

REVIEW OF FIXED CALL ORIGINATION AND TERMINATION MARKETS 2016-19

CALL FOR INPUTS

RESPONSE BY COLT

1 Introduction

Colt welcomes the opportunity to respond to Ofcom's call for inputs for the review of call origination and termination markets. In this short response, Colt has replied briefly to each question although focusing on the major aspect of this call for inputs that is of direct relevance to Colt: the importance of regulation for call origination.

2 Responses to Ofcom's questions

2.1 Introduction

1.1 Do you agree with the proposed scope of this review, in particular the focus on wholesale call origination, wholesale call termination and interconnection?

Colt agrees with Ofcom's proposed scope of this review.

2.2 Wholesale call origination

2.1 Do you have any comments or views (supported by evidence where available) on the issues identified with respect to wholesale call origination?

Colt understands Ofcom's approach as regard to following the EC new Recommendation on relevant markets. We therefore welcome the need for Ofcom to start firstly by assessing whether the market for call origination should be susceptible to ex-ante regulation using the 'three criteria test'. Indeed as stated by the European Commission: "it is considered that both the retail market for access to the telephone network and the wholesale market for call origination on the public telephone network no longer fulfil the three criteria which identify the electronic communication markets susceptible to ex ante regulation. Therefore, these two markets have been removed from the Recommendation. **Nevertheless, it is always open to an NRA to assess the three criteria in order to verify whether they are satisfied for a specific market, if such an assessment step appears to be appropriate.**"

Consequently some NRAs have decided to follow this and have maintained regulation. A recent example is the Spanish regulator, CNMC, who has just launched a public consultation where it suggests maintaining regulation for the provision of wholesale interconnection and access¹.

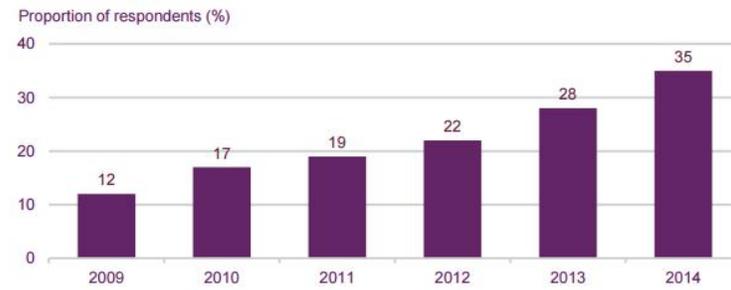
¹ <http://www.cnmc.es/es-es/telecomunicacionesyaudiovisuales/novedadestelecomunicacionesyaudiovisuales/novedadestelecomunicacionesyaudiovisualesdetalle.aspx?id=47244>

Among others, the main reason is that CNMC has stated VOIP services provided by OTTs cannot be considered as an alternative to the traditional fixed line service.

2.2.1 Increase of VOIP services buy TDM voice remains significant

If we look at the UK market we can see important increases in the take up of VOIP services: 35 per cent of consumers used VoIP, up from 22 per cent in 2012.

Figure 5.11 Take-up of VoIP services: 2009 to 2014

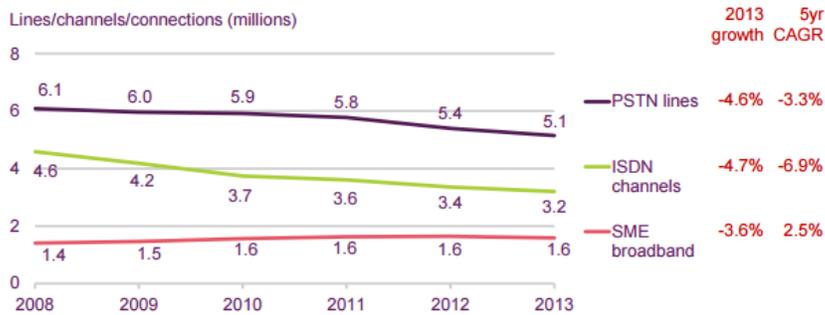


Source: Ofcom research, data as at Q1 of each year
 Base: All adults
 Note: Data from 2013 onwards are not comparable to those from previous years as they have been compiled on a different basis.

However businesses statistics show that, between 2008 and 2012:

- PSTN number of accesses has been rapidly declining since 2011,
- ISDN's rate of decrease in number of accesses is slowing down,
- SME broadband connections has been fairly stable since 2010

Figure 5.49 Business fixed voice and SME fixed broadband connections



Source: Ofcom / operators
 Note: PSTN lines include lines classed as 'other'.

