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Dear Ofcom TAR Team

Telecoms Access Review 2026 – Submission from Gigaclear Limited

INTRODUCTION

1. Since Ofcom published its market review in 2021, there have been considerable shifts in the fixed line broadband industry, which Ofcom has acknowledged in the Introduction to the Telecoms Access Review (TAR). As the largest provider of FTTP in rural areas of England, Gigaclear retains a unique perspective in the industry. We are grateful for the opportunity we had to discuss some of the issues facing the industry in our call with the team on 7th May 2025. We would like to set out in further detail our strategic priorities and our thinking on some of the issues you have highlighted with the hope that this will inform your deliberations during the next phase of your work on the TAR We would welcome further opportunities for discussion alongside our submissions under the s135 requests.

2. Gigaclear's network now reaches over 550,000 homes and connects over 110,000 customers to our full fibre broadband across some of the most rural parts of England. We have delivered 73,000 properties in 15 contracts under the BDUK Superfast scheme and are now delivering a further tranche of properties under three Type A Project Gigabit contracts. We have also connected over 30,000 properties within the Rural Gigabit Voucher scheme. Along with our majority investor, Infracapital, we remain committed to delivering full fibre broadband exclusively in 'ultra rural' areas (see below). However, in order to achieve our strategic ambition to reach 1 million premises by the end of 2027, we need several elements to come together: an improving economy which encourages investment in infrastructure; increased demand for the speed and reliability delivered by our FTTP product; and a clear regulatory regime to ensure fair competition and oversight of the incumbent to ensure it makes economically rational decisions limiting aggressive overbuild.

3. Progress towards improving the digital infrastructure has been good, with full fibre broadband now

available at 57% of UK residential premises and gigabit capable connections available at 78% of UK residential premises[1]. A significant amount of that coverage has been delivered by alternative network providers: in Area 3, one in three premises connected to FTTP has been delivered by an alternative network. From Gigaclear's point of view, although significant investment has been attracted to the FTTP market in the last 8-10 years, it has been a feature of the past 12-18 months that this investment stream has dried up for smaller operators and appears significantly slowed for the medium and larger players. Whilst some of this must inevitably be linked to the macro-economic situation, investors are increasingly focussed on the return on investment. The costs of ultra rural deployment have to be weighed against the likelihood of acceptable long term penetration in the event of overbuild. The uncertainty created by Openreach announcements, compounded with its aggressive Equinox national pricing, means the current environment is seen as unattractive to investors.

4. Across the UK, the easiest work to connect the most commercially attractive premises has been completed, in some cases by three or even four network builders. Many of the remaining premises yet to be connected are in areas where the commercial case becomes gradually less favourable to most investors. In the harder to reach rural locations, building the FTTP network involves significantly higher cost and therefore the investment requires a more predictable revenue stream over a longer period to justify the initial commitment. Where overbuild occurs either at the same time as the rollout or within the short to medium term after rollout, it will significantly impact on the return on investment by depressing penetration[2]. The risk of this therefore becomes a more significant factor in investment decisions and will lead to market failure without active and reliable market regulation.

5. We sincerely believe that creating the appropriate climate for investment to achieve high levels of coverage of FTTP into the hardest to reach areas of our country can only be achieved through positive collaboration between government, the regulator and all those interested communications providers with the capability to deliver in those more challenging locations.

6. There are three key areas where we believe Ofcom has an opportunity to contribute to the creation of a supportive climate for investment:

   A. Re-definition of Area 3, possibly the creation of an 'Area 4' with a new approach to regulation, to acknowledge the economics of ultra rural deployment and support the providers who are delivering connectivity with proactive regulation to prevent aggressive overbuild.

   B. Re-examination of the design of the copper retirement scheme to drive increased coverage without incentivising overbuild by Openreach, which factors in and acknowledges the coverage achieved and planned by alt-nets, creating a supportive climate for further investment into those areas which will always remain outside Openreach's plans.

