
Geo Networks Limited (Geo)

Response to the Ofcom: Fixed Access Market Review

8th October 2013

Introduction

In our consultation response, we focus on the importance of passive remedies in the Wholesale Local Access Market (WLA) and the need for CPs to have access to the same passive inputs that BT can access from Openreach (OR). It is our view that deeper infrastructure investment is most effective in driving innovation and competition. We strongly believe that active and passive remedies can not only co-exist but that both are essential to achieve an effective and competitive market.

We strongly disagree with the restrictions Ofcom has imposed on Physical Infrastructure Access (PIA). These restrictions include use of PIA for backhaul, leased lines, point to point business services, mobile and fixed wireless services and satellite. To allow CPs to design and build holistic NGA networks that are efficient and can be fully utilised, Ofcom must extend PIA to cover these types of usage. This is also important to create a level playing field between BT and other CPs, allowing CPs to use their deployed NGA networks for a complete range of products on the same basis that BT currently enjoys. In conjunction with this we strongly believe that PIA will only be effective if it is subject to an EOI obligation whereby OR offers it to other CPs at the same price and on the same terms that it offers to BT.

In addition to PIA we also believe that CPs need access to OR dark fibre, again on an EOI basis, in order to stimulate and create effective competition in the NGA market across the UK. This currently does not exist which can be evidenced by the lack of CP participation in the BDUK framework tenders.

We have limited our response to those questions most relevant to our company.

Question 4.10: Should PIA be retained as part of the set of NGA remedies assuming that such remedies continues to be required? Please provide reasons to support your view.

Geo has always maintained that effective and open access to existing infrastructure is an integral part of the regulatory framework for a truly competitive market. We welcomed the introduction of PIA as a result of the last WLA Review but noted at the time that the restriction on its availability to only a narrowly defined roll-out of “NGA” was both unworkable and misplaced.

The restrictions include PIA for backhaul, leased lines, point to point business services, mobile and fixed wireless services and satellite. Further, the absence of EOI obligations on PIA has seen OR release a set of unbalanced and non-commercial terms and conditions, with little to no service commitment and no service levels. Until BT is required to consume PIA on the same terms as other CPs, OR will always be incentivised to make the product as unworkable and difficult to use by BT’s competitors.

We continue to maintain our view that PIA should be retained but also strongly believe the product will not be workable or effective unless the restrictions are removed, allowing CPs to consume PIA on the same basis and compete with BT on a level playing field.

Question 4.11: What changes might be made to the PIA product that could increase NGA investment by other CPs? Please provide reasons supporting your views, and in particular any specific business plans which could be made viable by such change.

As set out above, our view is that, until Ofcom lifts the imposed restrictions on PIA and makes it subject to EOI, PIA take up will remain low. CPs making long term infrastructure investments to build NGA networks will always view the existing restrictions on PIA as too uncertain and too high a risk.

NGA networks will ultimately connect all of society from the business sector to residential houses to public sector agencies. There will also be an increasing number of wireless mobile masts sitting on high capacity fixed lines, underpinning mobile broadband services which will, increasingly be used for a wider range of purposes across all sectors of society, including substitutes for what were traditionally fixed line applications. Ofcom's unnatural split of PIA across the WLA and BCMR market, looking at PIA products in isolation is unhelpful and unworkable for any CP considering long term investment using this infrastructure. Access to all relevant service revenue opportunities is critical to generating the long term cash flows needed to justify investment. It is also worth noting that, as "broadband" service use and expectations become both more bandwidth intensive and symmetrical in nature, it becomes increasingly difficult to differentiate between "WLA" and "BCM" service sectors – the current market definitions appear increasingly irrelevant to current technologies and network topologies.

To allow CPs to design and build the holistic NGA networks that are efficient and can be fully utilised for all forms of access services, Ofcom must now extend PIA to cover these types of usage.

Question 11.8: Do you agree that we should continue to require PIA and that it should be offered subject to a Basis of charges requirement? Please provide reasons in support of your view

As we have stated, we do believe that Ofcom should continue to require PIA. However we do not believe it will ever be an effective product until it is offered to CPs on an unrestricted basis and on the same terms as BT.

We do not agree with Ofcom's assumption that there must first be concrete evidence of investment to justify imposing passive remedies. We believe it is most efficient to start from a presumption that deeper infrastructure investment is the most effective in promoting innovation and competition and Ofcom does not require evidence to demonstrate its effectiveness.

In relation to pricing, we consider the most critical element to make this product effective is to impose an EOI obligation on OR to ensure it offers PIA on the same basis as it offers it to other CPs. As set out above, unless there is a level playing field and CPs are able to consume PIA on the same basis as BT retail companies, the PIA product will not be truly effective.

Question 11.9: Do you agree that PIA should continue on the same basis as it is currently applied? Please provide reasons in support of your views, including, if you disagree with our approach, evidence of specific business plans or intentions to invest in deploying NGA networks that are currently unviable but would become viable with your suggested changes?

We disagree.

As set out above, we consider that Ofcom must take a holistic approach to the PIA product across all relevant markets. Ofcom must lift the current restrictions and require OR to offer PIA on an EOI basis.

Question 4.13: Have there been any significant changes since the last market review that mean we should alter our position on wavelength unbundling? If you think wavelength unbundling is appropriate, what form of remedy should be imposed (including the payment or funding mechanism, i.e who pays for it, how this would be calculated and when the investment would

occur) and what would be the likely effectiveness of such a remedy in addressing competition issues? Please provide reasoning to support your views.

We do not consider that wavelength unbundling will ever be as an effective remedy as dark fibre. Wavelength unbundling remains an active product and therefore does not carry the efficiencies and competitive benefits as a dark fibre remedy.

We maintain that CPs need access to OR duct, pole and dark fibre infrastructure in order to compete against BT on an equivalent basis in this market. Geo has consistently argued for the adoption of NGA architectures and business and regulatory models that can best support retail service competition, allowing fibre unbundling. We do not consider it is acceptable for Ofcom to propose reasons why CPs should not have access to OR dark fibre but by default allow BT's retail arm to enjoy these inputs without restriction. As long as BT has exclusive access to these OR passive components, it will maintain a disproportionate advantage over other CPs and dominate the NGA market.