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## Promoting competition and investment in fibre networks

Measures to support Openreach's proposed trial in Salisbury – migrating customers to full fibre and withdrawing copper services

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### **CONSULTATION:**

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# 1. Overview

**Openreach plans to upgrade its network to full fibre on an exchange area by exchange area basis. As each area is upgraded it will migrate customers to the new network and then withdraw copper services. Withdrawing copper is important to Openreach's investment case for full fibre. Uncertainty about how long it will have to run both copper and fibre networks in parallel is a potential risk to its investment in full fibre. Ofcom recognises the importance of supporting a smooth transition to full fibre networks while ensuring vulnerable consumers are protected.**

Openreach has announced plans for a trial in Salisbury in which it aims to migrate customers to full fibre and then withdraw copper services there at the end of 2022. Openreach has requested changes to existing regulation to facilitate the early stages of the Salisbury trial. This consultation sets out our proposals in relation to those changes.

We recognise that further changes will be required to support Openreach's longer term plans to withdraw copper services in Salisbury, and in future around the country. We will consider that as part of our single Fixed Telecoms Market Review on which we will consult at the end of this year.

## What we are proposing – in brief

Current rules require Openreach to provide wholesale access to standard and superfast broadband on its copper network. We propose it should no longer have to provide these services in Salisbury where it can offer full fibre services as an alternative.

These changes would only apply when customers move house, change service or switch provider. So, even with these changes, customers who want to stay with their current service and provider can still do so. These proposals would come into effect in September 2020.

We will be working with industry to put appropriate safeguards in place for the protection of vulnerable customers during the trial, including the ability to pause their migration or to restore their copper services at short notice if necessary.

*This overview is a simplified high-level summary only. The proposals we are making and our reasoning are set out in full in this document.*

## The trial is an important step in the transformation of the UK's digital networks

- 1.1 Demand for fixed and mobile broadband connections is growing rapidly, from both people and businesses. To meet this demand, sizeable investment is needed to upgrade the UK's broadband infrastructure. Whether to support full-fibre broadband, connections to 5G mobile stations, or seamless business connectivity, more fibre networks will be needed to support the next generation of services in the UK. Full fibre connections provide a better service that can deliver much faster speeds (up to a gigabit a second) and are more reliable.
- 1.2 In accordance with its duties, Ofcom's goal is to support competition and investment in fibre networks. Following on from the publication of our strategic policy position in July

2018, this document is part of a suite of publications which set out our work to promote competition and investment in fibre networks.

- 1.3 Migration to full fibre services and the ultimate withdrawal of copper services is central to avoiding the inefficient and costly parallel running of two networks, and therefore is important to Openreach's case for investment. Without an efficient migration, there may be less investment in new networks or consumers may eventually face higher prices for their services.
- 1.4 Part of our strategy to support investment and competition in fibre networks is to put in place regulation which supports migration to full fibre. At the same time, we recognise that there are risks for consumers in migrating from copper to full fibre services, particularly to vulnerable customers, and will work to ensure that appropriate protections are put in place.
- 1.5 We welcome Openreach's proposed trial in Salisbury<sup>1</sup> as a step towards increasing certainty in the business case for fibre network investment by testing approaches to efficient migration, and learning lessons that can then be applied more broadly across the country.
- 1.6 Our discussions with industry suggest there is broad recognition of the importance of the trial and stakeholders are engaged in making it successful, in learning how to deliver a good experience of migration for everyone, and doing so efficiently, in a way that supports the business case for investment.
- 1.7 To succeed, the trial needs the support of communications providers. They have an important role to play in explaining the benefits of full fibre to their customers, migrating them when full fibre is available, and ensuring that vulnerable consumers receive the help they need or indeed retain or are restored to an appropriate copper service.

#### **We are proposing changes to support Openreach's trial in Salisbury**

- 1.8 Our changes are focused on removing the regulatory obstacles that would otherwise force Openreach to continue to provide new copper-based services even when full fibre was available. We have not proposed any changes to pricing regulation, and the current cap on prices of copper-based wholesale superfast services will continue to apply in the trial area. Beyond those prices subject to existing regulation, we expect Openreach to work with industry to establish prices of wholesale services that support the goals of the trial.
- 1.9 This consultation is focused on enabling the Salisbury trial rather than setting principles for withdrawal of copper services more broadly across the country. We plan to set out proposals that will apply more broadly as part of the single Fixed Telecoms Market Review later this year and expect any final decisions to take effect on 1 April 2021.

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<sup>1</sup> In this document when we refer to Salisbury we mean the geographic area in Salisbury, Wiltshire, which is served by the telephone exchange represented by Openreach's exchange code 'STSALIS'.

