

Verizon Response to Ofcom’s “Quality of Service for WLR, MPF and GEA” consultation

Introduction

1. Verizon Enterprise Solutions (“Verizon”) welcomes the opportunity to respond to Ofcom’s Quality of Service for WLR, MPF and GEA consultation.¹
2. Verizon is the global IT solutions partner to business and government. As part of Verizon Communications – a company with nearly \$131 billion in annual revenue – Verizon serves 98 per cent of the Fortune 500. Verizon caters to large and medium business and government agencies and is connecting systems, machines, ideas and people around the world for altogether better outcomes.
3. Please note the views expressed in this response are specific to the UK market environment and regulatory regime and should not be taken as expressing Verizon’s views in other jurisdictions where the regulatory and market environments could differ from that in the UK.
4. This submission covers:
 - General approach to Quality of Service Regulation
 - Fault Rate Reduction
 - Fault repairs
 - Installations
 - Transparency
 - Service Level Agreements and Service Level Guarantees
 - Charge Control adjustments
 - Other areas where Ofcom could do more to improve quality of service
 - Other Comments

General approach to Quality of Service Regulation

5. The importance of decent quality of service (QoS) that Openreach (OR) offers to its customers cannot be understated. It is quite simply critical to the effective working of the wholesale market and the ability of users to receive services and repairs when they want them. Similarly to most other providers, Verizon relies very

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0033/99645/QoS-WLR-MPF-GEA.pdf

heavily on OR and its performance correlates directly to the standards we are able to offer to our own customers.

6. QoS is key for all markets and products which are bought from BT as the dominant provider, and as such, we believe that Ofcom should adopt a more coordinated strategy and approach to such markets. As such, while we have reviewed Ofcom's proposals in relation to WLR, we also provide some suggestions for other improvements in other markets.
7. Therefore, to date, it has been a persistent cause of frustration and disappointment that despite repeated submissions on this to Ofcom, the industry continues to suffer issues with the current QoS regime, where OR is not subject to any meaningful pressure at the wholesale level and Ofcom has been slow to act to introduce minimum service levels and financial penalties. We note that despite our extensive response to the 2013 Fixed access market reviews: OR quality of service and approach to setting LLU and WLR Charge Controls Consultation, we have seen little meaningful improvement in QoS in the fixed access market.² We consider that QoS has been neglected for too long, and ultimately it is end-users that suffer. BT must be forced to make the necessary investments and be properly held accountable for any further failings, in order to improve the outlook for its wholesale customers so all end users can get the service they deserve.
8. In relation to this consultation, we agree with Ofcom's combined use of the three measures to improve QoS at OR, namely, quality standards, transparency, and SLAs/SLGs SMP conditions. Ofcom itself says at 3.34 and 3.26 that the balance between these measures has not been sufficiently successful in the past, and as a result, it is shifting its focus to rely more on quality standards as the main tool for improving QoS. While we are generally pleased to see an increase in the quality standards proposed in this consultation, we submit that these will only prove effective with:
 - A robust and proactive monitoring regime conducted by Ofcom;
 - Clear oversight for industry including accurate figures which accurately represent OR's true performance;
 - Rapid and rigorous enforcement by Ofcom against failures to meet the standards – this should include financial penalties for OR if it fails to miss the standards specified for each year of the glidepaths; and

² Consultation is available at: <https://www.ofcom.org.uk/consultations-and-statements/category-2/fixedaccess-market-llu-wlr-charge-controls> , and Verizon response at: https://www.ofcom.org.uk/data/assets/pdf_file/0033/79737/verizon.pdf

