Introduction

1. We are a group of Communications Providers ('CPs') consisting of CityFibre, Glide, Hyperoptic, Nextgenaccess, Telefonica, Virgin Media and Vodafone. Since early 2018, we have been heavily involved in the negotiation of the 'new' PIA reference offer and the ongoing evolution of the product.

2. As a diverse group of CPs, we have real experience of using PIA where we rely heavily on it as part of building our gigabit-capable networks. Our business models, scale and usage of PIA all differ from each other[1], but we are united by a common bond of needing PIA to be successful. Some of us have direct experience of using PIA that stretches back over four years — and before the 'new' reference offer was published for the 1 April 2019 launch. This provides us with a wealth of practical experience and serves as a useful reference point whereby we can meaningfully compare the previous and current product and processes.

3. Because of our position and background, we believe we are well-placed to provide useful insight to Ofcom as to how the PIA product, and its associated processes and procedures are performing. We believe that WFTMR consultation is the appropriate vehicle through which to make the enclosed points given the fundamental role that Ofcom recognises PIA must play in making the delivery of full-scale fibre networks a reality, and the fact that the WFTMR will (eventually) set the regulatory scene for PIA for the foreseeable future.

4. The first part of our response focuses on the high-level problems that currently plague PIA, why we believe a refreshed regulatory approach is needed, and the obstacles generated by Openreach's current approach to PIA. Our response then moves on to consider the following, specific issues:
   a) the lack of efficient systems;
   b) ways to improve the current processes in the short term;
   c) the network adjustment ('NA') process;
   d) the need for better information on BT wayleaves;
   e) the importance of a systems SLA; and
   f) problems with forecasting regime.

Problems with PIA and the current regulatory approach

5. PIA has existed now for nine years, but it was initially commercially unattractive and suffered from low demand. As a result, the product was not designed or developed to be used at scale and has existed on a 'cottage industry' basis using manual, labour intensive processes and procedures. This suited the early, small scale use of the product, but is no longer fit for purpose.

6. In the run-up to the relaunch of PIA on 1 April 2019, and since then, a protracted and hard-fought negotiation process has produced limited progress on 'industrialising' these processes and procedures, but much work still needs to be done to make PIA truly capable of being used at

[1] This is not surprising, given that Ofcom identifies three main ways in which PIA can be used for network expansion — see paragraphs A7.21 to A7.27 of Annex 7 of the WFTMR consultation.

significant scale. Without these changes, CPs face a real barrier to using PIA on a large-scale basis as part of their network deployment plans.

7. If left unresolved, the fundamental flaws and inefficiencies inherent in PIA (in its current form) will dramatically reduce the roll out of network. A properly functioning PIA product would allow CPs to significantly speed up network deployment and cut costs allowing more fibre to be deployed (something Ofcom recognised itself in the WFTMR)[2]. We believe it is important to draw to Ofcom's attention the full breadth and depth of these issues, particularly as we feel there is a gulf between Ofcom's claimed success in bringing PIA into effect and the actual usability of the product. CPs believe it is vital that Ofcom, when defining its regulatory approach, recognises that a sustained effort, backed up by the real possibility of regulatory intervention, is needed to transform PIA into an industrial volume-based product.

8. We fear that a piecemeal, evolutionary approach is not going to be sufficiently effective in the timeframe set by Government. Incremental regulatory interventions may address *some* of the problems in time, but it will take too long to deliver the deployment ambitions set out by the Government and Ofcom. The current process of industry negotiation, and incremental regulatory and product development is slow and cumbersome. Although limited progress has been made, Ofcom has previously said it expects this to take at least five years, and this has been echoed by the OTA. This timeline is incompatible with the Government's stated ambition of a UK wide gigabit-capable deployment by 2025. It is important to keep in mind that the timing of this intended deployment has recently been brought forward from 2033 — further underlining the need for swift changes that can deliver a workable PIA product which CPs can use to deliver on the policy objectives set by Government.

