

BT GROUP'S RESPONSE TO OFCOM'S TAR CONSULTATION, 12 JUNE 2025

Section 1: OVERVIEW

Ofcom's WTFMR adopted a pro-investment and pro-competition approach to the benefit of consumers. We welcome that much of this remains in the Telecoms Access Review (TAR)

- 1.1. Ofcom's Wholesale Fixed Telecoms Market Review 2021 (the WTFMR) marked a fundamental shift in UK fixed infrastructure regulation, establishing the overarching framework to support widespread investment in full fibre by multiple parties. While the WTFMR was conceived as a package, regulatory predictability was a major pillar of the framework. This gave investors enough certainty on the regulatory approach that would apply to fibre given that such large investments require many years to deliver returns.
- 1.2. We agree Ofcom must retain stability and confidence in its next market review, the proposals for which are set out in its consultation, Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31 (the TAR). Stable and predictable regulation was a key basis for BT Group's investment in widespread fibre, premised on the opportunity to earn a return commensurate with the risk taken at the point of investment (the so-called 'fair bet'). With this in mind, we support – for example – continuation of indexation for regulated price caps, the confirmation of pricing flexibility for higher speed services, and protection of existing carve outs from Equivalence of Input obligations.¹
- 1.3. Ofcom should also rightly reflect and be happy with the outcomes it has seen on investment and network competition, both of which are going far further than ever envisaged by Ofcom. The investment Ofcom supports will see full fibre networks reach 95% of the country by January 2028.² In Ofcom's 2015 Digital Communications Review, Ofcom said that *"a good outcome in the long term would be to achieve network competition [for] around 40% of households"*.³ Three-player (or more) gigabit-capable network competition has already reached 22% of UK premises,⁴ and Ofcom now believes it could reach at least 39% of the UK by January 2028.⁵

¹ As noted in BT Group's submission to Ofcom in July 2024, these carve outs are fundamental to – amongst other things – BT's ability to preserve the integrity of its core network.

² Ofcom, 8 May 2025, [Connected Nations - Planned Network Deployments 2025](#), Coincident gigabit-capable coverage anticipated when all plans are included.

³ Ofcom, 25 February 2016, [Making communications work for everyone: Initial conclusions from the Strategic Review of Digital Communications](#), Paragraph 4.32.

⁴ TAR, Volume 1, Paragraph 1.6.

⁵ Ofcom, 8 May 2025, [Connected Nations - Planned Network Deployments 2025](#), Coincident gigabit-capable coverage anticipated when all plans are included.



From BT Group's perspective as an investor, not all of Ofcom's proposals represent a consistent or predictable application of its WFTMR 2021 approach

- 1.4. Some of the approaches proposed in the TAR run counter to Ofcom's stated preference for stability. Stability requires predictability on when regulation will apply and when it will stop. This requires Ofcom to follow its usual, rigorous and well-established policy process – defining thresholds for intervention (or – in this case – removal of an intervention) and seeking views from market participants.
- 1.5. Predictability does not mean rolling over the same rules from 2021 in areas where market conditions have evolved, but applying the clear goals and established framework set out in the WFTMR to the new facts as they stand. In making proposals, Ofcom must focus on the substantial network build, strengthened competition, growing fibre take-up, and establishment of new consumer protections such as One Touch Switching seen to date, as well as the necessity to close legacy networks to make the UK's digital infrastructure fit for purpose.
- 1.6. BT does not consider the TAR proposals provide the predictability suggested in 2021. Ofcom has not followed through on the premise that it would remove regulatory requirements where truly competitive market outcomes had emerged (particularly in Wholesale Local Access (WLA) markets) and has in fact doubled down on regulation by re-introducing leased line charge controls in a redefined Leased Line Area 3.
- 1.7. BT chose to invest significantly (£15bn) in building full fibre to 25m homes (and hopefully further) to:
 - benefit end-customers across the UK using any Openreach based ISP through better quality and reliability;
 - respond to the strong competition from rival fibre builders that Ofcom's framework unleashed, to ensure Openreach and downstream BT divisions remained competitive in the market; and
 - unlock efficiencies and savings on behalf of customers from legacy platform retirements.
- 1.8. Openreach's fibre network, underpinned by BT Group investment, is delivering ultrafast, ultrareliable services to c.7m end-customers today across different ISPs throughout the UK. But Ofcom has not in turn seized on the opportunity to progressively deregulate where competition has emerged, or facilitated timely and efficient legacy platform migrations.

Ofcom proposals fall short and do not align with current dynamics

- 1.9. In this submission, we set out two strategic issues in the TAR from a network investor perspective where Ofcom's proposals fall short and do not align to current market dynamics and policy objectives. The first is the failure to recognise the presence of effective competition and the scope for progressive deregulation; and the second is the failure to facilitate legacy network closures. Openreach's wider submission calls out other important issues, including around leased line charge controls, and should be read alongside this submission.

Effective competition and progressive deregulation



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- 1.10. Ofcom fails to assess correctly how much fibre competition there is, particularly within distinct geographic areas within the UK. Ofcom underplays the extent, sustainability, and variation in competition across the UK, incorrectly suggesting there is a single, sufficiently homogenous set of competitive conditions across 90% of the country, and underplaying the competitive constraints posed by VMO2. Across the UK we see significant differences in competition given: the number of available networks; the market shares in these different network footprints; the pricing made available to customers; and the behaviours and strategies by ISPs in securing wholesale supply. In this context, adopting such a wide geographic market definition is clearly not supported by the facts.
- 1.11. Section 2 sets out that parts of the UK are materially more competitive than in 2021, with substantial evidence competition will continue to grow to 2031. Today 22% of the country has 3 networks available. This will rise to 39% by January 2028⁶. Some scale altnets are achieving take-up of 20-30%, suggesting market shares of 25 to 35% given broadband adoption of 85%. BT Retail churn [§]. Pricing is more than 30% lower in three network areas than in areas with Openreach only. There are clearly significant differences in competition in different locations, linked to choice in networks.
- 1.12. By failing to properly delineate geographic markets where competitive conditions are sufficiently similar, and then assess the competitive strength of network providers in those specific geographic areas (as a proper approach to market definition and the SMP assessment requires),⁷ on a forward-looking basis across the review period (as Ofcom is required by law to do),⁸ Ofcom's assessment fails to take into account the true extent of competition that Openreach and BT face today and will increasingly face in many geographic areas across the UK. Once this is properly accounted for, it is clear the factors necessary for an SMP finding will not be found in some geographic areas. We therefore think Ofcom must revisit its proposals.
- 1.13. Ofcom's 2021 framework clearly suggested effective competition would be the basis for progressive deregulation⁹, but Ofcom sets out no view or vision for how stronger competition will translate into progressive removal of regulatory constraints. Instead, Ofcom has gone backwards: despite an explosion of competition, it is in some cases proposing stricter rules than in 2021.
- 1.14. Given trends evident in the market, Openreach's share across postcode sectors with 3 or more networks present (currently [§]¹⁰) is expected to fall [§]% over the 2026-2031 TAR review period when accounting for: the increasing maturity of altnet build and take-up (fall of [§] to [§] percentage points¹¹); NexFibre expansion (a further fall by [§] percentage points¹²), as well as more wholesaling by altnets and potentially VMO2.
- 1.15. If, following a proper market definition exercise, Ofcom does still find SMP today in more competitive areas, it must give more consideration to proportionate and reliable mechanisms to take account of growing competition between now and 2031, and allow for timely deregulation during the review period. In Italy, for example, the regulator has previously consulted on a formalised annual review of competitiveness within a market

⁶ Ofcom, 8 May 2025, [Connected Nations - Planned Network Deployments 2025](#), Coincident gigabit-capable coverage anticipated when all plans are included.

⁷ TAR, Volume 2 Paragraph 4.48.

⁸ S79(1A) Communications Act 2003.

⁹ WFTMR, Volume 1, Paragraph 2.10

¹⁰ NERA, 12 June 2025, Response to Ofcom's TAR. Section 2.2.1

¹¹ NERA, 12 June 2025, Response to Ofcom's TAR. Table 2.6.

¹² Ibid.

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review period on an area-by-area basis to assess the ongoing need for regulation. Ofcom could, for example, define at the outset of the review period the specific thresholds that would need to be met for Ofcom to determine that effective competition was present in a defined geographic area, and review whether those thresholds were met annually. Such analysis could build on Ofcom's existing capabilities and work in reporting network availability in its Connected Nations reports.

- 1.16. The need for an in-period review is highlighted by the pace of change in fixed markets. Even since Ofcom published its TAR proposals, Sky has launched pilot products on the CityFibre network¹³, Vodafone has announced a new wholesale partnership with Community Fibre¹⁴, and the number of altnets reporting positive profitability has increased¹⁵.
- 1.17. From a retail perspective, Ofcom must also provide greater clarity on how it will apply any price squeeze assessment in markets where it proposes fair and reasonable network access charges, considering the strengthening competition at both the wholesale and retail level. For example, Ofcom's suggestion that it would take an overly narrow starting point for such an assessment¹⁶, is at odds both with established practice and how competition operates in this market. Ofcom's approach should recognise greater competition and ensure BT can compete on a level playing field in a fiercely competitive retail market, whilst remaining compliant with its regulatory obligations.

