Nexfibre response to Ofcom Consultation Document

Openreach Proposed Commercial Offers: FTTP and Ethernet Offers – notified 1 June 2026

27teh August 2026

Non-Confidential Version

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1 Overall Position and Summary

1. Nexfibre welcomes the opportunity to respond to Ofcom consultation on "Openreach Proposed Commercial Offers: FTTP and Ethernet Offers – notified 1 June 2026" (the "Consultation Document")

1.1 About nexfibre

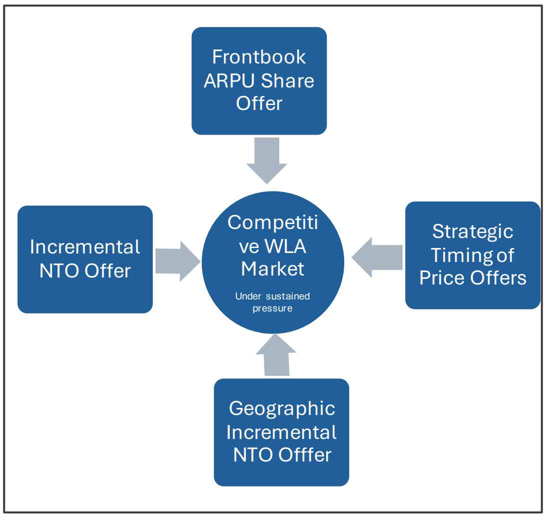
1. nexfibre is a wholesale fibre network operator in the UK, focussed on building and maintaining a high-quality, technologically advanced full-fibre infrastructure platform. It is a joint venture between InfraVia Capital Partners, Liberty Global and Telefónica and is financed with £4.5 billion of equity and debt investment, and is well-positioned to become a long-term, national scale, sustainable competitor to Openreach. Today nexfibre's network passes approximately 2.6 million premises ready for service (RFS).

1.2 Overall Assessment

2. Whilst there has been considerable development of the fibre Wholesale Local Access (WLA) market over the past few years, it is still a fact that Openreach has Significant Market Power (SMP) across the whole of the UK and has 19 million premises connected to its network. There is, as Ofcom recognises, further to go to develop the sustainable competitive market that both Ofcom and the government want to see established.

3. Having had time to carefully study the suite of commercial offers proposed by Openreach and detailed in the Consultation Document, it is our overall view that collectively they pose an existential threat to the development of an effectively competitive market. Figure 1 shows the three principal elements of the commercial offers together with the continued drip feeding of price offers by Openreach putting increasing pressure on the competitiveness of the market.

Figure 1: Competitive Pressures



4. We describe through this response document how each of the Frontbook ARPU share offer, the Incremental New to Openreach (NTO) Offer and the Incremental Geographic NTO Offer together with the strategic timing with which Openreach releases commercial offers to the market threaten the continued investment and innovation in this market that forms the backbone of the UK's economic growth.

5. Whilst we welcome Ofcom's provisional assessment that it should instruct Openreach to withdraw the Incremental NTO Offer, we think that Ofcom also needs to require Openreach to withdraw the Frontbook ARPU Offer and Geographic Incremental NTO Offer, both of which will have negative effects on competition and the long run benefits to consumers and the economy.

6. We set out three overriding reasons why these Offers should be withdrawn:

    1. First, allowing these offers to stand would mean Ofcom could not deliver on the strategic priorities for the market set out by the government in the Statement of Strategic Priorities (SSP) and in Ofcom's Telecoms Access Review (TAR) Statement.
    2. Second, Ofcom has misplaced the midpoint of the REO cost range such that it substantially understates the anticompetitive effects of Openreach's proposed prices. This is in part done by having a "Targeted" scenario for a Reasonably Efficient Operator (REO) that is out of date, rather than relying on the realistic "Large Scale" scenario.
    3. Third, there is a clear margin squeeze caused by both the Incremental NTO Offer and Geographic Incremental NTO Offer that make it uneconomic for altnets to remain in the market. Reducing the level of either the monthly rental or connection charge discount will not remove the margin squeeze.

7. Ofcom only considers the competitive effects of the FTTP offers for the term proposed by Openreach, i.e. for a period of around two years. However, Openreach has a reputation for extending offers such that they become the norm, even if they technically remain "offers". This practice is not considered by Ofcom but has a long-term effect on altnets.

8. We also continue to be concerned that Openreach is strategically drip feeding price offers into the market with the intention or effect of raising switching barriers for Internet Service Providers (ISPs) and Communications Providers (CPs). We therefore again raise these concerns providing more theoretical underpinning and evidence to support our case. We suggest that both the theory and evidence is enough for Ofcom to conduct a serious and rigorous analysis of Openreach's behaviour.

9. Finally, in this introduction, we ask a question: why does Openreach feel the need to introduce commercial offers into the market? Openreach already has SMP with WLA across the whole of the UK and, despite losing around two million broadband customers (10% of their subscriber base) since their peak in 2022, is increasing its profitability measured by EBITDA[1] (see Figure 2 below). More specifically, why does Openreach feel the need to introduce these offers that encourage CPs to target end-users not currently using the Openreach network?

10. The only logical answer is that Openreach is seeking to take business away from altnets and VMO2 to stop the growth of competition, reverse the decline in its market share and rebuild its own customer base. Also, it is not targeting only new to fibre customers, but customers already on fibre of altnets. We can understand why this is in the interests of BT and its shareholders as they will be able to increase their profitability yet further.

11. Ofcom works to develop effectively competitive markets and within the SSP set by the government in April 2026. This requires Ofcom to put investment and competition ahead of near term price reductions and to implement regulation that supports operators' investments in the continued roll-out of fibre networks over the next five years and beyond. If these commercial offers from Openreach are successful from Openreach's perspective and claw back end-users on to their network, they will have the diametrically opposite effect on investment and competition. Altnets will pare back their investments yet further and Openreach's SMP will be strengthened. Openreach's targeting of customer on other fibre networks does nothing for the government's SSP in respect of either Gigabit network growth or competition.

12. For this reason, we call on Ofcom to require Openreach to withdraw all elements of these commercial offers that are related to WLA.

