

Response from the Advisory Committee for Scotland (ACS) to Ofcom's Consultation on Consultation: Copper retirement – process for determining when copper regulation can be removed (Closing on 3rd Sept 2020)

'The Advisory Committee for Scotland advises Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.'

The response from the ACS to this consultation draws on the knowledge and expertise of ACS members and is informed by our individual experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.

Introduction

This Ofcom consultation is concerned with the eventual retirement of the existing copper communications estate – typically used for the “last mile” to connect homes and business premises to the telephone exchange. Most of the UK’s “fibre broadband” is in fact FTTC – Fibre to the Cabinet – and not FTTP – Fibre to the Premise – so most of the UK’s broadband, as well as most voice services, are dependent upon ageing (and slow, from a communications perspective) copper wires.

The intent of this consultation is to seek views on whether we agree that Ofcom can essentially delay the final criteria for copper retirement and in particular whether we agree that Ofcom can “*wait until after the publication of the WFTMR [the wider Wholesale Fixed Telecoms Market Review consultation from earlier in 2020] 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 [Significant Market Power] conditions?*”

In short, **ACS agrees with this delay request**, because in our view, the proposals do not clearly outline how particular classes of consumers and businesses relying on the copper estate will retain voice and/or broadband services and *not* be excessively penalized financially when an exchange is deemed to be “75% complete” in its transition – as a result of the removal of cost controls for those premises remaining with copper connections.

The Scottish Context

This consultation should be placed into context of Scotland’s communications infrastructure. Within the UK, Scotland lags behind particularly England in terms of broadband and FTTP availability. Additionally, Scotland has a larger portion of premises that are likely to be deemed unviable for fibre provision- as a result of one or more of geography, remoteness from centres of population, and expense of investment required - and hence may be more adversely affected by the copper retirement program.

Consultation Concerns

ACS generally agrees with the changing emphasis on charge control, in order to incentivise take up of fibre services and provide a return for OpenReach on their investment. However, there are a number of areas of concern in the consultation that we believe need to be clarified and/or addressed.

Clarification on Impacted Stakeholder Groups

In order to set context, it is useful to clearly call out the various stakeholder groups in this copper retirement proposal. This is illustrated below.

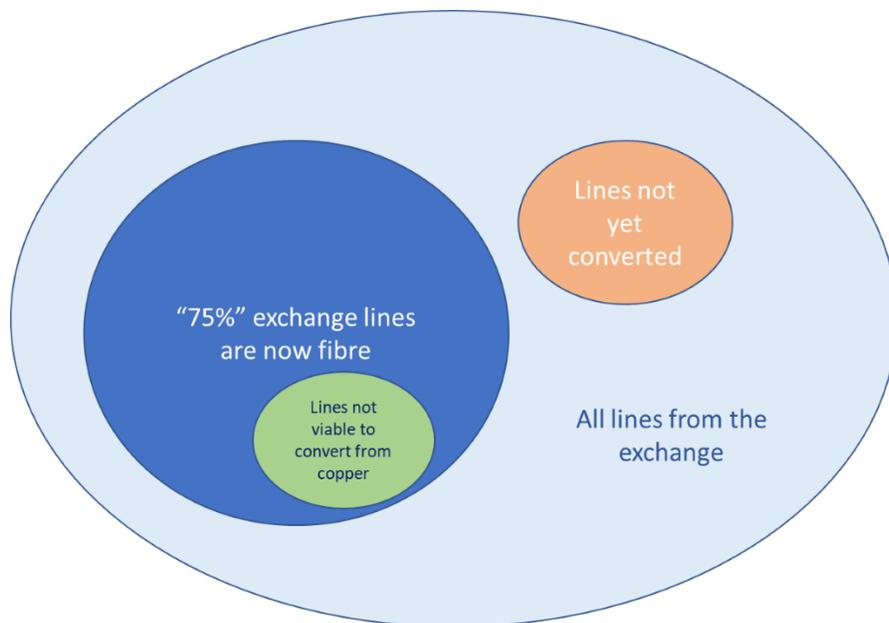


Figure 1: Stakeholder Groups

The proposal appears to be pushing direction towards accelerating the definition of a 75% complete exchange- at which point charge control can be released from copper in order to accelerate uptake of fibre-based services. This may include (as illustrated in the Venn diagram above) excluding lines that cannot be viably converted to fibre from the definition of a complete ultrafast exchange. This however leads to concerns on the services provided, and how they are charged, on the remaining non-fibre lines, which as you can see from the above diagram, fall into two distinct groups. We will consider these separately.

Lines Converted to Fibre

At the end of the day, the cabling technology is a means to an end. A voice service remains a voice service, and any voice quality improvements will be largely unnoticed by consumers. And while the fibre line will give a faster broadband experience, some consumers – especially those with good service today – may not make use of the additional capability and will question any price increase. ACS has particular concerns on any price increases that would be passed on to vulnerable groups and the elderly who may just want to use a voice service. ACS would like to see proposals that reflect a commitment to value for money for the consumer and/or businesses.

Lines Not Yet Converted To Fibre

At the point of change in charge control emphasis from copper to fibre, a substantial number of lines (up to 25%) could still be copper. There remains the possibility that, when charge control and “stop sell” are introduced, consumers and businesses in this group could be penalised financially. We have real concerns that vulnerable groups, including the elderly, could be impacted. Additionally, “stop sell” could have serious ramifications for businesses in this group in particular. For example, if a business in this grouping requests say an additional telephone line to support their business, is there a guarantee that OpenReach will provide that via fibre (perhaps upgrading the existing line in the process)? If not, there could be serious business impact. Such processes for expansion should be clarified in the proposal.

Lines Not Viable for Fibre Conversion

It is tempting to assume that premises to which fibre provision is financially and geographically challenging are all remote consumer homes, for example a remote farm building or a holiday home – and hence to assume that any decision to stop telephony services – particularly voice – has minimal impact.

In Scotland, this is most definitely an invalid assumption. In Scotland, we have a not insignificant number of premises – including major businesses – that exist in those rural areas where fibre provision is likely to be judged unviable. These could include, for example, remote salmon farms, whisky distilleries and major tourist attractions such as castles, mountain biking and ski centres. These businesses contribute to the #1 and #2 UK exports, and the aforementioned tourist businesses attract hundreds of thousands of visitors each per year. Additionally, some of these locations may fall outside the Scottish Government R100 intervention. It is hard to envisage how – in today’s Covid world and the future recovery period – how a single business located in a remote area could finance the provision of fibre across Rannoch Moor to (say) the Glencoe Ski Centre – which is likely to cost way more than what OpenReach today consider to be financially viable.

The proposal therefore needs to clarify the plans to support voice and data services to such remote locations – will the copper in these cases be retained, or will the service be turned off? It is one thing to

say “sorry, we can’t deliver you a faster broadband service”, however it is another issue completely to say “sorry, we are turning off your voice telephone service”. Consideration has to be given to these decisions and the proposal clarified. Similarly, ACS has concerns on what options and pricing will be available to vulnerable residents including the elderly, if their lines fall into this particular category of being not viable for upgrade.

Summing Up

To conclude, ACS agrees with the Ofcom proposal to delay publication of the final copper retirement process. We are of the view that significant clarifications to the existing proposal are required – particularly for those premises that may never be judged viable for fibre provision. We hope that this commentary on some of the challenges we see in the copper retirement consultation is useful to Ofcom when they clarify and formalize this process, and we appreciate the opportunity to provide input.

Ofcom’s Advisory Committee for Scotland

3rd September 2020