9. Industry understands the reasons behind Ofcom choosing to make good use of the OTA in managing much of the negotiation on the PIA reference offer and subsequent discussions necessary to develop of the product. We believe that making good use of the OTA's position, knowledge and experience in this way makes sound sense. Crucially, though, we believe that Ofcom needs to be ready to intervene and use its regulatory powers when, inevitably, there are times when agreement on necessary changes cannot be reached. These are powers that the OTA simply does not have.

10. We believe we have now reached a point on a number of important issues where the limits of the OTA process have been reached. The time is now right for Ofcom to get more directly involved in policing this product because decisions taken now will set the tone and the regulatory landscape for the next five years — by the end of which, the 2025 gigabit-capable deployment window currently targeted by the Government will have passed. It is a 'now or never' moment, and we believe the time is now ripe for Ofcom to get actively involved in resolving some of the challenging but important implementation issues.

Openreach's approach to PIA

[2] See, for example, paragraphs A7.18 to A7.20 of Annex 7 of the WFTMR consultation.

11. In our view, Openreach has real commercial incentives to frustrate the development of PIA. Openreach is not required to consume PIA on equivalent terms to alternative operators and Openreach can deploy fibre in more efficient ways than CPs can using PIA.

12. As an example, PIA currently places far too much reliance on the manual submission of spreadsheets and communication through chains of email correspondence between the CP and Openreach. Protracted communications back and forth between a CP and Openreach often occur in response to the processing of network adjustment orders, with the Openreach operative carrying out a desk-based validation asking for unnecessary or unexpected information from the CP, and in some cases closing the network adjustment order incorrectly. This results in extensive back and forth communications between the CP and Openreach, and much wasted time and resources. We are aware that in relation to some aspects of the PIA process, Openreach can follow a much smoother and more efficient process which avoids the inefficiencies with which PIA CPs must contend — such as the network adjustment process that Openreach's contractors can follow.[3]

13. The inconsistent application of the audit function is also an issue. We of course support the audit of all parties' compliance with the product rules. Recently, some CPs have been failing audits conducted by Openreach for spurious or simply invalid reasons; in some cases, CPs have been failed on an audit for not working in ways which are in fact prohibited by the contract and product description. Examples such as this undermine confidence and trust in both Openreach and the PIA audit process, and cause additional delay and bureaucracy. Further to this, the evidence provided to us from Openreach to document the audit is of poor quality and falls far below the standards CPs are required to attain for submission of network adjustments. There should be parity in the standard of photo evidence that applies to both CPs and Openreach.

14. It is also clear that Openreach are imposing burdensome standards on PIA CPs, while not working to those standards themselves. We have previously identified and raised with the OTA (who, in turn, brought the issues to Openreach's attention) many instances in city locations across the UK where Openreach's own working standards and engineering practices in relation to poles fell below what was required from PIA CPs. Openreach subsequently said that its audit team in Coventry (one of the locations at which problems with standards had been identified) had been 'recalibrated', but that does not account for the other cities at which similar problems had been found — including Manchester and Edinburgh. In the February PIWG meeting, Openreach stated that it had audited 100% of its 'fibre first' deployment. Given the problems that CPs identified contemporaneously with the time those audits must have taken place, it is clear that Openreach must be working to quite different standards than those with which CPs must adhere under the PIA reference offer.

15. Our concern from this is that Openreach is able to deploy infrastructure while observing lower, less burdensome standards of working than CPs, meaning that Openreach can deploy fibre and build its network more quickly and easily than CPs. This represents an unlevel playing field and,

[3] As described in paragraph 39 below.

in our view, raises questions as to Openreach's proper discharge of the no undue discrimination obligation.

