

Response to Ofcom's Consultation entitled:

Promoting investment and competition in fibre networks  
Wholesale Fixed Telecoms Market Review ("WFTMR") 2021-26

By

**Connect Fibre;  
A new true open access fibre operator deploying networks in rural  
Cambridgeshire and rural Nottinghamshire**

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### **Background**

Connect Fibre, and many alternative operators like us ranging in size from the very small to the quite substantial, could not be in business to the degree we are without the generally supportive regulatory changes that Ofcom has made in the last few years.

Of particular importance to us is PIA which, although it only became effective in this country several years after the equivalent measures in countries like Portugal, is at least now starting to function. Portugal and other countries with effective PIA have seen fibre booms which continue as altnets keep growing. The UK is at last able to start the same process and the pace of activity and investment is now accelerating almost weekly..

### **Area 2: Something Fundamental Missed re Future Copper Price Trends**

Notwithstanding Ofcom's observations in paras 1.16-1.22 and other parts of the document (particularly statements such as in 1.57) re relative prices for copper v fibre, we feel something has been missed in the concept of a flat (real terms) price trend.

We agree with the general observation that copper prices should be high to reflect true costs and indeed in the FTTH Council report of 2013 by Stefan Stanislawski, it was explained that the only logical regulatory response to a copper switch-off in progress is to ensure that the higher maintenance costs and falling asset utilisation are at least fully - perhaps more than fully - reflected in prices so as not to distort or undermine investment in new (cheaper and better) fibre plant.

There seems to be a great deal of complicated modelling underlying the Ofcom recommendations but somehow the basic point that copper prices must rise as the switch off progresses has been lost. We agree with Ofcom's various comments that copper prices must rise to reflect:

- The economic reality of rising maintenance costs;
- Falling copper asset utilisation;
- Stimulate fibre investment (fibre is better and cheaper).

In Ofcom' Area 2 proposals copper pricing at best is to be flat in real terms, if we have interpreted the document correctly. Surely given the scale of the migration expected they should be rising something like 5% pa in the not too distant future?

Presumably the idea is to "protect" consumers but this measure will simply lock customers into an inefficient local monopoly when many would otherwise have had the choice of a new and much more efficient altnet.

We recognise that the idea of raising copper prices would in the short-term be seen as rewarding Openreach for its lack of activity in fibre but a) that is not correct as explained above b) what the country needs is the renewal of an antiquated and obsolete infrastructure and this is best achieved by sending an accurate economic signal about the true and rising cost of copper.

Any incumbent will of course argue that absent rate of return style regulation they need an "incentive" to replace obsolete plant (i.e. to be specially rewarded simply for doing the right thing). In our view the correct incentive should be the threat of loss of market share to more efficient technology and that is best achieved through rising copper prices. Ofcom agrees with this view but then does not quite follow-through with the practical implications.

We believe that a clear and logically correct commitment to rising copper prices would encourage much new and more efficient investment (enabled in particular by an increasingly effective PIA regime).

### **We Strongly Support the "Copper Wedge"**

In 2013 we argued for what Ofcom calls a copper wedge and no evidence has since emerged to change that view. We fully agree with Vodafone and disagree with Ofcom's view as expressed in the second part of 1.66. Some years of working for incumbents in different countries gives us confidence that the "wedge" would work.

However, we also fully accept that Ofcom may not have the powers to enforce such an enlightened policy and Openreach would not voluntarily implement such a scheme helpful to national modernisation by others.

The continued reference to EU policies is puzzling in this respect. Surely Ofcom should be using the opportunity of Brexit to explain to Government why it must enable new UK specific regulation to create a "copper wedge" as soon as possible. This would be an excellent demonstration of how the country can accelerate investment and progress when unleashed.

Similarly the idea in the first part of 1.70 that Openreach could not “ring fence a portion of its revenues” is curious. Certainly Openreach would collect the “wedge” monies from CSPs but in no way could that be regarded as a part of its own revenues in the sense written. What is VAT but a collection of a Government levy in exactly the way envisaged?

### **We Do Not Agree with the 1.80 b) Price Assertion**

For certain minority of consumer segments a fibre price premium is entirely realistic. For many others it is not. In order for an altnet to achieve high take-up it cannot cater only to premium customers, at least not in most parts of the country.

This thinking perhaps explains why Ofcom seems relaxed about static copper prices. We believe fibre is - and must be seen to be - cheaper than copper as well as much better. After all, that is the underlying economic and technical reality. Hence copper prices must rise - and keep rising - so that the market may work properly.

