

CityFibre response to BT regulatory financial reporting consultation

Non-confidential

10 July 2020

- 1.1 This document comprises CityFibre's formal response to Ofcom's consultation titled 'Promoting competition and investment in fibre networks: BT Regulatory Financial Reporting', published 6 February 2020.¹

Summary of key points

- 1.2 As Ofcom has recognised, the physical infrastructure access (PIA) market has the potential to transform the business case for fibre network deployment, and therefore to support the achievement of Ofcom's overarching regulatory strategy of promoting investment and competition in fibre networks.
- 1.3 On the basis of market assessment set out in the wholesale fixed telecoms market review consultation (WFTMR Consultation), Ofcom identifies BT (and therefore Openreach) as having SMP in that market. As such, Ofcom proposes to impose a number of SMP remedies, including an obligation of no undue discrimination (NUD). Furthermore, there are clear concerns (recognised by Ofcom) about Openreach's engaging in anti-competitive conduct in the PIA market including by setting excessive PIA prices and/or in a margin squeeze.
- 1.4 Given the above, we are very pleased to see Ofcom engaging in a detailed review of BT's financial reporting obligations, in recognising the critical role that the regulated financial statements (RFS) play in ensuring compliance with regulatory obligations. We strongly support the imposition of regulatory reporting obligations in the PIA market and the SMP markets to which PIA is an input.
- 1.5 We consider that Ofcom is making great strides to ensure the RFS can effectively monitor regulatory compliance in the PIA market; however in some places we consider Ofcom does not propose sufficiently robust or granular information.
- 1.6 We set out below the three specific areas where we consider the RFS will be a critical source of information for monitoring the PIA market along with a brief summary of our proposals (which we discuss more fully in the final section of this submission):
- i. **Monitoring Openreach's compliance with its no undue discrimination (NUD) obligation.** In order to be able to effectively monitor compliance with NUD, the RFS must present comparable information for both external PIA use and Openreach's own internal use of its duct and pole network. We are therefore concerned about the proposals regarding the internal information, on the basis that under Ofcom's proposals it will not be computed on a like for like basis with the external data and therefore will not be meaningful in an assessment of NUD compliance. As such, we consider that Ofcom must mandate that within the RFS there is a clear and objectively calculated internal transfer price which Openreach sets for its self-consumption of duct and pole usage. We would expect that this price would be equivalent to the

¹Ofcom (2020) 'Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. [\[Link\]](#)

external PIA price, unless there were objective differences in the underlying cost of provision.

- ii. **Monitoring margin squeeze compliance.** We consider that Openreach has the incentive and ability to engage in a margin squeeze in respect of active products. In order to assess this, one would need to be able to identify the costs across the internal value chain. In other words (as above) the RFS would need to set out an internal transfer charge from PI to other parts of Openreach. In other words, an internal transfer charge solves both the issue of monitoring NUD compliance as well as concerns over margin squeeze.
- iii. **Ensuring that the prices are cost based.** Ofcom has raised concerns about Openreach having the incentive and ability to set prices for PIA at excessive levels. Monitoring this requires clear and robust costing, pricing and volume information. On this point we consider Ofcom's proposals are generally very comprehensive and if implemented would enable the effective monitoring of this concern.^{2 3}

1.7 The remainder of this document is structured as follows:

- **Context for Ofcom's review of BT's financial reporting:** In which we set out the broad context for this review, including Ofcom's proposals in the January 2020 WFTMR Consultation.
- **BT's financial reporting obligations and the role of the RFS in monitoring regulatory compliance:** In which we set out the specific role that the RFS must play in monitoring regulatory compliance in the PIA market.
- **How to achieve the RFS' objectives:** focussing on the PIA market: In which we discuss how to ensure the RFS does provide the right basis for monitoring regulatory compliance. In this section we set out our views on this and refer back to Ofcom's proposals in the Financial Reporting Consultation, to identify areas where we fully support Ofcom's approach, as well as areas where we think an alternative approach should be adopted.

² In this context we do however support those changes to disclosures proposed by UKCTA in its response to Ofcom. See footnote 7.

³ In drawing this conclusion, we are assuming that all proposed disclosures of internal supplies relate to Openreach's own use of its ducts and poles by its downstream services.

