



INCA's response to Ofcom's consultation on Openreach Special Offers

August 2026

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1 Executive Summary

- 1 INCA welcomes Ofcom's comprehensive consultation on the full suite of offers notified by Openreach on and around 1st June 2026. It is important that the analysis and consultation for this group of offers is undertaken in a manner that recognises the inter-activity between the offers and their incremental as well as cumulative effects on ISP commercial incentives and specific price levels.
- 2 INCA welcomes Ofcom's explicit recognition that network competition remains relatively fragile and not at a stage of maturity of being able to compete with an unconstrained Openreach. INCA is, however, concerned that Ofcom's analysis and conclusion do not consistently reflect that reality.
- 3 With regards to Ofcom's provisional and final conclusions:
 - INCA strongly supports Ofcom's proposal that Openreach must withdraw the National New to Openreach (NTO) offer. INCA, however, considers that Ofcom has underestimated the impact of the conditionality elements of this offer and that the actual resulting price levels are lower than identified by Ofcom.
 - INCA is concerned that Ofcom has underestimated the impact of the VMO2 NTO offer and asks that Ofcom re-examine that offer in light of the analysis presented in this document. Ofcom fails to recognise the importance of the geographic nature of this offer AND the actual price levels resulting from the offer. The VMO2 NTO offer should be withdrawn, or, at a minimum, it should not be available alongside the Frontbook ARPU offer.
 - The Frontbook ARPU offer price levels, when adjusted for the methodological errors identified in this document, result in price levels below the REO cost low point and it should not be allowed to continue. At a minimum, if allowed to continue, it should be a stand-alone offer that cannot be 'stacked' with other offers covered in this consultation.
 - Ofcom's refusal to investigate potentially non-replicable pricing practices in the LLA market (relevant to the incremental Ethernet offer and the Ethernet Re-Sign offer), is inconsistent with its policy and its duties. The existing No Undue Discrimination (NUD) remedy applicable in the LLA markets gives Ofcom both the powers and the obligation to investigate the LLA market offers.
- 4 With regards to Ofcom's analysis, INCA has identified several areas of concern:
 - The five-year customer lifetime assumption is not supported by the evidence Ofcom presents. Ofcom cites inputs from ISPs which show shorter horizons, including one comparing net prices over two years. Ofcom acknowledges that a shorter assumption would reduce the estimated Openreach prices but has not quantified the effect or tested its conclusions against it.
 - The analysis tests the wrong price: Ofcom accepts that Altnets must price at a significant discount to Openreach in order to win and retain ISP customers, but then uses Openreach's price, rather than the price an Altnet must offer, to compare against

the REO cost. On a discount range of 15%-25% the price an Altnet must offer falls below the mid-point for every offer assessed.

- The connection charge used for the VMO2 NTO offer does not reflect that offer. In response to INCA's questions, Ofcom has disclosed that its assessment of the National NTO offer used a connection charge reflecting the orders to which that offer applies, whereas its assessment of the VMO2 NTO offer used a general national average price. Both are New to Openreach offers covering the same journey types, and INCA can identify no reason why an offer-specific charge was appropriate for one and not the other. Applied to the VMO2 NTO offer, that approach would produce a lower charge since the offer footprint lies within Area 2 and excludes the higher Area 3 charges which the national average includes.
- Ofcom's method cannot identify a connection price below zero. Because connection rebates are reflected as an adjustment to the REO cost range rather than as a reduction in price, a rebate which exceeds the connection charge produces a figure indistinguishable from any other adjustment of similar size. The result is that a price at which Openreach pays an ISP to take a customer registers only as a movement of pence in a monthly cost range. INCA submits that a negative connection price should be assessed as a distinct indicator under paragraph 4.35.
- Ofcom has assessed the VMO2 NTO offer only in isolation from the National NTO offer, on the basis of its provisional view that the latter will be withdrawn. The combined effect of the two offers has accordingly not been assessed, notwithstanding that both offers are intended to take effect on 1 October 2026 and that Openreach's own briefings confirm they combine.
- The Ethernet assessment measures Openreach against its own costs and sets aside its own adverse finding. In place of a replicability test, Ofcom compares the revenue generated by the offer against Openreach's fully allocated and incremental costs. Those are the costs of an established national network and are consistently below those faced by an operator which must build in order to compete. Even on that benchmark, Ofcom records that for some products the unit revenue falls below the unit fully allocated cost. It does not identify those products, the margin involved or the volumes affected and concludes that no further investigation is warranted.

5 Whilst INCA very much welcomes Ofcom's provisional decision to require that Openreach withdraw the National NTO offer, we have identified a number of strategic and systemic issues which characterise Ofcom's analysis in the consultation documents:

- It is INCA's view and widely acknowledged in the sector that this package offers is designed to test the boundaries of the TAR framework. It could therefore be expected that Openreach will continue to test those boundaries. This raises the specific concern that a replacement for the National NTO offer will likely be presented in the next 6-12 months. ISPs will likely be expecting this to happen and that very fact will cause inertia in the wholesale market and create barriers to switching for ISPs. Ofcom needs to clearly signal to Openreach that the creation of such expectations in the market is considered potentially anticompetitive behaviour in its own right.
- Ofcom considers short duration of some of the offers to be a mitigating factor against any potential harm to competition from those offers. This is set against the background of Openreach's clear track record of extending or renewing offers on a

consistent basis. INCA is concerned that piecemeal 'short duration' assessments cannot capture the true competitive impact of offers that are renewed or renewed with similar terms.

- Ofcom's analysis of the VMO2 NTO offers suggests that Ofcom considers that geographic offers should be analysed using the same framework as that applied to 'other commercial terms'. INCA is deeply concerned that the clear statements in the Telecoms Access Review (TAR) that geographic offers cause specific concern and should only be allowed where justifiable.
- Ofcom appears to consider it acceptable that Openreach offers 'rebates' that exceed the price paid by the ISP for the relevant service. Such payments are disguised cash inducements for ISPs to bring new connections to the Openreach network. INCA is deeply concerned that Ofcom has not identified this as a significant problem. Whilst cash incentives may be used as a legitimate market entry tool for Altnets, it is not a practice that can be condoned for a dominant incumbent like Openreach. INCA is deeply worried both at the impact of the cash inducements included in these offers and at the precedent Ofcom is setting by not identifying them as harmful to competition.

- 6 Ofcom has also requested that respondents submit initial comments on the offer notified by Openreach on 30th July, to extend the Equinox Offer Area to include new Openreach FTTP build beyond end of November 2026. INCA is concerned that, as set out in the relevant ACCN from Openreach, this offer would allow Openreach the discretion to add any geographic area to be covered by the Equinox pricing, potentially doing so selectively and thus using the flexibility built into this proposal to target locations where Openreach faces most competition. INCA urges Ofcom to consult separately on this offer to allow all stakeholders to gain a full understand of its potential consequences.
- 7 Ofcom's analysis is almost entirely devoted to the potential impact on the wholesale markets and to the decision-making of independent ISP. It is, however, essential that Ofcom recognise that vertically integrated Altnets would face very similar pressures as a consequence of the proposed offers due to their associated retail ISPs having to compete directly with the independent ISPs using the offers. INCA is pleased to see that Ofcom does recognise this issue but considers that Ofcom should include the impact on vertically integrated providers alongside those that offer separate wholesale services to independent ISPs.

2 About INCA

- 8 The Independent Networks Co-operative Association (INCA) is the leading UK trade association representing organisations that deploy and operate independent digital infrastructure. Founded in 2010, INCA promotes sustainable network competition, investment and innovation across full-fibre and high-quality wireless networks. The

members of the Independent Networks Cooperative Association (INCA) are supporting, planning, building and operating sustainable, independent and interconnected networks that advance the economic and social development of the communities they serve and permit the provision of applications and services through open competition, innovation and diversity. We are working together to create cohesive interconnected next generation networks.

3 Introduction

9 On 1st June 2026, Openreach notified a group of special offers, some scheduled to take effect after 30 days, others after 120 days, in accordance with the relevant regulatory requirements. The offers notified are:

- Frontbook ARPU – active from 1st July 2026
NGA2011/26 FTTP Frontbook ARPU share offer, described by Openreach as follows: “a non-conditional, nationwide Frontbook ARPU (Average Revenue Per User) share offer for FTTP that provides CPs with 100% ARPU share on eligible Frontbook volumes once a defined Frontbook ARPU threshold is exceeded, to be run during an offer window”.¹
- Box Swap - active from 1st July 2026
NGA2011/26 Box Swap offer, described by Openreach as follows: “a free 2.5G ONT Box Swap for FTTP orders where the end customer is moved to the 1.8G speed tier through a bandwidth regrade, applicable to orders placed from 1 July 2026 to 30 June 2027 (inclusive). End customers connected on the Openreach network with a 1G ONT will require an appointed order for the 1G ONT to be switched with a 2.5G ONT so the end customer can access the 1.8G speed”.²
- Extension of 550 offer - active from 1st October 2026
NGA2010/26 Extending Equinox 10Gb GEA Cablelink discount and 550Mb try-before-you-buy incentives, described by Openreach as follows: “Where CPs meet the Fibre Only Threshold, 550Mb New-to-Network rentals (normally £247.35/year) are available as per the 160Mb price (£215.32/year) for 12 months from the date of connection”.³
- National NTO offer - active from 1st October 2026
NGA2012/26 Incremental New to Openreach Customer Offer, described by Openreach as follows: “a nationwide special offer to orders that meet the definition of New to Network (NTN) (also including Subsequent Provide FTTP provision journeys) and would reward Communications Providers (CPs) only for delivery above a CP-specific baseline, using a tiered structure that combines a £35 connection rebate with a £9.50 monthly rental discount (applied only to bandwidths included in the Equinox offer). The duration of

¹ <https://www.openreach.co.uk/cportal/updates/briefings/ultrafast/nga201126>.

² NGA2011/26 briefing

³ <https://www.openreach.co.uk/cportal/updates/briefings/ultrafast/nga201026>.

the rental discount increases as incremental performance rises up the tiers. Orders need to complete in the offer period”.⁴

- VMO2 NTO offer - active from 1st October 2026
NGA2013/26 Incremental New to Openreach Customer Offer in VMO2 areas, described by Openreach as follows:
“a special offer that applies only in VMO2 areas as defined by postcodes supplied by Openreach based on public sources. The offer applies to orders that meet the definition of New to Network (NTN) (also including Subsequent Provide FTTP provision journeys) and would reward Communications Providers (CPs) only for delivery above a CP-specific baseline, with a £50 connection rebate (applied only to bandwidths included in the Equinox offer). Orders need to complete in the offer period”.⁵
- Incremental Ethernet offer - active from 1st October 2026
ETH022/26 Incremental Ethernet Net Demand Offer, described by Openreach as follows:
“a nationwide special offer to Ethernet orders that would reward Communications Providers (CPs) for delivery above a CP-specific baseline”.⁶ On 6 June, Openreach then notified a separate Ethernet up-to-1Gb re-sign offer, active from 6 July 2026; ETH024/26 Ethernet up to 1Gb re-sign offer, described by Openreach as follows:
“a 6 month offer from 7 July 2026 to 7 January 2027 that provides a rental discount to current Ethernet list prices and no CPI price rises for 3 or 5 years or for a 5 + 5 year term for EAD up to 1Gb new provides. The offer is available when a CP re-signs a circuit for a new 3, 5 or 5 + 5 year term”.⁷
- Finally, on 30th July, Openreach further notified an offer to extend the Equinox Offer Area
NGA2019/26 Expanding the Equinox Offer Area, described by Openreach as follows:
“extending the Equinox Offer Area so that eligible FTTP premises made RFS from the applicable effective date of the contract amendment up to and including 31 March 2027 will qualify for Equinox pricing on the same basis as premises already included within the Offer Area. The proposal only amends the definition of the Offer Area and all other Equinox terms remain in full force and effect”.⁸

10 This large range of offers, many of which ‘stack’ and apply together to the same products at the same time, require detailed and careful analysis. The regulatory rule set determined by Ofcom in the March 2026 Telecoms Access Review (TAR) requires that offers that are conditional on either volume of products purchased or/and or choice of products purchased should be subject to a 120-day notification, whereas those that do not are subject to just a 30-day notification obligation. Openreach’s distinction of the offers into those categories is indicated by the proposed dates for the offers taking effect.

