

FCS Response to Ofcom's Consultation on its Wholesale Voice Markets Review

Introduction

The Federation of Communication Services represents companies which provide professional communications solutions to (primarily) business users. Our members deliver telecommunications services via mobile and fixed line telephony networks, broadband, satellite, wi-fi and business radio.

Our members' customers range from SMEs, home-workers and micro-businesses up to the very largest national and international private enterprises and public-sector users. FCS is the largest trade organisation in the professional communications arena in the UK, representing the interests of around 300 businesses who supply B2B services nationwide. Please note that the views expressed by FCS in this response do not reflect the views of Gamma, whose individual response has been submitted separately.

FCS Response - key points

We welcome the opportunity to respond to Ofcom's consultation on its Wholesale Voice Markets Review. This is taking place at a particularly crucial time, which will see major changes in the way that customers in both consumer and business markets make calls.

The move to IP based products will be significantly accelerated by Openreach's withdrawal of WLR during the period of this market review. Changes in the services offered and the underlying technology will lead to significant changes in the structure of the market, the way that calls are routed and the nature of interconnection.

For this reason, we believe that the review period is too long to make decisions which will define the shape of the regulation up to 2026. Events are moving quickly and the outcomes and impacts of the changes referred to above will have unpredictable consequences. We believe that Ofcom needs to keep the market under continuous review during this period. Specifically, we suggest a formal review after 3 years (at most) with annual reviews in the interim based on feedback from the market.

Ofcom must be prepared to be creative and flexible in developing a regulatory model for the IP world. We strongly feel that the approach used for regulation of the component parts of the current TDM environment will not be appropriate for the simpler IP interconnects and routing which will become the norm.

For example, we feel that the manifestation and nature of SMP will change and may occur at different points in the supply chain, as technology and the nature of interconnects and call routing changes - and that this will need to be reflected in the new regulation. Ofcom has historically recognised that relatively small CPs may have SMP in certain markets (e.g. call termination on their own networks).

We believe that the regulation should require that all CPs (not just BT) should be prevented from declining to set up IP interconnects.

We suggest that, in order to ensure effective competition and speedy roll out of the new technology, the cost of setting up new IP interconnects should be limited (if not zero). For example each CP could potentially bear its own costs, where necessary; CPs have the opportunity to derive appropriate levels of revenue from the ongoing traffic which will be generated and the beneficial commercial terms that an IP interconnect to another CP could afford.

It seems likely that the introduction of the proposed new industry numbering database will have a very significant impact on the routing and termination of calls. The database is likely to be up and running during the timeframe of the review period and the role of IPEX, specifically, will consequently change (and may even ultimately be redundant - certainly with respect of gateway protocol conversion functionality - once an all IP architecture is implemented).

The way numbers are allocated, hosted and deployed is also changing which, in conjunction with the introduction of a common numbering database, will possibly lead to calls being routed on a per number basis rather than being routed by number range. This has considerable repercussions, not least with the impact on NGN ranges such as 084/087 that are based upon service charge rates on a per-range basis. Where numbers are allocated in much smaller volumes (or maybe even singly in future), then current charging models based on number range become extremely difficult to manage and advertise, and could possibly result in the decline in the use of NGN 084/087 numbers.

The ongoing convergence of mobile and fixed services using IP technology will also have an influence on the market. We are concerned that this may allow the regulation to be “gamed” using the different regulatory approaches applicable to each technology. This applies especially to BT Group (who have existing fixed and mobile networks in the shape of Openreach and EE combination) and other MNOs. We are also concerned that Ofcom needs to ensure all the market players in the chain (including vertically integrated operations such as the emerging altnets) are obliged to conform and do not distort competition by non-cooperation, lockouts of competitors, etc

Further to the above, we are not convinced that there is any justification for the differential in the termination charges proposed for fixed and mobile calls and would suggest a harmonisation of these termination rates.

We are keen to ensure that BT is not able to game the system during the phase in period, especially considering the dominance of BT’s IP Exchange product which is currently un-regulated.

Responses to Individual Consultation Questions

Question 4.1: Do you agree with our proposal not to regulate the WCO market on the basis that it no longer fulfils the three criteria test set out in the 2014 EC Recommendation? Please set out your reasons and supporting evidence for your response.

In principle we agree, but Ofcom must continue to monitor experience during the transition period to ensure that there is no abuse of BT’s dominant positions.

Question 5.1: Do you agree with our proposed market definition in relation to WCT? Please set out your reasons and supporting evidence for your response.

We broadly agree and have no comments.

Question 5.2: Do you agree with our proposed market definition in relation to MCT? Please set out your reasons and supporting evidence for your response.

We broadly agree and have no comments.

Question 5.3: Do you agree with our provisional conclusion that each provider of WCT has SMP in the market served by that provider? Please set out your reasons and supporting evidence for your response.

We agree.

Question 5.4: Do you agree with our provisional conclusion that each provider of MCT has SMP in the market served by that provider? Please set out your reasons and supporting evidence for your response.

We agree.

Question 6.1: Do you agree with our proposal to maintain a network access obligation on all WCT providers? Please provide reasons and evidence in support of your views.

We absolutely agree. We believe that this will become more important as IP interconnects become the default route to market for a new CP and also become much simpler and cheaper to establish and operate.

Question 6.2: Do you agree with our proposed remedies that would be specific to BT's provision of WCT? We welcome evidence on all aspects of our proposals and in particular whether we should maintain BT's obligation of no undue discrimination. Please provide reasons and evidence in support of your views.