Insufficient support for customer migrations and legacy closures

- 1.18. BT's investment in fibre technology is a key enabler in its strategy to 'Build, Connect & Accelerate'. Accelerate captures our drive, and the necessity, to transform BT as a business, moving customers to new services and closing legacy platforms. These closures support better customer experience, simpler customer journeys, and more resilient and reliable connectivity for the whole of UK society. Fault rates are [8%] lower with FTTP. New networks will save [8%] of electricity per year. Network simplification and exchange closures alone could save up to c. [8%] per year in the long run, which could lead to more reliable service and lower costs for Openreach's customers and ultimately end consumers.
- 1.19. Ofcom's WFTMR set out to support the move from copper to fibre by transitioning wholesale regulation from copper-based services to FTTP services. This policy would support the migration of customers off Openreach's legacy copper network.¹⁷ Ofcom accepts it is undesirable for BT (and hence end customers) to incur the costs of running both copper and fibre networks and accepts the wider benefits to consumers of modern fibre optic networks.¹⁸

*"Eventually Openreach's copper-based network can be decommissioned to avoid the costly running of two parallel networks. We [Ofcom] want our regulation to support a smooth transition away from Openreach's copper-based network, while facilitating the wider objectives of this review."*¹⁹
- 1.20. Ofcom's TAR proposals are too cautious against the objective of facilitating migration. Indeed, Ofcom favours options that go more slowly:

¹³ [ISP Sky Broadband Launch Pilot of CityFibre Based UK Full Fibre Packages UPDATE - ISPreview UK](#)

¹⁴ [VodafoneThree begins a new era of connectivity for the UK](#)

¹⁵ [Community Fibre posts first profit, Fibrus Hits EBITDA Breakeven as UK Broadband Customers Top 113.5k - ISPreview UK](#)

¹⁶ TAR, Volume 3, Footnote 116.

¹⁷ TAR, Volume 3, Paragraph, 2.14.

¹⁸ TAR, Volume 3, Paragraph 2.2.

¹⁹ Ibid.

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*"We consider that regulatory continuity (Option one) helps to ensure a more measured pace of migration away from Openreach's legacy copper-based network, either to Openreach's FTTP network or to rival networks, than Options two and three. In our view, Option one provides an appropriate degree of protection from higher retail prices to those customers that are slower to migrate."*²⁰

- 1.21. In practice, Ofcom is proposing to retain stringent notification criteria which in combination suggest a total period of at least 3 years from stop-sell notification to charge control removal,²¹ or at least 5 years from stop-sell notification to copper withdrawal.²²
- 1.22. This is a problem, as it slows realisation of the significant benefits from FTTP migrations and legacy closure. Modern infrastructure supports economic growth, driving efficiency, and will underpin future policy objectives including digital inclusion, or the transition of TV distribution to IP networks.
- 1.23. International examples show how the UK is losing ground in the international 'race' to adopt modern infrastructure. Other countries have more appetite to effectively support transition for the benefit of their customers, with more rapid transition processes. Spain set a 1–2-year notification and transition period, Ireland 18-24 months. The European Commission recommends targets for full switch off by 2030²³ and Spain has recently concluded its copper retirement programme.
- 1.24. There is time to adapt. Ofcom's proposed second consultation on copper retirement is the right place to radically re-assess approaches for the good of the UK. For example, Openreach is proposing a premises level approach which starts a timed process for migration once full fibre is available. Such an approach helps smooth migrations, supports a faster adoption of modern services, and front loads migrations rather than back-ending them as Ofcom's design entails. Other European countries have shown moving more quickly and protecting consumers can co-exist.
- 1.25. We welcome the more pragmatic proposals Ofcom makes on nearer-term exchange closure. These closures have been a well signalled change: Openreach has been consulting for five years on the process to close 108 exchanges by 2030²⁴ and it will likely close up to c. [§] exchanges by [§]. Openreach recently took Ofcom through its FTTP build plans in the 108 exchange areas. In addition to realising cost efficiencies and benefits for consumers, closing these 108 exchanges also offers a crucial test case for any approach to exchange exit.
- 1.26. Pathfinder trials are the right way to take exchange closure forwards, where commercial and regulatory policies are both put to the test. For pathfinder trials to be effective, they should be at scale – e. g. across the first [§] exchanges (Phase 1 and Phase 2) – and be dedicated to finding solutions and applying them to other exchanges. There could be review dates with Ofcom after drawing up initial plans, as Openreach executes plans, and after completing each major phase; or as otherwise agreed with Ofcom.

²⁰ TAR, Volume 3, Paragraph 2.59.

²¹ Ibid.

²² Combining Ofcom's first and second threshold notice periods from its WFTMR statement and its proposed third threshold notice period from its 2020 (WFTMR) consultations.

²³ European Commission (2025), ['White Paper - How to master Europe's digital infrastructure needs?'](#), Page 33.

²⁴ Openreach, December 2020, and; 22 June 2023, [Exchange footprint consultation documents](#).

Disproportionate regulation, including late deregulation, raises risks of consumer harm

- 1.27. The regulatory framework requires Ofcom to assess whether any operator has SMP within a relevant market.²⁵ Only where SMP is found can Ofcom impose SMP conditions,²⁶ and then only to the extent those conditions are objectively justifiable and proportionate to the regulatory aim to be achieved.²⁷
- 1.28. Regulatory constraints should only apply where they are necessary to protect the competitive process and consumers in the absence of effective competition. Where competition is already effective, regulation should be replaced with competition on the merits as a better and more effective means of delivering consumer benefit. Where competition is not yet effective but is getting stronger, lighter touch regulatory obligations should apply. Overregulating – either by applying SMP conditions where no SMP is found, or applying SMP conditions that go beyond what is justified or proportionate relative to strengthening conditions of competition – not only risks Ofcom acting beyond its legal powers, but also risks denying consumers the benefits which fully effective competition brings.
- 1.29. It is right to protect entrants from entrenched market power, and to protect vulnerable customers from overly rapid or badly managed legacy migrations processes. But it is also important not to over-regulate (either in areas where competition has become established or in areas of strengthening competition), to overly delay legacy retirements 'until customers are ready to make the transition', or to radically change approach as Ofcom has proposed in the leased lines market. Otherwise, Ofcom risks:
- harming customers through higher prices for longer than necessary, slower full-fibre adoption and lower incentives to migrate to new networks especially for more price sensitive customers; and
 - undermining the benefits of free market dynamics in efficiencies (including efficient competitors), innovation, choice and further future investment; and
 - undermining investor confidence in the framework's predictability, not-with-standing changes to specific rules, given long period for returns.
- 1.30. We do not think Ofcom has fully considered or balanced these consumer and competition risks in making its TAR proposals and encourage it to look again at key elements.

Additional evidence provided with this response

- 1.31. The rest of this document gives further detail and evidence regarding each of the issues.
- **Section 2** provides BT Group's view on the competitiveness it sees at the wholesale and retail level, and how Ofcom's market definition and SMP assessment is inconsistent with these competitive dynamics.
 - **Section 3** outlines the benefits of legacy retirement that Ofcom's proposals are putting at risk.
 - **Section 4** sets out consumer risks from disproportionate regulation and late deregulation.

²⁵ TAR, Volume Annex 5, Paragraph A5.29-5.30.

²⁶ TAR, Annex 5, Paragraph A5.39.

²⁷ TAR, Annex 5, Paragraph A5.39.

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- 1.32. In addition to data underpinning discussion of the retail market (Annex 3), we have also provided two separate technical annexes:
- Annex 1: Detailed input on the weighted average cost of capital; and
 - Annex 2: Responses to Ofcom's questions on the Regulated Financial Statement.
- 1.33. This submission should be read in conjunction with Openreach's submission to the TAR, making more detailed and more specific suggestions for change, including on:
- flaws in Ofcom's changes to market definition and charge control on leased lines;
 - how WLA market definition and market power assessment should be revised by Ofcom;
 - how regulation can support exchange closure for the first 108 exchanges, and broader changes to copper retirement approaches to deliver optimal customer and citizen outcomes;
 - errors in and changes required in Ofcom's Passive Infrastructure market analysis; and
 - errors in assumptions underpinning Ofcom's proposals to extend FFTP quality of service regulation in WLA Area 3.



Section 2: OFCOM'S ASSESSMENT OF FIBRE COMPETITION DOES NOT MATCH THE FACTS

- 2.1 Ofcom's TAR proposals do not reflect the reality of competition today, or provide an effective forward view of how this competition is likely to develop during the review period. At the retail and wholesale level BT observes far more, and more geographically-focused, competition than Ofcom suggests.
- 2.2 Given this context, Ofcom's TAR proposals to retain and extend regulation, as opposed to seeking paths for lighter regulation or deregulation, are clearly inappropriate. These extensions include widening the rules on geographic pricing constraints, as well as re-introducing cost based leased line charge controls.
- 2.3 This section complements Openreach's submissions, including its NERA report, and covers:
- Ofcom's failure to recognise variations in competitive conditions;
 - indicators and evidence of these competitive variations; and
 - the strong potential for this competition to continue to grow in the future through sustainable competitors.

