

EXECUTIVE SUMMARY

Cable&Wireless welcomes this consultation, as providing regulatory clarity for NGA services is becoming more important as end users will soon start using the NGA network and services. We support the replication of today's SMP remedies for broadband, WLR, CPS and IA over NGA connections. This is vital in order to ensure that NGA end users are able to benefit from the full range of competitive services and access the full range of providers, in particular whilst NGA services are in their infancy.

INTRODUCTION

Cable&Wireless continually invests in both networks and services within the UK. In recent years we have upgraded our core network to provide next generation network capabilities. We have increased our local presence by unbundling 802 local exchanges. We have purchased a Guardband licence in order to provide fixed mobile converged services.

Our primary direct focus is to serve the needs of large corporate customers. Some of these customers may in turn use our network and services to provide communications packages (fixed, mobile, broadband or pay TV) for residential customers.

The installation of next generation access networks potentially provides an exciting opportunity for the innovation of new services and packages. However it also brings the risk of short to medium term reductions in choice for end users within these developments, as the majority of today's service providers struggle to justify the costs of investing in accessing them while the overall customer base remains low and distribution fragmented.

We welcome this consultation by Ofcom and the opportunity to air these concerns and look forward to working with Ofcom and industry in order to find appropriate resolutions which are agreeable to all parties; the end users, the investors in networks and the investors in services.

RESPONSES TO QUESTIONS

1. What can Ofcom do to encourage timely standards development for new build NGA wholesale access products and interfaces? Which industry body is best placed to undertake the standardisation of these products and interfaces? What action should Ofcom take if these standards fail to materialise?

Cable&Wireless is of the view that NGAs will (at least in the short to medium term) raise a number of competitive and consumer choice issues.

A number of different companies are already engaged in the independent rollout of next generation access networks. These developments vary in size but in the overall context of the UK population these developments are very small. The developments span a considerable number of years of construction before total site completion is achieved.

The fact that NGA developers may well be numerous and that their product design may differ, raises issues for potential service providers and their ability and willingness to invest to provide services over these new networks – particularly in the early years.

Cable&Wireless agrees with Ofcom that it is desirable to develop standards for NGA products and interfaces in order to minimise where ever possible potential barriers to market entry for service providers.

Cable&Wireless is a member of the DSL Forum (who develop global standards and recommendations) and supports this forum as the appropriate vehicle to generate the required standards. It is essential that the UK does not develop proprietary solutions and consequently fails to benefit from global scale economies of having a wider technical solution. The DSL Forum is already actively working on items that are relevant to the Next Generation Access products that could be deployed in FTTP new build scenarios. It is our

understanding that the group is willing and able to meet specific UK timetable requirements. NICC may additionally have a role to play, but only where it can be demonstrated where there is a need for UK-specific standards which justify the expense: at this stage we have not yet seen evidence of this.

2. Do you agree with Ofcom's approach to promoting competition and consumer choice in new build fibre access developments?

Ofcom sets out that it has a bias against intervention and would prefer, if appropriate, not to impose new regulation, especially given the likely small size of new build developments. Where competitive conditions do not promote consumer benefit Ofcom would be likely to consider intervention in order to require the provision of network access of some kind. Ofcom's preference is for access at either the passive level, in new build this might be access to the ducts or fibre unbundling (which is unlikely to be feasible for GPON the current predominant NGA technology) or an ALA type product.

Cable&Wireless agrees that competition and consumer choice is best promoted by having a range of access solutions available. In the early years the distribution and size of new build developments will disincentivise many existing Communications / Service Providers from offering services within these areas unless there is a simple and aggregate manner to connect end users while volumes remain low. As volumes of customers increase, in particular in concentrated areas, Communications Providers will start to see the economic benefit of serving the customer directly and moving its network closer to the customer. In our view this results in a requirement for the ALA product to have a number of points of interconnection for CPs to deploy: a relatively central aggregation option, and further "upstream" solutions once scale or other network considerations (such as the location of other relevant interconnection equipment – perhaps a MSAN for LLU) justify deeper connectivity with the NGA network. For companies with a very high concentration of end

users / potential end users or perhaps a mix including high value business end users the opportunity to consider passive access such as duct sharing could prove beneficial.

At present NGA is in the very early stages of deployment. Ebbsfleet is reported as a development of 10,000 new homes. However in 2008 this means only 53 homes with residents in situ and for 2009 less than 400 homes with residents in situ. The limited numbers of potential NGA customers result in the services for these customers being given low priority for new product development by potential Service Providers. Service providers will struggle to justify dedication of resources and finances into the product developed required to simply access these customers. In our view this is evidenced by the current NGA / FTTP trial within Ebbsfleet. At present there are only two trialists - BT and Entanet.

