

[X]
Executive Director for Strategy and Regulation
TalkTalk Telecom Group PLC
By email

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1 May 2020

Dear [X],

Wholesale fixed telecoms market review, consultation clarification

I refer to your emails to us of 16 and 20 April 2020.

You asked us to respond to five questions about our [Wholesale Fixed Telecoms Market Review 2021-26](#) consultation, which we published on 8 January 2020.

Question 1: Could Ofcom provide the estimate it used for non-BT MSN FTTP build from current and from April 2021 to March 2026 and, whether/how Ofcom validated the veracity or amended the numbers it received. Could Ofcom also clarify: the points in time that Tables 7.2 and 7.3 refer to; and, how much of the non-BT MSN build overlaps other non-BT MSN. Our forward-look of non-BT MSN FTTP build was based on operator build plans. We sent statutory information requests to network operators deploying MSNs asking for information on their forecast network coverage as at 31 March 2026 in as granular detail as possible. We requested that network operators exclude from this forecast any network coverage already reported to us for our Connected Nations Summer 2019 report.

However, the plans we received were at varying levels of detail, and in some cases did not identify the specific premises that would be included in future build. Our analysis focussed on postcode sectors covered, rather than total numbers of premises, and so we mapped these plans to postcode sectors. We set out in Section 7 of [Volume 2 \(Market assessment\)](#), and in detail in [Annex 8](#), the approach we took to map operators' build plans to postcode sectors and the methodology we used to determine whether we counted the operator as present in each postcode sector based on its existing and planned rollout.

Table 7.2 is a summary of existing MSN network presence, number of postcode sectors (pcs) and premises.¹ Our assessment of existing MSN network presence used information gathered for our Connected Nations Summer 2019 report on the level of network build across the UK. This was as at 1 May 2019, as noted in footnote 231.

¹ The number of premises shown in the middle column of Tables 7.2 and 7.3 are the total number of premises in the relevant postcode sectors.

Table 7.3 is a summary of existing plus planned MSN network presence, number of postcode sectors (pcs) and premises. It is therefore network coverage as at 1 May 2019 plus forecast plans up to 31 March 2026.

As regards the overlap of non-BT MSN builds, both Tables 7.2 and 7.3 show in how many postcode sectors there are zero, one or two or more non-BT MSNs with network coverage (50% or more) based on the analysis we have undertaken.

Question 2: Why is Ofcom including G.fast as well as FTTP in its definition of what constitutes a completed exchange? In particular given the objective of the copper retirement approach is to encourage FTTP build out and not G.fast, and the withdrawal of MPF/FTTC charge control only applies where FTTP is available (not where G.fast is available). Our definition of ultrafast is a service providing a download speed of 300 Mbit/s or above.

G.fast can support ultrafast services for some customers, which provide benefits to consumers as demand for data grows.

Where FTTP may not be possible, an ultrafast G.fast service may be an alternative to ensure consumers and businesses still benefit from an ultrafast service.

Openreach has provided ultrafast coverage with G.fast already. Excluding ultrafast G.fast services from 'complete' could result in those services being overbuilt, which would not support regulatory certainty and stability.

Our proposals on the application of the charge control under our copper retirement policy seek to ensure that consumers purchasing a 40Mbit/s service remain protected regardless of the underlying technology used to deliver their service. However, the proposed fibre premium only applies to the charge control for the 40Mbit/s service when provided over FTTP.

Where FTTP is not available at the property, and the copper based (FTTC) 40 Mbit/s service is provided only using G.fast, then the charge control for the 40Mbit/s service applies in relation to the G.fast connection. See Table 2.2, chapter 2, volume 3.

Question 3: Could Ofcom explain what "evidence" it refers to in Volume 3, paragraph 6.23, first sentence, and by how much it affects the business case for investment?

We are referring to the evidence we gathered for the 2018 WLA Statement, as well as more recent evidence gathered as part of the WFTMR. This evidence is summarised in the remainder of paragraph 6:23:

"Building a fibre network involves a significant amount of upfront investment, and there are economies of scope (and scale) in building a network to deliver both broadband and leased lines.¹²² Using the network to generate as many different revenue streams as possible will help de-risk and improve the commercial business case for investment. Requiring Openreach to offer dark fibre will undermine rival network operators' ability to do this."

As we note in footnote 122, the evidence that we gathered for the WLA Statement is set out in more detail there (Volume 3, paragraphs 2.129-2.140, and footnotes). The more recent evidence is confidential (e.g. business plans, internal documents).

As to how much it affects the business case, we have not sought to precisely quantify this. Some of the evidence is quantitative, but most is qualitative.

Question 4: Could Ofcom supply a summary of what the redacted information in Table A7.4 shows?

Table A7.4 shows the planned usage (forecast in June 2019) of PIA by four leased lines only networks including forecasts of the proportion of network route length in third party infrastructure as at March 2026. In common with Tables A7.2, A7.3 and A7.6 concerning planned usage of PIA by MSNs, broadband only networks and for core and backhaul, we have redacted information supplied to us marked as commercially confidential.

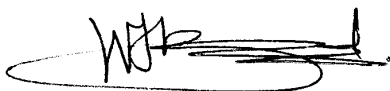
Our assessment of the prospects of rival build for leased line access, drawing on the redacted evidence in Table A7.4, is at paragraphs A7.36 to A7.41.

Question 5: There appears to be evidence that Ofcom relied on for the appeal² which it has not relied on for WFTMR. Could Ofcom clarify whether it is relying on this new evidence for WFTMR and, if so, provide this evidence so that all stakeholders can be aware of and comment on it.

The consultation sets out our proposed market definitions, SMP findings and remedies and the evidence we have used to support those proposals. Should we seek to rely on other evidence, we would consult on this evidence where we consider it is appropriate to do so.

We intend to publish this response on our website alongside other corrections and clarifications which we have made in respect of this consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'W Izzard', written over a horizontal line.

Warwick Izzard

² [Competition Appeal Tribunal, Case No: 1330/3/3/19, Judgment of 5 March 2020.](#)