Context for Ofcom's review of BT's financial reporting

- 1.8 In January 2020, Ofcom published its WFTMR Consultation,⁴ which set out the proposed regulatory regime for all wholesale fixed telecoms markets, including; physical infrastructure access (PIA), wholesale local access (WLA) and business connectivity markets, for the period 2021-2026.
- 1.9 In the WFTMR Consultation Ofcom makes it clear that its overarching regulatory strategy for this market review period is to 'promote competition and investment in fibre networks'. Given this, Ofcom recognises the need to support the investment case for deploying new fibre networks.
- 1.10 As a result, Ofcom states in the WFTMR Consultation (as it has many times before) that PIA is a critical component of supporting full fibre investment and has the potential to transform the business case for investing in competing full fibre networks
- 1.11 In the WFTMR Consultation, Ofcom proposes to find that Openreach has Significant Market Power (SMP) in the PIA market. As a result, and mindful of its overarching regulatory strategy, Ofcom proposes a number of remedies on Openreach in this market, including the obligation to provide access to its ducts and poles, at cost-based prices. Furthermore, Ofcom is proposing accounting separation in each of the SMP markets, as well as the requirement to maintain a "fair, objective and transparent" cost accounting system.⁵
- 1.12 We fully believe that PIA has the potential to transform the business case for full fibre investment, and to thereby secure the delivery of the UK Government's ambition of full fibre for everyone by 2025. Given this, ensuring an effective and workable PIA product must be a top priority for Ofcom.
- 1.13 A key component of ensuring that PIA is regulated appropriately and effectively is ensuring sufficient financial information is made available by the SMP operator. This enables both the monitoring of compliance with SMP obligations by Ofcom, as well as by industry stakeholders, to understand when a breach of a SMP obligation may have taken place. In addition, this information allows stakeholders (who do not have Ofcom's information gathering powers) to assess the impact and effectiveness of the SMP obligations and to effectively contribute to the regulatory process, including future regulatory reviews.⁶
- 1.14 For these reasons, ensuring that Openreach's financial reporting in regard to PIA meets the key attributes that Ofcom specifies, i.e. relevance, reliability, transparency and proportionality⁷ will be essential for the success of the PIA products.⁸

⁴ Ofcom (2020) 'Wholesale Fixed Telecoms Market Review'. '(WFTMR)'. Consultation. 8th January 2020. [\[Link\]](#)

⁵ Ofcom (2020) 'Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 4. Paragraph 3.20. [\[Link\]](#)

⁶ Ofcom (2020) 'Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 4. Paragraph 2.4. [\[Link\]](#)

⁷ Ofcom (2020) 'Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 4. Paragraph 2.5. [\[Link\]](#)

⁸ We have also separately responded to this consultation on BT's RFS as part of the joint UKCTA response where further detail is discussed as to the proforma of the reporting requirements, reconciliation of reporting and the need for actuals v forecast data publication and analysis. For discussions on these elements of the consultation we refer you to this response, 20th May 2020 (UKCTA).

BT's financial reporting obligations and the role of the RFS in monitoring regulatory compliance

1.15 The Openreach division of BT as an SMP operator is subject to regulatory financial reporting requirements across all of the wholesale fixed telecoms markets in which it has SMP. These obligations have existed for many years; indeed, the first BT RFS was published over 20 years ago.

1.16 As Ofcom itself states, the RFS is a critical source of information for carrying out its duties, in that it provides:⁹

“the information necessary to help us [Ofcom] make informed regulatory decisions, for example cost information to support price controls on an ongoing basis, and information necessary to assess the impact and effectiveness of our decisions, for example, trends in the usage and returns associated with regulated services. They also enable us to monitor and, if necessary, enforce no undue discrimination and some price control regulations.”

1.17 We fully agree that the publication of such information is essential for Ofcom to be able to carry out its duties. Furthermore, the RFS provides Communication Providers (CPs) with critical information in order to be able to monitor compliance with regulatory obligations and, if necessary, raise a formal dispute.

1.18 Specifically, in regard to PIA (which forms the focus for the rest of this submission), Ofcom has imposed a number of specific regulatory obligations on Openreach, including the obligation to ensure there is no undue discrimination (NUD) between use of PIA by external CPs and Openreach's own use of its duct and pole infrastructure. Ofcom has made clear that this non-discrimination requirement should be as close to equivalence of inputs (EOI) as possible.¹⁰

“Although [NUD] falls short of the strict equivalence of EOI, we have decided that that in order to ensure a level playing field in downstream markets, this non-discrimination requirement should be as close to EOI as possible. Therefore, we have decided to interpret the no undue discrimination SMP condition in relation to network access as requiring strict equivalence in respect of all processes and sub-products that contribute to the supply and consumption of network access, with discrimination permitted only in cases where BT demonstrates that a difference in respect of a specific process step or sub-product is justified.”