[1] Earnings Before Interest Tax Depreciation and Amortisation.

2 Introduction and Policy Background

13. As summarised above and explained in detail through the rest of this response document, we consider that these pricing proposals from Openreach taken together will do serious harm to the emerging competitive Wholesale Local Access (WLA) market as defined in Ofcom's Telecoms Access Review (TAR). In reality, these proposals form an existential and plausible threat to Openreach's competitors in the market, including nexfibre.

14. To explain the damage that is likely to be caused by Openreach's pricing proposals it is necessary to set them in the context of the government's and Ofcom's policy objectives as set out in the Statement of Strategic Priorities[2] (SSP) and in the TAR and the implications of these objectives for economic regulation.

2.1 Statement of Strategic Priorities

15. The SSP makes it very clear that Ofcom "must have" regard to the government's pro-growth policy when making regulatory decisions and that Ofcom is expected to implement regulation that "supports innovation and investment in infrastructure".

16. This investment should come from BT and other fibre networks such as nexfibre. Indeed the government regards network competition as a crucial driver of broadband roll-out. The SSP states that "*Competition across the UK, including in Hull, is necessary to promote investment as well as foster innovation and will help ensure low prices and more choice for consumers in the long-term.*"

17. It also states that "Promoting investment and competition in the fixed telecoms market should continue to be prioritised over regulatory measures to further reduce retail prices in the near term." This is an important priority as it makes it abundantly clear that driving down consumer prices is not a short-term goal of the government and instead economic headroom must be left for competitors to Openreach to invest in competing networks.

18. The government recognises that it follows from the above that "Ofcom should exercise its regulatory powers to take prompt steps to remedy actions which present a risk to effective competition" and that "Ofcom should prevent Openreach from offering commercial arrangements that would have a detrimental effect on the establishment of sustained competition, while sustained competition is still developing in the market".

[2] Department for Science, Innovation and Technology (DSIT) "*Statement of Strategic Priorities for Telecommunications, the management of Radio Spectrum, and Postal Services*" 30th April 2026

19. As we will demonstrate in this response, The Frontbook ARPU and Incremental New to Openreach Offers do present a risk to effective competition and will have a detrimental effect on sustained competition. Ofcom, therefore, needs to require Openreach to withdraw all elements of the Offers.

20. Finally, the SSP states that regulation "should allow firms making large and risky investments the opportunity to make a return commensurate with the level of risk incurred at the time of making the investment decision. This is often referred to as the 'fair bet' principle, which the government continues to support." The government does not restrict the fair bet principle to BT but applies it to all firms making large and risky investments. It should also be noted that the principle applies to the level of risk incurred at the time of making the investment decision.

2.2 Telecoms Access Review

21. Ofcom also recognises the importance of competition and investment. In the opening section of the TAR it states that its regulation "*is designed to promote competition and investment in high quality gigabit-capable networks – bringing faster, better broadband to people across the UK"* (TAR, Vol 1, Para 1.1). It also notes that "*the network competition we are seeking to promote should also bring longer term benefits from innovation, choice, and stronger incentives to price keenly to attract customers and to further improve quality of service"* (Vol 1, Para 1.3).

22. Ofcom recognises that the industry has made "huge strides" in rolling out full fibre networks, but that there is more to do. It says *"Further investment is needed to deliver high-quality full-fibre services to more of the UK"* (Vol 1, Para 1.8).

23. In the same paragraph, Ofcom makes a statement that Ofcom would be well advised to hold front and centre of their thoughts when considering the proposal from Openreach. Ofcom says: *"network competition has not yet developed to the point where Openreach no longer has significant market power such that we could remove all wholesale regulation in the broadband market"*.

2.3 Implications for Economic Regulation

24. These extracts from the SSP and TAR imply two significant principles for economic regulation of the WLA market that should inform and underpin Ofcom's assessment of the pricing proposals from Openreach.

25. First, the government's priority for regulation to support investment and competition ahead of lower consumer prices and Ofcom's recognition that more needs to be done means that Ofcom needs to consider whether the pricing proposals are consistent with increased investment and competition. If these proposals form a credible risk to investment and competition, then Ofcom should not permit Openreach to implement

them, even if that means Communications Providers (CPs) and ultimately consumers may face higher prices in the short term than if these proposals were allowed.

26. The implication of the above is that Ofcom should not use regulation to seek to maximise consumer surplus and instead must allow some surplus to be transferred from consumers to Openreach and other fibre network operators to encourage investment and competition. This will also mean that BT, will be allowed to earn a return on investment above its cost of capital and over-recover its costs. Whilst this may be anathema to Ofcom, and contrary to the long running culture of regulation, it is a necessary corollary of the SSP and Ofcom's strategy.

27. Ofcom has already implicitly accepted these points by basing costs in the Fibre Cost Model (FCM) on the Reasonably Efficient Operator (REO) standard. Ofcom says that *"the aim of our cost modelling is to estimate the efficient costs of a hypothetical reasonably efficient operator (as opposed to the costs of any specific operator)"*[3].

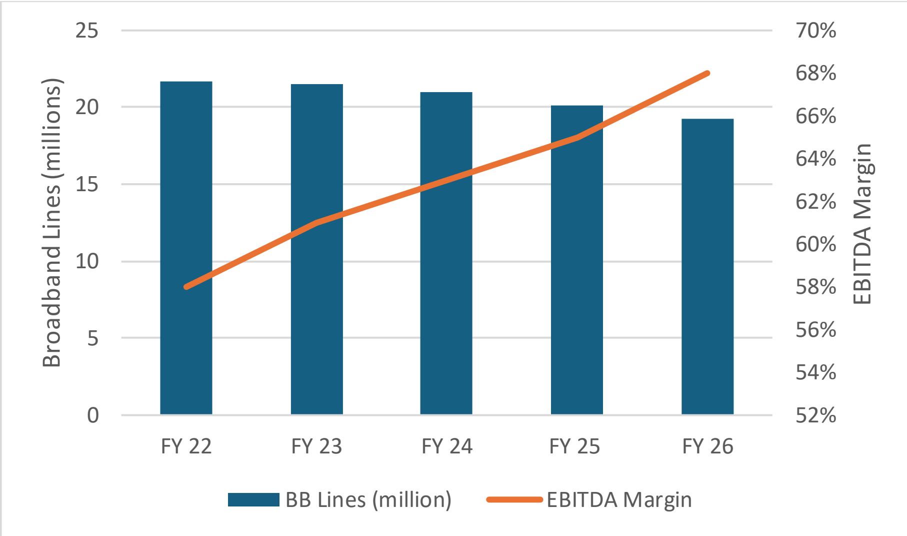
28. Where Ofcom and other NRAs have previously used the REO standard (as opposed to the Equally Efficient Operator (EEO) standard), the REO generally has higher costs that the EEO due to economies of scale and scope and entrant specific costs that are not incurred by the incumbent operator, such as Openreach[4].