The data given above is in line with Colt's own data, which suggests that fixed VoB adoption among business subscribers is increasing but still quite low: **[Confidential.]**

2.2.2 Very slow migration from TDM to VOIP

The reasons for this delay do not come from operators. Indeed technical teams would rather phase out SDH and TDM technologies, in order to run a state-of-the-art network and buy the new technology at better conditions. The main reasons come from customers: they are not willing to switch. The following are reasons why the process of migration has been so slow.

Resistance due to the cost of migration. Indeed the total cost of ownership of replacing the TDM equipment (ie TDM PBX, phones, cabling,...) with a VoIP solution is always negative unless the customer is one of the below situations:

- a. Desire for extra features,
- b. Office move,
- c. Customer is using a state of the art IP MPLS VPN and LAN to centralise the PBX functions for a large number of sites LAN: Cabling & Ethernet switching
- d. Customer now knows that VoIP should not be deployed over an old LAN and on Ethernet switches which don't have wirespeed capability for very short VoIP Ethernet frames and do not support PoE (Power over Ethernet).

Moreover, if the customer owns peripheral equipment such as burglar alarms, ePoS terminals, elevators, stamping machines, which are often PSTN-dependent, it is very unlikely for this customer to accept the migration.

Besides this, the delay is also coming from BT itself: in 2004 BT announced a project for its Next Generation Network (ie 21CN) forecasting a substantial volume of PSTN traffic to be migrated onto 21CN by 2009. However, in 2009 BT had to review its plans regarding voice services. As a result, BT's full migration of voice services has not fully occurred and Colt does not anticipate this happening in the next three years. Such important changes always take a significant amount of time and this should not be underestimated. These delays and challenges can be illustrated by BT's own response to the last narrowband market review such as: "We also commissioned Bell Labs to study the factors which determine the speed and timing of migration, and produce some case studies. Their conclusion is that whilst migration to next generation broadband voice is seen as an inevitable end state, PSTN shutdown is not expected to happen in most regions until approximately 2020 or beyond." as well as "Service providers all have an overlay next generation voice platform, but an industry-wide standard solution for next generation voice does not exist as of yet. Current migration rates to the next generation broadband voice platforms are generally dominated by external (market and government) forces." Hence, Colt does not believe Ofcom should force the pace of technological progress: only when BT achieves a full migration itself might the removal of regulation be justified.

2.2.3 Main market developments in the call origination market since 2013

The delay in migration is also supported by Colt's experience in the market since 2013:

1. Deregulation of CPS but product maintained in the market.

Although Ofcom deregulated CPS in 2013, Openreach has not withdrawn the product from the market and Colt is still buying some through BT Wholesale.

We believe this is due to the following: if CPS was blocked on Openreach's lines, it would force Openreach as well as other operators to start a conversation with their customers. As explained above, this option is often not welcomed by customers. Also, since the only solution left to customers would be to support the costs of a change (ie the migration to WLR), they might have more incentives to change provider in the process. Hence, even if Openreach holds a dominant position in the market, there is a potential risk of churn Openreach might be willing to avoid.

Colt believes this aspect can be considered as part of the factors contributing in the resistance and delay to migrating and we do not see this changing in the near future.

In terms of pricing, Colt has not noticed any changes either. We pay BT Wholesale a flat per transaction cost for the use of their platform. This might change in the future but we do not expect this to be of significant concern.

2. Absence of migration to WLR.

With the deregulation of CPS, Colt has thought of migrating its CPS business to WLR in order to avoid any risks of price increases and/or complete withdrawal of the CPS product. In principle it could easily be done, however, commercially it obviously opens up the risk customers may reject terms with Colt. Indeed as a supplier we cannot force our customers to migrate to WLR as it is considered as a new commercial sale and there are costs involved in order to execute the migration. Given CPS is still available and prices have not significantly increased for customers to be able to notice, they have no incentive to accept the migration. As a result, the expected migration has not (yet) happened for Colt's customers.

Furthermore, some technical limitations can occur. This happens when a customer buys any of Openreach's Centrex products on the line (eg Featureline product). In this case Colt cannot migrate the customer to WLR because it is a conflicting product. For those customers Colt would either have to work with them to find an alternative product, or would risk losing the customer. Usually very few customers are concerned, however, they do represent an important risk in value for Colt since they are mostly multi-site customers.

Nonetheless, Colt still has the intention to initiate a campaign to entice UK customers to migrate. However due to external elements explained above we believe this will be a very slow process. All the more so since internal challenges can be added to this. The main internal challenges Colt expects to face are as follows:

- Identifying which CLIs have WLR and CPS versus CPS only so that we communicate to the right customers;
- Finding the right balance between obtaining signatures for relatively low revenue customers versus focusing sales time on bigger voice/VoIP deals.