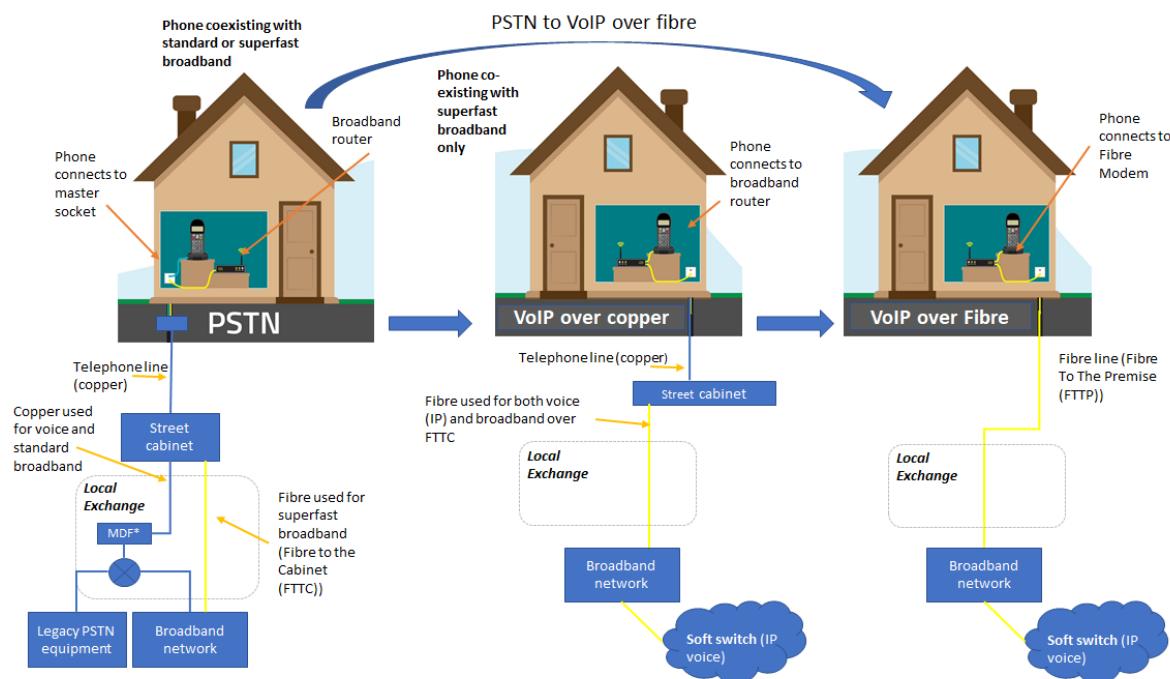
## Next steps

- 1.10 This consultation closes on Friday 6 September 2019. We intend to publish our Statement, which will set our decisions, in Autumn 2019. We propose that any changes will apply in Salisbury from September 2020.

## 2. Strategic context: the transformation of the UK's telecoms infrastructure

- 2.1 Our work to promote investment in full fibre networks supports our strategic priority of achieving better broadband and mobile – wherever you are. Investment in full fibre is part of a wider transformation of the UK's telecoms infrastructure.
- 2.2 On the Openreach network, this transformation has two major parts, as illustrated in Figure 1 below:
- i) Migration of voice services to IP technology and the withdrawal of traditional analogue telephony. This is known as 'PSTN Switch-off', with PSTN standing for the legacy public switched telephone network; and
  - ii) Full fibre rollout and subsequent migration of services to fibre and the withdrawal of copper-based services. This is known as 'copper retirement'.
- 2.3 With PSTN Switch-off, Openreach is progressively withdrawing analogue telephony services concluding in 2025. Communications networks are now built for data, and the PSTN is reaching the end of its life. IP technology (over copper or fibre) can be used to provide higher quality and innovative voice services.
- 2.4 For most of the country, copper retirement will come some time after PSTN Switch-off, and the challenges of migrating vulnerable customers to IP technology will already have been addressed.

**Figure 1: Migration of voice services from the PSTN to the broadband network**



\*The Main Distribution Frame (MDF) is where every copper line terminates at the exchange.

### **The Salisbury trial comes ahead of wider changes to the UK's communications networks**

- 2.5 The Salisbury trial will take place before PSTN Switch-off, and as full fibre also uses IP technology for voice services, many of the challenges associated with PSTN Switch-off will also be faced with copper retirement in Salisbury.
- 2.6 Some consumers particularly rely on their landlines or are otherwise more vulnerable in the context of the migration process. Services that rely on analogue telephony may no longer work as effectively and alternatives that work using IP technology need to be available to consumers. We expect industry to have appropriate safeguards in place to prevent harm to vulnerable customers in Salisbury during the trial. We have already set those out in relation to the PSTN Switch-off<sup>2</sup> and later in this document set out additional safeguards that we expect communications providers to put in place for the Salisbury trial.

### **Openreach plans to build a full fibre network and retire its copper network**

- 2.7 Openreach is seeking to retire its copper access network after it has deployed full fibre (which supports ultrafast services) to an area and customers have been migrated to the new network.
- 2.8 Openreach has deployed full fibre to 1.2 million UK homes and businesses. Adding Openreach's deployment to deployments by other communications providers, full fibre was available to around 7% of homes and businesses in the UK at the beginning of the year.<sup>3</sup> Openreach plans to cover 4 million homes by March 2021 and 15 million homes (around 50% of the UK) by 2025 under its Fibre First programme. In addition, competitors to Openreach have become increasingly active in recent years, in announcing and taking forward plans to build fibre networks. The Government has set a target of UK-wide full fibre coverage by 2033.
- 2.9 Openreach is planning to deploy its fibre network on an exchange area by exchange area basis. This will involve rolling out full fibre to contiguous areas, with initial areas consisting of tens of thousands of homes and businesses. In most areas Openreach does not intend to retire its copper network in areas with full fibre until after PSTN Switch-off. For areas that subsequently get full fibre from Openreach, Openreach plans to retire copper services, on an area by area basis, 4 years after each area has full fibre. Given the timeline for Openreach's full fibre deployment, copper retirement is likely to progress at a much slower pace than migration to IP and subsequent PSTN switch-off, and for most areas copper retirement will take place some years after PSTN switch-off.
- 2.10 Retiring its copper services is important to Openreach's business case for full fibre. The longer that the copper and full fibre networks are run in parallel, the higher the costs. Uncertainty about how long Openreach will be required to continue to operate both networks in an area in parallel could be seen as one of the key risks associated with its investment in full fibre.

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<sup>2</sup> Ofcom, 2019. [The future of fixed telephone services](#).