- An effective SLA and SLG system which is fair for all, including smaller market players, and which fully takes into account the sizeable compensation payments B2B providers make to their customers for ORrelated failures.
9. We also note that Ofcom has proposed to make the various QoS standards into SMP Conditions. We assume that by making them so, Ofcom will be able to take enforcement action by finding OR in breach of an SMP Condition more quickly. As long as Ofcom commits to rigorously monitoring and actively enforcing compliance against the standards, this could be a way of encouraging better quality of service from OR. We would also urge Ofcom to continually look at other new and existing products that BT offers where QoS is important not only to customers of BT, but also end-customers. Expectation from our customers is high and growing, and BT must deliver this.
10. Further, and as noted in our April 2017 response to Ofcom's consultation, with regard to the March 2017 Commitments offered by BT for the legal separation of OR³, we are still concerned that they do not go far enough to achieve a degree of separation that require OR to plough profits back into network investment. Under those Commitments, BT Group would still have the ability to use the substantial profits made by OR to further its own interests in other areas of the business, rather than using them to re-invest in the network and improve QoS which benefits all providers (including downstream BT divisions). It is quite clear from the lack of investment in OR's network over the last number of years (where capex has remained broadly flat at least until recently) that BT has strong incentives to use its profits elsewhere. It is not clear whether and how the Commitments will overcome this issue, and we consider that this is a real hurdle to the success of the separation proposals.

Fault rate reduction

11. We consider that OR 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. We are pleased to see that Ofcom has rightly forecast a decrease in the volume of fault repairs in designing the charge control⁴, as this should provide incentive to OR to focus on proactive maintenance of its network rather than reactive repairs. We agree with the

³ <http://www.btplc.com/UKDigitalFuture/Agreed/index.htm>

⁴ See for example paragraphs A11.126 to A11.132 of Annex 11 to the WLA Market Review consultation. ⁵ We note that a similar exercise was undertaken by Ofcom in relation to efficiency improvements at Royal Mail as part of the Review of the Regulation of Royal Mail.

arguments that Ofcom sets out at paragraph 3.36 in relation to the impact on competitors' brands and costs, as well as their ability to meet their own targets in order to meet customer expectations. This is particularly true of access operators who rely on service differentiation to compete with OR.

12. We agree with Ofcom's view at paragraphs 3.46 to 3.47 that a specific fault rate measure is hard to achieve. However, we encourage Ofcom to be more bold and innovative in trying to encourage OR to invest in its network. For example, it may be pertinent for Ofcom to conduct a review of OR's initiatives for fault reduction in greater detail to see whether they are adequate and/or reasonable.⁵ Such a review would give greater confidence to industry that adequate steps were being taken by OR to reduce fault rates.

Fault repairs

13. We are pleased to see that the target for the proportion of faults repaired within the SML requirements has been increased to 93% by 2021, albeit with a 3% MBORC allowance. We are unclear why there is still a 7% allowance for BT not to hit the already broad targets (1-2 days for repair). Our large and empowered customers expect much faster repair times. Further, for customers that fall outside the 93% OR only has to complete 97% of repairs within 6 or 7 working days, which is an unnecessarily large step up in terms of resolution time.
14. While we acknowledge Ofcom's reasoning for picking 3% for MBORCs as set out in Annex 6 of the consultation, we would urge caution with allowing such a generous MBORC allowance to OR as it could be open to abuse, and therefore subvert the QoS remedy in place. We suggest that a lower MBORC allowance of 2% to 2.5% should be used instead.
15. We are also pleased to see the additional 97% standard of repairs being completed within 5 days after the SLA due date⁵, in addition to the removal of the 60-day cap on SLG payments for late repairs⁷, in order to address the issue of the long tail of late repairs. We agree that this will help to address the ability for OR to take deliberate decisions to focus on matters still within SLAs to the detriment of those matters already failing against SLA (an issue we had highlighted in our 2014 response⁶).

