

# **OFTEL's 2000/01 review of the dial-up Internet access market**

September 2000

## **Contents**

### **1. Introduction**

Background

### **2. Objectives and scope**

Dial-up Internet access review

OFTEL promotes competition

### **3. Information gathering**

Market segments

- Internet call origination
- Internet call termination
- Internet service provision

Sources available within OFTEL

Improving existing estimates – stakeholder involvement

### **4. Existing regulation**

### **5. Timetable**

### **6. Industry and consumer group involvement**

Deadline for comments and contributions

### **7. Project team and contacts**

### **Annex 1: Effective competition indicators**

## 1. Introduction

- 1.1 In January 2000 the [OFTEL strategy statement: Achieving the best deal for telecoms consumers](#) set the goal of achieving the best deal for consumers in terms of choice, quality and value for money.

It says,

*The strategy is designed to ensure that regulation is only imposed where it is justified and that it is appropriate to the level of competition in the market. OFTEL must be clear where and why it needs to regulate as regulation where none is justified can distort or undermine competition. Competitive markets, which have incentives to innovate and invest, are the best way of meeting consumer needs.*

- 1.2 To achieve these goals, OFTEL has started a series of reviews of effective competition in different areas of the telecoms market. OFTEL guidelines define the concept of 'effective competition' as,

*...competition which brings tangible benefits to consumers eg lower prices, higher quality and greater choice of services and enables consumers to exercise choice effectively.*

- 1.3 This statement is the formal start of OFTEL's 2000/01 Internet access market review and is aimed at consumer groups and industry. It sets out the objectives; timetable and scope of the review; explains how OFTEL intends to measure competition; and asks stakeholders for their input into the process.
- 1.4 Further details of the effective competition review process are available in the document [Implementing OFTEL's strategy: 'How OFTEL will assess effective competition'](#) (August 2000)

## 2. Objectives and scope

- 2.1 The objectives of the effective competition review of Internet access are:
- 2.1.1 To review the state of competition in Internet access in the UK and to assess if OFTEL's objective of "effective competition-benefiting consumers" is being met.
- 2.1.2 To use these results to determine whether the current mix of formal, co and self-regulation is working effectively and to identify and lift / impose any necessary regulatory action flowing from those findings.
- 2.2 OFTEL is actively pursuing competition in Internet access. Competition gives choice to consumers, and spurs innovation and lower prices. Inappropriate or disproportionate regulation can reduce incentives to innovate and invest, but some regulation may be needed to promote competition. OFTEL will act firmly if necessary. OFTEL wants to see prices for Internet access in the UK compare favourably against the UK's main competitors, and for consumers to have a variety of options for reliable and workable access to the Internet.

2.3 There are two main areas of Internet access that OFTEL is considering in its day-to-day work: Narrowband and Broadband.

- *Narrowband* is the term used to describe **dial-up** access typically using a computer and modem over the telephone network. This is currently the most common method of accessing the Internet for residential and small business consumers, and may remain so for some time, especially for low and occasional users.
- *Broadband* is the term used to describe higher speed access (typically faster than 500kbit/s) to the Internet using a variety of technologies. This will enable advanced services which, depending on the connection speed, will range from enhanced web browsing and communication through to true broadband services such as the ability to watch and interact with video over the Internet. A broadband access link can be used by businesses to connect their internal networks to the Internet, allowing multiple users to share the same connection. Broadband access is usually provided as a permanent '**always-on**' connection, allowing companies more flexibility in how they interact with the Internet, and allows users to access the Internet without having to repeatedly dial in to their service provider.

2.4 OFTEL recognises that there are alternative methods to access the Internet. Most obviously, these include access via technologies such as DSL, cable modems, leased lines, broadband fixed wireless, mobile and satellite. The review will touch on alternative Internet access methods in the planned consultation document and consider their position relative to the dial-up Internet access market but OFTEL plans to focus the review on dial-up access over the Public Switched Telephone Network (PSTN).

