



Report on the implementation of BT undertakings

First quarterly report

Publication date: **25 October 2005**

Introduction

On 22nd September 2005 Ofcom decided, instead of making a reference to the Competition Commission, to accept undertakings from BT to address a number of competition concerns in the telecoms markets¹. This report, the first in a series of quarterly reports, provides information on BT's progress toward implementation of its undertakings.

In each area, this report describes:

- relevant sections in the undertakings and the primary owner within BT;
- progress BT has made towards delivering on its commitments (and where relevant, relevant activity by Ofcom and others);
- future commitments in the undertakings that need to be delivered and dates/milestones where these are specified; and
- any issues or risks that have been identified to date.

This report is based primarily on information in the public domain or made available to Ofcom by BT. As such it is not comprehensive. This report has been prepared just over one month after the undertakings have been accepted. Therefore the depth of information is in some areas relatively limited. We expect future reports to provide more depth and we should be able to better identify issues. Ofcom plans to publish the next implementation report in January 2006.

In future reports we also plan to include measures of success of the undertakings. As Ofcom outlined in its statement on 22 September, we and many stakeholders believe it is important to lay out the measures by which success can be judged and then to monitor performance against these measures. These measures should cover:

- whether BT is meeting the letter and spirit of the undertakings;
- intermediate industry outcomes: the immediate and medium-term benefits to communications providers. The indicators might include, for example, the amount of investment in unbundled exchanges and the take-up of products such as Wholesale Line Rental; and
- business and consumer outcomes: the medium and long term benefits to consumers and businesses. The indicators may include retail prices, service quality and choice of services to assess how the market is developing.

Ofcom is currently in discussion with stakeholders on what these metrics should be and how they can be effectively measured and plans to hold a workshop to allow stakeholders to give their views. Ofcom plans to make a statement in December on the proposed measures. If you would like to contribute to this discussion, please contact William Hayter at william.hayter@ofcom.org.uk

For the first two categories (letter/spirit of undertakings and intermediate industry outcomes), we expect to include these measures with relevant commentary in future implementation reports. The results of the measures of benefits to consumers and businesses will be published at the same time as Ofcom's Communications Market Report (every summer).² These results will be accompanied by an assessment of trends and changes in the data.

¹ http://www.ofcom.org.uk/consult/condocs/statement_tsr/statement.pdf

² The Communications Market Reports are available at <http://www.ofcom.org.uk/research/cm/>

This report and its contents should not be presumed to constitute Ofcom's view of BT's compliance, or otherwise, with the undertakings. Where reference is made to the content of the undertakings, particularly in relation to future commitments/deliverables, in the event of any difference the text of the undertakings takes precedence.

More information on progress on implementation of the undertakings is available on the Ofcom website at: <http://www.ofcom.org.uk/telecoms/btundertakings/>

Should you wish to discuss this report, or have comments on it, please contact Graeme Hodgson on 020 7783 4417 or at graeme.hodgson@ofcom.org.uk

