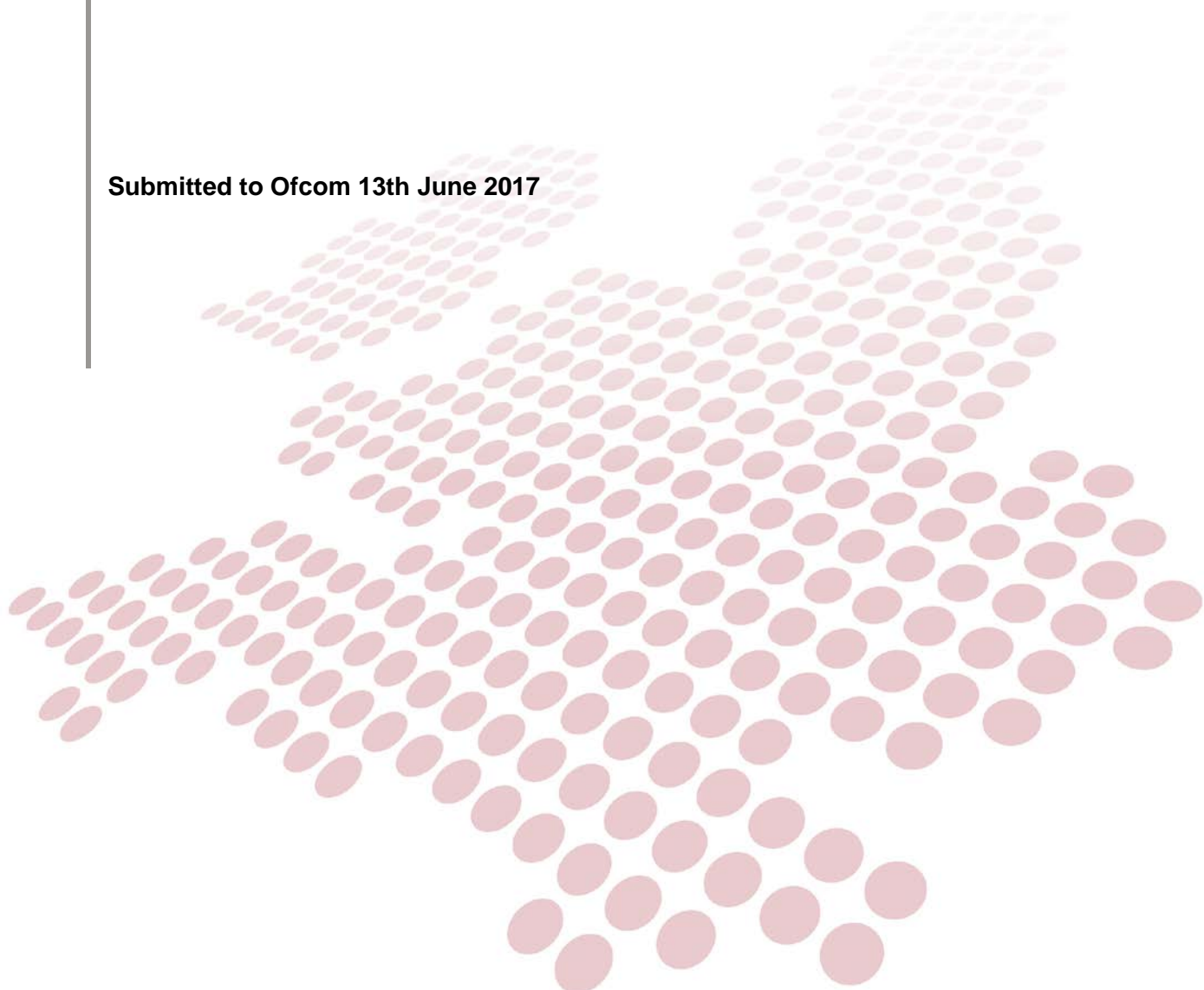


UKCTA Response to Ofcom consultation  
on Quality of service for WLR, MPF and  
GEA

