



LLU & WLR CHARGE CONTROLS CONSULTATION – SINGLE JUMPER MPF FURTHER COMMENTS FROM BSKYB (“SKY”)

SUMMARY

1. Sky has argued that the current MPF wiring arrangements (double jumpering) are inefficient and that regulated MPF prices should instead be based upon the costs of a more efficient single jumpered variant. Openreach’s grounds for rejecting requests to develop single jumpered MPF products are unsubstantiated, insufficiently granular and, crucially, do not consider the most efficient method of introducing the aforementioned products. Therefore, in the absence of any compelling evidence to the contrary, Sky remains of the view that single jumpering could be more efficient than double jumpering and that economic welfare could be enhanced if regulated MPF prices were based (in full or in part) on the lower costs of single jumpering.

INTRODUCTION

2. In its response¹ to Ofcom’s consultation, “*Charge control review for LLU and WLR services*”², Sky argued that MPF costs for the purpose of setting the LLU charge control should not be predicated on the current multiple jumper wiring arrangement within the BT local exchange and instead should be modelled on the likely lower costs that would arise from a more efficient single jumper configuration³.
3. Openreach had rejected two statements of requirements (“SoRs”) from TalkTalk Telecommunications Group (“TTG”) for variants of single jumpered MPF:
 - a) TAMless MPF; and
 - b) Single Jumper MPF (“SJ MPF”) with inline TAM.
4. The TAM (or test access matrix) is a facility currently provided and operated by Openreach for the purpose of testing copper loops for faults and quality levels. TAMs are currently connected to MPF lines in such a way as to require double jumpering. Both TAMless MPF and SJ MPF would reduce the amount of jumpers and frame

¹ *LLU & WLR Charge Controls Consultation - Response by BSKYB (“Sky”)* - <http://stakeholders.ofcom.org.uk/binaries/consultations/wlr-cc-2011/responses/sky.pdf>

² <http://stakeholders.ofcom.org.uk/binaries/consultations/wlr-cc-2011/summary/wlr-cc-2011.pdf>

³ §97-105, Sky, *op cit*

capacity required within the exchange. TAMless MPF would negate the need for Openreach to provide a TAM facility at all for the associated line as the testing function would be undertaken by LLU operators instead. Alternatively, under SJ MPF, Openreach would install and operate the TAM “inline” but, as with TAMless MPF, there would no longer be multiple jumpers.

OPENREACH’S BASIS FOR REJECTING REQUESTS FOR SINGLE JUMPER MPF

5. Ofcom has asked Sky to comment on Openreach’s justification for rejecting these SoRs (outlined in the document “*Openreach response to the Ofcom questions raised regarding the request from TalkTalk for TAMless and/or Single Jumper MPF products*”).
6. Before commenting on Openreach’s arguments for rejecting the SoRs, Sky notes that:
 - a) In the short time available, it has not been possible to provide a comprehensive view and, instead, this response focuses mostly upon SJ MPF because, of the two MPF variants requested by TTG, it is the one which Sky is best placed to utilise in the short term;⁴
 - b) While it appears that Ofcom requested⁵ from Openreach a breakdown of both the costs and benefits of the two SJ variants, Openreach has presented its estimates of only the costs;
 - c) The redaction of detailed cost estimates means that Openreach’s paper is missing the key information required by stakeholders to take a fully informed view; and
 - d) Openreach’s paper includes unsubstantiated assertions and assumptions which make it difficult for stakeholders to respond fully.⁶
7. Notwithstanding these very material limitations, Sky makes the following observations:
 - a) Openreach argues⁷ that development and adoption of either single jumper variant would raise costs for industry (including Sky) and, therefore, would be unlikely to gain wide support. However, Sky considers that SJ MPF can be more efficient and could be adopted in such a way as to lower costs for LLU operators. As Sky and TTG purchase the vast majority of MPF lines, it is evident that Openreach’s assertion is without merit;
 - b) Openreach’s cost estimates are very wide (e.g. £31m - £108m) and, therefore, are unlikely to be a reasonably accurate estimate of the likely costs. Absent any underlying breakdown, it is simply not possible to provide a critique of these estimates.

⁴ It should be noted however that, for the reasons outlined in Sky’s response to the first LLU WLR Charge Control Consultation (§103), TAMless MPF could offer considerable scope for LLU operators to invest and innovate in quality monitoring, fault detection and line testing.

⁵ Page 5, Openreach, *op cit*.

⁶ For example, while, for the purposes of its paper, Openreach does not purport to have estimated the cost savings that may arise from either of the single jumper variants, it claims that its developments costs will exceed any *perceived* savings but does not provide any evidence to support this assertion (page 22, Openreach, *op cit*).

⁷ Page 1, Openreach, *op cit*.

- c) According to Openreach's paper⁸, Ofcom asked for a breakdown of the costs and benefits of two possible approaches to SJ MPF and TAMless MPF:
- i. forcibly migrating all MPF lines to single jumpering; and
 - ii. only provisioning new MPF lines onto single jumpering (while maintaining the existing base of MPF lines on a double jumpering arrangement).

It is not clear why Openreach maintains that the costs for either of these two options would be the same nor does it explain properly why these costs are unaffected by product volumes⁹ (even though Ofcom has told Sky that the majority of the estimated cost of SJ MPF is made up of TAM port costs – which are likely to be volume dependent).