We agree that the non-discrimination obligation on BT should be maintained.

Question 6.3: Do you agree with our proposed charge control on WCT and the analysis that informed this proposal? Please provide reasons and evidence in support of your views.

We agree.

Question 6.4: Do you agree with our proposal to maintain an access obligation on all MCT providers? Please provide reasons and evidence in support of your views.

Yes.

Question 6.5: Do you agree with our proposed charge control on MCT and the analysis that informed this proposal? Please provide reasons and evidence in support of your views?

We agree.

Question 6.6: Do you agree with our proposal to introduce a reciprocity condition on the termination of international calls and the analysis that informed this proposal? Please provide reasons and evidence in support of your views.

Yes, this seems like a pragmatic approach.

Question 7.1: Do you agree with our proposed non-pricing remedies specific to BT? Please set out your reasons and supporting evidence for your response.

Yes. Specifically, we believe that the non-discrimination obligation on BT should be maintained. In this context, we note that FCS has supported a complaint to Ofcom, raised by one of our members, in connection with charges introduced by BT as part of its IP Exchange service which we believe are in breach of the non discrimination obligation. This complaint has not yet been resolved and we are concerned that removal of the obligation would provide scope for the introduction of further unjustified charges which are harmful to competition.

Question 7.2: Do you agree with our proposals relating to BT providing transparency on its migration timetable? Please set out your reasons and supporting evidence for your response.

Yes, We believe that if not transparently managed, there is an opportunity for BT to exploit the migration process to its own advantage.

Question 7.3: Do you agree with our proposal to require BT to provide WCT for all geographic calls as if its migration to IP is complete, from 1 April 2025? Please set out your reasons and supporting evidence for your response.

Yes. We also believe that the pricing set should reflect the costs of an IP network structure and should not be related to legacy distance dependent WCT. There are many hosting party CPs that currently terminate geographic calls with zero payment and, in some cases, with a charge to terminate a geographic call (e.g. BT imported numbers to IP Exchange for a hosting party are charged a per minute rate). With an IP architecture and the associated reduced points of connection, then hosting CPs should not be penalised whilst the migration is progressing, and payments should reflect an IP termination rate.

Question 7.4: Do you agree with our proposal to subject BT's provision of TDM interconnection circuits to a charge control which expires on 1 April 2025? Please set out your reasons and supporting evidence for your response.

Yes

Question 7.5: Do you agree with our proposal to require BT to provide IP interconnection on fair and reasonable terms, conditions and charges supplemented by guidance? Please set out your reasons and supporting evidence for your response.

Yes. At this time there does not appear to be any alternative to IP Exchange as a method of IP interconnection with BT, and the un-regulated terms and conditions currently in place will require review to ensure that these terms of interconnection are fair and reasonable – both during migration and on IP migration completion.

Question 7.6: Do you have any concerns regarding the existing obligations, which do not require a hosting party to ensure that hosted providers can make WCT available at an accessible POC? Please set out your reasons and supporting evidence for your response.

Yes. There are many rangeholders who host their Ofcom ranges with a hosting network provider, and consequently rely on the hosting network provider to terminate their calls – the hosting party obviously has SMP for their ranges. Existing TDM WCT must be maintained via a POC until an alternative IP interconnect method is available. As a hosting party has their ranges hosted with the hosting network provider, their only realistic alternative is to re-host these ranges to an alternative hosting network provider who has an IP interconnect service. This is often disruptive and takes time to implement.

Question 8.1: Do you agree with our proposed regulatory reporting requirements on BT? Please set out your reasons and supporting evidence for your response.

We have no strong views on this area of the proposals.

Question 9.1: Do you agree with our initial view that the risks associated with IP interconnection should be manageable by industry?

Yes. Industry is best placed to manage the risks associated with migration. However, extremely careful planning and rollout of migration activities must be agreed to ensure no unforeseen issues are encountered. Physical aspects of IP interconnects, and agreement on IP signalling standards do need finalising. However, as many IP interconnects already exist, industry should be able to come to a consensus via NICC to establish a base line for interconnect. Agreeing regulatory terms for interconnect across industry, however, must be approached with the simplicity that an IP interconnect affords technically.

Question 9.2: Do you agree with our proposed guidance concerning IP interconnection? Please set out your reasons and supporting evidence for your response.

Yes. Options for interconnection are no longer necessarily reliant on physical direct circuits between network providers in an IP architecture, as internet connections with VPNs on existing IP Transit connections allow interconnects to be established in a matter of hours and not the months that legacy TDM interconnect establishment has taken. Of course this speed of connection should not be hampered by overregulation. However, the regime must ensure that IP interconnect standards regarding signalling and routing standards are implemented to avoid impacts to call quality and to maintain correct CLI, digit handling, compatibility, etc. as has been clearly stated in this consultation.

Question 10.1: Do you agree with our proposed market definition and SMP assessment for termination on the 070 number range? Please set out your reasons and supporting evidence for your response.

We agree.

Question 10.2: Do you agree with our proposed remedies for operators holding SMP for termination on the 070 number range? Please set out your reasons and supporting evidence for your response.

Yes, we believe that it is correct to maintain this approach.

Question 11.1: Do you agree with the analysis and conclusion of our general position on not renewing the DCC price cap? Please provide reasons and evidence in support of your views

We have no comments on this area.

FCS hopes that these comments are helpful to Ofcom in its considerations. In light of the importance of this particular review, we would be keen to discuss our response in further detail and would welcome a meeting to do this.