VIRGIN MEDIA'S RESPONSE TO OFCOM'S FIXED NARROWBAND MARKET REVIEW AND NETWORK CHARGE CONTOL CALL FOR INPUTS

Introduction

Virgin Media is pleased to respond to Ofcom's Call for Inputs (CFI) in relation to its forthcoming review of the Fixed Narrowband Markets and Network Charge Control. We set out below some general comments on the forthcoming review and our views on the specific questions raised by Ofcom.

We continue to believe that the review of the Fixed Narrowband Markets is a critical activity which will have material consequences for those affected by it. Despite the continued decline in fixed voice volumes, voice services continue to generate significant revenues (and indeed costs) for CPs. The wholesale regulatory framework that supports these services needs to operate in a predictable, transparent and responsive way. Such clarity and consistency are critical if network operators are to embark on the kind of long term infrastructure investment and technology/service evolution to which Ofcom aspires – and which will ultimately deliver benefits in terms of innovation and price competition for consumers.

Although the number of regulated markets in this review is less than considered under the previous review (some markets, especially at the retail level having been found competitive, and Ofcom's decision to review exchange line services markets under a separate access review), the picture has arguably become more complicated since 2009. Narrowband products are becoming increasingly linked with products in other retail markets through the use of bundling.

As such it is imperative that Ofcom adopts the correct approach to regulation of the Narrowband Markets. In its CFI, Ofcom suggests that there may be significant changes to the approach that it has hitherto taken. In particular, Ofcom suggest that a new modeling approach to the Network Charge Controls will be undertaken in this review. The presentation to UKCTA indicated that an interim consultation on modeling approach would take place in September of this year. Virgin Media is keen to work with Ofcom in understanding any proposed change to the basis of regulation, but is concerned that Ofcom must consider all options available to it, including a retention of the currently applied approach.

Virgin Media is also concerned over the reliance upon other proposed regulation as a basis for making regulatory decisions. In particular, Ofcom's Simplifying non-geographic number project is only in its consultation phase for main proposals, some of which are controversial and will be the subject of significant comment. In short, both the timing and output of this project are unclear.

We hope our comments in this response are useful and informative, and would welcome the opportunity to further discuss our views with Ofcom on any issue discussed.

Response to Specific Questions

Question 1: What are the main issues we should examine in this market review?

Virgin Media considers that it is appropriate to review the origination, transit and termination narrowband markets at wholesale level. In doing this it is also important to consider the corresponding retail markets, and in doing, so consider the effects of the 2009 retail deregulation.

Virgin Media considers that Ofcom should take this opportunity to review the market for non-geographic termination services alongside its proposed review of the market for geographic termination.

There is currently a regulatory asymmetry between the treatment of termination of wholesale geographic and non-geographic calls in the UK. Geographic termination is regulated with all terminating CPs designated as having SMP, whereas non-geographic termination is not regulated, the only review of the market having been abandoned at the consultation stage in 2004 and never completed.

This asymmetry has come into sharper focus since the last narrowband market review, when Ofcom maintained its split definition between the geographic and non-geographic wholesale termination markets. Since that time BT has progressively increased non-geographic termination charges through a series of NCCNs introducing ladder pricing, which has created turmoil in the market through the bringing of multiple disputes from 2009 onwards. None of these disputes have provided any regulatory certainty, with all dispute determinations having been appealed, and no appeal having been finally concluded. The introduction of ladder pricing has demonstrated that BT can unilaterally impose a pricing structure for non-geographic termination. Additionally, the lack of certainty over whether these rates are acceptable in the absence of ex ante regulation is substantially affecting the functioning of this market to the detriment of other communication providers and ultimately end users.

The Commission still regards wholesale termination as a market susceptible to ex ante regulation, it appears as market 3 in its Recommendation on relevant product and service markets ('the Recommendation'), and it is significant that there is no distinction between the termination of geographic and non-geographic calls. The Recommendation is clear that “national regulatory authorities should analyse the product and service markets identified in the Annex”. Ofcom have failed to undertake any analysis of this market, and therefore have not followed the Recommendation. NRAs are required to take utmost account of the Recommendation, and at the very least Ofcom is obliged to set out full reasons as to why it has chosen to adopt a

different course to that set out in the Recommendation. From the failure in 2004 to conclude their first market review, Ofcom have failed to do this, and as such there appears to be this is a procedural failing in this regard.
Virgin Media remains fully engaged with Ofcom's current Simplifying Non-Geographic Numbers review, which seeks to review NTS services as a whole. However, as Ofcom is at pains to point out, this on-going review is not a competition based assessment of a market (and certainly not the non-geographic wholesale termination market), and as such, whilst there is some overlap, its aims and objectives are wholly different to the function of a market review. Additionally, the timing of the Simplifying Non-Geographic Numbers review is such that any implementation of proposals are likely to be at the end of the proposed forward look period for this Market Review, even assuming the currently proposed timetable holds.

