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Competition Policy Advisor
Ofcom
2a Southwark Bridge Road
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18 October 2019

By email only

Dear [<]>,

Openreach request for regulatory waivers in connection with its proposed Bulk Grouping provision capability for GEA-FTTC and SOGEA

Summary

This letter sets out the Openreach request for regulatory waivers in relation to its launch of a Bulk Grouping provision capability ('the capability') for GEA-FTTC ('FTTC') and Single Order GEA ('SOGEA'). The capability will enable Communications Providers (CPs) to move groups of end customers to better broadband service at reduced cost to the CP.

On 26 September 2019 Openreach confirmed to industry that the Bulk Grouping provision capability would commence on a trial basis, with the trial starting on 28 October 2019¹. This is ahead of a planned full launch, which will be subject to certain trial quality gates being met.

Openreach requests that provision orders that are placed using the capability are exempted from the First Available Date ('FAD') Quality of Service ('QoS') Standard and from three Key Performance Indicators ('KPIs') as imposed by Ofcom in the 2018 Quality of Service for WLR, MPF and GEA Statement on the basis of Condition 11 in of the Wholesale Local Access ('WLA') SMP conditions (referred to below as the WLA QoS Statement)². Openreach's request is that the waivers are put in place as soon as possible, and that they remain in place until the end of March 2021 or the end of the regulatory period covered by the WLA QoS Statement, whichever is later.

Openreach considers that there are good grounds for Ofcom to grant the waivers requested, in particular given that the capability will be of benefit to end customers and CPs and will support the wider push to move end customers to higher quality / higher speed broadband connections, with minimal disruption.

¹ Openreach customer briefing NGA030/19 refers. This followed approval to commence a trial being granted at the Openreach Commercial Policy and Pricing Board on 26 September 2019.

² https://www.ofcom.org.uk/data/assets/pdf_file/0007/112210/statement-qos-wlr-mpf-gea2.pdf

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If the waiver from the FAD QoS Standard was not granted, this could either unfairly reduce Openreach's reported performance against the measure, or, in a worst-case scenario, lead to compliance failures. Neither of these outcomes is acceptable to Openreach, and hence regulatory waivers are required at the outset of the capability.

Description of the capability

The Bulk Grouping capability has been developed to assist CPs who wish to move their end customers from slower (ADSL based) broadband to super-fast broadband services. The capability will batch up multiple same-CP end customer orders at a cabinet level, and the consequential engineering efficiencies (in terms of time and cost) enable Openreach to offer CPs a lower cost solution than is available using the alternative singleton provision process. For example, in the trial that has been launched, a discount of £11 per installation is being offered via the capability.

The capability is being developed to meet the following 'ask' from CPs:

- Need to move end customers with the lowest speed broadband to faster services;
- Lower cost of connection to GEA platforms;
- Improved ability to migrate groups of end customers across platforms; and
- Simple design and re-use of existing processes to avoid the need for systems development (with the consequential time and cost implications).

Operational implications

Because this is a provision activity requiring engineering resources to be booked in advance at a cabinet level, it is important that the launch of this capability, which may be used in high volumes in future, is (i) set up in such a way so as to ensure that it is delivered effectively and to high standards and (ii) does not negatively impact business as usual ('BAU') provision work that requires engineering resources to undertake activities in the Openreach network or end customer environments. To cater for these requirements, the proposal for this capability is to schedule the engineering appointments between working days 14 and 24, i.e. beyond the current FAD QoS Standard of 12 working days (moving to 10 working days in compliance year 2020/21). If we didn't do this, objectives (i) and (ii) above would be undermined.

