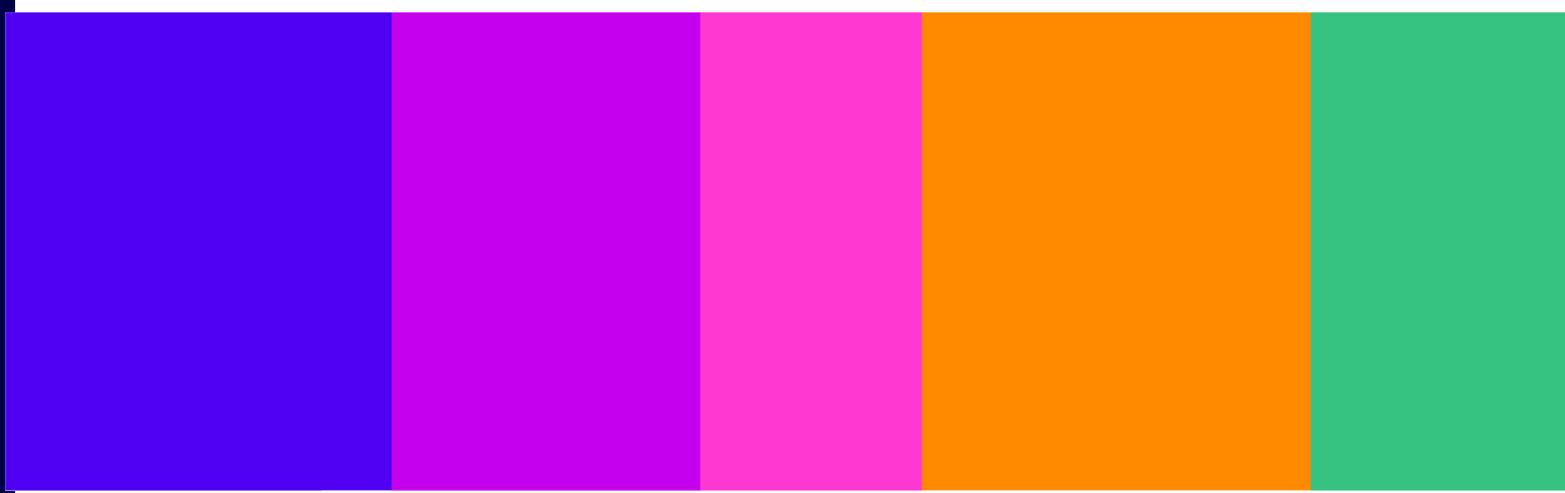


Openreach Monitoring Report

Ensuring an independent Openreach committed to fair competition

[\[Link to Welsh translation - Adroddiad Monitro Openreach\]](#)

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1. Overview

- 1.1 [Our last report](#) in June 2023 outlined the role of the Openreach Monitoring Unit (OMU) and also explained the [history of BT, Openreach and the Commitments](#). We continue to make sure Openreach operates with strategic independence from BT Group as well as monitoring Openreach's compliance with the regulatory requirements we imposed upon it in the [Wholesale Fixed Telecoms Market Review](#) (WFTMR) 2021-2026.¹
- 1.2 Since our last report, we have seen the continued rapid rise in full-fibre availability for people across the UK with over half of UK homes now having access to full-fibre broadband. This significant period of investment across the industry means Ofcom's Openreach monitoring work is now more important than ever to make sure Communications Providers (CPs) are treated fairly by Openreach, the biggest network provider, as network competition grows.
- 1.3 Over the last reporting period, a key focus for the OMU has been meeting with stakeholders and listening to their views and concerns. We summarise and discuss the types of issues raised later in this report.
- 1.4 While there have been some reported breaches of compliance with the Commitments, we have not seen evidence to warrant opening any new formal investigations in this reporting period. In March of this year, we made a breach finding following our investigation into Openreach's failure to meet three of the quality-of-service obligations in the leased lines access and wholesale local access markets during 2022/23 – this is covered in further detail later in this report. We will continue to meet with stakeholders regularly and are prepared to take enforcement action to hold BT and Openreach to account when necessary.
- 1.5 We continue to see evidence that the Commitments are working as intended and that they are well-established and well-embedded across BT and Openreach. We meet regularly with both BT and Openreach and understand how the Commitments are working in practice. We have welcomed the positive reports and evidence from BT and Openreach that the Commitments are rooted in the culture of both organisations.
- 1.6 We have this year seen evidence of efforts by BT Group to renew and refresh its engagement with the Commitments. This follows the appointment of a new CEO, Allison Kirkby, who served as a non-executive director of BT since 2019, including on the sub-committee charged with monitoring BT's compliance with the Commitments.
- 1.7 As we noted in our last report, we will continue to be vigilant to ensure there is no complacency and that BT and Openreach are operating not just to the letter of the Commitments but in the spirit in which they are intended.

