

Introduction and summary remarks

1. This response to Ofcom's consultation on re-prioritising BT's Undertakings commitments as they concern the separation of information systems has been drafted jointly by Connect – the union for professionals in communications and the Communication Workers Union which, between them, represent more than 90,000 members working at all levels across the UK telecommunications industry in more than thirty separate companies.
2. We have supported the Undertakings as presenting a viable way around the competition difficulties highlighted in Ofcom's Strategic Review of Undertakings as well as – subject to the successful conclusion of consultation with ourselves, as the trade union representatives of the impacted workforce, on the terms and conditions relating to the establishment of Openreach – the creation of a separate access services division itself. This is a process which has not been without its problems either historically or currently, as our submissions to previous Ofcom consultations show. Nevertheless, we believe that the progress in meeting the commitments set out in the Undertakings highlighted in the current consultation, with 80% of the obligations having already been delivered while improvements in Openreach's engagement with customers and in the levels of service performance have also been realised, demonstrates that the process has been a success. Furthermore, it is one in which, we would add, the commitment, engagement and motivation of employees both in Openreach and in the rest of BT more widely, and specifically in BT Design, has been key.
3. We believe that, taken collectively, the proposals outlined in this consultation document represent an honest attempt to deal realistically with the problems being caused to existing deadlines by the difficulties with delivering the information systems aspects of separation, and at a time when the debate about priorities has clearly moved fundamentally on from the point at which Openreach was established. We believe that the proposals remain true to the spirit of the Undertakings and should, when implemented, allow BT (which remains committed to the physical separation of its information systems between Openreach and the rest of BT – para. 3.36) to deliver its obligations in a way which accords with the reasons why the Undertakings came about and, furthermore, in a way which remains relevant to the needs of users now. We note that full physical separation of hardware and systems remains at the heart of Ofcom's approach to the systems requirements of operational separation and to its concerns in this area, with a number of safeguards being proposed (para 3.40; para. 3.51; para 3.54).

Detailed comments in response to specific consultation questions

Question 1: Do you agree with our proposed changes to BT's systems separation obligations? If not, why not?

4. Yes, we do agree. Allowing systems and information development employees to approach the purpose behind their role from a perspective of writing new software for the new principles under which BT operates, rather than trying to make legacy systems, written in a different era and for different purposes, do things for which they were not designed is clearly a rational way to deal with the requirement for separation. In addition, it is likely to give the employees involved a much more rewarding job and that by itself is likely to lead to higher quality software being produced, as well as having the benefit of being specifically targeted towards the task at hand. Reducing dependence on legacy IT systems has to be the way forwards while, as Ofcom also specifically recognises in para 3.12, there is a higher potential for customer disruption in managing customers in and around old (and customised) IT systems than in migrating them to specifically written new ones, especially in a situation in which migration takes place on a customer rather than product basis (which, clearly, is the right one).

5. Furthermore, we believe that Ofcom's desire to strive for level 3 separation – that of physical separation of hardware and operating systems – is also much more likely to be achieved under a newly-written IT system than in a customised old one. Software written with a view to separation of Openreach's systems from those applying in the rest of BT, i.e. all that written since the principle of operational separation was implemented, is clearly on a different footing than older software, and maintaining legacy systems clearly runs the danger of level 3 separation never quite being achieved. A clean break would, we feel, allow this level of separation to be achieved more clearly and it is also arguable that it may even be achieved more quickly, despite Ofcom's view that progress is likely to be slower (para 5.10) since it will be written with this level of separation in mind rather than from a perspective which retains something of a focus on old legacy systems which may well not be amenable to such an extension.

6. Ofcom is right to recognise that newer, competing demands on IT specialists' time have emerged since the Undertakings were established (para 3.17-3.18), including customers' own changing requirements. Allowing these to be prioritised over work which is, to some extent, self-serving rather than being customer driven is a bold move, but a pragmatic one which reflects such changing realities. Provided that Ofcom is satisfied that the principles behind which such work was required in the first place can be met by the alternative proposed route clearly occupies the highest priority; these proposals have evidently only been forthcoming where Ofcom has started from such a conviction, while they also have the

benefit of having been the subject of wide-ranging informal consultation within the industry. We thus believe that not only are the proposals supportable from the perspective of the Undertakings but that, also, they are in themselves relatively uncontroversial.