Related to this, the *Fibre premium on a 40/10 FTTP equivalent product* sits uncomfortably. Copper services are underpriced in our view and so FTTC prices should rise and there may or may not need to be a fibre premium. We suggest Ofcom revises its thinking and seek to “level up” to where copper prices should be. If FTTC prices rise there need not necessarily be a premium placed on a better, cheaper full fibre infrastructure. We cannot help wondering if, for all the Gigabytes of Excel involved, there is not some deep seated flaw in the regulatory costing models as its not clear by what other means such a counter-intuitive formulation would arise.

### **Fully Support Increased Network Competition**

We hold 1.93 where Ofcom “consider(s) the long-term benefits of increased network competition supported by our proposals will outweigh any higher prices paid by consumers in the short term” to be self-evidently correct.

### **Area 3 Proposals are Deeply Problematic**

This consultation is hundreds of pages long and is far to much for a small operator like us to fully digest but one thing that leaps is the proposals for price controls of FTTC in Area 3 which are alarming. We are not sure how extensive Area 3 is but if it is anything more than the most extreme last 5% of premises then we object.

We are building in rural areas and there is a business case for doing so but what rings an alarm bell for us is the idea that FTTC price should go down between 5.75% and 15% pa in real terms. +5.75% annual increase would make sense for the reasons we explain above. Unless there has been a typo, the proposal is totally contrary to the sensible direction of travel for policy.

The idea seems to be to impose on Openreach a punitive decrease in copper-based service pricing and so encourage them to invest in fibre. If this is the idea, then we suggest Ofcom study the case of the Andorran regulatory system which a few years pursued this policy to an extreme degree.

The lesson to learn is that *it did not work*. The same will happen in the UK:

- Firstly For the UK, most immediately, the proposed sharp cut in retail copper pricing will make copper services very much more “sticky”. There is a direct relationship between copper pricing and switching to fibre. The lower the relative copper price, the lower proportion of consumers will switch. This policy will mean there is no chance of any altnet business case being viable in these areas. We suggest Ofcom gives PIA and the wider policy time to have an effect on rural altnets - the early signs are positive.
- Secondly, Ofcom will essentially be playing a game of chicken with Openreach - invest or the public loses. Well, in Andorra the result was obvious with the benefit of hindsight - the telco did nothing and the regulator (i.e. the general public) lost completely. The result was that the modernisation of the infrastructure was delayed for many years until there was a complete reversal of the policy. Without knowing exactly what is meant by the RAB model in terms of mandated investment, it seems obvious to us that is what will happen in the UK as well. Area 3 will see as close to zero investment as Openreach can possibly get away with under the RAB model. The only beneficiaries will be armies of consultants and lawyers administering what will no doubt will evolve to be a stunningly complex and highly prescriptive system.

Industry contacts have consulted the European Competitive Telecommunications Association about copper pricing in Europe and whether any other National Regulatory Authority (“NRA”) had considered a similar scheme to that proposed by Ofcom. Far from decreasing copper prices, the NRA’s of Spain, France and Germany have all increased copper pricing slightly, as it boosts the fibre investment case by causing a higher level of consumer switching to full fibre and increases demand and take-up. This is fully in line with our own logic and the original common-sense approach set out by Stefan Stanislawski in his 2013 report for the FTTH Council Europe.

In the experience of those other countries, raising copper prices is not only correct based on real economics but also sees increased independent entry to the market, and thus an increase in total funding available. Spain has one of the highest FTTP levels of any of the larger European countries for example. Certainly Spain benefits from many homes being in MDUs but we are also directly aware of growing investment in low density areas both by Telefonica (the incumbent) and a host of altnets, some building out from their urban footprints, some others new rural entrants.

It is difficult to see how Ofcom’s scheme is superior to the position taken in other markets. To us it seems destined to trash any prospect of altnet investment in rural areas. We suspect the underlying idea is that some areas are so low density they will never see competitive entry anyway so this initiative does not undermine the general policy of infra competition. Unless area 3 covers only the most extreme areas, this would be a grave mistake in our view. PIA has only belatedly and recently started to become effective in this country and it is still *very, very early in the process* but already there is ample evidence that FTTP deployment is underway in many rural areas. There are online maps which show this to even the most casual observer.

There is no scale or cost advantage between BT Openreach's use of its poles and ducts compared to other operators' use of PIA so it is fundamentally wrong to assume that only BT Openreach can provide services or fibre in Area 3. Consequently there is no basis yet for a RAB approach with the anti-competitive-investment freezing effect that it will have. There may be a case 7-10 years from now perhaps for a very small proportion of extreme cases, but not today.

- End of submission -