A response from the Communications Management Association to the Ofcom Call for Inputs to the Business Connectivity Market Review

About CMA

CMA is an association of ICT professionals from the business community who have a professional interest in communications, in both private and public sectors. It is a registered charity 50 years old, totally independent and without supplier bias. It is run by the members, for the members and aims to influence regulation and legislation, provide education and training and disseminate knowledge and information, for the public good. CMA's contribution to public consultations is generated via the process described in the Footnote to this response. (www.thecma.com)

Business Impact Statement

The provision of services based on specified, reliable, affordable business connectivity was once highly desirable. Now it is vital to the competitive capability of UKplc and to our economic recovery. Competition at the retail level in the provision of services is central to that goal, as is the provision of symmetrical connectivity. All end users are both consumers and producers and businesses in particular will increasingly need high speed upstream (i.e., way beyond 2Mbs) for competitive edge. Supply will continue to lag even further behind real need if the suppliers are not 'encouraged' to provide even deeper fibre based services sooner rather than later. The debate about upstream needs is in its infancy but could come to haunt us very soon as the lack of symmetry begins to hinder competitiveness.

Summary

Recognising that this is a Call for Input, CMA confines its response to addressing those questions which can be answered from the end-user perspective. However, we emphasise that a consistent EU-wide approach to definitions of products and markets is essential. "Business connectivity" implies acceptance that the business market needs separate definition and analysis.

In general, we think that:

- Speeds beyond the capability of copper-based xDSL technologies imply the use of new fibre infrastructure and hence are likely to have different SMP implications. The regulated wholesale price for copper, compared to that for fibre, has a profound influence on the availability of high-speed business connectivity.
- The impact of wireless access technologies on the fixed market analysis should certainly be considered – on the other hand, wireless access is not a substitute,
- Geographic segmentation is not compatible with maintaining competitive markets for multi-site business users having CELA locations.

Attached to this response are 16 slides taken from the CMA/FSB "Internet Opportunity Survey" among business users that was completed earlier this month. The attached slides are merely illustrative of the questions posed and responses received – they are by no

means a comprehensive set. They are included here to support our answers to questions in this "Call for Inputs". Analysis is on-going but Ofcom is one of the sponsors of the research and the full results will be provided to Ofcom in the very near future.

Detailed response

Question 1: Do you agree with our "no material change" considerations as set out above?

CMA: Yes

In particular, do you agree with Ofcom that:

1.1 The characteristics of Traditional and Alternative Interface products are such that separate markets continue to exist for TI and AI products?

CMA: Yes

1.2 We should retain the main bandwidth breaks for traditional interface products but combine 34/45 Mbit/s and 155 Mbit/s services?

CMA: A guarded "yes". Combining must not be allowed to result in a single product offering (or price) and that could have implications for the equipment where companies protecting their margins charge a lot more for a 155 interface than a 34/45 interface.

1.3 VPNs continue to be outside the business connectivity markets? Please explain why.

CMA: VPNs and leased lines are not substitutes and therefore are separate markets.

Question 2: What are your views on the extent to which broadband products can be used effectively for the delivery of business connectivity? How do you think this might change over the next 3 to 4 years?

CMA: Many businesses still rely on ISDN products – eg: for backup services where there is guaranteed low and consistent latency. However, this market seems set to diminish as fibre-based connectivity becomes more prevalent. The provision of dark fibre would hasten this process and would be welcomed by most medium and large business users – ie: those with the ability and resources to light it.

As we have said on numerous occasions over the last four years, many businesses would have embraced broadband but for the following obstacles:

- Openreach's performance on LLU repair has been unsatisfactory (ie: below target). In addition, new install times regularly run in excess of 30 days, particularly 'North of Watford.' Business users need a business class Openreach service for Internet.
- , the evidence for which has been available since the point when the OTA started to capture the data;
- There has effectively been no symmetric product. SDSL would have been useful but it was damaged by a badly-planned roll-out, inadequate processes and general indifference - allegedly to prevent it consuming the sub-2Mbps PPC market;
- The lack of business-like guarantees on ADSL performance;
- Provider-focus on consumer multiplay rather than on business.

CMA urges Ofcom to take whatever action is needed to improve Openreach's performance and to encourage the market to provide symmetric broadband products in the 2Mbps area. Unless this is achieved it seems unlikely that the situation will change over the next 3-4 years.

See Slide 16 attached.

Question 3: What are your views on the existence of a break in the market for Ethernet services provided at speeds above 1 Gibt/s; and the extent to which WDM-based products are part of the business connectivity market? If you consider they are, do you think they are part of the Traditional Interface market, the Alternative Interface market, or constitute a separate market within the business connectivity market? How do you think this might change over the next 3 to 4 years, given the rate of growth in bandwidth demand?

CMA: Ethernet above 1Gbps is clearly a large and growing part of the business connectivity market (Fig 12) and by 2014 the remaining TDM market will be relatively small (Fig 13). In fact, one very large multinational comments that:

> "This is already out of date (10>100>1G>10G etc). There is very little competition in this space. Beyond very short distances this is not cost competitive. When we price up services we end up having to quote 10/34/100/155/1G as the answer appears different on every path/site we have. There is no consistency of answer."

(See our response to Q8.1 below)

The time is ripe for consideration as a separate market.

Question 4: Do you consider that:

4.1 There is still a separate market for trunk segments provided with a Traditional Interface which warrants SMP assessment for the purpose of considering ex-ante regulation;

CMA: TI circuits will be with us in significant numbers for the next 4 years, especially in the SME sector. It would be premature to discard SMP assessment at this stage.

4.2 The trunk routes identified in the last market review are still relevant to inform the definition of the trunk market; and

4.3 The analysis and identification of Trunk Aggregation Nodes carried out in the last BCMR are still relevant for competition and market entry. Please explain why.

CMA: No comment.

Question 5: Do you think that separate markets could now exist for access and backhaul products? If you do, please explain why.

CMA: Separate markets are now essential, given that competition is growing in the provision of access (if declarations by BskyB and Fujitsu are to be believed), whereas backhaul remains very largely under the control of the incumbent.

Question 6: Do you think that separate markets could now exist for broadband backhaul products and, separately, for mobile backhaul products? If so, please explain your reasons.

CMA: We believe it is essential that Ofcom improves its focus on the ability of the incumbent to manipulate the provision of backhaul in the fixed broadband market to the detriment of competing providers. That suggests a need for the creation of a separate market, including the provision of appropriate remedies. Within that new market we regard it as essential that BT be required to provide access to its passive infrastructure for backhaul fibre.

Question 7: Do you think there are other sources of demand for symmetric broadband origination outside the services mentioned above which are relevant to our assessment? If so, please explain your reasons.

CMA: See response to Q2.

Question 8: Do you agree that the three parts of our analytical approach discussed in paragraph 1.31 are still relevant and continue to provide an effective tool for assessing competitive conditions and for considering regulatory obligations?

CMA: Yes

In particular, do you agree with Ofcom that:

8.1 the approach to identifying geographic markets used in the last BCMR is still appropriate, or is there any additional perspective that we should appraise to inform our competition assessment?

CMA: Geographic segmentation is not compatible with maintaining competitive markets for multi-site business users having CELA locations.