16. There is a lack of reciprocity in certain aspects of the product, its commercial terms and the approach taken by Openreach. A recent example we have encountered is the details around providing evidence to prove that network adjustment work has been carried out in the Openreach network. For CPs to qualify for SLG payments, Openreach requires the CP to submit to Openreach 'full details and photographic evidence' that the network adjustment work performed by Openreach was incomplete — with 'photographic evidence' being defined in a detailed and burdensome way). This has resulted in CPs needing to amend their on-site workflows such that evidence is always gathered by the relevant work team and submitted to Openreach. Conversely, when CPs asked for an equivalent obligation on Openreach, in this case to prove that a network adjustment had been carried out to the required standard, CPs met with strong resistance. Openreach refused to include in the contract the same wording as applies to CPs, and Openreach have (so far) resisted requiring their contractors to gather evidence as a matter of routine, despite having the opportunity to do so as part of the ONSA contract negotiations. In addition, in relation to damage to Openreach's infrastructure, CPs are required to provide detailed information to Openreach about the work that has taken place, and when and where it occurred. Conversely, when CPs discover damage to their installed apparatus within the Openreach network, CPs find it very difficult to extract any useful information from Openreach to assist the CP in identifying who might have caused it and pursuing them for redress. These are two of many examples where CPs are required to accommodate and accede to Openreach's demands, without Openreach demonstrating a reasonable level of compromise and willingness to accept reciprocity. This situation naturally gives rise to questions as to Openreach's discharge of its no undue discrimination obligation.

17. We also feel that Openreach is generally too quick to apportion blame to CPs in circumstances which are often nuanced and require investigation and more measured judgement. For example, where Openreach comes across a situation which it believes constitutes a breach of the engineering standards, there seems to be an automatic assumption that the CP who was working in that part of the network is 'guilty', resulting in that CP needing to address the problem they are accused of causing. Openreach generally fails to take into account that things may have changed since the CP left the site — such as third-party interference, a reoccurrence of the problem or other circumstances, meaning that the CP in question is not wholly (or, in some situations, even partially) to blame. We believe that Openreach should adopt a more investigatory approach, where the first piece of evidence to be considered is the CP's 'as-built' documentation, which would help Openreach to identify how the CP left the network when work was finished in that section. This would be far superior to Openreach's current approach of 'fix now and argue later' which is seeing CPs being accused of wrongdoing that is not properly attributable to them. Openreach's failure to use the information that CPs are required to laboriously compile and submit to Openreach adds to the sense of disservice suffered by industry.

18. Openreach is at best slow, at worst unwilling to resolve these various issues. We feel that this is driven largely by the fact that none of these issues impact on BT's business; they do not hinder

BT's ability to deploy and sell fibre. They do hinder BT's competitors and so there is no commercial incentive to give these issues the priority they deserve. This would be removed at a stroke by the imposition of a 'strict equivalence' requirement on Openreach rather than the lesser standard of no undue discrimination which currently applies to Openreach. True equivalence would require real parity in the process and functionality that both Openreach and CPs follow in deploying fibre using the Openreach network. The achievement of better parity between CPs and Openreach could be in part delivered by the functional separation of the 'Ducts and Poles' section of Openreach into a separate business unit. We strongly believe that Openreach should give this idea serious consideration.

Assessing the differences between CPs' and Openreach's ways of working

19. In this document, we have identified a number of areas where Openreach's and CPs' ways of working differ, and we have flagged our concern as to whether the no undue discrimination obligation on Openreach has been (and is being) properly discharged. We recognise that some differences may be down to business decisions, priorities and preferences, but many are caused by dissimilar product processes which, in the case of CPs, are imposed on us by Openreach. The suite of KPIs that are now being recorded and reported is useful in keeping track of some of these differences, but we believe more can be done.

20. We feel that more insight into the process differences needs to be gained, and particularly a more precise measure of the effect of those differences. To address this, we suggest that CPs and Openreach each liaise with the OTA and submit equivalent samples of workflow associated with network deployment. We believe the OTA are ideally placed to unpack and understand the detail (while maintaining the appropriate conditions of confidentiality), and they can make a meaningful assessment of the nature of the process differences. The results can then be shared with CPs and Openreach and be used to provide useful input into future discussions on PIA process changes. We propose to pursue this idea with the OTA in the near future.

Specific issues causing problems for CPs

Systems

21. Ordering and using PIA is inefficient, time-consuming and expensive. There is currently a manual process for ordering, updating and uploading key documents during build which is a fundamental inefficiency that CPs must bear.

22. To take just one example, CityFibre is currently using Openreach poles across the city of Coventry to complete a city-wide full fibre rollout. Under the current process, they have had to commit six people full time to do nothing other than make manual orders and submit updates for PIA — and this is for the city of Coventry alone. Nationwide, it is estimated they will need to employ an additional 150 administrative staff if Openreach's inadequate systems are not updated.

