

8 August 2017

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**By email only**

Dear Mark,

**Business Connectivity Market Review (BCMR)**

Thank you for your letter of 4 August 2017, which Jonathan Oxley has passed to me for a reply.

You have asked for confirmation that Openreach: (i) is no longer required to comply with SMP Condition 6.4(a) that deals with preparatory steps for the launch of the dark fibre product; and (ii) is no longer required to launch the dark fibre product by 1 October as required in SMP Conditions 2.1(c) and 2.4. You also explain that you will write to the Tribunal next week asking for an order in relation to these points.

As your letter recognises, although the outcome of the market definition appeals is known, the 2016 BCMR conditions remain in force pending an order from the Tribunal concerning remittal.

At present we do not know on what basis the Tribunal has reached its conclusions. Ofcom will need to consider the reasoning in the judgment before we can decide what next steps it is appropriate to take, over both the short and long term. We remain of the view that dark fibre offers significant benefits for competition and consumers.

We recognise however that a specific timing issue arises because it is expected that the provision of the Tribunal's judgment, and holding of the remittal hearing, will occur at around the same time as dark fibre is due to be launched. In these circumstances we confirm that, until we have seen the reasoning in the judgment and the Tribunal has held a remittal hearing, Ofcom does not intend to enforce against the conditions you set out above.

Yours sincerely



**Simon Leathley**