8.2 the definition of the CELA from the last BCMR is still relevant? and

CMA: No comment.

8.3 there continues to be a trunk market which is national in scope? Please explain why.

CMA: No further comment.

Question 9: Do you think that Ofcom should consider the extent to which other local geographic markets exist in the UK outside the CELA, and excluding Kingston upon Hull? Please explain the reasons for your answer.

CMA: See response to Q 8 above. A CMA member commented:

"Kingston is still a problem. Once a great idea, now effectively run as a cash cow. If you have a site in Hull expect to pay more for less."

Question 10: In the last BCMR, we found no SMP provider in the market for high bandwidth 622 Mbit/s TISBO and high bandwidth AISBO provided at speeds above 1 Gbit/s in the UK and, separately, in Kingston upon Hull. Do you consider that deregulation has worked well in these markets? Do you think that the competitive conditions in these markets have improved, or do you consider they have deteriorated? Please explain, providing examples where appropriate, based on your company's first-hand experience.

CMA: Demand is growing rapidly in the high bandwidth markets. See attached slides. We are unable to give an opinion on the current state of competition, although it is clear that the situation is changing rapidly and will continue to do so over the next 4 years. Ofcom must continue to monitor closely.

Question 11: In the last BCMR, we also found that BT had no SMP in the CELA for the provision of wholesale leased lines (PPCs) at speeds above 2 and 8 Mbit/s and up to, and including, 155 Mbit/s. Do you consider that deregulation has worked well in these markets? Do you think that the competitive conditions in these markets have improved, or do you consider they have deteriorated? Please explain, providing examples where appropriate, based on your company's first-hand experience.

CMA: So far as we can tell, deregulation has not worked adversely.

Question 12: In the last BCMR, we found that BT had SMP in the market for analogue and low bandwidth digital retail leased lines and imposed SMP obligations on BT as a result. The remedies were designed to ensure the continued availability of these legacy products at reasonable prices as well as to provide transparency and regulatory certainty to BT's competitors in this market. Do you have a view as to how these remedies have worked? Do you consider that we should continue to impose regulatory obligations on BT in this market if we were to find SMP or we should rely on wholesale remedies alone? Please explain your answer.

CMA: Please continue to impose.

Question 13: What are your views on how the current remedies have worked in promoting downstream competition?

CMA: No comment

Question 14: How effective have the current remedies been in addressing the market failures identified in the last BCMR and in supporting competition and market entry? Please elaborate with some examples.

CMA: No comment

Question 15: How effective have the regulated access products been from an operational perspective? Please provide examples where appropriate to illustrate your answer.

CMA: No comment

Question 16: Do you consider that the current set of remedies should be simplified? If so, how?

CMA: No comment

Question 17: Do you consider that the scope of the charge control was correct in terms of the products and services subject to the control? Has the charge control been effective? Looking ahead, what changes, if any, do you consider would be appropriate for any future charge control(s)?

CMA: No comment

Question 18: What are your views on the role that passive remedies could play in this market for the promotion of downstream competition? In your view, what implications might adoption of passive remedies have on the provision of active remedies?

CMA: The most effective step that the regulator could take would be to mandate the provision of dark fibre, both as backhaul and as access, and require access to BT's passive infrastructure for both. Ofcom should also extend its PIA remedy to include leased line PPCs.

Question 19: Have business connectivity markets changed since the last review? If so, how? How might business connectivity markets develop during the next four years?

CMA: See attached slides.

Question 20: Do you have any comments about arrangements for withdrawing regulations as TI services reach the end of their lives?

CMA: No comment

Question 21: Are there any other issues or views you would like to put forward that are not mentioned in this paper?

No

CMA
31 May 2011

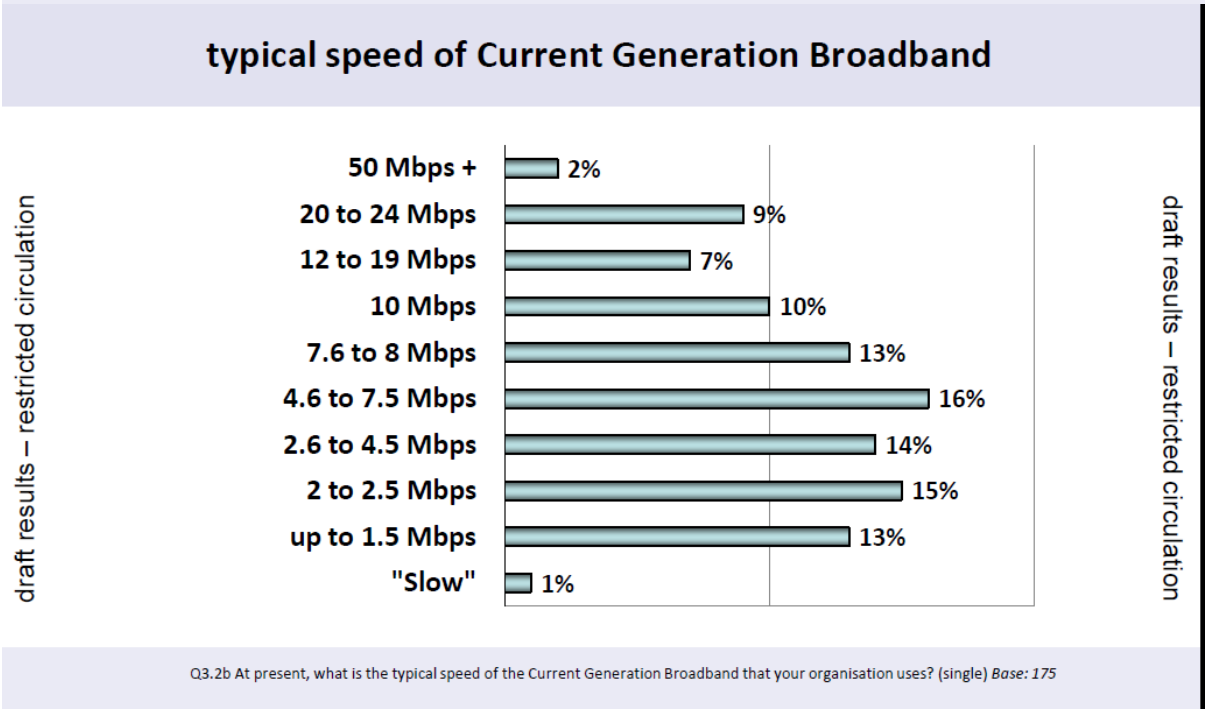
Footnote - CMA's Internal Consultation Process on Regulatory Issues

Any consultation document (condoc) received by or notified to CMA is analysed initially by the appropriate Forum Leader for its relevance to business users based in the UK. (The majority of CMA's members are based in this country, with a third of them having responsibility for their employers' international networks and systems).

