

Delivering a more independent Openreach

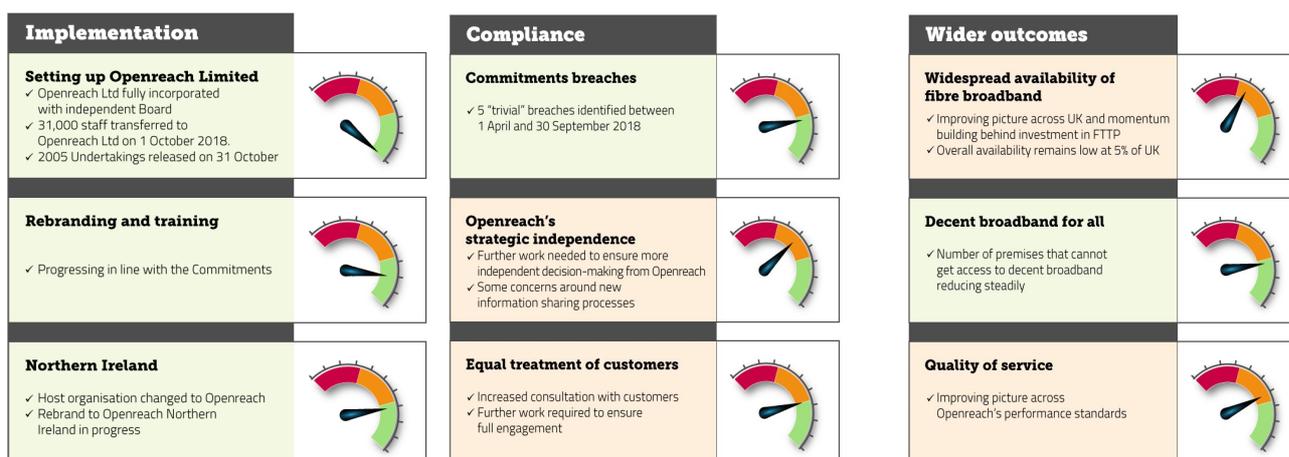
Interim Monitoring Update

An interim update on the legal separation of Openreach, covering the period from 1 April to 30 September 2018

Publication Date: 15 November 2018

1. Summary

- 1.1 Ofcom’s Openreach Monitoring Unit (“OMU”) is monitoring progress on the legal separation of Openreach. We published our first report in June 2018, which looked at the steps taken towards implementing the separation. This interim monitoring report provides an update on further developments since then, and how the new arrangements are working.
- 1.2 In our June 2018 Implementation report,¹ we said we were broadly satisfied with the progress made but that some steps remained outstanding. We also noted that further work was needed to strike the right balance between BT’s corporate oversight and providing Openreach with the appropriate level of strategic independence.
- 1.3 Since then we have continued to engage closely with BT and Openreach to monitor progress on the final implementation steps and assess how the new arrangements are bedding in within BT and Openreach. We have also sought views from industry (including Openreach’s customers) to measure how the new arrangements are working in practice.
- 1.4 **Overall, we remain broadly satisfied with progress.** Significant progress has been made and the Commitments have now been fully implemented in BT and Openreach. This is the biggest ever reform of Openreach, so the changes will need some time to fully bed in. Continued commitment from Openreach and BT is crucial to ensure the new arrangements are a success. Our focus is on making sure the new arrangements are leading to meaningful changes for the industry and delivering better services for consumers. We will work closely with BT, Openreach, Openreach’s customers and other stakeholders to assess further progress being made through the remainder of the year. In June 2019 we will publish a full compliance report covering April 2018 to March 2019.
- 1.5 The chart below sets out our view of progress made so far this year.



¹ https://www.ofcom.org.uk/data/assets/pdf_file/0019/114814/openreach-implementation-report-2018.pdf.