¹ Published on 18 March 2021.

2. Commitments compliance

Overview

- 2.1 The findings of our monitoring activities over the last year continue to indicate that the Commitments are well-established and well-embedded across BT and Openreach and continue to operate as intended.
- 2.2 We meet regularly and separately with the Openreach Commitments Monitoring Office (CMO) and the Commitments Assurance Office (CAO) within BT, in line with the [Memorandum of Understanding between BT and Ofcom](#). These Offices are set up to monitor their respective organisations, helping to ensure the Commitments work well in practice and as intended. We consider that both functions are continuing to operate with high level of rigour and scrutiny, thereby holding both BT and Openreach to account.
- 2.3 In our last report, we highlighted that the success of the Commitments to date has in part been a result of the decisions and choices of key BT and Openreach leaders. We further noted a risk of cultural and behavioural changes resulting from new leadership. With the appointment of BT's new CEO in February 2024, we have been particularly attentive to ensure that during this time of change, the Commitments are treated with the same level of importance and diligence.
- 2.4 As we move into year eight of the Commitments, BT and Openreach must continue to apply the rules robustly. We have been, and will continue to be, vigilant in assessing any potential breaches.

Monitoring activities

Proactive compliance

- 2.5 The CMO and CAO have continued to report on a number of proactive compliance activities to review Commitments compliance across the BT Group. This has included new induction and training material for Senior Executives designed to preserve BT's corporate memory in respect of sustaining knowledge of the history and importance of the Commitments. We have welcomed reports that the new CEO has been particularly supportive in driving this initiative and ensuring that the Commitments remain front of mind.
- 2.6 In respect of wider BT colleagues, the CAO reported that BT had conducted a colleague survey to test whether the Commitments remained embedded in key individuals' thinking (following on from a similar exercise previously carried out in 2020). Although the findings were positive, the CAO has taken actions away to ensure that targeted training will be provided to ensure the Commitments are understood at a practical level. We are supportive of this approach and recognise that while senior leaders are responsible for ensuring that the spirit of the Commitments is well understood across BT and Openreach, it is important that colleagues of all levels are confident in applying the principles of the Commitments, including in more operational roles.

Compliance issues

- 2.7 The instances of reported breaches of compliance with the Commitments remain low and the level of reports and occurrences indicates that measures across BT and Openreach have been successful in capturing Commitments compliance concerns. We continue to be reassured that where issues have arisen, we have seen evidence that these have been taken seriously.
- 2.8 Where breaches have occurred, the investigations undertaken by the CMO and CAO have led to remedial actions being taken. We have also seen evidence of the further senior-level scrutiny applied by the relevant board level oversight bodies. We have summarised the compliance issues reported to us below.
- 2.9 During the last financial year, two breaches were reported to us by the CMO categorised as trivial breaches², both relating to inappropriate sharing of Openreach Customer Confidential Information.³ The CMO also reported that Openreach's Board Audit Risk & Compliance Committee (OBARCC) have looked into matters where there has been no breach of the letter of the Commitments but where nonetheless there was potential cause for concern. This would typically be where policies established to ensure compliance with the Commitments – but which are not mandated in the Commitments – have not been followed. These have been categorised as non-conformance with policy. We support this approach demonstrating an understanding of the spirit in which the Commitments were intended.
- 2.10 For the same period, the CAO reported one serious and two trivial breaches relating to the sharing of Customer Confidential Information which were considered by BT's BT Compliance Committee (BTCC) and details of these are published in the BARC's regular bulletin and annual review.⁴
- 2.11 The serious breach related to the identification by BT's Communications Regulation Compliance (CRC) assurance review of hydra cables which had been incorrectly ordered and installed in an Exchange in 2022, where the Openreach Cablelink product should have been used. The impact of the breach was minimal on CPs and we welcomed the measures taken by BT to deliver and refresh training for the Cablelink team.
- 2.12 Our assessment is that none of these incidents involved an intent to breach the Commitments nor were any CPs advantaged or disadvantaged, and in addition, our view is that each was thoroughly and robustly investigated by the BT and Openreach compliance functions. We therefore did not take any additional action.