⁵ See paragraphs 5.6 and 5.22 of the QoS consultation. ⁷

See paragraph 5.7 of the QoS consultation

⁶ See paragraph 30 of Verizon's February 2014 response to Ofcom's "Fixed access market reviews: Openreach quality of service and approach to setting LLU and WLR Charge Controls". Non-confidential version at: https://www.ofcom.org.uk/data/assets/pdf_file/0033/79737/verizon.pdf

16. However, we still see issues with lack of engineers for fault repair work, often meaning that repairs are delayed by a number of days. This is an issue that spans different products but does affect WLR. Furthermore, once BT provides a date for an engineer appointment (despite it being delayed), BT “pauses” the clock on the repair SLAs meaning that it is not hit by the financial penalties. This is clearly unacceptable and makes it difficult for us to achieve our own SLAs to our customers. The number and availability of engineers is clearly within BT’s control and as such we consider that the current incentives on BT are not sufficient. We strongly urge Ofcom to consider what action it can take in this regard, perhaps in the form of a new standard, or clarification that the repair time standards cannot be “paused” due to lack of engineers.
17. The glidepaths to achieving these new standards appear sensible as set out at paragraphs 5.66 to 5.70, and we welcome the fact that Ofcom is keen to see large improvements in the second year in order to reach higher standards more quickly. However, we consider that Ofcom should be even bolder in achieving this aim by setting a two-year glide path. This would ensure that the benefits of the higher standards to consumers are delivered sooner. Ultimately this is a matter of BT making the necessary investments which it should have made a long time ago, albeit without the level of regulatory intervention that we now see proposed. In effect, BT has “got away” with extremely poor performance for a long period of time and therefore we see no reason why it should be incentivised to work towards making the necessary improvements over three years rather than two.
18. We agree that the standards should be assessed annually and should be assessed per region as set out at paragraphs 5.73 and 5.77. This is both practical and ensures that regionally specificities should not impact on quality of service. We request however that in addition to the standards being assessed across aggregate, that they should also be assessed by technology i.e. copper vs. fibre, as this would provide greater transparency and may help to inform commercial decision-making.

Installations

19. We are pleased to see that the target for the proportion of orders installed by the committed date 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 OR must meet that to 90%.

20. 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.⁷ This cap makes no sense and perversely removes the main incentive for BT to rectify the situation after this point is passed. If anything, the SLG payment should *increase* the further past the due date it becomes. As above with fault repair, we believe that this will go some way to address the ability for OR to take deliberate decisions to focus on matters still within SLAs to the detriment of those matters already failing against SLA (an issue we had highlighted in our 2014 response⁸).
21. In relation to the glidepath to the new standards, we are particularly disappointed that Ofcom has proposed a gradual increase to the standards for completing installs by the committed date. We consider that it would be better to ensure that the benefits of the increased standards should be introduced as early as possible, and therefore, allowing some time to adjust, the second year standard should be increased to 94%. This would be consistent with approach for repairs as above. This is especially the case given that it is not a significant jump up from the current level, and they have unduly benefited from under-performance up to now so a swifter target would go further to offset this benefit.
22. We agree that the standards should be assessed annually and should be assessed per region.¹¹ This is both practical and ensures that regionally specificities should not impact on quality of service. We request however that in addition to the standards being assessed across aggregate, that they should also be assessed by technology i.e. copper vs. fibre, as this would provide greater transparency.

Transparency

23. We consider that transparency and public scrutiny of OR's performance is a key measure for QoS improvements. In general however, we would prefer that KPIs should follow the form of the standards set; i.e. if a standard is to be assessed regionally, then it should have KPIs split by region. In our view, any other approach would compromise the entire basis and rationale behind the use of the minimum standards.
24. Verizon strongly agrees with Ofcom that the KPI measures should be publically available. Such open access is not only appropriate given the nature of the

⁷ See paragraphs 6.5 to 6.8 of the QoS consultation.

⁸ See paragraph 30 of Verizon's February 2014 response to Ofcom's "Fixed access market reviews: Openreach quality of service and approach to setting LLU and WLR Charge Controls". Non-confidential version at: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/79737/verizon.pdf

¹¹ See paragraph 6.6 of the QoS consultation.

measures but may go some way to ensuring sufficient resources are employed in capturing, reporting and monitoring the resulting performance.

