

Wholesale Local Access Market Review: Consultation on Duct and Pole Access Remedies

Virgin Media submits a short response to the above consultation. Many of the questions posed are related to those in the previous consultation. We refrain from repeating our previous submission. Our focus is on ensuring that competing infrastructure providers can use the Openreach's poles and ducts to deploy end-to-end infrastructure. [Confidential].

Question 4.1: Do you agree with our proposals for a specific access obligation, which includes an obligation on BT to make adjustments to its physical infrastructure when its network is congested? Please provide reasons and evidence in support of your views.

Virgin Media supports this form of access obligation and that the obligation should not be open-ended.

On the specifics, Ofcom appears to assume that the demarcation between Openreach's spine and the lead-in duct is the premises boundary. It also believes that it is relatively simple for a Communications Provider (CP) to bypass (install their own lead-in) where Openreach's is not fit for purpose (i.e., damaged/congested/non-existent). Whilst this can be true for lead-in duct sections damaged or missing within the boundary of a single premise, it is not true for damaged sections of lead-in ducts that run under third party private property or in the public highway. In this instance, it should be Openreach that rectifies the problem at the request of the CP.

[Confidential]

Question 4.2: Do you agree with our proposals on the scope of PIA: (1) To broaden usage through a mixed usage generic rule; (2) To modify the PIA condition to define geographic scope by reference to telecoms providers' local access networks. Please provide reasons and evidence in support of your views.

We note Ofcom's decision to broaden the use of PIA to 'mixed use' and we will wish to understand how this will affect its deliberations in the next Business Connectivity Market Review.

We agree that CPs should not be limited by the geographic boundaries of BT local exchange areas. FTTP Passive Optical Networks can be up to 20km from the local access (active fibre) node location.

Question 5.1: Do you agree with our proposed imposition of a no undue discrimination SMP condition on BT? Please provide reasons and evidence in support of your views.

Yes, we believe that a no undue discrimination SMP condition is appropriate.

Question 6.1: Do you agree with our proposed approach to the processes and systems relating to planning and surveying? Please provide reasons and evidence in support of your views.

We agree with most aspects of the proposed improvements to planning and surveying systems/processes.

The original manual planning and survey processes made the benefits of using PIA difficult to evaluate, and the remedy hard to use. We acknowledge that the recent Proof of Concept (where Openreach voluntarily provided digital access to plant records via a web portal) has improved access to PIA data. However, CPs still lack the ability to import the data in a format that can be readily used within their own GIS/Planning system. We agree with Ofcom's proposal i.e., data needs to be available in a format fit for scale use in third Party GIS/Planning systems.

Under the original Reference Offer (RO), the sequential nature of the Openreach ordering/reservation/approval process and a dependency upon Openreach's administration resource could add considerable delays to planning and survey activities. Despite Openreach recently providing the ability to select an area to download OSP data in CSV format with capacity shown via a RAG annotation, we still believe that the current manual ordering/reservation process is too onerous and complicated. In particular, we believe that there is still undue complexity and ambiguity in the levying of ancillary charges.

[Confidential]

The recent Openreach PIA Proof of Concept has demonstrated that a flexible approach (i.e., allowing CPs to undertake certain survey, build and enabling works themselves) can provide greater certainty on timescales and costs. We welcome continued flexibility that allows a CP to independently carry out any planning/survey/ordering works (in parallel and without delay) using their own accredited resource.

Question 6.2: Do you agree with our proposed approach to the processes for build works and enabling works? Please provide reasons and evidence in support of your views.

We welcome the introduction of SLAs and SLGs when Openreach is responsible for providing additional capacity or completing enabling/build works. Under the original RO, any new Infrastructure build activities or enabling work was dependent upon Openreach's resources and lead times. Without SLAs, there is uncertainty about build timescales and limited incentive for Openreach to complete this work in a reasonable timescale.

Question 6.3: Do you agree with our proposed approach to processes relating to the connecting the customer stage? Please provide reasons and evidence in support of your views.

We appreciate that Ofcom has taken into consideration the request to allow blown fibre tubes in addition to hybrid fibre drop cables. However, Ofcom notes that there is no "one-size-fits-all" solution to relieving pole capacity and that Openreach will have the flexibility to resolve pole congestion how they see fit, albeit tied to a SLA/SLG. We agree that the onus should be on Openreach to ensure that capacity on a pole exists guarantee, however we do not feel that Ofcom goes far enough: we would like CPs to have the option of replacing the original Openreach drop wire. This can be the most cost and time efficient approach.

Question 7.1: Do you agree with our proposed form of price regulation for PIA rental and ancillary charges? Please provide reasons and evidence in support of your views.

Yes, some form of safeguard cap will protect the users of poles and ducts. We believe that an analogous approach is appropriate for purchasers of Openreach's wholesale 40/10Mbps product.

We agree that certain labour related ancillary charges will become less relevant if CPs conduct their own enabling works however there are still number ancillary items where, in combination, expenditure could be material because they are related to the volume of usage e.g., pole attachment fittings, chamber interconnects, CP cables/joints in Openreach's chambers. Precisely how these charges will be levied unclear. We welcome any clarity that Ofcom can bring.

Question 7.2: Do you agree with our proposed approach to the recovery of network adjustment costs? Please provide reasons and evidence in support of your views.

Question 7.3: Do you agree with our proposed approach to the recovery of productisation costs? Please provide reasons and evidence in support of your views.

We have no additional comments beyond what we said in our previous response.

Virgin Media
June 2017