If the document is considered to be relevant to CMA, it is passed, with initial comments, to members of both the appropriate Forum and the 20 or so members of CMA's "Regulatory

College" – ie: those members who have experience in regulatory issues, either with their current employer, or previously with a supplier. The CMA Chairman is also a member of the College. The detailed comments from the College are collated by the Forum Leader in the form of a draft response to the condoc. Note: if the condoc has significant international import, the views of the international user community are likely to be sought. This is done through the International Telecoms User Group (INTUG).
Time permitting, the draft response is sent to all members of the Association, with a request for comment. Comments received are used to modify the initial draft. The final version is cleared with members of the appropriate Forum and Regulatory College (and, if the subject of the consultation is sufficiently weighty, with the CMA Board). The cleared response is sent by the CMA Secretariat to the originating authority. It might be signed off by the Leader of CMA's Regulatory Forum, and/or by the CMA Chairman.
Figure 1-

Q3.2b At present, what is the typical speed of the Current Generation Broadband that your organisation uses? (single) *Base: 175*



Q3.2b At present, what is the typical speed of the Current Generation Broadband that your organisation uses? (single) *Base: 175*

Figure 2 -

Q4.3 At present, what is the typical speed of the Super-fast Broadband that your organisation uses? (single) *Base: 21*

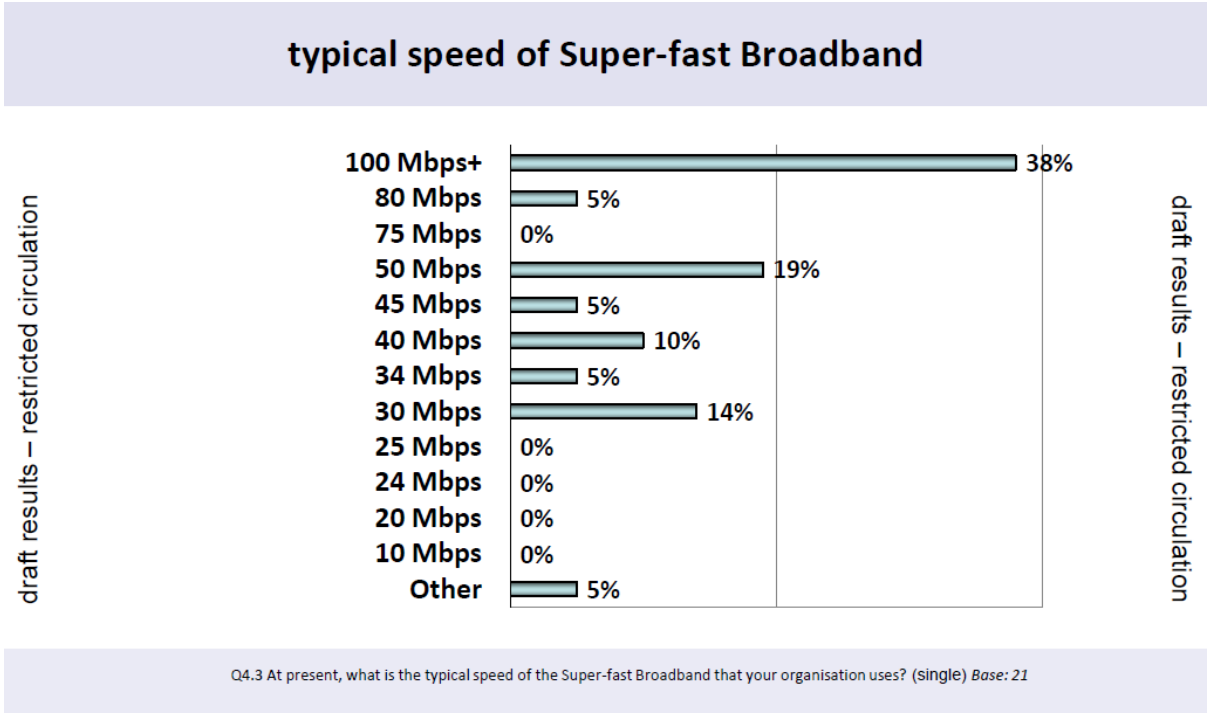


Figure 3 –

Q4.9 What is the typical speed of the Super-fast Broadband your organisation is currently implementing? (single) *Base: 5*

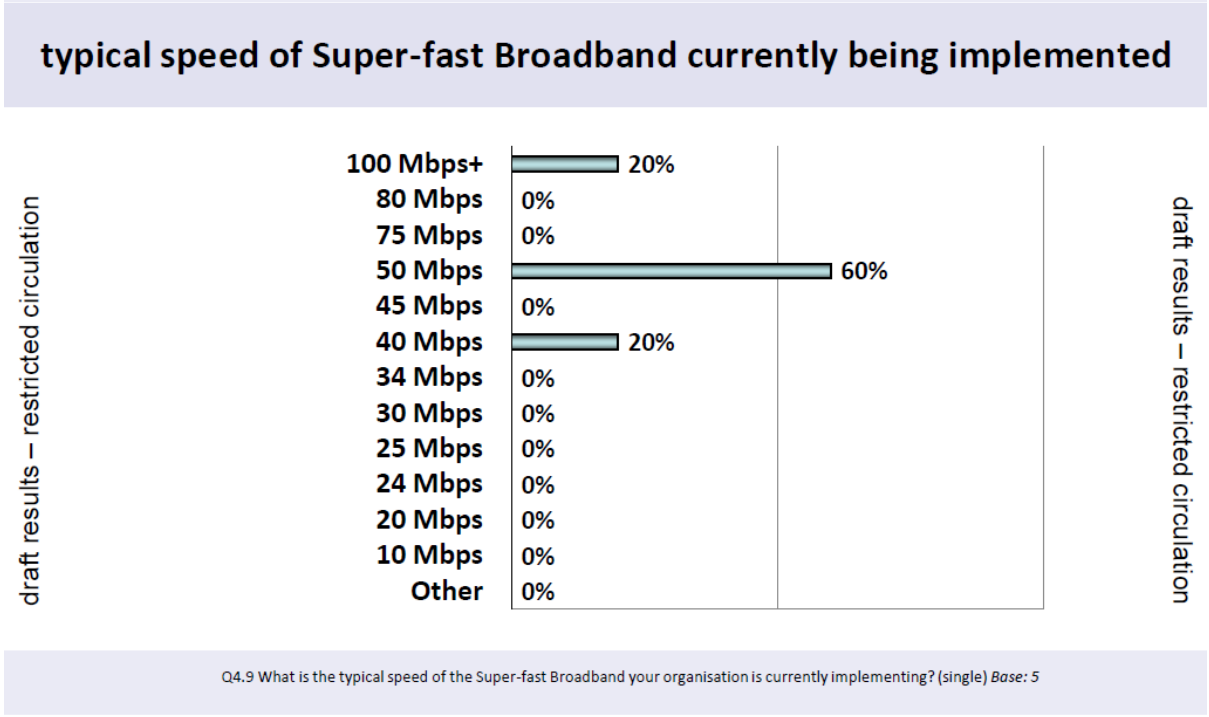
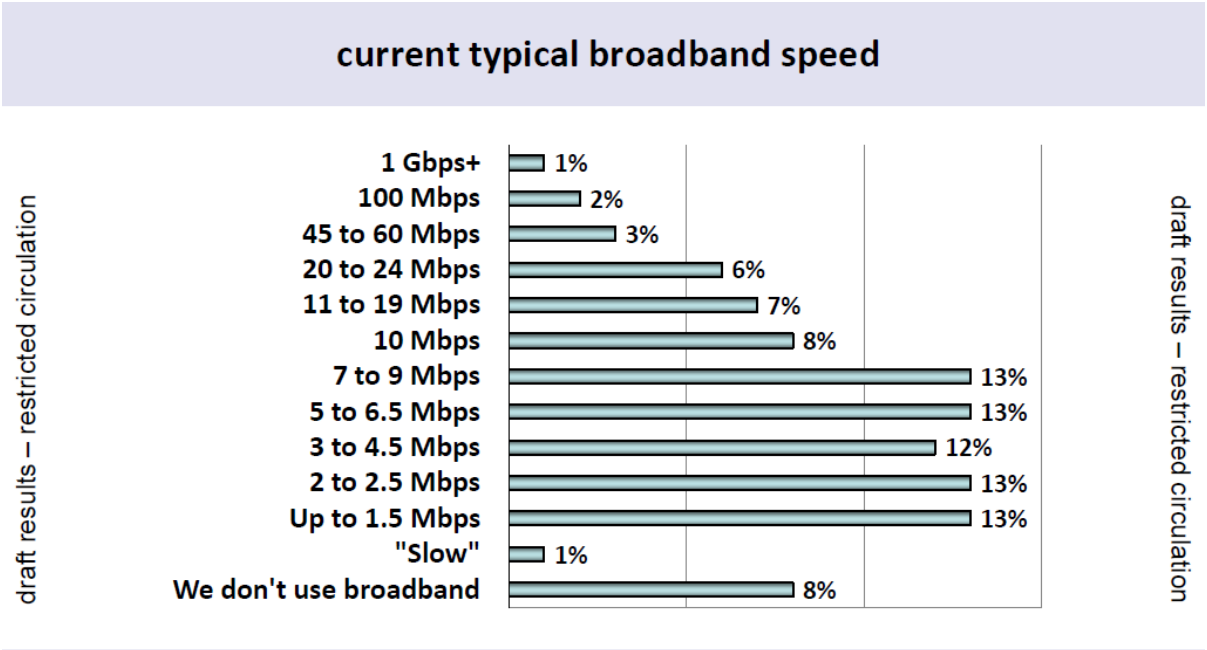


