

Wholesale Local Access Market Review. Consultation on Duct and Pole Access remedies

Response by Colt Technology Services. 15 June 2017.

Colt has been using third party duct infrastructure to construct its networks for over a decade. It has made substantial use of this method in France, Italy, Spain, Portugal, Switzerland and others since these markets started to open in 2006.

Using open infrastructure, Colt has built entirely new all-fibre networks serving business customers in many new European cities and business parks, serving retail and wholesale customers. Arguably, there is no UK operator with more experience of building networks using third party ducts.

Since 2012, Colt has been working with Ofcom to bring the benefits of open duct infrastructure to the UK. For over five years, this has been our key objective for regulatory change. During this time, we have been looking for an open physical infrastructure market to evolve, to allow us to build new all-fibre networks up and down the UK. We have shown Ofcom the parts of the UK where Colt is ready to build new infrastructure, given the right access economics. In particular, we have worked with Ofcom understand how it can overcome longstanding issues with physical access, by reference to examples in other European markets.

The key benefit of physical access is that it is service neutral; it exposes the operator to the fundamental economics of network construction, rather than the contrived economics of active pricing. It allows competitors to create and exploit economies of density and allows customers to benefit from the same. These properties allow network investments to accrete over time.

However, for Ofcom, these are not seen as benefits but rather, problems. They are problems because mandating access in an upstream market interferes with the downstream remedies set in different market reviews, conducted by different teams at different times. It is, in other words, a decision to allow market outcomes to be dictated by bureaucracy. This is not a new problem. Neither is it an unresolvable problem; yet it has been allowed to persist for years.

To avoid these problems, Colt has – for five years – been recommending that Ofcom merges the applicable market reviews, to allow the impact of different remedies to be considered together. In every consultation response, we have made these points to Ofcom, backed up with examples of how other countries have successfully approached the same problems.

It is greatly to our regret that our entreaties have been ignored.

It is precisely because this problem has been ignored that we are in the unacceptable position today, where, in its Wholesale Local Access market review, Ofcom has recommended a remedy that is, in effect, discriminatory.

For Colt and other business-only service providers, the remedies proposed by Ofcom represent the worst possible outcome. Our competitors have been presented with a cost advantage that – for entirely foreseeable and avoidable reasons – we and other business-only providers, have been denied. Ofcom's discriminatory proposals can only lead to an oligopolised market, dominated by a handful of large players and therefore, we oppose them in the strongest possible terms.

We therefore ask Ofcom, as a matter of urgency, to reopen the business connectivity market to ensure consistency, and thereafter consider these related markets together.