

## Your response

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<p><b>Question 2.1: Do you agree with our overall approach to regulation in potentially competitive areas?</b></p>	<p>Confidential? – N</p> <p>ACNI notes that less than 40% of premises in Northern Ireland are considered to be in Category 2 (potentially competitive), a situation that we believe is unlikely to change significantly in the foreseeable future. However, any regulation in these areas should be focused on ensuring that competitive pressures drive the best possible outcome for consumers and businesses. We therefore welcome confirmation of the other regulatory remedies available to Ofcom, in addition to those covered at Questions 2.2 and 2.3 below.</p> <p>ACNI supports the balanced approach suggested in this Consultation that addresses that requirement.</p>
<p><b>Question 2.2: What is your view of our access and charge control proposals for wholesale local access services in potentially competitive areas?</b></p>	<p>Confidential? – N</p> <p>ACNI supports the suggestion to impose access and charge controls as the best way to ensure that BT is not able to use its SMP in local access services in the any potentially competitive areas to stifle competition, or to increase prices in those areas to weaken retail competition.</p> <p>The proposals, building on existing regulation, appear measured and appropriate.</p>
<p><b>Question 2.3: What is your view of our access and charge control proposals for leased line services in potentially competitive areas?</b></p>	<p>Confidential? –N</p> <p>ACNI notes that Northern Ireland have the smallest proportion (39.5%) of potentially competitive areas of the four nations.</p> <p>ACNI recognises that encouraging rival network investment from new players will be difficult given historical patterns of non-investment due to Northern Ireland’s limited population and remoteness from existing customers bases in Great Britain.</p> <p>ACNI recognises the need to be flexible in the face of increasing use of DPA by network competitors to BT.</p>

<p><b>Question 3.1: Do you agree with our overall proposed approach to regulation in non-competitive areas?</b></p>	<p>Confidential? – N</p> <p>ACNI agrees with the principle that fibre rollout needs to be encouraged through regulation and appreciates that cost-recovery is an important part of the solution.</p> <p>Ofcom’s proposal states that BT’s competitors will not have appropriate conditions to support their investments (in fibre) in non-competitive areas. Since the majority of NI falls into non-competitive areas, other network providers may see these proposals as reinforcing the position of Openreach.</p> <p>Furthermore, small CPs can quickly be disadvantaged by blunt regulatory measures that create pricing differentials that cannot always be hidden from consumers.</p>
<p><b>Question 3.2: Do you agree that a RAB charge control framework is appropriate for non-competitive areas? If not, please explain why you think an alternative is more appropriate.</b></p>	<p>Confidential? –N</p> <p>ACNI appreciates that a RAB approach seems an appropriate model. However, ACNI would welcome reassurance that a RAB approach would not lead to higher charges for NI Business and Consumer Customers particularly in the interim when copper services are still a key delivery mechanism.</p> <p>ACNI is therefore concerned that the RAB approach will trigger retail price increases for rural consumers, many of whom already suffer from multiple communications deprivations, and will potentially create disincentives to take up new already more costly services when they become available. And while larger Communication Providers may choose not to pass on this ‘wholesale’ cost-recovery to consumers and may choose to retain national retail pricing with margins varying across potentially-competitive and non-competitive areas, ACNI wonders if this flexibility will disadvantage smaller CPs – some of whom work in very specific sectors and (often non-competitive) areas.</p>
<p><b>Question 3.3: Do you have any comments on the design of a RAB charge control for non-competitive areas?</b></p>	<p>Confidential? – N</p> <p>It is clear that there is significant complexity around how this would actually be implemented, and it will be very important that “effective costs” are set appropriately.</p>

	<p>ACNI notes that Ofcom recognises the need to work with Public Policy makers, and in Northern Ireland it is vital that Ofcom continue to engage with and consider the implications of the Northern Ireland Department for the Economy projects, such as Stratum, and how these might impact the RAB model in NI.</p>
<p><b>Question 3.4: Do you agree with our proposal to introduce dark fibre in non-competitive areas?</b></p>	<p>Confidential? – N</p> <p>In the view of ACNI, the Introduction of dark fibre in non-competitive areas is potentially a significant positive shake up of the Telecoms market. Dark fibre has, as noted, many innovative uses and, provided costs and flexibility are set appropriately, could have a significantly positive impact on the NI Telecoms market.</p> <p>However, as noted by Ofcom, this will significantly weaken the incentive for other providers to invest in Fibre and therefore feedback will very much depend on supplier’s business models and objectives. ACNI notes that the vast majority of the total UK land base is “a non-competitive area” and therefore this will have a significant UK wide impact.</p> <p>Dark fibre services will run into and through competitive areas and Ofcom will need to consider how this is handled. There may also be impacts/benefits such as data centres springing up in non-competitive areas to make use of dark fibre (cheaper) bandwidth.</p>
<p><b>Question 4.1: Do you agree with our proposed overall approach to QoS?</b></p>	<p>Confidential? – N</p> <p>ACNI generally agrees with Ofcom’s proposal that QoS must be maintained across the current range of regulated products. We also tend to agree that service should continue to improve as fibre becomes the default for the reasons stated by Ofcom in Section 4.8 and therefore believe the focus should be on the requirements to safeguard users during the transition phase.</p> <p>However, ACNI has a concern that as copper services become an increasingly smaller minority, then any SLA regime penalties become a smaller amount in terms of £s and</p>

	<p>therefore there is, potentially, less incentive to provide the same level of service. Perhaps Ofcom should consider finding a solution which increases the penalty for copper failure as the actual number of copper services falls.</p>
<p><b>Question 5.1: Do you agree with our overall approach to transitioning regulation as BT deploys its new fibre network?</b></p>	<p>Confidential? – N  ACNI is broadly content with the suggested approach contained with the consultation document and the switch in focus to services provided on the fibre network, but would like to see regulation continue on the copper network until such times as it is deemed to no longer be necessary. ACNI feels that an arbitrary period of two years may not be sufficient and would rather an evidence-based decision be taken at the time to lift price regulation on copper-based services and switch to regulating a set of fibre-based products only.</p>
<p><b>Question 5.2: Do you agree with our proposal not to require BT to offer new forms of wholesale access to its copper network?</b></p>	<p>Confidential? - N  ACNI is content with this approach.</p>