⁴ <https://www.openreach.co.uk/cportal/updates/briefings/ultrafast/nga201226>.

⁵ <https://www.openreach.co.uk/cportal/updates/briefings/ultrafast/nga201326>.

⁶ <https://www.openreach.co.uk/cportal/updates/briefings/ethernet-services/eth02226>.

⁷ <https://www.openreach.co.uk/cportal/updates/briefings/ethernet-services/eth02426>

⁸ [NGA2019/26](#).

- 11 In addition to restrictions on conditional offers, the TAR also set out a prohibition on geographically defined offers, subject to an Ofcom consent process. The VMO2 NTO offer is geographic in nature and thus subject to the explicit consent by Ofcom.
- 12 Finally, Openreach FTTP pricing and offers are subject to a fair and reasonable pricing rule through which Ofcom seeks to assess whether the proposed pricing would allow a reasonably efficient competitor to compete with Openreach.
- 13 If introduced, the offers outlined above would overlay an existing offer-structure, known as Equinox (versions 1 and 2), which remains in force for approximately five years from now.
- 14 Ofcom issued an initial Call for Inputs (CFI) shortly after the main group of offers were notified on 1st June 2026. Based on the responses received, Ofcom has now produced a consultation document which set out the analysis it has undertaken and its provisional decision relating to those offers. Ofcom has included the offer published on 6th June 2026 in that consultation
- 15 Ofcom has subsequently asked that stakeholders also include their comment on the offer notified on 30th July within their responses to this consultation.
- 16 Paragraph references are to Ofcom's consultation of 28 July 2026 unless otherwise stated.

4 Summary of Ofcom's proposals

- 17 With the exception of the National NTO Offer, the 550 Equinox extension offer and the Equinox Offer Area extension offer, Ofcom provisionally proposes that none of the offers in this consultation present competition concerns that would justify limiting Openreach's ability to introduce those offers and Ofcom in consulting on those preliminary conclusions.
- 18 For the 550Mbt/s Equinox offer extension, Ofcom has concluded that the offer does not cause competition concerns and Ofcom is not consulting on that conclusion.
- 19 For the National NTO offer, Ofcom found that the conditionality did not give rise to competition concerns, but it did find that the proposed prices did. Ofcom therefore proposes to direct that Openreach withdraw that offer.
- 20 The Equinox Offer Area Extension offer was not published when Ofcom published the consultation. Ofcom, therefore, does not present any analysis or proposed decision for that offer. Ofcom has confirmed informally that it is seeking inputs on that offer within this consultation to determine whether a separate consultation is required.

21 INCA understands that the Ofcom provisional decisions included in the consultation are, by definition, based on the very limited data and analysis stakeholders were able to supply during the 2.5 weeks the CFI was open for. This means that any and all of Ofcom's analysis must remain open to challenge on both a factual data and analytical bases.

5 Strategic considerations

22 When analysing specific, and sometimes short-duration, offers, it is easy to become consumed in the minutiae. It is, however, essential that Ofcom keep a strategic overview and perspective to ensure that its detailed individual conclusions do not, as a whole, risk undermining the overall objective of promoting network competition.

23 This aggressive package of offers is clearly designed by Openreach to test the boundaries of the TAR framework. INCA is concerned that Ofcom must ensure that both its conclusions and the analytical approaches taken in this consultation are robust and do not set precedents that could limit Ofcom's ability to rule out future offers proposed by Openreach. Examples of potential risks in this area include

- Ofcom's proposed approach to evaluating potential competition risks arising from conditionality to only the existence of a 'penalty effect' whether direct or indirect, and
- Ofcom's reluctance to apply the full scope of the no undue discrimination (NUD) remedy in the LLA markets.

24 INCA is also concerned that Ofcom puts too much importance on the short duration of some of the currently proposed offers. Openreach has a track-record of extending or renewing offers for much longer durations and it is not clear that incremental 'bit-by-bit' analyses are able to identify the true competition harm from some of those offers once renewed or extended. Openreach's practice of extending and renewing offers is applicable across its full product portfolio, but very particularly so in the Ethernet market. It is also critical to recognise that the effect of short-term offers that change ISP's decisions about which networks to use for customer connections have long-term impacts, significantly beyond the duration of the offer itself. The period during which competition is becoming established is particularly sensitive to this type of pricing as it delays or potentially completely prevents the rivals from reaching the commercial scale of a resilient established market player.

25 One example of Openreach's tendency to extend offers is the current proposal to extend the 550Mbit/s offer. This offer was originally introduced as part of Equinox 1 and Openreach is now seeking to extend it after it having been in place for five years. There is also nothing to stop Openreach of extending this further in the future or introducing a slightly modified version.

- 26 The power of special offers for Openreach is that they create an expectation in the market that Openreach will not cause significant market disruption when they expire and something similar or ‘as good’ will be put in their place⁹. That expectation gives Openreach the ultimate strategic pricing freedom of not committing to anything permanently by managing the competitive environment through the creation of expectations that dampen the appetite of ISPs to engage in potentially costly process to on-board Openreach’s rivals.
- 27 The two FTTP connection rebate offers (National NTO and VMO2 NTO) exceed the connection charges they are advertised as a rebate against. This makes them net cash inducements for ISPs to bring new connections to the Openreach network. As the dominant market incumbent, it flies in the face of the principles both competition law, and (in particular) ex-ante regulatory frameworks with the explicit objective of promoting competition, that the incumbent should be allowed to engage in this kind of behaviour. Cash inducements are a recognised and valid market entry strategy but is equally well known as a serious concern when offered by dominant incumbent providers facing competitive market entry. INCA considers this yet another example of Openreach pushing the boundaries and Ofcom not explicitly calling out the risks to sustainable competition from those practices. INCA cannot accept the fact that some Altnets may themselves offer inducements to ISPs as a justification for this being an acceptable practice by the SMO provider. That is the nature of asymmetrical ex-ante regulatory interventions.

6 INCA’s review of Ofcom’s Analysis

6.1 INCA’s approach

- 28 In this response, INCA has adopted an evidence-based approach, replying on member data wherever possible and other data and evidence where member data has not been available.
- 29 Before examining the individual offers, we address a number of issues that are relevant to how Ofcom analyses several of the offers.

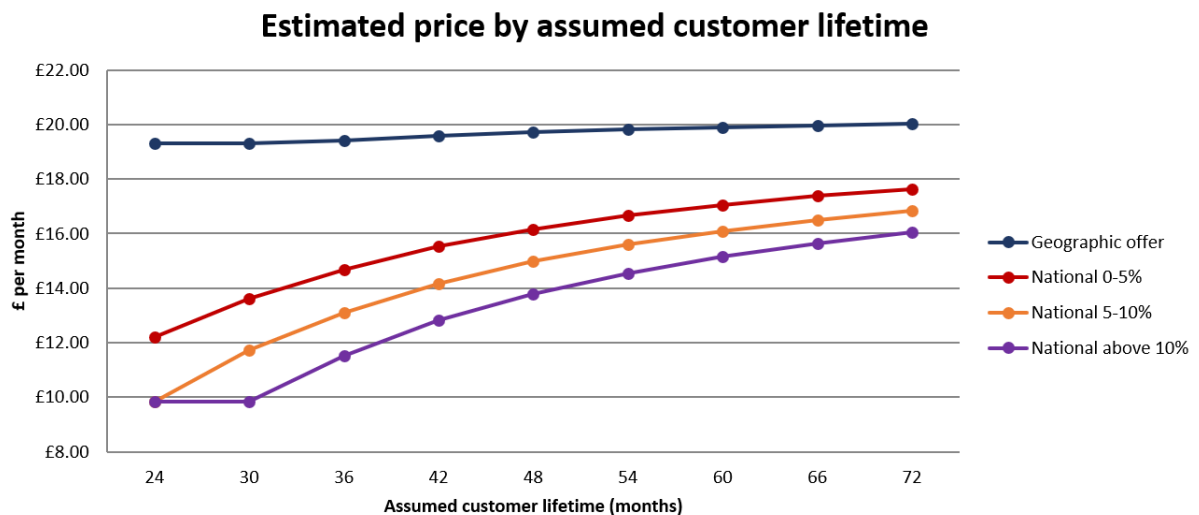
⁹ Openreach has a long and proven track-record of this behaviour, the extension of the Equinix 550Mbt/s offer in those batch of offers being a clear example. For other examples, INCA refers Ofcom to the recent multiple extensions of Ethernet offers.

6.2 Key issues identified to affect several offers

30 INCA has assessed and analysed each of the offers covered by the consultation and Ofcom's analysis of those offers. They present clearly different and specific challenges individually, but we have also identified a number of issues that apply to Ofcom's analysis across several of them. To reduce repetition and clearly identify those key issues, we present them here and cross reference this section in our analysis of the individual offers below.

6.2.1 Average customer lifetime

- 31 Ofcom has assumed a 5-year average customer lifetime. The support for this assumption is that this is consistent with Ofcom's assumption when analysing the Equinix offers in 2021-23 and that it is also the assumption that Openreach has used in the analysis it has presented to Ofcom in support of the offers it has notified.¹⁰
- 32 Ofcom further mentions that input from ISPs suggest that they assume shorter customer lifetimes, some as short as two others between three and five.¹¹
- 33 Given that the offers are all time-limited in nature, the benefits of the rebates offered would typically be modelled across the average customer lifetime. The customer lifetime is, therefore, a critical input into this analysis. We analyse the specific impact of the customer lifetime assumption for each offer, and illustrate its materiality in the chart below:



¹⁰ Paragraph 4.86.

¹¹ Paragraph 4.87.

- 34 For the VMO2 NTO offer the only time-limited rebate¹² affecting the price is the Frontbook ARPU, which reduces the rental by £1.29 per month for 33 months, or approximately £43 in total.¹³ Spreading that amount over a shorter period changes the average price by very little: reducing the assumed lifetime from five years to three reduces the estimated price by approximately 2%.
- 35 For the National NTO offer the position is materially different. The £9.50 monthly rental rebate runs for 18, 24 or 30 months depending on the increment achieved, and is worth up to £285 per circuit. That amount is fixed; only the number of months over which it is averaged changes. Taking the above-10% increment as an illustration, £285 spread across a five-year lifetime is £4.75 per month, whereas the same £285 spread across a three-year lifetime is £7.92 per month. The estimated price falls from approximately £15.86 to £12.69, a reduction of 20%.
- 36 Across the three increments, reducing the assumed lifetime from five years to three reduces the estimated price by between 14% and 24%. Reducing it to two years reduces it by between 29% and 39%.
- 37 INCA does not have access to the basis for Ofcom's 2021 assumption of a 5-year customer lifetime, but it would likely be based on data at least six years old (as it was the same assumption used for both Equinox 1 and Equinox 2). Whilst it is possible that the five-year assumption was reasonable in 2021, INCA strongly disputes its continued validity.

