

Openreach's response to Ofcom's consultation "Proposed Annual Plan 2019/20: Making communications work for everyone"

7 February 2019



Introduction

On 3 December 2018, Ofcom published its consultation document entitled “Proposed Annual Plan 2019/20 – Making communications work for everyone” (“the Consultation”).

This response is provided by Openreach Limited.¹

Openreach is a wholesale network provider. We support more than 600 Communications Providers (CPs) to connect the 30 million UK homes and business to their networks. We sell our products and services to CPs so they can add their own products and provide their customers with bundled landline, mobile, broadband, TV and data services. Our services are available to everybody and our products have the same prices, terms and conditions, no matter who buys them.

¹ Openreach Limited is a wholly-owned subsidiary of BT Group.

Openreach's comments on Ofcom's proposals

1. Openreach welcomes the opportunity to comment on Ofcom's proposed plans for 2019/20. Openreach continues to support Ofcom's three high-level, long-term strategic goals, namely: to promote competition and ensure that markets work effectively for consumers; to secure standards and improve quality for consumers; and to protect consumers from harm.
2. In support of Ofcom's strategic goals, Ofcom recognises the growth in online services is enabled by telecoms infrastructure which requires further investment and the need to move towards universal availability of high quality and secure communications networks.
3. Ofcom's goals are consistent with Openreach's strategic aims. We build and maintain the digital network that enables more than 600 providers to deliver broadband to homes, hospitals, schools and businesses large and small. Our engineers work in every community, every day, because we believe everyone deserves decent and reliable broadband. We are well on the way of achieving these aims via our big bold plan but there is more to do which needs to be supported by the right regulatory framework and a stable environment for investment: Our aims are for:
 - Better service – we want to give customers industry leading customer service;
 - Broader coverage – we want as many people as possible to have access to speeds of at least 30Mbps; and
 - We want to give ultrafast access using full fibre to 10 million premises by the mid 2020s, if the right conditions are in place for investment and there is customer demand.
4. In our response we focus on some of the key areas in the work plan for 2019/20 as set out in Annex 2 of the Consultation document. We also highlight some further areas of interest which we believe are key to delivering the Ofcom's goals.

Single Fixed Telecoms Market Review: We will consult on market assessment and remedies proposals for fixed telecoms services. This will cover wholesale voice/broadband connections and wholesale leased lines. Any remedies would come into effect in April 2021.

5. This review will be critical in establishing a regulatory framework that supports long-term, scale investment in full fibre networks. We are investing billions: our ambition is to build FTTP to three million premises by the end of 2020 and if the conditions are right and there is customer demand we intend to make FTTP connections available to 10 million homes and businesses by the mid-2020s. In order to make a return on that investment, we need, among other things, clarity on the regulatory rule set throughout a period of transition. We will be upgrading the access network over a number of years as consumer demand for high capacity connectivity evolves and the technological and competitive landscape shifts. In the long run, homes and businesses currently purchasing fixed services over a copper connection – whether voice-only, standard ADSL broadband or fibre to the cabinet superfast broadband – will need to switch to services supplied over a full fibre line.

6. Regulation will play a crucial role in facilitating the pace of that migration and the terms of supply before and after lines are migrated; regulation will therefore impact the success of any case to upgrade at scale and pace. The Single Fixed Telecoms Market Review should therefore be forward-looking and broad in its outlook in considering the role of regulation across current and future services and focus on providing investors with confidence that they can earn returns on their investments reflective of the risks taken over the coming years.
7. As part of the Single Fixed Telecoms Market Review process Ofcom should specifically consider the way in which it regulates Openreach Quality of Service in the medium term. Openreach supports the need for high levels of service, supporting a good customer experience and we are now offering in many respects our best ever levels of service in consumer and business markets.
8. Regulation has played an important role in facilitating this improvement. Openreach considers that it is right to start thinking now about the right regulatory framework to drive good Quality of Service in 2021/22 and beyond i.e. during the period covered by the forthcoming Single Fixed Telecoms Market Review.
9. Openreach considers that it may be appropriate to move away from the current approach, which relies on Ofcom specifying detailed targets, to a more flexible model based on greater direct agreement between Openreach and its customers. We recognise this will require detailed discussion with impacted stakeholders, and we consider that Ofcom should signal in its Annual Plan for 2019/20 its support to commence those discussions now.

Physical Infrastructure Market Review: We will complete our competition assessment of the market for physical infrastructure, with a view to introducing an unrestricted duct and pole access remedy.

