



13 February 2007

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

Dear David

Review of the Wholesale Broadband Access markets 2006/07

O2 UK welcomes the opportunity to respond to Ofcom's consultation on its Review of the Wholesale Broadband Access markets 2006/07 (the Consultation). In 2006, O2 acquired Be, one of the most innovative and technically advanced UK broadband providers.

We welcome Ofcom's desire to ensure that its approach to the Wholesale Broadband Access markets keeps pace with developments in the competitive landscape – both the current situation and with a forward look at the likely developments ahead (separately, Ofcom has also, of course, issued a discussion paper on next generation access). As Ofcom emphasises in the Consultation, it must ensure that any regulatory intervention remains appropriate.

Overall, we support Ofcom in its preliminary conclusion that the relevant market (outside of Hull) may no longer be national in scope but that, given cable and local loop unbundling based competition, more granular (sub-national) geographic markets may now be identifiable. The analysis to determine these geographic markets is, as Ofcom stresses, a complex one. However, in principle, we believe the overall framework approach which Ofcom proposes – and the four relevant markets identified – is, on balance, an appropriate basis upon which to proceed. We look forward to the detailed discussion about Ofcom's analysis and conclusions that the Consultation will no doubt encourage.

In terms of assessing which, if any, players possess Significant Market Power (SMP) in the relevant markets identified, O2 supports Ofcom's proposal to undertake the assessment of Market 3 (exchanges with 4 plus operators and 10K plus customers) in a second consultation in 2007. This will allow Ofcom to consider the competitive landscape in light of the expected market developments outlined in the Consultation. In the remaining geographic markets identified, O2 generally agrees with Ofcom's initial assessment that BT (and Hull in its relevant market) has SMP in those markets.

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Finally, we note that in discussing appropriate remedies, Ofcom mentions that it is not considering continuing the margin link between IPStream and ATM Interconnection (DataStream) Prices. However, Ofcom does not explain why it considers this remedy is no longer appropriate. We suggest Ofcom should set out its rationale here.

We look forward to continuing to participate in the discussion Ofcom's Consultation will no doubt encourage. We would be happy to discuss our views with you in greater detail if that would be helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Roy', with a long horizontal flourish extending to the right.

Ian Roy
Regulatory Manager

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