6.2.1.1 *ISPs told Ofcom they assume shorter customer lives*

- 38 In its research and discussions, INCA has not been able to find any evidence from ISPs that they assume a customer lifetime of more than 3 years. However, , in the redacted text in paragraph 4.87, Ofcom suggests that one ISP said it used a lifetime of 'between 3 and 5 years' and others suggested that they use shorter lifetimes (2 years) for their planning and analysis purposes. This suggests that 5 years is the maximum but that general practice is likely to lie between 2 and 4 years.
- 39 In the context of reviewing these offers, ISPs' assumed customer lifetimes are more important than the actual observed customer lifetimes. This is because if ISPs make decisions based on short lifetime assumptions (which means that they amortise the savings over a shorter period and therefore Altnets have to compete against a much lower Openreach price), then the actual observed lifetimes become largely irrelevant in this context.

¹² The £50 connection rebate is also a one-off amount, but it does not enter this calculation. Ofcom reflects connection rebates in the REO cost range rather than in the price (paragraphs 4.94 and 5.45).

¹³ 33 months reflects the period up to the end of the Frontbook ARPU offer of June 2029.

6.2.1.2 Independent Industry observer suggests less than 3.5 years customer lifetime

40 In May 2026, Broadband Genie published its 2026 broadband statistics, in which it stated that “On average, a broadband customer will stay with their provider for 3 years and 5 months”.¹⁴

41 INCA has additionally received informal inputs from ISPs saying that they assume around 24 to 42 months.

6.2.1.3 One Touch Switch went live in September 2024

42 OTS was designed to facilitate switching and to remove or at least reduce barriers to switching. In particular, OTS was designed to enable inter-network switching. Switching between ISPs using the Openreach network was already relatively simple, but inter-network switching was much more complex and was considered a material barrier to customers switching to ISPs on other networks.

43 When OTS was launched, Ofcom said:

*"With a range of competing fibre-optic networks being built, Ofcom wants to make it easier and quicker for people to move between them and take advantage of unprecedented levels of choice."*¹⁵

44 Whilst there may not yet be published evidence of increased switching, it is reasonable to assume that this is indeed happening. It would be wrong of Ofcom to assume that it is not.

6.2.1.4 The relevant customer increment is highly mobile and has switching experience

45 It may be that Openreach’s average customer lifetime is five years, perhaps even longer, but that is not relevant to the analysis of the lifetime of customers who would switch providers as a result of the offers in the consultation.

46 A large portion of Openreach’s customers base will be characterised by inertia. For example, in 2023 Think Broadband published a survey concluding that 20% of UK broadband customers have never switched supplier.¹⁶ The vast majority of those customers are, by definition, with Openreach. That will cause a significant increase to Openreach’s average customer lifetime.

¹⁴ Broadband Genie estimate published in [Broadband Statistics 2026](#)

¹⁵ <https://www.ofcom.org.uk/phones-and-broadband/switching-provider/simpler-broadband-switching-is-here>.

¹⁶ <https://www.thinkbroadband.com/news/9639-two-thirds-of-consumers-haven-t-switched-broadband-in-past-two-years>.

47 Customers who have already switched to Altnets have proven by their previous switching actions to be willing to switch. This 'self-selecting' customer increment is the group Ofcom needs to consider when it analyses the impact of the proposed discounts proposed in the relevant offers.

6.2.1.5 *Sensitivity assessment is necessary*

48 Given the many data points suggesting that the customer lifetime used by ISPs when determining which network to use for a new customer connection is likely to be significantly shorter than the 5 years assumed by Ofcom, Ofcom must undertake sensitivity assessment on this aspect of its analysis to test whether the price points used by ISPs are not so low that it becomes unviable for Altnets to compete against the relevant offers.

6.2.2 **Altnets have to discount against Openreach prices**

49 Ofcom recognises in the consultation that Altnets have to price "at a significant discount to Openreach".¹⁷

50 This means that, if Openreach is allowed to set price levels at or below the REO mid-range (which will be below the cost of some Altnets), then the Altnets will have to price significantly below that level to attract or retain ISP customers on their networks.

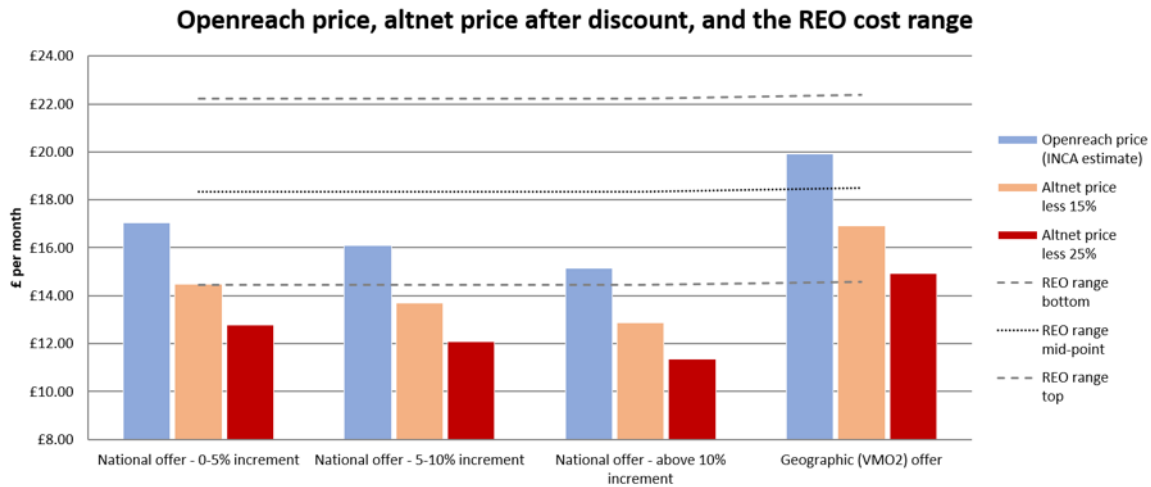
51 INCA has informal evidence that the 'significant discount' level is often around 20%, but, in the absence of hard evidence of that,¹⁸ we use the range of 15% - 25% in this response.

52 The most reasonable way to reflect the impact of this need to discount against the Openreach price levels is to simply reduce the price levels set out in the consultation as calculated by Ofcom to reflect each offer. The chart below shows our estimates of the prices calculated by Ofcom¹⁹, the adjusted discounted prices and the TAR REO cost range.

¹⁷ Paragraph 4.70.

¹⁸ INCA understands that Ofcom is already in possession of that evidence.

¹⁹ Our estimates are based on Ofcom statements of whether a price is above or below the REO midpoint and any qualifying information as to whether it is close to or materially higher/lower than the midpoint.



53 INCA recognises that the estimated 15% to 25% discount range is based on informal member input rather than a published market-wide dataset. The range is nevertheless a reasonable sensitivity to test because Ofcom itself recognises that Altnets must price at a significant discount to Openreach to attract and retain ISP customers. INCA therefore asks Ofcom to test this conclusion using both the 15% to 25% range presented here and any confidential ISP evidence available to Ofcom on the rebate required in wholesale negotiations.

6.2.3 The short-term value of cash for ISPs

54 When analysing the value and attractiveness of the offers to ISPs, Ofcom has assumed that value to be spread evenly across the customer lifetime. INCA does not believe this is a realistic reflection of how the offers will be viewed by some ISPs.

55 Some of the offers (individually and in combination) would result in the ISP receiving a larger rebate than was in fact paid for the service. This would be the case for the connection rebate in the VMO2 NTO offer as a stand-alone and to an even greater extent, were the National NTO offer to be implemented alongside the VMO2 NTO offer.

56 Some ISPs are experiencing serious cashflow challenges; the net in-flow of cash by receiving rebates in excess of the amount paid for the original service could prove extremely persuasive to those ISPs. A net-payment from Openreach to move customers to Openreach could prove a strong incentive to move all new customers won from VMO2 to Openreach and/or actively migrate existing customers from Altnets to Openreach.

57 We note in particular that for Subsequent Provide orders, the Openreach connection price is currently set at zero. This means that the full rebate offered is effectively a 'reward' paid to the ISP for bringing that customer to Openreach, rather than an off-set against the connection charge already paid. INCA has serious concerns that such

incentives could materially distort ISP behaviour and create perverse and potentially extreme behaviours. The volumes in this category may be relatively low at present, but they will inevitably grow.

6.2.3.1 The importance of smaller ISPs

58 The same pressures and incentives apply to several smaller ISPs. Many smaller ISPs are experiencing business challenges and the fact that they do not have to exceed a baseline to benefit from the VMO2 offer (and National NTO offer, if allowed to proceed) combined with the net-payment from Openreach to move customers to Openreach could prove extremely persuasive. Whilst smaller ISPs may not be of significant direct value to Openreach, they are the lifeblood of all but the very largest wholesale Altnets. If Openreach were to persuade them to start activating new customers on the Openreach network AND move existing Altnet connections to Openreach, that would without doubt cause significant harm to Altnets.

6.2.4 Negative connection prices and why Ofcom's method does not identify them

6.2.4.1 The rebates are flat amounts, while the charges vary

59 The rebates under both the National NTO and the VMO2 NTO offers are flat cash amounts, whereas the connection charge varies by geography by a factor of approximately four.

60 The economic depth of the offers is therefore approximately four times greater in Area 2 than in Area 3, the area in which network competition is developing and in which Altnets have deployed. Averaging across the two areas dilutes precisely the effect which is of competitive concern

6.2.4.2 Resulting net connection prices

61 For the great majority of eligible premises, the rebates exceed the connection charge. Area 2 comprises the substantial majority of UK premises and, as discussed 'Negative connection prices and why Ofcom's method does not identify them' above, Ofcom's assumed charge lies close to the Area 2 NTO charge and far below the Area 3 charge.

	Rebate	% of connection charge	Net connection price
NTO, Openreach Area 3 - charge £127.26			
National NTO offer	£35.00	27%	+£92.26
NTO, Openreach Area 2 - charge £32.07			
National NTO offer	£35.00	109%	-£2.93
Geographic offer	£50.00	156%	-£17.93
Both offers combined	£85.00	265%	-£52.93
Subsequent Provide - charge £0.00			
National NTO offer	£35.00	n/a	-£35
Geographic offer	£50.00	n/a	-£50
Both offers combined	£85.00	n/a	-£85

62 The VMO2 NTO offer does not apply in Area 3; the footprint comprises premises which were Area 2 under the 2021 WFTMR and are priced on Openreach's Area 2 basis, so the £127.26 charge is not expected to arise within it.

6.2.4.3 *Subsequent provide journeys attract no connection charge*

63 Subsequent Provide journeys are important, not because of the volumes involved, but because of what they demonstrate about the structure of the offers. INCA recognises that the zero charge may be cost-justified; a Subsequent Provide requires no engineer visit and no new ONT, and the incremental cost of the journey is accordingly low.

64 However, because Openreach charges nothing for a Subsequent Provide, the rebates on such journeys cannot be a rebate on a connection charge. They are a payment per order; this is evident from Openreach's price list for the geographic offer, which describes the £50 as a "One-off rebate", and makes no reference to a connection charge. Given the low incremental cost of a Subsequent Provide, it follows that the effective price is below the incremental cost of the activity by almost the full rebate amount.