29. Second, both the government and Ofcom recognise that the market is not yet sustainably competitive. Ofcom did not find any postcode sectors that fell into Area 1 in the TAR where there are at least two established rivals to Openreach. To move to a position where there is sustainable competition, Openreach will need to lose SMP which implies that it must lose market share. Actions taken by Openreach that are designed to protect its dominant market position are not compatible with either the government's or Ofcom's strategic priorities nor do they support the growth of fibre network and competition, even if those actions are advantageous to consumers in the short term.

30. Figure 2 shows that Openreach has only lost around two million of its end-user lines from its peak in the past four years or so (only around 10% of its total customer base). However, over the same period its EBITDA margin has grown from 58% to 68% of revenue, representing 41.9% and 51.4% of BT Group's EBITDA respectively[5].

Figure 2: Openreach Broadband Lines and EBITDA Margin FY 22 - FY26

[3] TAR, Annex 11, Para. 11.97
[4] Gaudin, G., & Saavedra, C. (2014). Ex ante margin squeeze tests in the telecommunications industry: What is a reasonably efficient operator?. Telecommunications Policy, 38(2), 157-172.
[5] Source: BT Group Annual Reports.



Data source: BT Annual Accounts

31. Despite this loss of lines, Openreach still has around 19 million lines compared with around 3.5 million lines for other fibre network providers and 5.5 million lines for VMO2. Although market share is not the sole determinant of whether a company has SMP, the discrepancy in the WLA market means the Openreach market share is a very important determinant of its SMP, as cited by Ofcom as a cause of its SMP in the WLA Area 2 market[6].

32. Our own analysis of the WLA market found that of the approx. 28m customer connections, only 11.6m were through ISPs that were not vertically integrated with a network operator. Of that 11.6m, 10.7 were ISPs on Openreach and 0.8m were on Cityfibre with 0.1m unaccounted for. This means that Openreach has ca. 92% of the merchant wholesale market, which is another indication of its SMP.

33. A key conclusion of this analysis is that for competition to become effective and for Openreach to lose SMP it must also lose market share. Price packages that are designed to maintain or build market share are, therefore, counter to both the government's and Ofcom's strategic goals. This may be uncomfortable for a regulator to accept but is the logical corollary of the SSP and the TAR.

34. Our analysis of the price proposals put forward by Openreach is that it is designed not just to protect its current market share, but to try to regain some of the lost customers through the incremental New to Openreach offer which is targeted at non-Openreach users. If Ofcom allows Openreach to implement any part of this package of price cuts it is plausible that Openreach would continue to enjoy a position of SMP

[6] See TAR, Vol. 2 Paras. 4.407 – 4.09

well into the future and the objectives of both the government and Ofcom would not be attained.

35. In conclusion, when considering the price offers being put forward by Openreach, Ofcom needs to take a fundamentally different approach to that which would usually be associated with a competition assessment. It needs to:

- Give primary consideration to the effect of these prices on competitive investment rather than consumer short-term welfare. This means it will need to use the REO cost as the benchmark for assessing whether these prices are anticompetitive, even if that means welfare is transferred from consumers to producers and Openreach over-recovers its costs.
- Consider also the effect of the proposed prices on Openreach's WLA market share and therefore its SMP. If these prices are likely to lead to Openreach continuing to have SMP, Ofcom needs to prohibit these prices, otherwise its objectives are unlikely to be met.

36. In the next section of this response, we show how the price proposals put forward by Openreach will harm competition and argue that Ofcom has understated the degree of harm involved.

3 Answers to Ofcom's Questions

37. We set our below our answers to Question 3.1, 4.1 and 5.1 in the Consultation Document. We have chosen not to make any comment in response to Question 6.1, but this should not be taken as us agreeing with Ofcom's provisional view on the Incremental Ethernet Net Demand Offer. In addition to answers to these three questions we have included our initial response to the "Update – Expanding the Equinox Offer Areas" released by Ofcom on 4th August.

38. Our answers to these questions are informed by the economic assessment conducted by SPC Network which is included as Annex 1 to this response and should be read in conjunction with our answers.

39. Before addressing the individual questions, we would like to point to a collective and structural problem with the three FTTP offers. Together, they allow CPs to offer new customer discounts to end users switching to Openreach. Whist this is a common business practice across many segments, Openreach, as the dominant firm, has a special responsibility not to exploit its market position. However, this appears to be what they are doing.

40. As we will demonstrate and as recognised by Ofcom, there is no cost justification for the level of discounts being provided to New to Openreach end users and these discounts cannot be replicated by other fibre networks. If successful (in Openreach terms), these offers will pull end users away from altnets and increase the market share of Openreach. In the longer term, the pool of New to Openreach end users will reduce as competing altnets are squeezed from the market, meaning the average Openreach discount will reduce and its average price will increase. Therefore, Openreach will be able to recoup any losses made on the discounted price as altnets become excluded from the market. This will further embed Openreach's SMP and require Ofcom to continue to regulate it as the opportunity for effective competition diminishes.

41. The best way for Ofcom to prevent this automated predatory pricing would be for it to require Openreach to withdraw all parts of the FTTO offer.

3.1 Question 3.1: Do you agree with our assessment that the Frontbook ARPU share offer and the Box Swap Offer?

42. Ofcom's provisional analysis is that Frontbook ARPU Share Offer and the Box Swap Offer (hereafter the "ARPU offer") do not raise concerns about compliance with the fair and reasonable obligation and so proposes to allow Openreach to proceed with this element of the overall offer.

