

Your response

Question (Volume 2)	Your response
<p>Question 2.1: Do you agree with our description of retail markets? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes. We agree that the majority of home users now take broadband packages as part of a bundle of services, highlighted by figure 2.1 in the ‘Market Assessment’ document.</p> <p>We agree on the market definition of broadband speeds classified by SBB, SFBB and UFBB as stated in section 2.7 ‘Market Assessment’ document.</p> <p>We agree with the evidence shown in figure 2.9 that data usage increases alongside the max speed of download speeds available.</p>
<p>Question 3.1: Do you agree with our provisional conclusion on physical infrastructure product market definition? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes. We agree that the product market is the supply of wholesale access to telecoms physical infrastructure for deploying a telecoms service. In order to promote investment and drive down costs, broadband infrastructure providers should be able to use existing physical infrastructure (pipes, ducts, masts, cabinets etc) to install their own network.</p>
<p>Question 4.1: Do you agree with our provisional conclusion on physical infrastructure geographic market definition? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes, the requirement for ubiquitous infrastructure is essential to deliver telecoms connections. As outlined in 4.18, most telecoms networks are built to connect premises or sites in relation to demand. The ability to connect premises is much more likely to happen with a ubiquitous telecoms network than one which is not ubiquitous.</p> <p>Having a ubiquitous network also provides alternative broadband providers to install network in already existing infrastructure (access) with more material advantages than the commercial ones listed</p> <p>The provisional conclusion that the geographic market for wholesale access to telecoms physical infrastructure for deploying a telecoms network is the UK excluding hull is accurate, owing to the KCOM network that exists there.</p>

<p>Question 4.2: Do you agree with our provisional conclusion on the application of the three criteria test to the physical infrastructure market? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes, the tests are valid for assessing the physical infrastructure market are valid. There exists high and non-transitory barriers to entry. New infrastructure requires high levels of investment and considerable time to accomplish. Costs are also likely to be sunk. The market, without the regulation from Ofcom, will not tend towards effective competition, owing to BT’s significant market power.</p> <p>Due to BT’s significant market power, the competition law is not sufficient enough, as illustrated by 4.52.</p>
<p>Question 5.1: Do you agree with our provisional finding on SMP and resultant competition concerns in the physical infrastructure market? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes, owing to Openreach/BT’s entrenched significant market power there, particularly because their telecoms network infrastructure is largely used entirely by itself.</p>
<p>Question 6.1: Do you agree with our provisional conclusions on product market definition for wholesale networks? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes.</p> <p>A single market for WLA services which includes: broadband services provided over copper/fibre, cable and full-fibre technologies, excludes the leased line access services and excludes broadband services delivered over wireless technologies.</p> <p>A single market for Leased Line services includes: all wholesale fibre-based ethernet and WDM services, includes dark fibre used to supply LL access services, excludes business-grade connectivity services provided over EFM, broadband and microwave links used to provide mobile backhaul, and excludes IEC services between BT exchanges.</p> <p>A single market for IEC services which includes: Active services at all bandwidths provided between BT exchanges, includes dark fibre between BT exchanges, excludes LL access services, and excludes all trunk services that do not connect between BT exchanges.</p>
<p>Question 7.1: Do you agree with our provisional conclusions on geographic market definition for wholesale networks? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>N/A</p>

<p>Question 7.2: Do you agree with our provisional conclusion on the application of the three criteria test to the wholesale inter-exchange connectivity market? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes, particularly because competition law is not enough to regulate the market, due to BT’s significant market power and entrenched status in the UK’s telecoms market. If the criteria is not yet (ie. BT does not have significant market power) then different regulation must be adhered to, otherwise this will stunt investment from BT into their existing network.</p>
<p>Question 8.1: Do you agree with our provisional SMP findings and resultant competition concerns for wholesale networks? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes, due to BT’s significant market power, they would be able to engage in activity which could distort competition and/or harm consumers without regulation in place. Without regulation in place it would likely be to the detriment of consumers buying broadband products.</p>
<p>Question 9.1: Do you agree with our proposal not to regulate WFAEL, ISDN2 and ISDN30 markets on the basis that they no longer fulfil the three criteria test set out in the EC Recommendation? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes, because the WFAEL, ISDN2 and ISDN30 markets do not meet the criteria established in the three tests it is accepted that the market is not suitable for forecasted regulation. The products are niche in comparison to wholesale network products so they cannot be expected for the same regulation to work.</p>
<p>Question 10.1: Do you agree with our proposal not to regulate WBA market on the basis that it no longer fulfils the three criteria test set out in the EC Recommendation? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. The landscape of the WBA market has changed significantly. (WBA services defined as the services which sit between the services than end consumers and the WLA market, which relates to the physical connections to consumers premises). As 98.5% of premises are within Market B, areas where there is sufficient competition, multiple service providers are able to offer services. More service providers have unbundled services on the Openreach wholesale network, and with Openreach increasing FTTP network footprint, we expect further providers to offer services over the FTTP wholesale network. As the WBA market does not reach two of the test criteria it is not acceptable for ex ante regulation.</p>

