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Dear Markham

### **Fixed Narrowband Retail Services Market Review**

We welcome the opportunity to respond to this consultation since, as you are aware, SSE is a reseller of BT wholesale services in the retail fixed narrowband market.

We are concerned that Ofcom is proposing to remove the remaining retail regulation on BT in this market consequent on a proposed finding that BT no longer has significant market power (SMP) in this market. We do not agree with this.

In paragraph 1.9, Ofcom comments that BT still has relatively high market shares in both the residential access market (66%) and the business access market (57%). This is likely to be above the threshold of establishing dominance in competition terms, as confirmed in Ofcom's quotation at paragraph 7.44 in annex 7.

*“According to established case law, very large market shares — in excess of 50 % — are in themselves, save in exceptional circumstances, evidence of the existence of a dominant position...”*

We understand that one of the main effects of the proposed removal of the remaining SMP conditions on BT in this market is that they would be able to provide bundled offerings e.g. fixed line telephony and broadband. Ofcom also recognises the advantages that BT currently has in the market: for example, paragraph 1.12 notes the fact that “customers that are uninterested in changing providers are most likely to remain with BT”. Given this background, we believe there is a strong possibility of unintended consequences and damage to the competitive market if BT is allowed to leverage existing dominance in one market into another.

We would therefore advocate that Ofcom should not remove the SMP designation on BT in the fixed narrowband retail market at the present time and maintain the remaining SMP remedies.

I hope these comments are helpful.

Yours sincerely

Aileen Boyd  
Regulation Manager