- 1.6 **Setting up Openreach Limited and transferring staff:** BT transferred 31,000 staff from BT to Openreach Limited on 1 October 2018, meaning all of the preconditions in the March 2017 notification of the Commitments regarding legal separation have now been satisfied or waived.² This completes the implementation of a legally separate Openreach with its own board, management, strategy and staff and represents an important milestone for BT, Openreach and the wider telecoms industry.
- 1.7 **Launch of Openreach Northern Ireland.** BT Northern Ireland Networks is now hosted by Openreach, rather than BT Enterprise, and has changed its name to Openreach Northern Ireland.
- 1.8 On 31 October 2018 we **released BT from the 2005 Undertakings** in accordance with the decision set out in our statement dated 13 July 2017 (the “July 2017 Statement”).³ The new arrangements are therefore fully implemented, and our focus is shifting from implementation to monitoring compliance and tracking the delivery of improved outcomes for businesses and consumers.
- 1.9 We are closely monitoring Openreach’s greater strategic independence from BT; and whether Openreach is treating its customers equally. We have the following observations at this interim stage.
- 1.10 **Strengthening independent decision making.** The OMU raised this as an area of concern in our June report. We continue to assess whether BT is allowing Openreach the necessary level of independence through its financial planning (and other interactions and strategic processes). To date, both BT and Openreach have engaged fully in this work and recognise that there is more to do. We welcome their intention to review processes and ensure transparency on how the two organisations are engaging with each other, and to continue to embed the Commitments across their day-to-day practices, behaviours and culture.
- 1.11 **Industry remains cautiously optimistic about the new arrangements.** Although some concerns have been raised about the speed of discussions around the new reference offer for Duct and Pole Access (DPA), in general, industry reports improvement in engagement from Openreach through areas such as customer consultations.
- 1.12 **Openreach has committed to investing in faster, better broadband networks.** While it is still early in the reform of Openreach, progress is being made with announcements of significant investment in full-fibre broadband by both Openreach and other companies. In addition, work is being carried out through industry working groups on the new reference offer for DPA due to be published by Openreach in April 2019. Ofcom continues to work with Government and industry to drive further investment in full fibre.

² See update on Ofcom’s website published on 1 October 2018. Available here:

https://www.ofcom.org.uk/aboutofcom/latest/bulletins/competition-bulletins/open-cases/cw_01206?SQ_VARIATION_106513=0

³ Available here: https://www.ofcom.org.uk/_data/assets/pdf_file/0020/104474/delivering-independent-openreach.pdf

2. Implementation of the Commitments

Background

- 2.1 In March 2017, BT notified Ofcom of voluntary commitments to establish a distinct company, Openreach Limited, with its own staff, management, strategy and majority independent board of directors with a legal duty to treat all its customers equally.
- 2.2 In July 2017, we accepted that the Commitments addressed the competition concern identified in Ofcom’s Strategic Review of Digital Communications (“DCR”). We also set out our decision to release BT from the 2005 Undertakings 30 days after notification from BT that it had completed certain pre-conditions set out within the Notification.⁴ Finally, we stated that we would introduce a monitoring programme to assess compliance with the new regime, as well as tracking whether the new arrangements contribute to better outcomes for businesses and consumers.

Full Implementation of the new arrangements

- 2.3 BT and Openreach have now fully implemented the new arrangements set out in the Commitments and associated Governance Protocol.⁵

Release of Undertakings

- 2.4 On 1st October 2018, BT entered into an Agency and Services Agreement (“ASA”) with Openreach Limited, in accordance with which Openreach Limited will manage and operate the Openreach line of business on behalf of BT. At the same time BT completed the transfer of 31,000 Openreach employees into Openreach Limited⁶ and Openreach started trading on behalf of BT plc under the terms of the ASA.
- 2.5 BT therefore notified⁷ Ofcom that it had taken the requisite steps to fully implement the arrangements set out in the March 2017 Notification and on 31 October 2018 Ofcom formally released BT from the 2005 Undertakings.⁸

Openreach Northern Ireland

- 2.6 On 31 July 2018, BT notified Ofcom that as part of BT’s plans to simplify its operating model, it intended to change BT Northern Ireland Network’s (BTNIN) host organisation

⁴ Statement published 13 July 2017 (the “July 2017 Statement”), available at

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/104474/delivering-independent-openreach.pdf.