25. 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.⁹ However, in order for this to be effective, we suggest that Ofcom takes a proactive approach to addressing the causes of delay with industry, and identifying areas of its own policies which help reduce these causes to the benefit of consumers. For example, is there more that Ofcom could do to help reduce the impact of delays caused by wayleaves, e.g. by recommending the use of a standard wayleave throughout the country (perhaps based on the City of London standard wayleave¹⁰). We discuss this in greater detail below.¹¹

Service Level Agreements and Service Level Guarantees

26. 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.

27. We consider that SLG payments when BT is not up to standard should be paid automatically without the need for claims from providers. Formulating claims can be time-consuming and labour intensive, often reducing the incentive for providers to get the money they deserve. This risks the SLA and SLG remedies being undermined. We are therefore pleased to see that Ofcom has added the wording "proactively" to the SMP conditions regarding SLG payments.¹²

28. Other areas of concern relate to other contractual restrictions related to SLAs and SLGs which may be put in place by OR or other providers. For example, we do not consider it appropriate that contracts include clauses that put a maximum limit

on payments or liabilities made for QoS failures; for restricting other remedies available outside of SLG payments; or for unreasonable restrictions on the time within which a claim for compensation should be made (some contracts limit claims to within short periods of time (e.g. just a few months or 180 days) rather than a more acceptable six year limit). Again, such clauses undermine the remedy in

⁹ See paragraph 6.117 of the QoS consultation.

¹⁰ Available from here: www.cityoflondon.gov.uk/standardisedwayleavetoolkit

¹¹ See the "Other areas where Ofcom could do more to promote better quality of service" section of this response.

¹² See condition 6.11 on page 289 of the QoS consultation.

place. Ofcom should consider how it can address these issues within the wholesale market.

29. 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 BT and Openreach. Despite the legal separation proposed, we would be concerned if SLG compensation payments remained within BT plc (e.g. SLG payments made 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, and simply passed from one internal division to another, this would create a perverse incentive, which in our view, would be unacceptable.
30. Furthermore, we consider that Ofcom should mandate that all wholesale providers should be required to pass-on all compensation they receive from OR to the provider who ordered the circuit. The current contractual arrangements leave the risk that the provider ordering a delayed circuit from an OR reseller would be caught between paying compensation to the end customer and yet receiving no compensation passed from OR to the wholesale provider. Clearly this again undermines the SLA and SLG remedy by not compensating the actual provider affected, and could have a detrimental impact on competition.

Charge Control adjustments

31. We agree with Ofcom's analysis of OR's opex vs capex spend, and its conclusion that OR is not sufficiently investing in its network, but preferring to spend more on reactive fault repairs (paragraph 4.35), leading to ongoing poor QoS. We therefore also agree that it is right that Ofcom should decrease the opex allowance in the charge control to encourage more capex investment; whilst also not allowing OR to recover more capex from its customers under the charge control (as discussed at paragraph 4.3). That said, we note that the reduction in opex in the charge control is only in line with the planned reductions OR is aiming to achieve under its own plans (paragraph 4.50). Given that Ofcom does not believe that OR is sufficiently incentivised to reduce faults, we believe that a more stretching reduction in opex should be used to encourage OR to invest in proactively repairing its network. This would mean that the OR plans are a floor for improvement, and must be met as a minimum.
32. We also note that there seems to be a disconnect between the QoS consultation and the charge control proposals as set out in the WLA market review consultation. Whereas the former suggests reduction in the opex allowance for repairs and no increase in capex in the charge control;¹³ the latter says that there will in fact be an

¹³ See paragraphs 4.3 and 4.50 of the QoS consultation.