Virgin Media believes that there is a need to undertake a review of the wholesale non-geographic termination market and that this should form part of the forthcoming narrowband market review. Such a review is required to comply with Community obligations derived from the Recommendation and to address the increasing problems that exist and are continuing to develop within this market.

Further, the NTS Review is far from complete, and a number of sub-consultations are due to be published before any decision is made on regulation to be imposed. Given the breadth of the markets under review and complexity of the issues, it would be reasonable to assume that any final decision will not be reached before well into 2013. Assuming the proposal for an 18 month implementation period is then confirmed, any regulation would then not come into effect until 2015. The three year forward look period of this market review, therefore, will look at the market absent any new NTS regulation flowing out of the NTS Review. Any regulation that may be imposed will be for a minority of the review period, and as it is still subject to consultation, will be subject to change. In short, the current proposals within the NTS Review should not be afforded any significant weight when Ofcom considers how the ST market will evolve during the forward look period of this review.

Question 2: Are there particular problems or issues in these markets that this review should address? Where you identify a problem, please explain why you believe regulation to be an appropriate response?

We consider that there are particular issues within the non-geographic termination market, as discussed in our response to Q1 above.

Section 3: Retail Markets

Question 3: What are your views on the current state of competition in the market for retail narrowband services in the United Kingdom (excluding the Hull area)? How do you think this might change over the next 3 to 4 years?

Retail competition has continued to develop in the period from the last market review when the SMP designation was removed from BT. BT Retail is continuing to lose market share as predicted by Ofcom, and LLU operators continue to expand their footprint. However, as BT's investment in FTTC/FTTP grows, it is able to seek additional wholesale revenue from LLU operators wishing to offer superfast broadband propositions. Although broadband products are in a different market to narrowband, the increase in importance of bundles and "triple play" means that consumers are increasingly likely to require a superfast broadband connection in conjunction with any narrowband telephony product as part of that package.

Virgin Media would also comment that although alternative technologies were discussed by Ofcom in the last market review (such as VoIP products), they have not had a dramatic impact since then. Whilst there remains potential for these products to increase, the reliance upon traditional services, coupled with the increasing importance of broadband connections mean that competition from such products may still be limited during the forward look period. An example of this is Tesco's decision to pull out of offering a VoIP/WiFi service, and concentrate on promoting its MVNO business. Similarly, although Skype remains a well used application for PC to PC communication, it does not appear to have gained ground as a substitute to traditional fixed or mobile calls (Ofcom's comment that 1 in 5 adults have used VoIP, includes usage on a PC to PC basis).

Virgin Media notes that fixed voice calls are declining generally, reflecting a general decline in voice traffic and some substitution to mobiles. However, the increased prevalence of inclusive call bundles means that actual call minutes within "inclusive periods" are now less relevant in terms of generating revenue.

Question 4: What are your views on the state of retail competition in the market for retail narrowband services in Northern Ireland?

Virgin Media notes that Ofcom found that although the competitive conditions perhaps lagged behind the UK, in general terms there was no reason to define a separate geographic market for NI. Virgin Media considers that, in the event, that Ofcom considers that deregulation is appropriate (either entirely by a finding that a relevant wholesale market is effectively competitive, or partially, by the reduction of remedies), a closer review of NI will be required to determine if there are significant differences in competition, that would require a different geographic market to be defined.

Question 5: What are your views on the state of retail competition in the Hull area?

Virgin Media has no comment to make in response to this question.

Section 4: Wholesale Markets Definition and SMP

Question 6: To what extent have changes in wholesale charges (such as for wholesale call origination and termination) affected the pricing of retail services, including line rental charges, number of bundled minutes, bundle composition and call prices? Please distinguish between residential and business packages where appropriate.