Figure 4 –

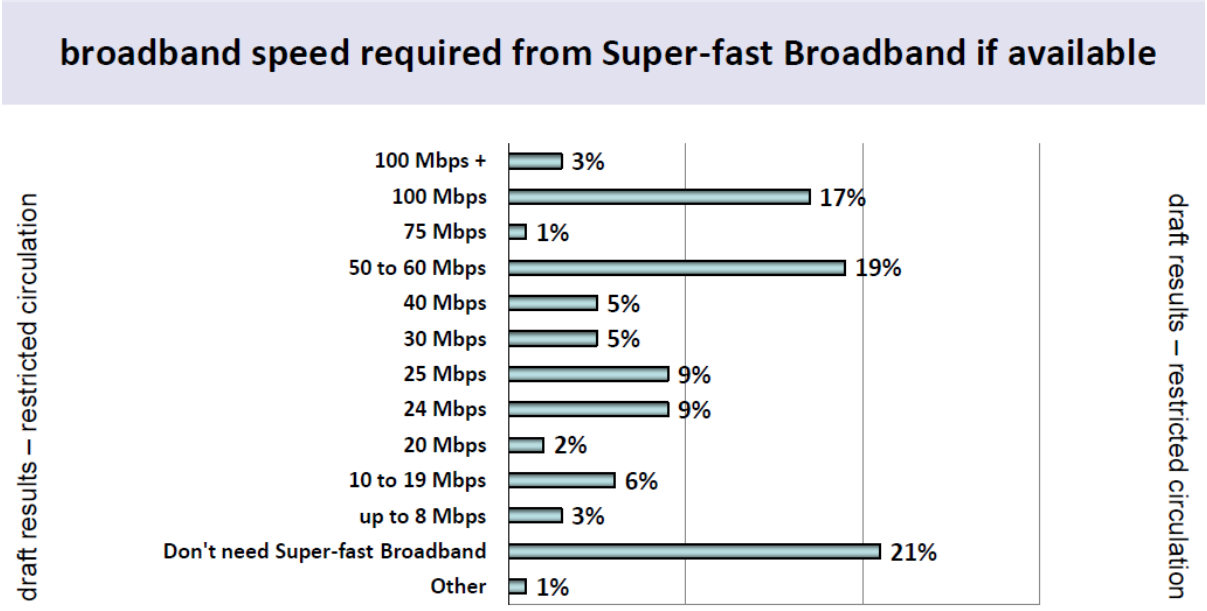
Q5.1a What is the typical speed of the broadband your organisation uses at the current time? (single) *Base: 224*



Q5.1a What is the typical speed of the broadband your organisation uses at the current time? (single) *Base: 224*

Figure 5 -

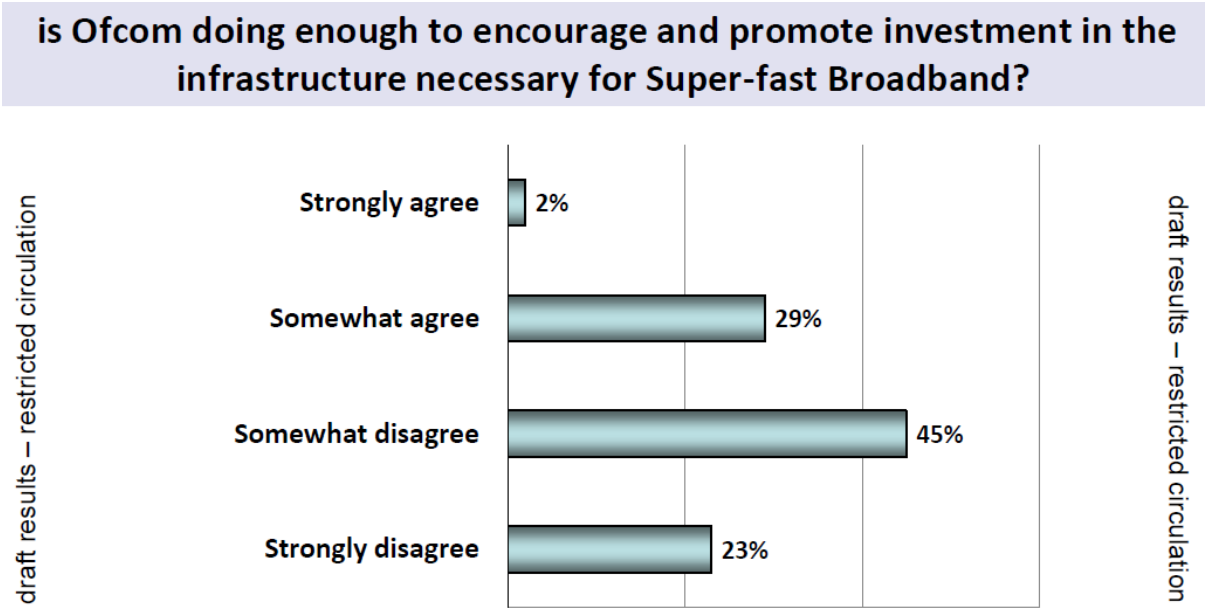
Q5.1b If Super-fast Broadband were available to your organisation where it required it...what speed would your organisation require from Super-fast Broadband? (single) *Base: 200*