   C. Ensuring that market regulation works with government schemes to allow fair and effective deployment of government subsidy, so that the taxpayer and private co-investors can each derive the appropriate return on the considerable investment required over the long term.

   We will examine each of these points in more detail below.

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[1] Connected Nations 2023 - UK report (ofcom.org.uk)

[2] [✂]

REGULATION OF AREA 3

7. In the Wholesale Fixed Telecoms Market Review (WFTMR) published in 2021, Ofcom's primary purpose was to provide a regulatory framework which would drive investment into improving the digital infrastructure of the country, by increasing access to 'gigabit capable' broadband. As part of its strategy, Ofcom defined two geographic markets:

   • WLA Area 2 – postcode sectors in which there is, or there is likely to be potential for, material and sustainable competition to BT in the commercial deployment of competing networks; and

   • WLA Area 3 – postcode sectors in which there is not, and there is unlikely to be potential for, material and sustainable competition to BT in the commercial deployment of competing networks.

   Gigaclear's operations fall wholly within the defined 'Area 3'. According to Ofcom's analysis, Area 3 contains approximately 9.2 million premises, around 40% of all postcode areas and 30% of premises[3].

8. Area 3 as it is currently defined includes many semi-rural areas where the economics of delivery are more favourable, because the costs are lower and therefore lower penetration driven by overbuild does not necessarily make the business case uneconomic. These areas have more in common with parts of Area 2 and could therefore be described as 'semi-rural'. They have not been the focus of Gigaclear's build plans. The remainder of Area 3 would be what Gigaclear describes as 'ultra-rural', where the economics of investment only support a single fibre operator and therefore require more security against overbuild. This is where the Gigaclear network predominantly is located and planned.

9. Including semi-rural locations in the same regulatory category as ultra-rural makes it difficult to create a regulatory framework (and design subsidy schemes – see below) to achieve the widespread connectivity which will deliver economic growth. We do not believe that there is any realistic economically rational scenario where these areas can support a second operator, unless that second operator is Openreach which is able to leverage its national scale to achieve the required economics. However, it is unlikely that Openreach can upgrade its copper network to fibre across the whole of this ultra-rural footprint in a timely and rational way. The incumbent itself has acknowledged the space in the market for alt-nets who specialise in connectivity in the ultra-rural market, described by BT's then Chief Executive as "*a smattering of specialist providers for things like rural areas…*". However, Openreach's aggressive overbuild announcements and wholesale pricing nevertheless has the effect, whether intended or not, of deterring the appetite of investors to risk their capital in the build plans of those specialist providers, amongst whom we would count ourselves. It is also clear that Equinox pricing has discouraged interest amongst the Tier 1 ISPs (BT, Sky and Virgin Media) in exploring wholesale opportunities on other networks.

10. Defining Area 3 purely in terms of 'material and sustainable competition to BT' creates an inherent bias, based on an assumption that only Openreach will build there. However, as we have previously pointed out to Ofcom[4] of the 8% of premises delivered in Area 3 at the time of writing, 1 in 3 had been connected by alt-nets. Our recently updated analysis based on information from Point Topic shows this remains the case and to the end of Q1 2024, the number of premises

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[3] WFTMR Volume 2

[4] See Gigaclear submission to Ofcom on the Equinox pricing proposal September 2021

connected by alt-nets in Area 3 had more than doubled.

11. Looking at regulation through the lens of competition in Area 3 is unhelpful: the issue for ultra-rural properties is not the availability of competition, but the availability of any network at all. As we have pointed out, the economics of the ultra-rural areas do not support more than one operator, whichever operator that is. This is even more true for small, rural focussed operators, without the security of a national footprint to subsidise rollout, or a state-funded copper network to provide revenue from existing customers until the fibre can be delivered. We are already on an uneven playing field and the current definition of Area 3 does nothing to deter the incumbent from its continuing dominant behaviour. If Ofcom were to adopt a more 'operator agnostic' approach, focussing on connectivity rather than competition in ultra-rural areas, this may allow the space to consider how to enable specialist ultra-rural providers to supply the connectivity which is unlikely to be delivered by the incumbent, but is nevertheless threatened by the possibility of its unchecked overbuild. If this issue is not addressed, then there will remain a stubborn 'hinterland' of properties which will never be able to receive gigabit capable broadband, even under the various subsidy schemes, because rational private investment will not come alongside the government to deliver it.