10. The Government has said that only a large-scale full fibre network will do to ensure competitiveness of UK's digital economy, post Brexit. Their aim is to give 15 million UK homes access to full fibre broadband by 2025, with a nationwide rollout to be complete by 2033 - and Openreach is contributing to making this happen. Openreach has announced 11 new locations where it will be building new FTTP networks during 2019 - including Bury, Barking & Dagenham, Bexley, Croydon, Greater Glasgow region, Harrow, Merton, Redbridge, Richmond upon Thames, Sutton Coldfield, and Salford. This brings the total number of towns, cities and boroughs that Openreach will be building in to 25, with the company on-track to deliver its commitment of reaching three million homes and businesses with full fibre broadband by the end of 2020. It wants to upgrade 10 million premises and ultimately the majority of the UK if the right conditions are in place for investment.
11. Ofcom's recent Physical Infrastructure Market Review (PIMR) consultation sets out proposals to give unrestricted access to Openreach's ducts and poles (uDPA), with the objective of giving companies greater flexibility to use the Openreach network to lay fibre networks that serve both residential and business customers. These proposals extend the scope of the duct and pole access (DPA) remedy beyond that set out in the Wholesale Local Access (WLA) statement of March 2018.

12. Openreach understands the importance Ofcom attaches to DPA as a means of encouraging other operators to invest in and build full fibre networks to create alternatives to Openreach's fibre product portfolio. Openreach is fully committed to delivering a world-class DPA product, which not only fully meets our regulatory obligations but also gives our industry customers what they want and is 'best in class' operationally. The new DPA reference offer, already due to be launched in April 2019, will enable greater flexibility in the use of ducts and poles through introducing mixed usage rules; fully implement the pricing changes introduced in the WLA, including the new network adjustment rules; ensure access on fully equivalent terms to ensure a level playing field through the no undue discrimination condition; with processes in place to ensure efficient network deployment, including access to digital maps to support large-scale network planning. There has been significant and constructive industry engagement and collaboration and we have tried to take all inputs on board, including progressing our review of the various industry Statements of Requirements (SoRs) received. We have delivered 'quick wins' wherever possible, for example on maps and self-service ordering, and at the same time, we are developing a 'Day 2' roadmap that takes us beyond the April 2019 launch with further improvements to processes and functionality.
13. We do however believe that Ofcom has understated the role that others' infrastructure can play in facilitating competitive full fibre network build. Competitive investment in full fibre networks will have the best chance of success if physical infrastructure access is facilitated more generally, rather than just limited to Openreach's ducts and poles. Different physical networks (including non-telecoms infrastructure) can be combined to support fibre deployment.

Broadband Universal Service Obligation (USO): Ofcom will implement a broadband universal service obligation. In particular Ofcom will: designate one or more Universal Service Providers to deliver the service; establish the obligations that Universal Service Provider must meet to deliver the scheme in accordance with the legislation; and determine how the costs incurred by a Universal Service Provider may be compensated. In implementing the USO, our objectives are: to deliver the USO as quickly as possible, so consumers benefit as soon as possible; to ensure any designated provider can deliver services that meet the USO requirements; and to ensure the cost of delivery, and therefore impact on industry and consumers, is minimised.

14. Openreach is keen to support the Government and Ofcom in getting decent broadband to everyone in the UK, and new Openreach fibre build, in response to customer requests, will help BT, as the proposed USP, address the premises that Ofcom has identified as eligible for a USO service. This will then allow Government, Ofcom, BT and the rest of industry to focus on connecting the remaining customers in conjunction with publicly funded schemes.
15. We look forward to seeing Ofcom's final statement on the USO, confirming the regulatory conditions, mechanisms and timescales for the USO, including the proposed funding arrangements. We do however have some concerns with Ofcom's current proposals, which we set out in detail in the BT Group response to Ofcom's Broadband USO consultation. Openreach is particularly concerned with Ofcom's proposed timescales for new fixed network build following the receipt of customer orders. Imposing a 12 month maximum delivery timeframe from request is unrealistic and fails to recognise the practical realities of network rollout and the scale of the task in what are likely to be very challenging locations. We are also concerned about the insufficient clarity provided by Ofcom to date

on cost recovery given our need to commit resources to ensure the smooth and speedy implementation and delivery of the broadband USO. We would look to Ofcom to address these issues in its final statement.

Data strategy: We will implement an approach to enable Ofcom to make better use of data analytics and artificial intelligence to support policy development and make the data we hold more easily usable by and accessible to others. This will include developing skills and understanding in data analytics and improving tools and processes.

16. Openreach welcomes the Ofcom data strategy review and considers that this should include a review of the processes and practices associated with Statutory Information Requests (SIRs). We note that Ofcom is seeking *"to improve stakeholders' compliance when responding to our formal requests for information under statutory powers. We have announced investigations into the timeliness, completeness and accuracy of responses received to our statutory requests for information"*².
17. Openreach takes its regulatory obligations to comply with SIRs very seriously and we have invested heavily to meet our objectives so that our responses to SIRs are accurate, complete, consistent and delivered on time. Openreach is committed to continuous improvement in the way in which it deals with SIRs. This includes promoting a compliance culture and ensuring the correct behaviours - training, communications, escalation and visibility of Ofcom requirements all have a part to play in this respect. We carry out root cause analyses and post implementation reviews in order to promote best practice and understand where improvements should be made. Given that the volume and complexity of SIRs has increased over recent years, and with the forthcoming wider-ranging Single Fixed Telecoms Market Review, it is very important that SIRs and supporting processes enable a coordinated approach with clear roles and responsibilities and straightforward follow up and engagement practices.
18. We would be pleased to contribute our thoughts to such a review process and engage with all interested stakeholders and we would urge Ofcom to add this as a specific item to their data strategy review as part of their work plan for 2019/20.

