



Verizon Enterprise Solutions response to Ofcom's fixed access market reviews: wholesale local access, wholesale fixed analogue exchange lines, ISDN2 and ISDN30 consultation

1. Verizon Enterprise Solutions ("Verizon") welcomes the opportunity to respond to Ofcom's fixed access market reviews consultation.
2. Verizon is the global IT solutions partner to business and government. As part of Verizon Communications – a company with nearly \$108 billion in annual revenue – Verizon serves 98 per cent of the Fortune 500. Verizon caters to large and medium business and government agencies and is connecting systems, machines, ideas and people around the world for altogether better outcomes.
3. Verizon's approach to responding to this consultation has been to provide a summary of our position in relation to the markets under review, focusing mainly on those key issues where we have concerns with Ofcom's proposals as set out in the consultation document and where we think Ofcom should reconsider their thinking when determining the regulatory framework for these markets. We then move on to address the specific questions raised by Ofcom in the consultation document.
4. Verizon will also make submissions on the topic of Quality of Service (QoS) issues related to the provision of regulated access services as this matter is also of importance to our business.
5. Please note the views expressed in this response are specific to the UK market environment and regulatory regime and should not be taken as expressing Verizon's views in other jurisdictions where the regulatory and market environments could differ from that in the UK.

Summary

6. In general, Verizon is in overall agreement with Ofcom's analysis of the markets under review. In particular we strongly agree with Ofcom's provisional findings in relation to the ISDN2, ISDN30 and WLA markets, where it considers that there has been little change since the last review. Indeed, Verizon holds the view that there will continue to be little change in these markets during the period covered by this review, i.e. 1 April 2014 to 31 March 2017. Although ISDN2 and ISDN30 volumes are likely to continue to decline it is not considered likely that overall market conditions will change markedly.



7. Verizon also agrees with Ofcom's proposed finding that BT continues to have SMP in the WFAEL, ISDN2, ISDN30 and WLA wholesale markets.
8. Furthermore, Verizon fully agrees with Ofcom's proposed finding that there are no regional markets for the markets addressed in this review (other than Hull). Verizon also supports the proposed finding that ongoing specific charge controls on BT are appropriate and necessary. Such a remedy is fully consistent with Ofcom's view that the wholesale markets have not changed materially since the last review, where such controls were applied.
9. As for the QoS issues Ofcom has considered, Verizon fully supports Ofcom's review in this area as this has been a considerable source of contention between BT and industry over a number of years, which has seen continuous degradation of the level of service provided by BT.
10. The remainder of this response addresses the specific questions posed by Ofcom in the consultation document. Again, Verizon only offers a response to those questions which have relevance for our business.

Fixed Access Markets review – Ofcom questions

Market definition and SMP analysis: WFAEL

3.1 Do you agree with our provisional view that, during the period covered by this market review, BT and KCOM will have SMP in the WFAEL markets we define above? Please provide reasons in support of your views.

11. Verizon does agree with Ofcom's provisional view that BT and KCOM have SMP in the WFAEL market. This is self-evident given the respective market shares.
12. Verizon also agrees with Ofcom's view that VoIP should not be included in the market definition. At present VoIP is not a mass market alternative to the copper network so should not be included in this market.

Market definition and SMP analysis: ISDN30

4.1 Do you agree with our provisional view that, during the period covered by this market review, BT and KCOM will have SMP in the wholesale ISDN30 markets we define above? Please provide reasons in support of your views.

13. Verizon does agree with Ofcom's provisional view that, for the period covered by this review, BT and KCOM have SMP in the wholesale ISDN30 market. This as there is unlikely to be any significant developments in this market during the period covered by the market review, in terms of additional competition.

Market definition and SMP analysis: ISDN2



5.1 Do you agree with our provisional view that, during the period covered by this market review, BT and KCOM will have SMP in the wholesale ISDN2 markets we define above? Please provide reasons in support of your views.

14. Verizon does agree with Ofcom's provisional view that, for the period covered by this review, BT and KCOM have SMP in the wholesale ISDN2 market. Given the very high market share enjoyed by BT nationally excluding the Hull area and KCOM in the Hull area, no other finding could be contemplated.

5.2 Do you agree with our provisional view that, during the period covered by this market review, BT does not possess SMP in the retail ISDN2 market we define above? Please provide reasons in support of your views.