23. Working under the current NA process represents an admin burden for Openreach, too, because CPs take longer than they otherwise would to file their build complete packs. The map tool

available via the Openreach portal does not allow multiple cable/blown fibre tube sizes to be entered. The following manual workaround to provide this information in build complete packs has been put in place: if more than 25mm is used, a second Notice of Intent ('NOI') is required to be raised, which is time-consuming and makes the submission of build complete information difficult as photos of the same chambers must be submitted twice. The build complete information is difficult to compile as each photo requires labelling. With better systems, each photo could be linked to the correct object using the geospatial location of the photo, thereby avoiding the laborious manual labelling of every single photo. Currently, the full edit and build complete process is taking in excess of 2 hours per NOI. Many CPs using PIA submit dozens or even hundreds of NOIs per month.

24. The obvious solution is an API which automates most of the processes. Openreach have received an SOR for this functionality, but its delivery is some way off; even in the best-case scenario, an effective API delivering all of the functionality CPs have asked for is unlikely to land before 2021. Until then, CPs must work with inefficient and costly manual solutions.

25. Openreach has indicated it wants to delay moving billing related functionality to the new API system. This will result in a twin track process (i.e. partly manual and partly automated). It will mean network adjustments can be ordered via the API but the CP will then have to manually add a record in the Siebel billing system. This is an extra and unnecessary administrative burden and creates scope for human error. Openreach has a track record of pushing the manual burden onto CPs where it does not wish to invest in automation or decent systems.

26. Openreach imposes strict 'fair usage' systems constraints on CPs' usage of Openreach PIA systems. These include:
    a) *Search areas will be limited to viewing an area of 5Km. Areas greater than this will not display information on poles and ducts.*
    b) *Users will be able to make Web Service (XML gateway) calls for an area limited to 1Km, as per the above point. The file size returned will be limited to the number of ducts (2000) and approximately 2Mb. The search radius will be reduced on searches that return results greater than the pre-set limit. You will need to run another search from a different starting position to view the wider area.*
    c) *The web services system will only allow a maximum of 20 requests per minute.*[4]

27. While we understand the need for some measures to exist to help manage the load placed on the system at any one time, it is clearly important to ensure that the constraints are pitched at a level that is appropriate and fair, and that the measures do not have the effect of unnecessarily constraining a CP's use of the systems which must be used in order to consume PIA. In any event, we understand that these measures do not apply to Openreach's network planners, who can therefore work unencumbered by such constraints. That difference naturally gives rise to questions as to its compatibility with Openreach's no undue discrimination obligation.

28. In addition to these imposed system constraints, a CP's ability to consume this mapping information efficiently is also impaired by Openreach's decision not to display 'planned

[4] As detailed in Annex 6 of the PIA Product Description.

infrastructure'. CPs regularly encounter examples of 'missing inventory' where no information is displayed on the PIA mapping tool, despite the infrastructure having been in place potentially for decades. This 'planned infrastructure' is made visible when requesting infrastructure maps via other methods, it is made available to other utilities to reduce the risk of accidental damage, it is made available to Ethernet customers and no doubt to Openreach's own planners, too. PIA CPs have at least as good a claim to have sight of this information as other stakeholders.

29. This restricted view of the infrastructure presented on the map system impedes a CP's ability to undertake large-scale opportunity planning at the initial stages of planning and also requires an onerous process for reporting 'missing inventory' — requiring the CP to report and redraw infrastructure routes for which Openreach already has a 'planned' record that otherwise could simply have been validated.

Improving the current processes and practices in the short-term

30. It is clear that a dual-pronged approach is needed to relieve the current array of inefficient processes that CPs are required to use: a) better systems, and b) effective workarounds in the meantime while those systems come online. We believe the industry can ill-afford to sit on its hands and accept the status quo until the full functionality of improved systems is made widely available — particularly if the target of UK-wide gigabit-capable deployment by 2025 is to be realised.