⁵ BT and Openreach have both provided us with progress reports on implementation. Both these reports have been published on Ofcom’s website (<https://www.ofcom.org.uk/phones-telecoms-and-internet/information-forindustry/telecoms-competition-regulation/the-openreach-monitoring-unit>) alongside this report.

⁶ See update on Ofcom’s website published on 1 October 2018. Available here:

https://www.ofcom.org.uk/aboutofcom/latest/bulletins/competition-bulletins/open-cases/cw_01206?SQ_VARIATION_106513=0

⁷ https://www.ofcom.org.uk/_data/assets/pdf_file/0016/122146/bt-openreach-letter.pdf

⁸ https://www.ofcom.org.uk/about-ofcom/latest/bulletins/competition-bulletins/opencases/cw_01206?SQ_VARIATION_106513=0

Delivering a more independent Openreach

from BT Enterprise to Openreach. The change of host organisation took effect on 1 October 2018 and BTNIN's name has now changed to Openreach Northern Ireland.

- 2.7 Openreach Northern Ireland has commenced a full rebranding process on all workwear, vans and other collaterals. As at the date of this report:
- a) all e-mail addresses have been changed to Openreach;
 - b) all workwear and lanyards have changed to Openreach; and
 - c) The process of rebranding existing vehicles has commenced and will be completed by April 2020.
- 2.8 This change has been broadly welcomed by communication providers ("CPs") in Northern Ireland.

Amendments to Commitments and Governance Protocol

- 2.9 In accordance with Commitment 24.2, BT notified Ofcom of proposed variations to the Commitments, the Governance Protocol and the Northern Ireland Governance Protocol ("NIGP"), to reflect:
- a) the change of BTNIN's host organisation to Openreach; and
 - b) refinements in corporate governance processes, and to correct minor typographical errors in the Commitments as notified to Ofcom in March 2017.
- 2.10 Ofcom confirmed to BT that it did not intend to raise any concerns relating to the proposed variations. As such, the variations were incorporated into the Commitments and associated documents with effect from 1 October 2018.⁹

⁹ Updated versions of the Commitments, Governance Protocol and NIGP are available on BT's website at <https://www.btplc.com/Thegroup/Ourcompany/Theboard/Boardcommittees/BTComplianceCommittee/Publications/index.htm>

3. Compliance with the Commitments

- 3.1 This section sets out Ofcom’s interim observations on BT and Openreach’s compliance with the Commitments from 1 April 2018 to 30 September 2018 (the “Monitoring Period”).¹⁰
- 3.2 Although our monitoring includes all areas of the Commitments, we have focused on two areas that are crucial to the success of the new arrangements, namely:
- a) Openreach’s greater strategic independence from BT; and
 - b) whether Openreach is treating its customers equally.
- 3.3 Our monitoring activities to date have included: regular meetings with Openreach’s Commitments Monitoring Office (the “CMO”) and BT’s Commitments Assurance Office (the “CAO”); requests for information from both entities; meetings with senior management in BT and Openreach; observation of industry events; and seeking feedback from key stakeholders, including CPs and industry bodies.

