



FCS response to Ofcom's Cloud market study consultation - May 2023.

Introduction

The Federation of Communication Services represents companies which provide professional communications solutions to business users. Our members deliver telecommunications services via mobile and fixed line telephony networks, broadband, satellite, wi-fi and business radio. Our members' customers range from SMEs, home-workers and micro-businesses up to the very largest private enterprises and public sector users. FCS is the largest trade organisation in the professional communications arena, representing the interests of circa 350 businesses which supply B2B services nationwide.

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Consultation response form

Please complete this form in full and return to cloudreport@ofcom.org.uk

Consultation title	Cloud services market study, Interim report
Full name	Steve Kerr
Contact phone number	[X]
Representing (delete as appropriate)	Organisation
Organisation name	Federation of Communication Services (FCS)
Email address	[X]

Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom's General Privacy Statement](#).

Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.	Nothing
Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.	None
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes

Your response

Question	Your response
<p>Question 4.1 Do you agree with our assessment of how customers buy cloud infrastructure services and how cloud providers seek to acquire customers?</p>	<p><i>Is this response confidential? – N</i> FCS understands the Ofcom research and assessment of how customers buy cloud services and how cloud providers seek to acquire customers.</p>
<p>Question 4.2: Do you agree with our characterisation of the market outcomes in supply of cloud infrastructure services?</p>	<p><i>Is this response confidential? – N</i> FCS understands the Ofcom research and assessment of the characterisation of the market outcomes in supply of cloud infrastructure services.</p>
<p>Question 5.1: Do you agree with our analysis of potential barriers to switching and multi-cloud? As part of this:</p> <p>a) Please provide your views on the extent to which, and in what ways, egress fees are a barrier to switching and multi-cloud. Please also provide your views on the extent to which egress fees currently charged relate to the incremental cost of providing egress.</p> <p>b) Please provide your views on whether specific business practices of cloud providers, particularly the hyperscalers, exacerbate technical barriers to switching and multi-cloud.</p> <p>c) Please provide your views on how committed spend discounts are set and the impact these discounts have on the incentives of customers to multi-cloud.</p>	<p>a) Egress fees can discourage customers from using services from more than one cloud provider and in some cases can make it more costly to switch and may significantly increase the cost of taking a service from a different cloud provider. Therefore, FCS believe Ofcom intervention is required.</p> <p>b) In this key area, which must be competitive, Hyperscalers and other cloud providers hold gatekeeper positions and control the content accessed by consumers (such as Apple and Google through the iOS and Android operating systems embedded in smart phones). These ‘gatekeeper control’ areas are industry positions of trust and should not be controlled or manipulated to the detriment of the overall market and for the benefit of the individual cloud provider, cloud provider channel or associated areas in vertically integrated companies. Hyperscalers should not be able to inappropriately ‘cloak’ end user IP addresses on the pretext of security/data privacy controls. Activity of this nature is potentially anti-competitive and there would/could be a trickle-down impact to our FCS members (at the end of the reseller supply chain i.e. in B2B advertising and network response times). In addition, where our members' operations are impacted by online criminal activity, the</p>

	<p>'cloaking' of end user IP addresses would/could inhibit enforcement agency investigations and resolutions. This is an area that we believe requires forensic Ofcom analysis and regulation consideration. Inappropriate market power control of network gateways (an abuse of dominance) can result in hyperscalers gaining an unfair competitive advantage, potentially against competition law. Hyperscalers must not be allowed to block, limit or impact access inappropriately.</p> <p>c) Committed spend discounts while often being good for customers, incorporating competition risks if offered in an inappropriate and anti-competitive manner. These risks include disincenitvising customers switching away, locking them into a single hyperscaler and how licences are sold. All of these aspects need careful assessment and appropriate regulation.</p>
<p>Question 5.2: Do you agree with our analysis of potential barriers to entry and expansion?</p>	<p>FCS understands the Ofcom research and analysis of potential barriers to entry and expansion.</p>
<p>Question 5.3: Do you agree with our analysis of the hyperscalers' relationship with ISVs? As part of this, please provide your views on whether our analysis of the hyperscalers relationship with ISVs applies to both larger and smaller ISVs.</p>	<p>FCS understands the Ofcom research and analysis of the hyperscalers' very complex relationship with Independent Software Vendors. FCS believes more research with a wider range of ISVs on this issue will be beneficial. In principle the FCS would not support hyperscalers being able to limit entry and expansion of competing ISVs (by for example restricting APIs or inappropriately raising ISV costs) and want to see a very competitive ISV market, encouraging new and wide ranging functionality and interoperability improvements.</p>
<p>Question 6.1 Do you agree with our assessment of how well competition is working in cloud infrastructure and what are the potential implications of a lack of competition?</p>	<p>Committed spend discounts which link customers to specific hyperscalers (licences, products.) are a concern i.e. can't or it is difficult to switch providers. FCS supports requirements for hyperscalers to be more transparent about the interoperability of their services, make their own services easier to interoperate with third-party services and</p>