15. Verizon does not agree with Ofcom's finding that BT no longer holds SMP in the retail ISDN2 market. As Ofcom notes, no retail rival to BT has been able to attain significant scale, suggesting that any competitive pressure on BT is extremely limited and unlikely to increase significantly over the period covered by the current review. So although Ofcom considers that rival retailers (as a whole) have been able to grow at BT's expense over recent years, sufficient barriers to entry exist to limit the scale of such entry.

Market definition and SMP analysis: WLA

7.1 Do you agree with our provisional view that, during the period covered by this market review, BT and KCOM will have SMP in the WLA markets we define above? Please provide reasons in support of your views.

16. Verizon does agree with Ofcom's provisional finding that BT and KCOM have SMP in the defined WLA markets.

Remedies: General Remedies for wholesale fixed access markets

10.1 Do you agree with our proposals regarding requirements on BT and KCOM to provide network access on reasonable request? Please provide reasons in support of your views.

17. Verizon does not consider that there have been any changes which would warrant any relaxation of regulation on those providers currently subject to a finding of SMP in the markets under consideration, and so we agree with Ofcom's proposal in this regard. ✂, we do not consider that any relaxation of remedies would be appropriate and indeed charge controls should apply more broadly in this market. Accordingly, where charge controls have not been applied it is important that this remedy also applies to charges.

18. Although charge controls are very important, we have previously had cause to question the effectiveness of such a remedy to constrain charges. We therefore consider that Ofcom must adopt a more pro-active approach to monitoring BT's compliance with price controls generally, and must be prepared to restrict BT's flexibility within charge control baskets where necessary.

10.2 Do you agree with our conclusion not to seek to modify SLAs or SLGs as a mechanism for quality of service improvement? If not, how would you modify the SLAs and or SLGs and



on what basis and how would you ensure that such changes did not have unintended incentive consequences? Specifically do you consider that the existing SLA for provisioning appointments (12 days from next year) is adequate? Please provide reasons in support of your views.

19. Verizon does not agree with Ofcom's conclusions not to modify SLAs or SLGs as a result of this review. Whilst we can appreciate, to some extent, Ofcom's concerns around the potential for gaming etc, significant improvements could be made simply by actively monitoring BT's performance, particularly with regard the use of 'deemed consent' and the DSO process. These are processes that Openreach use as a smoke screen to mask their deficiencies in offering an acceptable service to their customers and to protect their own interests and are areas where Ofcom could, and should, take a more active role.

10.3 Do you agree with our proposals regarding requirements on BT and KCOM in relation to handling requests for new network access? Please provide reasons in support of your views.

20. Verizon agrees in principle with Ofcom's proposals in this regard, particularly with the view that transparency is vital for the effective operation of the SoR process, in terms of fairness and clarity as to the reasons why requests are accepted or rejected.

10.4 Do you agree with our proposals regarding requirements on BT and KCOM in relation to remedying discriminatory conduct? Please provide reasons in support of your views.

21. Verizon agrees with Ofcom that EOI is the most effective form of non-discrimination (ref condoc para 10.94) and that it is necessary and appropriate in this market to address concerns of discrimination in downstream markets.

10.5 Do you agree with our proposals regarding requirements on BT and KCOM in relation to accounting separation? Please provide reasons in support of your views.

22. Yes. Such proposals are not disproportionate given the potential detriment that could occur in downstream markets if BT were to favour its own downstream business. Accordingly, such accountability is essential to allow monitoring to ensure anti-competitive behaviour is not adopted by providers found to hold SMP.

10.6 Do you agree with our proposals regarding requirements on BT and KCOM to publish a reference offer? Please provide reasons in support of your views.

23. The publication of a reference offer is important to ensure Communications Providers have visibility to the terms and conditions on which they will purchase wholesale services. Such information is essential when taking network investment decisions and is a common feature in terms of regulatory requirements for incumbents in other European countries.

10.7 Do you agree with the proposal to specify the services for which BT is to provide SLA/SLGs? Also do you consider that we have identified all appropriate services that should



be subject to an SLA/SLG requirement at this time? If not, please set out what services should be included and provide reasons in support of your views.

24. Verizon agrees with Ofcom that there is a need for certainty as to the services for which SLAs and SLGs are required under the SMP Condition. Not only will this reduce the potential for disputes regarding the provision of SLAs and SLGs in the future but will also ensure commercial offerings are promoted on a clear, unambiguous basis.

10.9 What are your views on the principles for negotiations on SLA/SLGs? Please provide reasons in support of your views.

