

1. I recognise that a number of BT's competitors are dissatisfied with the present situation and are calling for removal of BT's Openreach (or part of BT similar in extent) into a separate company. I believe that a major part of the dissatisfaction is attributable to poor quality of service in BT's provision of basic services, particularly delays in provision and, to a lesser extent, fault repair. I also believe that bringing about an improvement in such quality of service should be a strong priority for Ofcom. When I was at Oftel, I introduced some financial incentives for improvement of some aspects of quality of service and these had a noteworthy effect. I do not know the exact state of such incentives currently but they are evidently not sufficient. Poor quality of service in telecoms causes significant economic losses for the UK. I recommend that Ofcom should impose financial penalties on BT for poor service, commensurate with the economic costs involved, where this can be justified by the extent of BT's market power. Where possible, the penalties should accrue to the benefit of the customers affected by the poor service.

2. I will not give a view on whether separating Openreach from BT would be beneficial. I do not have the resources to undertake a full assessment of the costs and benefits of such a move. I know that Ofcom will carefully assess the "psychological" benefits for competitors, as well as the costs of possible disruption, dangers of sub-optimal development of the network and so on. I do however want to make one point about the costs and benefits of separation. I do think that separation would be unlikely to put to rest concerns about fair treatment of BT's retail competitors. I predict that allegations of favouring the biggest customer would quickly arise if Openreach were hived off. An organisation like EAB would be needed to deal with these allegations.

3. I next want to say that I agree with EAB's submission to Ofcom, regarding this review. I think that EAB has had a large measure of success in bringing about and demonstrating equal treatment by Openreach of BT's retail operations and BT's retail competitors. Its being located inside BT and having EAO as its secretariat have proved to be strong advantages. The undertakings that established EAB need bringing up to date for technological changes and perhaps strengthening in a few respects but the fundamental structure should be continued whatever decision is made about hiving off Openreach.

4. The decision on whether a universal service obligation should be established for broadband should really be decision for Government because it may involve economic transfers among members of the population. I believe that establishment of such an USO is desirable. In deciding what speed should be called for and the extent of the obligation, regard should be had to the finding of the work by Actual Experience that beyond some relatively low level, increases in broadband speed do not significantly improve customer experience. I also believe that there should be a revisiting of the permitted extent of geographical de-averaging of prices. People living in rural areas experience complex differences in prices from people living in urban areas. They enjoy cheaper accommodation, but pay more for many basic supplies. It is not clear to me that the current constraints on rebalancing of prices are optimal.

5. I conclude by urging Ofcom to maintain a strong emphasis on the encouragement of competition through the structure of regulation. Of course, economies of scale limit the feasibility of competition in relatively sparsely populated areas, most strongly for cable-based networks. However, where it is feasible, competition is likely always to be better than

regulators at encouraging operating efficiency and technical innovation and its promotion should continue to be a main weapon of regulators.

Sincerely,

Bryan Carsberg