<sup>3</sup> Ofcom, 2019. [Connected Nations Update: Spring 2019](#)

## Ofcom's approach to copper retirement

- 2.11 In our view, as set out in our July 2018 Strategic Policy Position and supported in the UK Government's Future Telecoms Infrastructure Review, regulation must be able to support the smooth transition from Openreach's copper network to its fibre network otherwise we risk undermining the case for such investment to the long-term detriment of all consumers.
- 2.12 Earlier this year we consulted on initial proposals for our approach to remedies in our single Fixed Telecoms Market Review, including the following proposals to support the transition from copper to fibre networks.<sup>4</sup> In that document we proposed:
- Switching the focus of our regulation to fibre-based services where fibre networks have been deployed: to enable this, we proposed to require Openreach to deploy its fibre network in an exchange area to provide 100% coverage, and to provide a wholesale 40/10 Mbit/s service on its fibre network.
  - An overlap of 2+ years where we continue to regulate copper-based services in parallel to regulating fibre-based services. Thereafter we would lift price regulation on copper-based services and switch to regulating a set of fibre-based products only.
  - A mark-up on the price of regulated fibre-based services: to maintain the investment incentives, we believe a moderately higher charge for the wholesale 40/10 Mbit/s service on the fibre network would be appropriate. This uplift is likely to be based on the additional value of a 40/10 full fibre service to consumers and purchasing communications providers (e.g. slightly higher and more stable speed and fewer faults).
  - Modification of requirement to develop new copper-based services: modify the general access obligation, so that it does not apply to the development of new access services where they would be based on legacy copper assets. This would apply from the start of the regulatory overlap period.
  - Modifications to quality of service (QoS) standards: we proposed to broadly maintain the current QoS standards and levels and that we may apply a form of QoS standard on fibre services when the price controls switch. We recognise that there could be circumstances where repair and maintenance of the copper network results in significant investment and that replacing the copper connection with a fibre connection may be more economically rational. In such circumstances we proposed QoS regulation may need to be modified.
- 2.13 We are considering the responses we received on our consultation and will consult on more detailed proposals later this year. The proposals in this document relate to changes to existing regulation required to facilitate the trial in Salisbury ahead of our final decisions in the single Fixed Telecoms Market Review. These proposals are not intended as a

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<sup>4</sup> Ofcom, 2019. [Promoting competition and investment in fibre networks – Initial proposals – Approach to remedies](#). In that consultation, in relation to copper retirement, we talked about our proposals applying to the transition from the copper to the fibre network. We said we expected that Openreach's fibre network would be predominantly using Fibre to the Premises (FTTP), however, in some areas G.fast may be provided to achieve 100% coverage.

precedent for our more detailed proposals on copper retirement generally, on which we are due to consult before the end of the year as part of the single Fixed Telecoms Market Review.

### 3. Measures to support Openreach's trial in Salisbury

3.1 Copper retirement is an important part of the investment case for the roll out of new fibre networks. To facilitate nationwide fibre roll out and copper retirement, Openreach has proposed running a copper retirement trial in Salisbury<sup>5</sup> and has requested certain changes to existing regulation to facilitate this.<sup>6</sup>

#### The Salisbury trial

- 3.2 Openreach is proposing to trial migration to its full fibre network and withdrawing copper-based services in the main exchange serving the city of Salisbury, Wiltshire. Salisbury has around 20,000 homes covered by a single exchange.<sup>7</sup> Virgin Media already offers services on its cable network and there is good mobile coverage in Wiltshire.<sup>8</sup>
- 3.3 Openreach has started to deploy full fibre in Salisbury and plans to reach 75% coverage in September this year. It proposes to migrate customers to full fibre with a view to retiring its copper services in Salisbury at the end of 2022. Openreach's intention is for those consumers with copper based superfast or standard broadband to be migrated to full fibre services. It intends to offer a full fibre service adapted so communications providers can offer a voice-only service at prices similar to current voice-only services.<sup>9</sup> Openreach proposes to give 12 months' notice of its intention to 'stop sell' copper services in September 2019, with the stop sell coming into effect in September 2020.
- 3.4 We consider that the purpose of the trial is to allow Openreach and communications providers to better understand customer reaction to focused promotion of fibre in an area and the steady withdrawal of copper services, to learn how to deliver a good experience of migration for everyone, to do so efficiently in a way that supports the business case for investment, and ultimately to test how to migrate the final customers before copper retirement.
- 3.5 In order to facilitate the trial, in particular the migration of customers to fibre services, Openreach has requested that we remove the requirement for it to provide wholesale access on new copper lines in Salisbury where full fibre is available. Openreach has requested this now because although we propose to consult on detailed proposals to support copper retirement as part of our single Fixed Telecoms Market Review, we do not

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<sup>5</sup> Openreach, 2019. Openreach Industry Consultation on: FTTP Exchange Upgrade and Single Order Exchange Upgrade trialling.

<sup>6</sup> See letter from Openreach published alongside this consultation.

<sup>7</sup> Sam Knows, see: <https://availability.samknows.com/broadband/exchange/STSALIS>.

<sup>8</sup> See: <https://www.thinkbroadband.com/broadband/exchanges/find> (STSALIS) and <https://www.ofcom.org.uk/research-and-data/multi-sector-research/infrastructure-research/connected-nations-2018/interactive-report> (Wiltshire).

<sup>9</sup> Our regulation requires Openreach to provide a 40 Mbit/s wholesale service on full fibre where it only has full fibre services available. Openreach has indicated that it plans to provide a service capable of supporting voice-only services on its full fibre network. Openreach, 2019. Response to Openreach Industry Consultation on: An exchange-based approach to upgrading the UK's digital infrastructure with FTTP, page 5.

expect any of these measures to be in place before April 2021. The changes to existing regulation proposed in this document would effectively facilitate the trial in the months between the intended start of Openreach's trial and April 2021.

