

### **Additional comments:**

My first-hand experience of regulation enabling a fair playing field is that personal friendships between BT and Openreach and a perceived benefit to staff in Openreach from being biased towards BT orders and deliveries makes fairness impossible at the practical level. That is to say I have seen and heard Openreach staff behave in a way that is biased imo towards BT. Further I have witnessed competition being unfair in that customers perceive that going to BT will in some way be of benefit because of their relationship with Openreach. In both aspects this is not a fair and open market in which to compete.

**Question 1: Do stakeholders agree that promoting effective and sustainable competition remains an appropriate strategy to deliver efficient investment and widespread availability of services for the majority of consumers, whilst noting the need for complementary public policy action for harder to reach areas across the UK?:**

Yes

**Question 2: Would alternative models deliver better outcomes for consumers in terms of investment, availability and price?:**

Yes for example making Openreach a Government controlled and managed entity might force fairness and a basis for the proper investment in infrastructure badly needed now. Giving a non-commercial slant to the provision of Broadband infrastructure would enable new competition to open up in provision and services to remote customers. It would promote a thorough review of delivery times taking into consideration the technologies involved and the ability for on-line customers to largely make provisions themselves in real-time with no need for admin staff.

**Question 3: We are interested in stakeholders' views on the likely future challenges for fixed and mobile service availability. Can a 'good' level of availability for particular services be defined? What options are there for policy makers to do more to extend availability to areas that may otherwise not be commercially viable or take longer to cover?:**

Yes - Taking the view that delivery infrastructure is Govt responsibility like roads would enable a 'whole' solution approach to be taken to provide 100% coverage of the UK using existing technologies and with good economies of scale. For example 3G could provide the basis for a minimum outdoor signal strength and speed standard. Then the resident in the UK has equal benefit. There is actually very little addition to the overall cost to cover everyone compared with 90% if you consider alternative wireless technologies available today.

**Question 4: Do different types of convergence and their effect on overall market structures suggest the need for changes in overarching regulatory strategy or specific policies? Are there new competition or wider policy challenges that will emerge as a result? What evidence is available today on such challenges?:**

Yes. When I try to complain about marketing a broadband media deal each regulator uses the other as an excuse for being unable to act. A new joined up regulation that looks at the product as a whole deal and the way it is marketed can make regulation decisions about fairness and openness to competition. The evidence is in my own diary of complaints and responses making the complaints unable to be followed up.

**Question 5: Do you think that current regulatory and competition tools are suitable to address competition concerns in concentrated markets with no single firm dominance? If not, what changes do you think should be considered in this regard and why?:**

NO. The regulator needs direct control over base infrastructure while allowing access to the buildings and wiring in a managed fair way. This then enables the UK to be guided by budget and technologies independent from the suppliers able to fulfil the service needs. Further it allows regulation of such things as web-sites promoting terrorism, illegal pornography and illegal gambling or phishing to UK residents. As a basis for the long-term UK residents should expect protection from these things - threats. Only in exceptional circumstances should access to such sites be allowed on a justification basis not user choice or left to the malware writer to exploit the openness of UK. UK ISPs could do this by subscribing to a UK regulator filter-set type approach. IE Gov't filtering and control of the Internet is needed to enable competition at the service level.

**Question 6: What do you think is the scope for sustainable end-to-end competition in the provision of fixed communications services? Do you think that the potential for competition to vary by geography will change? What might this imply in terms of available regulatory approaches to deliver effective and sustainable competition in future?:**

The data infrastructure includes fixed and wireless. It is utterly useless to consider them separately. The the smart phone for example; the user can be connected to his docking base on his computer, at the same time wireless WiFi and GSM plus have 3G connections. It would be like asking one regulator to do motorways, another dual carriageways and another to to A-roads utterly useless waste of having three departments and they would all be run ragged. Product centric regulation is the only answer. IE what ever the suppliers come up with in terms of products to sell as services the regulator adjusts to accommodate and consider how best to ensure fair competition. EG selling broadband with TV needs a comparison of how open this is to other suppliers and there are major barriers to any supplier wanting to do this - it is clearly unfair and should be sold as two distinct products or the media sources regulated to encourage shorter term partner deals and greater bidding and sharing of rights such as minimum five winners to distribute any media source such as F1 or Rugby or Olympics in the UK.

**Question 7: Do you think that some form of access regulation is likely to continue to be needed in the future? If so, do you think we should continue to assess the appropriate form on a case by case basis or is it possible to set out a clear strategic preference for a particular approach (for example, a focus on passive remedies)?:**

Yes. Case by Case basis as technology evolves so rapidly.

**Question 8: Do you agree that full end-to-end infrastructure competition in mobile, where viable, is the best means to secure good consumer outcomes? Would alternatives to our current strategy improve these outcomes, and if so, how?:**

No, Again having variously loaded infrastructure at several locations covering the same people is clearly wasteful and adding to the cost paid by the public and business. Creating a coverage net that delivers capacity that can be shared offers an alternative that is both economic and open to competition to overlay services that operate through this. It then provides for a single joined up solution that covers 100% population at a reasonable cost.

