



Vodafone response to Ofcom's 2nd Consultation on:

Openreach Proposed FTTP Offer (Equinox) starting 1
October 2021

September 2021



Introduction

1. Vodafone welcomes this opportunity to share further perspectives on the expected impact of the Openreach Equinox FTTP offer on the wider market. We fully support the work Ofcom is undertaking in connection with Equinox, believing it to be important at ensuring notified discounts are properly scrutinised, giving an opportunity for all stakeholders to have their views considered before any final decision is taken.
2. As a major UK broadband retailer, we are keen to see competition develop at scale between wholesale access providers. A competitive wholesale market will help to ensure UK consumers benefit both in terms of price and service innovation during the transition away from legacy copper.
3. We are firmly of the view that Equinox does nothing to undermine wholesale competition, indeed it provides a stable basis for wholesale pricing in the years ahead, allowing retailers to provide retail pricing certainty to consumers. The level of the pricing set by Equinox does not discourage efficient competitive network build, nor do the terms deter retailers from procuring wholesale access from a variety of wholesale fibre providers. If we felt wholesale competition was in jeopardy, we would oppose the introduction of Equinox in the strongest possible terms.
4. We are also mindful of the impact that specific discounts can have on retail competition, particularly where overt or defacto volume related discounts apply (either through a tiered structure or from restrictions/limitations around eligibility or retailer suitability). Any wholesale tariffing structure that rewards historic scale should be avoided and there should be no attempt to limit the future retail market growth of any player, as to do so would constrain competition and ultimately damage consumer welfare.
5. We anticipate discounts and special offers will remain an important feature of the wholesale market, particularly in the years where some level of encouragement is required to move consumers from legacy copper access to fibre. Using a long-term pricing framework to promote fibre adoption and encourage migration from legacy products is a vital tool to ensure copper switch off can happen and it is understandable for Openreach to design a discount scheme that seeks to achieve this.
6. There are benefits around minimising the period where Openreach copper and fibre co-exist in the same geography. Parallel running adds cost, which will need to be met by end users. A balance needs to be struck where a reasonable timeframe is set during which migration to fibre is encouraged and legitimate fibre usage and equipment compatibility concerns are addressed before adequate notice is provided ahead of the copper network being switched off.





7. Taking all these factors together, it is our view that Equinox does not restrict retail competition. It is however important that Ofcom remains vigilant to ensure retail competition can flourish in the UK broadband market and we welcome continued Ofcom oversight of this market.
8. It would not be in our commercial interest, or the interest of our customers to support a discount scheme that had the effect of limiting wholesale competition, or one where retail competition was destabilised. It is for these reasons we support the provisional conclusion that Ofcom has reached in respect of Equinox. Any decision to prevent Equinox proceeding would be detrimental to the wider consumer interest, unduly limiting Openreach's freedom to legitimately compete in the wholesale market for fibre access.

The impact of Equinox

- 6 In this section we will provide our views on some of the criticism leveled at Equinox by others, namely:
 - Do Openreach FTTP prices act as a barrier to altnet entry and expansion;
 - Whether conditionality acts as a barrier to altnet entry and expansion;
 - Whether targeted discounts deter altnet build;
 - The compatibility of the Order Mix Targets with the prohibition on geographic targeted pricing;
 - The competitive impacts on ISPs.

The Level of Equinox Pricing

- 7  Today, FTTP providers must compete against existing copper services, these are typically the reference price points that have the biggest influence on FTTP take up. There is no evidence that Equinox pricing acts as a threat to efficient FTTP build, .
- 8 While the WFTMR set a price ceiling for the 40/10 FTTC/P products, it does not attempt to set a price floor and there is no reason given the margins enjoyed by Openreach on this product, that a lower price could not be set. This is particularly relevant when the issue of social broadband is considered, with Openreach having plenty of scope remaining to adjust rental pricing for this demographic (we raise the important issue of FTTP social broadband later in this response). Given the healthy margins enjoyed by Openreach, we see no credible arguments around the level of Equinox pricing in respect concerns that the pricing may discourage efficient alternative FTTP build.



