

Consultation response

Question 2.1: Do you agree with our findings in relation to product market definition as set out in paragraphs 2.9 to 2.13 of the BCMR Temporary Conditions Statement, namely that we define a market comprising wholesale leased line services of all bandwidths at and below 1Gbit/s using contemporary interface (CI) technologies, including EFM? Please set out your reasons and supporting evidence for your response.

Confidential? – N

Whilst we would wholly agree in relation to the findings regarding Lower Bandwidth CISBO services, concerning the provision of active services of 1Gbps, we have a firm view that Very High Bandwidth CISBO services, particularly up to bandwidths of 10Gbps should also be in scope for this proposed dark fibre remedy.

It is our view that for a number of years market demands are making commonplace the provision of services up to 10Gbps, with Communication Provider's (CPs) now treating these 10Gbps services as everyday products. This can be evidenced by Openreach's introduction of a 10Gbps short-hall Ethernet product – Ethernet Access Direct 10000 - into its product portfolio from October 2015.

It is also clear that the equipment used to terminate and drive these unlit fibre connections at bandwidths of 10Gbps and below are common, often requiring nothing more than a licence to be applied to enable this 10Gbps capability.

Similarly, the systems available to CPs to provision, monitor and maintain dark fibre connectivity solutions are also common across services of 10Gbps and below.

Given the benchmark for the dark fibre remedy are BT's current wholesale Ethernet services we are surprised that bandwidths above 1Gbps have been specifically excluded from the remedy.

On this basis, we believe the proposed remedy should immediately apply to services of 10Gbps and below.

We are, however, encouraged by the statement in section 2.13 of the BCMR Temporary Conditions Statement asserting that further analysis will be carried out.

<p>Question 2.2: Do you agree with our findings in relation to geographic market definition as set out in paragraphs 2.14 to 2.19 of the BCMR Temporary Conditions Statement, namely that we define the following geographic markets: (a) the CLA; (b) the LP; (c) the CBDs of each of Birmingham, Bristol, Leeds, Glasgow and Manchester; and (d) the RoUK excluding the Five CBDs? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? –N</p> <p>We would agree with Ofcom’s position as described in the 2016 BCMR Statement, defining 3 distinct markets: the CLA, the LP and the RoUK.</p> <p>However, given the outcome of the Tribunal we fully appreciate and accept the geographic market definition as set out in the BCMR Temporary Conditions Statement.</p>
<p>Question 2.3: Do you agree with our assessment of the CI Core, as set out in paragraphs 2.101 to 2.111 of the BCMR Temporary Conditions Statement? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – N</p> <p>We would agree with your assessment of the CI Core.</p>
<p>Question 2.4: Do you agree with our findings that BT has SMP in the markets for Lower Bandwidth CISBO services in the LP, the CBDs of each of Bristol and Manchester and the RoUK excluding the Five CBDs, up to the end of March 2019, as set out in paragraphs 2.20 to 2.100 of the BCMR Temporary Conditions Statement? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – N</p> <p>We would agree with findings that BT has SMP in these markets.</p>
<p>Question 3.1: Do you agree with our proposed design of the dark fibre access remedy? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – N</p> <p>It is our firm position that facilitating the provision of dark fibre services will significantly increase innovation and market competition within the UK.</p> <p>The current restriction of only having the ability to consume active services from BT significantly restricts the way we can design and deliver products and services to our end users. In this way, it is our opinion that BT continues to use its significant market power (SMP) to constrain an otherwise inventive market, hindering the deployment and adoption of products, services and features, beyond those offered by BT itself.</p> <p>In our experience, it is not unusual to see technical restrictions and limitations within the current active products offered by BT that are clearly perceived as being in place purely to limit behaviour of CPs in adapting the product beyond BT’s expected use. For example, one such limitation is the lack of protocol</p>