Organisation and governance

Category	Activity to date	Future commitments/deliverables	Risks/issues
<p>Creation of openreach</p> <p>Sections: 5.1-5.2, 5.9, 5.12, 5.14, 5.23-5.24, 5.26, 5.29, 5.48, Annex 2</p> <p>Primary owner: openreach</p>	<ul style="list-style-type: none"> • On 22 September, BT named the new 'Access Services' division 'openreach'. The brand for openreach includes reference to "a BT Group business", and the BT corporate device.ⁱ • Steve Robertson was announced as CEO of openreach on 22 September. Steve Robertson reports directly to the BT Group plc CEO. • Steve Robertson has announced his senior management team and structure.ⁱⁱ • In particular, the senior management team includes the post of Director of Equivalence with a remit "across openreach to ensure both the letter and the spirit of the settlement is delivered in full". Emma Gilthorpe (previously Group Director of Regulatory Affairs at Cable & Wireless) was appointed to this role. She will be responsible for ensuring that all of openreach's processes and policies – from how service is delivered to how new systems and products are prioritised – are fair and equivalent for all communication providers. • openreach's headquarters team has been set up in accommodation in Mayfair. • Discussions between openreach senior management and customers have been taking place to determine how customers wish to manage their relationship with openreach. • Discussions between openreach senior 	<ul style="list-style-type: none"> • BT has undertaken to set up openreach in accordance with the undertakings (by 22/1/06) and satisfy Ofcom that it has done so (by 22/2/06). • BT has undertaken to develop and operate to terms of reference upon which they shall consult with Ofcom. (by 22/1/06) • BT has undertaken to establish a separate operating plan for openreach with effect for financial year 2006/07. (to be ready for Apr 06) • BT has undertaken to develop new incentive remuneration plans for openreach employees that are based on openreach's performance. (anticipated by summer 06) • BT has undertaken to create and maintain Chinese Walls relating to information sharing and influence between openreach and other parts of BT. (by 22/1/06) • BT has undertaken to a number of systems changes leading up to physical separation of openreach's systems from the rest of BT systems. (Regular progress review with Ofcom; MIS partition by 22/9/06). • BT has undertaken that it expects that openreach will be the primary channel to market for openreach's portfolio of products. • BT has undertaken progressively to rebrand certain items, e.g. its fleet of vehicles that will be used by openreach employees. 	<ul style="list-style-type: none"> • None identified so far.

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	<p>management and customers have been taking place to determine how the brand is launched and used.</p>		
<p>Accounting Sections: 5.30-5.32 Primary owner: openreach</p>	<ul style="list-style-type: none"> • BT has engaged KPMG to assist with its review of its regulatory financial reporting regime, particularly focusing on the cost accounting and accounting separation provisions in the undertakings. • KPMG has begun its work with a series of high-level meetings. 	<ul style="list-style-type: none"> • BT has undertaken to develop an accounting and trading model for openreach as prescribed in the undertakings with effect for financial year 2006/07. (to be ready for Apr 06) 	<ul style="list-style-type: none"> • BT has noted that the trading model is proving more complex than originally anticipated.
<p>BT Wholesale Sections: 6.1-6.15, Annex 2, Annex 3 Primary owner: BT Wholesale</p>	<ul style="list-style-type: none"> • BT has proposed creating two new product management units, BTWS and BTS. • These units would be under the responsibility of Cameron Rejali, who is a BT Wholesale Executive Board member. 	<ul style="list-style-type: none"> • BT has undertaken that BT employees working for BTWS and BTS shall have responsibility and control over certain product management activities. (by 22/1/06) • BT has undertaken to develop new incentive remuneration plans for BTWS employees and the BT Executive Board member responsible for BTWS that are aligned with BTWS's objectives. (anticipated by summer 06) • BT has undertaken (by 22/1/06) to create and maintain Chinese Walls relating to information sharing and influence between: <ul style="list-style-type: none"> • BTWS and certain other parts of BT; • BTS and certain other parts of BT; and • BT Wholesale and certain other parts of BT. • BT has undertaken to a number of commitments in relation to the process for developing new products and allocating capital expenditure to ensure no material competitive disadvantage. 	<ul style="list-style-type: none"> • None identified so far.

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		<ul style="list-style-type: none"> • BT has undertaken to a number of changes to BTWS and BTS management information systems to ensure that the commercial information within them is not available to BT employees working for downstream divisions and that the customer confidential information within BTWS' systems do not disclose such information to BT employees working for BTS. (as soon as reasonably practical) • BT has undertaken that BTS will proactively consult and engage with its customers in relation to the leased line product in BTS. (identify needs by 22/1/06) 	
<p>Separation between BT Wholesale and BT Retail / BT Global Services</p> <p>Sections: 8.1-8.7</p> <p>Primary owner: BT Group and BT Wholesale</p>	<ul style="list-style-type: none"> • No substantial progress to report in this area. 	<ul style="list-style-type: none"> • BT has undertaken to establish organisational separation between upstream and downstream divisions, i.e. 'Chinese Walls'. (by 22/1/06) 	<ul style="list-style-type: none"> • None identified so far.
<p>BT Northern Ireland</p> <p>Sections: 1.2, 5.22, 9.2.2, 13</p> <p>Primary owner: EAO / BTNI</p>	<ul style="list-style-type: none"> • BT has proposed to set-up a BT Northern Ireland Regulatory Compliance Committee to address compliance issues in Northern Ireland. 	<ul style="list-style-type: none"> • BT has undertaken to include in the code of practice specific guidance for employees in BTNI. (by 22/1/06) 	<ul style="list-style-type: none"> • None identified so far.
<p>Code of practice</p>	<ul style="list-style-type: none"> • BT has drafted a generic code of practice and division-specific codes of practice, and 	<ul style="list-style-type: none"> • BT has undertaken to draw up and publish a code of practice for its employees. (by 	<ul style="list-style-type: none"> • None identified so far.