6.2.4.4 *Neither offer caps the rebate at the connection charge*

- 65 Neither offer contains any provision capping the rebate at the level of the connection charge.²⁰ Each rebate is applied as a credit to the CP's invoice²¹ rather than as a reduction to a per-line charge, so there is no mechanism by which either could bottom out at zero.
- 66 This contrasts with the Incremental Ethernet Net Demand Offer in which Openreach defines the rebate as equivalent to the average connection charge of qualifying orders and provides that where other connection rebates apply the rebate tracks those reduced charges, and applies a volume cap. So it is clear that Openreach has mechanisms to cap connection rebates but has chosen not to do so in either NTO offer.

6.2.4.5 *Why Ofcom's method does not identify negative connection prices*

- 67 INCA's concern is not that the connection rebates have been omitted from Ofcom's calculation, nor that the resulting figures are arithmetically wrong. INCA's own testing of the published Fibre Cost Model confirms that the model handles a negative connection charge correctly: the output responds to a change in the connection charge input at a constant rate, whether the resulting charge is positive or negative. The point INCA makes in this sub-section is about what can be inferred from the resulting figure, not about whether it has been calculated properly.
- 68 Expressing a one-off connection rebate as an adjustment to a monthly cost range has the effect of converting large differences in connection pricing into very small differences in monthly terms. Under the VMO2 NTO offer the £50 rebate takes the connection price for an Area 2 New to Openreach order from £32.07 to -£17.93. On Ofcom's published adjustments that registers as an increase in the REO cost range of approximately 72 pence per month, or under 4% of the mid-point of the range.
- 69 Ofcom's rebalancing rationale at footnote 21 assumes that a connection rebate causes the REO to recover less cost upfront through the connection charge, and therefore to require more recovery through rental. That describes what happens where the rebate falls within the charge, because the rebalancing it describes is available to the REO. It does not describe what happens where the rebate exceeds the charge: the REO is then not recovering less upfront, it is making a payment.
- 70 On a Subsequent Provide the position is starker still, because the connection charge is already zero (the modest but positive cost of activating a customer being already recovered through rental) so there is no upfront recovery which the rebate can reduce at all. In each case the rebate adds an amount to be recovered from rental which has no

²⁰ Clause 1.1(b) of the National NTO terms, Clause 1.4 of the VMO2 NTO offer terms

²¹ Under clause 4.7(b) and clause 3 respectively

corresponding upfront cost, and which a reasonably efficient operator matching these terms would have to fund in its entirety from future rental.

- 71 The consequence is that the adjusted cost range gives Ofcom no indication that the connection price has fallen below zero. Because the relationship is linear, an adjustment which takes the connection price below zero produces a figure indistinguishable in character from any other adjustment of similar size. A comparison conducted solely against the adjusted REO cost range will therefore not reveal that Openreach is paying to connect, however far below zero the price falls.
- 72 Paragraph 4.35 expressly contemplates indicators beyond the REO cost range, including evidence on whether a price cut is targeted at a particular segment. INCA submits that a connection price below zero, in a footprint defined by the SMP operator and directed at customers defined by reference to 90 days without Openreach service, is such an indicator and should be assessed as one.

6.2.5 The assumed connection charges

- 73 At paragraph 3.23 Ofcom assumes a connection charge of £41.47 per connection, Footnote 19 explains this as a weighted average reflecting the higher connection charge for premises that were categorised as Area 3 in 2021 but are now categorised as Area 2. Openreach's published Equinix price list, with effect from 1 April 2026, gives the following connection charges:²²

	Area 2	Area 3
New to Openreach	£32.07	£127.26
Same-provider migration	£31.02	£86.45
Other	£64.15	£127.26

- 74 The Area 2 New to Openreach charge of £32.07 is flat across every bandwidth from 40Mbps to 1.8Gbps. In response to a question from INCA, Ofcom has confirmed that the volume weightings used to derive £41.47 are based on confidential information and has not published them. INCA is accordingly unable to verify the derivation, and notes only that £41.47 lies much closer to the Area 2 NTO charge than to the Area 3 charge, which indicates that Area 2 volumes predominate in whatever weighting was applied.
- 75 INCA does not suggest that the average is incorrect. Its concern is whether it reflects the orders to which the offers actually apply. Both offers apply to a defined subset of connections: New to Openreach orders, being premises with no Openreach voice or

²² The area labels in the table are Openreach's pricing designations. They do not necessarily correspond to Ofcom's current market classifications: footnote 19 to the consultation notes that a number of premises now categorised as Area 2 attract the higher connection charge.

broadband service in the preceding 90 days, together with Subsequent Provide journeys. Those are not the same population as Openreach's connection volumes generally, and the two would produce different averages.

- 76 The position on Subsequent Provides illustrates the point. Both offers extend beyond NTO orders to include Subsequent Provide journeys, and Ofcom's own description at paragraphs 4.6 and 5.4 treats the two as a single combined category for the purposes of both the rebates and the baselines. The Openreach price list records the charge for a Subsequent Provide as zero with effect from 9 January 2025 (reduced from £26.15) with no end date. Eligible volume under the National NTO offer therefore spans at least three distinct connection charges: £127.26 for journeys priced on Openreach's Area 3 basis, which includes premises now categorised by Ofcom as Area 2; £32.07 for journeys priced on its Area 2 basis; and nothing at all for Subsequent Provides. The VMO2 NTO offer, whose footprint lies within Area 2, spans the latter two. A single average is a poor representation of a distribution of that width, particularly where the rebates applied to it are flat cash amounts rather than percentages and are not capped at the charge actually paid.
- 77 INCA does not suggest that Subsequent Provide journeys form a large share of eligible volume, since a Subsequent Provide requires an existing FTTP ONT at the premises and first-time migrations from copper are ordinary new provides. They are, however, likely to be concentrated in the cohort of customers with which this consultation is concerned. A Subsequent Provide arises where Openreach previously provided FTTP at the premises, the service ceased, and the ONT remained in place; where the cessation occurred more than 90 days previously, such a premises satisfies the New to Openreach definition at the same time. A customer won back from a competing network, where an Openreach ONT remains installed, is therefore likely to be both an NTO order and a Subsequent Provide, attracting no connection charge at all, whereas a first-time migration from copper, which involves no competitive win, attracts the full £32.07. INCA sets out the consequences of that at the section above.

6.2.5.1 Ofcom has used a different connection charge for each offer

- 78 Ofcom's response to INCA's clarification questions discloses that the two NTO offers have not been assessed on the same connection charge.
- 79 For the VMO2 NTO offer, Ofcom applied the £41.47 figure derived at paragraph 3.23 as a weighted average of Openreach's published Equinox 2 connection charges. Its worksheet²³ provided in response to our questions records the calculation as £41.47 less the £50 rebate less the £9.90 box swap, giving a net upfront position of -£18.43.

²³ "2026 08 Connection Charge Adjustments to REO Range Non-Confidential v2 non-Openreach.xlsx" provided to INCA by Ofcom on 19 August 2026

- 80 For the National NTO offer, Ofcom did not use £41.47. Its worksheet records the connection charge disclosed only as a band between £35 and £45, less the £35 rebate and less the £9.90 box swap. That charge is described in the worksheet as Openreach's estimate of "the blended average connection charges across all NTN connections in Area 2 and Area 3 as well as subsequent provides given current product mix". It is materially below £41.47.
- 81 This is not apparent from the consultation. Paragraph 4.94 states that the adjusted REO cost range "takes into account the £41.47 assumed connection charge", and Ofcom has "further adjusted the REO cost range to account for the £35 connection rebate". Paragraph 5.45 uses the same formulation for the VMO2 NTO offer. A reader of the consultation would understand the two adjustments to have been made on the same basis, differing only in the size of the rebate, but in fact the adjustment in Section 4 also replaced the assumed connection charge and that substitution is not disclosed.
- 82 INCA does not suggest that the substitution was inappropriate. On the contrary, INCA considers that Ofcom was right to use a connection charge reflecting the orders to which the offer actually applies, rather than a general average across all connections. INCA also notes that the effect of using a lower connection charge is to raise the adjusted REO cost range in Section 4, which supports Ofcom's provisional conclusion.
- 83 INCA submits that the same approach should have been applied in Section 5 but was not. The consequence is described in the section below.
- 84 INCA suggests that, in its statement, Ofcom should state for each offer the assumed connection charge applied and the population of connections over which it was derived.

6.2.6 Prices and REO cost range comparison cannot be tested

- 85 The consultation publishes the cost side of the comparison in full, including the REO cost range at each stage of adjustment, the assumed connection charge and the box swap inputs. The price side is redacted throughout, including at paragraphs 3.29, 4.91, 4.92 and 5.46, Table 4.1, and Figures 3.1, 4.4, 5.1 and 5.2.
- 86 Respondents are therefore able to interrogate the benchmark but not the estimate being compared against it, notwithstanding that paragraph 3.20 makes clear that Ofcom's assessment turns on where within the range a price sits. INCA recognises that Openreach's estimated prices are commercially sensitive but believes that it should be possible to provide a better indication of where the price sits relative to the REO range, for example by banding, or by publishing figures 4.4, 5.1 and 5.2 with a normalised axis.
- 87 Not providing this increased transparency puts respondents at a significant and unnecessary disadvantage.

7 Review of individual offers

7.1 Frontbook ARPU and Box Swap offers

88 We have grouped these two offers together because they, as we understand them, both seek to incentivise ISPs to 'upsell' higher speed products to end customers. This is consistent with Ofcom's approach.

7.1.1 Frontbook ARPU offer

89 The Frontbook ARPU offer is designed as summarised below:

- The ISP is refunded FTTP rental payments made to Openreach in the relevant quarter to the extent those payments exceed an average of £19.32 per new customer acquisition in the quarter.
- The ARPU is calculated before the impact of any of the other discounts or rebates covered in this consultation, beyond the existing Equinox price levels (including the extended 550 Mbt/s offer, as approved by Ofcom).
- The ARPU rebate is applicable to all FTTP rental payments made by the ISP for eligible orders between July 2026 and 30th June 2029. This means that the maximum period of the rebates is 36 months and the minimum period is 24 months.
- It is proposed that the discounts/rebates are cumulative to the National NTO and the VMO2 NTO offer. This can, however, be prevented by activating clause 4.6 in the Frontbook ARPU conditions.

7.1.1.1 INCA's recommendation

90 The Frontbook ARPU offer reduces Openreach prices to a level that, when incorporating the need for Altnets to discount to win and retain customers) if close to or below the bottom REO cost threshold. This is a material concern and Ofcom needs to reassess this offer carefully. If made available in combination with the National NTO offer and/or the VMO2 NTO offer, the resulting prices could result in foreclosure of the market. At a minimum, Ofcom must prevent the option for ISPs to 'stack' these offers.

7.1.1.2 Conditionality

91 The offer is national in scope and conditional only on the product mix ARPU for an individual ISP exceeding the £19.32 threshold. Whilst INCA considers that this should constitute conditionality, we understand that Ofcom does not agree and that Ofcom's position on this matter is consistent with its assessment of the ARPU-share offer component within the Equinox 2 framework.

7.1.1.3 *Fair and reasonable pricing*

92 Two separate points are important when assessing the price level of this offer:

- Whether the offer unduly collapses the price gradient and suppresses the ability for Openreach's competitors to earn higher revenues from high-speed products, and
- Whether the price level at which the ARPU threshold is set, is so low as to deter investment in new competitive fibre networks and/or to harm the ability by Altnets to attract and retain customers to their networks.

93 Tariff gradient: Openreach's current Equinix prices for all products above 220Mbt/s are above the proposed ARPU threshold. Whilst we do not have access to the volume distribution across the Openreach FTTP portfolio, we note that the chosen ARPU threshold is very close to the average price across all Openreach's FTTP speed variants and 5 of those speed variants are priced above the chosen ARPU threshold.