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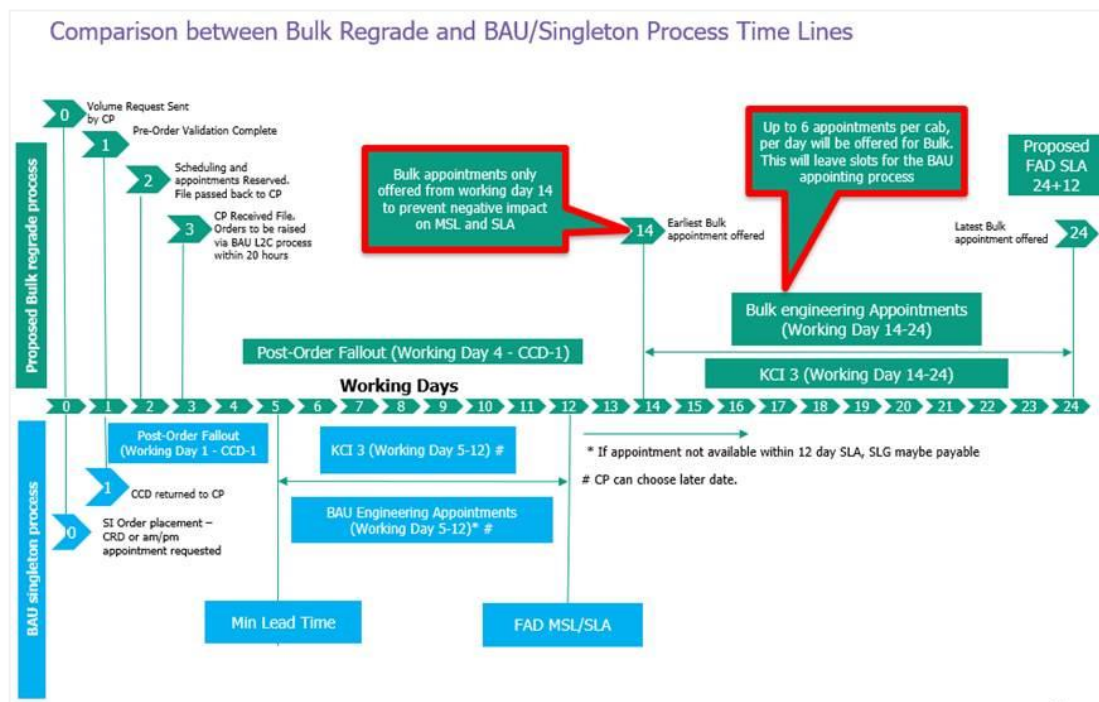
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A comparison between the Bulk Grouping and singleton provision processes and timelines is set out in figure 1 below.

Figure 1 – comparison of bulk and singleton processes



Customers

The service will be available to all CPs who wish to upgrade their own ADSL-based end customers in bulk to higher speed broadband services on the Openreach network.

Openreach has been working closely with CPs since October 2018, including via bi-lateral and multi-lateral industry sessions³ to ensure that the capability will meet their requirements. Openreach will continue to engage as appropriate with CPs via these sessions.

Based on discussions to date, where the general industry response has been positive, we are expecting that the capability will be used from the trial stage, with volumes building over time.

Because the installation work takes place in the Openreach network, our expectation is that jobs using the capability will not have a significant impact on the end customer, other than the positive result of an improved broadband experience.

³ For example, the Copper and Fibre Products Commercial Group.

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Capability scope and timetable

As noted, the current plan is to launch the capability as a trial from 28 October 2019. The trial will run for a minimum of 1 month, with the capability moving from trial to full launch subject to certain quality gates being met⁴. The current plan is to launch same CP, PCP-only migrations from either WLR + SMPF or MPF to FTTC from trial launch, with SOGEA scheduled to be supported from the delivery of Release 4200 during November 2019.

Implications for the FAD QoS Standard

The FAD QoS Standard (as set out in the WLA QoS Statement Legal Instruments) covers MPF, WLR and FTTC combined, applies to 10 separate geographic regions across the UK and stipulates that:

- In 2019/20 89% of installation appointment dates (i.e. those requiring an engineering appointment) must be offered within 12 working days or less of a corresponding order being placed on EMP; and
- In 2020/21 89% of installation appointment dates must be offered within 10 working days or less of a corresponding order being placed on EMP.