Commitments Governance

² Breaches are categorised by both BT and Openreach as either trivial or serious:

A trivial breach is where a technical non-compliance has been found. In most cases it has had little or no impact on CPs, such as certain instances of sharing information internally in BT Group with individuals who should not have been allowed access.

A serious breach is where non-compliance is considered to be more serious in nature and it may have had a direct impact on CPs, such as where Openreach has used a different process to provide service to BT and non-BT CPs.

³ Further information about the breaches are disclosed in the OBARCC's latest annual review: [Commitments Monitoring Office \(openreach.co.uk\)](#)

⁴ [Publications & DCR documents - BT Compliance Committee - Group governance - Our company | BT Plc](#)

- 2.13 Throughout the reporting period, we have worked with the CAO on a number of initiatives to review the current governance measures in place, making updates where changes have occurred or are likely to occur in the future, given the passage of time since the Commitments came into effect.
- 2.14 Earlier this year the CAO informed us of changes BT intended to make to its governance arrangements for reviewing compliance by BT with the Commitments.⁵ BT has now transferred responsibility from the BT Compliance Committee to the BT Audit and Risk Committee (BARC) (effective from April 2024). Ofcom welcomes BT's decision to refresh and renew their governance arrangements.⁶ We consider it crucial that BT continually challenges itself to ensure its governance arrangements are appropriate and effective for BT Group on an ongoing basis to avoid complacency. We are satisfied the change will continue to allow BT to monitor that the Commitments operate in practice as they were designed to – thereby supporting Openreach's greater independence.⁷
- 2.15 BT notified us of their intention to update section 13 of the Commitments to make it fit for a Cloud-based world as increasingly more systems migrate to the Cloud. It had found that the Commitments language on system separation did not translate well in a Cloud environment and had encountered various systems proposals which could have faced Commitments challenges if implemented without reviewing this point. We engaged extensively with BT on their draft proposal, prior to their notification to update the wording in the Commitments on systems preparation (section 13) to reflect BT's move to more cloud-based systems as BT and Openreach modernise their systems estate.

⁵ [Letter from BT to Ofcom re Commitments monitoring - 31 May 2024](#)

⁶ BT also informed us that in light of this change, they would update the Memorandum of Understanding to reflect the transition of BT's Commitments governance arrangements from the BT Compliance Committee (BTCC) to the BT Audit and Risk Committee (BARC) and the current way in which the OMU and CAO work together.

⁷ [Letter from Ofcom to BT re Commitments monitoring - 25 June 2024](#)

3. Performance against WFTMR requirements

- 3.1 Openreach's compliance with the regulatory requirements we imposed upon it in the [Wholesale Fixed Telecoms Market Review](#) (WFTMR) 2021-2026 is essential to achieving our objectives of promoting network competition and investment in gigabit-capable networks.
- 3.2 Our requirements also recognise the need to protect consumers' interests, including in relation to pricing and quality of service, particularly in a period while network competition is developing and in areas of the UK where network competition is unlikely to be viable.
- 3.3 A key focus of our monitoring programme is therefore the ongoing monitoring of Openreach's activities in relation to these requirements to ensure fair competition is playing out.
- 3.4 We also monitor progress against key WFTMR objectives of investment and competition. In the WFTMR, we said that we expected commercial deployments to deliver gigabit-capable networks covering at least 80% of UK premises by March 2026. Since 2021, there has been significant investment in deploying gigabit-capable networks by Openreach and many other companies.
- 3.5 As of January 2024, 80% of UK premises had access to a gigabit-capable network, with 62% of UK premises having access to a full-fibre network, up from 40% and 24% in May 2021. Full fibre coverage in each of the four nations has also risen well above 50%.
- 3.6 The sections below set out key areas of continued monitoring of the implementation of our WFTMR requirements to help ensure we remain on track to meet our objectives.