94 Although the ARPU rebate is not applicable to individual orders (but to the average of all relevant orders), it is useful to observe that once the threshold is reached, it offers a 17% off the highest speed variant (1.8Gbt/s) even though that price may also be subject to other discounts through the other offers included in this consultation. In particular, the impact of the National NTO offer, combined with the Frontbook ARPU offer would result in a 58% reduction in the 1.8Gbt/s rental price for up to 30 months. Additionally, the connection rebate under the National NTO offer would be on top of the rental rebate set out above.

95 Price level: In contrast to the other offers analysed in this response, for the Frontbook ARPU offer, we know the effective ceiling on frontbook ARPU which the offer applies, namely £19.32.

96 One important aspect of the ARPU threshold is that the competitive impact of the Frontbook ARPU offer should be considered in light of the clear evidence that Altnets have to discount significantly against the Openreach prices in order to attract and retain ISPs.

97 If reduced by between 15% and 25% to allow for Altnet discounting, the ARPU threshold would be between £16.43 and £14.49, representing the maximum ARPU an Altnet could expect to secure, before account is taken of the additional offers that apply to the same orders as the Frontbook ARPU offer. These price levels are already alarmingly low relative to the REO cost range and should be of concern to Ofcom.

98 Because this ARPU is calculated using discounted Equinix prices but before the proposed offer rebates, the £19.32 price (or the reduced range calculated above) are not the actual price levels that Ofcom should be considering when assessing the potential competitive impact of this offer. The material question is whether the

Frontbook ARPU offer, in combination with the other offers listed in this consultation,²⁴ is likely to take the resulting price to a harmful level.

99 As demonstrated throughout this document, the price levels resulting from the combination of the Frontbook ARPU offer, the National NTO offer and the VMO2 NTO offer are such that they fall close to or below the low REO cost threshold. INCA believes that Ofcom must prevent the Frontbook ARPU offer from being available in combination with either of those two offers.

100 In this context, it is also important to acknowledge that vertically integrated Altnets self-supply their retail arms and are likely to have to drop their inferred wholesale prices to enable their retail colleagues to compete against the retail-levels offers and general price levels resulting from the ARPU threshold and any of the other offers that Ofcom may determine that Openreach should be allowed to continue or introduce.

7.1.2 Box Swap Offer

101 The Box Swap offer is designed as summarised below:

102 a free 2.5G ONT Box Swap for FTTP orders where the end customer is moved to the 1.8G speed tier through a bandwidth regrade, applicable to orders placed from 1 July 2026 to 30 June 2027 (inclusive).

103 This offer is not conditional.

7.1.2.1 INCA's recommendation

104 This offer enhances the Frontbook ARPU offer. We have already set out above our significant concerns regarding that offer and we ask that Ofcom consider the Box Swap offer in light of that analysis.

7.1.2.2 Fair and reasonable pricing

105 As a stand-alone offer, the Box Swap offer provides a £90 discount for ISPs upgrading their end customers to the 1.8G FTTP product.

106 INCA's primary concerns in relation to this offer is its combined effect with the Frontbook ARPU offer and the National NTO and VMO2 NTO offers. We address those concerns in the respective parts of this document and will not repeat them here.

7.2 National NTO Offer

107 The National NTO Offer is designed as summarised below:

²⁴ We note that it uses Equinix pricing as the base.

- An ISP-specific NTO baseline is set based on April 2026 orders, adjusted to reflect growth in Openreach FTTP footprint.
- For ISPs with an April NTO volume of <1000, the baseline does not apply and rebates apply to all NTO orders. 90% of those NTO orders will qualify for the 30 months rental rebate/rebate.
- NTO orders above that baseline qualify for the rebates in this offer.
- Qualifying orders attract the following rebates:
- A one-off £35 rebate on the connection charge, and
- A £9.50 rebate on the monthly rental charge for either 18, 24 or 30 months depending on whether (in a given quarter) the ISP exceeds the baseline by 0-5%, 5-10% or >10% respectively.
- The Offer is valid for six months, extendable to 12 months at Openreach's discretion.

7.2.1 INCA's recommendation

108 INCA strongly approves of Ofcom's conclusion that Openreach should withdraw this offer.

109 INCA considers that Ofcom has underestimated the impact of the offer conditionality and that the impact on pricing is more severe than Ofcom has concluded. This is primarily due to Ofcom having applied an unduly long customer lifetime assumption and has not taken into account the need for Altnets to discount significantly against the Openreach prices.

7.2.2 Conditionality

110 This offer is conditional on each large ISP exceeding its own specific baseline and on the extent to which it exceeds that baseline.

111 Ofcom has provisionally concluded that : *"we do not consider that the conditionality in Openreach's offer, in itself, potentially creates a barrier to using a rival network."*²⁵

112

113 The National NTO offer has a clear volume-based element, with the duration (and thus the value) of the rental rebates increasing with the level an ISP can exceed its baseline. It is widely recognised that volume based-offers are considered to be loyalty-inducing. INCA is concerned that Ofcom does not appear to have taken this into account when concluding that the conditionality provisions in the National NTO offers do not cause potential barriers for ISPs using rival networks.

²⁵ Paragraph 4.30

114 In the TAR, Ofcom expressed explicit concern about volume related offers, including:

*“Openreach offering lower prices in return for large volume commitments are a particular concern”.*²⁶ It is clear that the volume commitments required from the large ISPs that exceed the baseline threshold are not only material, but they are volumes of customers that are currently using the network of one of Openreach’s rivals. The combination of that conditionality should be clearly recognised and assessed before Ofcom concludes that the National NTO conditionality provisions do not give rise to competition concerns.

115 In paragraphs 4.104 to 4.109, Ofcom presents its analysis of the impact of the National NTO offer on ISP incentives when choosing wholesale networks. INCA is concerned that this analysis was performed within the price level part of Ofcom’s analysis, not within the scope of assessing the impact of the conditionality elements of the offer. INCA agrees with Ofcom’s analysis that the National NTO offer price levels could significantly affect the decisions made by ISPs on a per customer connection basis in favour of Openreach, but it is also important to recognise that the conditionality of the ISP needing to exceed the baseline and the strong incentive to exceed the baseline by more than 10% is likely drive ISP behaviour at a much less granular level and could cause wholesale shifts in how ISPs determine which networks to use for new FTTP connections. INCA is pleased that Ofcom is acknowledging the impact of the National NTO offer price levels on potential future wholesale negotiations and agreements, but Ofcom also need to consider the effect of the volume ratchet-effect of the baseline conditionality, where applicable.

116 In particular, INCA is pleased that Ofcom recognises that the incentive to achieve National NTO order levels >10% above the baseline could cause large ISPs to consider wholesale (or at least large volumes) shifts of customers from Altnets to Openreach. This would be particularly important for any ISPs suffering from financial stresses.

117 It is essential that Ofcom takes into account these material impacts on ISP incentives when considering the conditionality of the offer. Restricting the assessment of the conditionality elements of the offer to a simple considering of whether ISPs will suffer a penalty (directly or indirectly) is unduly narrow and it reflects neither good international practice nor the likely real-market impact of the offer.

7.2.3 Fair and reasonable pricing

118 INCA strongly supports Ofcom’s provisional conclusion that the prices resulting from this offer are not fair and reasonable in either Area 2 or Area 3, and INCA supports the proposed direction that Openreach withdraw the offer. INCA considers Ofcom's

²⁶ TAR V3 Paragraph 9.156.

reasoning at paragraphs 4.54 to 4.75, and in particular its rejection of an increment based on all prospective NTO customers, to be well founded.

- 119 Ofcom's analysis of how to define the output increment is clear and evidence-based. INCA applauds Ofcom's approach to focusing the impact analysis on the customer increment that are eligible for the NTO rebates rather than Openreach's full customer base. A stable and substantially inert customer base cannot be rationally used to assess the impact of offers on customers that have already proven willing to switch.
- 120 Ofcom identified that *"it is likely that many (and possibly all) prospective NTO customers which altnets compete for would be considered above-baseline and therefore eligible for the NTO rebates if placed with Openreach. Further, where a smaller-volume ISP is not subject to a baseline under the offer, we note all volumes it wins from VMO2 or altnets would be above-baseline customers."*²⁷
- 121 The fact that Ofcom also recognises that customers that an ISP has already migrated from Openreach to an Altnet are also clearly within the target segment of the NTO offers is significant and INCA welcome Ofcom's acknowledgement of that fact. In particular, Ofcom acknowledges that *"there is a risk that an REO may not have an opportunity to recover its costs across an increment of all newly acquired customers (and therefore competition could be harmed)"*.²⁸
- 122 INCA's further observations reinforce that conclusion and identify matters which Ofcom's analysis understates.
- 123 Ofcom's analysis does not identify that the £35 connection rebate exceeds the Area 2 NTO charge, resulting in a negative connection price. This is because the rebate is treated solely as an adjustment to the REO cost range. As discussed in section 6.2.4 above, INCA believes that a connection price below the incremental cost of providing a connection (or indeed below zero) should be assessed as a distinct indicator under paragraph 4.35²⁹; this would provide a second, independent basis for Ofcom's provisional conclusions.
- 124 INCA notes that the Frontbook ARPU share offer, the National NTO rental rebate and the National NTO connection rebate apply to the same circuits without any offsetting adjustment. While clause 4.6 of the Frontbook terms provides a mechanism for excluding circuits from the ARPU calculation where a subsequent offer expressly prohibits combination, Openreach has chosen not to apply that mechanism, and the offers therefore are cumulative.

²⁷ Paragraph 4.58.

²⁸ Paragraph 4.73.

²⁹ Additional Indicators that Ofcom consider relevant when assessing the impact of the national NTO offer.

125 The effect is that an ISP receives both benefits in full on the same circuit: the Frontbook ARPU share is calculated as though the ISP had paid the full Equinix rental, while the £9.50 rebate reduces what it actually pays. Openreach's effective price is accordingly lower than either offer considered alone would indicate. INCA understands Ofcom's estimated prices at Table 4.1 and paragraph 4.92 to reflect that, but cannot verify it, since those estimates are redacted. If they do not, the estimated prices are too high.

7.2.3.1 *Estimated prices*

126 Paragraph 4.92 estimates the average lifetime rental charge using Openreach's weightings of above-baseline customers across the three increments. The rebate duration rises with the increment achieved: on Ofcom's own worked example at footnote 31, an ISP 10% above baseline receives no volume at the 30-month duration, whereas an ISP 50% above baseline receives 80% of its incremental volume at that duration.

127 It follows that if ISPs respond more strongly to the offer than Openreach has forecast, the weighted average duration rises and the true blended price falls below Ofcom's estimate. This would lead to an understatement of harm in the scenario in which the harm materialises. INCA therefore believes that Ofcom should publish the assumed weightings used in its analysis, and also test the blended estimate under more aggressive scenarios where a larger share of volumes fall into the longest-duration tier.

128 The application of the baseline conditionality threshold of 1000 NTO orders in April 2026, may only apply to a small number of very large ISPs. INCA's analysis suggests it likely that a large number of ISPs will fall below that threshold. For that cohort, all their NTO orders would qualify for a rebate and 90% of all their NTO orders would qualify for the 30 months rental rebate. The pricing incentives for those ISPs to use Openreach would be extremely strong and could potentially lead to attempts to move large number of customer connection from Altnets to Openreach. It is essential that Ofcom's analysis considers these ISPs as well.