Ofcom fails to define markets that properly reflect the differing levels of fibre competition in specific geographic markets

- 2.4 Ofcom sets out the analytic approach it takes to each market review in Annex 5 to the TAR.²⁸
- first, it identifies and defines the relevant markets, based on the approach to market definition followed by competition authorities;²⁹
 - second, it assesses competition in each market, to determine whether any one or more operator(s) has SMP;³⁰ and
 - third, if SMP is found, it assesses what SMP conditions are appropriate, bearing in mind the need for each condition to be objectively justifiable, non-discriminatory, proportionate and transparent in relation to what is intended to be achieved.³¹
- 2.5 Defining the relevant market is a critical step, as only once the appropriate market has been defined can an assessment of SMP be properly conducted within that market.³²
- 2.6 Consistent with the approach taken in the WFTMR, Ofcom proposes to define the WLA market by reference to specific geographic areas (grouped at the postcode sector level), reflecting the fact that conditions of competition vary from area to area.³³ As Ofcom notes,

²⁸ TAR, Annex 5

²⁹ TAR, Annex 5, Paragraph 5.7 and 5.22.

³⁰ TAR, Annex 5, Paragraph 5.29-5.30.

³¹ TAR, Annex 5, Paragraph 5.37-39.

³² 'In assessing whether an undertaking has significant market power [...] defining the relevant market is of fundamental importance as effective competition can only be assessed against this definition.' European Commission, [Guidelines on market analysis and the assessment of significant market power under the EU regulatory framework for electronic communications networks and services](#), Paragraph 24.

³³ TAR, Volume 2, Paragraph 4.109.

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the key consideration is to identify areas within which competitive conditions are sufficiently similar to enable them to be grouped together as one geographic market.³⁴

- 2.7 Having set this framework, Ofcom's analysis however fails to apply it. It defines an overly wide WLA Area 2 (all postcode sectors with current or planned presence of at least one of VMO2, CityFibre or any altnet³⁵ with plans to cover at least 50,000 premises by 2031) grouping areas with widely varying competitive conditions that could not reasonably be considered 'sufficiently similar' to constitute a properly defined market. In so doing, it fails to identify the relevant markets in which an SMP assessment can properly be conducted.
- 2.8 Openreach's submission addresses these concerns in greater detail, and proposes an alternative approach to defining relevant WLA markets that properly reflects competition at a local level. In this submission, we provide additional evidence on the significant and varied competition that BT observes at both a wholesale and retail level, across the UK, to further support the need for Ofcom to revisit its approach to market definition, and therefore also its SMP finding across the wide WLA Area 2.

There are clear indicators of significant and varied competition across the UK

- 2.9 Ofcom will have regard to a range of factors when assessing SMP, a non-exhaustive list of which are contained in the EC SMP Guidelines which Ofcom may have regard to.³⁶ It will typically use **market shares** as a starting point, with the case law having established that a market share in excess of 50% should be taken as evidence of a dominant position, save in exceptional circumstances.³⁷ Where market shares are below the 50% threshold, Ofcom may consider a range of other structural market features. These include, amongst others, **barriers to entry and expansion** and **countervailing buyer power**.³⁸ Ofcom will more broadly look at other factors, such as competition from existing providers by reference to **coverage**³⁹ and **pricing practices**.⁴⁰
- 2.10 When the conditions of competition that BT observes in the market – both at a wholesale and retail level – are assessed against these factors, it is clear that (i) competition varies significantly, such that it is not tenable that conditions of competition are 'sufficiently similar' across the wide WLA Area 2; (ii) there is strong evidence that the conditions required for SMP are not met across the wide WLA Area 2.
- 2.11 The strength and variation of network competition can be seen in:

³⁴ TAR, Volume 2, Paragraph 4.48.

³⁵ For the purposes of this document 'altnet' refers to a network provider other than OR or VMO2/nexfibre

³⁶ TAR, Annex 5, Paragraph A5.32-6 and European Commission, [Guidelines on market analysis and the assessment of significant market power under the EU regulatory framework for electronic communications networks and services](#), Paragraph 55-58.

³⁷ TAR, Annex 5, Paragraph A5.34.

³⁸ TAR, Annex 5, Paragraph A5.35.

³⁹ See e.g. evidence which Ofcom considers at TAR, Volume 2, Paragraphs 4.166-4.168,

⁴⁰ See e.g. evidence which Ofcom considers at TAR, Volume 2, Paragraphs 4.206-4.210. Whilst Ofcom notes it did not find pricing practices at the wholesale level informative for its analysis, we provide evidence of regional pricing variations by way of evidence both of the variation in competitive conditions and of strong competition in upstream fibre markets engendering strong competition in downstream retail markets.

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- the **coverage** and overlap of fibre networks, leading to wide variances in competition from areas with 3 or more providers through to areas with only one, and demonstrating the low **barriers to entry and expansion** for altnets;
- competition for customers affecting retail and wholesale **market shares**, again linked to the number of network competitors;
- variations in **retail pricing and price approaches** across the country, correlated to the number of fibre networks present; and
- variations in the behaviours of retail ISPs including in multi-sourcing, and associated Openreach responses, demonstrating the exercise of **countervailing buyer power**.

Coverage: There is already significant variation in the availability of networks

- 2.12 There has been a significant increase in the availability and coverage of networks since 2021, leading to local variation in the number of networks available, and an increase in the intensity of competition in many local areas.
- 2.13 In 2021, Ofcom focused heavily on the prospects of competition from VMO2 and CityFibre, stating that *"the likely competitive constraint on BT posed by each of VMO2 and CityFibre was clearly an order of magnitude different from that posed by the other smaller altnets"*.⁴¹ Since then, the smaller altnets have deployed more fibre collectively than either VMO2/nexfibre or CityFibre (4.4m⁴² and 3.75m⁴³ respectively, versus estimates of 12.6m⁴⁴ for the wider altnet sector as of December 2024).
- 2.14 At least 70% of UK premises now have access to at least one alternative to Openreach up from just over 50% in 2021⁴⁵. One quarter of UK premises have access to three or more networks,⁴⁶ with Ofcom projecting this rising to at least 39%⁴⁷ of the UK by January 2028. VMO2 has a strong network presence, has been growing its footprint and is actively upgrading legacy coaxial cable to full fibre. Figure 1 shows BT Group's estimates of overlap between fibre networks today, and how this varies by altnet. Some altnets have limited overlapping build with other rival networks such as Fibrus, Gigaclear and Trooli (being the sole rival network in [redacted], [redacted] and [redacted] of their build, respectively). However, the three largest altnets – CityFibre ([redacted]), Netomnia ([redacted]) and Community Fibre ([redacted]) – each have clear significant overlaps with Openreach and VMO2, demonstrating a much more competitive segment of the country.
- 2.15 There are clearly significant differences in competitive conditions. For example, a significant and growing number of customers are covered by the most competitive conditions (3 or more networks present) compared to the opposite end of the spectrum where some customers are currently covered by only one network. These facts cannot support a

⁴¹ WFTMR, Vol 2, Paragraph 7.30.

⁴² ISP Review, 28 May 2025, [CityFibre UK Finish Primary £58m FTTP Broadband Rollout in Reading](#).

⁴³ Point Topic, 4 February 2025, [UK broadband availability in 2024: FTTP premises up 23% y-o-y](#) Note (i) the VMO2/nexfibre figure combines both RFOG (1.7m) and nexfibre (2m) FTTP footprints, and (ii) CityFibre has since reported a higher coverage figure of 4.4m.

⁴⁴ Ibid. 12.6m derived from total estimated altnet coverage (16.3m) minus CityFibre coverage (3.7m).

⁴⁵ TAR, Volume 2, Table 2.2.

⁴⁶ TAR, Volume 2 Paragraph 2.30.

⁴⁷ Ofcom, 8 May 2025, [Connected Nations - Planned Network Deployments 2025](#), Coincident gigabit-capable coverage anticipated when all plans are included.

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homogenous WLA Area 2 across 90% of the county, ranging from 3+ networks areas all the way to one existing network with the prospect of future build.

Figure 1: BT estimates on network overlaps (Feb 2025)⁴⁸

[REDACTED]

Source: BT internal analysis

Market shares today: The success of network competition is clear in losses among legacy networks

- 2.16 Losses – including at the retail level – by providers with legacy networks in areas where altnets have deployed fibre is a further indicator of this variation in and strengthening of competition.
- 2.17 Altnet customer growth is accelerating, with customer connections increasing from 1.5m in 2022 to 2.7m in 2024, and expected to reach 3.5m by end 2025⁴⁹. The altnet fibre market has grown by a compound annual growth rate of 33% from 2022 to 2024, reaching 30% of all full fibre connections by end 2024.⁵⁰
- 2.18 By comparison, established networks have been losing share in the fixed broadband market: Openreach's line losses across all technologies have accelerated from ~400k in 2023⁵¹ to ~800K in 2025⁵². VMO2 has also lost share in its original cable footprint area, falling from 36% in 2022 to 31% in 2024⁵³. Openreach has seen line losses in both FTTC and FTTP areas, driven by both vertically integrated altnet competitors and increasingly by the acceleration of CityFibre take-up.

