



9th June 2017

CWU Response to Ofcom Wholesale Local Access Market Review

Introduction

1. The Communication Workers Union (CWU) is the largest union in the communications sector in the UK. We represent over 60,000 members in the telecommunications industry working in around twenty companies including BT, Openreach, Virgin Media, Sky and TalkTalk. We are the only trade union with formal recognition for non-management grades in BT and Openreach.
2. The CWU supports the aim of improving the quality of Openreach's services. This should help to encourage the take-up of services and sustain growth and jobs in the telecoms sector. However, we believe that Ofcom's proposals do not reflect the costs of higher service and that this will make the new targets unachievable. We are also concerned that this underestimation of cost could move Openreach's returns below the estimated cost of capital given how a charge control works, putting future network investment at risk.
3. For Ofcom's objectives to be realised, the additional resources needed to deliver service improvements must be properly accounted for in Ofcom's cost assumptions and price controls. It is also important that Openreach is able to earn a fair return on its investment, so that the ongoing funding required to deliver high quality universal digital networks and services is forthcoming.

Quality of Service remedies

4. Quality of service is important to the CWU and our members. Better quality services leads to increased customer satisfaction and greater customer demand, helping to create direct labour jobs and protect labour standards. We support the objective for Openreach to deliver the best quality of service possible, and we agree this should include high standards on fault volume reduction, repair and installations.
5. Openreach has improved its service levels since Ofcom introduced new standards in 2014, and CWU members have been instrumental in achieving this. The company dramatically reduced missed appointments last year and aims to make further progress this year. Pro-active network maintenance increased last year and further increases are expected this year.
6. The CWU acknowledges that additional improvements are needed to continue to strengthen the quality of UK phone and broadband services. We agree that Openreach

should be incentivised to make significant further improvements in the quality of services it provides.

7. However, any targets must be set against a fair assessment of the cost of delivery combined with a regulatory framework that gives Openreach the scope to meet those costs. It would be counterproductive to impose stringent financial penalties on the company for failing to meet over ambitious targets.
8. CWU members work extremely hard for Openreach and its customers, and they do so in what is often a very challenging and stressful working environment. Placing excessive pressure on the Openreach workforce would be damaging for operational effectiveness and service quality. Therefore, it is important that the resources needed to deliver the proposed service improvements are fully reflected in Ofcom's modelling and assumptions.

Resource requirements

9. Improving quality of service will require Openreach to invest in increased direct labour resourcing levels and in skills and training for its workforce. Ofcom must ensure, through appropriate charge controls, that Openreach is able to retain and build the workforce it needs with the skills and expertise to deliver the best possible quality of service for customers.
10. We believe that the most effective way to meet Ofcom's proposed quality of service targets is for the resource uplift calculations to allow for an engineering workforce that is overwhelmingly directly employed, well trained, multi-skilled and on upper quartile rates of pay and conditions of work.
11. As we have said in previous submissions¹, there is a connection between labour standards in Openreach and the company's ability to deliver high quality services. Any weakening of pay, terms and conditions for Openreach employees will inevitably be detrimental for overall staff recruitment, retention, motivation and productivity. If Openreach continues to be a good employer then it will be much better equipped to serve its customers well in the future.
12. At present, Openreach is heavily reliant on third party contractors for service provision. They are generally lower skilled, lower paid and on inferior terms and conditions of employment than Openreach's direct employees. We believe that the business would be much better placed to ensure high standards of training and customer service by maximising its permanent direct labour workforce. Openreach has given the CWU a commitment to drive down the number of contractors it uses, indicating that the company recognises the benefits of a largely permanent labour force.
13. We are witnessing resourcing pressures in Openreach as a consequence of the high levels of demand for broadband services. The CWU is concerned that inexperienced workers have been sent out into the field before they are properly trained. New

¹ Including, CWU and Prospect Response to Ofcom Consultation – Delivering a more independent Openreach, 5th April 2017

recruits have gone out with less than four weeks training and have sometimes been buddied by colleagues with less than six months experience. At the same time, Openreach is losing many of its more experienced, highly skilled engineers through attrition. This not only places considerable pressure on new joiners, it can also have a negative impact on network quality and customer service. It is important that Ofcom's modelling of the costs of service properly reflect the need for an appropriately trained, skilled workforce.

14. Openreach has recognised the need for hiring and skilling in order to meet the demand for ever higher levels of service. Following discussions with the CWU, the company has announced plans to recruit 1,500 new trainee engineers this year², and investment is going into skills and training for the entire Openreach workforce. The business has introduced more underground training places for existing employees to boost the proportion of multi-skilled engineers. It has also created a new engineering pathway with more steps, more engineering potential and 1,800 new 'Senior Engineer' roles. All of this is essential given the pace of change in technology, especially with the growth of G-fast and Fibre to the Premise (FTTP) networks.
15. As Ofcom is aware, the CWU will be entering into TUPE negotiations with BT later this year as a result of the decision to legally separate Openreach from BT Group. We will continue to seek absolute assurances from both BT and Ofcom throughout this process that there will be no effect on our members' terms and conditions. Ofcom's charge control regime could have a significant bearing on these discussions given its implications for resourcing, which is why it is so important to get right. If there is any threat to labour standards for Openreach employees, this will create serious problems for industrial relations in the company. This in turn will be detrimental to all stakeholders, including Openreach's employees and its customers.