11.4% uplift to opex to meet the increased repair standard in the bottom-up model used for the charge control.¹⁴ We would like clarity on this. We consider that OR should only be allowed to recover efficiently-incurred costs and BT's competitors should not be paying for improvements to the repair standards that have been so woeful up for the last five years.

33. We do not agree that OR should be afforded greater cost recovery for meeting the increased standards. BT has made excess profits in regulated markets of around £9.7 billion since 2005,¹⁵ and should therefore have sufficient money to meet the proposed standards. Again, it is completely unacceptable if BT's competitors are made to fund this through softened charge controls.

34. We are also concerned that OR will seek to recover the cost of improved QoS through products in markets where Ofcom has not proposed a charge control e.g. WLR and WCO. Given that Ofcom considers that these services are of such importance that they should be included in the QoS regime (e.g. including being part of cumulative quality standards for fault repairs and provisions), it is beyond belief that the costs of QoS should be considered only in the charges for LLUMPF and FTTC 40/10 (as per the WLA Charge Control). Furthermore, by adopting cumulative, aggregate quality standards, Ofcom is giving the green light to OR to increase the costs of non-charge-controlled products in order to subsidise the QoS requirements of those products being charge-controlled. This could lead to customers who rely on WLR (such as those requiring emergency lines, alarm lines, pin points, emergency lines in elevators, support lines in case of other line failure) having to pay higher prices to subsidise the quality of a product (such as LLU) which they do not use or want. We have seen evidence previously of Ofcom failing to fully consider impacts across a full range of products or services than may span multiple markets¹⁶ – and this can have strongly detrimental consequences. We would strongly urge Ofcom to re-consider its position in this regard.

¹⁴ See paragraphs A12.185 to A12.186 of Annex 12 to the WLA Market Review consultation.

¹⁵ See the Frontier Economics report produced for Vodafone, available at: <https://mediacentre.vodafone.co.uk/pressrelease/planned-reforms-openreach-required-new-reporthighlights-bt-excess-profits-increased/>

¹⁶ See for example Verizon and Vodafone's appeal of the BCMR in 2013, where the parties argued that Ofcom erred by failing to consider all of the markets that would be affected by its decision on BT's recovery of excess common costs.

Other areas where Ofcom could do more to promote better quality of service

Other areas for improvement to installs across markets

35. In addition to the above measures proposed by Ofcom, we have identified a number of other areas which cause unnecessary delays in order provisions, and at worst, give OR a loophole to not hitting the standards. As discussed above, we urge Ofcom to have a coordinated strategy for QoS improvements across all markets and services delivered by BT, and as such, we highlight some other key issues affecting provision for other services such as Ethernet; however the principle still applies for WLR.

First Order Confirmation and Surveys

36. Firstly, as we have previously highlighted, there is still the potential for OR to manipulate its figures and “game” the system in order to subvert the QoS standards¹⁷, and avoid paying compensation to its customers when those standards are missed. This is not a hypothetical issue, but has been proven to be the case in relation to its inappropriate use of the “deemed consent” provisions as recently determined by Ofcom.¹⁸

37. We are concerned that another avenue which OR can use to avoid paying SLG payments is by delaying giving the Firm Order Confirmation (FOC)²² for installs until OR is sure that it can hit the date given. In practice, this means that while OR may hit the committed date, it may take several weeks to get that date in the first place – this means that while OR is compliant, it results in very substantial delays in the provision of an order.

38. This is a particular problem in Ethernet service delivery which requires longer install times, however there is the potential for this gaming to occur in any other service where OR must give out a FOC, including WLR.