Question (Volume 3)	Your response
<p>Question 1.1: Do you agree with our proposed approach to remedies? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. The concerns regarding BT’s SMP (physical infrastructure, WLA, Leased Line access, inter-connectivity markets) and how it may give rise a number of competition concerns (due to their power being able to distort competition and/or harm consumers). The strategic approach outlined in the review seeks to give all UK consumers access to as wide as possible choice of fibre network. The strategy seeks to regulate the wider market is a balance between regulation and providing the correct environment to facilitate investment from broadband infrastructure providers.</p>
<p>Question 2.1: Do you agree with our proposed approach to Copper retirement? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. In order to facilitate moving the nation off of the legacy copper network the regulation should support transition to FTTP technology. Not only do networks need to be built but it must be in tandem with measures to encourage take-up. The faster customers migrate from copper to fibre, the stronger the business case for investment as Openreach can avoid the costs of operating both copper and fibre networks in parallel. However, if copper regulation is removed too quickly, it risks leaving some customers exposed to harm: either by the loss of choice or competition, or by the removal of services relied upon by vulnerable customers or critical national infrastructure.</p>
<p>Question 3.1: Do you agree with our proposed general remedies? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. The general remedies proposed are valid. Openreach should be required to adhere to the regulations outlined in 3.2, which are not dissimilar to existing regulation imposed via 2019 PIMR, 2018 WLA and 2019 BCMR.</p>
<p>Question 4.1: Do you agree with our proposed specific PIA remedies? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. The regulations in place for PIA encourage further third-party investment in competing networks. The benefits of using existing PIA outweigh the benefits of building an entirely new network. The benefit of inward investment</p>

	<p>into the existing PIA is greater than overbuilding a new network. Regulations which unblock PIA for providers to use these efficiencies is essential to facilitate network investment. Without the requirement on Openreach to open up their PIA for investment, the barriers for investment are much greater, which doesn't facilitate the growth of fibre.</p>
<p>Question 5.1: Do you agree with our proposed specific remedies in the WLA, LL Access and IEC markets? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y N/A</p>
<p>Question 6.1: Do you agree with our proposed dark fibre access and dark fibre inter-exchange remedies? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y The regulations outlined in section 6 seeks to enable innovation and allows purchasers to save money on equipment costs. The summarised reasons our outlined in table 6.1 which we agree with.</p>
<p>Question 7.1: Do you agree with our proposed approach to QoS? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y The proposals outlined in table 7.1 seem to strike a fair balance between regulating the market and encouraging investment from other service providers into Openreach's network. An agreed level of QoS ensures that investors can rely on a level of service when using the Openreach network in areas where they have significant market power. The reason for regulating in this manner is due to Openreach's SMP, without regulations and QoS standards, repair services could suffer, to the detriment of downstream service providers, and end users.</p>
<p>Question (Volume 4)</p>	<p>Your response</p>
<p>Question 1.1: Do you agree with our proposals for charge controlling WLA and LL access services in Area 2? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. The proposals outlined in table 1.1 seem to strike a balance between protecting the end user of these services and regulating the SMP that Openreach has in these areas. The regulation needs to be set in place as without it BT would have incentive and ability to fix and maintain wholesale prices in area 2 at an excessively high level and/or impose price squeezes having an adverse effect on end users. The regulation, as previously outlined, must strike a balance between encouraging investment in fibre networks through promoting network competition, whilst protecting consumers from excessive</p>