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43. We do not agree with Ofcom's provisional assessment. We explain in this section that Ofcom has misplaced the midpoint of the REO range and in so doing Ofcom has significantly understated competition problem caused by the ARPU offer. The midpoint used by Ofcom would restrict competition to just 3.5 million premises, which is substantially below the 16 million premises already passed by altnets. Our reasons are set out below with more information in the Economic Annex.

3.1.1 Ofcom's justification

44. Ofcom's justification for its provisional view is set in Para. 3.29 of the consultation document, in particular the first two bullet points, which read:

    4. "The effective £19.32 discounted price for bandwidths above 330Mbit/s sits above the mid-point of our adjusted REO cost range. Therefore, if all customers received this price it would not raise concerns.
    5. Based on the above, we estimate an average FTTP rental charge, inclusive of the Frontbook ARPU share offer discount, of [✂]. Again, this sits above the mid-point of our adjusted REO cost range." (emphasis added)

45. In several places in the consultation document, for example Para. 3.20, Ofcom explains that it will assess proposed prices from Openreach against the midpoint of the REO cost range, but that this is not a "bright line test". Ofcom goes on to say that it would be more likely to have concerns where prices are at the mid to lower end of the range.

46. However, it is clear from Para. 3.29 of the consultation document that Ofcom is placing a high degree of importance on the midpoint of the REO cost range. It is also evident throughout the consultation document that Ofcom uses the midpoint of the REO cost range for its assessment of the Incremental New to Openreach (NTO) offer and the Geographic NTO offer.

47. We understand that Ofcom has to have some benchmark to determine whether a proposed offer by Openreach potentially causes a competition problem. However, our assessment is that Ofcom has made a major error in how the midpoint is derived and in so doing has understated the competition problem which will inevitably leave Openreach with SMP in most of Area 2 as there will be no scope for sustainable, established competition to Openreach from two competitive WLA providers.

3.1.2 Ofcom's Error on the location of the midpoint

48. The Fibre Cost Model (FCM) has two scenarios for the Reasonably Efficient Operator (REO): "Targeted" and "Large Scale". The main distinguishing parameters of these REO scenarios are:

- **Large Scale**: 20 million premises passed, 30% take-up achieved, 10.3% WACC[7]. This leads to a required constant, real terms rental charge of £21.21 (in 2026/27 prices) at 20 million premises passed. This scenario has a higher WACC than the targeted scenario as Ofcom assumes that building out to more premises is inherently more risky and so debt and equity holders would require a higher return on capital to compensate for the risk.
- **Targeted**: 5 million premises passed, 40% take-up achieved, 9% WACC. This leads to a required constant, real terms rental charge of £13.59 (in 2026/27 prices) at 5 million premises passed.

49. The FCM considers a single hypothetical REO passing five or 20 million homes, rather than the actual market structure where there are many competing and indeed overlapping operators. Also, the premises are unique premises such that if in reality a single property was passed by more than one altnet it would only count as one property for the purpose of the FCM. Again we consider this as a broadly consistent approach, especially give that the strategic objectives are geared towards achieving multiple competing altnets to Openreach across as much of Area 2 as is realistic.

50. Ofcom's calculation of the midpoint is based on the simple average of the model outputs from the two scenarios above: the required constant, real terms rental charges of five million premises passed for the targeted scenario and the cost of 20 million for the large scale scenario – these being £13.59 and £21.21 per month respectively for each active connection. This results in a midpoint REO cost of £17.40. For the purposes of question 3.1, Ofcom has adjusted this to £17.77, as stated in paragraph 3.26 of the consultation document.

51. Our principal objection to Ofcom's calculation of the midpoint is that the targeted scenario is clearly out of date as altnets have collectively already passed more than five million premises and currently reached around 16 million[8]. There is, therefore, no benefit in basing any part of the REO range on a scenario that is no longer grounded in reality. In fact, having the range start at a number of premises way below that already passed by altnets means the midpoint could (and does) result in the potentially

[7] Weighed Average Cost of Capital
[8] Source: Point Topic *UK broadband availability in Q1 2026: Openreach FTTP premises exceed 22m* Available at https://www.point-topic.com/post/uk-fttp-premises-in-q1-2026

competitive market being drastically smaller than it already is. This is a perverse result that would be against all the policy objectives of both Ofcom and the government.

52. Further, by having a lower WACC and higher take-up rate, Ofcom's calculation of the cost for the targeted scenario is systematically lower than for the large scale scenario for the same number of premises passed. This has the effect of dragging the midpoint to a lower price, compounding the same effect described above.

53. Our second objection is the presumed take-up rate of 40% for the targeted scenario, which is considerably higher than reality . The 40% assumed take-up rate for the REO means that there cannot be two established providers to Openreach, the definition of Area 1, unless Openreach's own market share were to fall below 20% which is extremely unlikely. The assumed take-up of 40% therefore embeds Openreach's SMP.

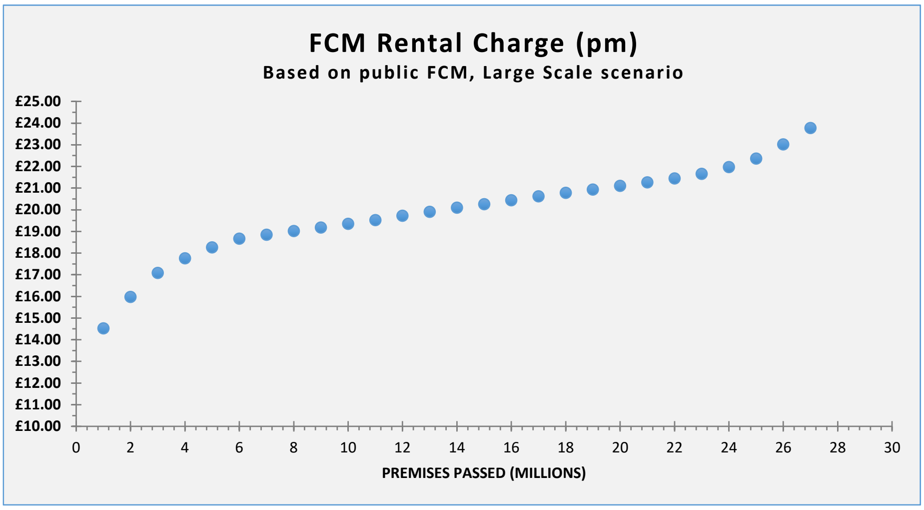
54. In addition, according to Assembly Research, the average take-up across all altnets is 18%, with the most successful achieving rates of between 32% (Community Fibre) and 28% (Fibrus)[9]. Point Topic finds that altnets with a faster build rate have achieved higher take-up rates than ones with a slower build rate, but these are still below the level assumed by Ofcom[10].