Physical Infrastructure Access ('PIA')

- 3.7 The PIA remedy is an important set of requirements within the WFTMR, to allow competitors access to Openreach's ducts and poles. PIA enables alternative network operators to deploy their own fibre networks, in competition with Openreach, faster and at a lower cost than deploying their own duct and poles.
- 3.8 Ofcom continues to recognise the importance of PIA as we seek to ensure that it works effectively for alternative network operators. We closely monitor industry working groups, working closely with the Office of the Telecommunications Adjudicator (OTA2), and we host a CEO level meeting dedicated to PIA issues every six months.
- 3.9 PIA is in a mature state, with over 100 active users making use of tens of thousands of kilometres of duct and hundreds of thousands of poles, and significant usage growth is projected.
- 3.10 The WFTMR places conditions on Openreach to ensure 'no undue discrimination' (NUD) is shown to PIA users. To ensure this, we require comparator data to be shared with us, and with industry, designed to highlight any discrepancies between Openreach's internal performance when using physical infrastructure and that of PIA users. We continue to engage with industry on the datasets that are needed to provide the transparency

necessary. Reflecting this, two new comparator metrics were added from June 2023, offering more granular insights into network adjustment timescales relieving capacity constraints in ducts and on poles.

- 3.11 Discussions about incident management have been a major focus in the PIA community over the past year, particularly due to differing levels of compliance amongst PIA users with certain provisions in contractual agreements with Openreach. Ofcom has engaged Openreach and others extensively on industry efforts to drive compliance, to ensure alignment with the regulatory framework.
- 3.12 A positive byproduct of this focus has been Openreach's adoption of a 'Graduated Response Framework' (GRF). This framework seeks to address the concerns of PIA users about the impact of Openreach's actions in response to contractual breaches, in particular the threat of regional suspensions from using PIA. The GRF sets out how Openreach will respond to breaches based on their impact and severity, seeking proportionate remedial steps to achieve requisite standards. The tiers clearly outline objectives for remedial action, leading to consistent engagement with PIA users.
- 3.13 In the course of our monitoring activity, we scrutinised the proposals to ensure they were sufficient and aligned with the existing regulatory framework and sought the views of PIA users. We are pleased that the GRF has been welcomed by PIA users and is already in use. Our continuing powers to enforce against Openreach for competition breaches provide further reassurance to industry.
- 3.14 We have heard concerns reported by PIA users relating to PIA systems and processes causing delays and additional cost to fibre deployment activities. We are also aware that PIA users have raised these concerns in their submissions to the Telecoms Access Review (TAR) 2026 and made proposals to improve the remedy. These issues will be considered as part of the review and, in the meantime, we will continue to monitor PIA product developments closely to ensure the PIA Conditions are being met.

Quality of service

- 3.15 It is also important that Openreach delivers its services⁸ to a reasonable standard and in the WFTMR we set quality of service (QoS) rules on it to achieve this.⁹ We monitor its performance against these rules and investigate where it does not comply.
- 3.16 On 18 March 2024 we concluded an own-initiative investigation into Openreach's compliance with QoS standards which we imposed in certain wholesale local access, leased lines access and inter-exchange connectivity markets for the year 2022/23. We found that Openreach had contravened its significant market power (SMP) conditions by failing to comply with three of the standards we had directed it to meet in that period.¹⁰ After taking account of the information gathered about the circumstances which affected

⁸ Ofcom's rules, set out in the WFTMR, include requirements on Openreach to comply with minimum performance standards on installing and repairing certain regulated network access products including metallic path facility (used to provide standard broadband), fibre to the cabinet (used for superfast broadband), ethernet leased lines and dark fibre (used for a range of high bandwidth applications). We did not impose QoS standards on FTTP services in the WFTMR, but we are reviewing this in the current Telecoms Access Review 2026-31.

⁹ [2021 WFTMR Volume 5: Quality of Service \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/wftmr/wftmr_vol5/wftmr_vol5.pdf)

¹⁰ [Investigation into Openreach's quality-of-service performance in leased lines access and wholesale local access in 2022/23 - Ofcom](https://www.ofcom.gov.uk/consult/condocs/wftmr/wftmr_vol5/wftmr_vol5.pdf)

performance in 2022/2023, and the steps taken by Openreach to comply with BT's QoS obligations under these circumstances, Ofcom decided to not impose a financial penalty or any other remedy in relation to these breaches.