## Regulatory support for the Salisbury trial

- 3.6 We recognise that the trial is likely to be important to investment decisions to be made by Openreach and others in respect of the nationwide rollout of full fibre. The trial will provide important information about copper retirement and PSTN switch-off, including on the communications providers' commercial and technical approaches, consumer response, and communications providers' approaches to protect vulnerable customers. The focused nature of the trial will mean that changes should take place in a controlled and monitored environment where Openreach and communications providers can quickly adapt their response to technical and commercial challenges and risks to consumers. We expect those lessons to inform the approach to copper retirement more broadly across the country.
- 3.7 We consider that the potential benefits of the trial justify regulatory intervention to facilitate it. Accordingly, we propose to support the trial by making the necessary regulatory changes Openreach has requested to allow it to withdraw the relevant copper-based services where full fibre services are available, which we outline below.

### Enabling stop sell in Salisbury

- 3.8 For premises in Salisbury that have access to Openreach full fibre services,<sup>10</sup> Openreach proposes that there would be no new supply of copper-based wholesale access services, and any orders received for these services would be rejected. Openreach refers to this as 'stop sell'. This will affect orders for new services arising out of a home move, where a customer wishes to switch communications providers or upgrade their existing service. Instead of copper-based access services, only an alternative wholesale service using full fibre will be offered to these customers. The relevant services that Openreach proposes to withdraw in Salisbury are MPF<sup>11</sup>, SLU MPF<sup>12</sup>, GEA-FTTC<sup>13</sup> and SOGEA/SOGFAST<sup>14</sup> where a full fibre service is available.

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<sup>10</sup> Openreach refers to these premises as those having a GEA-FTTP Technology Marker.

<sup>11</sup> Metallic Path Facility (MPF) is the copper wire connecting consumers to the BT network and is used to support voice and broadband services.

<sup>12</sup> Sub-Loop Unbundled MPF: Sub-loop unbundling (SLU) is a service offered by BT that allows communications providers to deploy their own equipment at a network distribution point (usually the location of the cabinet) and to use BT's lines from the cabinet to the customer. Communications providers can either rent the entire sub-loop (the connection between the cabinet and the customer) or share it with BT.

<sup>13</sup> Fibre To The Cabinet (FTTC), a network structure in which optical fibre extends from the exchange to a street cabinet housing broadband equipment with the remaining part of the network, from the cabinet to the customer, provided by a copper wire; Generic Ethernet Access (GEA): Openreach's wholesale service providing communications providers with access to its FTTC and FTTB networks in order to supply higher speed broadband services.

<sup>14</sup> Single Order GEA (SOGEA) enables the provision of wholesale superfast broadband without the need for MPF (or another copper voice service) to support it. Similarly, Single Order G.Fast (SOGFAST) enables the provision of wholesale

- 3.9 In our 2018 review of the Wholesale Local Access market (WLA 2018) we considered the market for connections from the local telephone exchange to a home or business premises, which are used to provide broadband and other services at the retail level. In this review we required BT<sup>15</sup> to provide network access in the wholesale local access market to a third party upon reasonable request, which includes specific network access in the form of MPF, SLU MPF and VULA (which includes GEA-FTTC and SOFGEA/SOGFAST)). These requirements are imposed except in so far as Ofcom may from time to time otherwise consent in writing.
- 3.10 Therefore, in order to allow BT to implement the stop sell, we propose to consent to these requirements not applying in respect of new requests for copper-based network access, in respect of end users located in Salisbury. We propose that this will apply only to premises where a full fibre service is available. This change will come into effect in September 2020.
- 3.11 We understand that Openreach also plans to stop sell SMPF<sup>16</sup>, but as Openreach has no specific access obligation to provide SMPF, there is no requirement to change specific regulation to support this. In the WLA 2018, we decided not to impose a specific access remedy on BT in the form of a requirement to offer LLU SMPF. Instead, SMPF will fall within the scope of the general network access remedy and be subject to fair and reasonable terms, conditions and charges. We are therefore not proposing a specific waiver for SMPF, but our proposed changes to the general network access requirement would also apply to SMPF, meaning that in effect that BT would not have to provide SMPF in that case.
- 3.12 Changes we proposed only apply to access requirements imposed as part of the WLA 2018. They do not apply to access requirements imposed as part of the 2017 narrowband market review.<sup>17</sup> This means that there is no waiver for a stop sell on new WLR services in Salisbury.
- 3.13 We set out the draft consent which we propose to make in Annex 6.

**Question 1: Do you agree with our proposal to enable a stop sell for the Salisbury trial? Please provide reasons for your answer.**

## Approach to other regulatory issues in Salisbury

- 3.14 Above we propose to enable Openreach to implement a stop sell for the Salisbury trial, as requested by Openreach. We do not consider that any further changes to regulation are required to enable the Salisbury trial, including in respect of either pricing or quality of

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G.Fast services without the need for MPF to support it. G.Fast: higher bandwidth (over 100Mbps) technology provided using a combination of fibre and then copper connections.

<sup>15</sup> We refer to BT here as our obligations apply to BT as the legal entity. In the rest of the document however we refer to Openreach as it operates the network and therefore implements our requirements.

<sup>16</sup> Shared Metallic Path Facility (SMPF) – With MPF a communications provider can provide voice services and broadband services, and with SMPF they can provide just broadband services to customers (with another provider supplying voice).

<sup>17</sup> Ofcom, 2017. [Statement: Narrowband Market Review](#).

service. As explained above, our approach to copper retirement more generally is being considered as part of the single Fixed Telecoms Market Review.