129 Whilst the volumes of connections by these ISPs³⁰ may not be a very large proportion of Openreach's overall connection volumes, they are material and often essential to Altnets. The disproportionate benefits to these ISPs may therefore be targeted and causing harm to Altnets, rather than attracting large volumes of customers to Openreach's network.

³⁰ Although INCA believe that even relatively large ISPs may fall into this category. In particular, some of the BT Group ISPs may fall into this category and that has the risk of distorting competition at the retail ISP level.

130 It would be appropriate to consider the impact of the price levels both on the ISPs that are subject to the conditionality threshold and those that are not.

7.2.3.2 *Customer lifetime assumption*

131 INCA's views on the assumed lifetime are in sections above. In relation to this offer, the effect is material because the rental rebate runs for 18, 24 or 30 months of the assumed 60 month period. Shortening the assumed lifetime would increase the proportion of time over which the rebate is received and this reduces the average lifetime rental.

132 Ofcom acknowledges this in paragraph 4.87 but does not quantify it. Given that Ofcom has found the price at which the above-10% increment falls below the bottom of the adjusted REO cost range, INCA believes that Ofcom should assess this for shorter lifetime assumptions as well.

133 The following table sets out INCA's indicative estimates, constructed from the components Ofcom has published. The base rental is the weighted average of the Frontbook capped rate of £19.32, which applies for 33 of the 60 months, and Equinox 2 pricing thereafter; the rental rebate is then deducted for the applicable number of months.

Assumed lifetime	0-5% increment	5-10% increment	> 10% increment
60 months	£17.05	£16.10	£15.15
48 months	£16.16	£14.97	£13.79
36 months	£14.68	£13.09	£11.51
24 months ³¹	£12.20	£9.82	£9.82

134 Ofcom's adjusted REO cost range for this offer is £14.45 to £22.23, with a mid-point of £18.34.

135 On a five-year assumption, all three increments fall below the mid-point and, on Ofcom's own estimates, the above-10% increment falls below the bottom of the range. On a four-year assumption the above-10% increment falls further below the bottom of the range and the 5–10% increment approaches it. On a three-year assumption all three increments fall below the bottom of the range. On the two-year horizon which paragraph 4.87 records at least one ISP as using, all three fall approximately £2 to £4.60 below the bottom of the range.

³¹ At an assumed lifetime of 24 months the rebate for the above-10% increment is truncated, since a 30-month rebate can only be received for as long as the customer is retained. The 5–10% and above-10% increments therefore produce the same price. Below 18 months all three increments converge. This is not an artefact: a rebate which runs beyond a customer's tenure is never received.

136 INCA does not suggest that any particular figure is the correct one. The point is that Ofcom has identified an assumption which materially affects the outcome, has recorded evidence pointing to shorter horizons than the one it adopted, and has not tested the sensitivity. INCA proposes that Ofcom to publish the comparison on two, three and four-year assumptions.

7.2.3.3 *The discount an altnet must offer*

137 Ofcom accepts that altnets must price at a significant discount to Openreach in order to attract and retain ISP customers. INCA's views on the level of that discount are at section 6.3.

138 The consequence is that the test applied at paragraph 4.96 (whether the estimated Openreach price sits above or below the REO cost range) addresses only part of the question. An altnet does not compete by matching the Openreach price; it competes by undercutting it. The price which determines whether an altnet can win the customer is therefore the discounted price, and it is that price which should be compared against the cost of a reasonably efficient operator.

139 The results of applying a discount range of 15% to 25% to INCA's indicative estimates on a five-year lifetime are:

Increment	Openreach price	Less 15%	Less 25%
0-5%	£17.05	£14.49	£12.79
5-10%	£16.10	£13.69	£12.08
Above 10%	£15.15	£12.88	£11.36

140 Ofcom's adjusted REO cost range for this offer is £14.45 to £22.23. At a 15% discount, the 5–10% and above-10% increments fall below the bottom of that range and the 0–5% increment sits at its lower boundary. At a 25% discount, all three fall between £1.66 and £3.09 below the bottom of the REO range

141 Combining this with the customer lifetime assumption discussed above compounds the effect. On a three-year lifetime and a 25% discount, the three increments fall to approximately £11.01, £9.82 and £8.63 respectively, against a bottom of range of £14.45.

7.3 VMO2 NTO Offer

142 The geographic VMO2 NTO Offer is designed as summarised below:

- The offer is subject to the same baseline conditionality as the National NTO offer.
- The offer is restricted to defined VMO2 coverage locations

- A rebate of £50 per qualifying connection is made on a quarterly basis,
- ISPs with <1000 NTO orders in April 2026 qualify for the rebate without the applicability of the conditionality baseline.
- The same orders would qualify for the Frontbook ARPU offer, the free box swap offer and the National NTO offer.

7.3.1 INCA's recommendation

143 INCA considers that Ofcom has underestimated the effect of the VMO2 NTO offer.

144 Ofcom appears to have simply treated this offer as a standard discount offer, applying no additional safeguards despite the geographical nature of the offer and despite acknowledging that Openreach can present no objective justification for applying lower prices in the VMO2 footprint area.

145 The conditionality elements offer are of concern, as set out in our analysis above of the national NTO offer, and Ofcom has underestimated the pricing effect of the offer. In particular when combined with the Frontbook ARPU offer, this offer results in price levels that are below the REO midpoint.

146 INCA therefore believes that Ofcom should reconsider the VMO2 NTO offer, and direct Openreach to withdraw it. If Ofcom is nonetheless minded to consent, INCA recommends that Ofcom make consent conditional on there being no equivalent national NTO rebate in effect and on the terms of the offer excluding combination with the Frontbook ARPU offer.

7.3.2 Geographic offer consent

147 This offer is geographic in nature and requires explicit consent by Ofcom.

148 Ofcom has acknowledged that the rebate offered is not justified by cost savings. INCA agrees with that and considers that, on a geographically disaggregated level (the VMO2 coverage area, where Altnets have also deployed extensively) could potentially represent an area with higher than average unit cost for Openreach. This is due to the simple fact that Openreach's penetration levels in that area could be below the national average due to VMO2 and Altnet presence.

149 Nevertheless, Ofcom concludes that, "*The geographically targeted discounts are not unduly discriminatory*".³² This appears to be based on analysis of the resulting price level and the limited duration of the geographic offer.³³ We address both of those aspects later in this section.

³² Paragraph 5.56.

³³ Paragraph 5.55.

150 Ofcom acknowledged that, within the VMO2 network footprint targeted by this offer, there is significant Altnet deployment. Ofcom also acknowledges that Altnets are not as established as VMO2.³⁴

151 INCA has received data from its members which shows a range of overlap with VMO2 areas of 16% to 62% of premises passed, and an average of 39%, which supports Ofcom's assumption of significant Altnet deployment. Despite this, Ofcom proceeds to treat this offer as if it were simply another offer from Openreach without the geographic element. This appears inconsistent with Ofcom's clearly stated concern about the potential harm that can result from Openreach targeting offers at where it has most competitive pressure.

152 It is evident that it is 'cheaper' for Openreach to target this additional connection charge in just the VMO2 areas than doing so nationally. That makes this an attractive option for Openreach as it can achieve the near identical impact on its rivals at a lower cost.

7.3.3 Conditionality

153 The conditionality analyses set out above of the National NTO offer above is equally applicable to this offer. Whilst this offer is simpler in structure and does not have the volume element that triggers increased rental rebate durations, the need to ensure that NTO orders in the relevant geography exceed the threshold remain an important loyalty-inducing factor.

154 INCA considers that the effect of the conditional restrictions of this offer is strengthened by the significant up-front monetary gain to the ISPs. We set out below how the £50 rebate against a significantly lower connection charge (thus a net payment to induce ISPs to move customers to Openreach) would be a powerful incentive for ISPs, especially those sensitive to short term cash-flow.

155 Ofcom relies on the same conditionality analysis and conclusion for this offer as for the National NTO offer. Namely that as Ofcom has not identified a penalty element in the conditionality, no competition concerns arise. INCA's concerns in relation to the conditionality of this offer mirror those set out above in our Nation NTO offer analysis.

7.3.4 Fair and reasonable pricing

156 INCA does not consider that Ofcom has established a basis for consenting to this offer on the basis of fair and reasonable pricing. There are five main reasons for this.

³⁴ Paragraph 5.31.

7.3.4.1 The offer has been assessed in isolation from the National NTO offer

157Footnote 131 records that Ofcom has assessed the geographic offer in isolation from the National NTO offer, excluding both the £35 connection rebate and the £9.50 rental rebates, on the basis of its provisional view in Section 4.

158The consequence is that the combined effect of the two offers has not been assessed. Both offers are expressed to take effect on 1 October 2026; Openreach's customer briefings confirm that they stack; and Ofcom itself records the combination at paragraph 5.4.

159If Ofcom does not proceed with the direction for Openreach to withdraw the National NTO offer as proposed, or if Openreach re-notifies a modified National NTO offer, the analysis supporting consent for the geographic offer would no longer correspond to the offers in the market. INCA believes that consent should not rest on an assumption about the outcome of a separate decision that has not yet been taken.

160INCA notes that clause 10 of the National NTO terms and clause 6.4 of the geographic offer terms each reserve to Openreach the ability to exclude a geography from one offer where a subsequent offer provides discounted pricing in that geography, expressly "in order to avoid overlapping discounts". That mechanism is discretionary and Openreach is under no obligation to exercise it. Its existence confirms that Openreach anticipated overlapping discounts as a potential issue requiring management.

161INCA proposes that, in the event that Ofcom consents to the Geographic VMO2 NTO Offer, that consent should be conditional on there being no equivalent national NTO discount in effect, and on Openreach exercising the mechanism at clause 10 so that the geographic footprint is excluded from the national offer. That would align the offers in operation with the basis on which Ofcom has assessed them.

7.3.4.2 The Frontbook ARPU share should be excluded from circuits receiving the geographic rebate

162A circuit acquired under the geographic offer receives the £50 connection rebate and, in addition, continues to benefit from the Frontbook ARPU share, which caps effective rental at £19.32 for the remainder of the benefit window. Clause 4.3 of the Frontbook terms excludes connection charges from the ARPU calculation altogether, so the £50 rebate does not reduce the Frontbook ARPU benefit in any way. The two benefits accrue in full and without offset on the same circuits.

163As noted previously, Clause 4.6 of the Frontbook ARPU offer provides a mechanism for preventing the offer from applying where the subsequent offer contains an express exclusion. The NTO VMO2 offer does not currently apply such an exclusion.

164 This may be contrasted with the Incremental Ethernet Net Demand Offer, in which clause 8.1 provides that where a CP receives the benefit of another connection special offer, the rebate is calculated by reference to the price actually paid under that other offer. Openreach has therefore adopted an express anti-stacking mechanism in one offer notified in June 2026 and has declined to engage the equivalent mechanism available to it in another.

165 If Ofcom is proceeds to consent to the geographic offer, INCA requests that Ofcom make that consent conditional on the terms of that offer excluding combination with the Frontbook ARPU share offer, so that the exclusion at clause 4.6 of the Frontbook terms is engaged in respect of circuits receiving the £50 rebate.

166 INCA recognises that, in this situation, the estimated Openreach price used in the comparison at paragraph 5.46 would be increased, since the affected circuits would pay Equinix rental rather than the capped Frontbook rate. This is not inconsistent with INCA's submissions above, which are directed at showing that the estimated price is lower than Ofcom has assumed. INCA's concern is with the total benefit available to an ISP for directing an acquisition to Openreach within the offer footprint, which is what determines the offer's effect on competition. The estimated price is a means of assessing that effect; it is not what INCA seeks to change. Requiring the two benefits to operate as alternatives rather than cumulatively would reduce that total benefit, would apply a discipline Openreach has itself adopted elsewhere, and would leave the geographic offer to be assessed on its own terms.