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<p>Sections: 9.1-9.5</p> <p>Primary owner: BT Group</p>	<p>has refined these with internal focus groups.</p>	<p>22/1/06)</p> <ul style="list-style-type: none"> • BT has undertaken to implement a briefing and training programme to ensure that BT employees are aware of their responsibilities in complying with the undertakings. 	
<p>EAB and EAO</p> <p>Sections: 10.1-10.37</p> <p>Primary owner: BT Group</p>	<ul style="list-style-type: none"> • EAB terms of reference and member terms of appointment have been established, following consultation with Ofcom. • Carl Symon appointed as EAB chairman. Carl is an independent, non-executive director of BT Group plc.ⁱⁱⁱ • Sally Davis appointed as the BT senior manager on the EAB. Sally is BT's Chief Portfolio Officer. • Having first consulted Ofcom, BT has announced Sir Bryan Carsberg, Stephen Pettit and Dr. Peter Radley as the three independent members of the EAB. • First EAB meeting set for 3 November with a second on 21 November. • Jon Furmston appointed as head of the EAO. • Simon Milner appointed as responsible for EAO external relations and reporting. 	<ul style="list-style-type: none"> • BT has undertaken to establish the EAB. (by 22/3/06) • BT has undertaken to set up the EAO with sufficient resources and access to information to be able to support the work of the EAB. • BT has undertaken that the EAO will publish guidelines on how it will deal with complaints from Communications Providers. • BT has undertaken to develop a range of relevant KPIs against which the EAB will review BT's performance in complying with the Undertakings. • BT has undertaken that the EAB will conduct an annual review of compliance. 	<ul style="list-style-type: none"> • None identified so far.
<p>Contract Management Mechanism</p> <p>Clause: 12.1</p> <p>Primary owner: BT Wholesale</p>	<ul style="list-style-type: none"> • A separate group will be set up to progress this. Ofcom has requested that names be put forward to participate in this group by 28/10/05. 	<ul style="list-style-type: none"> • BT has undertaken to work with Ofcom and other CPs to establish a mechanism to deal with issues relating to T&Cs for SMP products. (by 22/3/06) 	<ul style="list-style-type: none"> • None identified so far.