### Approach to pricing

- 3.15 In the WLA 2018 we imposed a charge control on Openreach's 40 Mbit/s wholesale superfast services.<sup>18</sup> While we allowed Openreach pricing flexibility on higher bandwidth services and, in general, services based on full fibre, where Openreach had full fibre but not copper based wholesale superfast services available we applied the same charge control to the rental charge for Openreach's full fibre 40 Mbit/s wholesale superfast service.<sup>19</sup>
- 3.16 For the trial, where FTTC is not available due to the stop sell, this means that BT will be required to offer a 40/10 GEA-FTTP service at rental charge set at no more than the level of the cap set in the WLA 2018 statement.
- 3.17 We do not consider that it is necessary to revisit the existing WLA requirements on pricing in Salisbury during the trial period.
- 3.18 We recognise that the prices of full fibre services at both the wholesale and retail levels will be an important factor in driving customer-led migration and provider promotion of full fibre services. We expect Openreach to engage with communications providers to agree commercial arrangements for fibre services to support the trial.
- 3.19 More generally as part of the single Fixed Telecoms Market Review we are considering the regulation that should apply to Openreach's wholesale 40 Mbit/s full fibre service.<sup>20</sup> Any new regulation put in place by this review would apply to the trial area when it is in place from 1 April 2021.

### Approach to Quality of Service

- 3.20 We are not proposing to change our existing quality of service standards for the purpose of the trial. Openreach is bound by national and regional quality of service standards in respect of copper-based wholesale broadband services, and its performance in Salisbury will feed into these. Additionally, Openreach has a strong incentive to deliver a good consumer experience in Salisbury given the trial's importance in shaping the approach of its broader national investment.

### Fibre coverage threshold for implementing a stop sell

- 3.21 We note that the approach to copper retirement we consulted on in March as part of our single Fixed Telecoms Market Review was to allow stop sell to apply only once 100% of

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<sup>18</sup> This charge control in general applies to Openreach's GEA-FTTC 40/10 service, which provides up to 40 Mbit/s download and up to 10 Mbit/s upload speeds. This service is typically used to support superfast services with average download speeds around 35-38 Mbit/s. See Ofcom, 2018. [Statement: Wholesale Local Access Market Review](#), Volume 2, paragraph 1.9.

<sup>19</sup> This is Openreach's GEA-FTTP 40/10 service. Ofcom, 2018. [Statement: Wholesale Local Access Market Review](#), Volume 1, paragraph 9.3.

<sup>20</sup> Ofcom 2019. [Promoting competition and investment in fibre networks – Initial proposals – Approach to remedies](#).

premises in an exchange area have access to ultrafast (including both full fibre and G.fast). For the purposes of the trial, the stop sell may be implemented by Openreach before the whole exchange area has access to full fibre – but it will only apply to premises that do have access to full fibre. We consider a departure from the approach we proposed in March is justified in this case to learn from the trial, and any delay in starting the trial to meet a 100% threshold would also delay the benefits arising from the trial. We also consider that Openreach has an incentive to aim for 100% full fibre coverage of the area to ensure a successful trial. However, this should not be considered a precedent for our approach to nationwide copper retirement.

## Impact of our proposals

### Impact on consumers

- 3.22 Copper retirement is an important part of the upgrade to full fibre, which we expect to provide higher quality and more reliable services for consumers.
- 3.23 The “stop sell” would affect customers who move to a new property, who seek to upgrade their service or who seek to switch providers. Such customers would receive their voice or broadband service over a full fibre line and would no longer be able to purchase a copper-based service, unless it is a voice only service (see below). This will only apply if Openreach full fibre services are available at the customers’ premises, and only from Autumn 2020. It will still be possible to request services from other network providers where services from those providers are available. In addition, in this consultation we have not proposed to lift the obligation to provide access to new WLR lines, and therefore at this stage Openreach will need to continue to provide the wholesale lines enabling the provision of new voice-only services if requested by communications providers in Salisbury.
- 3.24 While we acknowledge that the number of customers affected by the proposal to stop selling new copper services in the copper retirement trial will be low, and we expect that most migrations will be voluntary, with consumers actively electing to adopt the new services, we have identified a number of potential concerns to mitigate or monitor.
- 3.25 For the trial, we are concerned about the treatment of customers who may face risk of harm because of their circumstances,<sup>21</sup> in particular those who are reliant upon analogue telephony services, such as those using special services (e.g. care alarms), and those who may struggle with the switching process to a voice service using IP technology. In addition, standard broadband customers affected by the stop sell will have to migrate to a superfast service, which may be more expensive. We have set out below our proposals to mitigate the impact on vulnerable consumers and closely monitor the experience of consumers within the trial.

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<sup>21</sup> Some people’s ability to participate in communications markets and society is affected by factors such as their age, disability, income, geographical location, or life events (e.g. bereavement). Vulnerability is about people’s circumstances, which can change over time. See: <https://www.ofcom.org.uk/about-ofcom/what-is-ofcom/consumer-vulnerability>.

## Impact on businesses

- 3.26 The stop sell is also likely to have a similar impact on businesses – it will affect those that move premises within Salisbury, seek to upgrade their service, or seek to switch providers. However, the impact on businesses is likely to be smaller than on consumers as we expect a higher proportion to have their voice services provided using IP technology. Additionally, there is already a stop sell in place on new ISDN services (copper-based voice-only service), which are predominantly used by businesses, so the addition of a broader copper stop sell will not affect these services.

## Impact on communications providers

- 3.27 Communications providers with customers in Salisbury will also be affected by the trial and by our proposed regulatory changes. Although the changes we are proposing are limited they will, in some circumstances, limit the services that a communications provider is able to offer its customers. It will be important for providers to engage with Openreach on migration processes, and with their customers on the stop sell and on voluntary migration.