39. Compared to other incumbents in Europe (including those with similar FTTC rollout strategies such as Deutsche Telekom), OR is consistently worse in terms of provisioning and fault performance. OR has very long lead times for provision, and

¹⁷ See for example, Verizon’s February 2014 response to Ofcom’s “Fixed access market reviews: Openreach quality of service and approach to setting LLU and WLR Charge Controls”. Non-confidential version at: https://www.ofcom.org.uk/data/assets/pdf_file/0033/79737/verizon.pdf

¹⁸ https://www.ofcom.org.uk/about-ofcom/latest/bulletins/competition-bulletins/open-cases/cw_01170 ²²
Also known as a “Keep Customer Informed” (KCI) 3 notice by BT.

also is very slow to give estimated dates for connection (often waiting until it is sure it can hit the deadline before confirming the connection date in order not

to miss its own target). Both of these mean that it is harder for us to communicate with our customers about when they will receive their service with any confidence, and makes it harder to hit our own internal targets. Indeed we are forced to push our own targets out, which is reflective of how bad practice by the monopoly supplier impacts negatively down the value chain.

40. As a global communications provider, Verizon collates data from all round the world – see Figures 1 and 2 below. These demonstrate that the UK is consistently the worst performing country in Europe, and is also worse than the collective in AsiaPac.

Figure 1: [X]

[X - Figure redacted]

Figure 2: [X]

[X - Figure redacted]

[X - Figure notes redacted]

41. The above tables highlight the issues that are felt by industry which must be fixed if the UK is to get onto a par with its European counterparts. These issues effectively undermine the QoS regime as not only does it mean that OR can inflate its performance against the quality standards, but it can also avoid paying SLG payments. In the consultation, there does not appear to have been any analysis of this issue, and as such, there is no proposed remedy. This is particularly disappointing given that Verizon raised these specific issues with Ofcom senior management earlier in the year.

42. Similarly, in relation to the conducting of surveys, we consider that OR needs to have better processes in place for conducting surveys in a timely manner in order to hit the delivery date and avoid delays. Openreach are aware that surveys must take place for some orders, and as such this should be a quick and streamlined process. We consider that it is unacceptable to delay an order provision for organising a survey.

43. We therefore believe that one solution to this issue would be to have an additional quality standard which requires OR to provide the FOC within a certain number of days, for a proportion of orders. For example, for Ethernet services we propose that a FOC must be issued with 15 working days for 80% of orders. We consider this to be an achievable standard because, [§<]. Within that, we would argue that appointments for surveys should be issued within 5 days of acknowledging the order for 80% of orders. We consider these to be reasonable standards to cover the various stages in an installation (e.g. surveys etc.), and an acknowledgement that around 20% of orders are complex orders requiring additional work and additional time.
44. We would urge Ofcom to close this loophole in other services too such as WLR, by considering a timescale that is appropriate to these services. We expect the times for FOC delivery for WLR will be much shorter than our suggested target for Ethernet services (which tend to be more complex).

Delivery targets for installs in days and interval targets for Categories of Work

45. Similar to the above, there is also a concern that OR is not held to account for delivering circuits within a set number of days due to the lack of QoS target. As such, OR lacks incentive to commit the necessary resources to timely delivery. We therefore suggest an additional QoS standard should be imposed which sets an overall target for the delivery of a circuit within a set number of days.
46. As above, this is a particular issue in Ethernet services but is also relevant to WLR. We acknowledge however that circuit delivery timing can depend on a number of factors, such as the amount of work required. This is set out in OR's Categories of Work scale between levels 1 and 4 depending on seriousness and/or complexity. In order to avoid abuse and encourage timely delivery of circuits, we consider that there should be interval targets in days per Category of Work, as well as an overall delivery target.
47. We suggest for Ethernet services that there should be an overall target of 40 working days for 80% of fibre-related products under 10GB and 10 working days for 90% copper product where capacity is available. The interval targets should be exponential on the seriousness of the work required, and we would expect Ofcom to have the relevant data to determine appropriate interval targets (or it should seek such data from OR). In any case, while we do not have a firm view of the interval targets that we would like to see, we would encourage Ofcom to consult with stakeholders on any proposals for interval delivery targets.
48. We believe that these are reasonable targets and they are perfectly achievable.