Compliance and oversight: general observations

- 3.4 The Openreach Board Audit Risk and Compliance Committee (“OBARCC”) ¹¹ and the BT Compliance Committee (“BTCC”) ¹² are responsible for monitoring Openreach’s and BT’s compliance with the Commitments respectively.
- 3.5 During the Monitoring Period, OBARCC has formally convened on three occasions. It has identified one ‘trivial’ ¹³ breach of the Commitments and/or Governance Protocol, when a legacy distribution list was used to circulate information which contained Openreach Customer Confidential Information.
- 3.6 Similarly, the BTCC has convened on three occasions during the Monitoring Period. It has identified four ‘trivial’ ¹⁴ information sharing breaches under the Commitments and one ‘non-trivial’ breach under the 2005 Undertakings, all of which have been notified to Ofcom.
- 3.7 In addition, both Committees have reviewed a number of areas to ensure processes and procedures comply with the new arrangements, including:
- a) reviewing the efficacy of the new information disclosure regime to ensure that it provides the required level of transparency to compliance bodies within the organisation, as well as to Ofcom;

¹⁰ Where relevant and appropriate, we have also considered information that has come to our attention after 30 September 2018. We intend to publish an annual compliance monitoring report in June 2019 covering the full year from 1 April 2018 – 31 March 2019.

¹¹ OBARCC’s members are Edward Astle (Chair), Sir Brendan Barber, Liz Benison and Mike McTighe (Chairman, Openreach).

¹² BTCC’s members are Isabel Hudson (Chair), Cathryn Ross, Mike Inglis, Jasmine Whitbread and Dr Tim Whitley. See: <https://www.btplc.com/Thegroup/Ourcompany/Theboard/Boardcommittees/BTComplianceCommittee/index.htm>. Dr Whitley will be standing down from the BTCC following the November 2018 meeting.

¹³ Breaches are classified by OBARCC as ‘trivial’ or ‘non-trivial’. OBARCC changed this classification to ‘trivial’ or ‘serious’ from October 2018.

¹⁴ Breaches are classified by BTCC as ‘trivial’ or ‘non-trivial’. The BTCC will change this classification to ‘trivial’ or ‘serious’ from November 2018.

- b) reviewing policies and processes (including the AOP/MTP financial planning process) where there are interactions between BT and Openreach to consider the balance between BT parent company oversight and Openreach strategic independence; and
- c) Openreach reported to the OBARCC that it had agreed a new policy for moves between Openreach and BT involving senior employees and people in sensitive positions.

3.8 Based on our observations and interactions with both bodies, OBARCC and the BTCC are operating effectively and are well supported by their respective working offices, the CMO and the CAO. Both Committees are comprised of experienced and committed individuals, and have developed open, transparent and constructive working relationships with Ofcom.¹⁵ Each is taking a proactive and considered approach to monitoring compliance with the Commitments, as well as proactively identifying areas for improvement to prevent reoccurrence of breaches.

Increased strategic independence from BT

- 3.9 The new arrangements are intended to provide Openreach with more independence to take its own decisions, so it can be responsive to customers, support increased investment and improve service quality. However, as noted in our June 2018 Implementation Report, this does not mean Openreach can, or should, operate with absolute independence. BT, as Openreach's parent company, retains a legitimate interest in its activities and has a duty to oversee Openreach's financial performance.
- 3.10 In the Implementation Report we noted a concern that BT and Openreach had not yet struck the appropriate balance between BT's interests as parent company, and Openreach existing as a legally separate, more independent entity within the wider group. Industry continues to see this as a key issue, citing doubts as to whether the new arrangements allow Openreach to act with greater independence and treat all its customers equally in practice. However, a number of CPs acknowledge that senior management within Openreach is advocating the changes that industry expects to see, whilst noting it is taking time for these changes to permeate the organisation. A key focus of our monitoring work this year is therefore to consider whether the new arrangements allow Openreach to operate with the greatest degree of strategic and operational independence practically possible within the new model of legal separation.
- 3.11 Our interim observations are that Openreach is rapidly building the organisational, technical and strategic capabilities required of an independent entity. We note that the Openreach Board is operating effectively, and that Openreach is making considerable efforts to instil a culture that focuses on its status as an independent entity.
- 3.12 In addition, we have observed that both Openreach and BT are making efforts to achieve the appropriate balance although there is more to do. For example, whilst new guidelines for the financial planning process are not yet finalised, working practices have been adjusted, with input from both BT and Openreach. The revised process emphasises the

