



Review of Telecommunications Adjudication Scheme for LLU

Publication date: **25 October 2005**

Contents

Section		Page
1	Second review of the Telecommunications Adjudication Scheme	1
2	Proposal for Scheme	4

Section 1

Second review of the Telecommunications Adjudication Scheme

Background to the review

- 1.1 When the Telecommunications Adjudication Scheme for LLU (the 'Scheme') was launched in June last year the objective was to "work with the industry to help develop new local loop unbundling ('LLU') products and processes which are fit-for-purpose and industrialised to cope with large volumes over time"¹. It was originally anticipated that the Scheme would meet its objectives (and so could close) at the end of 2005.
- 1.2 Ofcom reviewed the Scheme in February 2005. The objective of that review was to assess the success of the Scheme, whether it should be continued, modified or terminated and to address the issue of cost recovery. That review concluded that the Scheme should continue substantially unmodified, and that a further second review should be carried out around September 2005.
- 1.3 This second review of the Scheme has now been completed. This report outlines the outcomes of the second review, including an assessment of the success of the Scheme to date against its original objectives. It also outlines Ofcom's decision to continue the Scheme, and the proposed triggers for the Scheme to be wound up.

Overall effectiveness of the Scheme

- 1.4 Overall, Scheme members are content with the performance and outcomes resulting from the Scheme. They considered that the Scheme has been a material improvement on previous arrangements for LLU. The Scheme has been particularly successful in coordinating a set of diverse and disparate demands from individual LLU operators ('LLUOs') into a single roadmap for the industry. The Scheme is considered to have been instrumental in assisting LLU finally to gain momentum.
- 1.5 Another success of the Scheme was the introduction of an agreed set of key performance indicators ('KPIs'), allowing a 'common language' for the discussion of performance and issues experienced. Almost all of the interviewees agreed that KPIs were a fundamental part of the process. In addition, the published KPIs proved to be a good public indicator of the performance of LLU and a driver for improved performance.
- 1.6 Notwithstanding the success of the Scheme to date, some respondents commented that the Scheme was still not delivering against all of its original aims. Many of the LLUOs still lack confidence in the systems and processes put in place for the delivery of LLU. As a result, operators have been unable to mitigate some key risks in deploying LLU.
- 1.7 Many LLUOs said that a major failing of the Scheme was the exclusion of backhaul from its scope. Almost everyone argued that the absence of backhaul from the Scheme was a very serious drawback that impacted on the effectiveness of the LLU roll-out. Particular concern was expressed on poor levels of co-ordination between backhaul provisioning with the provision of LLU.

¹ http://www.ofcom.org.uk/media/news/2004/07/nr_20040706

- 1.8 The majority of the respondents praised BT's senior staff's commitment to the delivery of LLU; they have demonstrated a good understanding of the issues and have taken real ownership of them. However, there were still ongoing issues experienced with the level of commitment to LLU delivery from a number of BT's more junior staff.

Governance and powers

- 1.9 The Scheme's governance structure is centred on the Office of the Telecommunications Adjudicator ('OTA'). Industry engagement is through a two-tier approach with the Market Breakthrough Executive ('MBE') and the LLU industry group. The MBE is restricted to major LLUOs whilst the LLU industry group is open. The system is considered to be the most appropriate by the majority of Scheme members. Whilst this approach does have some drawbacks, notably the risk that non-MBE members can feel excluded from the process, most members considered that it is not in need of radical change. Almost all recognised the value of having the MBE: a smaller group of senior people with ability to sign-off decisions, and representing operators who were highly committed to LLU.
- 1.10 There were some suggestions about improving communication between this group and the remaining members of the Scheme, especially with respect to induction of new members, for example by explaining processes and KPIs.
- 1.11 One area where mixed opinions were expressed was on the suitability of the OTA's formal powers. Some considered that the OTA would require additional powers going forwards to enforce its adjudications, to ensure that BT delivered all of the systems and processes required by LLU on time and to scope. Some respondents commented how rarely the existing formal dispute resolution process had been used. Others, however, considered that increasing the OTA's powers would result in it moving away from being an arbitrator and more towards the role of Ofcom.

Remaining challenges

- 1.12 Many people commented that they still had a number of specific concerns for LLU over the next six to twelve months. In general, the feeling was that without a proven track record of stability and performance to expectation, operators find it difficult to place confidence in the planned improvements in systems and processes. This concern has resulted in some LLUOs adopting a more cautious roll-out approach as a result.
- 1.13 Specifically, the key concerns voiced were:
- that the bulk migrations process had not yet been proven stable at significant volumes;
 - that the bulk migrations process would distract BT from delivering incremental orders;
 - that the roadmap to delivering strategic systems was overly optimistic – few respondents had faith that these would be delivered on time;
 - that BT would force LLUOs to migrate onto the strategic systems before they were properly bedded down by removing support for the old systems.