Q5.1b If Super-fast Broadband were available to your organisation where it required it...what speed would your organisation require from Super-fast Broadband? (single) *Base: 200*

Figure 6 –

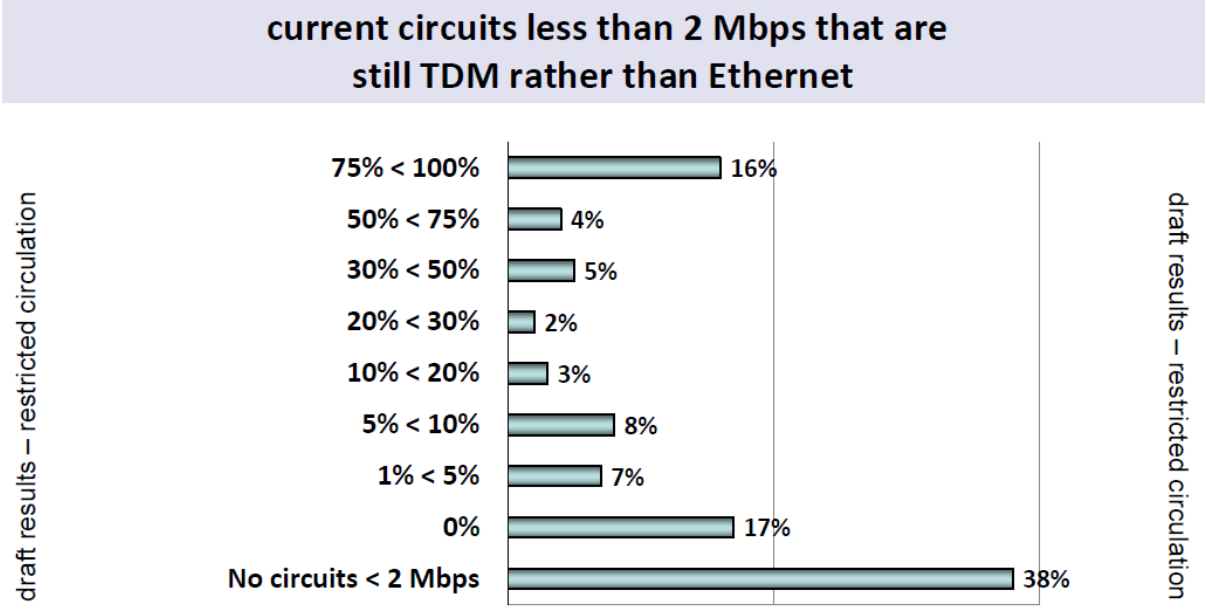
Q5.3 To what extent do you agree or disagree that Ofcom is doing enough to encourage and promote investment in the infrastructure necessary for Super-fast Broadband? (single) *Base: 258*



Q5.3 To what extent do you agree or disagree that Ofcom is doing enough to encourage and promote investment in the infrastructure necessary for Super-fast Broadband? (single) *Base: 258*

Figure 7 –

Q6.2 Thinking about the current circuits in your organisation which are less than 2Mbps what % would you say are still TDM rather than Ethernet? (single) *Base: 112*



Q6.2 Thinking about the current circuits in your organisation which are less than 2Mbps what % would you say are still TDM rather than Ethernet? (single) *Base: 112*

Figure 8 –

Q6.3 Are you migrating or planning to migrate any TDM circuits which are less than 2Mbps across to Ethernet? (single) *Base: 49*

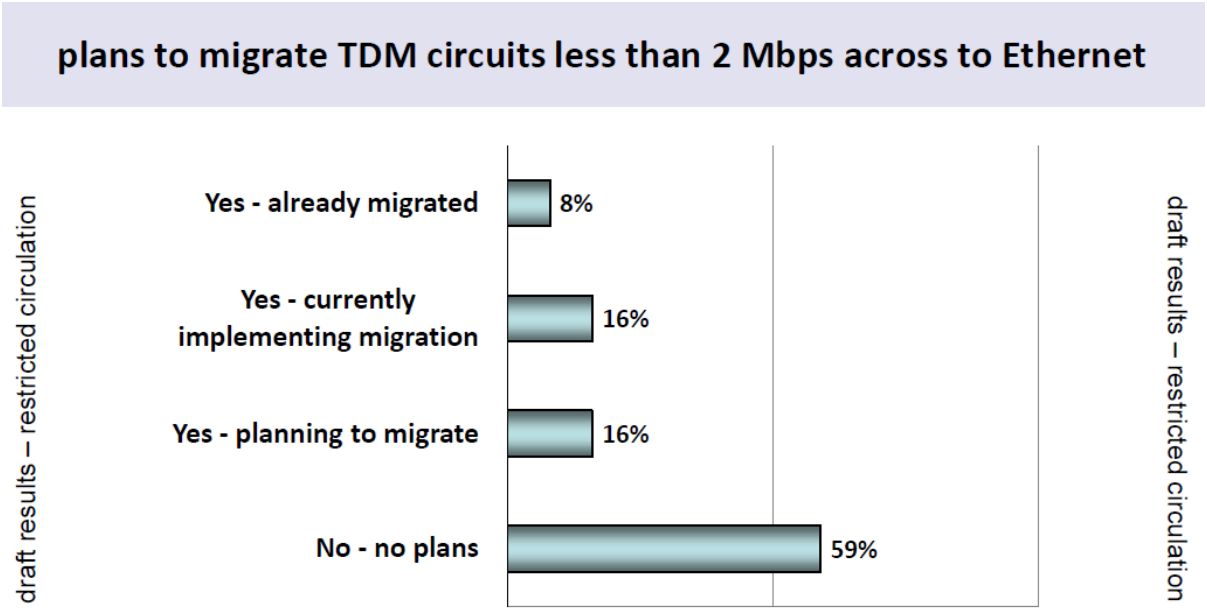


Figure 9 –

Q6.4 Within what timescales do you expect to migrate any TDM circuits which are less than 2Mbps across to Ethernet? (single) *Base: 15*