1.19 In regard to specific discriminatory actions, we consider that Openreach will likely have the incentive to engage in a margin squeeze by charging a combination of a PIA price and active product price that forecloses rivals seeking to make use of PIA. To detect this, Openreach's revenues and costs need to be presented for each level of the value chain.

1.20 Finally, Ofcom has set out concerns about Openreach having the incentive and ability to set prices in the PIA market at an excessive level:¹¹

⁹ Ofcom (2020) 'Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 4. Paragraph 2.3. [\[Link\]](#)

¹⁰ Ofcom (2019) 'Promoting competition and investment in fibre networks: review of the physical infrastructure and business connectivity markets' Volume 1. Page 73. Paragraphs 4.79 – 4.80 [\[Link\]](#)

¹¹ Ofcom (2018) 'Wholesale Local Access Market Review: Statement' Volume 3. Paragraph 5.8 [\[Link\]](#)

“Given our conclusion that BT has SMP in the WLA market, it is likely that BT would have the incentive and ability to set excessively high prices for PIA. In particular:

- There is a risk that BT sets excessive prices to maximise the profit it earns from providing access to its physical infrastructure.*
- There is a risk that BT sets excessively high prices to increase the overall cost of building a network using PIA, with the intention of preventing or limiting the emergence of further network competition by undermining the investment case for network deployment based on PIA.”*

1.21 Ofcom has made clear that the RFS is a critical source of evidence for monitoring compliance with the SMP requirements in the PIA market, stating in 2018 that:¹²

“We [Ofcom] are putting in place an ongoing monitoring programme, supported by financial reporting requirements on BT, to ensure these measures are effective, and create an environment in which competing providers have confidence to make very substantial capital investments relying on access to BT’s duct and pole network.”

1.22 Given the critical role PIA is assumed to play in delivering competitive investment in full fibre networks over the next market review period, it is our view that robust information on the costs and use of PIA will be critical to ensuring this takes place. This will enable both reassurance that PIA prices are cost based, not subject to a margin squeeze downstream and compliant with current NUD obligations.

1.23 For the reasons above therefore, we strongly support the imposition of regulatory reporting obligations¹³ in the PIA market and the SMP markets to which PIA is an input.¹⁴

¹² Ofcom (2018) ‘Wholesale Local Access Market Review: Statement – Volume 3: Physical infrastructure access remedy’. Volume 3. Page 3. Paragraph 1.13 [\[Link\]](#)

¹³ i.e. the SMP remedies of accounting separation and cost accounting.

¹⁴ which in practice is all markets in which Openreach has SMP. Ofcom (2020) ‘Promoting competition and investment in fibre networks: BT Regulatory Financial Report’. 6th February 2020. Page 6. Paragraph 2.16. [\[Link\]](#)

How to achieve the RFS' objectives: focussing on the PIA market

- 1.24 In this section we set out our views on how to best achieve the stated objectives of the RFS. We begin by covering some more general points (such as ensuring accurate underlying data) before moving on to focus specifically on the PIA market and how to ensure it can be effectively monitored going forward.
- 1.25 In order to ensure that the RFS is able to effectively serve its purpose, it is critical that the underlying data upon which it is based are reliable and accurate. Given this, we are concerned about the issues Ofcom raises in the Financial Reporting Consultation about data quality.
- 1.26 For instance, Ofcom notes that Openreach's proposed re-allocation of duct costs between physical infrastructure services, "*would lead to significant changes in prices*" and would "*conflict with our [Ofcom's] general policy aim to support stable prices*".¹⁵ In addition, Ofcom notes the ongoing issues with BT's mapping of physical infrastructure to financial records, noting that "*there are significant gaps in the data*".¹⁶
- 1.27 We consider that such fundamental data quality issues must be addressed as a matter of urgency. Therefore, we request that Ofcom agrees a clear timetable (with milestones) with Openreach for implementing the necessary data quality improvements, publishes this to stakeholders and requires Openreach to regularly report and publish progress against the milestones.
- 1.28 Finally, we remain concerned about the process of governance that is applied to the RFS, and specifically the fact that the Openreach board is not responsible for the preparation and approval of the RFS,¹⁷ despite the document being prepared from Openreach's own data and representing the performance and assets of Openreach's own business. It is our view that Openreach board approval of, and accountability for, the RFS will ensure further reliability for the data it uses and presents.
- 1.29 Notwithstanding the above point we overall are pleased to see Ofcom considering how under the new regulatory regime the RFS will need to evolve. We fully agree that in order to support the new regulatory regime, and the importance of PIA within it, the way information is presented in the RFS going forward will need to change, most especially in terms of presenting PIA as a stand-alone market.
- 1.1 With regard to the significance with which Ofcom is placing on PIA in delivering its competitive outcomes and investment, greater levels of transparency are required over Openreach's associated costs and returns in delivering PIA. To ensure the RFS is able to achieve the aforementioned objectives we consider that it must ensure the following:
- i. **Monitoring compliance with NUD:** By ensuring the external PIA costs, volumes and prices are clearly and accurately presented, as well as a robust, objective internal transfer charge for self-consumption of physical infrastructure by Openreach is calculated and presented in the RFS;
 - ii. **Margin squeeze compliance:** By ensuring sufficient information to monitor if there has been a margin squeeze in the provision of active services which use PIA as an input;

