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Hyperoptic Response: Ofcom Consultation - Improving broadband information for customers

Introduction

Hyperoptic welcomes the opportunity to respond to Ofcom's consultation regarding improving broadband information for customers.

As Ofcom rightly identify, the UK is seeing the accelerated roll-out of full fibre networks, which compete against older network infrastructure that cannot provide a comparable service. In that context, we agree that it is increasingly important for broadband customers to be appropriately informed to choose the right broadband service for them, and to take advantage of new full fibre networks as these become available.

To enable this, Hyperoptic supports Ofcom's proposals that providers should include a short description of the underlying technology of the network delivering the broadband service on their websites. In addition, that in contract information, there is consistent use of terminology as defined through this consultation process.

Critically, this should mean that providers should use those terms consistently to describe the service and should only use the terms 'fibre' and 'full fibre' when referring to Fibre-to-the-Premises (FTTP) networks.

As for the precise definition of FTTP, we propose that this should capture both Fibre-to-the-Home (FTTH) and Fibre-to-the-Basement (FTTB) network technologies. Such a definition of FTTP is appropriate, as both FTTH and FTTB technologies deliver comparable services to customers such as synchronised gigabit capable speeds (unlike older Coax hybrid and Fibre-to-the-Cabinet architecture) and both ultimately use a non-fibre link to extend the connection to a router within the customer's premises.

Further, such a definition is consistent with Ofcom, DCMS and critically ASA current positions on the definition of full fibre. Should Ofcom then ultimately decide to not categorise FTTB technology as FTTP and so not eligible to be described as full fibre, suitable time will need to be required in order for FTTB technology operators to assess how they can comply with conflicting Ofcom and ASA positions without confusing customers through the purchase journey.

Background

Founded in 2011, Hyperoptic is an FTTP network provider, with a vertically integrated Internet Service Provider (ISP) function. Our business model focuses on the delivery of gigabit capable, FTTP connectivity in dense urban environments.

At the time of this submission, our network passes c1.2 million premises and serves over 275,000 customers. By consumer revenue and customers served, this positions Hyperoptic as the UK's largest 'alt-net'.

Background

Our network architecture has varied over the 11 years that we have been operational, often influenced by the nature of buildings we are seeking to serve. This can be understood as utilising two forms of architecture. One form of build methodology is the delivery of Openreach Ethernet Access Direct (EAD)/active ethernet into multi dwelling units (MDUs) in densely populated urban areas. The other form of build methodology is the utilisation of Gigabit Passive Optical Networks (GPON) via Openreach Physical Infrastructure Access (PIA), whereby Hyperoptic uses Openreach's passive infrastructure (such as poles and ducts) to deliver its own fibre network and land cabinet infrastructure in close proximity to the premises it then delivers a connection to. This approach is often utilised to serve smaller MDUs or single dwelling units (SDUs), again in urban environments. The variation between these architectures is visualised in Image 1 below.

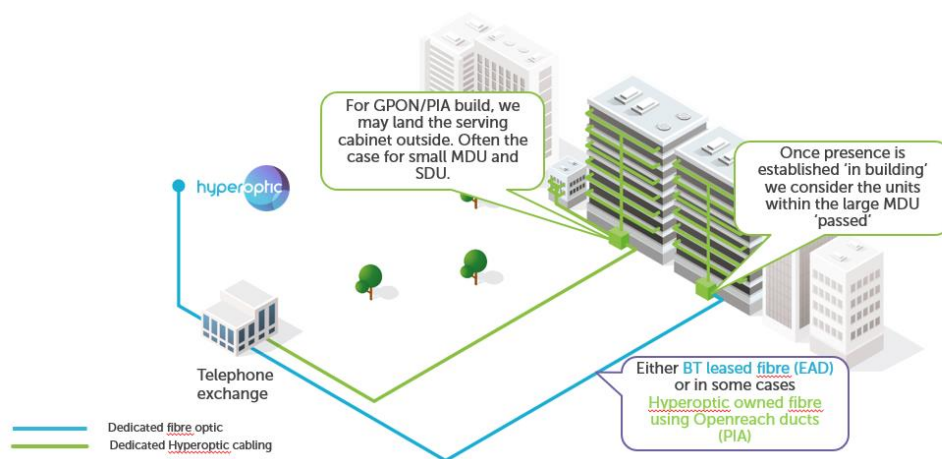


Image 1: High level architecture overview.

