



Ofcom's consultation

Measures to support Openreach trials in Salisbury and Mildenhall

Vodafone response

January 2020

Non-confidential



Summary

- Vodafone is supportive of scale migration trials being conducted ahead of the national withdrawal of Wholesale Line Rental (WLR);
- We recognise the need to relax regulation to accommodate such trials. Regulatory waivers should be confined to geographically distinct trial areas and time bound. However, mechanisms for formally extending the duration of the waivers should be agreed in advance to accommodate timing issues that may arise when the trials commence.
- Ofcom should seek to ensure there is clarity on the issue of connection charges for national migration. Where a customer premises is already connected to the Openreach network and is the subject of a forced migration programme, then no re-connection charges should be levied.

Measures to ensure a successful trial

1. Vodafone is keen to see the benefits of fibre connectivity reach as many UK consumers as possible. Openreach's current legacy copper network is technologically limited, restricting the range of services that can be offered to consumers. Fibre is expected to provide a better quality of service, allowing customers to access far greater bandwidth, helping to keep pace with future demand expectations.
2. There are sound reasons to conduct scale trials of both FTTH deployment as it replaces copper and the impact of WLR withdrawal in the circumstances where copper access continues to be used to deliver single order connectivity services.
3. It is crucial that these trials provide an opportunity for all retailers to test all possible customer transition journeys from the straightforward to the complex. Vodafone wants to see a successful transition from WLR to fibre (FTTH) or single order services. We appreciate the need to adjust regulation to accommodate these trials. This would permit Openreach to proceed with geographically targeted commercial offers designed specifically for each trial, allowing them to proceed with an early stop sell in order to test the transition from copper to fibre, or from WLR to single order services ahead of nationwide deployment.
4. Openreach and Ofcom must be mindful that consumers in these trial areas did not ask to participate in the trial. All consumers in these areas will be impacted. While some may be enthusiastic about the opportunity to be early adopters of the new technology being delivered, others may be less keen, fearing a degree of inconvenience that may occur in such a transition. Likewise, all retail communication providers with customers in these trial areas will have to take some form of action, even if they choose for whatever reason, not to play an active part in the trial itself.



Costs and Charges

5. We are categorically opposed to any form of re-connection charges being levied by Openreach in any circumstances where it is seeking to move customer access from its legacy network to fibre or a single order product. Our opposition to these re-connection charges stands both in the context of these two trials and for the national rollout itself. While we are pleased that Openreach has announced that for the trial areas, no re-connection charges will be levied, we believe this commercial certainty should be extended without delay to Openreach's national fibre roll out and mandatory single service adoption areas.
6. End customers (and retail CPs) have paid at some point in the past for their existing connections to the Openreach network and it is Openreach themselves that are changing the underlying access route to these previously connected premises. This allows Openreach to lower its ongoing costs of network maintenance by removing legacy facilities, reducing the number of network sites and lowering fault rates by using fibre instead of copper. It is therefore entirely inappropriate for Openreach to seek to charge a re-connection fee.
7. The transition away from legacy copper services is analogous to the situation where an electricity supply company chooses to upgrade its supply network and provides an existing customer with a new generation supply cable to the premises, thus rendering the old cable obsolete. Likewise, the situation where the gas network is upgraded to plastic piping, being a direct replacement for legacy metal piping. In both these circumstances there is no direct cost to the consumer. The enhancement of the network facilities in the case of gas and electricity and now similarly telecommunications, will offer considerable benefit to network owners, who will be able to cut operational costs and in the case of telecommunications, potential earn incremental revenues from higher bandwidth services sold in the future.
8. It would unthinkable for consumers to be hit with extra gas connection charges when plastic piping arrived to serve their home, so why would Openreach under any circumstances seek to charge retail CPs for Openreach refreshing their connection with up to date technology? If a consumer wishes to take higher speed services not possible under their old access solution, then of course it would be possible for the cost of this additional benefit to be chargeable through higher rental charges, however to levy additional connection charges would neither be fair or appropriate.
9. In these circumstances we consider that it would be advisable for Ofcom to set out an early policy position on re-connection charges at national level. However, while we await that clarification we are content to see regulatory rules relaxed in the trial areas for a fixed duration to ensure re-connection charges are not levied in trial areas. If Openreach had ruled out re-connection charges at a national level in the circumstances where connecting to fibre or a single order product was mandatory to maintain service, no waivers would be required for this aspect of the trial.



