



13 April 2017

By e-mail to: Openreach2017@ofcom.org.uk

For the attention of: Fergal Farragher, Ofcom

Ofcom Strategic Review of Digital Communications: Delivering a more independent Openreach

Dear Sir/Madam,

We are pleased to take this opportunity to respond to Ofcom's consultation document of 17 March 2017 on releasing the BT Undertakings pursuant to section 154(6)(c) of the Enterprise Act 2002 on behalf of the Trustee of the BT Pension Scheme ("the BTPS" or "the Scheme").

As a Trustee of a pension fund, the Trustee does not consider that it is best placed to comment on the appropriateness, or otherwise, of Ofcom's specific proposal on releasing the BT Undertakings. However the Trustee considers it is important to highlight the Trustee's views on the implications of the proposal on the position of the Scheme noting also that the Trustee has provided responses to each of Ofcom's previous consultations throughout the Strategic Review of Digital Communications to ensure the interests of the Scheme's members are both represented and protected.

BT's voluntary notification

Ofcom has set out in its consultation document details of BT's Notification to Ofcom to deliver a more independent Openreach, the details of which have been supplemented by BT's own announcements and publications. Ofcom have acknowledged that BT's Notification sufficiently meets the competition concerns that have been previously expressed and as such, Ofcom will not proceed with the imposition of a regulatory solution. The Trustee is pleased that voluntary agreement has been reached, providing greater clarity on the future governance and operations of Openreach and BT. Out of the range of possible outcomes originally envisaged, the voluntary agreement reached between BT and Ofcom would appear likely to cause the least disruption to the covenant of BT plc upon which the Scheme relies as no assets or liabilities will move from BT plc. These new arrangements will inevitably have implications however, and in particular BT's governance costs and future investment plans will need to be assessed by the Trustee and their advisers.

We note that Ofcom propose to monitor the ongoing compliance of the new Openreach Limited with the new governance requirements and that Ofcom may ultimately seek a regulatory solution should the new arrangements not address Ofcom's competition concerns. As has been explained previously¹, changes to the structure of the BT Group could have a significant impact on the risks and costs associated with the Scheme. Furthermore, the degree of regulatory change being imposed on BT and the ongoing regulatory uncertainty is of concern to the Trustee as they have the potential to affect the profitability and potential value of BT plc over time.

1. See our previous consultation response of 4 October 2016 to Ofcom's document "Strengthening Openreach's strategic and operational independence, Proposal for comment".



As has been noted in the Trustee's previous submissions, the Scheme's funding position remains challenging and consequently, ongoing regulatory developments will remain of interest to the Trustee.

The Crown Guarantee

Legislation has been put forward under the Digital Economy Bill to give the Secretary of State powers to provide Crown Guarantee protection to the new Openreach Limited. This enabling legislation has raised a number of potential concerns for the Trustee in ensuring those employees of BT plc (who are members of the BTPS) transferring to Openreach Limited maintain the same Crown Guarantee protections as would have applied had they remained with BT plc (no more no less). Consequently, the Trustee wishes to engage closely with Government on the development of the resulting Statutory Instrument.

We hope that the information contained in this letter is helpful in your review. Please do not hesitate to contact us if you require any further information or wish to discuss any of the matters raised.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'E. Haughey', written over a faint, circular watermark or stamp.

Eileen Haughey

Chief Executive Officer
BT Pension Scheme Management Limited