

# Price Controls for Wholesale ISDN30 Services

UKCTA Response to Ofcom Consultation

Submitted to Ofcom: 8<sup>th</sup> July 2011

1. UKCTA is a trade association promoting the interests of competitive fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the interests of its members to Ofcom and the Government. Details of membership of UKCTA can be found at [www.ukcta.com](http://www.ukcta.com).
2. ISDN30 has been a staple communications product for many UK businesses throughout the last decade and it will remain important for some time to come. UKCTA members supply ISDN30 using their own infrastructure if it is available, or by purchasing wholesale inputs from BT such as partial private circuits (PPCs), or by using Openreach's WLR ISDN30 product.
3. We welcome this opportunity to comment on Ofcom's proposals for an ISDN30 Wholesale Charge Control. While the product remains valued by consumers, it is gradually being replaced by newer services based on the next generation of technology.
4. UKCTA continues to believe that wherever possible prices should be constrained by competition, however given Ofcom's assessment of this market, some form of charge control is required. We therefore largely welcome the proposals put forward by Ofcom but in doing so would sound a note of caution. In this particular case there is the potential for unintended consequences should prices decline too steeply, rendering alternative access providers unable to compete as a result of BT's economies of scale and scope, hindering competition and harming consumers.
5. We would therefore not welcome an outcome that led to a very steep a price reduction, which would then undermine other forms of access provision and remove choice from consumers. It would also place an unfair burden on alternative infrastructure providers who are faced with the prospect of managing a product in decline, with rising unit costs over the years ahead, with potentially a sizable minority of consumers still hoping to remain with the product until it is declared end of life.
6. We would urge Ofcom to tailor the charge control to fit the circumstances, taking account of both short term consumer welfare concerns as well as the impact on other suppliers and the longer term interest of consumers, who are best served by having a choice of infrastructure providers.
7. As the characteristics of ISDN30 are different from other markets a conventional charge control approach would not be suitable, as it would fail to accommodate the unique and finely

balanced alternative infrastructure options which underpin a significant proportion of existing retail supply. Allowances must be made to ensure that infrastructure providers who rely in part upon BT's Partial Private Circuits are still able to compete. To this end we would urge Ofcom to take a cautious approach, erring on the softer end of the charge control range proposed and we fully support the decision not to impose new starting charging which could immediately undermine market confidence.

8. Ofcom acknowledge that even by taking this approach around 11- 31% of ISDN30 services delivered over PPCs could eventually be more cost effectively supplied by using Openreach's Wholesale product. In our view the more services that can be retained on competitive infrastructure utilising PPCs the better, and we urge Ofcom to try and ensure a sensible pricing outcome that limits migrations away from PPCs. Ofcom should not contemplate taking any action that results in Communication Providers being penalised for past investment in PPC infrastructure. Such investment was made in good faith and Ofcom should continue to deliver regulatory certainty in order to safeguard past infrastructure investment. To take action that would undermine past investment, however unintended and even while in the pursuit of another aim, would knock confidence and have implications far beyond the ISDN30 market.
9. We would also urge Ofcom to impose a remedy on BT that provides customers of their *Featurenet* product with a means to migrate to another supplier, as under the current arrangement many find themselves locked into the product, with no opportunity to change the underlying ISDN30 provider due to the lack of a migration process. *Featurenet* is a complicated service offering and although other CPs offer similar managed solutions, the management of multi-site dial plans during the course of a migrations to a new supplier is a complex task and requires co-operation from the incumbent supplier. As there is no formal BT *Featurenet* migration solution available from BT, this could be a significant contributing factor behind the decision of many customers' not to take advantage of the more competitive pricing currently available.
10. We would ask Ofcom to look in more detail at the proposal to continue to use RPI. Ofcom and before that Oftel have used RPI for some considerable time. Since the introduction of CPI in the mid-1990s many organisations have adopted it as their preferred measure of inflation and the popularity of CPI in recent years has accelerated. We now believe this is the right point in time for Ofcom to consider this issue in far greater detail than has been presented within the context of this consultation. While we don't believe further debate on the measure of inflation should delay Ofcom's work on ISDN30, we feel it is important for Ofcom to commence a comprehensive review of the two measures of inflation in the near future, so that stakeholders can help make an informed judgement over which to advocate in future Ofcom charge.

11. In UKCTA's view it would not be in the long term interests of United Kingdom consumers if the wholesale supply arrangements for ISDN30 were to be concentrated in the hands of just one regulated supplier. Underlying Infrastructure competition should remain the primary consideration for Ofcom in order to preserve consumer welfare in the longer term.

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