¹⁵ Ofcom (2020) 'Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 72. Paragraph 5.109. [\[Link\]](#)

¹⁶ Ofcom (2020) 'Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 73. Paragraph 5.112 – 5.114. [\[Link\]](#)

¹⁷ The approval of the RFS and the responsibility for its preparation currently sit with British Telecommunications plc, an intermediate company in BT's group structure, whose registered directors are the BT Group CFO and four managers within the BT Group and BT Enterprise functions. (Sources: BT RFS, Companies House, LinkedIn)

- iii. **Ensuring that the prices are cost based:** By ensuring sufficient information to give assurance that the models used to derive PIA prices were appropriate and to understand if and why prices deviate from costs during the control period;

1.30 We explore each of the above points in turn below.

Monitoring compliance with NUD

Disclosure of internal and external costs and volumes

- 1.31 As Ofcom notes, publishing internal and external price information on the use of PIA, including for downstream services, will provide Ofcom and CPs with an indication as to how PIA utilisation is developing, what it is being used for and in turn could help both CP's and Ofcom assess the effectiveness of the remedies being proposed.¹⁸
- 1.32 Furthermore, publishing internal and external prices helps demonstrate compliance with the NUD obligations on Openreach when provisioning PIA, as it allows to external stakeholders to see whether there are any material financial differences in the way Openreach is able to utilise PIA versus that of its downstream PIA consuming CPs.
- 1.33 Ofcom is currently proposing BT must publish *“revenue, volume, average price and cost information for PI services, split between internal and external customers, at the level that they are regulated.”*¹⁹
- 1.34 Whilst we welcome the move towards greater transparency, we are very concerned as to the extent to which the RFS, under Ofcom's proposals, will present meaningful financial information in regard to Openreach's own consumption of its ducts and poles.
- 1.35 Effective NUD monitoring requires the publication of information in order to observe whether there appear to be differences in the prices and/or costs of a given regulated product, which cannot be objectively justified. In such instances, Ofcom would raise an investigation as regards regulatory compliance.
- 1.36 Given the above, we do not consider that the currently proposed service level information for PI (as set out in Table 4.4 of the Financial Reporting Consultation) would provide the requisite information to effectively monitor NUD.
- 1.37 This is because as currently proposed, the internal revenues for PIA would be based on a balancing charge.²⁰ Ofcom proposes that:
- “... there needs to be an attribution of PI service costs (rather than an internal sale of PI services) to downstream markets. The PI costs to be attributed to downstream services represent total PI costs (including a return on capital employed), net of any purchases of PI (to external CP's or possibly other parts of BT – e.g. Global Services).”*
- 1.38 Such a treatment would not meet the requirements of NUD, as the internal charge (i.e. the attribution to downstream markets) would not be calculated on the same basis as the external

¹⁸ Ofcom (2020)' Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 25. Paragraph 4.47. [\[Link\]](#)

¹⁹ Ofcom (2020)' Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 31. Paragraph 4.78. [\[Link\]](#)

²⁰ Ofcom (2020)' Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 19. Paragraph 4.15. [\[Link\]](#)

charge, nor the requirements of accounting separation, as the PI market's revenues would not be calculated in the same way as in a notional stand-alone business.