In effect, this means that Hyperoptic utilises both FTTH and FTTB architecture within its FTTP network.

Question 1: Do you agree with our proposals to issue guidance under GC C2.3, GC C1.3 and GC C1.5 to clarify:

- (1) that the description of broadband services should be consistent and include a one- or two-word description of the underlying technology; and
- (2) that the use of the terms 'fibre' and 'full-fibre' in the information that is provided to customers should only be used to describe fibre-to-the-premises (FTTP) services.

Question 2: Do you agree with our proposal for providers to give an explanation of the one- or two-word terms used to describe the service, in a way that can be easily accessed by customers?

Yes, Hyperoptic supports both of Ofcom's core proposals.

As Ofcom own evidence establishes, consumers can find the broadband market complex and difficult to understand. Ofcom's research found that around 27% of fixed broadband customers were not confident understanding the language and terminology used by providers.¹ This is not surprising given the industry's enduring use of the term 'fibre' to describe various network technologies and the confusion this creates, evidenced by only 46% of customers who reported being on FTTP in Ofcom's research living in areas where FTTP is available.²

In light of the above, there is a very real concern that customers who would prefer an FTTP service may end up buying a product that does not suit their needs. Ofcom is right to highlight the potential harm to customers who may choose an FTTC service described as 'fibre' because they do not know the technical difference of the products on offer, or because they mistakenly believe that an FTTC service is FTTP when buying a service. Further, customers who prioritise connection reliability (and so would likely prioritise an FTTP service over an FTTC connection due to an FTTP network's considerably lower fault rate³) risk not being appropriately informed to choose the network architecture best suited to their needs.

As the methods of providing the service can, and do, make a material difference to the service that the consumer will receive, it is important that customers can clearly understand the various options available to them. Firstly, so that they can select an offering that meets their requirements, and secondly, so that they are able to compare competing services to choose their preference.

Use of common and consistent terms across all providers in the provision of information to consumers then helps to remove confusion. It also allows consumers to engage with more readily with the market and to make fully informed decisions when making purchases.

Furthermore, Ofcom's research demonstrates that there are key pieces of information that consumers find most useful in understanding the service they are contemplating taking from a provider. The pieces include "monthly cost, reliability, download speed, contract length, suitability for your household's needs, cost of equipment/installation, upload speed, other services included in the deal (e.g. TV, landline), an easily understood one- or two-word term on the technology used to deliver your broadband service (e.g. fibre, part fibre, cable), a detailed description indicating the technology used to deliver your broadband service (e.g. fibre, part fibre, cable)."⁴ In Ofcom's research, cost, reliability and speed were considered most useful by respondents. However, that is not to say that a description of the underlying technology was not considered useful. In fact, far from it. Around half of respondents considered such a description to be 'useful' or 'fairly useful'. It is then a reasonable conclusion that such information would help a significant portion of those purchasing broadband products in comparing products and choosing the best service for their needs.

As for how the description should be presented, a large, lengthy description no doubt risks reducing the prominence of other core points of information. In addition, given that each of the core categories of underlying technology used in delivering broadband services will have broadly

¹ Ofcom, 2022. Switching Tracker, table 261. Question: In terms of communications services such as mobile, landline, broadband and TV... How confident are you about understanding the language and terminology used by providers? The 27% reported figure is for fixed broadband customers (total) and is a combination of "not very confident" (20%) and "not at all confident" (7%)

² BDRC, November 2022. Broadband terminology research, slide 15 (Notes).

³ Openreach, 2021. Business briefing, Slide 46. The slide states that FTTP sees about half the reported fault rates of copper services.

⁴ Ofcom, 2023. Consultation: Improving broadband information for customers. Paragraph 3.16.

similar characteristics, we agree that it is of most benefit to consumers to have an easily understood one-or two-word term describing the technology used to deliver a broadband service, as this allows the customer to draw out key information whilst not overly complicating anything for those customers who do not want such information.

Regarding what those terms should be, whether a network is categorised as FTTP or not provides clear differentiation on speed, reliability and capability. 'Fibre' and 'full fibre' are then useful proxy terms for distinguishing between technology.

As Ofcom note, FTTP services have been demonstrated to be more reliable than other technologies as they are not as susceptible to temperature fluctuations, severe weather conditions, and moisture that can all cause a loss of connectivity. FTTP technology also does not suffer signal attenuation and degradation in the way that it impacts copper cables, reducing the speeds that can be delivered. Nor is it susceptible to interference from electronic or radio signals.

