

Response from Zen Internet Limited

Additional comments:

Zen Internet welcomes Ofcom's review of the Business Connectivity Market. We feel this review is needed in order to ensure a fair and level playing field is provided to all CP's who like ourselves are focused on the provision of connectivity products and services which offer good value, service and reliability to customers in this sector.

What we need is full and easier access to the BT Exchange infrastructure and ducting in order that we can compete commercially and equally with the bigger market players and Ofcom should look at this area in their review.

Question 1: Do you agree with our approach to retail market definition and our proposed retail product market definition?:

We agree with bandwidth breaks as they reflect current market bandwidth demand. The approach seems logical with results taken from survey, CFI and EU responses as well as the last report from 2007/08.

Question 2: Do you agree with our approach to wholesale product market definition and our proposed wholesale product market definitions? In particular, do you agree with our proposal to define a Multiple Interface Symmetric Broadband Origination (MISBO) market?:

We agree to definition as its based on an approach and format used in question 1.

Regarding MISBO, we agree it's important to include Ethernet 1gb+ under the very high bandwidth classification as we are seeing steady growth in this area and expect this to continue growing as pricing reduces and the bandwidth explosion continues to grow with FTTx products.

Question 3: Do you agree with our approach to geographic market definition and our proposed geographic market definitions? In particular do you agree with our proposal to define a larger geographic market in London (the WECLA)?:

We agree with the criteria used for setting regions and involving carriers to understand their reach and footprint.

We agree to extension of WECLA given that there is now more than two providers in this region who can supply direct services to at least 50% of businesses and therefore better reflects the market competition.

Question 4: Do you agree with our approach to product and geographic market definition for wholesale trunk and do you agree with our proposed market definitions for wholesale trunk?:

Yes, agree to non classification of bandwidth as trunks are used to aggregate multiple end user services.

Question 5: Do you agree with our approach to SMP assessment?:

Agree with the criteria used to determine who has SMP given market share represents those with greatest customer base and economies of scale.

Question 6: Do you agree with our assessment of SMP for the retail low bandwidth TI market in the UK excluding the Hull area?:

Yes, agree to SMP assessment of BT given that they have 68% market share.

Agree also that little competition as other carriers focus on 10Mbps+ services now based on customer demand for higher levels of bandwidth combined with the decline of low bandwidth services such as PPC.

Question 7: Do you agree with our assessment of SMP for the wholesale TISBO markets in the UK excluding the Hull area?:

Agree to SMP assessment of BT given that they have 86% market share especially with the next largest share being only 3%. For the same reason we agree that this is very unlikely to change in the next 3 years.

Question 8: Do you agree with our assessment of SMP for the wholesale AISBO markets in the UK excluding the Hull area?:

Yes, BT with 67% share and Virgin with 26% BT have SMP.

Question 9: Do you agree with our assessment of SMP for the wholesale MISBO markets in the UK excluding the Hull area?:

Agree BT have SMP with 59% share, Virgin with only 9% means this is unlikely to change in next 3 years despite Virgin's aggressive pricing and with increased demand for higher bandwidth services.

Question 10: Do you agree with our assessment of SMP for the wholesale TI regional trunk market and the wholesale TI national trunk markets?:

Regional - Agree BT have SMP with a large 89% share

National- Agree to removal of an SMP with BT's drop to below 50% share as per your SMP criteria.

Question 11: Do you agree with our assessment of SMP for the retail low bandwidth TI market and the retail low bandwidth AI market in the Hull area?:

Agree that KComm have SMP with 67% share (TI) and 75% share (AI) respectively.

Question 12: Do you agree with our assessment of SMP for the wholesale TISBO and AISBO markets in the Hull area?:

Yes, KComm has SMP though we do have concerns to section 7.332 that Ofcom don't see any future investment in this area.

As bandwidth requirements grow there will be greater demand for TISBO and AISBO services of up to 1gb and if its a barrier to entry then this needs to be looked at in the interests of competition - The question that needs answered is, should any operator be allowed to have complete dominance and no competition in Hull?

Question 13: Do you agree with our approach to remedies and in particular our consideration of the case for imposing passive remedies?:

Agree that a regular review is required for competition purposes and in the interests of fairness as well as giving customers market choice.

The ability to buy from more than one supplier allows for greater competition and network resilience. Seems logical to use existing network and keep costs competitive as long as this is accessible to all CP's.

Question 14: Do you agree with the remedies that we propose for BT in the low bandwidth TI retail market in the UK excluding the Hull area?:

Agree but concerned by difference between BT's public commitment to give at least 3 years notice for withdrawal of low bandwidth services and their Ofcom commitment of only 1 year.

Is there scope for them to only give 1 year forcing all CP's to implement a migration of these services to an alternative service in a period of only 12 months?

Before withdrawing we believe its critical that customers have an alternative business connectivity service of similar availability and sla availability as a replacement.

Question 15: Do you agree with the remedies that we propose for BT in the wholesale TISBO markets in the UK excluding the Hull area and the wholesale TI regional trunk market?:

Agree with BT's obligations regarding price changes and supply of service.

Postive remedy allows CP's to access BT trunks at competitive price and on non discriminatory terms with the desired level of service quality.

Question 16: Do you agree with the remedies that we propose for BT in the wholesale AISBO markets in the UK excluding the Hull area?:

Agree, especially important on Ethernet products as these will dominate business connectivity for the years to come.

Question 17: Do you agree with the remedies that we propose for BT in the wholesale MISBO markets?:

Yes, agree charge control is good for customer choice and healthy competition.

Question 18: Do you agree with the remedies that we propose for KCOM in the retail TI and AI markets? In particular, do you agree with our proposal that KCOM should be required only to publish maximum prices and to be permitted to offer bespoke discounts?:

Very important Ofcom continue to benchmark KComms pricing against BT outside of Hull to mitigate risk of SMP excessive pricing.

Publication of a maximum charge and obligation for KComm to publish Reference Offer seems fair and one way of maintaining integrity.

Bespoke pricing in retail markets needs closely monitoring so that the wholesale channel can still buy a service and add their own costs+margin to offer customers an alternative service at a competitive price.

Question 19: Do you agree with the remedies that we propose for KCOM in the wholesale TISBO and AISBO markets? In particular, do you agree with our proposal that KCOM should be required only to publish maximum prices and to be permitted to offer bespoke discounts?:

Consideration for KComm to offer competitive wholesale pricing is needed for other CP's to offer competition by adding their own service value and offer choice to customers in this area.

Section 14.76 indicates the only way for other CP's to do this currently is to buy a KComm retail product variant at uncompetitive pricing that does not allow each CP to add their own costs and margin and prevents healthy competition.

Agree that bespoke pricing should be permitted but made available to all CP's at wholesale rates and needs closely monitoring by Ofcom by benchmarking with BT Wholesale pricing