25. Verizon considers that the current arrangement is heavily balanced in the favour of the SMP provider and that action is required by Ofcom to address this imbalance. Indeed any material proposals to introduce more equality and scrutiny into the negotiation process would be beneficial. As such Verizon welcomes Ofcom's proposals in this area. However, Ofcom's involvement should go further to align with BERECS common position. In particular it is worthy to note BERECS position in terms of Best Practice comment BP32c and 33c, with the later stating that "NRAs should take oversight for the process of setting SLGs. NRAs should determine the level of their involvement in this process by taking into account specific market circumstances and particular concerns for discriminatory behaviour." Verizon considers such involvement would be particularly valuable in terms of the process around 'deemed consent' and the DSO process.

10.10 Do you agree with our proposals regarding requirements on BT and KCOM to notify changes to charges? Please provide reasons in support of your views.

26. Verizon has significant reservations about any proposals to reduce notification periods for price increases and the introduction of new wholesale products. However, focusing on Ofcom's proposals for ISDN2 for example, Verizon would agree that the setting of a charge control would mitigate to a significant degree the potential detriment we could face from a reduction in notification period from 90 to 28 days. As such, where additional constraints are imposed on SMP providers, then a reduction in notification period, whilst still of some concern, could be acceptable. However, a reduction to 45 days rather than 28 is a less drastic reduction and would be preferable.

10.11 Do you agree with our proposals regarding requirements on BT and KCOM to notify technical information? Please provide reasons in support of your views.

27. Verizon does not offer a response to this question.

10.12 Do you agree with our proposal to impose conditions on BT for the provision of information for quality of service purposes in each of the WLA, WFAEL, ISDN30 and ISDN2 markets excluding the Hull Area? Please provide reasons in support of your views.

28. As Ofcom notes, vertically integrated operators have the ability to favour their own downstream business over third party CPs by differentiating on price or terms and



conditions and therefore this obligation is of significant importance in trying to ensure such anti-competitive behaviour is prevented. Accordingly, Verizon supports Ofcom's intentions in this area.

10.13 Do you agree with our proposal to extend the direction for specific KPIs to LLU and GEA services? Please provide reasons in support of your views.

29. Verizon does not offer a response to this question.

10.14 Do you agree that it is appropriate to include a common core set of KPIs across WLR analogue, LLU and GEA given the competition between these services? Please provide reasons in support of your views.

30. Verizon does not offer a response to this question.

10.15 Do you agree with our proposals to include a record of the number of services affected by MBORC in the KPIs? Please provide reasons in support of your views.

31. Verizon agrees that this is an issue that Ofcom should take seriously and impose measures to try to limit the abuse that CPs consider is occurring. The use of force majeure clauses in contracts by Openreach is of significant concern, as Openreach do use this (as well as 'deemed consent') as a way of limiting exposure to contractual liabilities due to poor service performance. The proposed measure, whilst not tackling the abuse head on, would at least provide supporting data to help demonstrate and shed light on the extent of this problem.

10.16 Do you agree that it is appropriate to require Openreach to prepare some of these KPIs for presentation in the public domain? Do you consider that there are any issues with this publication that we should be aware of? Do you agree that the OTA2 website is the best location for such publication? Please provide reasons in support of your views.

32. Currently our customers may seek to hold us accountable for delays in service activation or maintenance, even when we are fully reliant on Openreach. Therefore Verizon considers that such a requirement, whilst not being absolutely vital, would help inform customer perception as to where responsibility lies when service level performance is compromised. As such the OTA2 website would appear to be a reasonable host for such information. The information should be presented clearly and made easy to understand for users who may not be intimately familiar with the detail of Openreach services.

10.17 Do you agree that it is appropriate to set minimum standards for Openreach services? Please provide reasons in support of your views.

33. Verizon does agree with Ofcom that setting minimum standards is important. Although it will only prove beneficial if Ofcom actively monitors the reported performance and investigates the reported performance to ensure the underlying process is robust and reflects reality in terms of the customer's view of the provided quality of service. This is



vital as the current SLA/SLG process is too open to manipulation by BT, which results in the reported performance being unrecognisable from the performance BT's customers actually receive. Put simply, effective enforcement of the measures is as important as the measures themselves.

10.18 Do you agree that the minimum standards should only be applied to WLR and MPF provisioning appointment and fault repair? If not what else should be included and why? Please provide reasons in support of your views.

34. Verizon agrees that provisioning appointments and fault repair are two of the key service metrics and as such represent the most important measures for BT's customers. These measures cover all engineering work and it is specifically issues around appointed work where Verizon has the gravest concerns with the service currently provided by BT. Accordingly, although there are other important metric's, Verizon agrees with Ofcom's current proposal.