Although BT wholesale prices for origination and termination have risen in line with the RPI+X charge controls imposed in 2009, it is difficult to assess the extent to which wholesale charge increases have fed into retail pricing. This is in part due to the increasing sophistication of retail bundles which contain products that encompass multiple markets. A triple play contract will include products from fixed narrowband, broadband and television markets with monthly pricing based upon the combination of all products. As Ofcom noted prices for the 'basket' of residential fixed services have been falling in real terms. Whilst some stand alone retail prices, such as line rental, have recently increased, this also has to be viewed in the context of a basket of services, and the increasing inclusion of inclusive call minutes within rental costs.

Question 7: Do you consider there has been a sufficient increase in the competitive constraint from mobile and/or VoIP on wholesale call origination since the last market review such that they should now be included in the same relevant market? Please distinguish between the direct and indirect constraints from each where appropriate.

Whilst Virgin Media notes that fixed call volumes continue to fall and mobile call volumes are growing. There continue to be differences between fixed and mobile calls, notably in relation to the pricing of NTS calls, international calls, and calls to DQ. Therefore, in considering this issue Ofcom needs to take account of the fact that fixed and mobile calls are not perfect substitutes.

Question 8: As the deployment of LLU has increased, should services provided over LLU be considered in the same relevant market as wholesale fixed call origination services provided by BT?

Virgin Media does not consider that LLU should be considered in the same retail market as wholesale fixed call origination. BT is the supplier of wholesale origination, and supplies products to other CPs including Virgin Media. LLU operators remain heavily focused on the retail space, with only limited wholesale offerings available. Therefore, there remains only a limited constraint on BT's wholesale origination services from LLU.

In addition, BT is now heavily investing in FTTC/FTTP upgrades to its network. LLU operators are therefore having to make additional investment within their existing footprints in order to access fibre upgrades in order to offer their own superfast broadband products. This emphasis may mean that investment in LLU is diverted from expanding footprint, to upgrading existing infrastructure, thus slowing any further development. Additionally, access to superfast broadband is a potential constraint on the fixed access market. If a two tier LLU market is created, then this may reduce competition in the space, especially if superfast broadband becomes a must have amongst connected consumers.

If LLU was considered to be in the same market, and that resulted in a finding that no CP held SMP in that market, BT would, practically speaking, remain as the main source of wholesale origination for non-LLU operators which could have significant effects on competition at the wholesale and retail levels.

Question 9: To what extent do you think that competitive conditions vary materially in different areas, or is fixed call origination subject to broadly similar competitive conditions across the country?

It is important for major CPs (like Virgin Media) to have a national offering, so all major players aside from BT offer on-net and off net propositions to enable national coverage. Even with the increase in LLU take up, and rising cable spend the overall footprint of cabled / LLU areas remains limited by economic considerations, and the importance of BT's service supplied within the wholesale call origination market remains. A fragmented approach to regulation in the wholesale market for voice will greatly undermine consumer choice and harm the development of the market as the ability of key suppliers will be impaired. Ofcom should be very cautious about making any comparisons with the WBA market as the realities of the narrowband market are different. As discussed in our response to Q6 above, bundled products are playing an increasingly important part of retail offerings. However, there remains (and will be likely to remain for the period covered by this review) a large number of consumers who buy their services separately, which often results in them having access to a smaller range of suppliers. If the market were to fragment, it may mean that many suppliers would either choose to exit it entirely, or only service specific geographies, harming the interest of consumers in the long run.

Question 10: To what extent do you think there has been a material change in competitive conditions that would impact our SMP analysis for wholesale call origination on fixed networks?

See response to Q8

Question 11: Do you consider that individual CP's number ranges are a relevant factor in defining the relevant market in fixed call termination?

The increase in IP technology may support a move to a number range based market definition similar to that adopted in the MCT review. Virgin Media considers that providers using new technologies should be subject to the same level of regulation as those CPs operating a more traditional access network in order that a level playing field is maintained across the market.

Question 12: Do you consider that there have been any changes in the markets for fixed call termination that would be relevant in our assessment of SMP in these markets?

Please see our response to Q1 in relation to non-geographic call termination.

Question 13: Does the deployment of NGNs by a number of CPs change the way we might define the markets of wholesale call origination and termination? For example, should the definition of these markets take into account the reduced number of points of interconnection that would exist in an NGN?

In the last market review, wholesale origination and termination markets were defined on a technology neutral basis to reflect that market boundary occurred at the first point of interconnect, allowing for a degree of flexibility in network architecture between TDM and NGN based networks. Networks in the UK are continuing to evolve at varying rates, and Virgin Media considers that it is likely for the forward look period of this review that both TDM and NGN networks will continue to co-exist and therefore the previous market definition would appear to remain appropriate.