55. Given that the actual number of premises passed has already exceeded the targeted scenario by a factor of three and that the 40% take-up rate in the targeted scenario is unrealistic, it is our view that Ofcom should only use the large scale scenario to calculate the midpoint.

56. Figure 3 illustrates the weighted average required rental charge, based on the Large Scale assumptions, for total premises passed ranging from one million premises up to 27 million. The precise amounts shown above differ from those in the consultation document, as we only have access to the public version of the FCM, but for 20 million premises passed they are very similar - £21.10 in the above graph, compared to £21.21 in the TAR itself.

[9] Assembly Research "*The Next Chapter in UK Fibre: A report for nexfibre*" June 2026
[10] Point Topic *UK Broadband Q1 2026 Snapshot* May 28th 20206. Available at https://www.point-topic.com/post/uk-broadband-q1-2026-snapshot

Figure 3: FCM Rental Charge Based on Large Scale Scenario only



Source: SPC Network

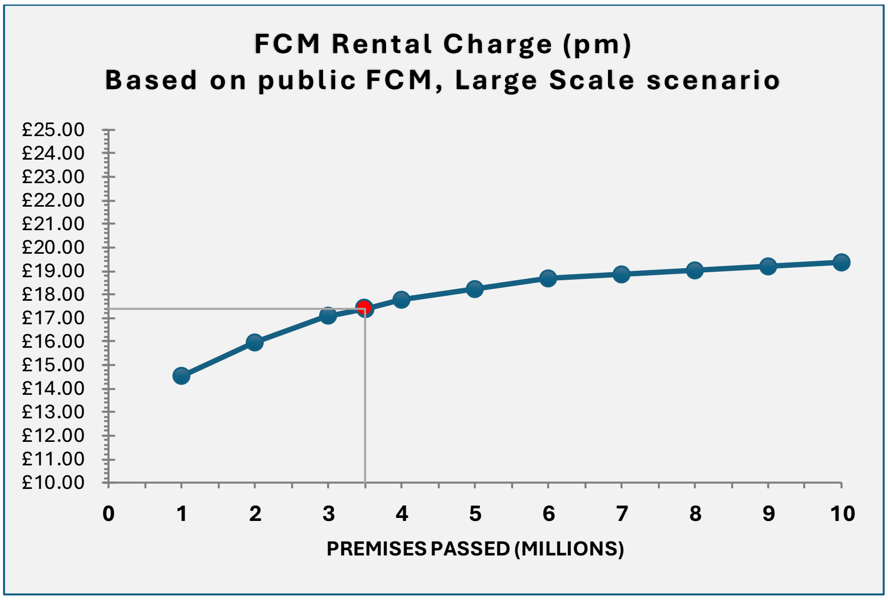
57. The average rental charge per premises passed increases with the size of the network as Ofcom's assumption in the FCM is that REO builds its network from the lowest cost to the highest cost postcode areas. At around 24 million premises passed, the average cost rapidly increases as the network extends to more rural, and therefore, more expensive to connect properties.

58. From Figure 3, we can see how many premises the REO could afford to connect if it could only achieve a rental charge of £17.40 per month by simply drawing a line from £17.40 on the y axis to the average charge curve and then down to the x axis, as illustrated below in Figure 4 which shows the premises passed ranging from 1 – 10 million homes. The vertical line lands at 3.5 million homes.

59. The implication of this is that if the WLA price that the altnets can realistically achieve over the medium to long term is £17.40 then the competitive market will be restricted to only a small subset (3.5 million premises passed) of Area 2. For the remainder of Area 2, Openreach will continue to enjoy SMP in the WLA market. This is contrary to Ofcom and government policy.

60. Openreach is proposing an ARPU offer of £19.32, subject to a self-imposed price cap of CPI – 1.25%. This ARPU rate is above the midpoint and but would still limit the competitive area to around 10 million premises. However, even this number would decline over the period to 2031 due to the self-imposed price cap, which would mean the real terms level of the ARPU cap would be £18.37, meaning only about 5.5 million homes could be subject to competition.

Figure 4: Position of Ofcom's Midpoint



Source: SPC Network

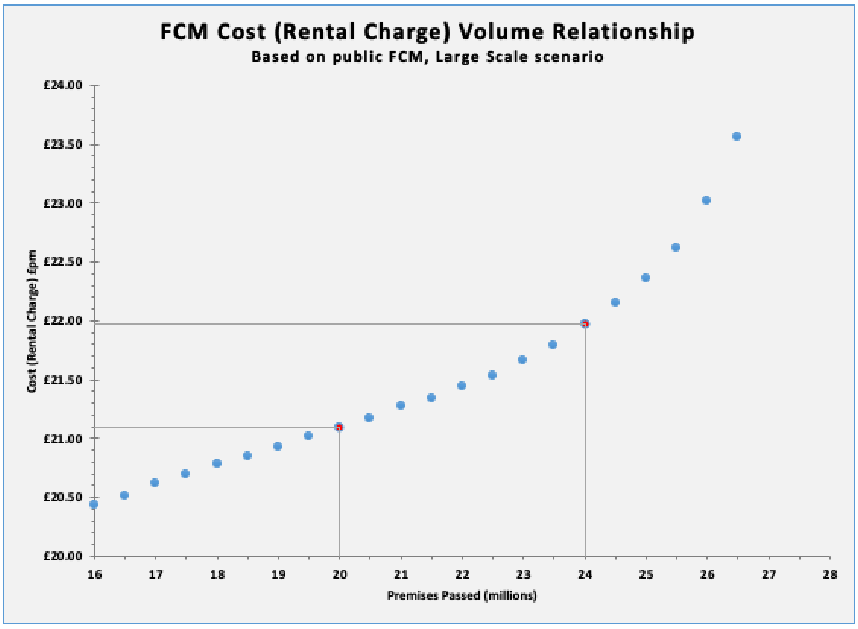
61. Given all of this, we set out below a proposed alternative approach based on a more realistic location of the midpoint that would allow the potential of a competitive market amounting to some 20 million homes. It would mean that the ARPU cap proposed by Openreach would have to be rejected by Ofcom and new, higher ARPU cap imposed that would be consistent with the policy objective set by the government and Ofcom. Whilst this may be anathema to Ofcom, it is the proper consequence of government and Ofcom policy objectives.