**Question 2: Do you agree with the impacts of our proposals we have identified? Are there any further impacts that you consider we should be aware of?**

## We expect industry to adopt measures to mitigate the risk to vulnerable consumers

- 3.28 In February this year we set out measures that we expect communications providers to adopt to protect consumers migrating to voice over IP services (VoIP) as part of PSTN Switch-off.<sup>22</sup> These measures are focused on the needs of vulnerable consumers, including those dependent on a landline and on users of telecare services, and on addressing the potential implications for Critical National Infrastructure that uses the PSTN. Because the Salisbury trial will take place before the PSTN Switch-off, we expect communications providers to apply these measures during the trial. These measures are set out in Annex 4.
- 3.29 In setting these measures we took account of the fact that providers and users of downstream services would potentially have until 2025 to assess the implications of the migration for their sectors and to make any necessary changes to equipment or services. The earlier timescales for the trial mean that in some cases it may not be possible to complete this assessment and make the necessary changes in the time available.
- 3.30 We expect that due to the localised nature of the trial some of the required measures can be identified and deployed quickly. We also highlighted above that there is no stop sell allowed on new WLR lines at this stage, so communications providers would continue to be able to request access to the wholesale service currently needed to provide a new voice-only service to consumers.

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<sup>22</sup> Ofcom, 2019. [The future of fixed telephone services](#).

- 3.31 However, we recognise the risks to vulnerable consumers posed by the trial, and we expect Openreach and communications providers to implement the following measures during the trial, in addition to the measures set out in Annex 4:
- Customers using telecare or other safety-of-life services should not be migrated unless suitable replacement services (i.e. that operate effectively and have appropriate resilience in a power cut) are in place.
  - Customers dependent on textphones should not be migrated or lose service.
  - Customers who are dependent on their landline for access to emergency services (e.g. because they do not have mobile coverage in their home or do not have a mobile) should not lose service.
  - Restoration of former services should be available rapidly in the case of failure of telecare or other safety-of-life services.
  - Openreach and communications providers should have a robust information campaign and security procedures for home visits to avoid the risk of harm to consumers.
  - Openreach and communications providers should engage with local stakeholders at an early stage to ensure they are aware of the change and the potential implications.
- 3.32 We will work with Openreach and the communications providers to emphasise the importance of these measures. We intend to engage regularly with Openreach and the communications providers involved in the trial in order to understand how they are implementing the above measures and monitor progress.

## Monitoring the trial

- 3.33 In order to measure the progress of the trials, and the consumer experience during and after the installation of the new services, we will also be asking Openreach to provide Ofcom with data relating to the quality of service and experience in the trial areas.
- 3.34 We plan to do this by collecting the quality of service metrics currently collected by Ofcom on a national or regional basis, as they relate to the trial in Salisbury. We may also ask to be provided with other data by Openreach or communications providers to monitor the quality of service and experience that consumers receive in the trial areas. We have set out the data we are proposing to ask Openreach to provide to us in Annex 7.
- 3.35 We will also liaise further with Openreach and communications providers to identify any other metrics that would provide further insight into the consumer experience during the trials. Additionally, we intend to engage with local stakeholders, in the run-up to and during the trial, to ensure we are aware of any issues or challenges that consumers or stakeholders may be experiencing.

**Question 3: Do you agree with our proposed approach to the protection of vulnerable consumers within the trial? Please provide reasons for your answer.**

**Question 4: Do you think the monitoring data we are proposing Openreach provide to Ofcom is appropriate and sufficient? Is there any other information we should be collecting? Please provide reasons for your answer.**

## Legal tests

- 3.36 As explained above, we are proposing to consent to certain network access requirements not applying in respect of new requests for copper-based network access in respect of end users located in Salisbury. For the reasons we set out below, we are satisfied that this proposed consent meets the various tests set out in the Communications Act 2003 ("the Act").
- 3.37 Section 49 of the Act provides that where an SMP condition has effect by reference to a consent given by Ofcom, and Ofcom proposes to give such a consent that affects the operation of an SMP condition, Ofcom must not give that consent unless it is satisfied that to do so is: objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates; not such as to discriminate unduly against particular persons or against a particular description of persons; proportionate to what it is intended to achieve; and in relation to what it is intended to achieve, transparent.
- 3.38 We are of the view that our proposals are:
- a) objectively justifiable, in that these facilitate the Salisbury trial which should allow BT and telecoms providers to better understand the investment risks and challenges in rolling out fibre networks on a large scale. Moving customers to new fibre networks and retiring existing copper networks is important to the business case for some companies building fibre networks and by removing some of these uncertainties, investment and innovation is promoted, ultimately for the benefit of consumers;
  - b) not unduly discriminatory, in that the proposals apply by reference to objective factors; that is, stop sell only applies to requests for new copper-based network access, and only where the premise is fibre enabled;
  - c) proportionate, in that these are targeted and confined to a limited geographic area in the UK, and limited to what is necessary to run the trial; and
  - d) transparent, in that the proposals are clear in their intention to ensure that BT is only allowed to refuse requests for new copper-based network access in the Salisbury Area and our draft consent is published as part of this consultation.
- 3.39 We also consider that our proposals meet our duties under section 3 and 4 of the Act. We consider that the early but controlled withdrawal of copper-based network access services in the Salisbury Area will assist BT and communications providers to better understand the processes involved in successfully and efficiently rolling out fibre on a large scale. For this reason, we consider that our proposals further the interests of citizens in relation to

communications matters and of consumers in relevant markets, where appropriate by promoting competition. In developing our proposals we have also had regard, in particular, to encouraging investment and innovation in relevant markets.