Products, systems and processes

Category	Activity to date	Future commitments/deliverables	Risks/issues
<p>DataStream</p> <p>Sections: 4.1</p> <p>Primary owner: BTWS</p>	<ul style="list-style-type: none"> BT has undertaken to provide transparency in relation to the DataStream product within three months of publication and has published two documents on which it is consulting.^{iv} All DataStream customers are expected to be contacted by mid Oct 05. BT has also undertaken to use its reasonable endeavours at all times to resolve any outstanding issues concerning its provision of DataStream and is currently reviewing all of the recent DataStream issues and SoRs. 	<ul style="list-style-type: none"> BT has undertaken to provide sufficient transparency to other CPs to enable them to identify and understand differences between its reference offer for DataStream and the comparable product it supplies to itself, and to use its reasonable endeavours at all times to resolve outstanding issues with any other CP concerning its provision of DataStream. (transparency to be delivered by 22/12/05) 	<ul style="list-style-type: none"> None identified so far.
<p>IPStream</p> <p>Sections: 3.1.1g, Annex 1, para. 7</p> <p>Primary owner: BTS and BT Retail</p>	<ul style="list-style-type: none"> BT has identified differences in processes and systems with its downstream divisions and is creating plans to deliver equivalence. BT is developing the process changes and training packages required for equivalent consumption of IPStream. 	<ul style="list-style-type: none"> BT has undertaken to deliver EOI on IPStream. (by 31/12/05) BT has undertaken to complete migration of its installed base. (by 31/12/06) 	<ul style="list-style-type: none"> None identified so far.
<p>WLR</p> <p>Sections: 3.1.1a-c, Annex 1 para. 1-3</p> <p>Primary owner: openreach</p>	<ul style="list-style-type: none"> BT / openreach presented their initial plans to the WLR industry for the development of the EOI WLR product (WLR3) on 22 September. At this time, BT / openreach also initiated discussions with industry on ongoing engagement and product development plans for WLR3. 	<ul style="list-style-type: none"> BT has undertaken to be RFS for analogue WLR on 30/6/07. BT has undertaken to complete migration of the installed base in stages. (analogue: 30% by 30/6/08; 70% by 30/6/09; complete by 30/6/10 ISDN2: complete by 31/3/09 ISDN30: complete by 31/12/09) 	<ul style="list-style-type: none"> None identified so far.
<p>CPS</p> <p>Sections: 4.1</p>	<ul style="list-style-type: none"> No substantial progress to report in this quarter. 	<ul style="list-style-type: none"> BT has undertaken to provide sufficient transparency to other CPs to enable them to identify and understand differences 	<ul style="list-style-type: none"> None identified so far.

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Primary owner: BTWS		between its reference offer for CPS and the comparable product it supplies to itself, and to use its reasonable endeavours at all times to resolve outstanding issues with any other CP concerning its provision of CPS. (transparency to be delivered by 22/12/05)	
MPF Sections: 3.1.1f, Annex 1 para. 5-6, 11 Primary owner: openreach	<ul style="list-style-type: none"> No substantial progress to report in this quarter. 	<ul style="list-style-type: none"> BT has undertaken to deliver EOI on MPF with RFS by 30/6/06 and IBMC by 31/12/06. 	<ul style="list-style-type: none"> None identified so far.
WES Sections: 3.1.1d, Annex 1 para. 4 Primary owner: openreach	<ul style="list-style-type: none"> No substantial progress to report in this quarter. 	<ul style="list-style-type: none"> BT has undertaken to deliver EOI on WES with RFS by 30/9/06 and IBMC (for relevant retail Ethernet LAN extension service) by 31/3/07. 	<ul style="list-style-type: none"> None identified so far.
BES Sections: 3.1.1h, 5.16-5.19, Annex 1 para. 8 Primary owner: openreach	<ul style="list-style-type: none"> BT has undertaken to make available backhaul products in a manner as described in 5.16. For the existing BES product BT has recently informed industry about changes to the product and contract that facilitates daisy-chaining between BT local exchanges (5.16.2), traffic aggregation at BT local exchanges (5.16.3 and 5.16.4) and the option to order a separately routed circuit for resilience (5.16.5). 	<ul style="list-style-type: none"> BT has undertaken to deliver EOI on BES with RFS by 30/9/06. 	<ul style="list-style-type: none"> None identified so far.
TILLAP / TILLBP	<ul style="list-style-type: none"> No substantial progress to report in this 	<ul style="list-style-type: none"> BT has undertaken that openreach will 	<ul style="list-style-type: none"> None identified so far.

