

Thank you for the opportunity to reply to the consultation on Promoting competition and investment in fibre networks: Wholesale Fixed Telecoms Market Review 2021-26 Pricing wholesale local access services in Geographic Area 3 with a BT Commitment to deploy a fibre network.

My name is Mike Kiely. My primary interest is in rural Broadband. I wrote much of the Broadband Strategy for Government in 2011-12 and the BDUK requirements for the 2012 Framework.

Question 3.1: Do you agree with our approach to assessing the BT Commitment and proposals for pricing WLA services in Geographic Area 3?

1.0 I have no objection to the approach provided Ofcom's modelling takes account of the following.

1.1 Existing Capital Deferral for Rural Broadband of £788m

After some seven Parliamentary inquiries and equivalent number of audit function reports there remains a significant upside for the UK rural economy if the Capital Deferral (some £788m created by BT to balance out the high levels of Normalised Deviancy in its 2012 BDUK bid strategy and confirmed by the NAO in 2015) is utilised to complete a further 600k full fibre connections deep in rural England. R100 and Project Stratum should complete the needed works in Northern Ireland.

The relevance to this consultation is that in considering a RAB based cost recovery for an area 3, for which BT demanded subsidy for FTTC, BT is already recovering a Capital Deferral for which there is no corresponding plan to build rural network from at least £638m of the Capital Deferral. Either these funds become a capital expenditure by building more full fibre or these costs which are recorded as part of a revenue share scheme are not capitalised and should be treated as an expense. This consultation should be used to resolve this matter. More details are available in Chapter 4 of the last EFRA select Committee report on Broadband¹.

Given Ofcom have calculated the low end of the Fibre shortfall to be £886m, and additional recovery of between £160 -£439m the use or indeed the abuse of the Capital Deferral should not be ignored.

1.2 BT overbuilding BDUK subsidised FTTC areas.

The offer to complete 3.2m premises FTTP by BT is to be welcomed but should include confirmation by Ofcom that BT has made a uniform capital contribution to the BDUK FTTC works and some 500,000 full fibre connections at the time of writing. Much of Area 2 and all of Area 3 has been subject to public subsidy for FTTC. All the fibre paths and spare fibres can be used as part of the next upgrade. Some final reconciliation is needed where the 'fair-bet' analysis is in effect extended to the previously subsidised works such that BT's investment in the subsidised work is consistent with the cost recovery regime for WLA FTTC services.

There is nothing in Annex 2 modelling to suggest the reuse of what has been subsidised assets of some £1.4bn has been considered.

Question 4.1: Do you agree with our proposals for basket design and implementation of a forecast-RAB?

¹ <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/2223/222302.htm>

The notion that this proposal will not interfere or interact with any Government proposal is naive. Area 3 should be clearly demarcated and future Government involvement clearly ring fenced.

The existing BDUK activity was subject to high levels of gaming from claims of cabinets costing £100,000 each to BT investment levels.

Question 5.1: Do you agree with our proposals for reporting requirements?

The recommended reporting is ok provided the reconciliation of BDUK's activity, confirming BT's capital contribution to allowable costs and the utilisation of the £700m capital deferral is confirmed.

The modelling must also reflect the receipt of some £1.3bn by BT from Government for FTTC rollout.