



# Vodafone response to Ofcom's Wholesale Fixed Telecoms Market Review

Copper retirement –  
conditions under which copper regulation  
could be completely withdrawn in  
ultrafast exchanges

November 2020



## Summary

- I. We fully recognise the efficiency benefits that will flow from minimising the amount of time when copper and fibre networks co-exists at the same location;
- II. The migration to fibre must be made customer centric, allowing the vast majority of consumers to willingly undertake the least disruptive route to fibre adoption. Great care taken must be taken by all concerned to ensure the positive benefits of fibre are well understood;
- III. The needless adoption of SOGEA must be avoided, with consumers moving straight to FTTP where that is possible. This would require WLR pricing stability in the medium term;
- IV. Some of the business case benefits of reduced copper/fibre parallel running need to be passed through to consumers in the form of no fibre connection fees. It is unacceptable to burden customers or their retailers with FTTP connection costs, particularly in circumstances when consumers are content with their existing services;
- V. Consumer are happy to pay for higher speeds. However, they are agnostic over the technology used to deliver their broadband connection. To charge a customer more in fibre rental for the same speed they received on copper and then add in a connection charges on top, risks souring the early fibre experience for many;
- VI. Given the level of market failure and Openreach's SMP, Ofcom must take policy steps towards minimising migration costs, only permitting deregulation when a zero cost migration option has been made available;
- VII. Mandating Openreach to provide attractive migration options will greatly assist retailers in enabling migration, materially reducing the number of consumers who choose not to move voluntarily;
- VIII. A small number of consumers inevitably will choose not to act and face compulsory migration. This should be made as pain free as possible. Ofcom should seek to use this as an opportunity to highlight the retail choices available in the wider market. Many of these consumers are unlikely to have engaged in the market recently, not taking up the opportunity to switch provider, migration is a key opportunity to re-engage with them.

## Encouraging Consumers towards Fibre

Vodafone is a firm supporter of fibre investment in the UK and fully understands the need to transition from copper to fibre over the next few years. We also recognise the efficiency that comes from minimising the time when both copper and fibre network co-exist in the same geographic area. However, as a leading retail broadband provider, we remain mindful of the need to take consumers with us on the journey from copper to fibre.

All efforts should be made to make the transition to the fibre experience a rewarding one, ideally where as many end consumers as possible voluntarily seek out their own move to fibre. Even in situations where consumers are impacted by copper withdrawal and have their migration timing set by their communications provider, we should strive for an outcome whereby the unavoidable disruption caused by the arrival of a new fibre connection to the premises is outshone by the immediate and positive connectivity benefits that arise from fibre.



In order to achieve this, all participants in the process (broadband retailers, Openreach and Ofcom) need to take a customer centric approach to the consumer transition. The interest of the customer needs to be placed front and centre of the journey to fibre. We hope this is a journey that the vast majority of consumers will undertake willingly, seeing the clear benefits that fibre will bring, however to make this happen we need an approach that does not result in consumers being economically disadvantaged as a result of the transition. Key to achieving this is having the right set of migration commercials available in the wholesale market, at the right time.

### **Improving Wholesale Market Incentives - putting the end customer first**

Currently retail communication providers are massively constrained in their efforts to make any transition to fibre a more positive experience. Despite recognition that the progressing towards copper switch off and minimising any period of parallel running is massively beneficial to the FTTP business case, very little effort has been put into building commercial propositions that would actually encourage the majority of consumers to voluntarily start the migration process.

Consumers could rightly ask, given that Openreach want to change their access connections from copper to fibre, why are they being asked to pay new connection fees? When the gas network made the technology transition from metal pipes to plastic pipes, consumers were not charged a new connection fee – so why are there charges when their Openreach connection changes from copper to fibre? We need to be mindful that many consumers may want better broadband, but they are agnostic on how the physical network is configured to reach their homes.

If consumers opt to switch to a higher speed they fully expect and are willing to pay more. However, when they are transitioning technology at the request of their provider and opting for the same or an equivalent speed, there is little justification for any rental charging uplift and certainly no grounds for new connection charges (especially when the change is made at the ultimate behest of Openreach).

Thus far no solutions have been offered by either Ofcom or Openreach to address these circumstances. While this consultation proposes an effective sanction, a stick with which to beat consumers through discouraging the use of copper through higher prices (much earlier than planned for some), it offers no counter balancing carrot that would act to entice consumers to the fibre experience in the first place.