Because, as described above, we are proposing to schedule Bulk Grouping engineering appointments later than working day 12 (and later than working day 10 in 2020/21), and because orders placed via the capability will be captured by the scope of the FAD QoS Standard, our concern is that, in the absence of a waiver, this will mean that all individual connections that are delivered via the capability will be counted as 'failures' against the FAD QoS Standard.

Early scenario modelling suggests that relatively modest volumes through the capability would lead to a degradation of FAD QoS Standard results during the 2019/20 compliance period, with a risk of failure against the FAD QoS Standard emerging in the 2020/21 compliance period, during which the FAD SLA tightens from 12 to 10 working days. Neither of these outcomes are acceptable or appropriate.

⁴ The quality gates include systems and process quality and testing the capability to schedule appointments at scale.

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Openreach's request

Launching the capability will have positive impacts for end customers by enabling CPs to utilise lower cost means to move those customers onto better quality, higher speed broadband in a non-disruptive manner.

Openreach does not consider that the design of the FAD QoS Standard envisaged this type of scenario when it was imposed in the WLA QoS Statement, and so has not been designed to cater for this type of situation. Notwithstanding this, as noted above, orders placed using the capability are likely to be captured by the Legal Instrument for the FAD QoS Standard, hence this waiver request.

Granting such a waiver for orders placed using the Bulk Grouping provision capability will not in any way dilute or undermine the wider intent of the FAD QoS Standard, quite the opposite.

We believe that it is objectively justifiable and proportionate for Ofcom to grant a waiver such that orders placed using the capability can be excluded from the FAD QoS Standard compliance assessment (i.e. they would simply be removed from the calculation). This is required to prevent either: (a) significant artificial 'deterioration' against the QoS Standard – which would distort the measure and be inherently unfair, undesirable and potentially damaging to Openreach's reputation, or worse (b) a technical failure against a QoS Standard (which has been made under an SMP condition), with the potentially negative impacts that could entail.

Openreach therefore requests that Ofcom grants a waiver for all connections provided via the Bulk Grouping capability from the FAD QoS Standard. Given we are proposing to run this capability for the foreseeable future, Openreach requests that the waiver covers the period from the launch of the capability to the end of March 2021 or the end of the regulatory period covered by the WLA QoS Statement, whichever is later⁵.

Openreach also requests waivers in relation to certain GEA-FTTC KPIs, specifically: KPI (1) – Percentage first available date appointment availability (for GEA-FTTC only), KPI (4) – Average first available appointment date (FTTC only), and KPI (7) – Average installation time, appointed orders (again, for FTTC only). We consider that removing Bulk Group orders from these KPIs will help to prevent certain KPIs from being skewed by those orders and will prevent the FAD QoS Standard and certain KPIs getting out of alignment⁶.

Openreach has developed a capability to track at an order level all transactions that will be ordered via the Bulk Grouping capability. This will enable us to ensure with precision that only relevant orders are removed from the FAD QoS Standard and relevant KPI calculations. Openreach suggests the addition of the following (or similar) wording into the relevant

⁵ Openreach understands that, in circumstances where the Fixed Telecom Market Review did not come into effect on 1 April 2021, the current design of the WLA QoS Statement would mean that the QoS Standards in place for the 2020/21 compliance period would remain in force.

⁶ Unlike the FAD QoS Standard, the relevant KPIs are split by product (GEA-FTTC etc). We are requesting waivers solely for the GEA-FTTC KPIs because migrations to FTTC and SOGEA will be picked up in the GEA-FTTC KPIs.

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legal instrument text⁷: “*This obligation excludes all GEA-FTTC orders submitted via the Openreach ‘Bulk Grouping’ provision process*”.

For orders that are placed via the capability, Openreach will continue to aim to ensure that it delivers those orders to high standards of service, both for provision and repair. If helpful, Openreach would be prepared to submit to Ofcom, on a voluntary basis, regular KPIs for orders placed via the capability⁸.

Openreach is content for this letter to be published by Ofcom as part of any public consultation process undertaken in connection with this matter.

Yours sincerely,

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⁷ Quality of Service for WLR, MPF and GEA statement, annex A4, direction 1, quality of service standard 1.

⁸ This could be, for example, monthly reports for KPI (4).

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