Equinox and buying from other FTTP builders

9 We also believe the concerns expressed around the Equinox threshold terms are unfounded. The terms relate to the purchasing mix a CPs undertakes between Openreach copper and fibre products and takes no account of orders placed with others. We are struggling to see how it can be credibly argued that the existence of Equinox would deter our use of other FTTP players. ✂.

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11 In order for alternative providers to compete successfully with Openreach they need to offer broadband retailers a significant enough footprint (or at least the realistic prospect of it), together with acceptable interconnection and interoperability costs, before addressing the key criteria of product quality, service, price and features. The arrival of Equinox does not change any of these requirements.

Duration of Equinox


12 The duration of the offer provides stability and certainty for retail broadband providers, that can then be reflected in the pricing to consumers. This is particularly important in recovering the cost of fibre connections. While we anticipate FTTP users to have longer supply tenure than copper based broadband users, the cost of initially connection is typically higher and it must be recovered somewhere. Longer pricing certainty around rentals allows connection charges to be incorporated smoothly in retail fibre propositions.

13 The longer duration of the offer will also help to foster stability within the wholesale market. We anticipate it will help altnets frame their own propositions against one of their largest competitors, diminishing the prospect of them competing against a moving target. Pricing certainty is crucial if broadband retailers are to invest in their products. The retail market is highly competitive and retailer costs are high. Significant investment is needed to grow a customer base in these circumstances and uncertainty around future wholesale pricing acts to deter this investment taking place. We view a period of pricing certainty as a positive for the entire market, helping to build trust around fibre and improving certainty of build for all.

14 The structure of Equinox is perhaps more helpful to the largest broadband retailers, who already have a significant volume of copper connections on the Openreach network, making it easier for them to meet threshold limits due to the scale advantage they gain from the economics of their initial cable link investments. Smaller retailers, with a smaller legacy base will have to work much harder on customer acquisition to achieve the same outcomes.



Geographic Discounting

15 We share Ofcom's view that Equinox does not represent a geographic wholesale discount. It can apply anywhere in the United Kingdom where Openreach FTTP build occurs, with no build areas out of scope. A geographic discount is one that is targeted at one city or region and not available elsewhere. This is not the case with Equinox. While it only applies to FTTP, and FTTP build will take place in tranches, these tranches occur simultaneously in a number of locations throughout the UK. . With Openreach targeting FTTP build on 25 Million UK premises, the vast majority of UK premises will benefit from Equinox pricing, without any geographic restriction.

Forecasting

16 We do not believe the Equinox forecasting requirements will act as a deterrent to using alternative providers. Given the significant planning that goes into managing wholesale order volumes, we do not anticipate any impact that would discourage the use of alternative FTTP providers. There is a clear incentive on all FTTP builders to provide as much notice as possible around build locations and commit to accurate build schedules to ensure retailers can provide meaningful and well-informed forecasts.

Provision of Social Broadband over FTTP

17 We continue to believe that Openreach should provide specialised FTTP pricing to support the provision of Social Broadband services across a range of retailers. Openreach has a significant role to play in this area and it is vital that broadband retailers and Openreach work together to serve consumers who face affordability concerns. We believe Ofcom should continue to press Openreach to offer a meaningful rental reduction for social broadband provision over FTTP.

Conclusion

18 We share Ofcom's view that the Equinox offer should be allowed to proceed. There is no evidence at this point to suggest that it would undermine competition in either the retail or wholesale markets. We would however urge Ofcom maintain meaningful ongoing OMU oversight over the market, being ready to act should any unintended and unforeseen consequences arise. This would act as a sensible precaution against any unanticipated anti-competitive outcomes, taking account of the possibility that changes in the market may occur over the Equinox time horizon.

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