific projects in a commercially confidential appendix ([X] Redacted for publication). We believe that further work is needed to redesign the current SLAs to ensure that the SLA figures published by Openreach are meaningful and are an accurate reflection of the service CPs consuming EAD circuits are actually experiencing. This can be achieved in a number of ways but we are looking for the closer control, through definitions, of the use of the clock stops (with a right of appeal) and to include long stop

absolute completion dates for all EAD applications as well as the current averaging of all applications. Three major issues we experience are:

- Where civils works are required either to extend Openreach's network or to unblock a duct. In these circumstances, Openreach pass the whole process to a sub-contractor who is responsible for all aspects of the work, including obtaining permissions, road opening notices, actual civils works and reinstatement where necessary. These subcontractors appear to be very inefficient and a job that should take a couple of weeks seems to take many months. As Openreach have the clock stopped, they seem un-concerned at these delays, as the SLA is not impacted and so they have no incentive to manage this poor performing area.
- Openreach clock stop through the cancellation of orders midstream to routinely improve their performance under the SLA. We note that within the current definitions within the SLA Openreach are able to self-determine, without recourse, when a clock stop should be applied. Our experience is that in some circumstances the grounds are unfounded, but we observe no acknowledgement or adjustment to performance.
- Openreach often make mistakes where they claim works are complete and in the end they find they are not, or have been completed incorrectly and the required asset cannot be found, which may mean the work being repeated with additional "SLA clock stops" for civils or similar tasks to be completed out of step.

Secondly where Physical Infrastructure Access (PIA) is not possible, either due to lack of duct capacity or the distance to the exchange makes it commercially unattractive, we require the extension of the proposed dark fibre remedy to allow dark fibre to be provided from the Openreach Local Exchange to our customer premise within the local exchange serving area. As stated above in some circumstances unrestricted access to existing ducting does not provide a suitable new connections solution as the infrastructure could be full or contain many blockages or if a single fibre is required the installation of a cable or sub-duct using PIA could be too expensive and ultimately wasteful of Openreach's valuable duct asset. The extension of the dark fibre remedy to include Local Exchange to customer premise where spare fibre capacity is available would be much more cost effective than the installation of new infrastructure. This would make many more connections to new developments commercially viable for alternative network providers further increasing the level of competition in the Telecoms market.

We would be happy to provide any further clarification to our responses if that would be helpful.

Yours sincerely

[X] Redacted for publication

BUUK Regulation Director

Contemporary Interface (CI) Access

Question 4.1: Do you agree with our proposed approach to product market definition? Please provide evidence to support your views.

We agree with Ofcom's approach to product market definition.

Question 4.2: Do you agree with our proposed CI Access product market definition? Please provide evidence to support your views.

No further comments.

Question 5.1: Do you agree with our proposed approach to geographic market analysis for CI Access? Please provide evidence to support your views.

No further comments.

Question 5.2: Do you agree with our proposed definition of geographic markets for CI Access? Please provide evidence to support your views.

No further comments.

Question 6.1: Do you agree with our proposed approach to SMP assessment for CI Access in the UK excluding the Hull Area? Please provide evidence to support your views.

No further comments.

Question 6.2: Do you agree with our proposed SMP findings for CI Access in each of the geographic markets defined? Please provide evidence to support your views.

No further comments.

CI Inter-exchange connectivity

Question 7.1: Do you agree with our assessment of inter-exchange connectivity? Please provide evidence to support your views.

No further comments.

Question 7.2: Do you agree with the proposed market definition? Please provide evidence to support your views.

No further comments.

Question 7.3: Do you consider that our list of BT exchanges for de-regulation is correct? Please provide evidence to support your views.

No further comments.

Question 7.4: Do you agree with our list of Principal Core Operators (PCOs)? Please provide evidence to support your views.

No further comments.

Traditional interface (TI) services

Question 8.1: Do you agree with our proposal not to regulate the low bandwidth TI services market on the basis that it no longer fulfils the three-criteria test set out in the European Commission Recommendation? Please provide evidence to support your views.

No further comments.