**Question 9: In future, might new mobile competition issues arise that could affect consumer outcomes? If so, what are these concerns, and what might give rise to them?:**

Operating systems are no longer a platform on which services are provided. Today the operating system alone on a device has value in terms of providing up-to-date information on it's surroundings. This data is of such value that the operating system is offered free from the leading vendors. Further - the information gathering in the future has almost unlimited potential to circumvent traditional barriers using device to device communication for example. For the consumer and unregulated device will be infringing personal rights and security measures without restrictions using everything on the device - camera audio, wifi etc all encompassing. Regulation is needed to retain the product benefits over and above manufacturers ambitions.

**Question 10: Does the bundling of a range of digital communications services, including some which may demonstrate enduring competition problems individually, present new competition challenges? If so, how might these issues be resolved through regulation, and does Ofcom have the necessary tools available?:**

Yes the bundling of service does present new challenges. No the regulator nor Ofcom does not have the tools needed because it is the bundling that makes for an unfair market place. In matematics we take the extreme example to test a hypothesis. In this case an extreme example would be a provider bundling complete personal services from transport to voice to TV to hair care etc... Clearly there is a finite limit beyond which bundling is not in the interest of competition and the customer. The regulator and Ofcom need tools to determine what constitutes a fair 'bundle' and it might be by 'customer preference' IE a customer poll of what they would like to see bundled and unbundled puts the power back into the customer's hands. There needs to be a Gov't tool to do this.

**Question 11: What might be the most appropriate regulatory approaches to the pricing of wholesale access to new and, risky investments in enduring bottlenecks in future?:**

The risk Vs reward strategy in market economies has always worked in favour of the consumer and so it should remain. So the approach should be to support new initiatives keeping the door open for fair competition at a later stage while letting the early adopters give the first to market the necessary reward to want to take the risk.

**Question 12: How might such pricing approaches need to evolve over the longer term? For example, when and how should regulated pricing move from pricing freedom towards more traditional charge controls without undermining incentives for further future investment?:**

A simple time constraint should suffice a bit like the patent protection so the first to market get exclusivity up to launch. Then they get one two or three years with no competition depending on up-front investment and payback expectations. Once the investment is paid back the risk-taker should have a period of time during which they can consolidate and reap the benefit of being first to market. In a case where several want to share the risk then the approach is shared equally all through. An upper limit of 5 years investment protection should suffice as the technology returns on investment can easily offer great advantage in this period of time.

**Question 13: Are there any actual or potential sources of discrimination that may undermine effective competition under the current model of functional separation? What is the evidence for such concerns?:**

The use of criteria for supplier selection that are based upon experience in a particular market are discriminatory. With most technologies today the entry level of experience for a new supplier to be competent is very short and the risk of an experienced supplier failing are high. This easily exploited experience based criteria needs replacing with a more competency based score based on the individuals in the teams involved and to be committed to the project not the 'brand' reputation score. This was seen most clearly in the German investment in a new International airport. While the reputation of the 'brand' suppliers was without question, imo the team applied to delivery did not have the requisite skills and leadership competence to deliver what was needed.

**Question 14: Are there wider concerns relating to good consumer outcomes that may suggest the need for a new regulatory approach to Openreach?:**

Yes. There is no getting away from Openreach having been derived from BT. There is no denying the procedures and policies Open reach use are based on Policies first drawn up when it was one company BT. There is no denying the technology strategy employed by Openreach is effectively signed off by their biggest sponsor BT. There is no question BT research at Martlesham Heath is still the preferred route for all initiatives and improvements rolled out by Openreach. Most staff go through training still based around that given when BT was one company. To all intents and purposes the staff customers meet are seen as BT staff with an Openreach branded van and tee-shirt. It will never be enough to try to regulate this part of the delivery infrastructure while it is closely tied to one of the suppliers. I would go so far as to say imo it has been a major hurdle to the UK economy and held the UK back from being a major World player in the technology arena. 3G was delayed by 10years for example.

**Question 15: Are there specific areas of the current Undertakings and functional separation that require amending in light of market developments since 2005?:**

The delivery of fibre to cabinet funded by the Govt and being rolled out to a programme to 2020 is grossly inadequate and has perverted the delivery of fast cheap broadband to business. It is ridiculous that a business in London has to pay &#pound;800/month for a service the public living in a house down the road pay &#pound;50/month for. This type of anomaly should be impossible yet Openreach have managed it. The situation for businesses in the countryside is even worse where a farm finds it hard to get enough bandwidth to comply with regulations yet a neighbour streams live HD 3D TV. We need a joined up approach to providing broadband to properties in an area and actively prevent this selective discrimination against those currently paying high tariffs getting cheaper options made available.

**Question 16: Could structural separation address any concerns identified more effectively than functional separation? What are the advantages and challenges associated with such an approach?:**

NO. Although forcing each supplier to invest in structure might be an option if we were starting from scratch - we now have a great investment in infrastructure while technology trends is to lower power, smaller, more efficient centrally managed equipment from only a few suppliers. Actually now it should be the time to converge physical layers bringing structural compliance into ever greater and narrower standards until the next revolutionary technology leap. There is one exception and that is resilience - there does need to be a planned natural resilience in the physical infrastructure to protect the UK from single points of outage causing total blackout.

