

THUS plc

1-2 Berkeley Square T 0141 567 1234

99 Berkeley Street

Glasgow G3 7HR

www.thus.net



Michael Galvin
Competition Group
Ofcom
4th Floor
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

By email: michael.galvin@ofcom.org.uk

25 January 2008

Dear Michael

Service level guarantees: incentivising performance

THUS is pleased to respond to Ofcom's consultation "Service level guarantees: incentivising performance" published on 10 December 2007

We have contributed to and support the detailed points made in the response submitted by UKCTA.

The poor levels of service quality (provisioning and fault repair) achieved by Openreach have caused serious cost and disruption to THUS's business and that of our business customers. The measures proposed by Ofcom are a necessary first step to providing appropriate financial incentives on Openreach to improve service performance to acceptable levels, and we therefore welcome Ofcom's timely intervention in this area.

Our main observations are as follows:

- It remains to be seen whether the levels of SLG compensation proposed by Ofcom will provide sufficient incentive, and we therefore welcome Ofcom's recognition that, should Openreach service levels *not* improve within a reasonable timescale, a further sharpening of the incentives may be necessary. Although Ofcom might have been justified in imposing more stringent measures from the outset, the current proposals are clearly proportionate and easily justifiable by reference to existing precedents.
- We believe it would be helpful for Ofcom to articulate an additional general principle of transparency, meaning that BT should (i) disclose the detailed rules and criteria it uses to determine whether a given SLA breach qualifies for compensation, and (ii) should provide clear and comprehensive itemisation of compensation payments actually made. The importance of the first point cannot be over-emphasised. Given the relatively low value of

THUS plc

Registered Office: 1/2 Berkeley Square

99 Berkeley Street Glasgow G3 7HR

Registered in Scotland No: SC192666



individual compensation payments, it is not cost-effective for CPs to validate or challenge compensation on a circuit by circuit basis. The only way that CPs can realistically push back on inadequate compensation payouts is by challenging the detailed rules and criteria on which they are based.

- We understand it has been suggested that Openreach might require more time to implement the necessary changes for ethernet products than for WLR and LLU. We are surprised by this suggestion, since the changes to ethernet should be easier to implement - processes are already in place for automatic payment; and the main change required is to the quantum. Given the importance of ethernet products to the UK's business infrastructure, we believe that improvements in the service quality regime for ethernet should take higher priority, if anything, than the other Openreach products.
- Much work remains to be done by Openreach and industry to transpose the directions and principles into contract and implement the necessary system and process changes. We believe it is inevitable that disputes will arise over the rules and criteria applied by Openreach in paying out compensation as these become more visible to industry. We believe there could be a valuable role for OTA to play in helping to resolve such disputes (as an alternative to formal referrals to Ofcom) and we would encourage Ofcom to facilitate such arrangements.

We refer you to the UKCTA response for answers to the specific questions posed in the Ofcom consultation document.

Yours sincerely

Richard Sweet
Director of Government Affairs