

Intellect's response to Ofcom's Strategic Review of Telecommunications Phase 2 Consultation

Intellect is the trade association for the information technology, telecommunications and electronics industries in the UK representing 1000 organisations spanning blue-chip multinationals to early stage technology companies. Intellect members contribute around 10% of UK GDP. Further information about Intellect can be found at www.intellectuk.org

Intellect welcomes the opportunity to comment on phase 2 of Ofcom's strategic Telecommunications review and offers the following general and detailed comments.

Intellect members are in broad agreement on Ofcom's overall recommendations, however, it is felt that in certain areas some of the proposals would be too complex technically to implement in practice.

Intellect also feels that Ofcom should develop their proposals at a European level in order to achieve better economies of scale and the resultant benefits for the citizen – consumer.

Intellect and its members would welcome a meeting with Ofcom to discuss its specific concerns at the earliest opportunity.

The main themes of Intellect's response are as follows:

General principles

Intellect is of the view that a sustainable competitive telecoms market is a prerequisite for a successful knowledge driven economy, the growth of the UK and is good for the citizen consumer.

Innovation and investment will be encouraged through the development of open and competitive markets with minimal regulation, used only where sustainable competition has not been established or for issues such as number allocation which are beyond the scope of the market.

Innovation and investment will be encouraged by ensuring that a stable regulatory framework is established and that those making investments are appropriately rewarded for the risks they incur.

It is imperative that the regulatory regimes are sufficiently harmonised throughout the EU to allow economies of scale throughout the supply chain.

Intellect's Vision

Voice telephony and narrowband internet access have established a near universal trend as more and more commercial and social activities come to be dependent on such services. There is every reason to believe that broadband will accelerate the trend because of the increasingly rich variety of activities that can be supported.

In the light of this, an essential enabler of a successful knowledge based economy will be the development of the necessary infrastructure to support freely available, affordable access to broadband services for all. The desire is for open and freely available access to fixed and mobile broadband infrastructure, for both users and service providers.

The underpinning broadband infrastructure must be capable of delivering adequate levels of availability, resilience and dependable quality of service.

Intellect offers the following answers to Ofcom's questions:

1. Do you agree with Ofcom's proposed principles for regulation of telecoms markets?

1 a) What regulatory role should Ofcom play in the wider telecoms value chain?

1 b) How should Ofcom reflect differences in competitive characteristics in different geographic areas?

1c) What factors need to be taken into account when considering the scope of demand and supply-side substitution in telecoms markets on a geographical basis?

1d) To what extent would it be appropriate in the future to take into account differences in competitive conditions in different areas through (i) the aggregation of similar geographic areas or (ii) through different remedies?

1e) Would you support a requirement to provide Ofcom with data on particular products on a geographic basis as part of the regular reporting requirements? What is the correct level of disaggregation?

2. Where and to what extent should Ofcom rely on ex post competition law rather than ex ante regulatory conditions?

3. In what circumstances would it be appropriate for Ofcom to make a reference under Section 131 of the Enterprise Act?

4. Should Ofcom adopt a broad approach of focusing regulation on enduring economic bottlenecks while tackling the problem of inequality of access head-on?

Answer to questions 1-4

Intellect supports the regulatory principles outlined in the consultation document and believes that Option 3, entitled 'real equality of access', is a viable way forward. However, we are of the opinion that the review should have covered the whole communications market and should not have been restricted to telecommunications only.

It is imperative that agreement is reached on how Next Generation Networks (NGNs) will be regulated before they are deployed. We believe that the definition of a generic IP interface with control of Quality of Service (QoS) will be fundamental to the establishment of any new regulatory regime. In NGNs the nature of an IP connection and its ultimate destination are entirely separable from its geographic origination. Careful selection of the locations of 'IP peering points' offers significant potential for addressing many of the issues surrounding variations in market conditions with geographical area.

5. How can real equality of access be achieved at the product level?

5 a) Do you agree with Ofcom's definitions of the various forms of equivalence?

5 b) Do you agree that equivalence of inputs can deliver more effective equality than application of equivalence of outcomes?

5 c) Do you agree with the principles proposed on where equivalence should be applied and the specific suggestions for individual products?

5 d) How do you suggest the principle of equality is achieved for 'associated products' that BT does not depend on (such as migration products)?

Intellect believes that real 'equality of access' to an NGN entails access to a set of generic data interfaces, the inter-module and signalling protocols used by the network, and the Application Programming Interfaces (APIs) that control its intelligence. Such access will enable a service independent approach to regulation to be developed, and will ultimately lead to the withdrawal of the requirements for most of today's regulatory products.

A requirement that protocols defined by recognised standards bodies should be used whenever these are available would ensure that connecting service providers will not be restricted in their choice of equipment supplier, and hence suffer consequential cost implications.

6. What behavioural changes by BT do you believe would be necessary to achieve real equality of access?

7. How should Ofcom reflect the competing considerations of efficient investment and consumer protection in determining the regulated returns that BT may earn from its network?

Although NGNs offer operators the potential of substantial cost savings, as with any new technology their deployment inevitably involves significant risk. It is important that this is recognized and that regulation does not deny an appropriate risk adjusted return on investment.

8. Do you agree with Ofcom's proposed approach to current generation broadband?

8 a) What should Ofcom's approach be to naked DSL?

8 b) Should there be different regulated wholesale products for current generation broadband in different locations?

8 c) How should the potential lack of equivalence faced by LLU operators in a 21st Century network environment be addressed?