Submitted to Ofcom 13th June 2017



## **Introduction**

1. UKCTA is a trade association promoting the interests of fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the interests of its members to Ofcom and the Government. Details of membership of UKCTA can be found at [www.ukcta.org.uk](http://www.ukcta.org.uk).
2. We welcome this opportunity to respond to Ofcom's consultation on the "Quality of Service for WLR, MPF and GEA"<sup>1</sup> (the "QoS consultation").
3. Good quality of service (QoS) is vital to a well-functioning telecommunications market. As telecommunications become more and more vital to consumers and businesses alike, customers expect that the service is delivered on time and any issues are resolved quickly.
4. We are pleased that Ofcom continues to focus on quality of service and we broadly welcome Ofcom's three-pronged approach to improve Openreach's QoS, i.e. through quality standards, transparency measures and SLAs and SLGs. Together with effective monitoring and enforcement (including financial penalties for failure) should help to improve QoS in the UK.
5. Below we set out our views on the proposals in Ofcom's QoS consultation.

## **Fault repairs**

6. We generally welcome the increase in the repair standard to 93% by 2021, albeit with a 3% MBORC allowance. That said, we think that the target could be set higher as the SML levels are already generous in terms of time to repair (a matter of days not hours). Furthermore, the 3% MBORC allowance seems unnecessarily generous and should be reduced to 2% in order to prevent abuse of this allowance.
7. We welcome the additional 97% standard of repairs being completed within 5 days after the SLA due date<sup>2</sup>, in addition to the removal of the 60-day cap on SLG payments for late repairs<sup>3</sup>, in order to address the issue of the long tail of late repairs. We agree that this will help to address the ability for Openreach to take deliberate decisions to focus on matters still within SLAs to the detriment of those matters already failing against SLA. The direct financial impact of removing the 60-day cap will be a significant spur to incentivising Openreach to improve its performance.
8. The glidepaths to achieving the new standards that Ofcom proposes<sup>4</sup> show that Ofcom is keen to see large improvements in the second year in order to reach higher standards more

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<sup>1</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0033/99645/QoS-WLR-MPF-GEA.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0033/99645/QoS-WLR-MPF-GEA.pdf)

<sup>2</sup> See paragraphs 5.6 and 5.22 of the QoS consultation.

<sup>3</sup> See paragraph 5.7 of the QoS consultation.

<sup>4</sup> See paragraphs 5.66 to 5.70 of the QoS consultation.

quickly. We agree with this approach; however, we would encourage Ofcom to be even more demanding of Openreach and to move from a three-year to a two-year glidepath to ensure that the benefits of the higher standards are delivered to customers and consumers sooner.

9. One area that of fault repairs that we see as being unaddressed by Ofcom's proposals is the effect of delayed engineer appointments on compliance against the repair standard. Often Openreach cannot provide an engineer appointment within the SML timescales but does commit to an appointment later. Openreach currently considers this to "pause" the time for repair, and as such, does not count as a failure against the SLA. Engineer availability is clearly a factor that is within Openreach control and as such, we believe such practices are unacceptable. This also proves that further incentive is required in the form of a new standard or clarification around the impact of engineer appointments in relation to repairs (as we have for installations).