Future need for Scheme

- 1.14 There was widespread agreement amongst almost all of the Scheme's members that winding up the Scheme at the end of 2005 would be premature, particularly given the challenges remaining. There was a general feeling that confidence in the LLU process would be significantly reduced if the Scheme were withdrawn at the end of the year.
- 1.15 In order for the Scheme to be successful and complete on its full range of original objectives, it was argued the ongoing presence of the Scheme is required to maintain pressure on BT to deliver the strategic systems implementation. In the absence of the Scheme, many Scheme members considered that they may be required to move onto BT's strategic systems before these systems were really ready.
- 1.16 Instead of closing at the end of the year, the majority considered the correct trigger for termination would be when the strategic systems were in place and proven to work. These systems could be 'proven' through a combination of: meeting a set of pre-agreed metrics; achieving a target number of unbundled lines; achieving a sustained number of new line provisions. These performance measures would need to be sustained over a pre-agreed period of time. The overall opinion was that this would be unlikely before Autumn 2006.

LLU governance after end of Scheme

- 1.17 Following the closure of the Scheme, many people agreed that the vast majority of issues should be addressed through normal, direct bilateral relationships between openreach and its customers (either individually or jointly). However, there was some concern that the relationships between BT and the LLUOs would need to develop further before this could act as the primary mechanism for issue resolution.
- 1.18 However, almost everyone also suggested that there would need to be an on-going LLU industry forum. Recommendations for this forum included: a lower profile than currently; a more tightly defined scope; possibility of a rotating chair; potential for less frequent meetings than at present. There were varying opinions on what this forum should consider, but most agreed that the forum would not need to consider product development issues.

Section 2

Proposal for Scheme

- 2.1 As the summary of the second review of the Scheme highlights, the Scheme has helped to facilitate substantial improvements in LLU products and processes – for instance, right first time ('RFT') has improved from 20% in October 2004 to over 90% in June 2005. However, the objective of delivering industrialised and fit-for-purpose products and processes has not yet been met. This was most recently highlighted in Peter Black's update².
- *"The Right First Time KPI continues to be negatively impacted due to provisioning problems. Current poor performance is being caused by a combination of automation instability, poor software problem handling, volume growth and resource shortfalls". RFT fell from over 90% in June to below 80%.*
 - *"The TA has changed its view to 'disappointed' about the status of the Key Tactical Automation platforms ... It is critical that these Tactical systems are 'hardened' to become robust, quality, automated provisioning systems whilst the industry awaits the Strategic System delivery"*
 - *"The BT Plan & Build process has unfortunately encountered delivery problems and has drifted significantly from target quality as volumes have doubled according to forecast"*
 - *"... backhaul ... has been an area of weakness for some time ... few circuits are meeting the Target Delivery SLG of 60 days or being properly co-ordinated with PoP Build."*
- 2.2 The strategic systems to replace the tactical systems (LiSA and EcoLLU) that BT are planning to deliver in the first half of next year should address some of these issues. However, given BT's track record on systems improvements, the industry's level of confidence in the delivery is not high.
- 2.3 Against this backdrop, we feel it premature to close down the Scheme in December 2005. Conversely however, we also believe that to continue the Scheme would slow down the progress of the industry in developing more cooperative direct relationships which must be the bedrock of the relationship between LLUOs and openreach going forward. Continuation would also place an unnecessary cost burden on industry.
- 2.4 Therefore, the Scheme will continue until a clear set of criteria have been met that will mean that LLUOs can invest and operate confidently in a stable environment. In March next year Ofcom will review whether these criteria have been met and, if they have, begin a wind-down process.

² <http://www.offta.org.uk/otaupdate20051014.htm>

- 2.5 The criteria will be developed with industry in the next month. The criteria are likely to include:
- openreach is established and meeting LLUOs needs in an effective way as evidenced by establishment of openreach in accordance with the undertakings and LLUOs experience of dealing with openreach;
 - the current 'tactical' systems are consistently delivering high quality and automation is stabilised. This will be assessed on the basis that:
 - openreach demonstrating that it can deliver high quality processes as 'business as usual' i.e. without high levels of non-standard intervention;
 - robust organisational, resources and implementation governance plans;
 - key performance indicators such as RFT and bulk migrations quality;
 - plan and build and backhaul consistently delivering to high quality levels;
 - fully credible plans for strategic systems, signed off by MBE and that OTA, Ofcom and LLUOs have confidence in;
 - agreed plan for industry governance after the adjudicator Scheme, including an agreed mechanism to deal with remaining contentious issues such as backhaul. Ofcom will be discussing with LLUOs and BT over the next few months options for alternative governance models post the Scheme.
- 2.6 If the criteria are not met in the March review Ofcom will at that point lay out the review process going forward. If the criteria are met there may, in any case, be a staged transition to fully closing down the Scheme.
- 2.7 We do not propose any changes in the scope, remit or cost recovery for the Scheme.