	<p>transparency on BT’s GEA FTTC product (BT SIN 498 Issue 7.3 Section 2.1.9).</p> <p>It is also difficult to see any justification for BT providing a capability where we can consume passive copper-based products, such as Openreach’s Metallic Path Facility (MPF) yet where no equivalent fibre-optic services exist.</p> <p>Having reviewed your proposed design in some detail we would broadly agree with the proposed dark fibre remedy, however we believe the 1Gbps limitation requires further consideration.</p> <p>With considerable market demand for end-user connectivity at bandwidths between 1Gbps and 10Gbps, restricting any passive infrastructure to a maximum capacity of 1Gbps will materially hinder the uptake of passive services.</p> <p>Given the benchmark for the dark fibre remedy are BT’s current wholesale Ethernet services (in particular EAD and EAD LA), it seems perverse to exclude 10Gbps use of the passive remedy when a 10Gbps service exists within BT’s current wholesale active Ethernet products; both EAD and EAD LA have 10Gbps variants.</p> <p>A 1Gbps limitation would not meet your stated objective of Parity with active wholesale products, as stated in 3.32.</p> <p>We would recommend an upper limit of 10Gbps be proposed, in line with the wholesale Ethernet service.</p> <p>We fully agree with your position of having these measures take effect from 1st April 2018.</p>
<p>Question 3.2: If BT were to make available a dark fibre product based on the design set out above, how long would it take before your company was in a position to purchase it? From what date would you want BT to make such a product available?</p>	<p>Confidential? – N</p> <p>Having made operational provision for the adoption of Openreach DFA originally proposed to be made available on 1st October 2017, we would be able to purchase dark fibre products immediately.</p>
<p>Question 4.1: Do you agree with our assessment of the benefits of our proposed dark fibre remedy? Please set out your reasons and supporting evidence for your</p>	<p>Confidential? – N</p> <p>We fully agree with your assessment of the benefits of the proposed dark fibre remedy.</p>

response.	
<p>Question 4.2: Do you have evidence on the current relative prevalence of each scenario of active equipment configurations as shown in Figures 4.1 and Figure 4.2? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – N</p> <p>All active services we currently purchase from Providers are terminated on the Provider’s equipment. We then connect our own equipment to the Provider’s equipment, as is shown in your Figure 4.1 Scenario 1a.</p>
<p>Question 4.3: Do you agree with our view, as expressed in paragraph 4.27, that situations where cost savings to providers will be available from dark fibre are likely to be common? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – N</p> <p>We would agree with your view.</p>
<p>Question 4.4: Do you agree with our assessment of the risks and costs of our proposed dark fibre remedy? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – N</p> <p>The pricing mechanism you have proposed uses the 1Gbps Openreach EAD as the benchmark. It is our expectation that where end-user bandwidth of 100Mbps or less is required CPs will continue to purchase active Wholesale products. It will only be where bandwidths in excess of 100Mbps will be required where CPs will consume a passive infrastructure.</p> <p>We would suggest a two-tiered approach to pricing be adopted, aligned to the benchmark of the EAD product set, with separate pricing being offered allowing based on the bandwidth, priced at either 100Mbps or 1Gbps and above.</p>
<p>Question 4.5: Do you agree that we should impose a dark fibre remedy for the period April 2018 to March 2019? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – N</p> <p>We strongly agree that the dark fibre remedy should be imposed at the earliest opportunity, however it is essential that the scope reflects the products and commercial position that will ensure its adoption.</p>
<p>Question 5.1: Do you agree with our forecast for dark fibre take-up in 2018/19? Please set out your reasons and supporting evidence for your response, including any volume forecasts you have for consumption of dark fibre for 2018/19.</p>	<p>Confidential? – Y</p> <p>We would broadly agree with your forecast for the update of dark fibre.</p>
<p>Question 5.2: Do you agree with our proposed charge control on the proposed dark fibre</p>	<p>Confidential? – Y</p>

product? Please set out your reasons and supporting evidence for your response.

We would agree with your proposed change control.