Hull Area

Question 9.1: Do you agree with our proposal to deregulate the retail market for CI services at all bandwidths in the Hull Area? Please provide evidence to support your views.

No further comment

Question 9.2: Do you agree with our analysis and proposed findings in relation to the wholesale market for CI Access services at all bandwidths in the Hull Area? Please provide evidence to support your views.

No Further Comment

Question 9.3: Do you agree with our proposal to deregulate wholesale TI services at all bandwidths in the Hull Area? Please provide evidence to support your views.

No Further comment

Approach to remedies

Question 10.1: Do you agree with our proposed approach to remedies? Please provide reasons and evidence in support of your views.

No further comments.

General remedies

Question 11.1: Do you agree with the general remedies that we propose? Please provide reasons and evidence in support of your views.

No further comments.

Specific dark fibre remedy for inter-exchange connectivity

Question 12.1: Do you agree with the aims and effect of our proposed dark fibre remedy? Please provide evidence to support your views.

BUUK broadly agree with Ofcom's aims and the anticipated effect of the dark fibre remedy. This is an important development of the telecoms market.

Question 12.2: Do you agree with our proposed scope of the remedy? Please provide evidence to support your views. Please provide evidence to support your views.

BUUK believe that the scope of the remedy should be extended to cover exchange to site dark fibre rental. This will further facilitate the introduction of competition in New Connections improving customers satisfaction and driving down costs.

Question 12.3: What scope do you expect to have for cost savings as a result of the proposed dark fibre remedy? How large do you expect any cost savings to be? Please provide evidence to support your views.

No further comments

Question 12.4: How many orders for dark fibre would you envisage placing during the two-year review period? Please provide evidence to support your views.

No further comments.

Question 12.5: Do you agree with our proposed timeline for dark fibre implementation? Please provide evidence to support your views.

No further comments.

Specific remedies for active products

Question 13.1: Do you agree with the specific network access remedies that we propose for CI services at all bandwidths in the business connectivity markets? Please provide evidence to support your views.

No further comments.

Specific remedies for interconnection and accommodation

Question 14.1: Do you agree with the specific remedies for interconnection and accommodation that we propose? Please provide evidence to support your views.

No further comments.

Quality of services (QoS) remedies

Question 15.1: Do you agree with our proposals regarding the application of QoS standards, KPIs, SLAs and SLGs over the period of this review? Please provide evidence to support your views.

We request that Ofcom increase the scope and effectiveness of the SLAs with regards to the provision of Ethernet Access Direct (EAD). We remain concerned that the use of clock stops and the scope of the SLA measure of performance are leading to long delays, our actual data shows time average elapsed time of 226 days versus a target of 30 days. This can be achieved in a number of ways but we are looking for the closer control, through definitions, of the use of the clock stops (with a right of appeal) and to include long stop absolute completion dates for all EAD applications as well as the current averaging of all applications. Currently Openreach have no incentive to ensure their civil works contractors carry out works in a timely manner.

Remedies in the Hull Area

Question 16.1: Do you agree with the remedies in the Hull Area that we propose? Please provide evidence to support your views.

No further comments

Volume 2: Leased line charge control

Objectives and approach in setting the leased lines charge controls

Question 2.1: Do you agree with the proposed form of charge controls? Please provide evidence to support your views.

No further comments.

Charge control design

Question 3.1: Do you agree with each of our proposals in relation to the design of charge controls for active services at 1 Gbit/s and below? Please provide evidence to support your views.

No further comments.

Question 3.2: Do you agree with each of our proposals in relation to the design of charge controls for active VHB services? Please provide evidence to support your views.

No further comments.

Question 3.3: Do you agree with each of our proposals in relation to the design of charge controls for accommodation services, Excess Construction Charges and Time Related Charges? Please provide evidence to support your views.

No further comments.

Inter-exchange dark fibre charge control

Question 4.1: Do you agree with our proposals in relation to the design of a charge control for inter-exchange dark fibre? Please provide evidence to support your views.

No further comments.

Implementation, compliance and legal tests

Question 5.1: Do you agree with each of our proposals in relation to the implementation of charge controls? Please provide evidence to support your views.

No further comments.