

The Welsh Assembly Government is grateful for the opportunity to respond to this consultation. We recognise that widespread access to affordable, secure broadband is important to both businesses and citizens across Wales. To this end, we welcome opportunities to work with both the telecommunications industry and Ofcom to share information on communications infrastructure issues, understand barriers to investment, including regulatory and economic issues, and inform future policy making in this area.

Question 1:

What can Ofcom do to encourage timely standards development for new build NGA wholesale access products and interfaces? Which industry body is best placed to undertake the standardisation of these products and interfaces?

- 1.1 The Welsh Assembly Government agrees Ofcom's approach of using the industry as the vehicle to take forward the standardisation of wholesale access products and interfaces. However, we believe that this should not fall to one single company. A cross-industry group should be established to ensure representation from companies of all sizes. Ofcom should act as a facilitator in this process and encourage interaction between industry partners.
- 1.2 We believe that the regulatory framework should be clearly set out by Ofcom prior to this process beginning. This will mean that the group has a clear mandate to work under ensuring clarity and a specific focus on technical standardisation.

What action should Ofcom take if these standards fail to materialise?

- 1.3 Ofcom has to set out a clear timeline for standardisation prior to the start of this process. Additionally, Ofcom must facilitate the engagement of wholesale providers on this matter. We believe that Ofcom should initially endorse the creation of an agreed voluntary code to which the industry can sign up. However, the ability to mandate appropriate standards should also be reserved by Ofcom if it becomes clear that a voluntary consensus is not forthcoming within the required timeline.
- 1.4 Ofcom should make clear that requiring standards for an ALA product does not mean that the regulator may in any way preclude passive access solutions. Ofcom should also support the commercial deployment of, for example, a point-to-point fibre network if and when it occurs as part of a technology neutral approach to stimulating competition.

Question 2:

Do you agree with Ofcom's approach to promoting competition and consumer choice in new-build fibre-access deployments?

- 2.1 The Welsh Assembly Government agrees up to a point with the approach proposed by Ofcom to promote consumer choice. We have previously outlined our views on the deployment of both passive and active access solutions in our response¹ to the Future Broadband consultation and maintain that these views are also relevant here. We believe that both solutions are

¹ <http://www.ofcom.org.uk/consult/condocs/nga/responses/WAG.pdf>

required to maximise access competition over wireline networks, although they must be fit for purpose and regulated to allow interoperability of equipment.

- 2.2 We believe that competition will not be encouraged between network operators if the ALA approach being suggested by Ofcom is adopted in isolation. Hence the need for consideration of passive solutions as well.
- 2.3 We believe that the main barrier to third party investment is the cost of backhaul. Projects such as the Welsh Assembly Government's FibreSpeed project seek to remove this barrier by stimulating competition in the provision of next-generation network services. Many network providers are looking at FibreSpeed for an early proof of concept that shows this model is commercially viable. The FibreSpeed project will prove a useful case study for Ofcom and, if it is successful, it may help to stimulate other projects elsewhere in the UK.

Question 3:

(a) Do you believe that the existing obligations must be met by replicating the existing copper products, or that an alternative approach could be satisfactory? What are the implications of replicating existing products on fibre?

- 3.1 The Welsh Assembly Government does not believe that it is necessary to replicate existing copper products to meet existing obligations. We believe that the market will adapt over time to meet these needs. The only stipulation should be that the solutions are both scalable and flexible to meet the needs of both industry and consumer.

(b) Do you agree that SMP holders rolling out fibre do not need to roll out a copper network in parallel solely to meet their LLU obligation?

- 3.2 The Welsh Assembly Government agrees that SMP holders do not need to roll out copper just to meet their LLU obligations. However, Ofcom should continue to encourage competition through the provision of 'open-access' models. As stated in the consultation document, Ofcom has already recognised that investors are keen to attract as many service providers as possible to their networks and acknowledges that 'open-access' models give end-users the greatest possible choice.

- 3.3 Ofcom should continue to adopt a technology neutral approach and not rely on ethernet as the sole solution.

(c) Do you agree with Ofcom's approach in relation to WBA and new build areas?

- 3.4 We agree up to a point with Ofcom's approach to Wholesale Broadband Access, as previously stated in our response² to the Wholesale Broadband Access Review consultation. We agree that WBA should be made available in areas without adequate competition and fully expect that these principles can be replicated in new build areas. However, we believe that the issues we raised in our WBA response relating to the definition of WBA and the ongoing identification, monitoring and regulation of sub-national markets still apply.

² <http://www.ofcom.org.uk/consult/condocs/wbamr07/responsesother/wa.pdf>

We note, with some disappointment, that Ofcom has not responded to any of these points in its final regulatory statement³.

(d) Do you believe that the WLR obligation must be met by replicating the existing copper product, or that an alternative approach based on an ALA type product would be satisfactory?

(e) Do you believe that the CPS obligation must be met by replicating the existing copper product or that an alternative approach based on an ALA type product would be satisfactory?

(f) Do you believe that the IA obligation must be met by replicating the existing copper product or that an alternative approach based on an ALA type product would be satisfactory?

3.5 The Welsh Assembly Government agrees that an ALA product will facilitate an alternate solution that can supercede existing WLR, CPS and IA products.

3.6 We believe that there should not be an obligation on industry to replicate the above existing products on a fibre access network. It is our opinion CPs will view the ability to purchase one wholesale product for both voice and data as a step forward and they will want to move away from separate products for voice and data when they commence delivery of services over fibre.

(g) Do you agree with our proposal to interpret GC 3.1 (c) as being met through the provision and use of a battery backup facility to maintain uninterrupted access to emergency services in new build developments?

3.7 The Welsh Assembly Government agrees that a battery backup is needed to ensure the provision of uninterrupted access to emergency services for users with a fixed line telephony service.

3.8 It is important that users recognise that they may still not be able to access emergency services in the event of a power cut if they use a cordless telephone, even with a battery backup to the user's terminal equipment.

3.9 However, many users are now choosing to forego a fixed line telephony service. Users who choose not to have access to a fixed line telephony service should not be disadvantaged or, in any way, penalised financially by having to bear the cost of installing equipment with a superfluous battery backup. These users should be given a choice about whether or not they have battery backup facilities in their home. They need to be made aware of the consequences of not having this facility in order to make an informed decision. We recognise that this may not be achievable immediately as legislative changes may be required.

Question 4:

Do you think access to the duct network, including non-telecoms duct, is a potentially feasible means of promoting competition in new build? If so, what types of commercial and operational models could successfully support such access arrangements in the UK?

³ <http://www.ofcom.org.uk/consult/condocs/wbamr07/statement/statement.pdf>

- 4.1 The Welsh Assembly Government agrees that access to the duct network (including utilities) is one solution to promoting competition in new build and, indeed, the Welsh Assembly Government is aware of new ducting products on the market that could potentially support third-party access to ducts in new build developments.
- 4.2 We believe that access to ducts promotes competition in the marketplace. In order to mitigate the perceived risk to investors Ofcom should avoid mandating the opening of new build access ducting to third parties at this point. However, with reference to our comments earlier on point-to-point fibre, Ofcom should support any commercial duct leasing models that may be trialled in the market, to encourage competition.

The detailed response we have provided to the proposals contained in Ofcom's consultation document is designed to be entirely constructive and we hope it will prove useful as Ofcom moves forward.

The Welsh Assembly Government is committed to working with and supporting Ofcom in order to achieve the right regulatory approach for Wales and for the UK as a whole. We would be pleased to discuss further with Ofcom any of the issues we have raised in this consultation response.