3.1.3 Our Proposed Approach

62. To avoid the reduction in the potentially competitive market that would result from Ofcom accepting of the ARPU cap proposed by Openreach, we suggest the following.

63. First, Ofcom sets the REO cost range based on the large scale scenario assumptions but between 16 million premises passed, the current level passed by altnets collectively, and 24 million, the inflection point after which the number where the average monthly charge starts to increase rapidly. This would set a charge limit of between £20.44 and £21.97, with a simple midpoint of £21.21, as shown in Figure 5.

Figure 5: Proposed REO Range and Midpoint



Source: SPC Network

64. Secondly, Ofcom then imposes an ARPU cap of £21.21 with a price cap of CPI – 0% so that the cap remains the same in real terms. This would allow the competitive area to extend to 20 million premises. This is also the midpoint in the number of premises as the rate of growth of the rental charge curve is more or less linear between 16 and 24 million premises passed.

65. This rate should be imposed for the period of the Telecoms Access Review when it could be changed in line with the degree of effective competition at the next TAR in 2031.

66. We recognise that this could mean prices increasing for customers and that Openreach could over-recover its costs. However, as pointed out in Section 2 of this response, even though allowing such outcomes may be uncomfortable for Ofcom, they are in line with the government's SSP and with Ofcom's own strategy.

3.2 Question 4.1: Do you agree with our assessment of the Incremental New to Openreach Customer Offer and our proposal to direct Openreach to withdraw the offer?

67. We fully agree with Ofcom's statement in Para. 4.118 of the Consultation Document that "there is a plausible risk that the offer prices could affect altnets' ability to secure future wholesale agreements, limiting take-up and weakening competition in the long term".

68. We also agree with Para. 4.123 in its entirety and especially Ofcom's statement that "the significant price reductions in this offer are targeted at customers which altnets need to be able to compete for in order to increase take-up and defend their base."

69. It follows, therefore, that we wholeheartedly support Ofcom's proposal to direct Openreach to withdraw the offer.

70. However, we have a number of additional points that we would like to make in regard to Incremental New to Openreach Customer Offer (hereafter "NTO Offer"), set out below.

3.2.1 Appropriate Customer Increment

71. First, we fully support Ofcom's assessment of the customer segment included in the output increment, as set out in Paras. 4.46 – 4.77. The massive asymmetry in the customer bases of Openreach and altnets would put altnets and an unsustainable disadvantage if Openreach were allowed to spread the costs of the offers across all their customers.

72. Ofcom has clearly set out its reasons why appropriate customers are all prospective NTO customers and altnets' existing customer bases and that wider increments would not be appropriate. Ofcom is right to be concerned that a REO does not have the same ability as Openreach to offset low margins on above base-line NTO customers with higher margins on other customer groups (Paras. 4.76 – 4.77).

73. Ofcom's explanation of its reasons for using the above base line NTO customers as the appropriate increment is very well explained in the Consultation Document and reflects our own argument in our response to the Call For Information (CFI).

74. Our own further analysis shows that that if the increment of customers were extended to cover the entirety of Openreach's 19 million customers, such that Openreach could spread the cost of the discount across all of its customers, then the impact of every pound of revenue lost by altnets would be nearly 5.5 times higher than for Openreach. Figure 6 below shows our calculation.

Figure 6: Relative Impact of NTO Offer on Openreach and Altnets

	Openreach	Altnets
Customer Base	19,000,000	3,500,000
ARPU Offer	£19.32	£19.32
Total Revenue	£367,080,000	£67,620,000
Monthly discount (see Economic Annex for how this has been calculated.)	£5.31	£5.31
Illustrative customer increment	10,000	10,000

Illustrative increment as % of base	0.05%	0.29%
Lost revenue	£53,100	£53,100
Lost revenue as proportion of total revenue	0.014%	0.079%
Relative impact on altnets		**5.43**

75. The calculation starts with the current customer base of both Openreach and altnets in total and assumes that each customer generates monthly revenue equivalent to the ARPU Offer, providing Openreach and altnets with total monthly revenue of £367m and £67.6m respectively. We then apply the monthly discount of £5.31 resulting from the NTO Offer as calculated by SPC Network and explained in Annex 1. For the purpose of this calculation we assume the NTO Offer applies to 10,000 customers for both Openreach and altnets, representing 0.05% and 0.29% of the total customer base of each. The lost revenue of £51,000 per month for each of Openreach and altnets then represents 0.014% and 0.079% of monthly revenue. By dividing altnets' proportion by Openreach's we see that the impact of every pound of revenue lost by altnets would be nearly 5.5 times higher than for Openreach.

76. However, the situation is worse than this. In Section 2 of the Economic Annex, SPC Network model the effects of the FTTH Offers on demand for Openreach and REOs. In a market area where Openreach has 40% market share each REO has 30%, and if the FTTH Offer was introduced without change, the price elasticity of demand would result in Openreach's market share increasing from 40% to 66% and each altnet's share reducing from 30% to 17%. This would of course mean that Openreach would regain its SMP and altnets would not be able to constrain its behaviour. This demonstrates the asymmetry between Openreach and altnets.