	pricing/loss of retail competition in the short term.
<p>Question 2.1: Do you agree that a RAB based control will achieve our objective in Area 3? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes, a RAB based approach ensures that consumers are protected from excessively high prices whilst also providing Openreach with incentives to invest in fibre. The case for a RAB (regulatory asset base) is that it could allow Openreach to recover fibre investment costs over a wide range of services, for example, from customers taking existing copper services as well as customers who take up new fibre services. The typical approach means that legacy copper prices would be set by reference to the accounting costs of copper, meaning that Openreach would need to recover all the investment costs of deploying the fibre network from fibre customers. This may not be a profitable method of proceeding. A RAB approach can help secure investment where it might not otherwise occur – by providing Openreach with more certainty of cost recovery.</p>
<p>Question 2.2: Do you agree that is appropriate to impose a post-build RAB charge control in Area 3? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. Without implementing a RAB based approach it would've provide Openreach with the right environment to recoup investment in their fibre deployment. By allowing Openreach to recoup FTTP investment cost from other areas such as copper services you can make the business case that investment is profitable. The RAB approach strikes a balance of providing sufficient incentives for OR to invest in fibre, while providing prices across the full range of services. There are various forms of RAB charge controls outlined in 2.23 which could achieve the objectives outlined in volume 4.</p>
<p>Question 2.3: Do you have any comments on our proposed design and method for calculating the proposed post-build RAB charge controls? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y No. The outlined charge controls strike a balance between encouraging investment and protecting the end user.</p>
<p>Question 2.4: Do you agree with our proposals to charge control LL access services and dark fibre in Area 3? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y Yes. The proposals to charge control LL access services and dark fibre in area 3 provides strong incentives for BT to reduce costs over the period and thereby improve productive efficiency. The proposed controls strike a</p>

	<p>balance between promoting sustainable competition and conferring the greatest possible benefits to the end user.</p>
<p>Question 3.1: Do you agree with our proposals in relation to charge control design and implementation? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>As per evidence outlined in section 3, the charge control design and implementation is set to strike a balance between limiting the SMP of OR in areas where they have it, and encouraging their own investment within the telecoms network. The point raised in 3.10 regarding stability and certainty being critical elements for investment is important, and in order to establish this Ofcom are looking to set a 5 year charge control period to establish this certainty.</p>
<p>Question 4.1: Do you agree with our proposals for charge controlling in the IEC markets? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes.</p> <p>As with other leased line services, we believe BT has the ability and the incentive to maintain prices for IEC leased line circuits at an excessively high level and/or impose a price squeeze so as to have adverse consequences for end-users. We therefore propose to impose a charge control on the provision of these services to address these risks.</p>
<p>Question 5.1: Do you agree with our proposals relating to calculating PIA rental charges? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes.</p> <p>Due to BT's SMP in the physical infrastructure market BT therefore has the capacity to set PIA prices at excessively high levels and/or impose price squeezes which have adverse consequences for end-users. There is a possibility that BT, without regulation, would seek to set excessive prices to maximise the profit to earn from providing access to their physical infrastructure. The method outlined seeks to calculate unit costs for each service and set PIA rental charges as a share of the unit costs. The proposals again look to strike a balance between encouraging investment, protecting the end user, and not dissuading BT from further investing in their own fibre network.</p>
<p>Question 5.2: Do you agree with the above proposal to introduce the PIA simplified underground lead-in service and the associated timings? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y</p> <p>Yes.</p> <p>For the reasons outlined in 5.45 – 5.55. I believe that the reason raised in 5.50 to hold significant value. In the respect that the introduction of the outlined service will remove</p>

	<p>the current complex and burdensome for telecoms providers and reduce administrative overheads. It will also in turn lower operational costs for telecoms providers and Openreach. This therefore strengthens the case for investment for FTTP build in an area.</p>
<p>Question 6.1: Do you agree with our proposed approach to charge controls for ancillaries? Please provide evidence to support your views. Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y N/A</p>
<p>Question 6.2: Do you agree with our proposals for fair and reasonable obligations for ancillaries not covered by a charge control? Please set out your reasons and supporting evidence for your response.</p>	<p>Confidential? – Y N/A</p>