

Mr P Thompson

Title:	Mr
Forename:	
Surname:	Thompson
Name and title under which you would like this response to appear:	Mr P Thompson
Representing:	Self
Organisation (if applicable):	
Email:	<i>[Removed]</i>
What do you want Ofcom to keep confidential?:	Keep nothing confidential
If you want part of your response kept confidential, which parts?:	
Ofcom may publish a response summary:	Yes
I confirm that I have read the declaration:	Yes
Ofcom should only publish this response after the consultation has ended:	You may publish my response on receipt

Question 1: Do respondents consider that the regulatory remedies put in place in the 2003/04 market review were effective in counterbalancing BT's and Kingston's SMP in the relevant markets?

Yes. The market is evolving with a reasonable level of competition in the areas of higher population density.

Question 2: do respondents agree with Ofcom's definition of the retail asymmetric broadband internet access market in the UK?:

Yes.

Question 3: Do respondents agree with Ofcom's definition of the wholesale broadband access product market?:

Yes.

Question 4: Do respondents agree that the Hull area should be defined as a separate geographic market on the basis of the presence of common pricing constraints?:

Yes.

Question 5: Do respondents agree with Ofcom's methodology for assessing geographic variations in the competitive conditions in the wholesale broadband access product market?:

In part. I would place more emphasis on the role of competing infrastructures.

Question 6: Do respondents agree with Ofcom's analytical framework for defining geographic markets in the UK (excluding the Hull area) and the conclusions reached?:

I believe there are two competing infrastructures in the UK, BT's local loop and the cable company HFC networks, and that this should be an important part of defining the geographical variations. Setting Hull aside, there are areas with cable and areas without, both of which have at least BT as a competing provider.

I would propose a different geographical split:

Market 1 - BT only

Market 2 - BT and Cable only

Market 3 - BT, Cable and one other or 4 or more operators in areas <10,000 homes/businesses

Market 4 - 4 or more operators and >10,000 homes/businesses.

Question 7: Do respondents agree that Ofcom has used relevant criteria for assessing SMP in the markets defined?:

Yes.

Question 8: Do respondents agree with the approach set-out by Ofcom for its market power assessment in the Hull area and its conclusion of finding Kingston to have SMP?:

Yes.

Question 9: Do respondents agree with the approach set-out by Ofcom for its market power assessment in Market 1 and its conclusion of finding BT to have SMP?:

Yes.

Question 10: Do respondents agree with the approach set-out by Ofcom for its market power assessment in Market 2 and its conclusion of finding BT to have SMP?:

In part. I also believe in markets where Cable is present that they too have SMP.

As evidence of this I would cite their premium pricing, the fact that they do not offer a wholesale access product to their network and the predictions in table 5.3 show the cable market share to be more resilient than BT's share - it seems inconceivable that a provider *with* SMP (BT) will suffer a greater loss of market share than one *without* SMP

According to Table 5.2 cable has 26% of the market yet is only present at 44% of delivery points. The market share of cable is therefore 59% of the delivery points served, this seems a high percentage for an operator without SMP.

Whilst I am prepared to agree that BT has SMP in Market 2 as defined, I believe that NTL:Telewest also has SMP in the parts of Market 2 where cable is present.

The current conclusion that NTL:Telewest does not have SMP only comes about by lumping areas with and without cable into Market 2. If cable served areas are separated out I am sure NTL:Telewest would be found to have SMP in the markets they serve.

In my opinion in Cable served areas NTL:Telewest has SMP. Either that or *neither* BT nor NTL:Telewest have SMP as they compete with each other where cable is available.

Question 11: Do respondents agree with the approach set-out by Ofcom for its market power assessment in Market 3?:

Yes.

Question 12: Do respondents agree with Ofcom's proposed regulatory remedies on Kingston in relation to the market for wholesale broadband access in the Hull area?:

Yes.

Question 13: Do respondents agree with Ofcom's proposed regulatory remedies on BT in relation to the market for wholesale broadband access in Market 1 and if so are there any particular implementation or compliance issues that you believe needs to be considered?:

Yes.

Question 14: Do respondents agree with Ofcom's proposed regulatory remedies on BT in relation to the market for wholesale broadband access in Market 2 and if so are there any particular implementation or compliance issues that you believe needs to be considered?:

If a revised analysis finds that NTL:Telewest also has SMP then the remedies should also be applied to them. Conversely it may be that consideration of the cable market results in the conclusion that neither BT nor NTL:Telewest have SMP where cable is available, but BT have SMP where there is no cable.

Question 15: Do respondents agree that the alternative broadband technologies referred to in this annex are unlikely to be sufficiently widespread or utilised within the period of this review to constrain prices in the market for wholesale broadband access services?:

Yes.

Additional comments:

The HFC architecture of cable offers much to those areas where it is available. I believe it should be opened up to provide Wholesale access to ISPs that can provide the users with a better service at a lower price point in the same way that competition has served the ADSL sector well.