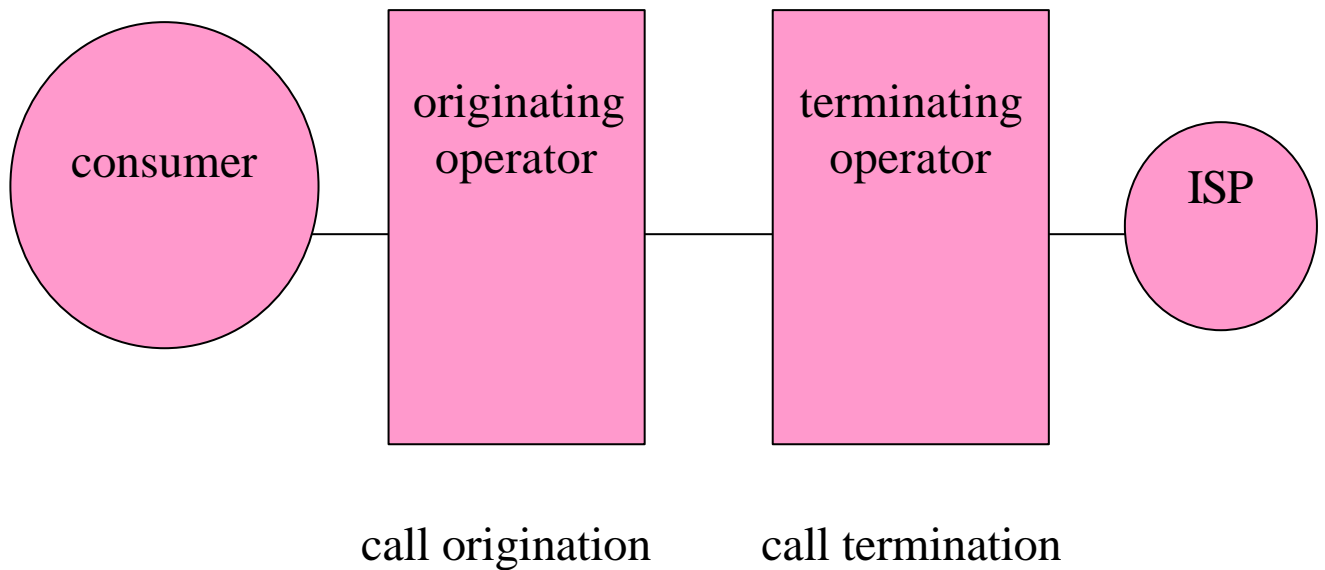
2.5 Dial-up is the most readily available method for accessing the Internet in the UK. The overwhelming majority of UK consumers and small businesses access the Internet by this method. 28% of UK homes and 44 % of small businesses access the Internet by this method. Several alternative methods of Internet access (2.4), such as leased lines, fixed higher bandwidth services and mobile, are being covered by other market reviews - as set out in OFTEL's *Effective Competition Review Guidelines*. Consequently, OFTEL considers it reasonable and practical to undertake a focused market review of this type of Internet access.

### 3. **Information gathering**

3.1 In order to assess effective competition, OFTEL proposes to look at market shares in three identifiable market segments of dial-up access:

- Internet call origination: Operators with lines to consumers, for example BT, ntl and Telewest
- Internet call termination: Operators on whose network the call terminates, for example Energis, Worldcom and Thus
- Internet services provision: Providers of Internet services to consumers, for example Freeserve, AOL and BT Internet.

- 3.2 Figure 1: Relationship between consumer, call originator, call terminator and Internet service provider (ISP).



- 3.3 To review competition in each of the 3 market segments OFTEL will attempt to measure each of the indicators outlined in the document '*Implementing OFTEL's strategy: effective competition review guidelines*'. (See Annex A)
- 3.4 OFTEL already has a number of sources of information available in-house. For example, OFTEL collects quarterly information regarding traffic revenues and volumes from telecoms operators. This information will be used primarily to examine structural and supplier behavioural effects in the call origination and termination markets.
- 3.5 Consumer outcomes and behaviours in all of the 3 market segments will be assessed using results from OFTEL's market research programme, bringing together responses from both residential and business consumers.
- 3.6 In April, OFTEL published results of its first International benchmarking study of Internet access prices. This study will be updated by December 2000 and will form an important part of the review process.
- 3.7 OFTEL is aware that there are many other sources of information that must be examined if the review is to be as comprehensive as possible. OFTEL encourages industry and consumer groups, to submit data which allows a fuller understanding of the Internet Service Provision sub-market. It would also welcome views on how best to assess market shares for this market segment.
- 3.8 OFTEL will respect confidentiality of sources if required but, in the interest of transparency, would prefer contributors to allow their data to be reproduced in the consultation document (even if only in an anonymous / aggregate form)
- 3.9 OFTEL will use the most up-to-date market information available where possible.