7. Settling on a workable solution to physical separation has presented difficulties because there is no model to follow, while it is clear that some of the issues around the re-orienting of legacy systems have been difficult to spot ahead of time. Furthermore, some of the reasons around the identification of the need for a fresh start in this area have only become clear subsequently, as customers have changed requirements and BT's own intentions for 21CN have developed. It is only now that the conflict between these and the time taken to address legacy systems has become evident in terms of BT being unable to attain the appropriate milestones.

8. Nevertheless, it is right that BT is asked to respond to the need for a proactive review of progress under the changes being made to the Undertakings, including through ongoing audits and road maps, and the provision of greater information, including via the Equal Access Board (para. 3.37; para 3.54). This is a worthwhile approach which should allow any continuing problems to be picked up quickly and dealt with early, as well as representing positive signs of BT and the regulatory authorities (including both Ofcom and the OTA) working together.

9. At the same time, with 20% of the work required to build the combined stacks already complete, once there is formal agreement on these proposed changes there is no reason why this should not be rapidly built on and the proposed milestone targets for customer migration quickly realised.

Question 2: Do you agree with our proposed change of approach to measuring BT's progress on product EOI? If not, why not?

10. Yes, we do agree. This is the right approach to a situation rooted in a customer- rather than product-based migration programme which, as we have pointed out above, is the right one. Consequently, it makes sense to remove the IBMC dates in relation to specific products and to replace these with milestones for migrating successive percentages of the customer base.

11. This general, top-level approach applies to all of the specific products covered by the removal of IBMC dates. Consequently, we have no other response to make to the individual product-based questions previously the subject of exemptions from the Undertakings on

which these proposals for a revised approach to systems separation have an impact and which are covered in this consultation's questions 4-9 (i.e. other than to say that we agree). Neither do we have a separate response to make to the request for exemptions to the Undertakings in respect of Featurenet (Question 10) or Messaging and Bill Direct (Question 11); these are covered by the same general approach to the theme of this consultation to which we have responded at top-line level in our response to Question 1 (i.e. we believe they should be granted).

Question 3: Do you agree that the package of additional Openreach developments and the new Undertakings commitments that relate to them are appropriate? If not, why not?

12. Again – yes, we do agree. This has been the subject of extensive consultation within the industry, in OTA-facilitated discussions between a number of communications providers, and the consensus view thus generated around the 18-month Openreach roadmap is supportable since it has been generally appraised as a successful piece of work, subject to further work on the outstanding elements of consumption, documentation and data integrity. At the same time, focusing resources on short- to medium-term improvements in Openreach products and services is likely to result in higher quality software from its evident association with being higher-value work than in dealing with frustrating legacy systems. We would agree that subjecting the roadmap to a more or less regulated review of delivery in practice is an appropriate solution provided that it is located firmly within the flexibility and industry discussion principles that have led to its creation.

Question 12: Taking into account all of the analysis and considerations in this document, do you agree that we should grant the variation to the Undertakings as set out in Annex 5?

13. For the reasons set out above, we believe that Ofcom should grant such a variation. Ofcom sets out in chapter 5 a number of reservations as to the impact on competition but we believe that these have been satisfactorily taken into account in Ofcom's own reasoning. One of these is the concern over whether the removal of the old IBMC deadlines to be replaced by more generalised percentages for customer milestones would lead to slower progress on meeting the aims of the Undertakings: this might be so although, as Ofcom also recognises (para. 5.20), BT's record in catching up early progress failures tends to be good. We also believe, as we have argued above, that work on professionally more rewarding projects would help to achieve milestones perhaps quicker than Ofcom gives credit. At the same time, given that a customer-based approach to migration to new information systems

is the right one from the perspective of safeguarding the customer experience against potentially damaging migrations (para 5.49), there is, arguably, not a great deal of choice in moving away from product-based milestones towards ones which are, inevitably, currently uncertain until such times as further progress has been made within BT on building the business stack. Consequently, Ofcom is right to require close monitoring and general progress reviews so as to take a decision on whether further work needs to be done on the achievement of the customer migration milestones which are to replace the old product-based ones.

14. We also believe that a re-direction of resources away from unsatisfying work on 'dead' projects, at a time when the demands of Openreach customers have also moved on, is the right thing to do. This should ensure that employees can be engaged on professionally more rewarding work, which will have a clear pay-off in terms of quality and the timing of delivery of completed work, while it is also a means of ensuring that the Undertakings themselves remain dynamic and relevant to their aims rather than being trapped in a narrow, time-serving focus. This is also likely to bring benefits to both business and residential consumers, as Ofcom itself also recognises (para. 5.27).

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