7.3.4.3 The assumed connection charge is inappropriate for this footprint

167 Paragraph 5.45 carries forward the REO cost range derived in Section 3, which takes into account the assumed connection charge of £41.47. That figure is a national weighted average which, according to footnote 19, reflects the higher connection charge applying to premises categorised as Area 3 in 2021 but now categorised as Area 2.

168 The footprint of this offer is, according to footnote 112, the legacy cable network of approximately 13 million premises together with approximately 3 million premises added under Project Lightning. Under the 2021 WFTMR, Area 2 comprised postcode sectors in which there was, or was likely to be, material and sustainable competition, and VMO2 coverage was a significant input to that classification.³⁵

169 Premises classified as Area 3 in 2021 are therefore, by construction, very unlikely to fall within the VMO2 footprint. The population which generates the upward weighting in Ofcom's assumed connection charge is substantially absent from the geography to

³⁵ In fact, Ofcom defined Area 2 in the WFTMR to reflect the VMO2 and CityFibre network footprints.

which that charge has been applied. The applicable charge within the footprint is no higher than £32.07³⁶.

- 170 Ofcom has confirmed in response to INCA's clarification questions that the national weighted figure was used in its analysis of this offer, and has invited comment on that assumption. Ofcom's response also discloses that it did not use that same figure for the National NTO offer. The worksheet provided with Ofcom's response records the adjustment in Section 4 as having been made using Openreach's estimate of the blended average connection charge across NTN connections in Area 2 and Area 3 together with subsequent provides, a figure materially below £41.47, as set out above.
- 171 Both offers are NTO offers, covering the same journey types and both extending to Subsequent Provides. INCA can identify no reason why an offer-specific connection charge was appropriate for one and a general average appropriate for the other. INCA further notes that the figure Ofcom used in Section 4 would itself be too high for this footprint, since it blends in connections priced on Openreach's Area 3 basis at £127.26, which for the reasons above are substantially absent from the footprint of this offer.
- 172 The effect is significant. Measured against Ofcom's assumed charge of £41.47, the £50 rebate exceeds the connection charge by £8.53, producing a net connection price of –£8.53. Measured against the £32.07 charge applying within the footprint, it exceeds the charge by £17.93. Ofcom's input therefore materially understates the negative connection price by more than half.
- 173 The assumed charge also affects the REO cost range itself, in Openreach's favour. The range assumes that a reasonably efficient operator recovers £41.47 upfront on each connection. If the applicable charge within the footprint is £32.07, the operator recovers £9.40 less upfront and must recover that amount through rental instead. On the conversion rate implied by Ofcom's own adjustments, as set out in the worksheet accompanying its response to INCA's clarification questions, that raises the adjusted range by approximately 13 pence, from £14.59 – £22.39 to approximately £14.72 – £22.53, and the mid-point from £18.49 to approximately £18.62. Substituting instead the connection charge Ofcom itself used for the National NTO offer would raise the mid-point by approximately 7 pence. The appropriate correction for this footprint lies at or above the upper of those figures, since the charge applicable here excludes the Area 3 element of the blend.
- 174 INCA does not suggest that this correction alone is determinative. It is, however, cumulative with the adjustments set out below, and it moves in the same direction as each of them.

³⁶It is likely to be below that level due to the existence of premises where a pre-existing Openreach FTTP connectivity at some premises and the connection charge for subsequent provides being zero.

175 INCA proposes that Ofcom should recalculate the connection charge for the footprint of this offer, on the same basis as it has derived the charge used in Section 4 and restate the comparison at paragraph 5.46 accordingly.

7.3.4.4 The characterisation of the offer as a limited rebate is not sustainable

176 The characterisation of the rebate as limited depends entirely on the measure against which it is assessed. Converted into a monthly equivalent over a five-year customer lifetime, as Ofcom's method does, the £50 rebate appears as an adjustment of approximately 72 pence against a rental of approximately £20; less than 4%. Measured against the charge which it rebates, it is 156% of that charge and produces a negative connection price. Measured as an amount received per customer acquired, it is £50.

177 INCA believes that the last of these is the relevant measure. The offer is not a reduction in ongoing rental. It is a one-off payment made at the point at which a customer is won, and what determines its effect on competition for that customer is the amount an ISP receives for directing the order to Openreach rather than to a competing network. The characterisation of the rebate as limited is therefore a product of the conversion method discussed at section 6.2.4 rather than of the terms of the offer itself.

178 On duration, INCA notes that the assessment of a time-limited offer must take account of what the offer is designed to achieve. The offer is directed at customer acquisition. Customers acquired during the offer period do not revert to their previous supplier when the period ends. A six-month offer may therefore produce a durable reallocation of take-up, which is the variable on which altnet viability and access to finance depend. Ofcom recognises this point in a related context at paragraphs 4.116 to 4.118, where it considers the potential effect on ongoing wholesale negotiations between altnets and ISPs; decisions which are taken once and have consequences lasting years.

7.3.4.5 The conclusion does not survive the adjustments set out elsewhere in this response

179 Ofcom's estimated Openreach price is redacted. INCA has therefore constructed an indicative estimate from the components Ofcom has published. On Ofcom's decomposition at paragraph 3.28, the Frontbook ARPU share caps effective rental at £19.32 for 33 of the 60 months, with Equinox 2 pricing applying thereafter. Taking a representative Equinox 2 rental of approximately £20.61³⁷, that yields an average of

³⁷ Ofcom's estimates of Openreach's prices are redacted throughout the consultation, so INCA has constructed an indicative estimate from the components Ofcom has published. The estimate combines the Frontbook ARPU share cap of £19.32 (paragraph 3.27), which Ofcom states applies for 33 of the 60 months of the assumed customer lifetime (paragraph 3.28), with Openreach's published Equinox 2 rental for the remaining 27 months, taken here as £20.61 per

approximately £19.90 over a five-year lifetime, against Ofcom's adjusted mid-point of £18.49. That is consistent with Ofcom's provisional conclusion that the price sits above the mid-point.

180 Two adjustments already discussed in this response bear directly on that conclusion.

181 **Customer lifetime:** The Frontbook ARPU share benefit window ends on 30 June 2029 and therefore covers a fixed number of months, whereas the assumed lifetime determines how many months of undiscounted Equinix pricing are averaged alongside it. Shortening the assumed lifetime therefore raises the proportion of time spent at the capped rate:

Assumed lifetime	Indicative average rental
60 months	£19.90
48 months	£19.72
36 months	£19.43
24 months	£19.32

182 The effect at 36 months is approximately 47 pence, which is comparable to the entire £0.72 adjustment Ofcom has made to the REO cost range for the £50 rebate. INCA's submissions on the customer lifetime assumption are above.

183 **The discount an altnet must offer.** Ofcom accepts that altnets must price at a significant discount to Openreach in order to attract and retain ISP customers. The material question is therefore not whether the Openreach price sits above the mid-point of the REO cost range, but whether the price an altnet must offer in order to compete for the same customer does so. Applying the range of 15% to 25%:

Assumed lifetime	Openreach price	Less 15%	Less 25%
60 months	£19.90	£16.91	£14.92
48 months	£19.72	£16.76	£14.79
36 months	£19.43	£16.52	£14.57
24 months	£19.32	£16.42	£14.49

month for 550Mbps from the Openreach price list effective 1 April 2026. The resulting weighted average is £19.90 per month. Three caveats apply. The estimate does not reflect the extended 550Mbit/s try-before-you-buy incentive, which Ofcom includes and which would reduce the figure, so INCA's estimate is likely to sit slightly above Ofcom's. No discounting is applied. And the Frontbook mechanism operates as a rebate calculated on a CP's average revenue across its frontbook rather than as a per-circuit rental, so expressing it as a monthly price is a simplification. The estimate is INCA's own and is not Ofcom's figure. INCA notes that it is consistent with Ofcom's provisional conclusion at paragraph 5.46 that the estimated price sits above the mid-point of the adjusted REO cost range, which provides some cross-check on the approach.

184 On every combination, the price an altnet must offer falls below the mid-point of Ofcom's adjusted REO cost range of £18.49. At the upper end of the discount range, it falls to the bottom of that range (£14.59) and below it on any lifetime assumption shorter than approximately three years.

7.3.4.6 The conclusion is unquantified and the margin is unstated

185 Paragraph 5.46 concludes that the estimated Openreach price sits above the mid-point of the adjusted REO cost range. The estimate itself is redacted, as is Figure 5.1, so no respondent can assess by what margin.

186 Paragraph 3.20 states that Ofcom is more likely to have concerns where prices sit at the mid to lower end of the range. Paragraph 4.35 states that the range is not a bright line. A conclusion expressed solely as a position relative to a mid-point, where the mid-point is itself the arithmetic mean of two structurally different modelled scenarios, and where the margin is unstated, is a slender basis on which to grant consent to a geographically targeted offer.

7.4 Incremental Ethernet Net Demand offer

187 The Incremental Ethernet offer is designed as summarised below:

- The offer is a connection charge rebate offer.
- The offer applies for one year to EAD 1Gb And EAD 100Mbt circuit orders. Above the provider's baseline (set using orders volumes between April 2025 and March 2026 * 90% - the baseline threshold) .
- The offer is valid for one year and rebates are paid in arrears at 6-monthly intervals.
- The offer is capped at order volumes higher than 50% above the baseline volume,

7.4.1 INCA's recommendation

188 INCA strongly recommends that Ofcom engage proactively with the LLA market. INCA considers Ofcom's proposed approach of only considering conditionality and concluding that the absence of a explicit fair and reasonable pricing remedy in the LLA Area 2 markets means that Ofcom has no duties or powers to assess potential anticompetitive pricing. Ofcom's duties under the No Undue Discrimination SMP remedy include assessment of pricing that could discriminate for or against some parties and INCA urges Ofcom to impose that remedy to it full extent.

7.4.2 Conditionality

189 The offer is conditional on the provider ordering more than the baseline threshold volume (90% of the April 2025 to March 2026 volume). The free connection rebate is applicable to orders above the baseline threshold only.

190 INCA is concerned that the national volume incentive is designed to directly undermine smaller or regional competitors. Openreach's national Ethernet portfolio is unique in the UK, and the provision of Ethernet circuits differs from FTTP provision because customers sites are often distributed across different geographies.

191 Precedent shows that regulators and competition authorities have concerns about volume-related rebates, even if those rebates are related only to units ordered above a threshold. The incentive to meet the threshold and subsequent desire to maximise the rebates earned can provide powerful behavioural incentives that cause customers to stop or reduce the volumes ordered from alternative suppliers.

7.4.3 Fair and reasonable pricing

192 In the TAR, Ofcom did not apply an explicit fair and reasonable pricing remedy on Openreach in the LLA Area 2 and Area 3 markets. Ofcom states that, because it applies a charge control to prevent Openreach from excessive pricing, it is not necessary to also apply a fair and reasonable pricing remedy to prevent Openreach from pricing low to harm competition. Ofcom's rationale for that approach is difficult to follow.

193 The broadband market is subject to price regulation to prevent excessive pricing, through the anchor pricing remedy. Yet, it is also subject to an explicit (previously implicit) fair and reasonable pricing remedy to prevent low pricing that could harm competition.