This stick only approach is counterproductive, damaging the image of fibre and consumer perceptions around it. Ofcom needs to consider the issue of fibre migration and copper switch off from the perspective of the individual consumer. Taking the time to consider the impact on households, both in financial and service terms. The route to fibre for many consumers is often far from straightforward, and there is a very real risk that without clear commercial incentives in place to aid migration, there will be at best apathy towards fibre adoption and at worst widespread avoidance.

The area where fibre reputational damage is perhaps most likely to occur is for those consumers who are happy with the speeds they receive today over copper and would be facing higher charges if they stay on



copper or, in the alternative the prospect of both connection charges and higher retail charges for an identical bandwidth services delivered over fibre (taking account of Ofcom's proposed £1.50-£1.80 fibre surcharge).

Given the degree of market failure and Openreach's SMP, they thus far appear unwilling to offer zero cost wholesale migration options. Ofcom has a key role in ensuring these are delivered into the market.

### **Minimising Migration Disruption**

There are also clear logistical challenges around when would be the best time for individual consumers to embark on their migration journey. For a great deal of consumers, the optimum time is far from clear. Take for example Ofcom's proposals to walk away from WLR regulation, leaving consumers who utilise this wholesale product to underpin their retail broadband immediately vulnerable to price rises. For many the only mitigation from rising WLR costs would be to move to SOGEA (also a copper-based product) in the short term and then onward to fibre at a later date. This results in two occurrences of a complex process that would result in a not an inconsiderable level of disruption: This initial transition would offer no bandwidth improvement and result in some level of in home wiring and equipment disruption.

As SOGEA is a copper product, it is also set to be withdrawn in many parts of the country, as and when fibre arrives. Most consumers are unclear when (if at all) fibre will arrive in their area. Is it worth them moving to SOGEA a stopgap or transitioning to straight to fibre? At this point in time, neither Ofcom or Openreach can provide a clear answer to that question for most UK consumers. The answer will ultimately depend on where the customer lives and their own circumstances. If a double migration does occur, then it is likely to leave consumers confused over the reasons why.

What is clear is that migration to any new form of access network is a disruption and making the transition twice, rather than once would seem to both unnecessary and costly. It would be far better to remain on a WLR product until a direct migration to fibre was possible.

### **The reality of a double broadband migration**

This confusion and double migration journey has come about through the rather messy ordering of projects within Openreach. In May 2018 WLR closure was announced. At that time SOGEA was the primary destination product for the majority of the country, with G.Fast seen as the volume technology to enhance speeds. SOGEA's national launch was then delayed and in the intervening time, the Fibre First program has been embraced, with Openreach promising 20 Million FTTP premises.

However, the exact timing and location of FTTP roll out remain unclear for most consumers. Even based on Ofcom's proposed series of Openreach coverage threshold notifications, the key steps and timeline for triggering copper switch off for many is a complete unknown. This lack of co-ordination and synchronization has been less than helpful for broadband retailers and while we now feel that that Openreach has got to the right place by focusing on a fibre first aspiration, there remains a significant risk that many consumers will go through the needless effort of migrating to SOGEA then again to FTTP, when a more straightforward one step move to FTTP would have been the sensible outcome.



This all points to the need to maintain pricing stability on copper services and WLR in particular, until fibre is available, with cost free migration made available at the wholesale level to support an orderly and positive transition experience for the vast majority of consumers. It would be an industry wide own goal if the migration to fibre was soured due the inability of retailers and Openreach (and Ofcom) to minimise the obvious pain points that exist in the proposals today. Ofcom must demand that Openreach do far more to make the migration experience as pain free as possible.

### **Fault to Fibre**

We have made it known to Openreach that they have some way to go before they put forward the compelling, customer centric migration proposals that industry and consumers so badly need. Ofcom need to ensure that migration products and journeys are fit for purpose and provide a positive start to any consumer fibre experience.

Openreach's recent 'Fault to Fibre' proposals are a clear illustration on how far Openreach need to move in order to deliver something remotely customer centric. The Openreach Fault to Fibre proposals would involve a customer with a copper fault in a fibre area being given a fibre connection instead of repairing the copper, however connection charges would still apply (not to mention the customer facing into higher retail charges for equivalent bandwidths and having a much longer delay to have their service restored).