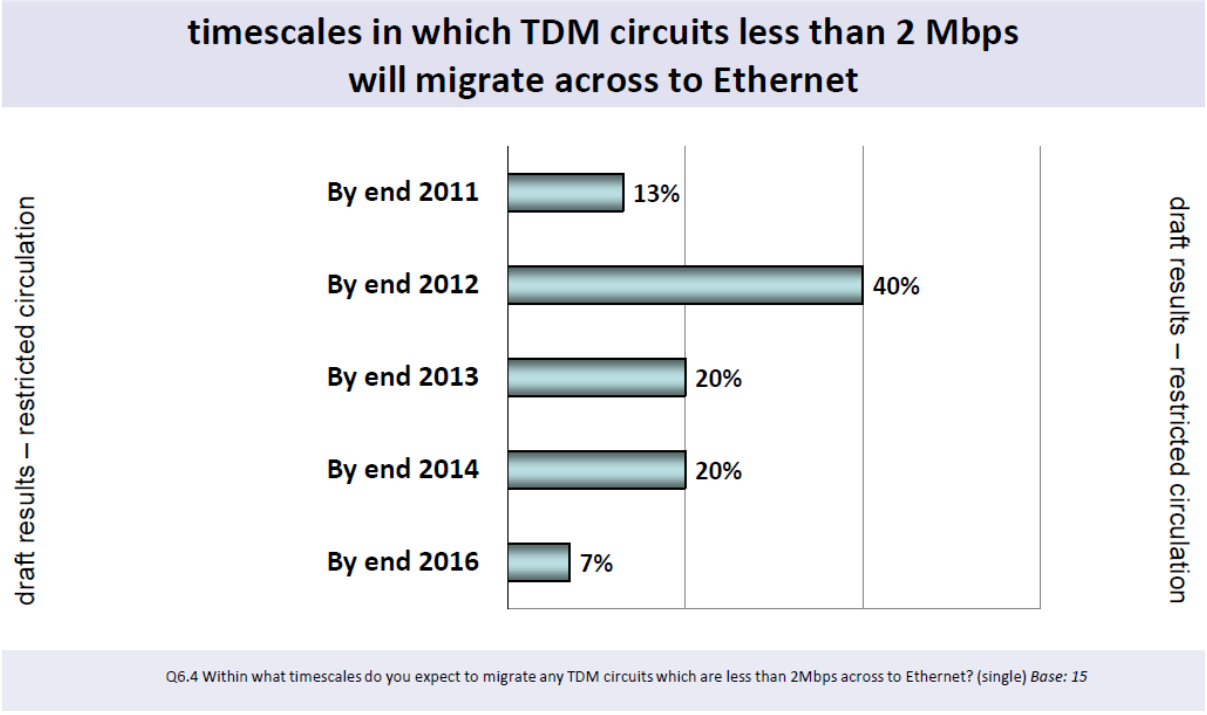
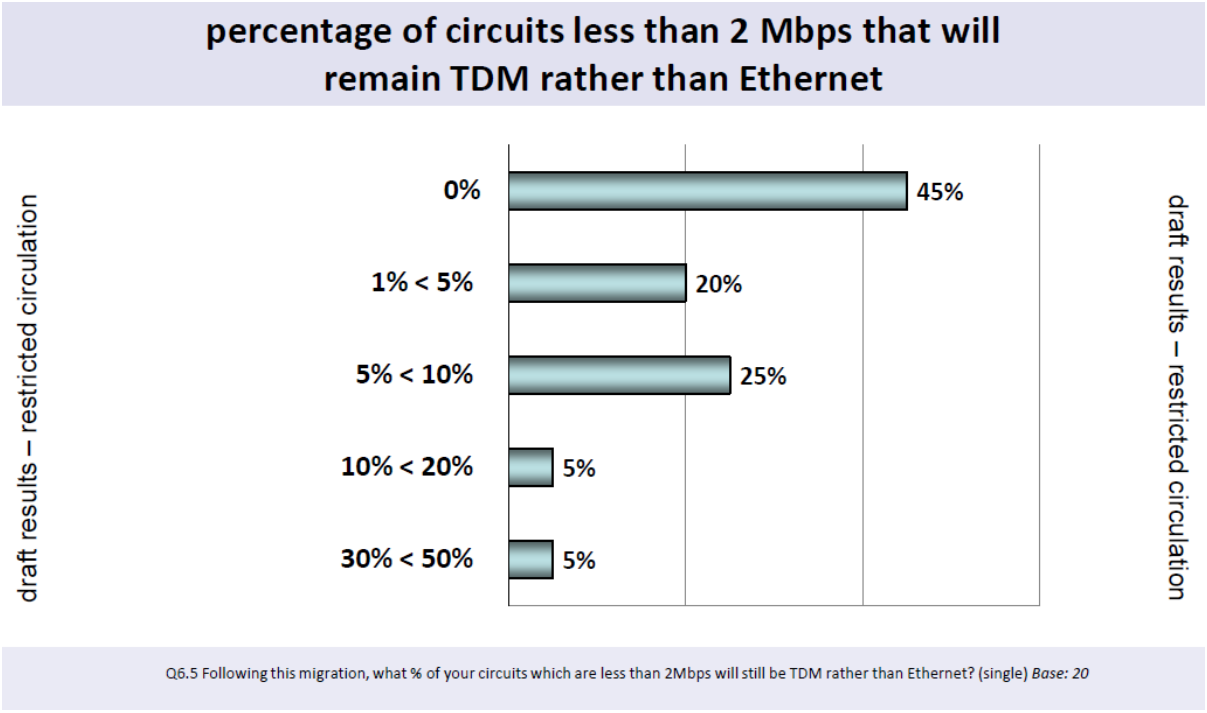


Figure 10 –

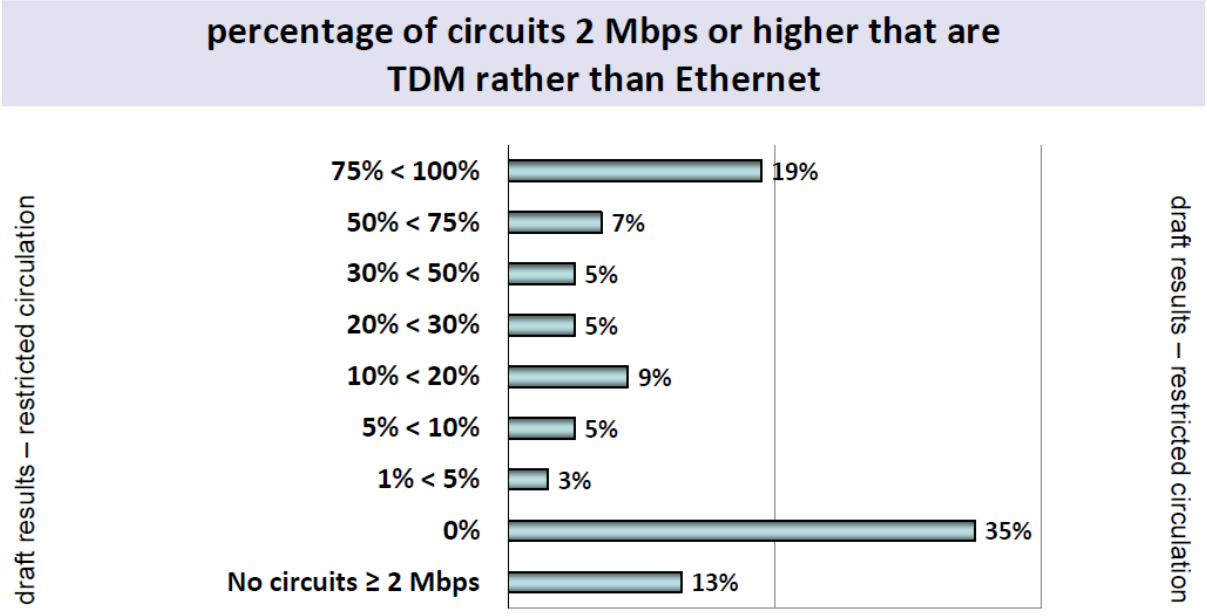
Q6.5 Following this migration, what % of your circuits which are less than 2Mbps will still be TDM rather than Ethernet? (single) *Base: 20*