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<p>Sections: 4.2, 5.5-5.6</p> <p>Primary owner: openreach</p>	<p>quarter.</p>	<p>provide either or both TILLAP and TILLBP within a reasonable time of a request from a CP.</p>	
<p>PPC</p> <p>Sections: 4.1</p> <p>Primary owner: BTWS</p>	<ul style="list-style-type: none"> Initial discussions on the implications of the undertakings are taking place in industry fora. 	<ul style="list-style-type: none"> BT has undertaken to provide sufficient transparency to other CPs to enable them to identify and understand differences between its reference offer for PPCs and the comparable product it supplies to itself, and to use its reasonable endeavours at all times to resolve outstanding issues with any other CP concerning its provision of PPCs. (transparency to be delivered by 22/12/05) 	<ul style="list-style-type: none"> None identified so far.
<p>Wholesale extension service access product (WESAP)</p> <p>Sections: 3.1.2a</p> <p>Primary owner: openreach</p>	<ul style="list-style-type: none"> No substantial progress to report in this quarter. 	<ul style="list-style-type: none"> When, in the future, BT provides WESAP it has undertaken to do so on an EOI basis. 	<ul style="list-style-type: none"> None identified so far.
<p>Wholesale extension service backhaul product (WESBP)</p> <p>Sections: 3.1.2b</p> <p>Primary owner: openreach</p>	<ul style="list-style-type: none"> No substantial progress to report in this quarter. 	<ul style="list-style-type: none"> When, in the future, BT provides WESBP it has undertaken to do so on an EOI basis. 	<ul style="list-style-type: none"> None identified so far.
<p>Wholesale end-to-end Ethernet service</p>	<ul style="list-style-type: none"> No substantial progress to report in this quarter. 	<ul style="list-style-type: none"> When, in the future, BT provides wholesale end-to-end Ethernet service it has 	<ul style="list-style-type: none"> None identified so far.

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Sections: 3.1.2c Primary owner: openreach		undertaken to do so on an EOI basis.	
Equipment location Sections: 7.1-7.8, Annex 4 Primary owner: BT Wholesale / openreach	<ul style="list-style-type: none"> Ofcom intends to hold discussions with BT and industry to determine the scope of Ofcom's involvement with the provision of these facilities. The first industry meeting is to be held w/c 31/10/05. 	<ul style="list-style-type: none"> BT has undertaken to provide to other CPs the facility to occupy on reasonable commercial terms a CP operational area within any BT exchange for the purpose of locating their own equipment (subject to certain constraints as detailed in 7.2). (by 22/3/06) BT has undertaken to provide estimated space availability details by the 1/11 preceding the next BT financial year for which its corporate property strategy applies. BT has undertaken to provide the first vacation list to Ofcom by 22/3/06. It has the right to amend this list once every six months thereafter and has undertaken to provide any amended list to Ofcom. 	<ul style="list-style-type: none"> None identified so far.
Address matching Sections: 3.4 Primary owner: BT Wholesale / openreach	<ul style="list-style-type: none"> BT has shared with industry its plan to introduce new address-matching functionality. 	<ul style="list-style-type: none"> BT has undertaken to make available to other CPs a stand-alone address matching with the objective of reducing address matching failures. (by 1/1/06) 	<ul style="list-style-type: none"> The GUI interface that BT is proposing does not allow other CPs the functionality they desire.
Appointments book Sections: 3.5 Primary owner: BT	<ul style="list-style-type: none"> No substantial progress to report in this quarter. 	<ul style="list-style-type: none"> BT has undertaken to provide improved access to engineering appointment books. (by 1/7/06) 	<ul style="list-style-type: none"> None identified so far.

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Wholesale / openreach			
<p>Migrations</p> <p>Sections: 3.7-3.8</p> <p>Primary owner: BT Wholesale / openreach</p>	<ul style="list-style-type: none"> No substantial progress related to the undertakings to report in this quarter. However, Ofcom notes that it is planning to publish a consultation <u>later this year</u> on proposals for the establishment of common principles on migrations, switching and mis-selling. The aim is to consider defining principles and common approaches across transferable products and services. Ofcom has had informal discussions with industry (including BT) on the kinds of issues that should be covered as part of this consultation. 	<ul style="list-style-type: none"> BT has undertaken to work with CPs to develop an agreed migration process for the migration of end users to the relevant EOI product. 	<ul style="list-style-type: none"> None identified so far.

