

Changes to BT and KCOM's regulatory financial reporting

2009/10 update

UKCTA Response to Ofcom Consultation

Submitted to Ofcom: 26th March 2010

UKCTA is a trade association promoting the interests of competitive fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the interests of its members to Ofcom and the Government. Details of membership of UKCTA can be found at www.ukcta.com.

This response is focused upon BT's regulatory accounting obligations. KCOM is a member of UKCTA and as such UKCTA will not be commenting on any of the changes proposed for the Hull area. Any individual UKCTA members who wish to comment on the changes for Hull are free to do so in their own responses.

Introduction

The regulatory financial statements are the cornerstone of the telecommunications regulatory regime in the United Kingdom. They provide a first order test that BT has complied with their most important SMP obligations and they enable other Communications Providers to investigate areas where they have concerns. The availability of high quality regulatory accounts is now more important than ever, with the accounts used by Ofcom to set charge controls and by other stakeholders to judge compliance with cost orientation obligations.

UKCTA is a keen supporter of any Ofcom initiatives to improve the quality of BT's regulatory reporting; however the fundamental review of BT's regulatory accounts, which was first raised following BT's decision to restate the 2007/8 numbers is yet to take place. We believe this review is now overdue and we would urge Ofcom to devote resources to this project in 2010.

BT needs to take its regulatory accounting obligations seriously and devote sufficient resources to producing high quality regulatory accounting output. UKCTA is keen to work with Ofcom to help shape the new UK regulatory accounting framework as UKCTA members have unique insight into the many shortcomings of the current system. A key objective must be to change the culture, values and incentives of the team preparing the accounts. We look forward with interest to the publication of this consultation in 2010.

The remainder of this response will focus on some of the issues highlighted in the current consultation.

Improving AISBO Disclosure

UKCTA supports Ofcom's efforts to increase transparency within this growing product area. Demand for AISBO products is rising and it is necessary to take another look at how costs and revenue are reported. With the imposition of the new charge control stakeholders require more granular AISBO Regulatory Financial Statement (RFS) data. The current level of service, volume and price aggregation impairs the ability of users to understand the statements.

We welcome Ofcom's efforts to check that BT is not trying to conceal higher returns by reporting a variety of sub-materiality threshold products together. This should be an ongoing exercise and we need either Ofcom or the external auditor to undertake this activity each year, it is not sufficient just to undertake this exercise as a one off. The alternative would be to lower the materiality threshold to ensure more services are reported separately. BT's cost orientation obligations are on each and every service and it is important that stakeholders get the necessary information to judge cost orientation on each and every service.

BT has a track record of both launching new products and renaming existing products within the AISBO market. It is important that BT is not able to get around its regulatory reporting obligations through such activities.

Removal of PSTN Out-payment reporting

As UKCTA members were never in receipt of this information it is difficult for UKCTA to comment on its removal. Should any concerns arise in the retain narrowband market in the future we would expect Ofcom to obtain this information from BT through use of Ofcom's formal powers.

Presentational Changes

UKCTA welcomes any presentational changes that improve the usability of the accounts, however this should not be achieved at the expense of removing relevant information. Ofcom's proposal to delete the return on turnover information would not fall into this category as it is still possible to calculate this figure from the residual information.

We are also unconcerned by the proposal to amalgamate the two categories of depreciation. Should it ever become relevant we would like BT to be able to produce this split on request.

We are opposed to the proposal to combine 'internal sales services only provided externally' with internal sale services also provided externally' into one category. In practice there is often little difference between the two, however it is key for stakeholders to know what services are consumed by CPs alone and those that are also used by BT. Preserving this distinction would not be particularly onerous and it remains important within the context of BT's no undue discrimination obligation. UKCTA urges Ofcom to preserve this level of detail within the accounts, particularly in relation to Openreach P&L reporting, where these services are broken down in greater detail.

Clarification of Single Transit

UKCTA would like Ofcom to clarify in the final statement the distinction between the two markets covering transit, namely: Local-tandem conveyance and transit on fixed public telephone networks, where the SMP conditions are to be revoked from 31 July 2010 and the market for Single transit on fixed public narrowband networks, where no changes to this market are proposed in this consultation document and the remedies of Accounting Separation and no undue discrimination remain in force.

Improvements in Leased Line Reporting

UKCTA welcomes Ofcom's proposals to improve the level of reporting within the leased lines market. The proposals represent progress, however a great many reporting issues remain.

The correction to remove the costs of other single payments, resilience and third party equipment and infrastructure charges from the cost of unrelated services is vital. The misallocation of these costs is misleading and steps should be taken to correctly categorise these costs so as not to impair the ability of stakeholders to judge cost orientation compliance.

UKCTA welcomes the proposal to report enhanced maintenance revenues and costs separately within the trunk market. It is necessary to provide this level of detail to judge cost orientation compliance.

We also support Ofcom's efforts to improve the reporting for sub-2Mbit trunk. This has been a long running concern for UKCTA members who purchase these services. The reporting of sub-2Mbit trunk and distribution in aggregate hampers usability, preventing a proper assessment of cost orientation and undue discrimination requirements. We would urge Ofcom to end the BT practice of reporting costs for trunk and distribution in aggregate. We believe that this change should occur for cost and revenue at the same time.

UKCTA is supportive of Ofcom's proposals to create five new point of handover categories within the technical areas section of the regulatory financial statements. Point of hand over costs only levied on interconnected operators and UKCTA members need a far greater understanding of those costs. While we welcome this additional level of detail we'd like to see far more information on how these costs have been derived. We are also unclear why it is necessary to include separate categories for 2M and 2M CLZ.

There are also a number of outstanding issues that came to light during the Leased Line Charge Control project, including revenue being reported in the wrong place or not being correctly identified and we would urge Ofcom to require BT to correct these outstanding issues in the 09/10 accounts. The ability to access clear and precise account information helps avoid future disputes, benefiting all stakeholders

Implementation of the BCMR

UKCTA believes the approach to accommodate the CELA market, as set out by Ofcom needs more consideration and would benefit from being the subject of a formal consultation around the principles that should apply to regulatory reporting when non-SMP and SMP markets draw upon the same cost base.

It is impossible to accurately identify the boundary between the CELA zone and the SMP zone as the same equipment and assets are used within both, making, the allocation of costs hard to determine. The only way this issue can be overcome is for Ofcom to require BT to provide clear details of the amount of cost apportioned to the CELA zone compared that in the SMP zone, both in relation to the volume of services provided. This will require some

regulatory reporting from a non SMP market but UKCTA believes Ofcom does have the power to require this and that it would be both sensible and proportionate.

On the issue of what circuits should be considered within CELA, only local ends and the terminating segment associated with those local ends should be included. Points of Handover are a technical capability required by the regulation in order to provide PPCs more generally and whether or not they are located within the CELA zone should make no difference to the reporting for circuits where the local end is outside of that zone. We would also ask Ofcom to clarify how internal BT circuits are reported when one end is located within the zone and one outside it?

Cost Attribution methodology and the treatment of LUS costs

As we highlighted last year, we believe BT retains far too much discretion when it comes to allocating costs. We believe Ofcom and not BT should review the methodology used and that an audit opinion should be requested to confirm that it represents a true and fair approach.

On the question of LUS costs, we would reiterate our position that current attribution of these costs is wholly inappropriate and we would ask Ofcom to intervene to ensure a fair methodology is adopted.

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