Figure 2: Openreach market shares and relative broadband base

[REDACTED]

Source: Openreach, NERA

- 2.19 As a result, we estimate Openreach's share of connections nationally has declined from [REDACTED] in March 2020 to [REDACTED] in March 2025, but with much more substantial reductions in share in specific geographies, consistent with the competition we observe in those areas. Market share decline is far more pronounced in those geographic areas where Openreach faces competition. NERA defines a proposed Area 1 where 3 networks are already present, and where Openreach's share is today [REDACTED] or less.
- 2.20 Looking forwards, the number of postcode sectors where Openreach's market share is [REDACTED] will continue to grow. NERA's report supporting Openreach's TAR submission sets out likely

⁴⁸ [REDACTED]

⁴⁹ Point Topic, April 2025, [UK Altnets: Delivering Affordable, High-Speed Connectivity with Unmatched Customer Satisfaction](#)

⁵⁰ Based on 2.7m Altnet connections at end 2024 and 9.0m full fibre connections as of Jan 2025 (see [Ofcom's Connected Nations 2025 Spring update](#)).

⁵¹ Telco Titans, 3 February 2025, [In depth: Openreach line losses accelerate, fibre gaps widen as strategic vulnerability](#)

⁵² Telco Titans, 23 May 2025, [Openreach seeks another gear as altnets gain and CPs flop](#)

⁵³ Barclays, 10 March 2025, UK Fibre Wars.

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market share losses depending on the maturity (i.e. time since build) of third-party networks, who is building them (altnet and VMO2/nexfibre), and the extent to which these networks are used as wholesale inputs by ISPs⁵⁴. In particular, NERA's report estimates that:

- past trends show Openreach loses of between [X] and [X] percentage points of market share in the 3 years after an altnet network is built⁵⁵;
- Openreach could lose [X] percentage points of market share in Area 1 once Sky starts to migrate volumes from Openreach to CityFibre⁵⁶; and
- Openreach could lose [X] percentage points of market share in Area 1 to nexfibre due to rising take-up⁵⁷.

- 2.21 At the retail level, consumers are taking advantage of these differing competitive conditions. Industry launched the One Touch Switch platform in Sept 2024, driving more cross-network switching. It is more straightforward than ever for users to switch networks, with One Touch Switch cited by industry players as a key driver of business performance.⁵⁸
- 2.22 The variation and impact of growing network competition can be seen in BT Consumer's churn rates which rise as the number of competitor networks present increases. This shows the market is already working well, with Openreach facing increasing indirect competitive constraints via its downstream customers who are being challenged by VMO2 and vertically integrated altnets.

Figure 3: BT Consumer churn by underlying competitive conditions, April 2025

Competitor presence	No Openreach FTTP		Openreach FTTP available	
	% of customer base	Churn rate (annualised)	% of customer base	Churn rate (annualised)
Openreach +2	[X]	[X]	[X]	[X]
Openreach + Altnet	[X]	[X]	[X]	[X]
Openreach + VM	[X]	[X]	[X]	[X]
No network competitor	[X]	[X]	[X]	[X]

Source: BT Internal Data

- 2.23 We expect these retail competitive conditions will be enhanced further as the One Touch Switching platform becomes embedded in the marketplace, facilitating more consumer switching and further of reducing barriers to switching between networks.

Retail pricing: increasing variations depending on underlying competition

- 2.24 Significantly different competitive conditions are also demonstrated in retail price variations. Research by FDM⁵⁹ in Q4 24/25 showed that postcodes with three or more networks had

⁵⁴ Nera (12 June 2025) Response to Ofcom TAR, Table 2.2

⁵⁵ Ibid. Table 2.6

⁵⁶ Ibid.

⁵⁷ Ibid. Section 2.3.1.1.

⁵⁸ Liberty Global, May 2025. [Investor call Q1 2025](#)

⁵⁹ FDM conducted market research over six weeks in the period 14/02/2025 – 25/03/2025 and tracked a rotation of selected postcodes each week, with around two hundred postcodes covered each week and every postcode covered twice. Pricing was measured using average monthly cost derived from total cost of 'ownership' divided by contract length. Note this is distinct from research conducted – also by FDM – [conducted](#) on behalf of The Independent Networks Cooperative Association (INCA). See Annex 3 – BT Group response to Ofcom.

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lower prices compared to those with one or two networks. This applies across all speed tiers – but most marked for the highest speed tiers (800+ Mbps packages) at almost £10 cheaper in postcodes with three networks. This holds for both national-scale altnets (CityFibre) and smaller providers offering more localised services (Community Fibre, Hyperoptic).

Figure 5: Retail pricing depending on network presence

	4+ networks	3 Networks	OR + Altnet	OR FTTP + VM	OR FTTC + VM	OR only (FTTC/P)
Entry	£16.08	£22.23	£22.31	£23.96	£23.96	£25.02
75-149 Mbps	£21.82	£23.01	£24.81	£23.96	£23.96	£26.87
150-399 Mbps	£16.23	£23.73	£23.47	£26.47	£28.29	£26.64
400-799 Mbps	£20.70	£29.50	£28.67	£30.71	£33.33	£31.44
>800Mbps	£22.91	£26.47	£29.11	£36.31	£36.80	£36.36

Key

Below OR-only average

Above OR-only average

Source: FDM on behalf of BT Group

- 2.25 Several major non-vertically integrated ISPs offer regional discounts in selected areas correlated with the presence of altnets whom they choose to consume. Vodafone, for example, offers lower prices in areas where CityFibre is present compared with those where Openreach only is present across speed tiers such as Full Fibre 80 (£23 in CityFibre areas vs £26 in Openreach-only areas), Full Fibre 150 (£25 vs £27), and Full Fibre 910 (£29 vs £38) packages.

Figure 6: TalkTalk and Vodafone pricing variations by networks present

Package	TalkTalk prices by networks present				Vodafone prices by networks present		
	OR-only	CityFibre	Discount		OR-only	CityFibre	Discount
Full fibre 65	27.00	27.00	-		26.00	23.00	3.00
Full fibre 150	28.00	28.00	-		27.00	25.00	2.00
Full fibre 500	35.00	34.00	1.00		30.00	31.00	-1.00
Full fibre 900	42.00	39.95	2.05		38.00	29.00	9.00

Source: FDM on behalf of BT Group

- 2.26 The same trend applies among vertically integrated, national scale operators. VMO2 retail – for example - offers a range of different prices for its M250, M350, M500 and Gig1 Fibre broadband packages across postcodes in the UK.

Figure 7: geographic variations in VMO2 prices

Product	M50 Fibre	M125 Fibre	M250 Fibre	M350 Fibre	M500 Fibre	Gig 1 Fibre
Highest price	£48.00	£23.99	£30.99	£29.99	£35.99	£38.99
Most common price			£28.99	£28.99	£33.99	£36.99
Lowest price			£27.99	£27.99	£32.99	

Source: FDM on behalf of BT Group

2.27 BT Consumer ☞. For example:

- BT Group pursues a multi-brand strategy, with three sub-brands – BT, EE, and Plusnet – available in the market depending on customer preference around characteristics such as price etc.
- Since 2021, ☞.
- ☞.

Figure 8: ☞

☞	☞	☞
☞	☞	☞
☞	☞	☞
☞	☞	☞
☞	☞	☞
☞	☞	☞

Source: BT ☞ Internal data

2.28 Within clear guardrails, BT ☞.

Retail ISP behaviours: these overlaps support extensive multi-sourcing and greater bargaining power being deployed

- 2.29 Retail ISP behaviours underline this growth in competition since 2021. In 2021, Ofcom set out the limited degree and higher costs of multi-sourcing as a barrier to competition.
- 2.30 This has clearly changed: following the announcement between CityFibre and Sky of a wholesaling partnership, all major non-vertically integrated ISPs in the UK now have commercial agreements in place with multiple infrastructure providers. Sky has now reiterated its commitment to consume from CityFibre, and is expected to be fully live on the platform (having incurred the necessary development costs) this year⁶⁰. Vodafone's 12 June announcement means it now sources wholesale access from three providers:

⁶⁰ Financial Times, 7 April 2025, [Sky reiterates commitment to CityFibre deal in boost to £1.5bn fundraising](#).

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Openreach, CityFibre and Community Fibre⁶¹. We continue to see providers like All Point Fibre⁶² and PXC⁶³ developing systems to allow downstream ISPs to access multiple upstream networks.

- 2.31 This buyer power is further bolstered following VMO2/nexfibre's announcement of its intention to offer another major wholesale alternative with a presence in much of the UK⁶⁴. VMO2 is now trialling this wholesale system with GiffGaff⁶⁵ to demonstrate capability.
- 2.32 Materially more countervailing buyer power⁶⁶ is likely to emerge during the TAR review period once multi-sourcing is established (i.e. once integration costs by ISPs have been sunk) and low barriers to switching to altnets and the One Touch Switch process will allow ISPs to exercise maximum constraint on Openreach.

