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Dear Markham

A New Pricing Framework for Openreach: second consultation

I am writing to provide SSE's comments in relation to the further consultation on the above subject.

Overall, we are disappointed that many of the points made in our response to the previous consultation have not been discussed in the further consultation. We continue to believe that this first major review of the financing framework for Openreach since its creation would be an excellent opportunity to consider, alongside the specific charge caps proposed, wider questions along the following lines:

- transparency over the range of services that Openreach is providing for wholesaling Communication Providers (CPs) and for suppliers in the retail communications markets;
- transparency over the costs it incurs in providing those services, including from other parts of BT on a charged or allocated basis;
- transparency over the revenue generated by the different services provided;
- overall, what rate of return is being earned on services provided by Openreach using the "bottleneck" regulated network assets as distinct from other services provided in a more competitive environment;
- whether a transparent charging methodology could be established to determine cost-reflective evolution of prices depending on the movement in underlying costs (rather than relying on external fixed "caps");
- how all stakeholders could have engagement with and input to the plans for Openreach investment over the next few years;
- how new product developments are to be prioritised by stakeholders whose payment of regulated charges are funding the developments;
- whether the price control framework could be developed such that Openreach could be incentivised to strive for outcomes that its stakeholders consider important.

We support the aims of the price control review process to provide Openreach with sufficient revenue to cover efficient levels of operating costs plus a reasonable rate of return on capital and some regulatory certainty on the path of regulated revenue over the short to medium term. Experience in the development of the “RPI-X” regimes in other infrastructure industries such as energy and water suggests that further protection from uncertainties could be provided in a regulatory settlement which included some scope for overall allowed revenue to vary with relevant unit volumes; mechanisms to deal with other uncertainties; specific funding allowances for specific projects; and incentive schemes.

It appears to us that some elements of the approach in these other industries could be considered for the Openreach financial framework. We are aware, for example, that in the Ofcom hosted debates on developing a robust “supplier of last resort” framework to protect customers from loss of service in the event of supplier or CP failure, funding for the process via Openreach has been a favoured option. We support this approach in principle and believe that the financial framework review provides an opportunity to clarify what services of this type could be provided by Openreach and how they should be transparently costed and charged.

We are aware that the current regulatory framework may not allow the present review of funding for Openreach to incorporate all the elements we have suggested. However, in the context of the government’s Digital Britain project, we suggest it would be timely to consider whether changes to the framework might be appropriate in order, amongst other things, to provide for a more comprehensive and transparent review of the funding requirements of an entity that provides a large part of the basic connectivity services that underpin voice and data traffic throughout the UK. The recent announcement of proposed changes to BT’s Undertakings to support “super-fast broadband” may also provide an opportunity to reconsider the exact scope of the Openreach regulated assets in this regard.

Finally, with respect to the range of actual charges proposed, our primary interest is in the proposed charge for residential wholesale line rental (WLR) from 1 April 2009. Ofcom has set out a possible range for this between the current charge level of £100.68 and £104.20 per annum. We note that Ofcom’s own analysis at figure 4.2 suggests that Openreach’s costs for residential (and business) WLR for both 2007/08 and 2008/09 are below the current charge ceilings. In this context, we consider that there is no justification for an increase in charges and would, in fact, hope to see a reduction.

We hope these comments and views are helpful to Ofcom in the developing the price review process. We would be happy to discuss this response further if that would be useful.

Yours sincerely

Aileen Boyd
Regulation Manager