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Dear Fergal

Delivering a More Independent Openreach

This brief response has been prepared on behalf of Nine Group. Nine provides a wide range of fixed and mobile communications services to business customers in the UK. Nine Group offers its services directly to end user customers through its Nine Telecom division and via resellers through the Nine Wholesale operation. Nine has approximately 500 reseller partners of various sizes located throughout the UK.

You can find out more about Nine Group at our website www.ninegroup.co.uk

We welcome this opportunity to respond to Ofcom's latest consultation on the independence of Openreach and we are broadly supportive of the approach agreed with BT to achieve this. **We have previously noted that an efficiently performing Openreach is critical to the service delivery of Nine and its partners and believe that this pragmatic approach will avoid delays in achieving the necessary improvements.**

In our earlier response we highlighted several areas where we felt that Ofcom's proposals need to be more clearly defined. We still feel that some of these issues have not been directly addressed to date and we have re-stated some of our key concerns below:

Financial Controls – This is a particularly important area and we do not believe that it can be left to the discretion of BT Group to decide what is an appropriate level of profit for Openreach. Ofcom envisages BT setting a “financial envelope” within which Openreach would have delegated authority. However, this does not in itself appear to explicitly address what an appropriate level of contribution from Openreach to BT Group would be. We continue to believe that this will be absolutely fundamental to the future priorities of Openreach.

In the year ended March 2014 Openreach made an operating profit of over £1 billion on revenue of £5 billion and maintaining this level of contribution to BT Group is arguably one of the factors that has led to underinvestment in key areas and the consequent failures in performance.

Openreach Employees – Ofcom has expressed a “strong preference” that employees should be directly employed by Openreach rather than BT Group. We believe that this



principle must be non-negotiable. In order to ensure the commitment of senior management to Openreach and its future success it will be necessary to stop the current free movement of key personnel between Openreach and other parts of BT Group.

Use of BT facilities – we strongly agree that Openreach should be free to use its own or, as appropriate, other non-BT resources for research and development, systems development etc. We suspect that the current arrangements significantly inflate the costs of development, meaning that industry requirements are currently often rejected on grounds of cost.

Statements of Requirement – in connection with the above, we believe that new acceptance criteria for evaluating industry SORs are required. Currently the criteria include that development should be beneficial to Openreach. This is not an appropriate approach for a quasi-monopolistic national provider of critical services. Defects and deficiencies which degrade the service should be addressed without the need for onerous business cases. We are aware that Openreach is developing a new model for engagement with industry in this area

We trust that the above response is helpful and would be happy to discuss any of the issues raised with the Ofcom team in further detail.

Kind regards

Michael Eagle
Industry Liaison and Regulatory Support