Ofcom underplays the strength of individual altnets, now and in the future

- 2.33 Ofcom's analysis not only fails to capture the variation and intensity of competition BT sees in large parts of the UK, as set out above, but also the strength of individual altnets and the extent to which that strength will develop over the review period. The regulatory framework requires that Ofcom conduct a forward-looking assessment of the market, taking into account expected or foreseeable developments that may affect competition in the market⁶⁷. Ofcom's current assessment does not adequately take this into account.

Altnet market shares will grow materially over the review period

- 2.34 Ofcom acknowledges fibre take-up grows the longer fibre infrastructure has been available. This is important given the age-distribution of altnet build – take-up will continue to grow on the back of the rapid and significant build that has occurred in the recent past. This needs to be properly factored into Ofcom's assessment of where competition is effective, or will become effective during the review period.
- 2.35 Figure 9 shows  of altnet build is less than two years old. The propensity for fibre adoption grows from 12% after one year of build, rising to  after 4 or more years. This sets the context for material fibre take-up growth for the altnets in the coming 2 to 3 years. As set out above, NERA's analysis for BT shows a clear relationship between time since build and Openreach's market share where alternatives to Openreach have been deployed⁶⁸. There is substantive evidence that altnets are able to gain market share and are likely to continue to do so over the next review period.

⁶¹ [VodafoneThree begins a new era of connectivity for the UK](#), accessed 12 June 2025.

⁶² Telco Titans, 16 May 2025, [Rip & Restart: AllPoints launches aquila UK fibre wholesale platform](#).

⁶³ PXC, 16 September 2024, [PXC to partner with Nefomnia and BRSK](#).

⁶⁴ Nera, 12 June 2025, Response to Ofcom's TAR, Section 1.2

⁶⁵ Nexfibre, 30 April 2025, [nexfibre welcomes giffgaff to its next generation wholesale platform](#).

⁶⁶ See Openreach, June 2025, Response to Ofcom's TAR, Executive Summary, Paragraph 117.

⁶⁷ S79(1A) Communications Act 2003.

⁶⁸ Nera (12 June 2025) Response to Ofcom's TAR, Figure 2.2.

Figure 9: 

Altnets will continue to provide a competitive pressure in future given network build costs are largely sunk

- 2.36 Ofcom sets out that it is concerned with effective and sustainable competitors. Ofcom suggests altnet 'sustainability' can be measured by positive operating cash flow – but this is too conservative. Ofcom does not define this measure – we take it to mean EBITDA less capital expenditure. Looking at financial results for this metric though confuses the sustainability of competition based on built network and investments being made in new networks. In practice, where a network has been built, and so long as a competitor can cover its variable costs and make a contribution to fixed costs, it will continue to operate⁶⁹
⁷⁰.
- 2.37 Ofcom should place more weight on the competitive pressure from built networks. As previously seen with UK cable networks, once the (high) fixed cost of network build is incurred, the 'financial viability' of a competitor depends not on overall returns, but on confidence the entity can cover ongoing operating costs including the cost of building share or replacing churning customers. As with the cable industry, these economics will improve over time through the process of consolidation, which is itself supported by those cases where smaller altnets might face challenges.
- 2.38 Operators' investment in new connections will be undertaken based on the expected customer life and contribution (profit) per new connection, not on the profitability of other, existing customers. A rational firm will incur the acquisition cost of any new customer so long as profits from that customer are expected to cover the acquisition cost over the customer lifetime. Typical customer lifetimes in telecoms are 5 to 8 years⁷¹. Once a network has been built, a network operator (and its investors) will invest in new connections if it has a reasonable expectation of recovering connection costs over the customer lifetime, whilst also covering ongoing operating costs. Scale therefore does matter, but not to the degree Ofcom suggests.
- 2.39 The better measure for forward looking financial sustainability would therefore be an ability to cover operating costs plus the amortised cost of new customer connections necessary to maintain sufficient scale to cover operating costs (i.e. not shrink below minimum efficient scale). Ofcom offers no evidence or analysis of altnet financials against this measure, or its own measure of operating cash flow.

Ofcom has also unhelpfully blurred altnets into one group, as opposed to assessing competition in locations defined by their competitive intensity

- 2.40 Ofcom's use of 'average' altnet competition across postcode sectors⁷² with three networks underplays the extent and strength of different competition in different geographic

⁶⁹ Nera (12 June 2025) Response to Ofcom's TAR, Section 4.3.1

⁷⁰ In any case, we note an increasing number of altnets report that they are 'EBITDA positive' or 'EBITDA breakeven'. See – for example – ISP Review, 9 June 2025, [Fibrus Hits EBITDA Breakeven as UK Broadband Customers Top 113.5k](#) and Community Fibre, 7 May 2025, [Community Fibre posts first profit with 82% annual revenue growth](#)

⁷¹ See – for example – Ofcom, 30 November 2017, Statement: Narrowband Market Review Annex 3 Paragraph A3.13, TalkTalk Group, 6 May 2025, FY 25 Investor Presentation, slide 6. Ofcom 2015 Fixed Access Market Reviews para 6.460-6.465.

⁷² TAR, Annex 5, A7.22 – A7.41.



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locations: there are contiguous altnet networks that are approaching a measure of sustainability already (see Box 2.1). The competition Openreach and downstream BT face day to day is not from an 'average' set of altnets, but from specific firms, some of whom are already strong and effective competitors.

- 2.41 Ofcom calls out more successful altnets with take-up in the range 20-30%⁷³, but then implies altnet take-up is weaker by using an industry wide average⁷⁴. Given the nationwide broadband adoption level (85%), these more successful operators have a market share between 30 and 35% where they have built networks. But Ofcom offers no assessment of their specific financial sustainability or competitive constraints they pose.
- 2.42 Fibrus, for example, covers around 10% premises and has a take-up of ~20% - although recent results suggest this has grown to around 28% and is expected to reach 30% in the coming months. Similarly, Community Fibre covers c. 10% premises, has ~10%⁷⁵ take-up (and an implied ~10% market share in its own footprint assuming broadband adoption of 10%) and has recently turned EBITDA positive⁷⁶. Much of Community Fibre's build sits squarely in the most competitive areas: we estimate 77% of its network overlaps at least two other networks⁷⁸. In this example alone there are ~10% homes where there are three networks and a sustainable (or near to sustainable) altnet competitor. We provide further evidence with respect to Community Fibre's position in Box 2.1.

Figure 10: Ofcom underplays the competitive dynamic of some more successful vertically integrated altnets⁷⁹

	Hyperoptic	Community Fibre	Gigaclear	Fibrus	CityFibre	Netomnia
Footprint (# premises)	10%	10%	10%	10%	10%	10%
Footprint (% of UK premises)	10%	10%	10%	10%	10%	10%
Take-up within footprint (%)	10%	10%	10%	10%	10%	10%
% of footprint overlapping with OR and VMO2	10%	10%	10%	10%	10%	10%
Footprint in 3+ network areas (% of UK premises)	10%	10%	10%	10%	10%	10%

Source 10%

⁷³ Vol 2, para 2.45 – “A Point Topic report found that take-up from a selected group of altnets was on average 17% (as of September 2024), but there was substantial variation, with Hyperoptic, Fibrus Community Fibre and Gigaclear achieving take-up rates in the range of 20-30%. Point Topic. 13 December 2024. Q3 2024 UK ISP and network supplier metrics – a market overview. Accessed on 5 March 2025.

⁷⁴ TAR, Annex 5, A7.22 – A7.41.

⁷⁵ Note Community Fibre reports a slightly 10% take-up rate of 23% with premises passed reaching 1.8m if Box Broadband acquisition is included. Community Fibre (7 May 2025) [Community Fibre posts first profit with 82% annual revenue growth](#)

⁷⁶ Ibid.

⁷⁷ Based on BT's assessment in February 2025.

⁷⁸ We also understand that much of Community Fibre's network overlaps Hyperoptic and G.Network, who have targeted London Boroughs in the last few years.

⁷⁹ As noted above, these figures are based on BT Group analysis of publicly available streetworks data. While published figures from individual operators might vary, we have used BT Group analysis throughout for consistency purposes.

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- 2.43 Our views on local network overlap are estimates based on publicly available information – only Ofcom holds the data to do this assessment accurately. It is incumbent on Ofcom to undertake this analysis to inform its final proposal⁸⁰.