FTTP technology also delivers symmetrical download and upload speeds. High speeds in both directions are important for enabling high-quality, real-time communications, such as through videoconferencing, telehealth, distance learning, and collaboration tools. Additionally, symmetrical bandwidth facilitates the upload and sharing of large files to the cloud. Recent experience during the Covid pandemic demonstrated how this is becoming ever more important to consumers. Other technologies, even those such as cable that can deliver high download speeds, are unable to deliver similar upload speeds. Virgin media offering dated 28th April 2023 shows speeds of download speeds averaging 1,130Mbps and upload speeds averaging 52Mbps⁵.

Across speed, reliability and capability metrics, FTTP then warrants differentiation as a technology. As for which term best captures this differentiation in an easily understood manner, we consider 'fibre' and 'full fibre' are useful proxy terms for distinguishing this technology from others. This is because the presence of fibre from the exchange to the building, property or home of the customer is ultimately the characteristic that results in this differentiation.

FTTB Consideration

We note that the definitions in the proposed guidance do not consider Fibre to the Basement (FTTB) technology. We request that Ofcom clarify that FTTB is included within the technology types that can be classified as FTTP, and as such can be referred to as 'fibre' and 'full fibre'.

Such an approach is consistent with Ofcom's current definition of FTTP. In current statutory information gathering, Hyperoptic's FTTB UPRN footprint is captured as FTTP technology. These properties have then been consistently included in Ofcom's national FTTP coverage figures, which are used to measure ongoing Government rollout objectives. Any alteration in this definition of FTTB will then consequently alter these metrics.

FTTB technology being defined as a 'full fibre' is also established practice beyond Ofcom's information gathering processes. In CityFibre's Judicial Review of the ASA's ruling on the use of the term 'fibre', Hyperoptic's intervention prompted the Court's consideration of FTTB and whether the technology can be categorised as full fibre. In the approved judgement, Mr Justice Murray defines FTTP as "data being transmitted via an optical fibre cable running from the local exchange to the end-user's premises. This could be directly into an end-user's home or, in the case of a building

⁵ Virgin Media Website – 28 March 2023; <https://www.virginmedia.com/broadband>

encompassing multiple dwellings or other premises, such as a block of flats or an office block, to a box in the building, and from there to each subscriber's premises via an Ethernet cable."⁶

Further, explicit consideration is given to the material reality of "... even FTTP requir[ing] some non-fibre element, typically involving copper wire (for example, via an Ethernet cable) to take the signal to a router inside the end-user's premises... [but that].... Hyperoptic noted, in the evidence it filed, that where a CAT5e cable (a type of Ethernet cable) is used within the premises for that final connection, there is no loss of data quality or speed provided that the cable does not exceed 100 metres in length."⁷

Given this established absence of any material loss of data quality or speed when comparing FTTH and FTTB technology, it is appropriate to permit both of these technologies being categorised as FTTP, and consequently be described as 'fibre' and 'full fibre'. The Court ruling makes clear that the presence of ethernet capable to ultimately connect a router should not be grounds for excluding such an architecture from being defined as FTTP.

The Court's judgement and subsequent position of the ASA to permit FTTB technology being described as FTTP means that should Ofcom come to a contrary view following this consultation, it is not clear how an FTTB operator could practically achieve compliance without misleading customers. In its advertising, it would be permitted to describe its network as FTTP. Yet in its contract information, it could not do so. How then would an such an operator navigate customer questions regarding the network technology it provides? Further, how would such an operator build its sales journey from advertisement to contract information in a way that avoids confusing the customer when describing the technology supporting the service they are purchasing? It is not clear how such questions can be suitably answered. Should Ofcom then conclude that FTTB is not considered as an FTTP technology and consequently cannot be described as 'full fibre' in contract information, Ofcom would need to engage FTTB operators to assess the appropriate timeframe for implementation and consider appropriate additional guidance to address the above questions.

⁶ (CityFibre Ltd) v Advertising Standards Authority, 15 April 2019, paragraph 1 (iv); <https://www.bailii.org/ew/cases/EWHC/Admin/2019/950.pdf>

⁷ (CityFibre Ltd) v Advertising Standards Authority, 15 April 2019, paragraph 38; <https://www.bailii.org/ew/cases/EWHC/Admin/2019/950.pdf>