31. We suggest that much can be done at this stage to reduce the 'pinch points' and admin burdens currently faced by CPs. A key example is to reduce the onerousness of the information submission requirements — particularly the as-built and build complete information, as discussed in paragraph 32 below.

32. As CPs have increased their consumption of PIA, the admin burden associated with submitting as-built reports and build complete packs is becoming unduly cumbersome and onerous. Openreach repeatedly complain that CPs are taking too long to complete these packs, but CPs' response is that the process is cumbersome and time consuming. So neither side is happy with the status quo. We believe there may be scope to explore why all this information needs to be submitted and at what point Openreach truly requires it. For example, there may be scope to move to a process where CPs retain the relevant information but that it is submitted only in the event Openreach requests it, rather than it being submitted as a matter of course for every NOI. In the case of built complete packs, which are currently the trigger for the CP paying rental charges to Openreach, notification could be made that the build is complete in a simplified and less onerous form. These changes may help to relieve some of the burden on CPs — particularly if the information is not routinely needed by Openreach for each and every NOI.

The network adjustment process

33. The current NA process is heavily flawed and inefficient whereby a CP's network build activity is frequently and significantly interrupted by the need to report blockages or lack of space on a pole to Openreach. The CP must have Openreach complete desk-based (and in some cases field) verifications, before Openreach then submits to the CP a cost estimate and a CCD. The CP must then decide whether to opt for Openreach to carry out the NA work or to do the work itself. If

the CP chooses the former, there is then a separate delay while Openreach carries out the relevant work, before the CP can resume their network build.

34. This highly disruptive process typically requires the CP to instruct its field team to down tools at a relevant site when the network issue is first discovered and the CP faces the challenge of diverting the workers onto another task at a different location. This wastes both time and money and is not conducive to the efficient deployment of networks.

35. As part of the negotiations for the 1 April 2019 reference offer, CPs objected to the NA process for the reasons set out above, and requested the ability to carry out some types of NA work without needing to obtain advance approval from Openreach — with the ability to then claim back from Openreach the costs incurred for the civils work under a retrospective process. Openreach declined to implement such a process, but agreed that one of the key deliverables for 'day two' (the 12-month period immediately following 1/04/19) would be a competency framework — under which CPs who had proven themselves competent would be permitted to work under a reduced timeframe enabled by a 'lighter weight' approvals process. Despite this commitment being made by Openreach as part of the CEO meetings steering the implementation, Openreach subsequently refused to amend the reference offer to allow CPs who had undergone 'competency' to avail themselves of an improved SLA. As a result, Openreach had, in effect, materially gained by not having to audit 100% of submitted NAs, but CPs were left without a contractually binding SLA in return.

36. The current process also allows Openreach up to 13 working days (unilaterally increased from the previous 5 working days) before the CP knows when a network problem which the CP has encountered will be fixed (i.e. when the CCD is issued). Despite this prolonged time frame, Openreach will not permit a CP to change to an SPO in the event that the final CCD is materially different to the original 'guesstimate' provided at day 5. The actual resolution could be much later if the solution to the problem takes longer due traffic management or other factors. Again, such an arrangement is not consistent with networks being built quickly and efficiently.

37. Put simply, the current network adjustment process is cumbersome and costly to operate for all concerned and erodes the time savings which PIA in theory offers over CPs building network itself. In addition, it represents an impediment to PIA CPs that Openreach itself does not face when it is deploying fibre, thereby raising questions as to Openreach's discharge of its no undue discrimination obligation.

38. In place of the current process, a much better and more efficient approach would be to allow CPs to resolve problems in the Openreach network (such as blockages) quickly and efficiently as they are encountered. The costs incurred by the CP repairing the network can then be reclaimed from Openreach after the event, evidenced with well-documented details and photos as appropriate.

39. This would mirror the approach that Openreach currently permits its contractors to follow when rolling out Openreach fibre, where the contractor is allocated a permitted rate of £X per km to cover the clearance of blockages that are encountered along the relevant route.

40. Adopting this approach for CPs would bring the beneficial side-effect of avoiding the challenge for Openreach in trying to interpret CPs' forecasts and converting them into a predicted level of network adjustments that will be experienced.

