

FCS Response to Ofcom's Consultation on Copper Retirement

Introduction

The Federation of Communication Services represents companies which provide professional communications solutions to (primarily) business users. Our members deliver telecommunications services via mobile and fixed line telephony networks, broadband, satellite, wi-fi and business radio. Most FCS members operating in the fixed services space are customers of Openreach which is a critical provider to this sector.

Our members' customers range from SMEs, home-workers and micro-businesses up to the very largest national and international private enterprises and public-sector users. FCS is the largest trade organisation in the professional communications arena in the UK, representing the interests of around 300 businesses who supply B2B services nationwide.

FCS Response

We welcome the opportunity to respond to Ofcom's consultation on Copper Retirement and the process for determining when existing copper regulation can be removed.

As we noted in our response to the main Wholesale Fixed Telecoms Market Review consultation, this is a critical moment in the development of telecoms provision in the UK and decisions made as part of this review will have a long term impact due to the new five year cycle for market reviews.

Broadly, we support Ofcom's main objective of promoting the roll out of fibre to meet the needs of end customers. However, our overriding concern is to ensure that the prevailing regulatory environment remains effective in promoting competition, supports diversity of provision by a range of providers and enables hassle free switching for all customers.

In terms of the current consultation, FCS broadly agrees with the approach proposed for copper retirement and the switch off of the PSTN. Specifically, we think it makes sense that Openreach is able to declare a stop sell for copper products (where FTTP is available) when it reaches the agreed 75% "ultrafast" threshold in any given exchange area - although we note that Ultrafast is not synonymous with Fibre. We also agree with the transparency obligation which requires a 12 month notice period prior to implementation of a stop sell. This is essential to enable providers to plan and to work with their customers in affected areas to ensure a smooth transition.

However, FCS does not see any compelling need to remove regulation on copper services following exchange completion - neither do we believe that maintaining current regulation would conflict with Ofcom's objectives for promoting the roll out of fibre.

It is not at all clear at this stage what percentage of connections may potentially be excluded and may, therefore, be unprotected against possible unfair pricing following the removal of the existing copper regulation.

We would also argue that removal of the regulation removes the incentive on Openreach to solve the problems associated with supplying these "edge case" premises with fibre.

On that basis we believe that Ofcom should wait until the first exchanges are declared “completed” and can then assess the impact (in terms of the percentage and type of customers excluded), before deciding whether regulation can be removed.

We are also concerned that removal of pricing regulation on an exchange by exchange basis is likely to result in customers who are geographically adjacent being charged at different rates for the same product. For the same reason, we also oppose allowing geographic discounts.

We are pleased to note that Ofcom remains focused on preventing any attempt by Openreach to deter competition by only partly covering an exchange.

On a related issue we wish to note our concerns about recent Openreach proposals under the “fault to fibre” banner whereby Openreach is seeking to introduce charges for some types of fault repairs which are currently not chargeable - i.e. if the option to upgrade to fibre is declined in areas where FTTP is available.

Consultation Question

Q1: *Do you agree with our proposal to wait until after the publication of the WFTMR statement to define the circumstances in which premises can be excluded from the definition of a completed ultrafast exchange, by giving a direction under the future WFTMR SMP conditions?*

We agree that it is not possible at this stage to define what would constitute a satisfactorily “completed” fibre exchange - after exclusion of customer at premises which cannot be provided with fibre.

We do not believe that there is any reason to remove the existing regulation from these customers (who have arguably already been disadvantaged by non provision of fibre), allowing them to be charged higher prices for the same service.

FCS hopes that this brief response is helpful to Ofcom in its considerations and we would be happy to discuss further.