

Reference: 01420181

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14 March 2022

Freedom of Information: Right to know request

Thank you for your request for information in relation to unbundled local loops. We received this request on 14 February and have considered it under the Freedom of Information Act 2000 ('the Act').

You asked 14 questions that are addressed below.

Our response

1. *Can you confirm that Ofcom opposed the individual taxation of unbundled local loops? If so, could you point to a link of the Ofcom replies to the consultations?*

Our responses to the 2005 and 2007 Government consultations on Local Loop Unbundling are summarised in the following documents:

- a. [2005 LLU Consultation](#)
- b. [2007 LLU Consultation](#)

2. *If they had been taxed, does Ofcom have an estimate of what the level of tax would have been per annum?*

Ofcom does not hold this information.

3. *Can you confirm the regulated annual rental value per loop from around 2006 until say, 2017?*

We take 'regulated annual rental value' to refer to the annual regulated charge we set for Metallic Path Facilities (MPF) rental as part of our market reviews. These are set out on Openreach's LLU Price list¹. The price from 1 April 2005 up until MPF was price controlled on 1 August 2008 and was £80²

¹ [LLU Openreach carrier price list](#)

² [2005 LLU Statement \(para 1.5\)](#)

4. *Can you provide the number of unbundled local loops in 2017?*

As of 31 March 2017, Openreach had 9,041k Fully unbundled physical lines (MPF)³

5. *Can you provide a breakdown of the cost stack associated with the loops, showing the allocated amount of business rates from the BT Cumulo assessment, even if approximate?*

We assume you mean the MPF rental cost stack for 2017. The cost stack for MPF rental in 2017 is set out on in BT's 2017 RFS⁴. Whilst the cost stack does not provide a breakdown for Cumulo in 2017, the figure allocated within the 2018 Cost stack per the 2019 RFS was £3.37⁵.

6. *We understand that in order to use ULL, an operator would normally rent rack space in a BT exchange. Can you confirm whether that price was or is regulated or not?*

'Rack Space' has always been included within the regulated co-mingling basket and as such its price is regulated. It is however the overall level of the basket that is price controlled allowing BT to move prices for individual services within the basket subject to the overall basket constraint. Services within this basket are listed in BT's non confidential pricing model⁶.

7. *Can you provide a price per square metre of exchange space at say 2016 and whether and when it changed?*

As can be seen in BT's non confidential pricing model (see Q6 above), whilst some co-mingling services were priced using a space dimension, there has not been a standard price per square metre – e.g., HDF Cabinet racks are available in width- 800mm or 600mm x depth – 800mm or 600mm. As noted in Q6, BT has the freedom to change prices, including services based on space, subject to the overall basket control (e.g., in 2017 the control this was set at RPI + 3.5%).

You can obtain a time series of prices from:

- Openreach's co-mingling price lists⁷
- BT's non confidential compliance models (Fn 3) for 2015 onwards

8. *Can you confirm when these leased lines started to be regulated?*

The first price control imposed on leased lines was imposed by Oftel in 1989⁸ Ofcom first Statement on leased lines was in 2004 building on work started by Oftel the previous year⁹

³ [Q4 2016/17 results - KPIs](#)

⁴ [BT's 2017 RFS - page 32](#)

⁵ [BT's 2019 RFS - page 57](#)

⁶ [BT's LLU WLR non confidential pricing model 2016-17](#)

⁷ [Openreach's LLU price List](#)

⁸ [Oftel - Price Setting from 1997 - para 1.40](#)

⁹ [2004 Leased lines Statement](#)

9. *What was the initial regulated price, has this changed, and if so, to what level?*

Leased lines services have been regulated within wide baskets as set out in our various Statements¹⁰ published in 2004, 2009, 2013, 2017 (which superseded the appealed 2016 BCMR), 2019 and 2021 and as such we have not set 'initial prices' for these services.

The nature of leased lines services has changed significantly since 2004 due to new technology and market changes (both geographic and product). As a result, a consistent time series of prices throughout the period for leased lines does not exist. However, you can obtain a time series for individual leased line services, e.g., EAD 1G from the following sources;

- Openreach's historic prices for Ethernet leased Lines are on their website¹¹ (historic TISBO prices are no longer published as they are no longer regulated).
- Prices for all regulated leased line services since 2015 (Inc TISBO) can be found in BT's non confidential price control models (see Fn 3).
- BT's RFS has the regulated prices for major leased lines services going back to 2012¹²¹³

10. *Can you say how many such lines were used by BT itself and other operators in 2017?*

Internal and external leased lines volumes for major services are set out in BT's 2016/17 RFS¹⁴ (pages 45-46, 58-59 and 70-71).

11. *Can you confirm that you had access to the redacted number of BT's cumulo allocation to fibre leased lines as per Table 4.3 of the CMA Determination?*

Ofcom did have access to the information redacted from Table 4.3 of the relevant decision.

12. *Do you agree with the conclusion at para 4.77 and that the NDR differential favours BT and inhibits the take up of 1 Gbps fibre services by smaller operators due to the rates burden?*

This question asks for a view rather than information held and is therefore not a valid request under the Act.

13. *Can you confirm that Ofcom did ask Government to change the rating legislation and treat BT as the occupier of all fibre rented out to other operators?*

¹⁰ [Ethernet and Leased Lines landing page](#)

¹¹ [Openreach's Ethernet Price List](#)

¹² [BT's published RFS](#)

¹³ There will be differences between the sources as Openreach's price list shows the spot price, the non-confidential pricing models show the spot prices and average over the compliance period (which may or may not be consistent with the financial year) whilst the RFS prices are averaged over the financial year.

¹⁴ [BT's 2016/17 RFS](#)

In respect of Dark Fibre, Ofcom did ask “Government to consider ways to ensure that current rules for levying non-domestic rates do not frustrate our design of regulated dark fibre access. Our recommendation is that the rating rules be amended so that BT would pay the rates for the dark fibre circuits which it provides to other CPs under Ofcom's regulations”¹⁵

14. Can you confirm which department refused to implement this request, and what reason was given?

As explained above, we asked government to consider ways to ensure that the current rules did not frustrate our design of regulated dark fibre access. We met with members of Department for Communities and Local Government to discuss this. We do not hold information on subsequent assessments made by Government.

If you have any queries, then please contact information.requests@ofcom.org.uk. Please remember to quote the reference number above in any future communications.

Yours sincerely,

Eleanor Scott

¹⁵ [2016 BCMR Annexes para A23.111](#)

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact information.requests@ofcom.org.uk.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, the Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire

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