Question 14: To what extent has competition in the Single Transit market changed since the 2009 Review?

A key concern identified in the last review was the existence of "thin" routes where there was little competition and little prospect of competition. This concern remains, as it was identified in 2009. An additional concern in 2009 related to bundling ST into other products, specifically, NTS and Number Portability traffic.

NTS traffic

The last review noted that the issue may be resolved under the forthcoming review of non-geographic services ("the NTS review"). That review is on going, Ofcom are currently consulting on certain proposals. The current proposals could increase the problem identified in 2009, given that the point of hand over incentives would operate on an increase number of ranges.

Although the likely implementation of proposals under the NTS review are likely to be towards the end of the forward look period for this review, a situation where the competitive conditions within the market deteriorate would be a clear indicator that regulation should not be reduced.

Number Portability
The Single Tandem transit charge is one of the elements used to calculate the APCC and is therefore an unavoidable cost when a CP ports a number. A recipient operator has no way of avoiding this charge even if they interconnected directly with originating operator because of the way in which number portability currently works in the UK. The originating operator would always need to route the call to BT in line with the number portability routing rules. In this context, it is a fallacy to argue that single transit is a cost that can be avoided through direct interconnection. The recipient operator does not have this option.

Ofcom has previously argued that the APCC is regulated separately through GC18. Whilst GC18 requires the APCC to be fair and reasonable deregulation of ST would give BT freedom to increase its charges without any external insight as to the justification for such increase. The APCC calculation itself is already somewhat shrouded in mystery and seems to change regularly which denies operators regulatory and commercial certainty in trying to make these call scenarios as efficient as possible. Therefore if deregulation of ST impacted on the level of the APCC, it would most likely result in a dispute that could have been avoided by the maintenance of required and appropriate ex ante controls.

It has also been suggested that the three criteria test may not be satisfied in relation to the ST market (as currently defined) and the EC has recently taken a hard line against NRAs defining non-Recommendation markets. Virgin Media notes that the three criteria test was extensively considered on the last review, and given the nature of the decision to re-consult on the ST market (from a proposal to de-regulate the transit market as a whole to a finding of SMP in the ST market) it received particular comment and scrutiny from the EC. Therefore, the tests have already been shown to be justified on the basis of, for example, thin routes / NTS call matters. Where those problems endure, then the same logic applied to the three criteria test (by both Ofcom and reviewed by the EC) in 2009 will apply on this review, and the market, as defined, would prima facie meet the tests.

Question 15: Do you think that conditions in the LTC/LTT market have changed materially since the 2009 Review? Please explain why.

Virgin Media has no comment at this time

Section 5: Non-Price Remedies

Question 16: What general non-price remedies do you consider appropriate and proportionate to address an SMP finding (for the services covered by this review, including in Hull)? Please give your reasons.

The current suite of non-price remedies appear appropriate, and would retain consistency of regulation between markets. Where it is necessary to deviate from the application of the full suite (for example in the last review, only a limited number of remedies were applied to the ST market due to its particular characteristics), full reasoning will need to be provided in the consultation in order that stakeholders understand the rationale and approach proposed by Ofcom and have an appropriate opportunity to comment on them.

Question 17: Where there is SMP, what do you consider to be an appropriate notice period for the services covered by this review?

End Users generally demand 30 days notice – or one calendar month. This appears to be an entrenched period across a number of different regulated sectors.

It is reasonable to assume that the supply chain itself needs more notice than this (a supply chain which can be as long as Lead Network, Reseller, Dealer and sub-Dealer in extremis). BT currently only gives 28 days notice on products that are unregulated or deregulated. Other CPs are required to give them 56 days notice under the Standard Interconnect Agreement. BT is currently required to give 90 days notice for products (origination / termination) under the Network Charge Control.

The majority of the industry (including UKCTA members and BT) are apparently aligned on a reciprocal 56 day notice, with a view to seeking that BT will agree to amend the appropriate clauses and schedules of the SIA to reflect 56 days notice.

If this agreement is made, then it would be appropriate for Ofcom to review notice periods in this light. Virgin Media still considers that a regulated backstop notice period is required to be set as an SMP condition where BT is found to hold SMP and therefore can act unilaterally in setting notice periods. A finding of SMP would imply that BT could seek to adjust the terms of any agreement, and therefore if regulation was aligned at 56 days, this would eliminate or reduce this incentive. Therefore, in those circumstances Virgin Media suggests that a reduction of the current 90 notice period to a 56 day notice period, in line with industry agreement would be appropriate. As a necessary safeguard remedy, it would remain proportionate as there would be no additional cost of compliance on BT, but it would provide certainty to the remainder of industry.