The ability to extend QoS controlled IP connectivity all the way to customers through another operator's NGN core and access network will be fundamental to enabling a third party service provider to offer voice and multimedia services with a range of qualities and grades of service without ubiquitous points-of-presence. If IP connectivity is in part bundled with other offerings, such as legacy voice, that are not central to the delivery of such services, it will adversely affect the price at which these can be offered.

9. Do you agree with Ofcom's proposed approach to deregulation of voice services?

9 a) Do you agree that Ofcom should review regulation of retail voice markets in 2005?

9 b) Do you agree with Ofcom's proposals for deregulating call conveyance markets and wholesale IDD?

9 c) When would it be appropriate to remove the requirement on BT to provide indirect access?

9 d) How should PSTN-specific regulation evolve under NGNs? What should next generation CPS and WLR products look like?

9 e) What are the prospects for increased competition for voice services provided using broadband access products (such as LLU and the evolution of DataStream)? What conditions and transitional arrangements would need to be in place to allow service providers to secure access on the basis of commercial terms rather than PSTN-specific regulated products?

9 f) How should Ofcom ensure competition in areas where alternative platforms were not in place?

9 g) When do you expect fixed-mobile substitution to result in a single economic market for voice call origination?

Intellect supports Ofcom's proposals for deregulation of voice services.

10. Do you agree with Ofcom's proposals for deregulation of business voice services?

10 a) Has the voice market for large business become more competitive since Ofcom issued its large business pricing statement, necessitating the conduct of a new market review?

10 b) What wholesale inputs should be provided on an equivalent basis before BT should be granted greater freedom in relation to the pricing of voice services to large businesses?

Intellect supports Ofcom's proposals for deregulation of business voice services

11. How should regulation of narrowband internet evolve as networks migrate to NGNs, and how will functional, low bandwidth internet access be provided in future?

Intellect believes that the appropriate response to future regulation of narrowband internet access will depend on developments in two areas – the market demand for such services which may well fall away rapidly as broadband becomes more widespread and affordable, and the evolution of the Universal Service Obligation.

12. How can the arrangements for access and interconnection to next generation networks best address our proposed regulatory principles?

13. What should Ofcom's regulatory approach be to next generation access networks?

13 a) In what circumstances should Ofcom forbear from regulating next generation access?

13 b) How important is it that the investment be made contestable; is this achievable?

13 c) How should Ofcom regulate next generation access if market power were to emerge in this market?

13 d) How might structural options help to eliminate the problems of monopoly access assets being owned by vertically integrated operators?

There are a number of next generation 'broader-band' technologies that can be utilised to provide the final drop to residential and small business users. These include high speed variants

of Digital Subscriber Loop (DSL) technology operating over short reach twisted pairs, wireless, co-axial cable and fibre itself, either as a dedicated drop to each user or in the form of shared Passive Optical Networks (PONs). Hybrid Fibre Coax (HFC) cable television (CATV) networks already deployed in many countries represent substantial investments in next generation access.

Intellect is of the view that in order to enable rapid deployment of new wireless technologies currently being developed to support applications, services and content requiring broader-band connectivity, sufficient appropriate spectrum in the range of 2 to 10 GHz must be allocated for wireless broader-band access and backhaul schemes. Although Spectrum Trading and Liberalisation will help, we believe that consolidation of smaller bands into a large contiguous band will be difficult to achieve without the assistance of allocation measures.

All next generation access deployments require a high capacity backhaul from the drop point to the network core that can only be implemented using fibre or wireless technology. As there will never be sufficient spectrum to satisfy all the requirement of mass market wireless backhaul, the majority of such new access networks will be dependent on the deployment of further fibre.

The establishment Civil Infrastructure Utilities should be explored to decouple the cost associated with the deployment of ducting from the cost of the fibre technology itself. Such utilities could be established as private ventures or as public-private partnerships.

14. What set of wholesale access services should BT be required to provide in order to promote competition in the business market?

15. What can be done to facilitate the migration of complex corporate services (e.g. VPNs) between suppliers?

Due to their complexity, Intellect does not support the migration of VPNs between suppliers.

16. Are any alternative structures for call termination appropriate? Could evolution to IP interconnection introduce market mechanisms that make intrusive regulation unnecessary?

Intellect is of the view that, given the imminent introduction of NGNs, the definition of a generic IP interface with QoS control will be fundamental to the establishment of any new regulatory regime.

There may be value in some arrangements in which the connecting operators have a major say in the location of the 'IP peering points' with the dominant operator, in order to relieve existing bottlenecks and prevent the creation of new ones.

With generic QoS controlled IP connectivity to end users through an access network, it doesn't matter whether it is based on fixed, wireless, mobile or hot-spot technology. It is simply the means by which service providers gain broadband access to customers to provide services and to enable them to communicate with one another.

17. What approaches should Ofcom adopt to reducing search and switching costs in telecoms?

Intellect is of the view that Ofcom should establish a transparent and competitive market. Competitive markets should not have a need for this.

18. What should be the arrangements for funding the USO in future?

Intellect believes that all consumers should be made aware of the cost of providing USO. The cost of providing universal service should appear on bills provided by all service providers including those that provide USO, not only of those providers that pay a direct levy.

19. How could competition for the delivery of the USO be organised in future?

Intellect believes that for the purposes of provision of USO, the UK should be divided into regions. In each region potential providers would then bid on a reverse auction for subsidies. The winning provider would require the lowest level of subsidy to provide universal service.

20. Should mobile technologies be used to help address the existing USO?

Intellect is of the view that USO providers should be permitted to utilise any appropriate technology, fixed or mobile, wired or wireless. It is only details such as the nature, quality and reliability of the USO service that should be subject to regulation. Over a time, due to convergence, differentiation between fixed and mobile will disappear in any case.

(end of Intellect's response document)

3rd February 2005

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