

29 November 2022

Open letter to industry about concerns raised with Ofcom associated with Openreach's fibre build

In recent months, industry stakeholders have raised with us a number of concerns about Openreach's fibre build plans. These include concerns about its decisions to include certain exchange areas within their build plan, that 'overbuild' the networks of other providers, as well as concerns about the way in which Openreach has shared information on its broader build plans. While we have directly responded to stakeholders who raised those concerns, in the interests of transparency we are publishing this open letter to provide a summary of our recent work in this area and the approach that we take to these issues.

Concerns about anti-competitive 'overbuild'

We recognise that many Altnets have an objective to be the first fibre network provider to deploy in certain areas and, accordingly, to hold a first mover advantage. Openreach has, however, announced plans to deploy its fibre network to 25 million premises (approximately 80% of UK premises) by the end of 2026 and, beyond that, to fully retire its copper network. It is therefore likely that Openreach will, at some point, deploy fibre in many areas where Altnets have built, or are planning to build, their networks.

This is consistent with the strategy we implemented in the Wholesale Fixed Telecoms Market Review (WFTMR) which was intended to promote investment and competition. We wanted this to result in more network-based competition, including competitive overbuild in many parts of the UK.

However, in the WFTMR Statement we acknowledged the risk of Openreach strategically targeting areas where competing networks have built or plan to build to prevent network competitors' roll-out in wider areas.¹ It is in this context that we have considered concerns raised by stakeholders in relation to specific Openreach build decisions.

Ofcom's review of specific Openreach build decisions

Given the importance of this issue, we have engaged in considerable detail with Openreach to understand the circumstances associated with specific build decisions.

This has focused on understanding:

- (i) the operational factors that led to the timing of certain announcements;

¹ See paragraph 2.69 of Volume 3 (Non-pricing remedies) of the Wholesale Fixed Telecoms Market Review 2021-26 Statement.

- (ii) the process through which relevant exchange areas were selected and approved for build; and, as part of that
- (iii) the extent to which competitor presence was taken into account.

As part of this engagement, we have reviewed Openreach contemporaneous documents in relation to the selection of these exchange areas. Industry stakeholders will appreciate that this information remains confidential and that we are unable to publish further detail. However, we have seen no evidence to suggest Openreach has rolled out its fibre network to target or harm competitors, or that these build decisions were not commercially rational. The evidence we have seen shows that various factors have to date fed into Openreach's build decisions.

Ofcom will continue to monitor Openreach's build plans and decisions

Many stakeholders will be aware that Ofcom collects information on future deployment plans from a large number of network operators. We have today published this data in an anonymised and aggregated form.

As part of this, we have access to Openreach's more detailed confidential roll out plans. Our review described above has also given us an understanding of how Openreach selects build locations and the factors that feed into its build decisions. This information will enable us to monitor Openreach and to respond to any claims of anti-competitive behaviour. We will be able to identify situations where Openreach has adjusted its build plans, to engage with Openreach to understand the factors behind any such changes and to consider the extent to which these factors are consistent with Openreach's general approach to build selection or are otherwise commercially rationale.

Should industry stakeholders have any further concerns about any changes introduced by Openreach to its build plans, you should raise these with the Openreach Monitoring Unit (OMU) which has the function of monitoring the outcomes of the WFTMR.

Transparency of Openreach's FTTP build plan

Industry stakeholders have also expressed concerns with Openreach's current approach to communicating its FTTP build plan. Specifically, it is argued that the current approach lacks certainty by failing to set out whether Openreach intends to build to all, or only part, of a given exchange and by setting out unclear or overly long build windows. It is important that any information Openreach chooses to publish in relation to its build plans is clear and readily understandable.

Accordingly, we have engaged with Openreach to understand its plan to improve the way in which it publishes information on its build plans. Through these discussions, Openreach has set out a number of changes it intends to make to simplify and clarify the information, which we understand will be implemented shortly.

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