Number Portability: We will set out our initial proposals for a strategic solution to fixed number portability, to address inefficient call routing and the level of failures in business porting.

19. Openreach is responsible for managing the front end element of the industry end to end fixed number portability process. Openreach is expecting the volume of number port requests it will be expected to manage between now and 2025 to increase significantly as a result of the planned withdrawal of wholesale line rental (WLR) and the move to all IP.

² Para 4.33 of the Consultation

20. Openreach notes Ofcom's planned consultation on proposals for a strategic solution to fixed number portability and will in due course provide feedback to Ofcom on any impact this will have on the number portability process Openreach operates.

Testing a new approach to improve UK telephone number management: Number portability enables consumers to change service provider while keeping their existing number, fostering choice and effective competition without cost or inconvenience. However, in the UK there is no comprehensive database of all allocated numbers and many current solutions may not scale in the future as networks migrate to all-IP (Internet Protocol infrastructure). A collaboration with industry, this project uses innovative blockchain technology to test a new future-proofed approach to number management.

21. Openreach is not involved in the allocation and management of telephone numbers and is therefore not directly involved in the development of a centralised numbering database. Openreach is however interested in technological developments (e.g. blockchain technology) in this area to the extent that they might impact the number portability process or the authentication of telephone numbers.

Migration to voice over IP services: We will work with communications providers to help ensure issues raised by their migration to voice over IP services, including the potential future switch-off of the PSTN, are identified and addressed with the aim of protecting consumers from harm and minimising disruption.

22. As fibre-based services are rolled out and as CPs develop plans to retire the Public Switched Telephone Network (PSTN), consumers will increasingly be migrating to voice over IP services. We will work with providers to help ensure issues raised by this migration are identified and addressed with the aim of protecting consumers from harm and minimising disruption.
23. In 2025 the PSTN will close down and Openreach will no longer provide WLR voice services. CPs will be responsible for providing voice services over broadband. As this is a significant change for the industry Openreach is keen to work closely and collaboratively with CP customers and Ofcom throughout this period. Following an initial industry consultation (15 May 2018 to 27 July 2018) to obtain feedback and input on the processes and timescales for withdrawing the WLR products and introducing a new nationally available transitional copper product (referred to as the Single Order Transitional Access Product or SOTAP), Openreach wishes to use industry feedback and input to ensure migration processes are fit for purpose and that migration options and issues are fully considered to support a smooth transition for end customers. To that effect Openreach has set up an industry working group which will provide a focal point for discussion and will review and record agreement and position on key topics that impact the withdrawal of WLR and the introduction of SOTAP.
24. There is already an ongoing industry dialogue on the move to All IP with Ofcom through the 'All IP (Voice) Working Group' chaired by Huw Saunders (Ofcom). Industry (including CPs, the OTA2 and trade bodies representing special services that use the PSTN network) are already discussing and planning for the move to All IP networks. This working group, of which Openreach is already a

participant, will continue to run in parallel to the Openreach working group and Openreach would expect to discuss key themes and items arising at that forum.

Future regulatory financial reporting: We will consult on proposals to ensure BT's financial reporting obligations support our broader regulatory objectives.

25. Regulatory reporting for BT Group is increasingly concentrated upon reporting Openreach's performance. We will work with Ofcom and with BT Group to ensure that the regulatory financial information available to Ofcom and other stakeholders remains focussed, relevant and clearly linked to the associated regulatory pricing remedies. We recognise that wide ranging changes to regulatory reporting obligations may be needed, in order to support broader developments in our regulatory obligations.

Strategic implications of the changing nature of our relationship with the EU: Ofcom takes no views on the means or merits of Brexit. We will provide advice to Government as required to support its discussions with the EU on the detail of our future relationship. Where relevant, we will also provide advice on any legislative changes needed to underpin the future relationship between the UK and EU. As the process evolves, we will continue to engage with our stakeholders to understand their positions and priorities.

26. Ofcom acknowledges its role in working with government, and collaborating with European and international partners to ensure a smooth transition and effective regulation post Brexit. Openreach supports and welcomes this. A critical element of the sector's future competitiveness post-Brexit will be a similarly stable, predictable, independent and proportionate regulatory environment which includes appropriate checks and balances.

Effective Openreach Reform

27. Finally Ofcom notes³ its work on ensuring effective Openreach reform. Openreach has put in place extensive changes in support of this goal and communicated such changes to Ofcom and industry. As part of the Ofcom monitoring activity Openreach will continue to work closely with the Openreach Monitoring Unit (OMU) to demonstrate Openreach's compliance with the new commitments. We will do all we can to respond to proportionate requests that at the same time also allow us to get on with running our business and delivering high quality products and services to all our customers.

³ Para 4.31 of the Consultation