However, if WLR were deregulated Colt believes BT might have more incentives to withdraw both WLR and CPS at the same time. Indeed, when operators use CPS from BT, the end user still has to turn to BT in order to be provided with line rental. This way BT keeps a direct relationship as well as revenue directly from the end user. However, if CPS were not available, operators would have to move all their business to WLR and BT would lose all its billing relationship and revenue from the end customer. Therefore, we believe BT has not yet withdrawn CPS due to the obligation to maintain a more demanding product in the market. However, in case BT has no longer any obligation to provide WLR, we believe there are strong chances BT would have more incentives to withdraw any call origination services.

As a result Colt sees its WLR and CPS business very slowly decreasing each year due to customer's switch to Mobile and VoIP products. However it is important to note that overall figures look largely static with a small downward trend. We therefore expect this slow trend to remain for the next three years.

[Confidential.]

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Moreover, since Colt's only provider for WLR and CPS services is BT, we strongly believe regulation for call origination should remain.

Originally, Colt had not developed Wholesale Line Rental when it was initially offered but we had to revisit this choice in order to compete for large voice contracts from premium customers. Indeed for large multi-site voice contracts, the inability to replicate the whole retail telephony service offering of the incumbent would be a show stopper for Colt. Thus, in order to sell large accesses on main sites on Colt fibre, Colt needs the complements of WLR or CPS for smaller sites. Any withdrawal of such regulatory remedies before the extinction of the TDM retail offerings of the incumbent would therefore reduce customer choice on voice telephony.

Indeed, Colt positions itself as being a 'single provider solution' to the market. This results in making our sweet spot customers pre-dominantly on-net, however, delivering services fully on-net is not always possible. When on-net service provision is not possible, our customers require us to find a solution for them so they do not have the trouble to go elsewhere. It would indeed be inconvenient for customers to have two different providers supporting their solution, as this

means two vendors to manage, two bills to pay, two ways of managing faults and so on. Also some customers require WLR as a backup service of their current voice line. Some examples can be found below: **[Confidential]**.

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Hence, Colt strongly believes call origination services should remain regulated.

2.2.4 Inability for VOIP services to fully match PSTN's features regarding emergency calls

Besides the slow migration from TDM to VOIP, there is a limit that remains regarding the actual features provided by VOIP services in terms of emergency calls. If a VOIP call is made to an emergency number, the call will be flagged as a VOIP call to the emergency services. This does still not offer equivalent to PSTN as regard to the following:

- VOIP often depends on devices such as a PC that requires electrical power and may need to be booted up. This might not be appropriate for emergency calls purposes.
- The VOIP flag does not provide the information of the address to emergency services. The question needs to be asked to the caller. Situations for which the caller is not able to provide its address are possible and also it might not be appropriate in some situations to only rely on information given by the caller.

Therefore, until VOIP services are able to fully replicate the features of PSTN for the end user, Colt does not believe call origination should be deregulated.

2.2 Do you think there are other issues we should be considering with respect to wholesale call origination? Please provide evidence where available to support your comments.

Colt does not have further issues to be considered other than the ones above.

2.3 Wholesale call termination

3.1 Do you have any comments or views (supported by evidence where available) on the issues identified with respect to wholesale call termination?

Ofcom suggests considering whether:

1. regulation on the basis of fair and reasonable terms and conditions including charges is sufficient to address competition concerns related to CPs other than BT
2. there are any reasons to depart from the use of a LRIC cost standard and Next Generation Network (NGN) technology in calculating the cap for fixed termination.
3. flexibility to allow CPs to set different termination rates by “time of day” is still required for the efficient pricing of fixed voice calls

Colt believes points 1 and 2 should remain. Ofcom’s suggested approach to regulating termination charges on the basis of fair and reasonable terms and conditions is working satisfactorily and we see no reason to change it. Regarding the use of LRIC cost standard and Next Generation Network (NGN) technology, Colt does not see any reason for this to change now that it has been implemented.

Concerning the last point on different rates for time of day, Colt does not have any strong views: since FTRs have now become extremely low, such a differentiation is probably of less relevance today.

3.2 Do you think there are other issues we should be considering with respect to wholesale call termination? Please provide evidence where available to support your comments.

Colt does not think there are any further issues to be considered.

2.4 Interconnection

4.1 Do you have any comments or views (supported by evidence where available) on the issues identified with respect to interconnection?

Colt believes the current framework works well and that current charge controls should remain.

4.2 Do you think there are other issues we should be considering with respect to interconnection? Please provide evidence where available to support your comments.

Colt does not think there are any further issues to be considered.