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Dear Gideon

Consultation on a variation to BT's Undertakings related to Fibre-to-the-Premises and an exemption related to Fibre Integrated Reception System

This response has been prepared on behalf of the Fixed Service Providers group of the Federation of Communications Services, which represents more than 150 service providers and resellers of fixed telephony services including Wholesale Line Rental (WLR), calls packages and broadband. A list of our members can be found on the FCS website - www.fcs.org.uk

We welcome the opportunity to respond this consultation which proposes separately a variation to the Undertakings in respect of Fibre-to-the-Premises (FTTP) and an exemption with regard to Fibre Integrated Reception System (FIRS).

On the primary issue, that the Undertakings be amended to enable Openreach to install and operate the equipment necessary to provide BT's active wholesale products for FTTP, we support Ofcom's proposal.

This is in line with our support for a similar variation which was the subject of an earlier Ofcom consultation in respect of Fibre-to-the-Cabinet (FTTC) and is provided on the same basis; that the variation will facilitate a speedy rollout of the technology and result in the delivery of competitively priced wholesale products by reducing BT's costs.

We particularly welcome the agreement that FTTP should be provided on an EOI basis. However, in the light of the pricing flexibility granted to Openreach in this area and the possibility of anti-competitive outcomes which may arise (as identified in Ofcom's March 2009 statement, "Delivering Super-Fast Broadband in the UK") we continue to support the need for proactive Ofcom monitoring of pricing. Ofcom must be ready to intervene earlier than proposed review date of 2011 should the need arise.

We also agree that options for provision of passive inputs, which we believe are more likely to lead to differentiation and innovation in the longer term, are not yet clear. We understand that this issue is being further investigated as part of Ofcom's reviews of the Wholesale Local Access and Wholesale Broadband Access markets and we look forward to further consultation on this point as part of these Ofcom reviews.

We would also like to take this opportunity to reiterate two key points made in our earlier response.

Development of NGA products by Openreach has progressed rapidly since the March consultation and we are aware that trials are now underway. However, it is important that technical and product decisions currently being considered by triallist CPs are effectively communicated to the wider industry to ensure that any decisions which may have commercial or competition implications can be reviewed in the appropriate industry fora such as the CPS-WLR Commercial Group. This is in line with the principle set out in the current consultation at 3.13 that products must be "fit-for-purpose and that they will be developed through appropriate consultation to reflect the needs of CPs ..." It is not necessarily the case that the preferences of the early adopter CPs involved in trials will reflect the needs of the wider industry.

We would also like to reiterate our view that due consideration must be given to any new migration processes which may be required following implementation of the new infrastructure and new products based on it, to ensure ease of end-user switching and competition. This is particularly pertinent to FTTP and to the options on upstream competition set out in 3.48. In particular, in the proposed "wires only" model, migration to a new provider is likely to involve engineering work and thus costs and/or complexity. We believe this would disadvantage future prospective gaining CPs, especially resellers who do not operate infrastructure, and could lead to consumers being unable to switch providers due to the costs involved.

With regard to FIRS, we support the proposed exemption on the basis that this arrangement is restricted to Ebbsfleet and that access is available on an equivalent basis to companies providing competitive broadcast or similar services.

We trust that the above is helpful. Our members would be happy to meet with Ofcom to discuss any of the issues raised in greater detail.

Yours sincerely



Michael Eagle
General Manager