

Digital Communications Review – a response from the Advisory Committee for Wales

The Advisory Committee for Wales discussed the review at its last meeting and a number of points were raised to be submitted to the consultation.

1. Competition policy and availability - The review should cause Ofcom to be clearer in establishing the commercial boundaries of competitive markets so that it is easier for state aid rules to be applied and hence availability provided to citizens and businesses in usually rural areas by the public purse. A finite period for commercial provision is reasonable but a time limit after which areas with precise boundaries are designated uncommercial and hence open to state aid is the key to availability. A set of mutually exclusive market definitions could help analysis (is a remote Welsh farm part of the market for broadband?)

2. Competition, quality and price - The review treats markets on a bureaucratic framework rather than a customer perception. Phone calls are a single market not two separate markets of fixed and mobile and should be analysed in toto. The mix of competition is then different.

The review does not explicitly analyse the barriers to entry to each market and consequent diminishing of competition. The barriers can include licence protection, bundling of services, lack of reciprocity obligations on all parties and unequal interconnect terms of trade.

The quality of service issue is not fully explored. The two most powerful factors in communications are peak traffic capacity management and reliability (fault volume) and should be assessed for each market.

Inevitably, such an approach should define and should consider the competitiveness of each separate market in the end to end chain and the entry barriers alongside the delivered quality and price.

Ofcom should be intervening to tackle the barriers in each and every stage of the end to end chain to redress the balance of supplier power.

Openreach is identified as a separation issue because of service issues and investment concern.

The quality of service issue needs careful study because there is evidence that Openreach may be giving bad service to all customers, be it BT or a competitor. The reason being cutting labour costs and not focussing on reliability, particularly current account maintenance and quality of workmanship. It could be argued that Openreach has been able to deliver bad service because Ofcom has not intervened soon enough or firmly enough and hence the problem solution is not separation but a tougher regulated regime. There is no intrinsic justification for poor service.

Openreach has a copper network and deployed a very large commercial fibre network (and subsidised rural fibre network). A separate company's natural approach would be to sweat it for profit, particularly given the absence of regulated capacity and reliability performance standards.

Another side effect of separation would be the introduction of another link in the chain which could provide endless opportunity for customers to be bounced around between different organisations as each claimed the other was at fault. The retention of an end to end provider in a market can be healthy for consumers provided they cannot cross subsidise.

Openreach's significance as a market component needs to be assessed against the growth of mobile/cable and other network expansions. Alternatives are more significant and will grow in significance.

3. Deregulation/simplification - selecting policy instruments which diminish barriers to entry prevent cross subsidy by all players equally and provide open interconnect particularly for small players and then let the market rule may avoid more detailed regulation.

John Davies

Chairman, Advisory Committee for Wales

5 October 2015