We note that Orange France meets similar figures for its installations: in H2 FY2016/17, Orange France met 41 days for the 95% of FTTH fibre installs (appointed) with at least half being installed within 12 days; and for copper broadband (xDSL), Orange France met 20 days for the 95% of installs with at least half being installed within 6 days.¹⁹

49. We urge Ofcom to consider what level of days is appropriate for delivery of WLR, MPF, and GEA services.
50. Having regulatory targets backed up by SLA and SLG payment requirements would not only incentivise OR to resolve issues in a timely manner and therefore avoid delays in installations; and if implemented and met, they would make a real difference to the commitments that industry is able to make to customers.

Delay due to Time-related charges (TRCs)

51. When undertaking works for circuit installs, especially for Ethernet services, OR can delay installs by unnecessarily waiting for approval for time-related charges (TRCs) of low amounts. Generally, TRCs are an accepted factor in installations, and are generally of such a low level that approval is not really required (unlike Excessive Construction Charges (ECCs)). However, we have known OR to delay an install pending approval for the TRCs and has preferred to stop work while awaiting approval for this small expenditure.
52. We suggest that this is an unnecessary delay and is another potential example of “gaming” the current regime to its advantage. We consider that there should be some mechanism for automatic or deemed approval of TRCs up to a certain threshold. This would be beneficial to both parties, and could be agreed at a contract level, although the cap amount agreed should vary depending on the needs of the customer.
53. While this would be beneficial, we are conscious that “deemed consent” could be open to abuse by OR, as proved in the case of delays in Ethernet provisions.²⁰ We therefore believe that such clauses regarding deemed consent should no longer

¹⁹ See the 2nd semester results for Orange France available here:

https://assistance.orange.fr/medias/woopic/files/content/download/761654/16137691/version/2/file/indicateurs_S2_2016_Orange.pdf, which are taken from Orange France’s website here:

https://assistance.orange.fr/livebox-modem/toutes-les-livebox-et-modems/installer-et-utiliser/mesurer-votredebit/indicateurs-de-qualite-de-service-fixe_77168-78090#onglet2. Further details on these reporting requirements can be found in Arcep’s report: http://www.arcep.fr/uploads/tx_gspublication/rapport-QoSucces-services-fixes-S2-2016-avril2017.pdf

²⁰ https://www.ofcom.org.uk/data/assets/pdf_file/0017/102167/cw-01170-11-15-bt-confirmationdecision.pdf

be left to BT’s discretion in its reference offers, and should instead be determined and enforced by Ofcom through direct SMP Conditions.

Upgrades

54. While not necessarily a provision, we note that there is still no standard for the delivery of upgrades to services. This is again another area where late delivery by OR can have a serious impact on Verizon as a competitor, and ultimately our customers. We therefore suggest a new standard of 10 working days for completion of upgrades of Ethernet services, and would expect WLR and services to again take a much shorter time.

Orders on hold due to lack of network

55. Another area that causes issues for Ethernet services is the issue of OR accepting orders for installations where new spine cables are required. In essence, this means that OR has accepted an order without having network built out to the requested location. As a result, orders can be delayed many months, if not years, while OR builds out its network, while we have customers on hold. This is clearly unacceptable.

56. Although the removal of the 60-day cap on SLG payments will address this to some extent where an order has been accepted, we do not consider that OR should be allowed to use the requirement for provision of spine cables as a reason for delay to installations. OR should either accept the order and meet the times set out in the relevant standards; or they should not accept the order and inform us as to why. This means that we (and ultimately our customer) are not held up in waiting for OR to build out network, and could seek alternative solutions.