Q6.5 Following this migration, what % of your circuits which are less than 2Mbps will still be TDM rather than Ethernet? (single) *Base: 20*

Figure 11 –

Q6.6 Thinking about the current circuits in your organisation which are 2Mbps or higher, what % would you say are still TDM rather than Ethernet? (single) *Base: 101*



Q6.6 Thinking about the current circuits in your organisation which are 2Mbps or higher, what % would you say are still TDM rather than Ethernet? (single) *Base: 101*

Figure 12 –

Q6.7 Are you migrating or planning to migrate any TDM circuits which are 2Mbps or higher across to Ethernet? (single) *Base: 50*

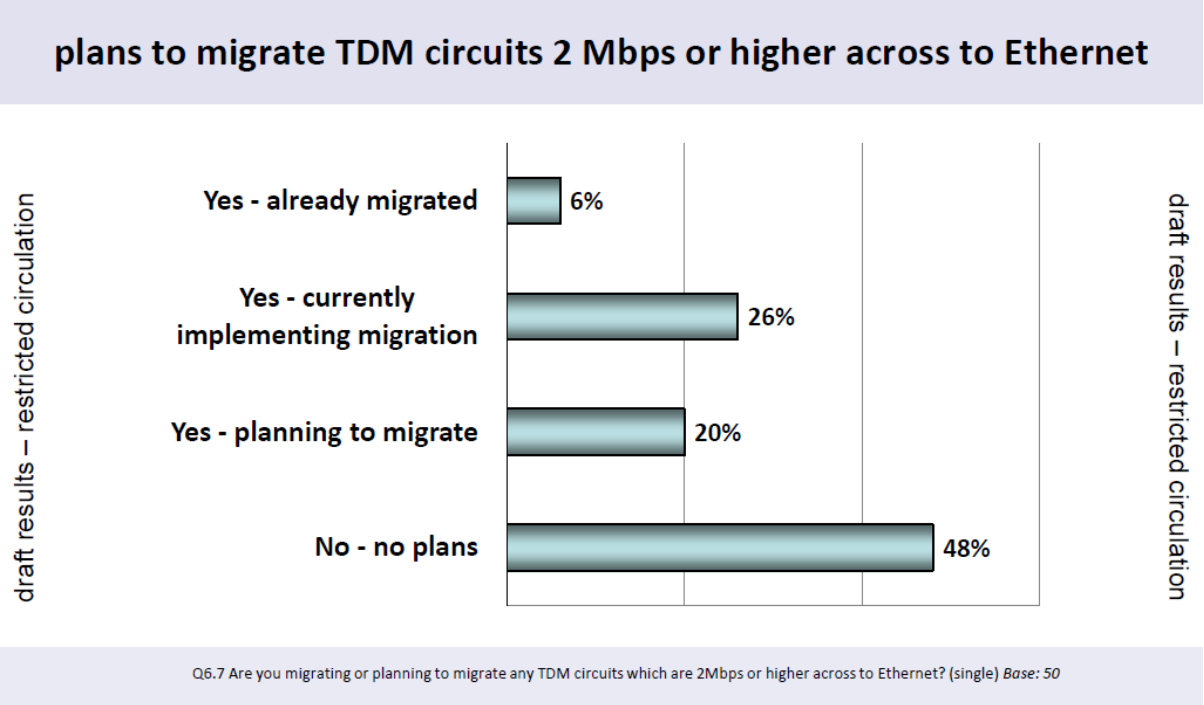


Figure 13 –

Q6.8 Within what timescales do you expect to migrate any TDM circuits which are 2Mbps or higher across to Ethernet? (single) *Base: 23*

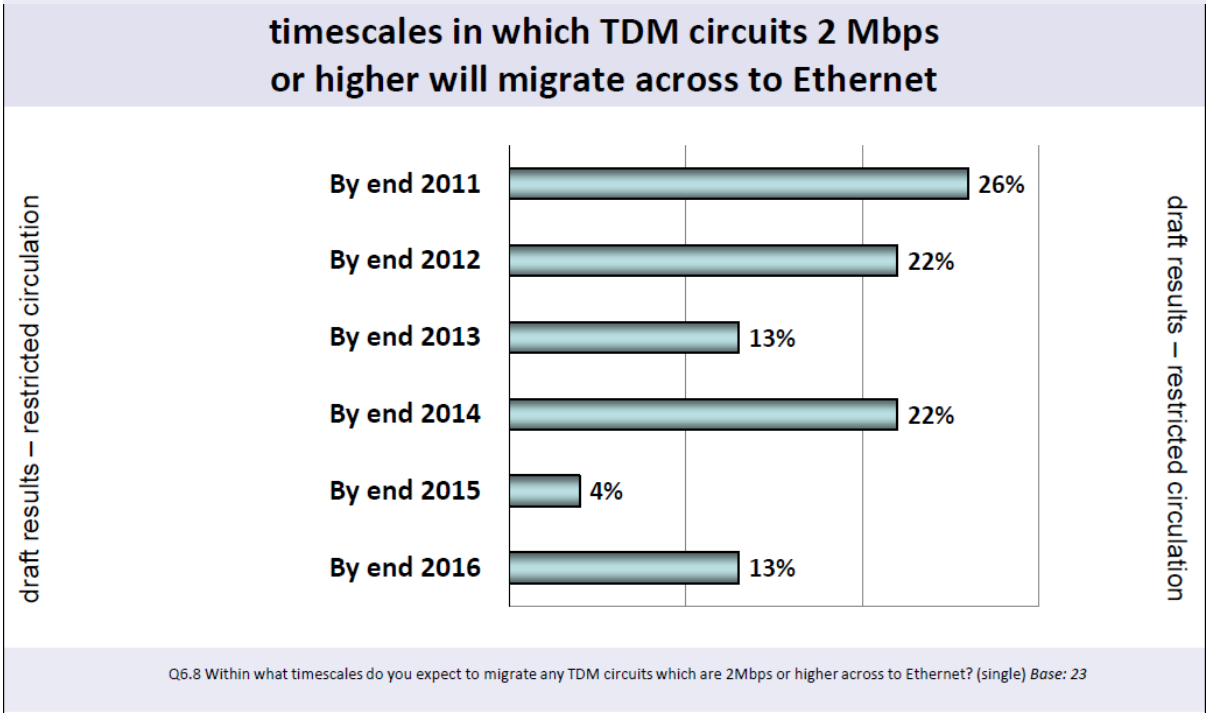


Figure 14 –

Q6.9 Following this migration, what % of your circuits which are 2Mbps or higher will still be TDM rather than Ethernet? (single) *Base: 25*