	design cloud infrastructure services to increase the degree of standardisation.
<p>Question 8.1 Do you agree that egress fees are an area of potential intervention? How might such an intervention be approached?</p>	<p>Egress fees can discourage customers from using services from more than one cloud provider and can make it more costly to switch and may significantly increase the cost of taking a service from a different cloud provider. FCS supports full visibility and transparency of usage prices and/or egress fees.</p> <p>1. FCS suggest egress fees could be set at a rate which is no higher than the price of internal data transfers within a cloud, meaning customers would face the same cost for data transfer whether they are moving data between clouds or within the cloud of a single provider, fostering competition. OR</p> <p>2. A price control that restricts egress fees to “at cost” is likely to reduce the price of egress from current levels, making multi-cloud deployments and switching a more feasible choice. OR</p> <p>3. Prevent providers from charging for data egress.</p>
<p>Question 8.2: Do you agree that interoperability and portability are areas of potential intervention? How might such an intervention be approached?</p>	<p>FCS believes that barriers to interoperability and portability should not be so high as to act as a disincentive to switch or utilise other cloud service providers.</p>
<p>Question 8.3: Do you agree that committed spend discounts are an area of potential intervention? How might such an intervention be approached?</p>	<p>FCS understands that committed spend discounts can be good for customers but that there are risks to competition. FCS believe this is an area of potential intervention, especially with respect to disincentivising switching providers, being forced to use a single hyperscaler (locking them in) and around how licences are sold. These are all areas for careful consideration and potential intervention.</p>
<p>Question 8.4: Do you agree that transparency of billing is an area of potential intervention? How might such an intervention be approached?</p>	<p>FCS believe there must be greater transparency around pricing, simplified and clearly explained pricing structures, the ability to compare pricing between hyperscalers and better tools for cost monitoring and control. Regulatory intervention could increase transparency and simplicity of</p>

	pricing and billing and impose, at an appropriate level, a standard approach.
<p>Question 8.5: What, if any, potential unintended consequences do you anticipate might be associated with the interventions set out above, and how might they interact with each other if implemented?</p>	<p>FCS believes all potential interventions need to be carefully assessed and that a mix of interventions and how they might impact on each other as well as the overarching outcome for cloud service customers, need to be carefully considered. Further industry consultation will be essential.</p>
	<p>General</p> <p>FCS support the Ofcom proposed recommendation to refer the market for public cloud infrastructure services, to the CMA to carry out a market investigation.</p> <p>A key competition concern for the FCS is any inappropriate hyperscaler control of the traffic gateways, deep in the network, which impacts how CP traffic is routed and ultimately the impact on the services our members can supply to their end customers. This is an area that we believe requires forensic Ofcom analysis and regulation consideration.</p> <p>FCS supports a decentralised, competitive ‘open web’ policy, aligned with the overall ongoing principle to maintain and ‘keep openness’ or ‘Open Systems’.</p> <p>FCS believe that now and going forward, Hyperscalers may have inappropriate market power supported by high financial assets. Legislation must ensure that the big tech hyperscalers are not able to inappropriately put blockers in place that stop the market from developing and being competitive, now and in the future.</p> <p>FCS wishes to flag the question that once a hyperscalers services get above c10% of the UK/world market, should it be mandated to be fully ‘Open System’, much like the old Ofcom Significant Market Power (SMP) rules imposed on companies such as BT.</p> <p>Disaster Recovery, Data Storage locations and National Security are all areas that are</p>



increasingly in the hands of hyperscalers who are typically offshore based. Ofcom consideration needs to be given to the risk of future UK conflict either with a hyperscaler directly or with the country they are based in.

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