¹⁵ The CAO has recently published a bulletin with details of the BTCC's work over the last few months at <https://www.btplc.com/Thegroup/Ourcompany/Theboard/Boardcommittees/BTComplianceCommittee/Publications/index.htm>. The most recent update on the work of OBARCC is available here: <https://www.openreach.co.uk/orgp/home/aboutus/equivalence/commitmentsmonitoringoffice/cmo.do>

importance of Openreach Board approval of key plans and business cases in advance of submission to BT and clarifies the role of the BT Investment Board within this process. However, we remain mindful of the potential for BT to influence the development of Openreach's strategy through these processes and continue to monitor progress carefully. In addition, BT and Openreach are reviewing the executive delegations of authority to ensure that they are clear and fit for purpose and Openreach is reviewing how the Openreach Limited Board engages with them.

- 3.13 Furthermore, OBARCC and the BTCC have each taken proactive steps to consider the question of Openreach independence more widely and have initiated a wider exercise to review the roles and responsibilities for all functions where Openreach interacts with its parent company. We will consider the outcome of this exercise carefully to assess whether an appropriate balance has been struck between greater independence and parent company oversight and will report on this in our annual report.
- 3.14 BT and Openreach have implemented new processes¹⁶ to record exchanges of confidential information where this is essential to provide parent company oversight and where parts of BT Group acts as a supplier to Openreach Limited. To date industry feedback suggests that there is a lack of transparency around how the new information sharing arrangements work in practice. For example, a number of CPs have noted that they were not confident their confidential information would be sufficiently protected from dissemination within the wider BT Group.
- 3.15 We note that transparency around information flows between BT and Openreach is crucial to ensure interactions achieve the right balance between greater independence and appropriate oversight. However, our early observations of the new information sharing processes suggest it may not yet provide sufficient transparency on the nature and substance of interactions and information exchange between BT and Openreach. This is an issue that has been proactively raised by both OBARCC and the BTCC and, in addition, they are conducting a deep dive into interactions between BT and Openreach in connection with the introduction of volume discounts on Openreach's broadband prices. We will monitor progress in this area closely.

Equal treatment of customers

- 3.16 The Commitments require Openreach to treat all its customers equally. As noted in the Implementation Report, we consider the equal treatment principle means Openreach must act in a way that ensures all customers receive fair and equal treatment, having regard to their circumstances, taking proper account of their interests and not unduly favouring any one of them.

¹⁶ BT and Openreach have introduced a new process under the Commitments whereby information to be shared needs to be either covered by an Information Sharing Agreement ("ISA") or, if not, logged on a new 'disclosure portal'. The ISAs set out specific information that can be shared with specific BT teams, e.g. Customer Billing or BT's Ethics, Compliance and Governance team. For individuals to be allowed to receive such information, they need to apply for a 'compliance marker' on their entry in the corporate directory (e.g. 'parent company' or 'supplier'). These markers can only be obtained once compliance training has been completed.

Delivering a more independent Openreach

- 3.17 Our monitoring work this year therefore also focuses on Openreach's engagement with its customers. In particular, we are monitoring Openreach's new Statement of Requirements ("SoR")¹⁷ process, developed to improve the quality, transparency and timeliness of industry requests, focusing on Openreach's engagement with a specific SoR.¹⁸ We have also obtained feedback from CPs on the level of engagement from Openreach in relation to the future development of its network and products. Furthermore, we requested the CAO to carry out two 'quick check' investigations in relation to concerns raised about access by downstream BT CPs to Openreach information in advance of other CPs.¹⁹
- 3.18 In relation to our monitoring of progress of the SoR for Efficient Delivery of DPA Aerial Drop Cables, our interim observations are that Openreach is following its new SoR governance process, and the request is currently running to time. Openreach and the requesting CP have been engaging regularly and the Physical Infrastructure Access working group (an industry forum) has been kept informed throughout the process. There is evidence that Openreach is taking its customers' needs into account and finding solutions to the technical challenges of the SoR.
- 3.19 On wider product consultations, our interim observations are that Openreach has taken steps to engage with its customers more effectively, in advance of developments of major new products. CPs generally welcome the increased level of engagement, although some queried the effectiveness of the processes, citing examples where they felt Openreach should have been clearer about how the consultations were run, including how to formally engage with Openreach. Further work is therefore required to ensure that customers feel that they have the opportunity to fully engage in the debate and we will continue to monitor this closely, for example, through the development of the new Duct and Poles reference offer and subsequent service provision under that reference offer.