12. [✂] Gigaclear would like to remind Ofcom that investment cases for fibre build rely on a number of factors, including the demographics and therefore propensity to buy of the residents, the engineering requirements, availability of PIA or other shared infrastructure. Most build plans include a mix of property density and it is the denser clusters where cost to build is lower which can subsidise the higher cost, more outlying properties. If those 'denser clusters' are picked off by a competitor, that will destroy the business case for the other properties. Any level of overbuild, even if it does not extend to the entire footprint can therefore be challenging to investment in the hardest to reach area.

13. Ofcom granted several benefits to BT Group in the WFTMR designed to incentivise it to build its fibre network, including the 'BT Commitment', the adoption of a forecast Regulated Asset Base (RAB) model in return for a commitment to deliver 3.2 million homes in Area 3. Unfortunately, Ofcom did not specify which 3.2 million homes in Area 3 Openreach should connect, leaving it free to roam across the entire geography, quite naturally picking off the easiest targets first, predominantly the semi-urban market towns.

14. The result is the 'hinterland' consisting of increasingly difficult and expensive premises without connectivity but also without the counterbalancing more attractive commercial areas in reasonable proximity which can be used to offset the higher costs by any of the operators who contemplate network build there. With the tightening of the capital markets and therefore the pressure on smaller operators to make good investment decisions based on high penetration, rather than purely on premises passed, connecting a large part of ultra rural areas becomes even more challenging. It will also require increasingly higher levels of government subsidy.

15. We note Ofcom's reference in its introduction to the TAR, acknowledging that OMU had investigated 'industry concerns' about overbuild by Openreach since WFTMR and concluded as follows:
"We found no evidence to suggest Openreach has rolled out its fibre network to target or harm competitors, or that these build decisions were not commercially rational."
We welcome the notice which the subject has attracted by inclusion in the introduction and hope that this indicates an appreciation that the perception of an overbuild problem may be

more relevant to the investment community, whether or not Ofcom finds any evidence of it. Since the actual examination is not made public, it is not easy to tell whether the reality and the perception coincide. On that, we refer Ofcom to the recent submission by Gigaclear and a number of other operators concerning the cost of PIA[5] and urge we would urge a more forensic, and perhaps a more transparent, examination of the economics of the business cases of Openreach which underpin its decisions to overbuild.

16. In summary, our request of Ofcom on Area 3 regulation is as follows:

- To consider redefining the boundaries of Area 3 to create an area which is ultra-rural and therefore contains the 'hardest to reach' properties – perhaps designated as 'Area 4'.

- To consider a more proactive approach to regulation in that new 'Area 4', recognising that private investment is needed alongside government subsidy and the difficulties which overbuild creates for investors willing to consider investment in that area.

- However Ofcom chooses to define and regulate Area 3 (or Area 4), to ensure an active and alert Openreach Monitoring Unit to scrutinise the activity of the incumbent.

THE PLAN FOR COPPER RETIREMENT

17. Ofcom included support for Openreach to enable the process for copper retirement and the related investment in the full fibre replacement network as a key pillar of the WFTMR. The reasons for this are varied, but we believe primarily relate to the strategic requirement to drive overall investment in full fibre to support the need for the UK to benefit from the faster, more reliable and future proof technology as well as to recognise the inefficiency and dual cost borne by Openreach in the continuing operation and maintenance of the copper network (and its related power requirements) alongside its rollout of FTTP. We remain supportive of these overall aims.