While we fully understand and support the rationale of Openreach looking at all potential opportunities in trying to move customers from copper FTTC to FTTP in a fault situation, Openreach need to both reflect and support a more customer centric approach in how these situations are managed, assisting retailers to transition their customer as painlessly as possible. The approach needs to recognise the service impact that customers will experience as a result of any copper outage/impairment until the point where a new fibre connection is installed.

Asking an already unhappy customer to either pay for a repair to their existing legacy service or charge them for a move to new fibre product during a service outage (which has been caused by an Openreach fault) is a completely unacceptable customer journey, and not something that would be tolerated in any reasonable setting.

We firmly believe that to maintain a customer centric service experience in these fault situations, Openreach need to offer no-cost, expedited FTTP connection, together with a time limited bandwidth enhancement (ideally for a period of twelve months) upon connection to FTTP. This approach takes due account of the failure of the copper network and the service disruption and inconvenience caused to the customer. Instead of risking angering customers further, this proportionate approach fulfils Openreach's objectives to encourage migration, avoids the inefficient repair of legacy copper and starts customers off on a positive FTTP experience, making it more likely they will opt for a higher bandwidth in the future.

### **G.Fast**

Ofcom need to do more to guarantee that Openreach do not fall back on G.Fast to replaced planned fibre build. We have seen Openreach change it plans a number of times over the proportional mix between fibre and G.Fast. While the plan is currently firmly based around fibre, there are no guarantees it might not



regress in the future, particularly when there is renewed speculation around the future ownership of Openreach. The commitment that Openreach has to fibre that Ofcom refer to is not a legally binding one, rather it is an aspiration (which we all support). However, the removal of regulation should not be built on aspirations alone; rather it must be accompanied by a binding commitment on future fibre build.

### **Introducing better Safeguards for Consumers**

Ofcom has highlighted that the copper charge control could be withdrawn in 117 exchanges by June 2023, and withdrawn in the additional 51 exchanges in October 2023. This of course would just be the beginning, with copper regulation rolled back early in many more locations.

At this point, when the full learning from the Salisbury trial is not yet known and the most challenging customers are still to make their progression to fibre (early adopters keen to embrace fibre, do not reflect the full spectrum of consumers), we think it would be a great mistake to roll back copper regulation without specific, legally binding guarantees in place.

While we fully accept that the faster customers migrate from copper to fibre, the stronger the business case for fibre investment becomes, as Openreach avoids the costs of operating both copper and fibre networks in parallel. However, this business case upside needs to be properly reflected in part in the migration products and commercials terms that are put to retail communication providers so they can ensure their retail products allow consumers to have a positive transition to fibre. One that avoid connections costs and surcharges on copper speeds delivered over fibre.

### **Regonising the needs of Businesses and Enterprise Customers**

The Business and Enterprise market poses a different set of challenges in the migration away from copper. It is often more complex to arrange switching dates and to secure access, particularly taking into account multi-site operations in different exchanges areas with different FTTP rollout timelines. Often this requires complex project management and temporary solutions. The interests of these end users need to be carefully considered as any unplanned disruption could have a negative impact on the services these businesses and organisations offer to the public.

### **Removing Migration Pain before copper regulation is lifted**

Before consenting to any regulatory changes that would allow a relaxation of copper remedies' in fibre available areas, Ofcom need to require Openreach to offer free connection to the fibre network and remove the threat of a fibre surcharge (of £1.50 - £1.80) on speeds up to an including 80/20. Outcomes that allow Openreach to penalise consumers if they stay on copper and surcharge them connection and higher rental when they move are not acceptable, particularly in the case of Openreach led migrations.

With Openreach currently considering their future commercial propositions for fibre, Ofcom have a crucial role in shaping how Openreach respond in the market. We have clearly highlighted the need to address the connection charge issue, but of equal importance is the justification for the fibre surcharge (the extra amount Ofcom would permit Openreach to charge on FTTP delivery over copper). There has been little justification or qualification offered to support the proposed amount. Ofcom should provide clarity on this



issue as soon as is practically possible, allowing their latest thinking to be incorporated into Openreach's FTTP wholesale offers to the market.