21CN

Category	Activity to date	Future commitments/deliverables	Risks/issues
<p>No foreclosure of network access</p> <p>Sections: 11.1-11.4</p> <p>Primary owner: BT Wholesale</p>	<ul style="list-style-type: none"> BT has undertaken not to make design decisions relating to 21CN which would have the effect of foreclosing, on an equivalent basis, the provision of unbundled network access to its competitors. BT is intending to conduct a public consultation on its detailed migration plans and has recently circulated them in pre-consultation form. Some more detailed documentation on 21CN network design has been provided to Ofcom on a commercially confidential basis. 	<ul style="list-style-type: none"> Continue to consult with industry (e.g. via the Consult21 process) on the design of the 21CN to ensure there is no foreclosure of network access and that the views of other CPs are taken into account.. Whilst constructing its NGN BT has undertaken not to make any network design decisions on network architecture the effect of which would be to prevent the provision of network access as described in section 11.1 to other CPs, without first formally consulting with other CPs. If such consultations suggest that demand may exist for a specific form of network access, BT has undertaken to enter into commercial negotiations with those CPs interested in such network access and will continue such negotiations for a period of up to three months, during which period BT will not implement any such design decisions to its NGN which would prejudice the outcome of these negotiations, subject to the constraints of 11.4. 	<ul style="list-style-type: none"> Ofcom is generally concerned that design decisions made in good faith could have unintended consequences and is seeking to work with BT and the rest of industry to minimise this risk.
<p>Charges based on efficient design; and Provision of network access on an EOI basis</p> <p>Sections: 11.5, 11.6-11.9</p> <p>Primary owner: BT Wholesale</p>	<ul style="list-style-type: none"> Ofcom is aware that discussions are underway between BT and its competitors as to what access products (including interconnection products) BT expects to provide over 21CN. BT's work to date has focussed on the provision of continuity of existing products. However, there is a need for a broader vision as to next generation products. To provide greater clarity Ofcom intends to publish before the end of 2005 a 	<ul style="list-style-type: none"> Determine efficient costs for access provided via the 21CN where such access is required to be on a cost-orientated basis by an SMP condition. 	<ul style="list-style-type: none"> Ofcom is generally concerned that access products (including interconnection products) are adequately specified before implementation to avoid unanticipated consequences.

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	document examining at a high level the related issues of market structure, product roadmap and charging structures.		
Industry group Sections: 11.12-11.14 Primary owner: BT Wholesale	<ul style="list-style-type: none"> There is a broad consensus that the current level of industry engagement could be improved, especially in relation to the development of a cross-industry vision for IP-based interoperability. BT has undertaken to participate in a new multi-lateral industry body, which would be tasked with filling this gap. There are, however, some uncertainties within industry as to the purpose and scope of this body. Ofcom is commissioning a short piece of work to consider this issue in more detail, and in particular to consider whether sufficient 'common purpose' exists (or can be created) within industry. 	<ul style="list-style-type: none"> Once the scope of an appropriate Industry Group has been agreed BT has undertaken to participate within it and work with it to define interconnection and migration plans. 	<ul style="list-style-type: none"> Ofcom sees a robust consultation process as essential to the minimisation of risk in the design of 21CN access and interconnection.

ⁱ <http://www.btplc.com/News/Articles/Showarticle.cfm?ArticleID=f76cc454-06ba-43e2-a97c-51da38f378c5>

ⁱⁱ <http://www.btplc.com/News/Articles/Showarticle.cfm?ArticleID=cf870ac4-bf6d-4d6c-8ee1-730fcbe07bf4>

ⁱⁱⁱ <http://www.btplc.com/News/Articles/Showarticle.cfm?ArticleID=426c0734-0cdf-49de-a0cd-b7c851f0e17c>

^{iv} BT DataStream ADSL and BT's Internal Arrangements for Network Access, Issue 1, Date 27/05/05 and BT DataStream and IPStream ADSL Virtual Paths and BT's Internal Arrangements for Network Access, Issue 1, Date 27/05/05 [both available from: http://www.btwholesale.com/application?origin=children.jsp&event=bea_portal.framework.internal.refresh&pageid=bb_products2&nodeId=navigation/node/data/broadband_extra/products/bt_datastream/t_and_c]