There is a considerable risk that NGA developments will result in local markets with a single supplier, as in Kingston upon Hull. The overall size of the Hull market, the complication/cost of interconnecting with KCOM and need to understand a new wholesale product set, related ordering / management systems has led to diminished competition in the region despite Kingston upon Hull having a population of over a quarter of a million people with just over 100,000 households (according to the 2001 Census). In this context, it is clear that Communications Providers will not be able to justify capability development to serve far lower customer numbers in Ebbsfleet.

**3 a) do you believe that the existing obligations must be met by replicating the existing copper products, or that an alternative approach could be satisfactory?
What are the implications of replicating existing products on fibre?**

Cable&Wireless is of the view that it will be necessary to replicate existing regulatory obligations that currently apply to copper products. We set out in response to question 2 our view that for some time (several years) the numbers of overall NGA subscribers and the concentration of sufficient subscribers in specific geographic locations will not justify

the investment in products and services by voice and broadband service providers serving other UK locations. As a consequence, at least for an interim period we see the need for the regulated wholesale services currently available, to continue to be available. Wholesale broadband access, WLR, CPS and IA all being relevant replicated NGA regulated services. We note that BT's 21CN WBC broadband product plans to include access to NGA households as a standard selection option. In the same manner we would expect to be able to order WLR and CPS for NGA households using today's systems and interfaces.

In the longer term as volumes of users increase and potentially the demand for non-regulated services increases the economics of developing product solutions, local presence and additional relationships (in the situation that the NGA provider is not BT), we expect the need and demand for today's regulated services to diminish and consequently at such a time these obligations can be removed.

B) do you agree that SMP holders rolling out fibre do not need to roll out a copper network in parallel solely to meet their LLU obligations?

Cable&Wireless agrees that this is inappropriate.

C) do you agree with Ofcom's approach in relation to WBA and new build areas?

Cable&Wireless agrees that absent a competitively viable upstream access option that a WBA service should be made available on fair and reasonable terms. It is important that the assessment that Ofcom considers in this situation is not only the availability of a relevant upstream access product but also the likelihood that the product will be economically viable (in particular at the early stages of NGA rollout). BT has developed its 21CN WBC product with the capability access to NGA customers, consequently an obligation to provide wholesale broadband access to these customers would not be difficult to implement if required.

D) do you believe the WLR obligation must be met by replicating the existing copper product or that an alternative approach based on an ALA type product would be satisfactory?

Cable&Wireless believes that it is essential that the WLR obligation existing today for the copper product is replicated for NGA connections. In addition, it is essential the existing systems and interfaces used for ordering WLR are simply augmented to include NGA connections.

E) do you believe that the CPS obligation must be met by replicating the existing copper product or that an alternative approach based on an ALA type product would be satisfactory?

Cable&Wireless believes that it is essential that the CPS obligation existing today for the copper product is replicated for NGA connections. In addition it is essential the existing systems and interfaces used for ordering CPS are simply augmented to include NGA connections.

F) do you believe that the IA obligation must be met by replicating the existing copper product or that an alternative approach bases on an ALA type product would be satisfactory?

Cable&Wireless believes that it is essential that the IA obligation existing today for the copper product is replicated for NGA connections.

G) do you agree with our proposal to interpret GC3.1c) as being met through the provision and use of a battery back up facility to maintain uninterrupted access to the emergency services in new build developments?

Cable&Wireless is concerned about the provision and use of a battery back up facility as proposed. It is widely acknowledged that the problem with home smoke / fire detectors is the eventual failure of the supporting battery. We are of the view that parallel learning from experience with home smoke / fire detectors can be applied in the provision of NGA services. Given that the NGA back up battery will only require changing once every five years it will not be at the forefront of consumers' minds. We believe that consideration needs to be given to the provision of alarm systems, not dissimilar to that of home smoke alarms where a low battery warning signal is provided in some manner – either via a beeping of the users line or battery level notification on the users NTE.

Q4. do you think access to the duct network, including non telecoms duct is a potentially feasible means of promoting competition in new build? If so what types of commercial and operational models could successfully support such access arrangement in the UK?

Cable&Wireless does not consider duct access as having the potential of universally providing a mechanism for promoting competition in new build environments. There are likely to be very few, if any, service providers willing to speculatively purchase duct space at the time of a new development being constructed. In our view access to duct, where required, will become of interest once volumes of end users reach maximum at a given location and the product life cycle of NGA has reached the point at which service providers wish to innovate in either NGA technology or service characteristics and this ability is restricted by the primary NGA provider.

For Cable&Wireless' core business of serving corporate customers we can envisage the potential to utilise duct access where this includes access to business premises and the NGA development is a relatively short distance from our own existing network.

Cable&Wireless sees greater opportunities from the unbundling of access fibre rather than the duplication of fibre.