- d) Moreover, there are other, more cost effective options worth considering – including a *Net Growth* option whereby the existing estate of double jumpered MPF lines is maintained i.e. any reduction in the volume of double jumpered lines as a result of churn is “topped up” by ensuring that a portion of new supply MPF lines are double jumpered. Only when DJ MPF assets reach the end of their lives would they be replaced with SJ MPF assets. Under this model, only the net increase in MPF lines would be put onto SJ MPF and, as such, the risk of asset stranding is reduced or eliminated.
- e) Openreach's development cost estimates appear to include the cost required to meet additional, incremental demand for MPF lines. Some of this cost would occur whether SJ MPF was developed or not. For the purposes of estimating the costs of providing SJ MPF, only the incremental costs of delivery on the new wiring configuration need be captured, not those that would arise even if DJ MPF remained the only available variant.
- f) Openreach already supplies a small amount of single jumpered MPF in 21CN exchanges and, as such, some development costs are likely to have been incurred already. It is not clear whether Openreach is including recovery of these development costs in its estimates here or whether they have been already been recovered through existing charges.
- g) Openreach argues that a new MPF variant will introduce further complexity and dual running costs but this argument cannot be used as a reason by itself not to launch or develop either new products (as it continues to do e.g. GEA) or more efficient methods of supplying services.
- h) While stranded asset costs appear to be included in Openreach's cost analysis, should it be considered that SJ MPF was the appropriate basis by which to assess the regulated charges for MPF, then it may not be appropriate to recover these

⁸ Page 5, Openreach, *op cit.*

⁹ Page 16, Openreach, *op cit.*

costs (as they are not costs that would be incurred by an efficient new entrant nor are they costs that are incremental to additional production).

THE OPPORTUNITY TO RECOVER EFFICIENT COSTS THROUGH CHARGE CONTROLS

8. Sometimes Ofcom favours adopting an anchor pricing approach to BT charge controls whereby it bases its costs estimates on the current technology or configuration used by BT to supply regulated products. Typically, there is an assumed efficiency rate built into the RPI-X charge control formula so that BT is expected to reduce its unit costs of delivery over time.
9. Ofcom argues that such an approach encourages BT to adopt more efficient technologies and methods of working without Ofcom forecasting their exact nature and timing. If BT is able to deliver services at a lower cost than those anticipated in the charge control, it is able to keep the additional cost savings (at least during the relevant charge control period).
10. However, Sky argues that there can be circumstances where this incentive mechanism is less effective in incentivising BT to adopt more efficient technology. In respect of SJ MPF these can include where:
 - a) Efficiency benefits may only accrue to lower revenue wholesale products like MPF (as is the case with SJ MPF) which are, in part, substitutes for more highly priced alternatives such as WLR + SMPF. Any ensuing increase in the cost differential between the two substitutes may encourage increased migration to the lower cost alternative¹⁰ and, thus, lower the overall revenues and profits for BT in three ways:
 - i. Lower revenues and profits from wholesale local access and wholesale analogue exchange line services;
 - ii. Lower retail broadband and talk revenues and profits as MPF operators compete even more effectively with BT's own retail divisions that rely upon WLR+SMPF; and
 - iii. Lower wholesale call conveyance revenues and profits as MPF operators are less reliant on BT's wholesale call conveyance products.

The resultant reduction in profits for BT as a whole may outweigh any additional profits that arise from providing MPF services more efficiently.

- b) Downstream BT lines of business (e.g. BT Retail and BT Wholesale) are unable to exploit more efficient, cheaper MPF, because the costs of migrating to the newer technology may be sufficiently high as to act as a barrier;

¹⁰ Existing LLU operators could buy more MPF and less SMPF and/or MPF based operators could gain retail market share as a result of increased competitiveness through lower costs and increased efficiency.

- c) Openreach may be relatively CAPEX constrained and favour other projects (e.g. NGA) which are commercially and strategically more attractive to the whole of BT Group; and
 - d) BT has not considered the most efficient method of deploying the new technology i.e. the *Net Growth* approach.
11. In those circumstances, where the anchor pricing approach may not result in the deployment of more efficient products and, as a result, consumers pay more, it is even more apposite to consider whether basing prices, either in part or in full, on the more efficient modern equivalent asset (“MEA”) would be more effective in advancing economic welfare.
 12. The principle of basing regulated prices upon the costs of an efficient new entrant is well-founded. Prices would mimic those that would arise in a fully competitive market and thus maximise economic welfare. Moreover, in a competitive market the costs of transition (including the costs of stranded assets) to a more efficient technology would not be recoverable in wholesale prices at all as they would not be reflected in the prices of an efficient new entrant.
 13. Given that Ofcom may have regard to promoting dynamic efficiency by allowing BT an opportunity to recover its efficiently incurred costs and thus preserve investment incentives, a key question is whether those costs associated with double jumpering (that may become stranded should SJ MPF be adopted) were efficiently incurred. In this regard, it is evident that BT considered SJ MPF to be more efficient in relation to its original 21CN proposals whereby BT Wholesale would also have adopted MPF. This is why SJ MPF has been deployed in the few 21CN exchanges that are in operation today.
 14. In conclusion, Sky continues to consider that there is a strong case for MPF prices to be based upon the costs of SJ MPF. It is not possible to respond fully to Openreach’s basis for rejecting single jumpering because the redacted version of its paper contains insufficient data and unsubstantiated assertions. While Openreach’s cost estimates and conclusions appear implausible given Sky’s understanding of the likely additional cost of TAM ports and reduced frame costs that arise from SJ MPF, without Openreach’s underlying analysis it is impossible to critique fully its estimates. Moreover, crucially, Openreach has not considered the most efficient way of introducing SJ MPF.