### **Installations**

10. Late installations are a significant issue for competitors to Openreach. The installation is among the first experiences a customer has with a provider and as such any delays here can have a very detrimental impact on the reputation and competitiveness of a provider.
11. We welcome the increase to 95% for installations by the committed date the target for the proportion of orders installed by the committed has been increased to 95% by 2021, albeit with a 1% MBORC allowance. We are also pleased to see the reduction in time for an appointment to be offered reduced to 10 working days, and increase in the proportion of time that Openreach must meet that to 90%.
12. We are also pleased to see the removal of the 60-day cap on SLG payments for late installs, in order to address the issue of the long tail of late repairs<sup>5</sup>. As above with fault repair, the direct financial impact of removing the 60-day cap will be a significant spur to incentivising Openreach to improve its performance.
13. Again, we consider that Ofcom should be more ambitious in setting glidepaths for improvements in QoS in order to ensure that the benefits of the increased standards should be introduced as early as possible. This could be achieved through having a higher second year target of 94%, or even having a two-year glidepath.
14. While we agree that the above measures are an improvement, there remain a number of other areas where Openreach performance continues to be poor. These are:
  - a. Delaying giving committed dates until it is sure it can meet the target (and thereby avoiding SLG payments. We suggest a target number of days for provision of the committed date should be added to the regulated QoS standards;

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<sup>5</sup> See paragraphs 6.5 to 6.8 of the QoS consultation

- b. Lack of firm commitment to install within a set number of days – combined with the above – means that circuits can take an extremely long time to install yet still be considered to be compliant (and therefore not eligible for compensation). We would like to see a standard with a nominal number of days for installation to be complete. We understand that circumstances mean that some installations take longer due to the level of work required, and therefore we suggest that there could be intervals depending on scale of work required. We suggest an overall target of a set number of working days, within which there would be shorter times for “easier” installs. Furthermore, a standard along these lines, combined with the other targets, would have the added benefit of dissuading BT from taking orders which it cannot supply within a reasonable amount of time (e.g. BT should not accept orders where there is no fibre spine cable as this may take months or over a year to complete).
  - c. Delayed upgrades is not considered by Ofcom but is another area where there is potential for Openreach to delay and impact on a providers’ competitiveness. Again, we suggest a target number of days for upgrades.
  - d. Delayed upgrades is not considered by Ofcom but is another area where there is potential for BT to delay and impact on a providers’ competitiveness. Again, we suggest a target number of days for upgrades (e.g. 10 working days).
15. If all of the above were mandated through regulation and backed up by financial incentive (i.e. SLG payments), this would help to reduce the unnecessary delays in provisioning our customers, and having regulatory standards in place would ensure that Openreach adheres to them, and that there could be some financial compensation to affected operators and ultimately their customers.

### **Transparency**

16. We consider that transparency and public scrutiny of Openreach’s performance is a key measure for QoS improvements. Ofcom should ensure that the maximum amount of information is available publicly as this provides a further spur to incentive performance at Openreach.
17. Furthermore, we welcome the fact that Ofcom proposes to get more data in relation to the reasons for the delays to installs through the KPI reports<sup>6</sup>. Once Ofcom receives such information, it should use it to target other policy measures to tackle such delays. For example, we consider that wayleaves are a significant source of delays and is an area where Ofcom could take a greater role (alongside government) in tackling the delays and costs caused by negotiating such agreements. We discuss this in greater detail below.<sup>7</sup>

### **Service Level Agreements and Service Level Guarantees**

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<sup>6</sup> See paragraph 6.117 of the QoS consultation.

<sup>7</sup> See the “Other comments” section of this response.

18. We agree that the Service Level Agreement (SLA) and Service Level Guarantee (SLG) system is one of the key parts of the current QoS regime as it represents a real financial incentive on OR to improve its QoS. We therefore strongly agree with Ofcom's proposal to require OR to offer SLAs and SLGs, as set out in Section 8 of the consultation.
19. We would like to ask Ofcom to clarify how it expects the SLA and SLG system will work under the proposed new separation arrangement between Openreach and BT. Despite the legal separation proposed, we would be concerned if SLG compensation payments remained within BT plc (e.g. from Openreach to BT Wholesale) without being passed on to the affected CP ordering the relevant products. If this compensation money were to stay within BT, this would create a perverse incentive, which in our view, would be unacceptable.
20. Many retailers are reliant upon Openreach for the delivery of their services. Under retail automatic compensation Ofcom proposes that retailers pay compensation for 100% of SLA failures for service aspect that we consider will mostly fall to Openreach to resolve – physical provisioning of a new line, the engineer in attendance to provision or repair a line, and the repair of total loss of service. There is a clear mismatch between the ambitions of the automatic compensation proposals and the WLA QoS proposals. We consider that tougher WLA QoS standards on Openreach are necessary to support the Retail market compensation proposals.