- 1.39 Furthermore, Ofcom's proposal would not allow stakeholders to assess margin squeeze in downstream markets, as the PIA charges borne by Openreach by these markets would not be comparable to those borne by Openreach's competitors in these same markets. We cover this point below in paragraphs 1.51 - 1.54.
- 1.40 It would also not allow stakeholders to assess whether the models used to derive PIA charges were accurate, as the return shown on the PIA market would always equal the modelled return on capital, regardless of how the PI market's assets and cost base actually evolves during the control period. We cover this point below in paragraphs 1.55 - 1.64.
- 1.41 Instead, we propose that the internal service level information for PI, to help identify and analyse the harms stated above, should show *volume * price* for each of the services reported,²¹ and that the price be based on an internal transfer charge that Openreach sets for its own consumption of PIA on the same basis as its external charges.²²
- 1.42 The internal unit prices used to calculate the charge in the RFS by the PIA market to the other markets within Openreach must therefore be the same as the prices on Openreach's price list that are charged to external customers. The only permitted reason for a deviation from this is if there are objectively justifiable differences in underlying cost of provision (between external and internal use).
- 1.43 In summary in order to assess compliance with NUD, the RFS must show comparable internal and external information. Specifically, this requires the creation of a transfer charge that will form the basis of the internal PIA price.
- 1.44 We expect Ofcom to be clear that, in the context of the RFS, internal volumes, prices and supply of services to be reported in the PIA market, including the detailed disclosure notes, are supplies from that market to the other markets in Openreach (i.e. for Openreach's own use of duct and poles by its other services). We are not clear why other divisions of BT would be supplied directly with PIA services.
- 1.45 We note that in its previous review of the market Ofcom has discussed a transfer price in the context of PIA and that it is required under the NUD obligation. It is therefore surprising that Ofcom did not require and is not proposing information that meets this requirement be presented within the RFS:

*"Under this non-discrimination obligation, when Openreach charges itself internal transfer charges, it must do so in a manner that is consistent with the charging principles that it applies to determine charges faced by telecoms providers using PIA, to the extent that a different approach cannot be justified. These internal transfer charges would then be relevant to any subsequent assessment of whether Openreach's prices for the relevant downstream services are appropriate. Our decisions on cost reporting (set out in Annex 8) will support our ability to monitor whether Openreach is complying with this aspect of the non-discrimination obligation."*²³

²¹ See also Section 5 of the report commissioned by UKCTA from Competition Finance Limited as its response to the Reporting Consultation for a discussion of this issue.

²² The internal volumes must be those for Openreach's own use of its duct and poles network (and must therefore not include any other use) in order to show NUD.

²³ Ofcom (2018) 'Wholesale Local Access Market Review Statement – Volume 3'. Volume 3. Page 81. Paragraph 3.55. [\[Link\]](#)

Network adjustments

- 1.46 Ofcom is currently proposing to require the RFS to contain revenue, volume, average price and cost information for network adjustments above the limit (£4,750), split between internal and external customers. We very much agree with Ofcom that this information will:

“[...] help demonstrate BT’s compliance with the no-undue discrimination requirements and provide confidence to stakeholders that is accounting for these separately”.²⁴

- 1.47 We also strongly encourage Ofcom to include transparency over the recharge of internal network adjustments. We are of the view internal network adjustments (i.e. made by Openreach for the purposes of supplying its downstream products) should be included in the recharge on same basis as external ones.²⁵

Product development costs

- 1.48 We wish to encourage Ofcom to consider mandating that the RFs contain a disaggregated cost-item associated with PIA development, and that this is broken down by internal and external, as well as for active and passive services.
- 1.49 Presenting the PIA product development costs including delineating between internal and external PIA product development, will provide CPs with an indication as to the extent to which Openreach is investing in product development, and indeed doing so in a non-discriminatory way.
- 1.50 Furthermore, presenting product development costs for both active and passive services will provide an indication as to whether Openreach is seeking to deliver better product results for consumers using its more lucrative downstream product portfolio (i.e. its active ethernet products) versus that of PIA.

