

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Replicability and the regulation of BT's retail low bandwidth digital leased lines

To (Ofcom contact):

Name of respondent: David Southwell

Representing (self or organisation/s): Energy Networks Association

Address (if not received by email): ENA, 6th Floor, Dean Bradley House, 52 Horseferry road, London SW1P 2AF

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing
ENA

David Southwell, Director of External Affairs,

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

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Name

David Southwell

Signed (if hard copy)

10th August 2009

Ofcom
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

Subject: ENA Response to Ofcom's Consultation Document

Regulation of BT's retail low bandwidth digital leased lines

Energy Networks Association (ENA) is the industry body that represents licensed electricity and gas transmission and distribution companies in the United Kingdom.

ENA welcomes the opportunity to respond to Ofcom's consultation document regarding the regulation of BT's retail low bandwidth digital leased lines. Our concerns have been well documented in responses to previous consultations regarding circuits of 2mb/s and below. The fundamental operational strategic requirement of the energy industry is mainly based on sub 2Mb and analogue products with analogue 4w audio interface or digital x21 / rs232 interfaces. The ongoing availability of such products is of particular concern.

One issue contained within the consultation is of particular concern to the electricity infrastructure industry - replicability. ENA would like to address the content of the consultation document in relation to replicability as it gives rise to serious apprehension regarding current and ongoing availability of kilostream products.

Ofcom's assessment of the relevant competitive issues provides compelling data, which indicates that BT holds 50% of the sub 2mb/s SDH market and also outlines the extent to which replicability of these products has been achieved. Whilst ENA would not be in a position to comment on the replicability of sub 2mb/s products and would accept from the detail provided that the various elements are in place to allow CP's to provide these products, there has been significant concern expressed by ENA members that their experience does not reflect this reality.

Whilst replicability of kilostream products might be available, in practice the only product being offered by CP's relies on the use of BT Wholesale products. ENA members believe that this does not represent genuine competition and are concerned that removal of regulatory control would further place the availability of these products at risk.



energynetworks
association

6th Floor · Dean Bradley House
52 Horseferry Road · London SW1P 2AF

T +44 (0)20 7706 5100 F +44 (0)20 7706 5101

www.energynetworks.org

The assertion by Ofcom that replicability is greater in sub 2Mb/s products also seems somewhat at odds with members experience. In practice it would seem that 2mb/s and greater products are more readily available from CP's as indigenous, rather than resold BT Wholesale products.

In terms of governance there is considerable concern among members regarding the ongoing availability of these products if the regulatory constraints are removed. If replicability is accepted on the basis of reselling BT Wholesale products, then the future of sub 2mb/s circuits rests almost exclusively with BT. On that basis it may only be a question of time before these products disappear altogether.

Pricing competition only remains meaningful in a growing market. ENA members recognise that the demand for kilostream circuits is declining and that this will bring challenges in terms of longer term pricing for such services. Removal of regulatory controls at this stage would seem to place at significant risk the pricing and availability of these products.

Conclusion

As the present fundamental operational strategic requirement of the energy industry is based on sub 2Mb products with analogue 4w audio interface or digital x21 / rs232 interfaces, the energy industry's concerns remain regarding availability and pricing of these products.

Availability of kilostream circuits remains critical to the operation of the UK's electricity infrastructure and therefore central to the society and economy of the country. Whilst ENA member companies recognise that commercial challenges will affect the cost and long-term availability of kilostream products, there is genuine concern that removal of regulation would jeopardise the control of pricing and the timely provision of suitable replacement products.

ENA welcomes the ongoing opportunity to engage with Ofcom and CPs, to ensure that any potential risks to the energy network infrastructure and electricity industry customers are properly minimised.

Yours,

David Southwell,
Director of External Affairs
Energy Networks Association

WELLCONNECTED