Summary

57. In summary therefore, we propose the following additional standards for improving QoS in installs of Ethernet services. We consider that Ofcom could adapt these suggestions to be more relevant for the services under consultation in this document:

Issue	Verizon proposed solution for Ethernet
Delay in issuing firm order commitments (FOC)	New standard: <ul style="list-style-type: none"> • FOC must be issued within 15 working days of order acknowledgement • The above should be true for 80% of orders

Lack of timeframe for delivery based on Categories of Work	<p>New standards:</p> <ul style="list-style-type: none"> □ Overall install target of 40 working days for 80% of fibre-related products under 10GB and 10 working days for 90% copper product where capacity is available
	<ul style="list-style-type: none"> □ Interval targets in days (TBC pending Ofcom analysis and consultation with stakeholders) for installs against the Categories of Work (1-4) within the above target of 40 days.
Delay in scheduling surveys	<p>New standard:</p> <ul style="list-style-type: none"> • Survey appointment must be scheduled within 5 days of order acknowledgement • The above should be true for 80% of orders
Delay due to TRCs	OR should offer a contractual clause specifying a monetary cap below which it is not required to wait for approval of TRCs
Delay to upgrades	<p>New standard:</p> <ul style="list-style-type: none"> □ Upgrades should be completed within 10 working days
Delay due to lack of network	OR should not be allowed to accept an order and place it on hold in areas where it does not currently have network.

58. 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. It would have a dramatic positive impact on the experience of end users, and would transform the QoS regime into one which acts to fuel competition and incentivise investment in the national network.

Other policy areas

59. One of the biggest issues with the QoS of provisions and repairs is the delays due to wayleaves. These agreements cause significant delays (anywhere from a few months to a year) and costs (c£20,000 **per agreement**) to providers when installing or getting access to network.

60. Ofcom could help improve this situation by:

- Requiring BT to always negotiate its wayleaves with the needs of those seeking access to its network in mind;
- Having one standard, fixed template which everyone should use (e.g. the City of London standard wayleave template²¹ could be a good candidate); and □ Ensuring that the standard wayleave that everyone uses should include:

²¹ Available from here: www.cityoflondon.gov.uk/standardisedwayleavetoolkit

- “Agreements in principle” to speed up installation while the finer points are agreed;
- Timelines for agreements to be agreed (e.g. having a target completion date for wayleaves of 30 days, after which, agreement would be “deemed”);
- Wayleaves should not allow charges for access as this is a barrier to rollout; and
- A clear, fast and cost effective dispute resolution procedure if the parties cannot reach agreement in favour of the access seeker.

61. We would also encourage Ofcom to continue to work with government over policies and legislation that put up unnecessary barriers to network rollout and access to network infrastructure. Addressing administrative burden and costs (e.g. wayleaves; streetwork permits and charges; and business rates) would be a common factor in helping providers, including OR upon whom many operators depend for access, rollout more easily and in a more cost effective manner.

62. For further, more detailed comments in relation to wayleaves, please see our consultation response to Ofcom’s Consultation on the “Electronic Communications Code proposed Code of Practice, Standard Terms of Agreement and Standard Notices” submitted on 30 May 2017.

Other comments

63. In light of Ofcom’s finding that OR had breached a number of SMP Conditions and Directions through its use of deemed consent in Ethernet provisions,²² we would urge Ofcom to conduct a review into BT’s wider use of such clauses in its contracts. Such a review by Ofcom would ensure that BT is offering services on fair and reasonable terms, and not exercising its dominance in contractual negotiations with smaller players. As explained above this should also include consideration of the position with respect to BT Wholesale.

64. In order to increase transparency and scrutiny of both OR and Ofcom’s plans to improve QoS in the UK market, we would also like to see QoS remedies and policy initiatives for all markets contained in a singular QoS plan or roadmap, against which OR is assessed on a regular basis (e.g. quarterly, annually), rather than the current piecemeal approach. Currently, QoS material is spread across various market reviews, directions, and policy statements such as the Digital Communications Review (DCR) which leads to a lack of clarity.

²² https://www.ofcom.org.uk/data/assets/pdf_file/0017/102167/cw-01170-11-15-bt-confirmationdecision.pdf



Verizon Enterprise Solutions June
2017