77. The relative financial positions of altnets and Openreach, mean that Openreach is in a far better place to withstand the lost revenue from the FTTP Offers than altnets are. EBITDA for altnets remains negative, with a few exceptions, and for Openreach is positive 68%.[11] This differential performance would mean altnets would not be able to respond to the Openreach's price move.

78. In summary, therefore, Ofcom is right to apply the margin squeeze test only to the above base line increment of customers. If it were to apply to test to all customers, this would result in a massive advantage to Openreach with which altnets could not compete.

[11] Enders Analysis "*UK Altnets: Something's got to give.*" November 2025

3.2.2 Midpoint

79. Second, as explained in response to Question 3.1, we believe that Ofcom has placed the midpoint of the REO range in the wrong location, meaning that the competition problem that Ofcom rightly sees as existing is in fact understated. Given Ofcom's use of the midpoint as an important element of the decision on whether to allow the NTO offer or not, our argument in response to Question 3.1 is equally applicable to our answer to Question 4.1.

80. It is particularly important in relation to Question 4.1 as we would not be at all be surprised if Openreach returns to Ofcom with an alternative level of NTO Offer to try to get the offer approved either in response to this consultation or at some later stage. Openreach may suggest a lower monthly rental discount or a lower connection charge discount to raise the price above any Ofcom derived midpoint. If Ofcom sticks with its current location of the midpoint, then a revised NTO Offer is likely to have severe negative impacts on the competitiveness of the market for the all the reasons explained above.

3.2.3 Margin Squeeze

81. Third, SPC Network has undertaken its own margin squeeze analysis detailed in the attached Economic Annex and using the midpoint we have proposed in response to question 3.1 in addition to that used by Ofcom.

82. In brief, we agree with Ofcom's high level approach for conducting the margin squeeze analysis, but think that it has made three errors and one misjudgement in the implementation of this approach:

    1. *Ofcom's method for accounting for the connection charge discounts underestimates the impact.* The better method for taking account of the connection charge discount is to annuitize it over a period of time corresponding to a typical customer lifetime reflecting that which ISPs and CPs consider when setting pricing, as referred to in Para. 4.86. This captures the direct impact on average monthly ARPU of the **discounted access lines for the output increment for the margin squeeze**. In the case of the £35 discount for the NTO customers over a five-year period, this gives a reduction of £0.73 per month. If the customer life span were shorter, the reduction per month would be greater.
    2. *The cost range is incompatible with Ofcom's objectives for competition.* As we argued in our answer to Question 3.1, the REO cost range should be set on the basis of a large scale operator with between 16 million and 24 million homes passed.

3. The margin squeeze test must recognise the importance of altnets needing to price at a discount to Openreach to overcome its incumbency advantages. The analysis must recognise the importance of altnets needing to price at a discount to Openreach to overcome its incumbency advantages.[12] Nexfibre's experience is that a discount of at least ✂ is required to win wholesale business against competition from Openreach.
4. The misjudgement is that Ofcom has not allowed for Openreach extending the offer beyond the period they have stated in the ACCNs, which Openreach has done in the past and we expect them to do again.

83. Taking account of the changes described above, Figure 7 below shows the results of the margin squeeze test based the REO midpoint used by Ofcom and as calculated by nexfibre against the Openreach ARPU and with a discount applied to the ARPU that represents the discount altnets need to apply to win business from Openreach.

Figure 7: NTO Offer Margin Squeeze Results

		2026		2031	
Openreach ARPU Cap		£19.32		£18.14 *(CPI-1.25%)*	
NTO Offer Discount (see Economic Annex for how this has been calculated.)		£5.31		£5.31	
Openreach ARPU Post Discount		£14.01		£12.83	
Altnet (with additional ✂ discount)		£✂		£✂	
		Margin squeeze			
		At Openreach ARPU Cap	After REO discount 2026	At Openreach ARPU Cap	After REO discount 2031
REO cost at Ofcom's adjusted midpoint	£17.77	-£3.76	-£✂	-£4.94	-£✂
REO cost at 16m premises passed	£20.44	-£6.43	-£✂	-£7.61	-£✂
REO Cost at 24m premises passed	£21.97	-£7.96	-£✂	-£9.14	-£✂

12 Condoc, paragraph 4.70(b).

84. To reiterate the core argument of our answer to Question 3.1, Ofcom's location of the midpoint would mean a sustainable competitive market would be limited to just 3.5m premises. However even this would be under threat from the NTO Offer as the REO would be subject to a margin squeeze of £3.76 per month per user, which of course could not be sustained.

85. Using what we consider to be a more realistic REO cost range would make the margin squeeze even worse. If Openreach were to maintain the ARPU cap Incremental NTO Offer price beyond the period until at least 2031, then the margin squeeze would get worse still.

86. Therefore, whilst Ofcom is right to require Ofcom to withdraw the NTO Offer, Ofcom also needs to make it clear to Openreach that any alternative level of discount for either the monthly rental or the connection fee would not be acceptable either.

3.3 Question 5.1: Do you agree with our assessment of the Geographic Incremental New To Openreach Customer Offer as set out above?

87. For all the reasons set out above in relation to Ofcom's understatement of the extent of the competition problem regarding NTO Offer, we also disagree with Ofcom's assessment of the Geographic Incremental New To Openreach Customer Offer (herein "Geographic Offer"). In addition, Ofcom's reasoning regarding the position of VMO2 and altnets is not consistent with the government's and Ofcom's objective of developing a competitive market.

3.3.1 MIdpoint

88. As with our response to Question 4.1, all the points we made in our answer to Question 3.1 regarding the location of the midpoint still stand. Ofcom's location of the adjusted midpoint at £17.77 means that, before the implementation of the Geographic Offer, a rival REO would only be able to serve around 3.5 million premises competitively.

3.3.2 Effect on altnets

89. More specifically in relation to Ofcom's analysis of the Geographic Offer, we find it illogical that despite Ofcom having no evidence that the Offer is objectively justified (Para. 5.24), it still finds that the offer is consistent with its overall policy objectives.

90. At Para. 5.30, Ofcom states that "VMO2's large, existing network footprint and established customer base mean geographically targeted pricing is unlikely to negatively impact the long term competitive constraint that it exerts on

Openreach…However, the significant impact overlap of the offer areas and the altnet footprint mean that the Openreach geographic offer may also impact on altnets".

