

CRITERION ECONOMICS

J. Gregory Sidak
Chairman, Criterion Economics

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October 2, 2015

Ms. Tanja Salem
Principal
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Re Strategic Review of Digital Communications

Dear Ms. Salem:

We understand that Ofcom is conducting a review of the United Kingdom's markets for digital communications. We also understand that this review is considering policy challenges regarding issues such as investment and innovation, competition, empowering consumers and businesses, and targeting regulation where necessary, while deregulating where possible.

We include brief biographies for your convenience:

- J. Gregory Sidak is the founder and chairman of Criterion Economics, LLC in Washington, D.C. He is also a founding co-editor of the *Journal of Competition Law & Economics*, published quarterly by the Oxford University Press since 2005. For more than three decades, he has worked at the intersection of law and economics. He has held academic positions at the American Enterprise Institute for Public Policy Research, Yale, Georgetown, and Tilburg (The Netherlands). As an expert economic consultant, he has advised more than thirty telecommunications and media companies on antitrust and regulatory matters in North America, Europe, Asia, and the Pacific.
- Andrew P. Vassallo is an assistant professor of economics at Shippensburg University. He holds a Ph.D. in Economics from Rutgers University, specializing in Industrial Organization and Microeconomic Theory. He also holds a J.D. from George Mason University, where he was a Robert A. Levy Fellow in Law and Liberty. He has published articles that analyze the telecommunications industry. He also has consulting experience related to telecommunications markets in North America, South America, and Europe.

We are writing this letter to request that Ofcom include a published article of ours in the record of public comments. This article, *Did Separating Openreach from British Telecom Benefit Consumers?*,¹ was published in *World Competition*, a peer-reviewed academic journal published by Kluwer. As the title of the article suggests, we econometrically analyze whether the functional separation of Openreach from BT increased consumer welfare since 2005, the year of the separation. The article considers both short-run and long-run effects on consumer welfare.

Some of the important findings include:

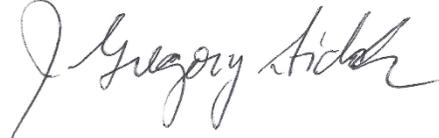
- Using member countries in the Organization for Economic Cooperation and Development (OECD) as a benchmark, we estimate the effects of the functional separation of Openreach from BT on different telecommunications markets. We find that prices for broadband and residential fixed-line telephone prices in the United Kingdom are lower than expected. Our results suggest also that Openreach's functional separation has led to increasing demand for fixed-line voice services, but decreasing or slower growth in the demand for broadband services. In the short run, it appears that the functional separation of Openreach from BT, in its first ten experimental years, has achieved its goals of lowering prices for both broadband and fixed-line telecommunications services.
- The lower prices achieved in the United Kingdom have come at a cost. Although functional separation has offered short-run benefits to U.K. consumers in the form of lower prices, investment in next-generation networks is lagging in the United Kingdom compared with comparable countries. This result is consistent with our empirical finding of lower-than-predicted demand for broadband services.
- We found that Openreach's functional separation did not lead to an increase in the United Kingdom's competitiveness in telecommunications. The United Kingdom's broadband speed is underperforming comparable countries, particularly in the case of technologies providing faster connections, and the decrease in telecommunications investment suggests that this situation will not change in the near future.
- On balance, we do not conclude that the functional separation of Openreach from BT was a regulatory success for consumers in the United Kingdom. Although functional separation has offered short-run benefits to UK consumers in the form of lower prices, investment in next-generation networks is lagging compared with the rest of the world. Put differently, Openreach's creation generated short-run consumer benefits in the form of lower prices but also led to negative long-run effects, which outweighed the short-term price reduction.

1. J. Gregory Sidak & Andrew P. Vassallo, *Did Separating Openreach from British Telecom Benefit Consumers?*, 389 *WORLD COMPETITION* 31 (2015).

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For the foregoing reasons, we believe that it would be beneficial for Ofcom to include this article in the record of public comments. We submit this letter and the accompanying article in our individual capacities. No company or organization has commissioned or requested us to make this submission.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Gregory Sidak". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

J. Gregory Sidak
Chairman
Criterion Economics

A handwritten signature in black ink, appearing to read "Andrew P. Vassallo". The signature is more formal and blocky than the one above, with a clear "A" and "V" at the beginning.

Andrew P. Vassallo
Assistant Professor
Shippensburg University