- 3.17 We received concerns about the discrepancy, and perceived lack of transparency, between the key performance indicator (KPI) figures published on Openreach's website, and figures on Openreach's performance reported by Ofcom in its investigation. We have explained that the obligation on Openreach to be transparent about its service performance by publishing QoS KPIs on its website is inclusive of certain network access products and geographic areas which are not subject to QoS standards.
- 3.18 Openreach has reported meeting all its QoS standards for the year 2023/24 and we continue to monitor this area.

Exchange exit programme

- 3.19 Openreach plans to reduce the number of exchanges it provides services from in future. Currently Openreach leases space in c. 5,600 BT exchanges to provide services to CPs, and CPs can interconnect at any of these exchanges to pick up traffic. Openreach uses c. 1,000 exchanges - Openreach Handover Points (OHPs) – to provide nationwide coverage of fibre broadband services (FTTC, FTTP and G.fast). The remaining 4,600 exchanges are used to provide ADSL broadband and “legacy” voice services (WLR, MPF and SMPF). Most are also used to provide Ethernet or other leased line services.¹¹ BT Exchanges are therefore important parts of the UK's telecoms infrastructure.
- 3.20 In December 2020 Openreach began to discuss the long-term handover architecture of the Openreach network with CPs. Openreach has the ambition to exit 108 exchange buildings by December 2030 (including 3 pilot exchange exits), and a large majority of the remaining 4,500 non-handover exchanges in the early 2030s.
- 3.21 Openreach is currently undertaking a pilot of exchange exit and has consulted on various aspects of the next 105 exchanges to close.¹² In collaboration with OTA2, Openreach is involved in several industry forums under which issues relating to exchange exit are being discussed.
- 3.22 Alongside Ofcom colleagues working on the TAR 2026¹³, the OMU will closely monitor the industry processes surrounding exchange closures. In 2021, we recognised that it will be important for industry to have early notice of any such closures and that suitable products are made available so that they can rearrange their network(s) accordingly.¹⁴ We expect Openreach to continue to comply with existing access regulation across its product portfolio.

Openreach's engagement with stakeholders

- 3.23 Throughout the reporting period, the OMU has met with industry stakeholders to share information on the work the OMU does and seek input on what industry believe is going well, as well as listening to their points of concern. We have welcomed the open dialogue

¹¹ Openreach, [Exchange Exit](#). [accessed 20/05/24]

¹² Openreach, [Exchange Exit](#). [accessed 20/05/24]

¹³ This is our review of the regulations that will apply to the UK fixed telecoms markets from April 2026 until March 2031. See: [Telecoms Access Review 2026 - Starting work on the 2026-2031 review \(ofcom.org.uk\)](#)

¹⁴ Ofcom 2021. [WFTMR 2021, non-pricing remedies](#), 6.59.

with stakeholders and will continue building these relationships going forward. Our message to industry is that where concerns arise, these issues should be brought to us in real time so that we can proactively intervene where necessary.

- 3.24 In what follows below, we group the issues raised by stakeholders since our last report into two themes:

Communication between Openreach and Communication Providers (CPs)

- 3.25 Stakeholders have brought issues to us across a number of areas where their main concern has related to Openreach’s approach to negotiations with their customers, specifically their perceived reticence by Openreach to engage or discuss with their customers prior to announcing commercial decisions. Examples of this have related to Openreach’s approach to increase FTTP late cancellation charges, Service Level Guarantee (SLG) negotiations, and the deemed consent process for FTTP installations.

Operational processes and fair competition

- 3.26 Similarly, concerns have been raised by industry about Openreach operational matters and decisions. We have received reports about specific instances where CPs have felt that BT’s and Openreach’s decisions have left them at a disadvantage. For example, stakeholders have brought to us their concerns surrounding Openreach’s decision to not allow FTTP installations where the customer is identified as a telecare customer, even where a customer’s telecare service has been deemed compatible with VoIP (Voice over Internet Protocol) services. We understand from CPs that this has resulted in customer complaints. This is a complex area and we understand that recent discussions between Openreach and industry have progressed this issue positively.
- 3.27 We recognise that there are processes already in place to facilitate discussion and negotiations between industry and Openreach where issues arise, and we meet regularly with the Office of the Telecommunications Adjudicator (the OTA2) who keep us informed of these matters. Whilst we will review and monitor such issues when they are raised, we are satisfied that the majority of these matters can be resolved without our intervention. We are, however, ready to take action where we have evidence to suggest that Openreach is behaving anti-competitively or is not acting in the spirit or to the letter of the Commitments.