Ofcom need to think very carefully about permitting outcomes where consumers will be charged more just because the service is delivered over fibre, rather than copper. Charging more for higher bandwidths is one matter, but charging more for a similar fibre based service lacks justification and would be completely at odds with Ofcom's affordability aspirations.

### **Reputational Risk to Fibre**

To allow Openreach to raise copper prices while simultaneously implementing unsolicited fibre price increases (in connection charges and higher rental) risks undermine customers' faith in fibre and creating reputational damage to the entire sector. Ofcom need to secure specific guarantees from Openreach, with the removal of copper regulation early conditional on Openreach offering free migration in locations where fibre is available. This protects the consumer experience, while allowing Openreach to minimise the time when copper and fibre networks co-exist.

### **Compulsory Migration**

We fully accept that a point will come when it will be necessary to give notice on the copper network and those customers left on it, will need to migrate elsewhere. However, we maintain the view that implanting fibre connection charges in these circumstances would not be in the consumer interest. We want the overwhelming majority of consumers to switch voluntarily. To do that we need better migration commercials as an enticement. For those who chose not to move voluntarily, we also need a plan that makes their experience as pain free as possible and ensures they will not be hit with connection fees.

### **Encouraging Switching**

The migration to fibre is an ideal time for consumers to re-engage with the market. Many have been with their existing provider for a very long time, and have chosen not to investigate what switching options might be available. This would be the opportune time for these non-engaged consumers to see what competing retail offerings are available and potentially select a new supplier. We would welcome a plan from Ofcom around how these particular consumers, who have previously been unengaged in the market, would be best presented with a fresh opportunity to consider the competing retail choices available on fibre (either via Openreach or another FTTP network).

### **Q&A**

**Question 1:** *Do you agree with our proposals to set conditions under which remaining regulation of existing copper-based services would be withdrawn?*

We would be opposed to the lifting of the charge control for the FTTC 40/10 service where fibre is available after a minimum of two years from the stop sell, and once ultrafast deployment is completed in an exchange unless more was done to support end customers. While we understand and are supportive of the need to transition away from copper and move to fibre, Openreach need to do far more to take customers



with them. This means no connections costs and no additional rental charges for speeds achievable over copper. We would draw Ofcom's attention to our recent submission on the clear evidence that 80/20 is the most appropriate anchor product, taking up the vast majority of sales volume in UK broadband, with 40/10 no longer acting as a credible or effective constraint in the market. This points to the need for the pricing of 80/20 services requiring some level of regulatory safeguarding.

**Question 2:** *Do you agree with our proposal that those conditions should take effect two years after Openreach has given notification, in respect of an exchange, notifying that fewer than 10% of relevant premises remain on copper-based services in the completed exchange, and only where measures are in place to support vulnerable consumers?*

Ofcom's proposals are too vague on the measures needed to protect the consumers. While there is an objective to ensure that Openreach puts in place reasonable measures to support the migration of vulnerable customers from copper to fibre services, there is no requirements on what those measures would look like. Likewise, there is no clear guidance on what support is being offered to retailers to facilitate customers migrating.

There are also unaddressed concerns about those customers who would not meet the threshold definition of vulnerable, but have no desire for any underlying network change. They face the unpalatable choice of rising charges while remaining on copper, or funding a new fibre connection and higher rental charges for a service of equivalent bandwidth. Most customers focus on the speed they achieve, rather than the underlying means of delivery, being agnostic to the technology choice of copper over fibre. Ofcom risks a significant consumer backlash from 2023 unless they do more to address these concerns.

**Question 3:** *Do you support the exclusion of services that support CNI from our proposals allowing for full copper deregulation?*

Ofcom are proposing to exclude services that support the provision of CNI from those copper services that Openreach will no longer have to provide access to. Therefore, for services used to support CNI, Openreach will have pricing freedom on the 40/10 copper service, once an exchange is declared complete, but the proposal of the withdrawal of remaining copper regulation would not apply to those services, even in exchanges where there are at most 10% of premises still taking up copper services.

It is understood that CNI services need to be carefully managed, with suitable replacement connectivity solutions implemented for each specific use case. This might be fibre or it might be some other technology solution (FRA/5G/ Leased Line), however it is clear that retailers and Openreach need to tread with extreme caution in respect of these services, giving impacted CNI users both the time and migration options necessary for a smooth transition away from copper that doesn't impact the UK's critical infrastructure.