Currently, there remains an administrative problem, regarding the need to turn around individual CP price change notices to BT that are dependent upon their own price changes (e.g. the Benchmark Fixed Termination Rate, or keeping 056 LIECS pricing aligned to Geographic as is the convention some follow) but these are far from insurmountable and it is our understanding that BT has committed to work with industry to resolve these hurdles. However, all of our comments suggesting that consideration of a reduction in BT's notice period obligations may be appropriate remain dependent upon solutions being found to outstanding issues, and in particular around the timing of CP-initiated OCCNs.

Finally, we must stress that other reviewed markets have completely different consumer dynamics, therefore this comment regarding acceptable notice periods is restricted wholly to this Narrowband market only.

Question 18: Were we to find that BT has SMP in wholesale call origination, do you consider that CPS and IA remain appropriate remedies?

Virgin Media currently uses BT's CPS product as part of its National (off-net) offering, The use of BT inputs, (including CPS) to supplement, in our case a cable-based network, and the case of other CPs, operating an unbundled network, remains an essential element of offering a UK wide service and ensuring a competitive retail market across the country. Additionally, smaller CPs are likely to continue to rely on these products to provide their entire service offering.

Although these services are declining in the face of increasing use of unbundling, and the offer of other wholesale products from BT, they remain an important part of the driver for the competitive retail market; Ofcom should not remove regulation that is still effective in supporting the competitive retail environment. It is also of note that, given that CPS is an established product and there is now no mandated functional specification, it is a low impact remedy on BT and it is likely to be proportionate to maintain it even if its reach has reduced from the last market review.

Question 19: If we find that BT has SMP in wholesale call origination, do you consider that specific remedies are required for NTS call origination?

Virgin Media considers that there remains a requirement to impose the NTS Call Origination Condition in a similar form to the condition that is currently in place. In making a finding of SMP, BT has an ability to act unilaterally in the market and restrict pass through of retail revenues for NTS calls it wholesales on its network.

It should also be noted that, although the current NTS Review is proposing to regulate NTS pricing by defining regulated Access and Service Charges, there is likely to be little overlap between such regulation being imposed under that review and the forward look period of this review. In particular, if the current proposal for an 18 month implantation period is maintained, and assuming that any regulatory statement in the NTS Review is not made until 2013, then the imposition of the proposed regime is not likely to occur until

2015 at the earliest. There are also a number of uncertainties associated with the proposals set out in the NTS Review consultation which means that it is not unreasonable to assume that the timescale may be subject to slippage. Furthermore, the regulation being imposed under the NTS Review is not designed to replace the NTS Call Origination Condition, which is a competition based remedy. The NTS Review is not, as Ofcom emphasise, a competition assessment of the call origination market and therefore any remedies that result from it are separate from those remedies imposed to address a finding of SMP. That being the case, Virgin Media submits that no weight should be placed upon the NTS Review proposals in determining whether the NTS Call Origination Condition should be re-imposed. In particular, Ofcom should not be tempted to impose a sunset clause upon an SMP condition contingent upon possible consumer driven NTS regulation that does not seek to address competition issues.

Question 20: Should operators of TDM networks be required to provide an IP Interconnection service?

Virgin Media considers that operators of TDM networks should not be required to provide an IP Interconnection service. We do not consider that this would be a proportionate obligation as it would discriminate against more established networks, where there is a necessity to rely upon TDM technology pending any move to IP, in favour of newer operators who have been able to invest directly in the new technology.

Question 21: If so, at how many points of interconnection should this be provided and how would this relate to the currently defined wholesale markets?

N/A – see Q20

Question 22: If not, what should be the arrangements for interconnection between IP and TDM networks and associated charges?

Given that IP and TDM networks will continue to co-exist, and remain important during the forward look of this market review, Virgin Media considers that the status quo should be maintained.

Section 6: Pricing Remedies

Question 23: If we find that BT has SMP in wholesale call origination, which, if any, pricing remedy do you believe would be appropriate to address such SMP? Please explain why.