10. Openreach and Ofcom's confirmation on this matter for the national deployment is urgently required to assist market certainty and planning. We believe that unless re-connection charges are set at zero (to reflect the fact that existing services are being terminated by Openreach and migration is therefore mandatory), then UK consumers will ultimately suffer.
11. Ofcom should be mindful that Communication Providers are likely to face their own significant costs in managing their customer through the migration process. Costs incurred will include new CPE, and undertaking detailed customer communications and resourcing the necessary on-going support before, during and after the migration. There remains a question mark over who should bear these customer particular migration costs, with Openreach's currently plan being for the retailer to meet these costs in full. Given so much of the benefit of the transition will ultimately accrue to Openreach, through reduced operational costs, a more comprehensive understanding of the cost and benefits arising from the transition would help inform the debate over who should bear what proportion of these retailer specific customer migration costs.
12. We are happy to offer our support for the legal changes proposed for a time bound period, within these two trial exchange areas. These changes will reflect the special circumstance of the trials and the experimental aspect of being the first areas to progress through this transition. Recognition of this very early and forced adoption of new technology in the rental price paid for the first twelve months of any new service commencing seems appropriate. It does however remain important that consumers wishing to remain on equivalent service specification as today (such as voice only lines or lower speed broadband services) can continue to do so at a price broadly consistent with what they pay today. On this basis we are content for regulation to be relaxed in the trial areas for a temporary period (for connections/migrations occurring before May 2021) to enable :
 - No charge for connection (self-install / the cheapest connection option);
 - No increase in rental charges for 12 months, mapped to 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;
 - No charge for Left-In-Jumper recovery, ceasing tie cables or associated Early Termination Charges.
13. Ofcom should give thought to a mechanism for extending these trial terms beyond May '21, in the circumstances where it is necessary to do so (such as a result of the commencement of the trial being delayed, or lower than anticipate take up in the early part of the trial period).
14. We believe Ofcom should gather information on the mix of providers serving all types of consumers (in the residential, business and wholesale markets) at all stages in the process. If, as part of the trial outcomes, BT lines of business increase their market share by any material amounts, such an occurrence would need to be properly understood to guard against widespread market distortion when national migration occurs. Likewise, Ofcom need to be mindful of the situation where



competing FTTP providers are deploying in the same geography, ensuring that there is no conflict between the migration process and the consumer switching process, preserving the right of consumers to move to a new access network should they wish.

15. It is crucial that the people of Salisbury and Mildenhall have their voices heard, with data collected on their experience of the trial. This will ensure that both Openreach and retail providers can improve the transition experience for all UK consumers in the future.

Protecting Competition

16. In our response to the initial trial consultation in the summer we highlighted the need for pre-conditions to be met to ensure the trials succeed, delivering positive benefits for consumers, retail communication providers and Openreach. Achieving these goals will help make the trial a success for all concerned, helping to spreading the learning benefits from the trial, while acting to safeguard consumers and retail competition within the trial area. We believe these tests remain valid and repeat them below in brief for Ofcom's continued consideration:

- a. **Preserving Retail Competition:** To preserve retail competition it is essential that as many retail providers have on-boarded the ability to sell services using Openreach's FTTH platform.
- b. **Minimise Costs for End Users:** Transition costs should be minimised. Where a like for like (or copper emulation) product is provisioned over fibre then end users should not be left out of pocket. For this to happen, wholesale transition charges must be set to zero in these circumstances.
- c. **Commitment on End Customer Communication:** There should be a degree of collaboration around customer communications. With Retail communication providers serving the area having advanced visibility (and an opportunity to comment on Openreach's end user communications within the trial area. In all circumstances, Openreach's direct communications with residential users should be retailer neutral.
- d. **Minimising Costs for Retail Communication Providers:** Retail Communication Providers selling products over Openreach FTTH access are likely to incur significant expense in provisioning their product offers and assisting their end customers in any transition to fibre. It would not be appropriate to elevate this cost burden by allowing Openreach to charge new connection fees where a fibre / single order connection is installed to replace the current service.
- e. **Trial Plans published in Full at the outset:** A complete plan for the trial networks should be published, with details of when individual network deployment is expected to occur on a street by street basis.



- f. **Spreading the learnings from the trial as widely as possible:** During and after the trial, clear mechanisms need to be in place to ensure all the learning outcomes from the trial are made available to as wide an audience as possible.
 - g. **Keeping the Trial Open to all:** Communication Providers will find themselves in various stages of readiness to participate in the trial. Some may be in a position to join from the outset as active participants, others may choose to stay out or join later. It is important that the joining window remains open for as long a period as possible.
 - h. **BT Wholesale Supply / Third party supplier:** Where a retail communication provider currently use a BT's Wholesale or other third party solution, there should be an opportunity for that retail provider to replace this with a direct Openreach solution should they wish.
17. We believe these pre-conditions are crucial to making the trial a success for Openreach, consumers and retail communication providers. These measures are designed to enhance competition, safeguard the consumer experience and ensure the learnings from the trials are distributed to achieve maximum future benefit to all concerned.