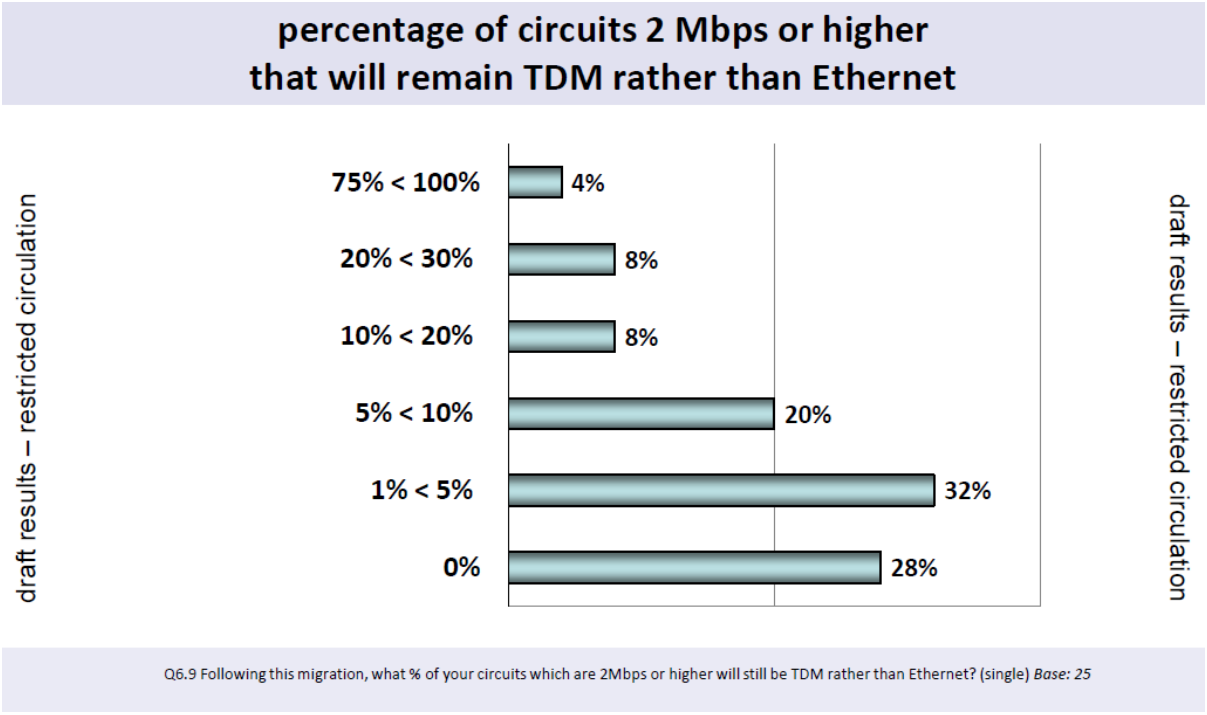


Figure 15 –

Q6.11 Please estimate how much of the growth (not substitution) in the Ethernet Access circuit demand you would attribute to growth from ISDN 30 (single) *Base: 10*

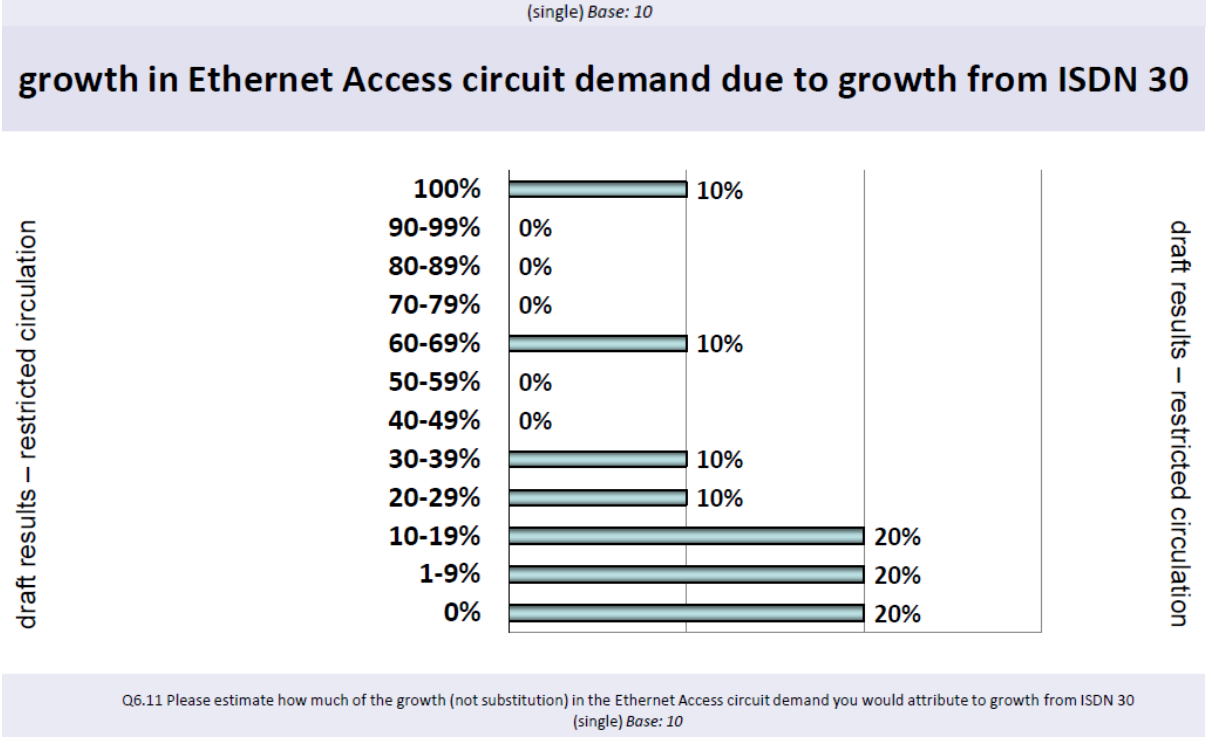
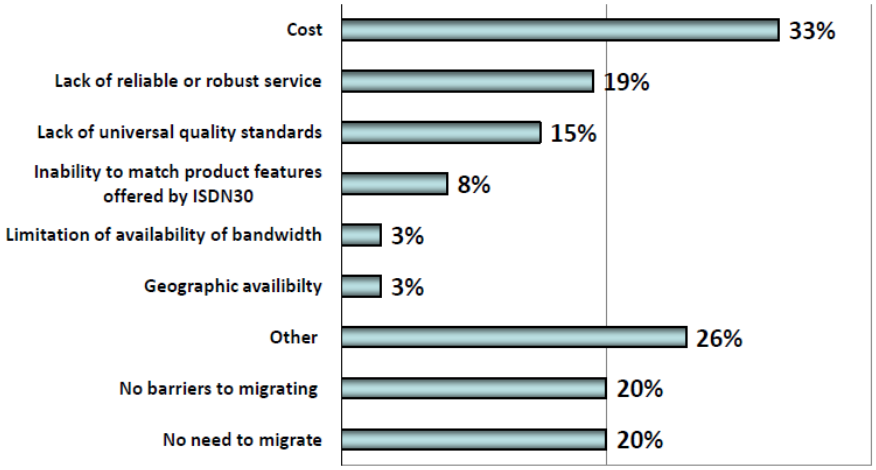


Figure 16 –

Q6.14 What are the key barriers for organisations such as yours to migrating any communications services to SIP Trunking? (multi) *Base: 118*

key barriers in migrating communication services to SIP Trunking

draft results – restricted circulation



draft results – restricted circulation

Q6.14 What are the key barriers for organisations such as yours to migrating any communications services to SIP Trunking? (multi) *Base: 118*