Box 2.1: Community Fibre shows how altnet performance is improving and achieving local sustainability

- Community Fibre is one of the most successful altnets to date, recently reporting 25% take-up across its footprint of c.1.3m residential premises. Given broadband adoption of c.85%, this implies a market share of 29% in its footprint. It has recently become EBITDA positive, following the end of further build. Vodafone announced on 12 June a new wholesale partnership with Community Fibre.
- We estimate Community Fibre's footprint has material overlap with OR and VMO2 today – 80% of Community Fibre's footprint sits on top of both Openreach (any technology) and VMO2's networks – see Fig 1. Community Fibre ceased build in H1 2024, so by the time of the start of the TAR review period in 2026 will have had all assets built for 2+ years.
- We estimate Openreach's current market share to be: (i) 80% within Community Fibre's footprint; and (ii) 80% across postcode sectors where both Community Fibre and at least one other rival gigabit network are present.
- These facts make clear Community Fibre has all the factors necessary for long term sustainability before the TAR review period even starts: it has a good level of take-up, a new wholesale partner to drive further volumes, and the prospects for cost reduction or further scale benefits the industry consolidation Ofcom itself expects.
- It is therefore clear that Community Fibre will be an effective and sustainable competitor in more than 1m homes across London, in a market with Openreach, VMO2 and Community Fibre well before the end of the TAR review period.
- It is also clear that, on a forward view, Openreach's share will fall 80% within both (i) Community Fibre's footprint; and (ii) postcode sectors where Community Fibre and at least one other rival gigabit network are present. The strength of the competitive constraint that Community Fibre exerts in its footprint emphasises the clear need for Ofcom to revisit its geographic market definition, as well as a careful review of whether Openreach continues to have SMP within these areas.

Ofcom needs to reassess its proposals, including its SMP finding across a wide WLA Area 2, in light of the clearly differentiated and strong competitive conditions Openreach faces

- 2.44 As set out above, Ofcom has failed to define the relevant geographic markets for its assessment, because it has taken an overly broad approach to grouping areas of significantly different competitive conditions. As a result, its SMP assessment fails to undertake a thorough assessment of whether BT has SMP in geographic areas where Openreach faces stronger competition.
- 2.45 As we have shown, there are plainly geographic areas – in particular those where three networks are present – where the structural factors necessary for an SMP finding are not met, particularly on a forward view:
- Openreach's market share is 80% or there is a reasonable expectation of trending below 80% over the review period;

⁸⁰ This case study is assessed on the same basis and using the same methodology as Figure 1

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- individual alnets' market shares have risen substantially, and now exert a material and sustainable constraint on Openreach in their footprint, as shown by Openreach losses to them;
- customers exhibit strong countervailing buying power, with the ability to switch demand to multiple alternative network providers; and
- there is fierce retail competition, with retail pricing reflecting the degree of network choice available.

- 2.46 As set out above, Ofcom must recognise in its assessment that altnet take-up will continue to increase over the review period, in line with the clear trend that adoption increases with time from fibre build. It must also recognise that the constraint from a built network will continue to exist now that fibre is in the ground, irrespective of the sustainability of individual operators. Ofcom must consider the competitive constraint of each altnet in its own footprint, and not obscure the cumulative constraint that altnets exert by 'averaging' their competitive strength across an overly broad geographic area.
- 2.47 As it stands, Ofcom's approach risks a number of quite perverse outcomes in terms of ongoing regulation in actually competitive market conditions, as set out in Box 2.2.
- 2.48 Based on the evidence of strengthening competition, it is incumbent on Ofcom to undertake a rigorous SMP assessment in each relevant geographic market before it can conclude that BT continues to have SMP in that area. Where SMP cannot be established on a forward-looking view, Ofcom must remove regulation. Where the degree of SMP has reduced, Ofcom must consider the extent to which each specific regulatory constraint remains necessary and proportionate. In this regard, measures that were previously necessary in order to promote building of new networks (as was the justification for geographic pricing constraints) would no longer be necessary in areas where networks have been built.



Box 2.2: Ofcom's proposals risk perverse outcomes**Example 1: Ofcom's assessment of competition in local areas would be different purely following a change of owner:**

In Box 2.1 we set out why competition is either established, or very close to being established, in the Community Fibre footprint. This is because Community Fibre has scale, is acquiring customers and exerting a competitive constraint on Openreach alongside VMO2. Ofcom expects the altnet sector might see material consolidation. If Community Fibre were acquired by (say) Netomnia, the combined altnet may no longer be as 'sustainable' as Community Fibre alone until or unless there were material cost synergies given Netomnia's lower take-up today. Purely by virtue of a transaction, Ofcom's approach would consider the market to be less competitive on its criteria, whilst the actual level of competition in the original Community Fibre footprint (assuming no overlap with Netomnia) would remain unchanged.

Example 2: Ofcom's approach highlights it considers competitors, not competition, matters: Ofcom – in contrast to its previously stated objectives – sets out that strong competitive conditions (evidence by high altnet market shares) in a local area does not matter if the parent company continues to have lower adoption across its whole footprint (Vol 2, para 4.98). Whilst lower overall take-up might affect an altnet's overall finances, it does not describe local competitive conditions. For example, Ofcom's proposals would mean even in the case of a UK town where CityFibre had a higher market share than Openreach (see Connected Britain comments around share in '[mature cities](#)'), or where CityFibre and Virgin Media held 50% market share each Openreach would still be considered to hold market power in an area where it had very low market share (and $\pounds$). This is a real-world situation – where there are wide variations in local competitive conditions as shown by variances in altnet take-up by cohort (i.e., how many years since a network was deployed to a premises).

This demonstrates the fundamental problem in Ofcom's current approach to market definition (and its inability therefore to undertake an appropriate SMP assessment) or its failure to propose more adaptive regulation during the review period.

Eight Advisory report, Jan 2025

Section 3: REGULATION HAS A KEY ROLE IN SECURING TIMELY MIGRATIONS AND LEGACY NETWORK RETIREMENT

- 3.1 We believe Ofcom's objectives for legacy network retirement are clear and commonly agreed:⁸¹
- a) to facilitate a transition from legacy networks and services to the best-in-class networks being built, with associated consumer benefits, in turn supporting growth;
 - b) to ensure that this migration is not used to limit or undermine competition, either in network build or in ongoing network- or resale-based competition; and
 - c) to ensure vulnerable customers or critical national infrastructure services are not harmed during any migration.
- 3.2 However, in the past other objectives or aims have been included, or erroneously debated as policy was developed. For example, Ofcom has previously linked copper retirement policy to incentives for widespread fibre build. This objective is now being well met through a combination of network competition and public intervention. Further specific incentives for widespread fibre deployment are not required given how successful the WFTMR's network competition strategy has been.
- 3.3 Ofcom should also be very clear it is not aiming for inefficient competition or network deployment. Ofcom needs to be clear there is no intent to set incentives leading to unnecessary or uneconomic altnet overbuild. Build decisions should be left to commercial and competitive incentives, or be led by direct and clear public intervention as with the BDUK programmes.

Ofcom's previous approaches, rerun in the TAR, do not deliver these objectives

- 3.4 Ofcom's proposal to retain the current copper retirement model falls short of these objectives. The proposals delay when regulation will support migrations even where FTTP is available until fibre is available across an entire exchange area. This introduces unnecessary delays in migrating consumers to better services and delays in legacy closures.
- 3.5 Stepping back, Ofcom's policy appears aimed at delaying fibre migrations until altnets are ready, as it seems to be concerned that altnets could be disadvantaged if customers move to Openreach's FTTP network before altnet services are available.⁸² This does not recognise key features of the market, including:
- the significant existing altnet fibre availability to more than 16m homes;
 - the fact that altnet build has now largely slowed; and
 - widespread intra-network switching, meaning it is not really a race to connect that requires migrations to be delayed until competitors have built.
- 3.6 Ofcom's framework has excessively long minimum overall timescales. In combination, Ofcom's proposed triggers suggest a total period of at least 3 years from stop-sell

⁸¹ TAR Consultation, Volume 3, paragraphs 1.63 and 1.64

⁸² Ibid., paragraph 2.55.

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notification to charge control removal,⁸³ or at least 5 years from stop-sell notification to copper withdrawal.⁸⁴

- 3.7 This is a problem – international examples show how the UK is losing ground in the international ‘race’ to adopt modern infrastructure. Other countries have shown much more appetite to effectively support transition, as shown below.

Figure 11: International examples of copper-withdrawal and exchange closure⁸⁵

Country	Announced	Completion	Threshold	Exchange notice
Estonia	2015	2017	No threshold - led by incumbent. Incumbent to provide regulated wholesale access at copper pricing.	6-months
Ireland	2021	2028	When exchange has "modern infrastructure" available. Access to regulated wholesale service of equal functionality and quality.	6-months stop-sell. Up to 18 months stop-service.
Norway	2019	2025	None (access seekers required to be involved in replacement decisions).	3 years, or 6-months if an equivalent replacement product available.
Spain	2016	2025	Only where exchange is no longer in use.	1-2 years.

- 3.8 Delaying the transition also delays the benefits of copper retirement and exchange closure, which include:
- a) simpler and more reliable access networks with a c. 80% lower fault rate,⁸⁶ requiring less maintenance effort;
 - b) simpler Openreach product portfolio, supporting an improved communications provider (CP) and end customer experience and streamlined processes;
 - c) a more sustainable network, significantly reducing BT's energy footprint by 80% per year⁸⁷ and offering equivalent energy savings for other legacy networks operators;
 - d) freeing up brownfield land for development, including in many prime locations; and
 - e) cost savings of up to 80% a year from network simplification and building closures, lowering costs for Openreach's customers and ultimately consumers⁸⁸.

⁸³ Ibid., paragraph 2.59.

⁸⁴ Combining Ofcom's first and second threshold notice periods from its WFTMR statement and its proposed third threshold notice period from its 2020 consultations.