¹⁷ The SoR process is the means through which Openreach's customers ask for the introduction of a new Openreach product offering, or a change to an existing product.

¹⁸ SoR 8515 – Efficient Delivery of DPA Aerial Drop Cables.

¹⁹ On each occasion, the CAO determined that there was no evidence of Openreach information had been inappropriately disclosed to other parts of BT but recommended a number of actions to improve processes.

4. Measuring the success of the Commitments

4.1 A focus on outcomes is essential to ensure the new arrangements deliver benefits for consumers and businesses. Therefore, to complement our compliance monitoring (as set out above), we will also measure Openreach's performance against key metrics that we believe underpin positive consumer and industry outcomes. We believe that the extent to which the new model is delivering for consumers and businesses will become clear within three years of implementation.

How we will measure success

4.2 Measuring the success of the new arrangements will depend on a broad assessment of how the new arrangements are implemented; BT and Openreach's compliance with the new rules; and the outcomes that are achieved for consumers, businesses and industry.

4.3 We do not intend to set out specific metrics for how to assess compliance with the Commitments. This will necessarily be a qualitative review considering all elements of compliance in the round to consider whether BT and Openreach are meeting the letter of the Commitments, and whether they demonstrate behaviours that support greater strategic independence and equal treatment of customers. We will continue to engage with BT and Openreach as well as seek feedback from Openreach customers and other stakeholders as part of this work.

4.4 Ultimately the purpose of Openreach reform, in conjunction with the other policy initiatives set out in the DCR, is to deliver positive market outcomes for UK consumers and businesses.²⁰ As set out in the July 2017 Statement we acknowledge that other factors, which do not directly result from the governance reform or which may be outside BT's or Openreach's direct control, could also make a significant contribution, such as the willingness by others to invest in network infrastructure.

4.5 However, given its position as a provider of network access to other industry participants, Openreach's performance will contribute significantly to overall industry outcomes. Additionally, transparency around BT and Openreach's compliance with the new arrangements will help build confidence that Openreach has the independence required to treat all Openreach customers equally. This in turn is important for industry to build products, services and networks in a market environment where participants can invest and compete with confidence. Industry outcomes will therefore, to a large extent, depend on BT's and Openreach's ongoing commitment to the new model, its performance, and the behaviours they demonstrate.

4.6 We will measure and report regularly on a set of metrics, looking specifically at the elements of Openreach's performance we consider likely to contribute to positive outcomes over time. Our reporting on outcomes and ongoing compliance monitoring will feed into a

²⁰ As set out in the Strategic Review of Digital Communications. Available here: https://www.ofcom.org.uk/data/assets/pdf_file/0016/50416/dcr-statement.pdf.

broader review of the overall success of the arrangements introduced following the conclusion of the DCR.²¹ We expect to commence this review during the 2020/2021 financial year.

Consumer outcomes

4.7 In the July 2017 Statement we explained how we will assess Openreach’s performance in three areas. These are:

- widespread availability of more fibre based broadband networks;
- decent broadband connectivity for all UK consumers and businesses at a speed that is sufficient to meet modern needs; and
- a step change in quality of service, to ensure Openreach’s performance meets the needs of all wholesale customers, consumers and businesses.

4.8 We set out some baseline metrics that we will track over time to help us measure the outcomes for consumers and businesses. In the table below, we have updated the information behind each of the metrics to provide the latest picture.