18. The process agreed between Ofcom and Openreach requires a staged process, where notice is given of the initial 'stop sell' of the copper based products, triggered by 75% coverage of an exchange area. Full switch off can only occur at least two years later once Ofcom is satisfied with the coverage reached. In the WFTMR, Ofcom dismissed Alt-net concerns about the potential for the way the policy had been framed to destroy investment in FTTP in Area 3. In addition, Ofcom specifically rejected Gigaclear's submission that there was a potential for the policy to undermine the government's subsidy programmes.[6] This rejection was inextricably bound into the definition of Area 2 and Area 3 (see section A above).

19. Ofcom's priority in WFTMR was to support Openreach's investment in FTTP in Area 3. However, Ofcom's own acknowledgement of the way that the market has developed, with a large number of alternative network builders active in the market, with some delivering connectivity in Area 3 undermines the thinking which underpinned the 2021 document. Gigaclear's hope is that Ofcom is open to re-examining the design of the copper retirement scheme, in the light of the evidence that a significant proportion of the hard-to-reach areas are not being connected by Openreach, but in fact are being and will continue to be connected by alt-nets, given favourable conditions.

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[5] "Improving the PIA Cost Model in light of the upcoming Telecoms Access Review" July 2024 by SPC Network on behalf of All Points Fibre, Community Fibre, Gigaclear, Netomnia and nexfibre.
[6] 2021 WFTMR Volume 3: Non-pricing remedies (ofcom.org.uk) paragraphs 2.62 onwards

20. As discussed above in relation to the regulation of Area 3, we suggest that designing the copper retirement policy entirely with reference to Openreach creates unfairness from the outset. We would urge Ofcom to consider alternative trigger methods for the gradual phasing out of the copper network, based on actual FTTP coverage, whichever communications provider has built the network. This will then remove the built-in incentive for Openreach to achieve widespread coverage which will inevitably lead to overbuild, which in ultra-rural areas is not an efficient deployment of anyone's capital.

21. We see no compelling reason to use the Openreach exchange pattern as the reference point. Our FTTP network is designed and built according to a completely unrelated architecture: we have data available which shows the extent of coverage of our network overlaid against Openreach exchange areas, should this be useful. [✂]

22. We would welcome discussion of how access to networks which replace the copper network can best be regulated, noting that our network is designed and built to offer wholesale access, although demand for that remains low at present. The pricing of wholesale access alongside remaining copper products also would benefit from a re-examination. We are concerned that without a clear policy on copper retirement designed to complement rollout in the hardest to reach areas, our FTTP will have to compete against increasingly cheap 'adequate' copper pricing, further undermining the investment case for build.

23. Copper retirement is a big subject and we do not propose to examine it in any more detail at this stage. Any examination must also encompass a review of the Universal Service Order and how that might create an opportunity for BT retail to offer its products via wholesale access to FTTP networks other than Openreach's. We suggest that this requires detailed consultation between Ofcom, industry and government, and we are very happy to play our part in assisting in any way we can.

24. On Copper retirement, our request of Ofcom is as follows:

    - Acceptance that Ofcom's approach to copper retirement should not be based solely around Openreach's requirements, nor does it have to follow the old exchange based design of the Openreach network.
    - FTTP coverage in rural areas must not be undermined by a policy which facilitates and incentivises overbuild by Openreach.
    - Ultra-rural FTTP delivery should be rewarded by the removal of competing cheaper but redundant copper products driving take up of FTTP.

ENABLING SUCCESFUL SUBSIDY

25. The current approach of regulation and government subsidy have achieved their goal of driving a high level of commercial investment alongside government subsidy to improve coverage levels in rural areas. The Superfast contracts, and latterly the Gigabit Voucher Scheme, have been instrumental in enabling a variety of operators to provide investment in FTTP to help the government achieve its stated goals.