194 Regardless of whether an explicit fair and reasonable pricing remedy applies to Openreach in the LLA 3 markets, Openreach is subject to a general 'no undue discrimination' (NUD) remedy in those markets. In the past, Ofcom has interpreted a NUD remedy to include an obligation for fair and reasonable pricing. This was, for example, the case in Ofcom's assessment of Equinix 1 and Equinix 2 under the WFTMR, where no fair and reasonable pricing remedy was applicable at the time.

195 It is INCA's strongly held view that Ofcom must apply the existing NUD remedy in the LLA markets in a similar manner to how a similar remedy was applied in the WLA market for the equinix investigations.

196 Ofcom's reluctance to properly investigate the impact of low prices by the SMP provider in a market where the stated regulatory objective is to promote network competition (as is the case for the LLA Area 2 market), is at best inconsistent but likely also in direct conflict with Ofcom's duties.

197 From an investor perspective, Ofcom's refusal to engage in an assessment of the reasonability of Openreach's Ethernet price levels is a direct contradiction to Ofcom's clearly stated regulatory objective in the LLA Area 2 market, which is an important component in their existing and future investment decisions.

7.4.4 Comparison with Openreach's costs

198 Ofcom's reliance on Openreach's Fully Allocated Costs (FAC) and Long Run Incremental Costs (LRIC) for guidance of whether a more appropriate investigation should be undertaken is inappropriate.

199 Ofcom has recognised in the WLA that it is necessary to estimate the costs of reasonably efficient operator (REO) competing with Openreach, not simply rely on Openreach's own cost levels. There is no logical rationale for why that same (sound) logic and rationale does not apply equally to the LLA market.

200 Ofcom's own analysis does not support the conclusion it draws from it. At paragraph 6.48 Ofcom records that, for some of the products covered by the offer, the unit revenue generated from the offer prices is below the unit FAC. Ofcom does not identify which products, nor by what margin, nor what share of volume they represent. It nonetheless concludes at paragraph 6.49 that this evidence does not raise prima facie concerns warranting further investigation.

201 INCA does not accept that a finding of below-cost pricing on some products can properly be set aside without explanation, especially where the cost standard applied is Openreach's own fully allocated cost. A reasonably efficient operator competing with Openreach would, for the reasons set out below, face costs materially above Openreach's FAC. A price which fails to recover Openreach's FAC will therefore fall further below the costs of an operator seeking to compete with it. Ofcom's own finding, on its own chosen benchmark, is that this occurs for an unquantified subset of the products in scope.

7.4.4.1 Why Openreach's FAC is not a substitute for a REO benchmark

202 FAC is an allocation of the historic costs of an established network across the volumes carried by that network. It is not an estimate of the cost of building and operating a network in competition with it. Three features make it systematically lower than the costs faced by a competing operator.

- **Asset base.** Openreach's Ethernet network is substantially built and largely depreciated. It is carried on duct, pole and fibre assets whose costs have been recovered across decades and across a portfolio of regulated services. An operator building today faces current construction costs, on a new asset base, with no accumulated depreciation. The FAC of an incumbent's mature network cannot proxy that.

- **Scale of common cost recovery.** FAC allocates common and shared costs across Openreach's national volumes. An operator competing for leased line customers in a defined geography recovers comparable categories of cost across a far smaller base. Its unit cost is correspondingly higher, and the gap widens the smaller the operator.
- **Cost of capital.** A FAC assessment applies Openreach's regulatory cost of capital. Operators seeking to compete finance at materially higher rates, as Ofcom recognised in setting the parameters used in its assessment of network competition in the WLA markets.

203 The consequence is that a comparison against Openreach's FAC answers the question whether Openreach could profitably match its own price. It does not answer the question whether anyone else could. In a market in which the stated regulatory objective is to promote network competition, only the second question is material.

7.4.4.2 Why LRIC is not a substitute either

204 Ofcom's second comparison, at paragraph 6.48, is that unit revenue is materially higher than unit LRIC and LRIC plus. As with FAC, INCA questions the relevance of this finding.

205 LRIC measures the additional cost of supplying the incremental circuits, on a network which already exists. On an established Ethernet network with substantial spare capacity in existing duct and fibre, that cost is low by construction. A test against LRIC is accordingly a test for pricing so far below cost as to be explicable only by an intention to exclude. It is a floor designed to identify the clearest cases of abuse.

206 It is not a replicability test, and it is not capable of identifying whether the pricing forecloses competition from operators who must build in order to compete. Ofcom itself declined to adopt an incumbent-cost benchmark in the WLA markets for precisely this reason. INCA is unable to identify any feature of the LLA Area 2 market (in which the same operators are deploying the same fibre, frequently in the same streets) which would justify a different approach.

7.4.4.3 The evidential basis

207 The LRIC and LRIC plus estimates on which Ofcom relies were produced by Openreach, being the party whose conduct is under assessment. Ofcom records at paragraph 6.44 that it queried the input data, assumptions and methodology, and that Openreach made "several corrections and amendments" in response.

208 INCA does not suggest that the corrected estimates are unreliable. It observes only that estimates which required several corrections in the course of the assessment, produced by the party under assessment, and not published in any form, are a thin evidential basis on which to decline to investigate a finding of below-FAC pricing. No respondent, apart from Openreach, is in a position to test them.

209 The FAC data is drawn from restated 2024/25 Regulatory Financial Statements. INCA notes that this is the latest outturn data available but observes that a historic allocation of an incumbent's costs is a tenuous basis on which to assess whether a competing operator can profitably match the resulting prices.

7.5 Ethernet 1G Resign Offer

210 The Ethernet Resign offer is designed as summarised below:

- The offer is applicable to existing 1G Ethernet contracts only.
- 10% rental discount.
- No CPI adjustment during the contract period.
- Options of 36-60 months contract periods or % + 5 years with 20% discount applicable during the 2nd 5 years contract period.

211 INCA's concerns regarding the Ethernet Resign offer are largely covered in the section above addressing the Incremental Ethernet offer. In addition to those concerns, however, INCA considers that the nature of the Ethernet Resign offer is such that it seeks to tie in existing customers and creating barriers to switching.

212 The rental discount combined with the long contract period (additional incentive to extent for an additional five years) and no CPI adjustment for up to 10 years are powerful customer loyalty incentives. The nature and structure of the discounts are clearly targeted at securing very long-term commitments from existing customers and consequently erecting barriers to switching to other networks.

213 This nature of this offer, which seeks to retain customers with material discounts and erects barriers to switching could almost be considered as the definition of a loyalty bonus offer – “Stay with Openreach and enjoy the following benefits”.

7.6 Equinox Offer Area Extension Offer

214 The Equinox Offer Area Extension Offer is designed as summarised below:

215 The offer is described as an extension of the Equinox terms until end of March 2027, but the detailed terms of conditions provide for further extensions at Openreach's discretion. INCA, therefore, consider it likely that Openreach will continue extending the Equinox Offer area throughout the TAR period and the duration of the Equinox offer.

216 INCA also understands that, though this offer, Openreach proposes to embed Ofcom's decision that Openreach should apply the WLA Area 3 connection charges to those WLA Area 2 premises that were moved from the WFTMR WLA Area 3 market to the TAR WLA Area 2 market.

7.6.1 Geographic offer consent

217 Openreach does not specify which geographies the extended equinox offer covers. It is not clear from INCA's understanding of the nature of the extension whether it could be targeted at areas where specific competitors are present. Openreach is continuing its FTTP deployment, and it is unclear whether this Offer Area extension is designed to simply ensure that Equinox prices are available wherever Openreach offers FTTP connectivity or if it could target specific locations.

218 If Openreach could use this offer extension to select specific geographies to be included whilst excluding FTTP connectivity in other geographies, then INCA would have significant concerns.

219 INCA urges Ofcom to ensure that the offer can only relate to the gradual and organic deployment of FTTP by Openreach across the country and cannot be used to carve out specific locations in the future.

7.6.2 Conditionality

220 This offer is subject to the same conditionality as the existing Equinox offer terms. Those terms were evaluated by Ofcom when they were introduced and the regulatory framework for that assessment remain substantially the same now as when the original evaluation was undertaken.

221 Market conditions, subject to which the regulatory framework should be applied, have, however, changed and INCA considers it essential that Ofcom consider carefully whether it would reach the same conclusion today as was reached at the introduction of the Equinox offers.

7.6.2.1.1 Fair and reasonable pricing

222 The TAR applies an explicit fair and reasonable pricing remedy in the WLA market, which was not in place at the time of the Equinox offer evaluations. INCA notes that the new fair and reasonable pricing remedy appears to be very consistent with Ofcom's interpretation of the NUD remedy in place under the WFTMR, it is, thus, not clear that this new remedy would likely materially change Ofcom's assessment of the Equinox pricing levels.

8 INCA's recommendations

8.1.1 On the offers

223 Ofcom should:

- 1) Reconsider the Frontbook ARPU share offer. If Ofcom concludes that the offer should continue, INCA recommends that Ofcom require that it operates as a stand-alone offer which cannot be combined with the other offers covered by this consultation.
- 2) Direct Openreach to withdraw the National NTO offer, as Ofcom has proposed, and ensure that the direction takes effect before the offer commences on 1 October 2026. Ofcom's analysis should recognise the conditionality issues that arise from this offer.
- 3) Reconsider the VMO2 NTO offer in the light of the analysis in this response, and direct Openreach to withdraw it. If Ofcom is nonetheless minded to consent, INCA recommends that Ofcom make consent conditional on: a) there being no national NTO discount, in effect; and b) the terms of the offer excluding combination with the Frontbook ARPU offer.
- 4) Investigate the pricing of the Ethernet offers under the NUD obligation applicable in the LLA markets, applying that obligation consistently with Ofcom's approach to the equivalent obligation in the WLA markets.
- 5) Undertake a full consultation of the proposal to extend the Equinox Offer Area.

8.1.2 On the analysis

224 Ofcom should:

- 1) Publish the comparison between Openreach's estimated prices and the REO cost range on shorter customer lifetime assumptions, including two, three and four years, and state whether the five-year assumption has been tested against observed retention data for NTO cohorts.
- 2) Test the estimated prices against the rebate an Altnet must offer in order to complete for the same customer, using the evidence available to Ofcom under its information-gathering powers, and state where the resulting prices sit in relation to the REO cost range.
- 3) Recalculate the connection charge used in the VMO2 NTO offer on the same methodology as used for the National NTO assessment, reflecting the orders to which the offer applies and the geography to which it applies, and restate the comparison at paragraph 5.46 accordingly.
- 4) Assess the connection element of each offer as a distinct indicator under paragraph 4.35, where the rebate exceeds the connection charge. A price at which Openreach pays an ISP

to connect a customer should be identified as such and not left to register only as an adjustment to a monthly cost range.

- 5) State, for each offer, the assumed connection charge applied and the population of connections over which it was derived and disclose the volume weighting used to derive the figure of £41.47.
- 6) Express each estimated Openreach price as a position within the relevant adjusted REO range so that respondents can assess the margin on which Ofcom's conclusions depend.

8.1.3 On the process

- 1) Record in the decision statement the concern expressed at paragraph 7.11, that Openreach should not repeatedly propose schemes which warrant intervention, and the effect of such proposals on investor confidence.
- 2) Require Openreach to provide, with each future notification, a schedule of the interactions between the notified offer and every other offer then in effect, identifying where benefits combine and where they do not.
- 3) Define the extension of the Equinox Offer Area with sufficient precision to prevent it being used as a vehicle for geographic differentiation which has not been separately notified and assessed.