- 3.10 OFTEL will identify complaints received by OFTEL that relate to the Internet dial-up market. These compliance cases will be used to help assess the state of the market and identify where potential problems exist.

#### **4. Existing Regulation**

- 4.1 OFTEL regulation has had impact on the dial-up Internet market:

- *Flat Rate Internet Access Call Origination (FRIACO)*  
On 26 May OFTEL made a direction requiring BT to make available an unmetered wholesale Internet access product, called FRIACO, to enable other operators to offer their own unmetered Internet access products in competition with BT, by collecting traffic from BT's local exchanges. Following the direction, further industry discussions led to BT offering 'FRIACO hybrid', which complements FRIACO and assists operators in providing competing unmetered products on a national basis. OFTEL is shortly to publish the findings of a technical experts' report which considers the practicalities of full FRIACO at the trunk exchange.
- *Price Control review*  
OFTEL is currently undertaking a review of Price Controls which will include consultation on the treatment of FRIACO as part of the Network Charge Controls. The consultation runs until December 2000; a Statement will be published in early 2001.
- *Universal Service Obligation (USO)*  
The minimum data speed is currently set by European Directives at 2.4kbit/s. As a result of 1999 Review the European Commission is proposing that the harmonised minimum is removed and that Member States should be able to set national minimum levels. As part of its current review of the USO, OFTEL is consulting on whether a new minimum data speed for BT's network should be set, or whether other regulatory action should be taken, to ensure that BT is able to meet all reasonable requests for telephony service which provides reliable and workable Internet access. In the consultation OFTEL is also proposing that the extension of the USO to higher bandwidth services should be kept under review. The consultation runs until December 2000; a Statement will be published in 2001.
- *Calls and access*  
*Provisioning:*  
OFTEL is currently consulting on quality of service levels for Calls and Access.

*Calls and Access statement:*

The Calls and Access statement published on 11 September 2000 set a deadline of 29 September for BT & Service providers to resolve any outstanding quality of service issues. After this date the Director General will consider using the powers granted under the Revised Voice Telephony Directive (RVTD) to set quality of service standards. OFTEL is also consulting on BT's right to unilaterally change the Calls and Access contract; the consultation period comes to an end on 1 October 2000. After this, OFTEL intends to issue a draft direction to amend BT's Calls and Access contract.

*Pricing:*

OFTEL's price control review will look at the pricing of Calls and Access and whether there is a need for a 'Cost-plus' pricing methodology. OFTEL's initial views will be published in October 2000.

- *NTS*

Despite the increase in unmetered Internet services there will continue to be a number of consumers who are content to pay pence per minute call charges for Internet access. These will mainly be lower users for whom unmetered subscriptions may exceed their metered spend. OFTEL's revised NTS policy, which came into effect in January 2000, allows operators to offer a range of metered charges that are no longer linked to the local rate for voice calls. Some have already been announced and more are expected giving consumers a wide choice of access alternatives. Future pricing arrangements for NTS are being explored as part of the Price Control review.

4.2 The review will not therefore address these existing regulations directly but enable OFTEL to ensure that there is a consistent and transparent market analysis of whether there is effective competition underpinning its approach to regulation of Internet access.

4.3 There are also a number a co- and self- regulatory initiatives in the Internet market including:

- *Nominet*

Nominet UK is the Registry for *.uk* Internet Domain Names. Just as Companies House holds authoritative records for company names, or the DVLA for driving licences, Nominet maintains the database of *.uk* registered Internet names.

- *LINX*

The London Internet Exchange (LINX) is the facility which keeps UK Internet traffic in the UK. The LINX allows existing Internet Service Providers to easily exchange traffic within the UK, and improve connectivity and service for their customers. In addition to keeping traffic between UK Internet users within the UK, LINX is one of the largest and fastest growing exchange points in Europe, and improves connectivity between the UK and the rest of the world.