10.19 Do you agree that we should incorporate force majeure affected services in the standards? Please provide reasons in support of your views.

35. In principle Verizon would agree with Ofcom's proposal to include an allowance for force majeure, the key issue is how to arrive at a reasonable figure for incorporation? A number of industry players hold the view that BT has inflated the extent of force majeure in the past so an estimate based on historic performance would be viewed with scepticism. As such, although on the face of it Ofcom's proposal holds merit, in practice it may prove too difficult to implement. Accordingly, on balance, it would be better if Ofcom did not include force majeure services in the standards.

10.20 How should we determine the appropriate standard? How would you assess the trade off of service level and charge increase?

36. Verizon does not consider that any allowance for increased charges should be made as a result of service level changes resulting from this market review. Rather than additional, costly obligations, Ofcom should focus on addressing the failures in the current reporting of quality performance. Accordingly, Verizon considers that any increases in this regard would be unwarranted and inappropriate.

10.21 Do you agree with the structure of the standard – yearly, forecast region targets? Please provide reasons in support of your views.

37. Verizon certainly agrees that there is no justification for setting differing targets on a regional basis and any revised standard needs to be on a national basis. Such an approach would ensure BT focusses evenly and consistently on all customers irrespective of location, as well as providing clarity on customer expectations.



10.22 Do you agree with our proposals regarding requirements on BT in relation to cost accounting and not to impose cost accounting requirements on KCOM? Please provide reasons in support of your views.

38. Verizon agrees with Ofcom that a cost accounting obligation on BT is both appropriate and necessary. Furthermore, Verizon agrees with Ofcom that BT should be constrained by charge controls in the WFAEL, ISDN2 and ISDN30 markets. Such controls are both proportionate and necessary given BT's propensity to overcharge customers for wholesale services in other markets in the past.

Remedies: WLA next generation access

11.1 Do you agree with our proposal to require BT to offer VULA and with the five key characteristics identified? Please provide reasons in support of your views, including, if you think alternative or additional characteristics are required, evidence of how you would use them to offer services to your customers.

39. As stated in our response to Ofcom's 2012 fixed access market review call for inputs, Verizon considered at that time that VULA was not fit for purpose for business services and that a set of characteristics suitable for business use should be introduced. ✂.

40. Accordingly, as our business model does not include a requirement for access into BT's local exchanges, we do not consider that VULA in its current state will be of benefit to Verizon. Therefore, Verizon does not offer a response to the remainder of the questions in this section of the consultation, i.e. Q11.2 to 11.7.

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 views.

11.9 Do you agree that PIA should continue on the same bases 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.

41. Verizon submitted its thoughts in terms of PIA in response to Ofcom's BCMR ✂. As Verizon has intervened in support of Colt in the appeal against Ofcom's statement on PIA following the conclusion of the BCMR, we offer no further comment on this subject here but await the judgment of that appeal.

Remedies: WLA current generation access

42. Verizon is not an LLU player and so does not offer a response to Questions 12.1 to 12.5.

Remedies: WFAEL

14.1 Do you agree with our proposal to continue to require BT to provide WLR? Please provide reasons in support of your views.



43. Verizon is in agreement with Ofcom's proposal to continue to require BT to provide WLR. WLR services remain an important offering to our customers in conjunction with CPS and are essential to ensure there is effective competition in the calls origination market.

14.2 Do you agree with our proposal to continue to apply a charge control on WLR? Please provide reasons in support of your views. (Comments on the specifics of the charge control should be made in response to the forthcoming 2013 LLU WLR Charge Control Consultation.)

44. Verizon agrees with Ofcom that a continuation of a charge control on WLR is appropriate given BT's propensity to overcharge for access services, which has been proved in other markets ~~✗~~. Accordingly, Verizon considers that a charge control is not only appropriate but vital in an attempt to constrain BT's charges. As indicated above we also consider that Ofcom should take pro-active steps to scrutinise BT's compliance with such controls during their lifetime (i.e. at least once a year).

14.3 Do you agree with our proposed approach to pricing for WLR, including our proposals for a Basis of charges obligation on TRCs and for Caller ID? Please provide reasons in support of your views.

45. Verizon agrees with Ofcom's proposals on this matter. It is appropriate and necessary in our view for Ofcom to place a 'Basis of Charges' obligation on BT but consider it should apply to the charge control as well as to WLR TRCs, for the reasons stated above regarding BT's record for breaching such obligations in other markets. Whilst such an obligation clearly does not prevent overcharging it does at least provide a mechanism, albeit imperfect, for monitoring BT's charges and providing an indication that charges might be in excess of the charge control.