⁸⁵ Assembly Research, 2024, 'Benchmarking UK regulation'; WIK-Consult, 2020; '[Copper switch-off: European experience and practical considerations](#)'; Data Center Dynamics (2025), '[Telefónica completes switch off of copper network in Spain](#)'.

⁸⁶ Comparison of the FTTP fault rate to the copper fault rate.

⁸⁷ This is equivalent to the total energy consumption of c. 35k medium-sized homes, according to <https://www.ofgem.gov.uk/average-gas-and-electricity-usage>.

⁸⁸ BT Group, July 2024, Telecoms Access Review BT Group submission to Ofcom, Paragraph 3.8.

Ofcom therefore needs a different, and faster, approach which better meets its objectives

- 3.9 Given the size of the prize to the UK of getting this right, in the context of a sustained Government drive for economic growth, Ofcom should use its proposed second consultation on copper retirement to make major changes to its approach.
- 3.10 As part of this, Ofcom should give less weight to maintaining consistency with the WFTMR when considering copper retirement, given network build has been far more significant, from far more players, than considered possible in 2021. By 2026, c. 90% of UK premises will likely have access to full fibre, due to significant network build by both Openreach and its competitors. Ofcom should change its approach to copper retirement to reflect these market developments.
- 3.11 Fibre build will be largely complete in the coming 5 years. It is therefore important to define a proactive approach to customer migrations that enables copper retirement. As detailed in Openreach's response, we believe Ofcom should:
- a) continue supporting stop-sell of new connections to copper based broadband for any premises where Openreach has FTTP available;
 - b) define a minimum 'time since Openreach fibre has been available' as a trigger for exchange based copper services to be withdrawn on a premise-level basis. This would be complemented by clear and UK-wide awareness raising and with suitable protections for vulnerable and CNI customer connections;
 - c) allow Openreach to withdraw copper services with a defined notice period for any premises where there is an alternative fixed line connection available. Customers would migrate to this alternative service where required; and
 - d) work with Government and industry to understand locations and premises where Openreach cannot access premises, or where premises are not economic for either commercial or publicly funded fibre build. In these cases, help define what credible alternatives would be, including Fixed Wireless Access or satellite to support ultimate withdrawal of the copper network.
- 3.12 This would support the objectives for Ofcom set out above at paragraphs 3.1 to 3.3, as described in the right-hand side of the table below.

Principles we consider Ofcom should adopt	Benefits for meeting objectives above
Make thresholds premises-based rather than exchange-based	Allows supported migrations to start based on fibre being available to a customer, rather than waiting to move some customers until ultrafast is available across an entire exchange
Permit withdrawal within a defined notice period after stop-sell, while protecting the vulnerable	Facilitates clarity and could help to migrate customers sooner, delivering consumer benefits faster
Permit withdrawal without Openreach FTTP if (i) Openreach cannot access premises; (ii) premises have altnet coverage due to commercial or publicly funded build; or (iii) FTTP build would be uneconomic relative to satellite or wireless	Avoids incentivising inefficient or ineffective investment at the expense of national FTTP coverage

We welcome Ofcom's proposal of a separate approach for exchange exit: this should set policy blueprints and customer migrations for wider retirements where pathfinders show the model works

- 3.13 Although closing the first tranches of exchanges will be largely commercially driven, regulation must be set in ways that is consistent with and supportive of commercially led changes. As take-up of full fibre services grows organically, legacy network costs would have to be recovered from a declining base of customers, often those who are more vulnerable. As Ofcom said⁸⁹, unengaged communications providers or customers should not unduly hold up the migration to future-proofed and resilient technologies (while maintaining protections for vulnerable and CNI customers). For these two reasons, a more proactive and co-ordinated approach to legacy retirement, including regulatory support, is required.
- 3.14 We need this support from Ofcom now as, by 2030, we plan to close 108 exchanges and start preparations to close up the next 300 exchanges. Closing 108 exchanges by 2030 has been in plan for 5 years, with Openreach first consulting with CPs in December 2020. This is now being converted into an operational plan for migrations given network availability for the 108 exchanges. In addition to realising cost efficiencies and benefits for consumers, closing these 108 exchanges also offers a crucial test case for any approach to exchange exit, and should be seen as such. To practically deliver this, there is a phased schedule, with first exits due by 2028 as shown below.⁹⁰
- 3.15 Without action now, the UK will fall even further behind international peers: if we cannot hit the 2030 'last customer off' date, the UK would be more than 5 years behind Spain, which recently shut down its final copper exchanges.⁹¹

Figure 12: Timescales for first 108 exchange exits⁹²



- 3.16 Openreach has now largely agreed commercial terms, and industry is placed to start this process. But Ofcom and Government have a role to play here, especially in setting the approach for how the final migrations will take place.
- 3.17 Ofcom can support exchange closure by treating the first two phases of P108 exchange closure as crucial test cases ('pathfinders') to finesse the approach to exchange exit. The pathfinder phases will provide important insight into the challenges associated with scale exchange closure, building on Openreach's current 3 pilot areas. Such challenges will include:
- a) access to some Multiple Dwelling Units (MDU) to deploy fibre;
 - b) managing any CPs 'blocking' exchange closure;
 - c) notifying customers of network closure where Openreach has no FTTP or FTTC and there are alternatives;

⁸⁹ TAR, Volume 3, Paragraph 3.46 d).

⁹⁰ With even sooner timescales for three trial exchanges not shown below.

⁹¹ Data Center Dynamics, 2025, ['Telefónica completes switch off of copper network in Spain'](#).

⁹² Excluding three trial exchanges which have even sooner timescales.

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- d) ensuring sufficient protections for vulnerable customers and critical national infrastructure connectivity;
- e) how Ofcom will use 'consent' to provide regulatory oversight of but also clearance to withdraw regulated services, including testing process, timing, and triggers; and
- f) when and how to handle any customer connections that need to be ceased following failed attempts to secure migration.

3.18 The right place to explore issues and test this all works is on pathfinders. For these to be effective, they should be at scale – e. g. across the first 2 phases above (including BT Tower) – and be dedicated to finding solutions and applying them to other exchanges. There should be review dates with Ofcom after drawing up initial plans, as plans are executed and after completing each major phase; or as otherwise agreed with Ofcom.



Section 4: LATE DEREGULATION OR DELAYS TO LIGHTER REGULATION OVER THE NEXT 5 YEAR RISKS CONSUMER HARM

- 4.6 Regulatory constraints should only apply where they are necessary to protect the competitive process and consumers in the absence of effective competition. Overregulating – either by applying SMP conditions where no SMP is found, or applying SMP conditions that go being what is justified or proportionate relative to the strengthening conditions of competition – not only risks Ofcom acting beyond its legal powers, but also risks denying consumers the benefits which fully effective competition brings. Given that competition will only strengthen in the next five years, Ofcom must set out now a clear path to lighten, and eventually remove, regulatory obligations over the review period where they are no longer warranted.
- 4.7 Several European countries, which apply an analogous legal framework, provide examples of how these deregulation triggers may be designed and applied in practice. Regulators in Spain, Portugal and Austria – for example – have all established tests for deregulation based on network coverage and take-up for non-SMP providers, and relative market shares. Those in the Netherlands, meanwhile, although dealing with unique national circumstances, have allowed the SMP provider to use commercial offers to deliver the same outcomes. Most transparent of all, regulators in Italy have consulted on measures to establish thresholds for deregulation and then review the list of deregulated municipalities within the market review period⁹³. Further details of international approaches are provided in Openreach's submission and its Assembly Research report⁹⁴.
- 4.8 While not all of these approaches will be appropriate/applicable to the UK, they demonstrate that setting a clear framework and thresholds for deregulation is both possible, and desirable, to deliver the right market outcomes. At a minimum, such an approach in the UK would require clearly defining thresholds for what triggers would allow the progressive removal of SMP obligations at a local level – or indeed, would allow the removal of Ofcom's SMP finding altogether. As in the countries listed above – this might include data on coverage, market shares, and take-up in each exchange area.
- 4.9 If Ofcom believes that setting out such thresholds would not be appropriate for now, it should set out why it believes this to be the case given;
- a) there is a credible case that those criteria established in different European jurisdictions might well be met in the UK within the market review period (so the UK would be overregulating compared with its European peer countries); and
 - b) such approaches are being deployed in ways that have not curtailed or constrained the development of network competition in those countries.
- 4.10 Ofcom must also provide greater clarity on (i) how Ofcom will apply any price squeeze assessment (including its starting point for evaluating the output increment over which any assessment of costs and margins will be applied, noting that Ofcom appears to currently suggests an overly narrow starting point of an 'individual services' approach), and (ii) as

⁹³ Cullen International, 5 November 2021, [CNMC deregulates fibre in 696 municipalities covering 70% of Spanish population](#).
Cullen International, 10 January 2024, [ANACOM imposes wholesale fibre access on MEO/Altice](#).
Cullen International, 6 May 2025, [Market analysis database: Austria](#).
Cullen International, 6 May 2025, [Market analysis database: Netherlands](#).
Cullen International, 17 May 2024, [AGCOM partially deregulates markets 1/2020 and 2/2020 and fully deregulates market 3b/2014](#).