Electricity charges

- 3.28 In late 2023, a number of CPs raised concerns with us about Openreach’s charges for power in its co-location spaces. These concerns were based on comparison of other electricity pricing metrics which, in the view of relevant providers, appeared to suggest Openreach’s prices were too high.
- 3.29 As part of our annual compliance monitoring, Openreach is required to provide a schedule (AFI 22) as part of its Regulatory Financial Statements. This allows us to monitor the ‘basis of charges’ condition (Condition 62)¹⁵ imposed on Openreach and the requirement that Openreach pass through electricity at the cost it incurs, plus an appropriate mark up to reflect its costs.

¹⁵ [2021 WFTMR Volume 7: Legal instruments \(ofcom.org.uk\)](#)

- 3.30 As part of our normal process, we carefully reviewed the annual AFI 22 for the year to March 2023 and found no evidence to indicate a breach of the requirement. However, considering the concerns raised, we asked Openreach for some additional information relating to how Openreach sets its charges. Openreach provided us with a comparison of what was charged and the actual costs over the last four financial years – allowing us to understand the size of any variations. Based on this, there was nothing to suggest that the amounts charged by Openreach were inconsistent with the "basis of charges" condition.

Fibre 'overbuild'

- 3.31 Since our last report, industry stakeholders have raised further concerns about potential anti-competitive behaviour relating to specific instances concerning the timing of Openreach announcing fibre build plans in areas where competitors have announced their own build plans, resulting in 'overbuild' of their network.
- 3.32 We have previously looked at concerns raised with Ofcom associated with Openreach's fibre build, and in November 2022, we published an open letter setting out our position on the concerns raised.¹⁶ In that letter, we set out that we would continue to monitor Openreach's build plans and decisions, including assessing specific examples where there were concerns about the impact of Openreach's decisions. Given further concerns, we have engaged with Openreach again and its approach to these decisions remain as it was in 2022 where we found no evidence that Openreach was targeting competitors or making decisions that were not commercially rational.
- 3.33 In our letter we also explained that, given Openreach's plan to deploy fibre to more than 80% of UK premises, it was likely that it would at some point build in areas where other providers were either active or planned to be active. Since that point, Openreach has announced further tranches of build approaching that overall plan and we recognise that those announcements are capable of raising concerns. We take those concerns seriously and we will seek assurances from Openreach in relation to any such issues.
- 3.34 For example, an alternative network provider raised concerns with us about the timing of an announcement from Openreach which followed closely the announcement of their successful securing of a bid for public funding in that same area. The evidence we secured from Openreach demonstrated that it had both planned to build in that area for several years and had confirmed that build choice a number of months before the public funding contract was awarded.
- 3.35 In all of the cases we have looked at, we have not seen any evidence of Openreach strategically targeting areas where competing networks have built or plan to build to harm competitors or deter rollout in wider areas. The evidence we have seen has not found any suggestion that Openreach's build decisions are not commercially rational, and we are satisfied with the explanations behind build decisions given to us when we have asked Openreach about these. We do however recognise that there remain substantial industry concerns about overbuild and we will continue to monitor these matters closely.

¹⁶ [Open letter re Openreach build \(ofcom.org.uk\)](https://www.ofcom.org.uk/consult/condocs/openreach/openreach_build/openreach_build.pdf)

4.Looking ahead

- 4.1 The role and work of the OMU is as important as ever as we head into year eight of the Commitments. We remain particularly vigilant that compliance with the rules of the WFTMR and the Commitments is embedded in the actions, behaviour and culture of all involved. This is crucial to avoid any complacency.
- 4.2 The OMU will continue to monitor whether BT and Openreach are acting in accordance with, and in the spirit of the Commitments, and we will continue to hold Openreach to account in ensuring it continues to respect fair competition and operates with strategic independence from BT Group.
- 4.3 We will continue having open dialogue about competition concerns and encourage stakeholders to bring issues to us where they are concerned. Over the last monitoring period we increased our engagement with industry stakeholders, and we intend to continue this going forward. We are keen to ensure that we can proactively address issues or concerns about compliance or anti-competitive behaviour in real time.
- 4.4 We recognise the importance of the work of the OMU in ensuring fair competition and in the build up to the next fixed telecoms review, the Telecoms Access Review (TAR) 2026, and we will work with Ofcom colleagues to feed back concerns and issues brought to our attention through our monitoring activities.