4.9 We welcome the focus from BT and Openreach on assessing consumer outcomes and seek their input as we develop these metrics further.²² We will report on initial progress against metrics in more detail as part of our first annual compliance monitoring report in June 2019.

Update on indicative metrics

Widespread availability of fibre broadband		July 2017	Nov 2018
 Metrics	Number of premises passed by Openreach Fibre To The Cabinet (FTTC) products	26m	27m
	Number of premises passed by Openreach G.Fast	Pilot deployment	1.3m
	Number of premises passed by Openreach Fibre To The Premises (FTTP)	435,000	682,000
Decent broadband connectivity for everyone			
 Metrics	Proportion of premises unable to receive a download speed of at least 10Mbit/s	5%	3%
	Proportion of SMEs unable to receive a download speed of at least 10Mbit/s	8%	7%
A step change in quality of service			
 Metrics	Proportion of Openreach installations on time	93%	95%
	Proportion of Openreach repairs within agreed time	83%	84%
	Average first available Openreach appointment	8 working days	7 working days
	Proportion of Openreach appointments missed	2%	2%

Sources²³: [Connected Nations Update \(October 2018\)](#), [Choosing the best broadband, landline and service provider \(2018\)](#), [Connected nation report December 2017](#), [Openreach website](#), [BT Group Q2 2018/19 KPIs](#)

²¹ We will carry out this assessment whilst being cognisant that some factors impacting on overall outcomes are outside of BT and Openreach’s control.

²² For example, including metrics for duct and poles usage and broadband speeds on Openreach’s network.

²³ Using latest available data.

Industry outcomes

- 4.10 Openreach's focus on its customers, and therefore all people and businesses who ultimately use the Openreach network, is vital to supporting improvements to broadband services.
- 4.11 In our July 2017 Statement we set out three different types of outcomes that will be important to assess whether Openreach is delivering in terms of its behaviours and responsiveness to customers. These are:
- Network investment: Openreach working effectively with customers to support continued investment, including approaches such as co-investment and risk sharing where appropriate.
 - Customer engagement: Openreach engaging with all its customers on major, strategic network investment programmes to deliver better services for consumers and businesses.
 - Product development: Openreach responding promptly and effectively to its customers' needs when developing new wholesale products and services.

Network investment

- 4.12 Although it is still early in the life of Openreach Limited as a legally separate and more independent company within BT Group, we are seeing encouraging signs of Openreach contributing to positive industry outcomes. Openreach has announced plans to roll out full fibre to three million premises by the end of 2020, with an ambition to reach 10 million by the middle of the next decade. At the same time, we have seen Openreach become more responsive to early investment proposals from its wholesale customers, and we would encourage Openreach to be open to a full range of different investment options.
- 4.13 We have also seen initial investments by alternative networks, with momentum building behind investment in full fibre broadband across the UK. Current commitments by broadband companies, including Openreach, could see up to six million premises having access to full fibre by 2020.²⁴ This demonstrates a positive intent from industry to deploy more fibre networks. While the announcements and early progress are positive, we want to see scale network build and ultimately significant increases in fibre availability, which currently remains low at 5% of UK premises. Openreach has an important role to play in this, through its own network roll-out, and because many alternative network providers look to use Openreach's physical infrastructure as part of their FTTP deployments.
- 4.14 In addition, industry feedback has raised specific concerns about the ability for

²⁴ See: https://www.ofcom.org.uk/_data/assets/pdf_file/0025/116539/investment-full-fibre-broadband.pdf.

Openreach's behaviour to impact on industry outcomes. In particular, some concerns have been raised about:

- a) the progress of industry discussions²⁵ relating to the new passive infrastructure access reference offer²⁶ due to be published by Openreach in April 2019,²⁷ including whether the product will be suitable for other CPs to deploy FTTP at scale; and
- b) whether the way Openreach rolls out its FTTP network could undermine investment by others.

