

## Measures to support Openreach's trials in Salisbury and Mildenhall

6 January 2020

## Foreword

This response is provided by Openreach Limited<sup>1</sup>. Openreach is a wholesale network provider. We support more than 600 Communications Providers (CPs) to connect the 30 million UK homes and business to their networks. We sell our products and services to CPs so they can add their own products and provide their customers with bundled landline, mobile, broadband, TV and data services. Our services are available to everybody and our products have the same prices, terms and conditions, no matter who buys them.

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<sup>1</sup> Openreach Limited is a wholly-owned subsidiary of BT Group Plc.

## 1. General comments

Openreach welcomes Ofcom's consultation and its proposed agreement to our request for regulatory waivers to our current regulatory obligations to allow us to implement a commercial offer to support the FTTP Exchange Upgrade trial in Salisbury and the WLR withdrawal trial in Mildenhall. These trials will enable Openreach and CPs to test migration processes and better understand the issues that will need to be addressed.

Openreach agrees with Ofcom and Government that the move to All-IP and full-fibre networks should be industry-led and we have been actively consulting with our customers to ensure there is an agreed approach to this complex transition. In May 2018 Openreach consulted with CPs on the withdrawal of Wholesale Line Rental (WLR): a copper-based service that relies on the Public Switched Telephone Network (PSTN). Openreach will stop selling WLR, ISDN and other services that rely on the PSTN nationally from September 2023 and will withdraw those services altogether in December 2025 when the PSTN reaches end of life. In March 2019, Openreach issued an industry consultation. '*An exchange-based approach to upgrading the UK's digital infrastructure with GEA-FTTP*', which set out our proposed approach to the retirement of the copper network. Openreach then issued a further industry consultation in June 2019, covering proposals for trials of both FTTP Exchange Upgrade and WLR withdrawal.

Following industry feedback and discussions following our trial announcements, we believe that introducing a time-limited commercial offer in both Salisbury and Mildenhall will help to drive CP engagement and encourage early migrations. This will be an important step in making these trials a success.

## 2. Responses to consultation questions

Consultation question 1: Do you agree with our proposals to waive the non-discrimination, Equivalence of Inputs and VULA charge control obligations to facilitate Openreach's trials offer? Please give reasons for your answers.

We agree with Ofcom's proposals to waive the non-discrimination, Equivalence of Inputs and VULA charge control obligations to facilitate Openreach's trials offer. Following industry feedback and discussions following our trial announcements, we identified the need to introduce a time-limited commercial offer in both Salisbury and Mildenhall to drive CP engagement and encourage early migrations. In particular, such an offer, planned to be available from February 2020 would encourage migrations to our target technologies (FTTP, SOGEA/SOGfast and SOTAP) ahead of the implementation of 'stop-sell' In Salisbury and Mildenhall in December 2020 and May 2021 respectively.<sup>2</sup>

Under this proposed offer WLR and MPF lines migrating to target technologies in the trials areas will receive:

- No charge for self-install or the cheapest connection option
- No increase in rental charges for 12 months for the closest available bandwidth product on the target technology i.e. customers would continue to pay the same rental charges for 12 months and then pay the rental charges associated with the target product

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<sup>2</sup> Stop-sell implementation in Salisbury and Mildenhall was formally notified to industry on 9 December 2019.

- No charge for Left-In-Jumper recovery, ceasing tie cables or associated Early Termination Charges

The underlying principle of the proposed offer is that the price charged per line for new strategic product in each of the trial areas for the 12 months period would be equivalent to that previously charged, regardless of the product previously consumed. Additionally, the costs of connection to the new product would be waived.

We identified that this proposed commercial offer will require waivers to certain of our existing regulatory obligations, imposed under the 2018 Wholesale Local Access Market Review, for us to implement elements of the offer, given that:

- Customers will be paying different rates for the same product
- In Salisbury, WLR/SMPF or MPF customers will be paying less for the FTTP 40/10 product than the regulated FTTC product for the term of the offer
- In Mildenhall, WLR/SMPF or MPF customers will be paying less for the SOGEA 40/10 product than the regulated FTTC product for the term of the offer

Ofcom notes in its consultation that our proposed commercial offer would maintain rental charges at legacy service rates for a period of 12 months following migration with the result that some customers would continue to pay the trials prices for up to a year after the offer closes in May 2021. We therefore welcome Ofcom's proposal that the regulatory waivers should apply for the duration of the proposed offer (1 February 2020 to May 2021) and for up to 12 months following migration, and that the waivers should also be reflected in the relevant regulatory conditions made as part of the Fixed Telecoms Market Review from April 2021.

We believe this proposed commercial offer, which has the support of Openreach's industry customers, is an important early step in the move towards an All-IP and full-fibre world. We therefore support Ofcom's proposed agreement to the required regulatory waivers.

We do however wish to draw Ofcom's attention to some points in relation to the proposed legal instruments set out in Annex 5 to the consultation, where clarifications and/or amendments are required. These are set out in Annex 1 of this response.

#### Consultation question 2: Do you agree our assessment of the impact of our proposals we have identified? Are there any further impacts that we should consider?

Openreach agrees with Ofcom's assessment of the impact of its proposals to agree the regulatory waivers required for the proposed commercial offer in Salisbury and Mildenhall. We agree that this offer is likely to be beneficial to telecoms providers who participate in the trials, significantly reducing their costs and enabling them to set retail prices to encourage take-up of the new services at an early stage of the trials.

We note and support Ofcom's focus on consumer protection during the two trials. Openreach will continue to work with industry through the established working groups to ensure any issues, particularly those affecting vulnerable customers, are addressed and reflected in the best practice guide we are developing.

## Annex 1 : Comments on proposed legal instruments

1. Paragraph 1 in the legal instrument currently reads "*Ofcom consents to the requirement on the Dominant Provider under SMP Condition 4 to not unduly discriminate against a particular person, or description of persons, in relation to the provision of network access, and Condition 5 to provide network access to Third Parties on an Equivalence of Inputs basis, not applying to rental charges made by the Dominant Provider for any of the Target Services, including charges associated with providing the Target Services, for network access provided in respect of an end user located in the Salisbury Area or the Mildenhall Area for the duration of that end user's Contracted Period".*

The consent applies to "rental charges" and then notes that this includes charges associated with "providing the Target Services". We would ask Ofcom to clarify in its statement that "including charges associated with providing the Target Services" also waives the obligation for connection charges to be EOI and not to unduly discriminate (since those services that fall within the scope of the trial will have connection charges waived (no charge for self-install or the cheapest connection option)).

2. In Paragraph 8 in the legal instrument, 1 May 2011 should read 1 May **2021**.
3. In the Definitions section of the legal instrument (Paragraph 15), the following changes are required:

- a. In the list of Target Services' in relation to the Mildenhall area:

SOGEA Voice Access should be replaced by SOGEA Low Bandwidth product

- b. In the list of Target Services' in relation to the Mildenhall area:

'Generic Ethernet Access (FTTP) Voice Access' should be replaced by 'Generic Ethernet Access (FTTP) Low Bandwidth product'