- 3.40 With regard to the Community requirements set out in section 4 of the Act, we believe that our proposals are in accordance with these requirements; in particular, by helping to ensure that BT, communications providers and stakeholders better understand, and put into place well-identified measures for, the copper retirement process and the future PSTN switch-off, we believe our proposals are in accordance with the fifth Community requirement. Ultimately our proposals aim to facilitate network competition which is in accordance with the first Community requirement.

## **Impact and equality impact assessments**

### **Impact Assessment**

- 3.41 The analysis presented in this document constitutes an impact assessment as defined in section 7 of the Communications Act 2003.
- 3.42 Impact assessments provide a valuable way of assessing the options for regulation and showing why the chosen option was preferred. They form part of best practice policymaking. This is reflected in section 7 of the Act, which means that, generally, we have to carry out impact assessments in cases where our conclusions would be likely to have a significant effect on businesses or the general public, or where there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out impact assessments in relation to the great majority of our policy decisions.

### **Equality impact assessment**

- 3.43 Ofcom is separately required by statute to assess the potential impact of all our functions, policies, projects and practices on race, disability and gender equality. Equality Impact Assessments (EIAs) also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 3.44 We have identified a risk that our proposals may have a particular impact on elderly and disabled people. This is because some people within these groups may be more likely to rely on services that may currently be copper-based such as traditional landlines or care alarms.
- 3.45 We have proposed measures to mitigate the risk to these consumer groups including setting expectations that communications providers must not migrate vulnerable customers reliant on copper-based services, and we will work with them to ensure they have processes in place to quickly restore services to consumers where they are migrated in error or migration causes unforeseen difficulties. We have set out proposals to monitor the trial and the experience of consumers within it closely.

- 3.46 Despite the risk outlined above, we consider our proposals are justified for the following reasons –
- The number of potentially affected consumers is small.
  - The trial is a contained and monitored environment which will increase the effectiveness of our mitigating measures.
  - One aim of the trial is to establish a smooth and safe process for the migration to fibre networks and the eventual retirement of the copper network. If the trial is successful in achieving this objective, it will mean that all consumers, including elderly and disabled consumers receive better communications services.

3.47 Our Equality Impact Assessment analysis is set out in Annex 5.

## **Consolidated list of questions**

**Q1: Do you agree with our proposal to enable a stop sell for the Salisbury trial? Please provide reasons for your answer.**

**Q2: Do you agree with the impacts of our proposals we have identified? Are there any further impacts that you consider we should be aware of?**

**Q3: Do you agree with our proposed approach to the protection of consumers within the trial? Please provide reasons for your answer.**

**Q4: Do you think the monitoring data we are proposing Openreach provide to Ofcom is appropriate and sufficient? Is there any other information we should be collecting? Please provide reasons for your answers.**

# A1. Responding to this consultation

## How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on Friday 6 September.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/measures-support-openreach-trial-salisbury>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [salisburytrial@ofcom.org.uk](mailto:salisburytrial@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#). This email address is for our work related to the trial in Salisbury only, and will not be valid after April 2021.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:

Copper Retirement Team  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA

- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at page 17. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

- A1.10 If you want to discuss the issues and questions raised in this consultation, please contact the Copper Retirement Team at [salisburytrial@ofcom.org.uk](mailto:salisburytrial@ofcom.org.uk).

## Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A1.15 Following this consultation period, Ofcom plans to publish a statement in Autumn 2019.
- A1.16 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A1.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.18 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A2. Ofcom's consultation principles

**Ofcom has seven principles that it follows for every public written consultation:**

### Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

### During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

### After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A3. Consultation coversheet

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A4. Migration to voice over IP - measures we expect communications providers to implement

A4.1 In our February 2018 policy positioning statement on the future of fixed telephone services we set out the following measures that we expect communications providers to implement in respect of the migration to voice over IP. The measures state that, at a minimum, communications providers, either directly, or, where relevant, via their trade association, should:

### Downstream services

- Share knowledge of the key downstream services impacted by the migration and examples of good practice/successful communication strategies, for example, by participating in Ofcom's and industry's All IP Working Groups;
- Develop a strategy to identify and engage with downstream service providers that utilise their landline services, in a timely fashion, to ensure they are aware of the change and the potential implications;
- Where relevant, make downstream service providers aware of any available testing facilities or facilitate access to the facilities offered by access network providers, so they can determine whether their services will work effectively over an IP network;
- Identify customers who use critical downstream services (such as a telecare device), develop appropriate communications plans and put in extra protection measures. For example, this could include delaying a customer's migration until satisfied that their downstream service is compatible with VoIP;
- Develop effective processes to support customers who inform them that their downstream services do not function as planned after migration. This could include returning them to a PSTN service if it remains available where the failure creates a risk of significant harm.

### Supporting migrating customers

- Give adequate notice of service changes, noting that both residential and business customers may need time to acquire and configure new equipment;
- Ensure that all communications regarding the migration are clear and timely, in a format that reflects the needs of the customer, and include information about the potential impact on equipment that uses the PSTN;
- Assess customers' needs and offer help with migration (for example, a home visit to install a router) if necessary;
- Offer advice and assistance for all migrating customers, including those who use downstream services, and co-operate with providers of these services, to minimise disruption;

- Put ongoing protections in place to respond appropriately to later changes in end-users' circumstances, for example, customers that migrate to a VoIP service and then purchase a security alarm or telecare device.

## A5. Equality Impact Assessment

### Introduction

- A5.1 Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on equality.<sup>23</sup> An equality impact assessment (EIA) also assists us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- A5.2 We have not considered it necessary to carry out separate EIAs in relation to race or sex equality, or equality schemes under the Northern Ireland Equality Scheme. This is because we anticipate that our regulatory intervention will not have a differential impact on people of different sexes or ethnicities, or consumers with protected characteristics in Northern Ireland<sup>24</sup> compared to consumers in general.
- A5.3 However, we do consider that there is a risk that our proposals may have a particular impact for disabled and elderly consumers compared to consumers in general. As such we have undertaken an initial assessment of this impact below and we have proposed measures to address this potential impact.