⁹⁴ Assembly Research, June 2025, Criteria for Geographic Deregulation in Wholesale Broadband.

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with all regulatory constraints, the point at which such rules will become unnecessary as competition further embeds.

Ofcom's assessment of deregulation is unbalanced, with no consideration of the risks of disproportionate regulation harming competition

- 4.11 As discussed by NERA⁹⁵, there are large areas across the UK where competition is established or will become established over the course of the TAR review period. In these areas, Ofcom's decision to delay deregulation or lighter touch regulation will come at a cost to consumers for no clear, incremental benefits.
- 4.12 The primary beneficiary of the policy in these areas is not altnets, but other large and established vertically integrated operators such as VMO2. Restricting Openreach's ability to compete on the merits will keep Openreach's prices higher for longer and therefore also restrict Openreach's ISP customers' ability to pass on those discounts to consumers. This in turn allows other operators such as VMO2 to maintain higher prices where Openreach is not able to compete fairly. This is evident in VMO2's clear regional pricing strategy (see figure 7) and it is these customers who are adversely affected by Ofcom's decision.
- 4.13 It is for this reason that:
- a) Ofcom is directed by the government's statement of strategic priorities (SSP) to regulate **"only where and to the extent necessary to address competition concerns, and ensure the interests of consumers are safeguarded as fibre markets become more competitive."**⁹⁶ (emphasis added);
 - b) National Regulatory Authorities are limited to "...intervene to impose obligations on undertakings **only where the markets are considered not to be effectively competitive** as a result of such undertakings being in a position equivalent to dominance within the meaning of Article 82 of the EC treaty..."⁹⁷ (emphasis added); and
 - c) one of Ofcom's regulatory principles is operating with "a bias against intervention", and to "...intervene where there is a specific statutory duty to work towards a goal that **markets alone cannot achieve**"⁹⁸ (emphasis added).
- 4.14 Ofcom does not give any consideration to the risks or consumer harms arising from deregulating or lightening regulation too late. These risks include:
- a) **higher prices for consumers** than would otherwise be charged. Ofcom's current proposed rules would limit legitimate competition on the merits by precluding efficient localised discounting or more differentiated products and services for different Openreach communications providers based on their specific circumstances and characteristics;
 - b) **higher prices contributing to slower adoption of new fibre services**, reducing customer benefits from the speed and resilience benefits of fibre networks over copper based broadband. This would be especially true for more price sensitive customer groups – the next group where industry will need to focus on migrating;

⁹⁵ Nera (12 June 2025) Response to Ofcom's TAR, Section 2.

⁹⁶ [Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services](#), Page 8.

⁹⁷ European Commission, [Guidelines on market analysis and the assessment of significant market power under the EU regulatory framework for electronic communications networks and services](#), Paragraph 5.

⁹⁸ [Ofcom Regulatory Principles](#)

- c) **higher prices leading and no regulatory support on bulk migrations leading to slower fibre adoption delaying the wider benefits of legacy network closure**, including the inefficiency of running dual networks. Indeed, Ofcom suggests that it values slower migration because this is perceived to risk altnet adoption (despite the presence of One Touch Switch)⁹⁹;
- d) **inefficient competition** – Ofcom notes the industry-wide belief that altnets need to consolidate, and to focus on cost reduction and synergies. However, so far this consolidation has been slower to arise than expected, in part due to investors holding out for higher valuations¹⁰⁰. Protecting altnets excessively long from competition on the merits risks continued market structure inefficiency, further exacerbating consumer harms on pricing and delays in migration; and
- e) **limiting flexibility in Openreach products and services that meet consumer needs and the sector context** – Ofcom's approach results in significant restrictions on Openreach's (and so downstream ISPs', including BT's) ability to meet customer demands and needs flexibly. Ofcom seems to value nationwide pricing and approaches despite it setting up a fundamentally geographic model of network competition. Increasingly, all CPs will need to adapt to customer needs, which may differ from customer to customer, to set the right incentives locally for network migrations and legacy closures, and to realise the underlying value different customer cohorts generate from differentiated services. Onerous and too long held constraints means consumers will not benefit from such flexibility.

4.15 We therefore suggest Ofcom needs to be more proactive, by:

- undertaking more granular analysis of competition and competitors, for example taking a forward view on market share in contiguous postcode sectors in major metropolitan or municipal areas (e.g. towns and cities) where there are three networks with 50% or more coverage; and
- giving more clarity to investors on when or how it would in practice deregulate. The current uncertainty is clear in the views of different altnets on when they think full deregulation will happen¹⁰¹.

4.16 Such uncertainty is not conducive to continued or future investment decisions: whilst Ofcom notes much altnet build has slowed or ceased, there are still companies (including Openreach) proposing to build more. Ofcom has a clear framework, based on adjusting regulation to reflect varying competitive conditions in specific geographies, but it needs to give more clarity on the circumstances that would either deregulate or consider lighter regulation.

4.17 Adopting a proactive 'annual competitive assessment' approach as Italy has done, especially for those geographic areas identified today as most likely to tip into competitive conditions during the review period 2026 to 2031. This is a reasonable and manageable exercise given Ofcom already collects much of this information as part of its Connected Nations triannual reporting.

⁹⁹ See – for example – Ofcom, 20 March 2025, [Consultation: Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31](#) Volume 2, Paragraph 4.92.

¹⁰⁰ See – for example – Telco Titans, 22 April 2025, [CityFibre's Holden: altnets and backers must pull together for investment-grade nirvana](#)

¹⁰¹ See – for example – Inca, 10 May 2024, [Defining relevant markets for the 2026 TAR](#)

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- 4.18 Using such an analysis now and over the TAR review period to clearly set out those areas where, before SMP falls away, it thinks greater competition on the merits (e.g. geographic discounting) would be appropriate (possibly subject to a consent review, but with an expectation of approval unless clear competition risks were identified).
- 4.19 Openreach's TAR submission provides more detail on how alternative options would better serve UK competition, investment and consumers.

Ofcom should provide greater clarity on how it will apply price squeeze rules

- 4.20 With respect to Ofcom's proposal for network access charges to be fair and reasonable, and its interpretation of this to mean Openreach should not set prices that would equate to a price squeeze, we have the following comments. Just as with other regulatory obligations, as upstream competition grows and BT's downstream competitors have an increasing choice of upstream provider, the necessity of downstream regulatory protections through price squeeze rules will diminish, and competition law will address adequately any residual concerns. Meanwhile, as we set out above, competition is already fierce at many different levels.
- 4.21 To be able to respond to this vibrant competition, BT needs to have clarity on how it can use price as a competitive lever to win and retain customers (on a level playing field with its many competitors at the various levels of the distribution chain), whilst remaining compliant with the regulatory obligations that apply to it. It is vital, therefore, that BT and others should have more clarity over (i) Ofcom's price squeeze methodology, and, as with all regulatory constraints, (ii) the point at which such rules will become unnecessary as competition further embeds.
- 4.22 This includes clarity over the output increment to which any assessment of costs and margins will be applied. In the TAR, whilst Ofcom acknowledges that any price squeeze assessment will turn on its facts, it also signals that its *"starting point for evaluating cost and margins on individual services in this context would be to allow a LRIC retail margin **on each service**"* (emphasis added).¹⁰²
- 4.23 BT considers that this is an unnecessarily narrow starting point for any assessment of price squeeze in these markets. It implies an individual services test as Ofcom's starting position which is at odds with Ofcom's approach in previous investigations, such as its Wholesale Calls margin squeeze decision,¹⁰³ as well as relevant EC case law in this area,¹⁰⁴ all of which indicate that the appropriate starting point is to apply the test at a level of aggregation which corresponds to the relevant product market (i.e. a total product test). It also goes against the well-established understanding that *"a new entrant's internal decision making process [is] that it assesses the profitability of its investment in a network by considering the complete range of products that it is able to offer in the relevant downstream market."*¹⁰⁵ As is commonly recognised, an individual service test would typically result in an artificially narrow framework to assess the pricing and cost allocation of a complex, multi-product firm such as BT Group.

¹⁰² TAR Volume 3, paragraph 4.27 and footnote 119.

¹⁰³ Ofcom, Final Decision of The Office of Communications: CW/988/06/08: Complaint from THUS plc and Gamma Telecom Limited against BT about alleged margin squeeze in Wholesale Calls pricing, paragraph 6.51.

¹⁰⁴ E.g. Judgment of 29 March 2012, Telefónica and Telefónica de España v Commission, T-336/07, EU:T:2012:172, paragraphs 200-211.

¹⁰⁵ [Case COMP/38.784, Wanadoo España vs. Telefónica](#), paragraph 388.

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- 4.24 Ofcom should clearly set out that, whilst any assessment will turn on its facts, the appropriate starting point for any margin squeeze assessment is a total product test, rather than an individual services test, consistent with the competitive dynamics that have long been observed in telecoms markets. If Ofcom instead thinks that an individual services test is instead the appropriate starting point, it should explain now in the TAR the factors that would make this the case.