Ofcom/Analysys Mason Resource Performance Model

16. We are concerned about the numerous limitations of the quality of service model developed by Ofcom and Analysys Mason, including the assumption that all engineers are capable of carrying out all jobs; the assumption that there is no variation in the time to complete a job; the absence of an allowance for resource fluctuations; or an allowance for jobs designated by Openreach as 'matters beyond our reasonable control' (MBORC).
17. We believe these limitations mean a considerable gap in what is calculated as an adequate increase in resource to meet Ofcom's requirements, and what would actually be required. We are aware that Openreach has been working on its own equivalent quality of service model, which it believes provides the most accurate reflection of how jobs are allocated and how service is actually delivered. We understand that the model uses more precise data than the Ofcom and Analysys Mason model, including data on actual orders and faults per week, actual resource by week, actual hours by time of day, and actual skilling, with the ability to understand skill impacts. It has calculated the need for a resource uplift of around 23% to meet the proposed quality of service standards for

² Openreach turns to virtual reality to recruit 1,500 trainee engineers, BT website, 22nd March 2017, accessed on 7th June 2017 at: <http://www.btplc.com/Innovation/Innovationnews/openreachVR/index.htm>

year three of the proposed charge control (2020/2021). This is a significantly higher resource uplift requirement than the 8% uplift suggested by Analysys Mason.³

18. Clearly, Openreach's calculation represents a huge increase in the number of engineers Openreach would need to recruit, train and up-skill. In addition, the calculation assumes the level of third party contractors would remain constant. If Openreach was to reduce the number of contractors in favour of direct employees as it has agreed and as we believe it should for the benefit of service quality, then the resource uplift is likely to be even higher than 23%.
19. The discrepancy between the Openreach and Ofcom calculations indicates that if the Ofcom and Analysys Mason model was to be relied on in its current form, this would create a substantial funding gap that would make Ofcom's quality of service targets unachievable. The reality is that Openreach engineers are not all trained to the same level; job completion times vary considerably; resources fluctuate due to holidays and part-time working; and jobs designated as MBORC can be significant, particularly during periods of extreme weather and flooding. We consider that Ofcom's cost assumptions must take account of these variables if service levels are to be fully funded. As we said earlier in this submission, we also believe that the cost model should allow for a workforce that is overwhelmingly directly employed, multi-skilled and on upper quartile terms and conditions of employment.

Investment

20. As Ofcom notes, consumers and businesses are increasingly reliant on the internet and now consider broadband to be an essential part of their daily lives.⁴ Substantial ongoing investment in broadband is essential in ensuring that customer broadband needs are met both now and in the future. We therefore support Ofcom's objective to set wholesale price controls that strengthen Openreach's incentives to make long term investments in service quality.
21. However, we are concerned that Ofcom's current proposals for reducing access prices across copper and fibre services will undermine investment incentives and make the required levels of funding impossible to achieve.
22. The proposed price cuts for fibre – the 40/10 version of VULA (Virtual Unbundled Local Access) – are particularly steep. This is the first time this service will be subject to a charge control, with the price falling from £88.80 per year today to £52.77 in 2020/21. We believe that this seriously jeopardises BT's ability to make a fair return on its original risky investment, and will severely weaken any previous incentives to invest in new infrastructure.
23. We understand that BT is also concerned about Ofcom's price control proposals, which it has provisionally estimated would move returns below the estimated cost of capital for the review period. Clearly, if this is the case, then Ofcom's proposals do not strike an

³ Quality of Service for WLR, MPF and GEA, consultation on proposed quality of services remedies, Ofcom, 31 March 2017, Table A7.8, p.212

⁴ Ofcom, 31 March 2017, *ibid*, para 1.6, p.1

appropriate balance between encouraging long term network investment and protecting consumers and competition in the short term.

24. It is crucial that Openreach is able to earn a fair return on its risk investment in order to incentivise future long term investment in the network. This will mean the company can continue rolling out high quality, superfast and ultrafast broadband across the country, and meeting the needs of all of its customers.
25. We believe Ofcom must avoid an approach which focuses narrowly on reducing prices in the short term. It must establish a regulatory environment in which long term investment and resourcing considerations are properly accounted for. This is essential for strengthening the UK's digital infrastructure and ensuring world class connectivity for the nation.

Access to BT Infrastructure

26. The CWU supports the aim of making it easier for competitors to build their own fibre networks using BT's poles and underground ducts that carry telecoms cables.⁵ However, we understand that BT's rivals have had the opportunity to do this for some time and have shown no real interest in investing in this way. This may be evidence of a general reluctance by rival operators to commit any significant investment of their own in fibre, given the high costs and associated risk.
27. If Ofcom's changes do result in investment from other providers, this is unlikely to cover geographic areas where the economic case for investment is weak. Ofcom must ensure that the growth of competition in more commercially viable areas does not undermine Openreach's ability to continue funding and improving networks in harder to serve parts of the country. It must also ensure that Openreach can recover its costs from competing providers accessing its network. As Ofcom states, its proposals could have a material impact on Openreach, both in terms of the resources required to carry out repairs and install additional capacity, and the costs associated with these adjustments.⁶
28. We believe that with increased access to the Openreach network, Ofcom should place more emphasis on ensuring strict requirements on health and safety for other providers working on the network. We are aware that specified engineering rules and health and safety standards already exist that communications providers must comply with. However, this issue is barely touched on in Ofcom's consultation on duct and pole access remedies.
29. The CWU has consistently argued that transparency of maintenance standards, extending to minimum health and safety standards, should form part of Ofcom's proposals on Openreach quality of service. We would like to see serious consideration of this issue in Ofcom's thinking so that it receives proper attention. This would help to ensure that the rules and safety standards are as robust as possible, and that the

⁵ Wholesale Local Access Market Review, Consultation on Duct and Pole Access Remedies, Ofcom, 20 April 2017, Para 1.1, p.1.

⁶ Ofcom, 20 April 2017, *ibid*, Para 4.108, p.48.

network is consistently maintained to a high standard so that Openreach can deliver a high quality service to all of its customers.