
Openreach Proposed FTTP Offer starting 1 October 2021

CALL FOR INPUTS:

Publication date: 2 July 2021

Closing date for responses: 16 July 2021

1. Call for inputs

- 1.1 On 1 July 2021, Openreach notified us of new pricing arrangements that it intends to put in place from 1 October 2021 and on the same day published ACCN OR728 and associated customer briefing¹ which sets out the terms of the offer. These arrangements apply to the pricing of Openreach's fibre to the premises network access products in the Wholesale Local Access market.
- 1.2 Openreach's notification was made pursuant to the requirement imposed in the [Wholesale Fixed Telecoms Market Review Statement](#) for Openreach to give 90 days' notice of changes to the charges, terms or conditions on which it provides network access, or any charges for new network access, where the price or other contractual conditions are conditional on the volume and/or range of services purchased.² This requirement was imposed to address concerns around Openreach's use of wholesale pricing structures to deter new network build by alternative network operators.³
- 1.3 In order to assist us in forming a provisional view on whether the notified offer raises competition concerns requiring *ex ante* intervention, we are inviting stakeholders to raise any initial concerns with us. Once we have had the opportunity to consider the notified offer and stakeholders' initial views, we will reach a provisional view.
- 1.4 If we consider that there are competition concerns that we should address by issuing a direction to BT, we would expect to consult on the proposed direction for 30 days in accordance with the relevant statutory provisions.⁴
- 1.5 If we instead reach the view that there are no substantive concerns requiring *ex ante* intervention, it would be open to us to announce that we are closing our review at that point. However, Openreach's proposals are the first market wide pricing initiative published since our market review statement, so in this particular case we anticipate publishing a consultation on any provisional view that we should take no further action.
- 1.6 Our aim will be to publish a statement before the end of the 90-day notification period.
- 1.7 Stakeholders who wish to raise initial concerns with us should do so by emailing wftmr@ofcom.org.uk by 5pm on 16 July 2021. This short period for responses is necessary to allow time to consider submissions and consult on our provisional view within the 90-day notification period. We strongly encourage stakeholders to provide any initial submissions by this date, as we do not anticipate granting extensions to this deadline in view of the short time we have to reach a provisional view. This does not preclude stakeholders from commenting on our provisional view once we consult on it. We would

¹ <https://www.openreach.co.uk/cportal/updates/briefings/ultrafast/nga201721>

² SMP Condition 8.6. This applies in relation to certain of our defined markets, including WLA Area 2 and WLA Area 3.

³ We discuss the analytical framework we will apply and provide guidance on specific types of terms at Volume 3, Section 7 of the WFTMR Statement (see in particular paragraphs 7.154-7.172), and discuss the applicable process at paragraph A11.8 of Annex 11.

⁴ Section 49A, Communications Act 2003.

also ask that you let us know if you think that your response should be kept confidential, including specifying which part(s) this applies to, and explain why.

- 1.8 Should stakeholders have any queries in relation to the offer itself, they should contact Openreach directly. Should stakeholders have any queries in regards to the impact of the offer, these should be set out alongside their initial views.