26. However, connecting the final 20% of premises to gigabit capable broadband will not be achieved without a more nuanced approach to the interaction between subsidy, private investment and the regulatory landscape. The economics of much of the remaining premises do not support a purely

commercial investment case. It is vital that regulation of the market now works more harmoniously with subsidy schemes, to ensure that the most difficult part of the rollout can be achieved. In particular, this requires recognition of the risk that the business case underpinning access to subsidy is vulnerable to strategic overbuild.

27. The current Project Gigabit scheme still requires significant levels of private investment but the model does not contain any protection against competitive overbuild, except de-scope which leads to inefficiencies in planning and in the deployment of capital. The threat of overbuild and its effect on penetration is a significant risk factor in any investment case and when combined with the higher cost of deployment in harder to reach areas, the result is an altogether less attractive business model both for the operator and the subsidy provider.

28. Subsidy schemes rely on the continued availability of investment capital but the evidence is that the appetite of the capital markets is significantly lower than it was when the Project Gigabit scheme was introduced. A tighter market for capital combined with a more difficult investment case because of higher cost and higher risk means that there is a significant threat to the prospect of connecting the final 20% unless a change is made to the scheme, the regulatory approach or, in our submission, both.

29. We do not propose to revisit our previous arguments on this issue, but refer Ofcom to those items referenced in paragraph 11 above. The arguments in favour of a different approach to Area 3 regulation and copper retirement we set out above are a vital component to any examination of the continued use of subsidy to reach full FTTP, or even gigabit capable coverage. The taxpayer has the same requirement for efficient deployment of capital and return on investment as any private investor. Ineffective regulation of the incumbent will destroy that.

30. [✂] In our view, the voucher model represents a more sustainable route to enabling connectivity, driven as it is by actual consumer demand. The economics of the bid process for the larger deployments are complex, but ultimately the same investment criteria must apply, to ensure a return for our investors. Without improved protection from overbuild, whether enabled by the copper retirement policy or a failure to monitor Openreach's build plans, we fear that many of the current Lots will not see the connectivity which is anticipated.

31. An urgent review of the Cross Regional "Type C" procurements should be a priority, in our opinion, given that Openreach is the only viable partner (based on capital resources and scale) for those contracts and the incidental impact is that the subsidy would be another means to support overbuild of existing fibre networks which are in the path of the premises covered by those contracts. There also a danger, based on previous outcomes, that without a radical re-design, these contracts (and probably the Type B contracts) will still fail to reach a significant number of premises and will take a long time to deploy, leaving the same 'hinterland' of ever more expensive and difficult interventions requiring even more subsidy to address.

32. One alternative model would be to consider a concession or franchise model, which has been used in some European countries. We appreciate that this would require a significant change to the regulatory framework and an entire re-write of the subsidy rules. However, in our submission only a radical change of approach will meet the challenge and Gigaclear stands ready to discuss the feasibility of this or any other model in conjunction with Ofcom and BDUK.

33. To enable successful subsidy schemes, our request to Ofcom is as follows:

- Acknowledgement that the success of government subsidy schemes relies on co-investment from the private sector but investment cases for delivery in the final 20% are even more challenging and are unsustainable in the face of unrestricted overbuild by the incumbent, whether subsidised or not.
- A different approach to the design of intervention areas and alternative contract models combined with more creative regulation of a tighter Area 3 will be the only way to ensure successful delivery to all the hardest to reach areas.
- Vouchers are the most efficient and effective current means to support delivery, but only where the threat of overbuild is suitably monitored and contained by a determined regulator.

CONCLUSION

34. We have set out in this document a high-level summary of our strategic position. Clearly there is a great deal more to consider and we urge Ofcom to engage further with us, our fellow rural focussed alt-nets and our investors to examine the issues raised. We would welcome the opportunity to participate in an industry working group to look at all these issues.

35. This is a unique moment, with a new government and the opportunity of a major market review, to challenge accepted thinking. Gigaclear believes that only a creative collaboration between Ofcom, government and industry can achieve the widespread delivery of FTTP across all parts of the economy and we look forward to the opportunity to play our part.

With my best regards

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Nathan Rundle | Chief Executive Officer