Margin Squeeze compliance

- 1.51 The presentation of an internal charge, as discussed in paragraphs 1.35 - 1.45 (above), will also allow for the detection of anti-competitive behaviour downstream such as margin squeeze.
- 1.52 For example, in a prospectively competitive area²⁶ Openreach could engage in a margin squeeze by charging a combination of a PIA price and active product price that a competitor to these active services cannot compete effectively by using PIA.
- 1.53 This may push downstream consumers of Openreach’s active products to continue to rely on Openreach rather than consume the active services of other providers. This issue can only be detected if Openreach’s revenues and costs are known at each level of the value chain including PIA.
- 1.54 Such an evaluation can only be made if the charge shown as incurred in the “active” markets of Openreach is calculated on a comparable basis as would be incurred by us and other competitors to Openreach in these markets as we propose above.

²⁴ Ofcom (2020) ‘Promoting competition and investment in fibre networks: BT Regulatory Financial Report’. 6th February 2020. Page 32. Paragraph 4.83. [\[Link\]](#)

²⁵ Ofcom (2020) ‘Promoting competition and investment in fibre networks: BT Regulatory Financial Report’. 6th February 2020. Page 33. Footnote 58. [\[Link\]](#)

²⁶ Or ‘Area 2’ as Ofcom defines in its WFTMR proposals. Ofcom (2020) ‘Wholesale Fixed Telecoms Market Review’. (‘WFTMR’). Consultation. 8th January 2020. [\[Link\]](#).

Ensuring that prices are cost based

- 1.55 Ofcom has derived the proposed prices for PIA services by modelling the forecast costs and asset base of Openreach over the five-year control period. We have specific comments in the areas below.
- 1.56 At a high level however, we are fully supportive of Ofcom's proposals to ensure that there is sufficient information to enable the monitoring of this concern. We consider that under Ofcom's proposals stakeholders will be able to effectively monitor whether Openreach is setting prices for PIA that is excessive, given the underlying cost.

Actual v forecast costs

- 1.57 In the WFTMR Consultation, Ofcom has proposed a number of cost-based price caps, including those for PIA services. The prices are fixed in advance, except for an inflation factor (CPI) based upon a model using forecast volumes, inflation factors, and target efficiency gains. However, the actual figures for volumes, cost and asset values will inevitably differ from those forecasts in the model, particularly given that the market review period is now being extended from three to five years and any divergence between actual and forecast values is likely increase with time.
- 1.58 It will be critical for investors making use of PIA to evaluate the accuracy of the forecast and understand why, and in what respects, it is achieved in practice.²⁷ This will give stakeholders confidence in the modelling processes and the assumptions that Ofcom has used to set the PIA prices, and better allow them to contribute to the consultation process in future reviews.
- 1.59 We consider therefore that for all PIA services the modelled costs and volumes should be disclosed each year as comparative figures for the volumes and costs disclosed in the RFS. A commentary should be given by Openreach explaining the reasons for any significant variances.
- 1.60 Ofcom is not currently proposing to require such a disclosure however, for the reasons stated above, we strongly encourage Ofcom to do so.

Externally funded network deployment

- 1.61 An issue equally applicable to both passive and active network deployment, we support the need for Openreach to disclose financial information around its use of public funding. This allows external stakeholders to analyse the extent to which public subsidy is being used to finance Openreach build in areas where it may potentially either be commercially viable for it to deploy (i.e. Area 2) or in areas which it may be benefitting from a RAB style approach to regulation (i.e. Area 3).
- 1.62 It should also shed light on the extent to which Openreach is benefitting from public subsidies when compared to a competitor's network build and provide some indication as to whether or not it is disproportionately benefitting from these schemes.
- 1.63 From a cost-based analysis perspective, this information is imperative to analysing the extent to these externally funded assets can be attributed to relevant SMP markets. As Ofcom highlights in this consultation:

²⁷ For further discussions as to format and formatting approach please see the UKCTA response to this consultation, dated 20th May 2020.

"[...] in the January 2020 WFTMR Consultation we took account of FTTC funding (reducing the asset base of FTTC) to take account of externally-funded assets"²⁸.

- 1.64 As such, we agree with the need to separate externally funded assets and associated funding in Openreach's regulatory accounting system. As Ofcom states:

"It would help ensure the RFS remains relevant and reliable by making it possible to separately identify assets which are externally funded and assets for which regulated prices have been set to recover costs."²⁹

²⁸ Ofcom (2020)' Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 67. Paragraph 5.81. [\[Link\]](#)

²⁹ Ofcom (2020)' Promoting competition and investment in fibre networks: BT Regulatory Financial Report'. 6th February 2020. Page 67. Paragraph 5.82. [\[Link\]](#)