- *ISPA*

ISPA represents over 100 companies involved in the provision of Internet services in the UK and promote the interests of the UK Internet industry. ISPA has developed a Code of Practice for ISPs, which addresses service quality and the issue of illegal material on the Internet.

4.4 The review will consider whether there are other opportunities for co- and self-regulation.

## **5. Timetable**

5.1 Table 1: Internet dial-up access market review timetable

Month	Activity
September 2000	<ul style="list-style-type: none"> <li>• Issue kick-off statement</li> <li>• OFTEL Internet Forum</li> </ul>
September – November 2000	<ul style="list-style-type: none"> <li>• Collect market information</li> <li>• Speak to stakeholders</li> </ul>
31 October	<ul style="list-style-type: none"> <li>• Deadline for information from stakeholders</li> </ul>
December 2000	<ul style="list-style-type: none"> <li>• Issue consultation document</li> </ul>
February 2001	<ul style="list-style-type: none"> <li>• Consultation period ends</li> </ul>
May 2001	<ul style="list-style-type: none"> <li>• Issue final statement</li> </ul>

5.2 OFTEL plans to issue a consultation document at the beginning of December, outlining its initial findings and the possible policy implications they pose. This will be followed by a three month consultation period during which OFTEL will be asking industry and consumer groups for comments on the competition assessment. A final statement will be published in Spring next year, setting out OFTEL's review of the responses and some regulatory conclusions.

## 6. Industry and consumer group involvement

6.1 OFTEL would like to encourage the widest possible stakeholder input into the review.

6.2 OFTEL will be seeking initial data and comments from stakeholders before issuing the consultation document in December.

6.3 OFTEL would be grateful for all sources of information that industry and consumer groups are able to provide. This data will help provide an accurate picture of the dial-up market for assessment and analysis, in particular:

- Scope of the review
- Availability of market information
- Potential ways forward in accessing accurate market information, particularly in terms of how best to measure market shares in Internet services provision
- Any other issues that should be considered by the review

6.4 OFTEL will circulate a template which will detail the type of information required from ISPs and operators.

6.5 The deadline for this initial round of comments and data is 31 October.

## 7. Project team and contacts

Lucy Rhodes	Internet dial-up access market review manager
Dave Simpson	Internet and ecommerce policy project manager
Kenny Osborne	Statistician
Geoff Delamere	Policy adviser
Luca di Mauro	Economic adviser

Russell Richardson  
Maeve Gallagher  
Shane Adams

Legal adviser  
Casework team leader  
Internet casework manager

7.1 Comments should be sent to:

Lucy Rhodes  
OFTEL  
Regulatory Policy Directorate  
50 Ludgate Hill  
London EC4M 7JJ  
Email: [lucy.rhodes@OFTEL.gov.uk](mailto:lucy.rhodes@OFTEL.gov.uk)

**Annex A      Effective competition indicators**

<b>Indicator</b>	<b>Criteria</b>
<b>Consumer outcome</b>	<p>UK consumers shown to enjoy 'best or near best deal' in comparison with consumers in similar economies</p> <p>A wide range of services available to UK consumers</p> <p>Consumers satisfied with the quality of service they receive.</p> <p>Sets of prices which broadly reflect underlying costs (ie absence of persistent excessive profits);</p>
<b>Consumer behaviour</b>	<p>Consumers able to access information to help make effective choices;</p> <p>Consumers confident/ knowledgeable in using information and in taking advantage of market opportunities;</p> <p>Absence of barriers to consumers switching suppliers.</p>
<b>Supplier behaviour</b>	<p>Active competition in price and quality and innovation;</p> <p>Absence of anti-competitive behaviour;</p> <p>Absence of collusion;</p> <p>Meeting consumer needs;</p> <p>Efficient provision of services;</p> <p>Recent entry.</p>
<b>Structural</b>	<p>Limited entry barriers which would make the threat of entry a competitive discipline;</p> <p>Absence of inefficient suppliers;</p> <p>Limited ability of operators with market power in related markets (through vertical or horizontal integration) to lever this market power into the market segment being reviewed.</p> <p>Changes in market structure over time, especially a tendency to reduce concentration.</p>

*26 September 2000*