41. Industry has been calling for this sort of arrangement for some time. During the negotiations prior to relaunch of PIA in April 2019, industry was keen to pursue an arrangement for 'retrospective NAs' whereby the CP could carry out the NA work without needing to obtain advance approval from Openreach, and the CP could then reclaim back from Openreach the cost of the work. Openreach refused to accept such a process claiming that it would result in them 'losing control' over their network. We believe that such an argument is without merit and adequate safeguards could be built into the process to protect Openreach's interests and the network more generally. These might include only allowing retrospective NAs for CPs who have gained the path to collaboration (PtC) status, i.e. those with a proven track record of accurately identifying legitimate NAs and carrying out repair work to the required standard. Other protective measures could include the use of randomised checks, and strict evidence retention requirements to document the network blockage or other issue and the work that was carried out in response.

42. Ofcom should also consider a project style submission for network adjustments on poles for citywide roll outs and the freedom for CPs to carry out work on Openreach poles. This would allow a CP, in advance of raising an order, to specify the group of poles it intends to use which will enable Openreach to do a city/area wide sweep of network adjustments and pole tests that need to be carried out to enable the build to proceed. This removes much of the uncertainty and alleviates the difficulty Openreach has experienced in interpreting CP forecasts; even with accurate forecasting information available to it, Openreach has shown it cannot accurately predict how many network adjustments are likely to be raised.[5] The proposed approach should also help to reduce the 'burden' that Openreach has called out regarding the challenge of managing the peaks and troughs in network adjustment submissions.

43. Separately, CPs need greater visibility and understanding of project areas and how the relevant network adjustment funds have been pooled across those projects is needed.

44. Improvements to the network adjustment process along the lines of our suggestions above should also bring with it the ability to better manage capacity and facilitate better planning in terms of the use and focus of engineering and other teams within CPs' businesses. These improvements could help to drive faster and more efficient network roll-out, as well as delivering better customer experiences for connections.

45. We are also concerned at the distinct lack of any SLAs/SLGs offered by Openreach in connection with NAs on poles. Given that CPs are unable to carry out any network adjustments on poles themselves, we are entirely beholden to Openreach to quickly and efficiently remedy any

[5] During the 'mid-term review' session on forecasting, held between Openreach and industry in January 2020, Openreach admitted that its forecasting accuracy for network adjustments stood at just 42% (see paragraph 53 below).

problems that are preventing the CP's use of the pole in question. We do not believe it is fair and reasonable for Openreach to refuse to permit CPs to carry out pole-based NAs, while also not providing any meaningful commitments to CPs as to the quality of, and speed with which, Openreach will carry out the work.

Wayleaves

46. During the negotiations, CPs have repeatedly requested that Openreach shares details of BT's wayleaves entered into under the 2017 Electronic Communications Code — in connection with which the Code's sharing rights apply ('new style wayleaves'). By relying on the sharing rights embodied in the Code, PIA CPs could avoid the costly and laborious business of needing to secure their own wayleave with the relevant land occupier.

47. Sharing infrastructure in line with the policy objectives that sit behind the Code's approach to sharing can greatly relieve unnecessary burdens on PIA CPs — and thus speed up the pace and efficiency with which their networks can be deployed. The counterfactual is particularly telling: without sharing, a CP wanting to use PIA duct or poles would need to approach the relevant land occupier to secure a wayleave (who had already granted a wayleave to BT for the exact same infrastructure), where the CP's incremental use of that existing infrastructure would bring with it no further cost or burden to the land occupier. Invariably, land occupiers are not concerned (or even aware) of how many fibre cables are present in a piece of duct running across their land. Duplicating wayleaves in this way could not be said to be a good outcome for anyone — especially the land occupier.