Virgin Media considers that a price control remedy is still justified in this market, BT is likely to retain considerable market share in a market that has been identified by the EC in their Recommendation on markets, as a market that can be characterised as a bottleneck. Virgin Media already cautions against overreliance upon the significance of LLU unbundling, and to de-regulate to the extent of removing price control remedies completely would be failing to address the very real risk that BT could act to create a price distortion within the market. Virgin Media considers that BT should remain subject to an RPI-X price control, as this will continue to ensure a cost based service is available to its customers. The burden of compliance will be relatively low as BT already have systems to comply and are well used to this being a regulated service. An RPI-X control also provides certainty for industry and has worked well in this market.

Question 24: If a charge control remedy is appropriate for call termination, do you agree that we should follow the 2009 EC Recommendation and cap FTRs at pure LRIC?

Whilst the EC Recommendation is clear as to the use of pure LRIC, Virgin Media believes that the current approach to setting of termination rates on an FAC CCA basis continues to have merit. FAC CCA allows for more reliable numbers than BT's LRIC data which has been the subject of question in a number of markets recently. Therefore, although Ofcom has a duty to take utmost account of the Recommendation, it is important that a full review of the relative benefits of different methodologies be undertaken. A duty to take account is not a duty to accept,

Question 25: The 2009 EC Recommendation states that the core network cost model "could in principle be Next Generation Network (NGN)-based". Do you consider this to be an appropriate approach to cost modeling for this review?

See response to Q26

Question 26: What in your view would be the best way to calibrate such a model, given that BT does not yet operate a national NGN?

Virgin Media considers that there may be a practical difficulty in accurately modeling a national NGN network. No CP other than BT operates a national network, and BT's network is not NGN based. Ofcom should consider the modeling approach that best reflects the UK market and therefore should not automatically seek to adopt an NGN based model simply on the basis of the Recommendation.

Question 27: The 2009 EC Recommendation recommends the use of economic depreciation "wherever feasible". Do you consider this to be an appropriate approach to cost modeling for this review?

Virgin Media does not have any comment on this particular issue at present but, as discussed above, the modeling approach as a whole needs to be carefully considered.

Question 28: With termination rates set on the basis of pure LRIC, from which other services should common costs previously recovered from fixed call termination now be recovered?

Virgin Media consider that it may be appropriate that the excluded common costs of fixed termination could be recovered from other regulated services, which would allow transparency as to where efficiently incurred costs (as assessed by Ofcom) were being recovered.

Question 29: How soon would stakeholders consider it appropriate and practicable for FTRs to be aligned to pure LRIC?

In the event that pure LRIC is held to be an appropriate standard, it would be vital that any change to termination rates to exclude common cost recovery be introduced in a manner that was least disruptive to industry, and a change from the current FAC CCA approach should be through the application of a glide path. The Recommendation included a timeline that NRAs implemented a compliant structure by the end of 2012. Clearly, Ofcom cannot align rates to their LRIC within that timeframe, however, Ofcom should not seek to align rates immediately on implementation of any new regime simply to remain as close to the 2012 date as possible. Ofcom decided in September 2009, some four months after the implementation of the Recommendation to set BT's termination rates with an allowance for common costs, knowing that the control would run until September 2013. Any decision now to adopt the pure LRIC approach advocated in the Recommendation, should not seek to penalise stakeholders by requiring excessive disruption to the market by immediate (full or partial) alignment. It was Ofcom's decision to choose not to implement an approach based upon the Recommendation in 2009 noting and relying upon the particular characteristics of the UK market. It would therefore, be inappropriate to base a decision solely upon a need to slavishly comply with the Recommendation; the concept of taking utmost account certainly does not require such an approach.

Question 30: Do you agree that we should follow the 2009 EC Recommendation and regulate the termination rates of all fixed CPs at a symmetric level?

Termination rates of fixed CPs are already regulated through the imposition of a fair and reasonable obligation. Ofcom has additionally, issued guidance on how it seeks to interpret fair and reasonable, which appears to be consistent with the intent of the Recommendation. To impose additional regulation would be unnecessary and disproportionate.

Question 31: Is it more appropriate to achieve symmetry of fixed termination rates by imposing a ‘fair and reasonable’ condition or a charge control on all providers with SMP in fixed call termination?

See answer to Q30

Question 32: Are different “time-of-day” rates likely to be important in setting efficient wholesale call rates for call termination and origination during the period from 2013-2016?

Virgin Media has no comment at this time

Question 33: Is there any reason not to adopt a maximum ceiling for regulated wholesale call conveyance rates – similar to our approach in the regulation of mobile call termination?

Virgin Media has no comment at this time

VIRGIN MEDIA
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