14.4 Do you agree with our proposed approach to pricing for WLR calling and network features (including revenues for Caller ID)? Please provide reasons in support of your views.

46. Verizon does not support Ofcom's proposal to revoke the Basis of charges obligation that currently applies to calling and network features, as such a move is unwarranted and allows BT too much pricing flexibility. We do not have confidence in Ofcom's proposal that a 'fair and reasonable' obligation provides sufficient constraint on BT's pricing across the range of network features.

14.5 Do you agree with our proposed approach to cost accounting for WLR? Please provide reasons in support of your views.

47. Consistent with our response to Ofcom's BCMR consultation, we do not agree with Ofcom that where a service is subject to a specified charge control it is not appropriate to also impose a basis of charges obligation. We consider a basis of charges obligation still has a role to play and would complement a charge control remedy to provide the appropriate constraint on excessive pricing, which in turn provides the necessary certainty and comfort to purchasers of the relevant services. Furthermore, we consider



that there should not be any reduction of information published by BT and that the publication of DLRICs and DSACs for WLR remain useful and informative.

Remedies: ISDN30 and ISDN2

15.1 Do you agree with our proposal to continue to require BT to provide wholesale ISDN30? Please provide reasons in support of your views.

48. Verizon agrees with Ofcom that, as there have not been any material changes in this market since the last review, it is appropriate that the obligation on BT to provide wholesale ISDN30 is maintained. Due to the barriers to entry, if the obligation was not imposed then competition in this market would be severely damaged, to the advantage of BT and the detriment of other providers and end users.

15.2 Do you agree with our charge control proposals for ISDN30? Please provide reasons in support of your views.

49. Verizon does not agree with Ofcom's proposals for the ISDN30 charge control and considers that Ofcom should have selected option 1 of the two identified proposal, i.e. the adoption of a simple approach of imposing a separate charge control on each of the services included in the 2012 charge controls. We consider that this would best achieve Ofcom's overall aim of protecting consumers and maintaining charges at their current level. In such a declining market, although one that consumers still value, any price flexibility introduced would provide BT with the opportunity to distort the market to its own advantage. In such circumstances we consider the risk of adopting option 2, as Ofcom currently proposes, introduces unnecessary risk and could destabilise the market to the detriment of consumers. We do not agree that such risks are warranted by concerns over proportionality¹.

50. On the point of ISDN30 transfers, Verizon does agree with Ofcom that a separate control is appropriate for the reasons Ofcom identifies in relation to switching and competition at the retail level.

15.3 Do you agree with our proposed approach for cost accounting for ISDN30? Please provide reasons in support of your views.

51. Verizon has concerns over Ofcom's policy in relation to cost accounting and would refer back to our response to Q14.5 in the WLR section.

15.4 Do you agree with our proposal to continue to require BT to provide wholesale ISDN2? Please provide reasons in support of your views.

52. Verizon does agree with Ofcom's proposal in relation to ISDN2 for the reasons stated above in response to the same question for ISDN30, i.e. Q15.1.

¹ Fixed Access Market Review Consultation paragraph 15.62



15.5 Do you agree with our charge control proposals for ISDN2? Please provide reasons in support of your views.

53. Whilst Verizon agrees with Ofcom's proposal to impose a charge control for ISDN2, we do have some concerns with Ofcom's proposal in relation to setting the control on a basket of services. We are concerned that, despite Ofcom declaring otherwise, BT may well use any flexibility allowed in setting charges to discriminate and ultimately distort competition by the way it sets charges for rental and connection services.
54. However, we do agree with Ofcom in the way it proposes to manage the transfer charge control, not only the requirement for a separate charge control but also the one off adjustment.
55. Verizon would make one further point about the ISDN2 transfer charging and that is that whilst Ofcom refers to the cost per channel, BT publishes the cost in the Openreach pricing document on a per line basis. This matters to ISDN2 System because if BT is allowed to charge per channel, rather than per line, they could increase the price. It would be preferable for the sake of clarity if Ofcom made reference to the price in the same way as BT.

15.6 Do you agree with our proposed approach for cost accounting for ISDN2? Please provide reasons in support of your views.

56. Verizon has general concerns over Ofcom's policy in relation to cost accounting and would refer back to our response to Questions 14.5 and 15.3 of this consultation as well as the comments submitted on this general issue in our response to the BCMR.

Verizon Enterprise Solutions
September 2013