48. To benefit from the Code's sharing provisions, it follows that CPs must be able to identify the land in respect of which new style wayleaves apply (so the CP can determine the land at which a separate wayleave is truly needed). Openreach has long resisted making available this information to CPs at no charge. In mid-2019, Openreach amended their CP-facing system so that postcodes (rather than the full address) were made available to CPs. However, postcode information on its own is not useful for CPs; the precise land in respect of which the wayleave applies must be identified as there could be dozens of plots of land within a postcode area. Openreach has cited data protection issues as the reason for which they cannot reveal the full address in respect of which BT holds a new style wayleave. Having taken legal advice — and sought the views of the ICO — industry believes this argument is specious and legally incorrect. Negotiations on wayleaves are continuing, but Openreach has given no indication so far that it will change its position, refusing to even provide an update on the consideration they have given to our arguments on this issue. Without intervention by Ofcom, it seems unlikely anything will change.

The need for a systems SLA

49. Industry has long been pushing for a systems SLA to give assurance and protection to CPs that the systems they are required to use to consume DPA are robust and fit-for-purpose. In February 2019, industry detailed proposals to Openreach on the scope and nature of a systems SLA that it would like to see implemented, but many months elapsed before Openreach started looking at the possibility of implementing such an SLA. While it's understood that Openreach are considering it internally, industry feels CPs need to be more closely included in the process.

Another connected point is that there needs to be a well-documented and clearly understood workaround process that would apply if the system concerning safety fails or otherwise becomes unavailable.

50. We believe that a systems SLA is a vital requirement for PIA to be workable product in line with Ofcom's intention. CPs will be entirely reliant on the availability and efficiency of the Openreach systems for their effective consumption of DPA. Without the availability of those systems being assured through an SLA and SLG regime, CPs' use of PIA is likely to be frustrated — and this cannot possibly give effect to the outcome contemplated by Ofcom when it set the access remedy in the WLAMR and PIMR statements.

Problems with the forecasting regime

51. Industry has long objected to the forecasting regime and a significant portion of the negotiations prior to 1 April 2019 were focused on discussing how forecasting might work. The inability to agree a process prior to 1 April 2019 that was mutually acceptable was in part behind industry's suggestion for a 12-month bedding-in period that could assess the Openreach-proposed process in light of real-world use. Many CPs were concerned about: a) the onerousness of the forecasting rules — particularly given the far distance ahead that CPs must look and the high number of regions into which forecasts much be split; b) the inherent difficulty of translating usage of DPA into the likely number of network adjustments that may occur; c) the uncertain usefulness of forecasting data to Openreach; and d) the (eventual) linkage between forecasting accuracy and SLGs that is unfair and unproven.

52. In view of how Openreach explained how it works with its contractors under ONSA, we are particularly concerned about the requirements on CPs to forecast PIA usage so far into the future. Openreach explained that they conduct on a rolling basis reviews with their relevant contractors for each nine-week period to make sure that the contractor's geographical position and capacity is aligned with the anticipated network usage that will occur in the relevant section of the network. However, those nine weeks are exactly the period during which CPs are not allowed to amend their forecasts under the current forecasting rules in the contract. Despite this disparity being highlighted to Openreach, they said they 'were not minded to review' this aspect of the forecasting regime.

53. As part of the first (and, so far, only) mid-term review, Openreach recently revealed that CPs were generally forecasting very well (better than Openreach had anticipated) but that Openreach's accuracy in using CPs' forecasts to predict the likely number of network adjustments was just 42%. This figure struck us as being disappointingly low. Worryingly, it means that even if all PIA CPs forecast with 100% accuracy, Openreach's own forecasting ability is poor and further throws into doubt the usefulness of CPs providing forecasts in the first place — particularly given the high burden they present. It also questions the legitimacy of linking forecast performance to receipt of SLG payments.

54. In our view, the difficulty Openreach has experienced in converting CPs' forecasts to likely NA levels bears out what CPs have said from the start of the negotiations: that it's incredibly difficult

to accurately predict the number of network adjustments that are likely to be encountered in a given segment of PIA, as it is subject to so many differing factors. These include geography, typical climatic conditions, the age of the network infrastructure in question and the frequency with which that infrastructure is visited and worked on by engineering teams (both Openreach's and those of third parties).

55. Despite the poor conversion accuracy, Openreach has insisted on keeping in place the forecasting regime that CPs find so burdensome. CPs remain sceptical as to whether the continuation of the forecasting regime can be objectively justified in view of these inherent challenges.