**Question 17: What do stakeholders think are the greatest risks to continuing effective consumer engagement and empowerment?:**

Bundling disparate products like phone hardware, TV devices and media such as programs and paid for services. Is narrowing customer choice and reducing the impacts of freedom of choice on price and availability. Lack of investment in BBC as the standard by which others are judged is allowing an ethos of repeats, gambling and adverts to dominate alternative channels and get viewed by more and more people searching for good media. It also means the BBC can not compete with closed deals that dictate channel number and service offerings on it's own bundled devices. On this trend it would be quite conceivable for one broadband supplier to make the viewing of channels it was not sponsored by almost impossible then others would follow. The regulator needs to be able to allow competition in program making from grass roots up. To allow competition in how people access the Internet so device manufacturers compete. The regulator needs to be able to regulate software environments such that developers can develop value added services and features over many platforms and compete.

**Question 18: What indicators should Ofcom monitor in order to get an early warning of demand-side issues?:**

Just one #tag so customers know where to go. I think Twitter or facebook should be core with regulation pages set up just has several businesses have now done.

**Question 19: What options might be considered to address concerns about consumer empowerment at each stage of the decision-making process (access, assess, act)? What more might be required in terms of information provision, switching and measures to help consumers assess the information available to them? What role may Ofcom have to play compared to other stakeholders (including industry)?:**

Providing regulated service like 'checkatrade' style service where the public are encouraged to write up their experience with the suppliers and others can make informed choices. For example this survey is way too long - it needed to be broken down into chunks that provide focus and clear goals.

**Question 20: Are there examples in competitive or uncompetitive sections of the market where providers are not currently delivering adequate quality of services to consumers? What might be causing such outcomes?:**

There are many examples the one most noticeable is leased line. Where a business need faster internet the leased line option is the only choice on exchanges not upgraded. However to upgrade a line to a client Openreach has a long list of hurdles to overcome. There is no fixed time-frame for completing these and businesses are left waiting many weeks months or even a year for this work to be completed. The cause is the perception that such works are to be scheduled into the programme of works to 2020. The regulator has in effect put all other work on a go-slow with Openreach avoiding the cost of moving teams from their programmed work until it suits the committed work. Terrible terrible management of resources and awful customer perception yet absolutely no way around the single source monopoly held by Openreach for leased line customers.

**Question 21: What further options, if any, should Ofcom consider to secure better quality of service in the digital communications sectors?:**

Ofcom should consider number porting to be a much quicker process and put constraints on such that the current and the new provider have to act within a few days in an automated way not needing human intervention unless the process fails. Ofcom could provide a verification service so once a person registers with the service it returns the security encryption unlock key similar to SSL and HTTPS type solutions. A centralised UK service to a leading standard could be used for validations over many applications and devices independent of Operating system and suppliers etc...

**Question 22: Might there be future opportunities to narrow the focus of ex ante economic regulation whilst still protecting consumers against poorer outcomes?:**

Yes after current Govt driven initiatives using Openreach there will need to be actions to prevent stagnation and reliance on existing copper cabling to those areas classed uneconomic. In all cases there will need to be funding made available to provide an alternative coverage.

**Question 23: Where might future network evolutions, including network retirement, offer opportunities for deregulation whilst still supporting good consumer outcomes?:**

Local wireless broadband has potential to offer localised solutions if deregulated. So for example a private individual might install leased line then offer this to people in the vicinity as a business venture. It should be possible for this person to get commercial rates for the data as well as expand their network over the land and through the homes of others by some de-regulated means.

**Question 24: What are the potential competition and consumer protection implications of the rise of OTT services? Might the adoption of such services enable future deregulation without raising the risk of consumer harm?:**

The opportunity for OTT services has always been there and suppliers acting alone is an openly competitive situation with no cause for concern until we consider the supplier is not independent. In this case there is leverage from the supplier's other products to the point where the customer may have no choice or be given pre-installed OTT solutions. Protecting the consumer is particularly hard as the OTT channel is able to carry not only the advertised and agreed product/services, but also do pretty much anything the supplier wants and is able to do interacting with the operating system. On android for example Whatsap can access almost everything on the device.

**Question 25: Are there any areas where you think that regulation could be better targeted or removed in future? What would be the benefit of deregulation as well as the main risks to consumers and how these could be mitigated? Please provide evidence to support your proposals.:**

Regulation of ISP and the uk domain name registrar Nominet is working effectively, but on core required items like a phone number and a .uk address there needs to be some retention of price control. I.E. it should not be possible for the customer to be presented with a price less than cost as this represents a supplier acting in an anti-competitive way. Gaining funding or venture capital to offer products at short-term low-prices so as to kill competition rather than compete by actually keeping costs low, being efficient, putting effort into making their service better than others. Right now there are suppliers advertising on TV at prices below cost from Nominet or Openreach. This principle of 'base price' could be applied to other technology areas where big suppliers unfairly use their capital and borrowing power to act not in the interests of consumers.