### Equality Impact Assessment

- A5.4 In this document we are proposing to remove obligations on Openreach to provide new copper access broadband services in Salisbury (stop sell), where alternative full fibre services are available at those premises, from Autumn 2020.
- A5.5 The proposed stop sell will affect customers in Salisbury who move to a new property, who seek to upgrade their service or who seek to switch providers. Such customers would receive their voice or broadband service over a fibre line and would no longer be able to purchase a service over a copper line, unless it is for a voice-only service. This will only apply if their premises have access to a full fibre service.
- A5.6 We have identified a risk that our proposal may have a particular impact on elderly and disabled consumers as opposed to consumers in general.
- A5.7 When customers in Salisbury migrate from copper-based services to fibre services, this will also in some cases be a migration away from analogue telephony to digital (IP based) voice services. The shift to IP is likely to involve a change in set-up of equipment for those who already have broadband at home, as well as the provision of new equipment for those who

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<sup>23</sup> We explain why we undertake an Equality Impact Assessment (EIA) and how we have done it in Section 3. Ofcom has a general duty under the 2010 Equality Act to advance equality of opportunity in relation to age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.

<sup>24</sup> In addition to the characteristics outlined in the 2010 Equality Act, in Northern Ireland consumers who have dependants or hold a particular political opinion are also protected.

do not have broadband. Those who are elderly or have accessibility or disability requirements may need additional support during the change.

- A5.8 About 4% of consumers (around 2 million adults) live in a landline-only home (i.e. without use of mobile) and therefore need to rely on their landline to make emergency calls in the case of a power cut.<sup>25</sup> Traditional lines are powered from the local exchange, but voice services provided over IP will require alternative solutions (such as battery back-up).
- A5.9 The migration will also impact services such as security alarms and telecare devices (and some business services such as card payment systems). With regard to telecare, we understand that more than a million such devices operate over traditional telephony, and they may not function as effectively over IP.
- A5.10 We have proposed measures to mitigate the risk to these consumer groups including setting expectations that communications providers must not migrate vulnerable customers reliant on services such as telecare, and we will work with them to ensure they have processes in place to quickly restore services to consumers where they are migrated in error or migration causes unforeseen difficulties. In addition, with the communications providers we will work with providers of telecare services – such as the local authority and local health services – so that they can consider upgrading equipment as appropriate.
- A5.11 Despite the risks we have identified, we consider our proposals are justified for the following reasons –
- a) The number of potentially affected consumers is small.
  - b) As outlined above we will work with Openreach and communications providers to make sure they have appropriate safeguards in place for the protection of vulnerable customers during the trial, including the ability to pause their migration or to restore their copper services at short notice if necessary. Additionally, we have not applied a stop sell to wholesale line rental (WLR) in the narrowband market. The WLR service is used to provide voice-only services and some services reliant on the PSTN. This reduces the number of customers who are dependent on copper-based services who could be affected by the proposed stop sell.
  - c) The trial is a contained and monitored environment which will increase the effectiveness of the mitigating measures.
  - d) An objective of the trial is to establish a smooth and safe process for the migration to fibre networks and the eventual retirement of the copper network. If the trial is successful in achieving this objective, it will mean that all consumers, including elderly and disabled consumers, are more likely to have a better migration experience and will ultimately have access to better communications services.

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<sup>25</sup> Ofcom Technology Tracker H1 2018.

## A6. Draft legal instrument

See separate Annex.

## A7. Monitoring information

- A7.1 We propose that Openreach provide the following information on the trial in Salisbury monthly. We welcome input from stakeholders on whether there are any further areas we should be monitoring. –

### Existing Quality of Service (QoS) measures – to collect specifically for Salisbury

		FTTP	G.FAST	FTTC	MPF	WLR (Analogue)
Number of these lines		✓	✓	✓	✓	✓
Average first available appointment date		✓	✓	✓	✓	✓
Average installation time	Appointed orders	✓	✓	✓	✓	✓
	Other Orders	✓	✓	✓	✓	✓
Average time to restore service	SML1				✓	✓
	SML2	✓	✓	✓	✓	✓
Percentage of installed base reported as having a fault		✓	✓	✓	✓	✓
Percentage of Orders reported as having a Fault within 28 calendar days		✓	✓	✓	✓	✓
Percentage of Orders reported as having a Fault within eight calendar days		✓	✓	✓	✓	✓
Percentage Repair completion subject to service level	On time for SML1				✓	✓
	On time for SML2	✓	✓	✓	✓	✓
Number of Missed Installation Appointments		✓	✓	✓	✓	✓

### **Additional proposed measures**

A7.2 We propose Openreach provide following measures as full fibre is rolled out and once the proposed stop sell comes into effect -

- a) Number of premises where FTTP is available, separately where G.Fast is available, and number of premises where G.fast is available but not FTTC (definition of availability to be agreed), and the number of premises where only standard broadband is available.
- b) The number of connections by service (FTTP, G.Fast, FTTC, MPF, WLR etc) by each Communications Provider customer.
- c) Average time between availability, first order and complete installation / distribution of fastest and slowest times between availability, first order and complete installation.
- d) Number of times the stop sell is implemented (i.e. where a request for a new copper connection is made and refused by Openreach). Number of times stop sell applied to lines that were previously standard broadband.
- e) Number of ‘reversions’ to copper lines – i.e. to protect vulnerable consumers.
- f) Number of expensive/complex faults replaced with FTTP lines (total and as a % of all copper line faults) (definition of expensive/complex faults to be agreed).