4.15 Given that Openreach's behaviour in its engagement with its customers could have a significant impact on industry outcomes, we will monitor progress in this area closely.

Customer engagement

4.16 As noted at paragraph 3.19 above, Openreach has taken steps to engage with its customers more effectively, in advance of developments of major new products.

4.17 In particular, we note that within the relevant monitoring period, Openreach has carried out four major customer consultations on the following issues:

- a) *Upgrading the Access Network* – focusing on the withdrawal of Wholesale Line Rental ("WLR") products and a smooth transition to IP voice services. The withdrawal of WLR is a major change for industry and there has been a range of documents published to support CP understanding of the transition, as well as face to face and teleconference industry sessions across the UK;²⁸
- b) *Passive Infrastructure Access* – in line with Ofcom's 'Wholesale Local Access Market Review' final statement published on 28 March 2018, Openreach has engaged with industry on the terms of a new draft reference offer for its Physical Infrastructure Access product;²⁹
- c) *Re-Imagining Ethernet* – Openreach launched a consultation on 26 September 2018 following a series of meetings between Ofcom and Openreach;³⁰ and
- d) *GEA special offer* – the customer consultation for the introduction of Generic Ethernet Access volume discounts included bilateral engagement with CPs and through industry fora.³¹

²⁵ We note that these comments have been made in the context of ongoing industry discussions and that the final views on this may not become clear until this process is completed.

²⁶ <https://www.ofcom.org.uk/consultations-and-statements/category-1/wholesale-local-access-market-review>.

²⁷ We understand that steps have been taken to improve progress following engagement between Openreach, Ofcom, OTA and the industry working group.

²⁸ See <https://www.openreach.co.uk/orpg/home/products/wlrandsotapconsultation/wlrandsotapconsultation.do>

²⁹ <https://www.openreach.co.uk/orpg/home/products/ductandpoleaccess/ductandpoleaccess.do>

³⁰ See

<https://www.openreach.co.uk/orpg/home/updates/briefings/ethernetservicesbriefings/ethernetservicesbriefingsarticles/eth05418.do>

³¹ https://www.openreach.co.uk/orpg/home/products/super-fastfibreaccess/downloads/Openreach_Special_Offer_GEA_Volume_Agreement.pdf

Delivering a more independent Openreach

- 4.18 CPs generally welcome the increased level of engagement, although industry feedback suggests that further work is required to ensure that customers feel that they have the opportunity to fully engage in the debate. We will continue to monitor such consultations closely to measure whether they contribute to the delivery of better services for consumers and businesses.

Product development

- 4.19 As noted at paragraph 3.17 above, Openreach introduced a new SoR process on 1 March 2018 to improve the quality, transparency and timeliness of Openreach's engagement with industry requests. Since then, Openreach has received 11 SoRs.³² These are all still in progress and four have now reached 'Milestone 1', which means that the SoR has been accepted to progress to the next stage in the process i.e. to the appropriate Openreach internal governance board.
- 4.20 In addition, three SoRs (which were raised prior to the launch of the new process) have been rejected in the Monitoring Period. There were rejected for a variety of reasons including commercial viability, pricing and technical reasons.
- 4.21 We will continue to seek feedback from CPs and key industry stakeholders to measure whether the new process facilitates Openreach to respond promptly and effectively to its customers' needs when developing new wholesale products and services.

Next Steps

- 4.22 Overall, we remain broadly satisfied with progress. However, continued commitment from Openreach and BT is crucial to ensure the new arrangements are a success.
- 4.23 We recognise that the new arrangements represent the biggest ever reform of Openreach, meaning that the changes will need some time to fully bed in. Our focus is on making sure the new arrangements are leading to meaningful changes for the industry and delivering better services for consumers. We will work closely with BT, Openreach, Openreach's customers and other stakeholders to assess further progress that is being made through the remainder of the year. In June 2019, we intend to publish a full compliance report covering the period April 2018 to March 2019.

³² As at 11 October 2018.