### **Charge Control adjustments**

21. We consider that Openreach should only be allowed to recover efficiently-incurred costs. While we agree with Ofcom on its method of forecasting to model the proposed standards and resulting improvements (e.g. fault rate reduction<sup>8</sup>), we would like to encourage Ofcom to explore how it could encourage Openreach to invest more in its own network. We consider that Openreach has significantly underinvested in its network over the years, which is one factor which has led to such high fault rates. We are encouraged that Ofcom recognises that this is the case, and that this indeed has a significant impact on both consumers and other telecoms providers. For example, it may be pertinent for Ofcom to conduct a review of Openreach's initiatives for fault reduction in greater detail to see whether they are adequate and/or reasonable<sup>9</sup>. Such a review would give greater confidence to industry that enough was being done by Openreach to reduce fault rates.
22. That said, we do not agree that Openreach should be afforded greater cost recovery for meeting the increased standards or improving its network to the standard expected of its customers and end-users.

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<sup>8</sup> See for example paragraphs A11.126 to A11.132 of Annex 11 to the WLA Market Review consultation.

<sup>9</sup> See for example paragraphs A11.126 to A11.132 of Annex 11 to the WLA Market Review consultation.

## Other comments

### Wayleaves and other barriers

23. Wayleaves and other barriers to provision and repairs should be tackled by Ofcom in a more proactive way. In particular, wayleave agreements cause significant delays (anywhere from a few months to a year), use up significant resource, and generate a substantial amount of costs) to providers when installing or getting access to network.
24. Ofcom could help improve this situation by:
- a. Requiring Openreach to always negotiate its wayleaves with the needs of those seeking access to its network in mind;
  - b. Having one standard, fixed template which everyone should use (e.g. the City of London standard wayleave template<sup>10</sup> could be a good candidate); and
  - c. Ensuring that the standard wayleave that everyone uses works more in favour of the access seeker by including provisions for target timescales and agreements in principle with landlords so that installations can take place while the details can be discussed.
25. Furthermore, penalties or ADR for when those timescales are missed could improve the speed of agreeing such wayleaves.
26. We would also encourage Ofcom to continue to work with government in a more coordinated fashion to develop policies to tackle unnecessary barriers to network rollout and access to network infrastructure.

### Deemed Consent

27. In light of Ofcom's finding that Openreach had breached a number of SMP Conditions and Directions through its use of deemed consent in Ethernet provisions<sup>11</sup>, we would urge Ofcom to conduct a review into Openreach's wider use of such clauses in its contracts. Such a review by Ofcom would ensure that Openreach is offering services on fair and reasonable terms, and not exercising its dominance in contractual negotiations.

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<sup>10</sup> Available from here: [www.cityoflondon.gov.uk/standardisedwayleavetoolkit](http://www.cityoflondon.gov.uk/standardisedwayleavetoolkit)

<sup>11</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0017/102167/cw-01170-11-15-Openreach-confirmation-decision.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0017/102167/cw-01170-11-15-Openreach-confirmation-decision.pdf)

### **Coordinated central QoS plan**

28. We would also like to see QoS remedies and policy initiatives for all markets contained in a singular QoS plan or roadmap rather than the current piecemeal approach<sup>12</sup>. This would improve transparency for improvements in QoS for industry, and enable greater clarity and scrutiny of any remedies or policies in place.

End.

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<sup>12</sup> Currently, QoS material is spread across various market reviews, directions, and policy statements such as the Digital Communications Review (DCR). This leads to a lack of clarity.