

# Physical Infrastructure Market Review

## INCA Response

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INCA welcomes the opportunity to respond to this timely market review. INCA has more than 120 members including companies building and operating new full fibre and wireless networks (the competitive challengers), vendors, other suppliers to the sector, consultancy services, and a growing number of local authorities.

INCA works with Point Topic to survey our members and our last survey found that altnets account for more than 1m premises passed with full fibre connections. Substantial new investment is flowing into the sector, new networks are getting built in urban and rural areas, and they provide the highest quality and fastest broadband available to UK consumers and SMEs.

Our members very much support the thrust of this consultation which complements Ofcom's overall rationale for supporting competitive investment in new digital infrastructure, along with policies to support faster deployment and greater coverage.

We consulted members through our Policy & Regulatory Special Interest Group which includes representatives of the key independent networks (altnets) and we had an extensive discussion on duct and pole access at a Strategy Workshop involving 30 INCA members on 31<sup>st</sup> January.

Many INCA members are actively using PIA or participating in trials of duct and pole access. We agree that it is potentially very useful in helping reduce cost and speeding up deployment for challengers; this has been demonstrated in other markets. Many sections of the consultation find strong support amongst INCA members including the conclusion that BT has SMP in the provision of physical infrastructure and the analysis of geographic and usage restrictions.

The greatest overall concerns have been expressed in relation to Section 4 and in particular the issue of equivalence. Many of the proposals are not controversial in a general sense for INCA members (although there will be differences in emphasis and detail amongst individual responses). Proposals requiring provision of network access on reasonable request, maximum charge obligations, and a requirement not to unduly discriminate find general support. However, the view has been expressed strongly that there should be strict equivalence of inputs and that BT/Openreach should effectively consume the same product as the challengers in order ensure complete fairness and transparency.



We recognise that this is a difficult issue and that the problem to some extent lies in the current structural relationship between BT and Openreach with the danger of creating (or perpetuating) perverse incentives. We also recognise that the review takes significant steps towards tackling the concerns with the proposal for a non-discrimination obligation. However, a lack of strict equivalence risks substantially weakening the overall product from the perspective of competitive challengers and their investors. It is not easy to think through how this can be better addressed, short of separating the physical infrastructure into a fully separated entity, but we urge Ofcom to consider steps that could mitigate concerns that have been expressed on this point.