91. Unfortunately, the main evidence Ofcom relies on for reaching its conclusion that the Geographic Offer does not cause a competition problem, Table 5.1, is redacted so we are unable to assess Ofcom's justification directly. We have, therefore, re-run the margin squeeze test.

3.3.3 Margin Squeeze

92. Once again, the margin squeeze exerted by the Geographic Offer will make matters worse for altnets. We have calculated the margin squeeze that arises from this offer using the same methodology as for the NTO offer, the results of which are set out below in Figure 8.

93. Using Ofcom's adjusted mid-point there would be a small positive margin of £0.29 before any necessary additional discount altnets have to offer ISPs is taken into account. However, given the CPI – 1.25% price cap on the ARPU cap Openreach proposes, this would reduce to just £0.05 in year two and to minus £0.17 in year three. All other variations in the test results show a margin squeeze.

Figure 8: Geographic Offer Margin Squeeze

<table>
<tr><td></td><td></td><td colspan="2">2026</td><td colspan="2">2031</td></tr>
<tr><td>Openreach ARPU Cap</td><td></td><td colspan="2">£19.32</td><td colspan="2">£18.14 (CPI-1.25%)</td></tr>
<tr><td>NTO Offer Discount (see Economic Annex for how this has been calculated.)</td><td></td><td colspan="2">£1.26</td><td colspan="2">£1.26</td></tr>
<tr><td>Openreach ARPU Post Discount</td><td></td><td colspan="2">£18.06</td><td colspan="2">£16.88</td></tr>
<tr><td>Altnet (with additional ✂ discount)</td><td></td><td colspan="2">£✂</td><td colspan="2">£✂</td></tr>
<tr><td></td><td></td><td colspan="4">Margin squeeze</td></tr>
<tr><td></td><td></td><td colspan="2">2026</td><td colspan="2">2031</td></tr>
<tr><td></td><td></td><td>At Openreach ARPU Cap</td><td>After REO discount</td><td>At Openreach ARPU Cap</td><td>After REO discount</td></tr>
<tr><td>REO cost at Ofcom's adjusted midpoint</td><td>£17.77</td><td>£0.29</td><td>-£✂</td><td>-£0.89</td><td>-£✂</td></tr>
<tr><td>REO cost at 16m premises passed</td><td>£20.44</td><td>-£2.38</td><td>-£✂</td><td>-3.56</td><td>-£✂</td></tr>
<tr><td>REO Cost at 24m premises passed</td><td>£21.97</td><td>-£3.91</td><td>-£✂</td><td>-£5.09</td><td>-£✂</td></tr>
</table>

94. The large scale altnet, which is the more realistic of the two REO scenarios, would face a margin squeeze of between £2.38 and £3.91 per customer per month even before it had to add any discount to encourage ISPs to switch customers to the altnet. This is clearly unsustainable and would likely lead to more altnets exiting the market. If Openreach were to maintain the ARPU cap Incremental NTO Offer price beyond the period until at least 2031, then the margin squeeze would get worse still.

95. We remind Ofcom that under the TAR, the definition of Area 1 is that there are two established rivals to Openreach. By allowing the Geographic Offer, Ofcom appears to be abandoning the opportunity for a second rival, in addition to VMO2, to become established. We do not have a view on whether VMO2 could withstand the additional competitive pressure of this offer, but given the results of the margin squeeze analysis and wrong location of the midpoint, it will be extremely difficult for a second rival to become established. As we said in our response to the CFI, altnets in the VMO2 area appear to be collateral damage. This will almost certainly mean that the VMO2 area, as defined by Openreach, will not become effectively competitive and so Openreach will continue to have SMP across the whole of Area 2 as defined by Ofcom on the TAR.

3.4 Conclusion on Ofcom Questions

96. Whilst we agree with Ofcom's provisional view that it will require Openreach to withdraw the NTO Offer, our overall assessment is that Ofcom has understated the harm to competition the ARPU Offer, the NTO Offer and the Geographic Offer cause.

97. Ofcom has mislocated the midpoint in part by relying on the bottom end of the REO range being based on the Targeted scenario. This results in a midpoint of the range that would mean altnets could afford to serve just 3.5 million homes based on the more realistic assumptions of the large scale scenario.

98. Using our more realistic REO range (16 million to 24 million premises passed), there is a clear margin squeeze caused by both the NTO Offer and the Geographic Offer, making the offer prices proposed by Openreach neither fair nor reasonable.

99. In conclusion, we think that Ofcom should require Openreach to withdraw all parts of this suite of offers and make it clear to them that it would not be advisable to come forward with further offers.

3.5 Expanding the Equinox Offer Area

100. We regard Openreach's proposal to expand the Equinox Offer Area as set out in its ACCN OR1119 and associated customer briefing and notified by Ofcom on 4th August 2026 as another demonstration of Openreach's policy of drip feeding price amendments to the market, as will be discussed in Section 4 of this response. We shall make reference to this in Section 4.

101. Releasing this change to the Equinox Offer Area during the consultation period on their FTTP Commercial Offers under a compressed timescale means that we now need to analyse the impact of the Equinox area extension within the same timescale. We consider this to be deliberate and unreasonable behaviour by Openreach.

102. We therefore think that Ofcom should ensure that stakeholders have adequate time to respond to this proposed expansion and that this should be subject to the 120 day consultation period so that we can provide a considered response.

4 Strategic Timing as an Anticompetitive Action

4.1 Background

103. Section 7 of the Consultation Document considers other issues raised by stakeholders in the CFI, including what we see as the continuing problem of Openreach strategically timing the notification of pricing offers, in a manner that has the effect of reducing competition. We were disappointed to see in the consultation document that Ofcom continues to not consider this a problem (Para. 7.9).

104. Ofcom is right to remind Openreach that, as the SMP operator, it has a "special responsibility" not to distort or restrict competition, for example by "*repeatedly proposing schemes that warrant intervention under the regulatory framework we have put in place"* (Para. 7.11). However, we are disappointed to see that Ofcom continues to dismiss our concerns about Openreach's behaviour.

105. Openreach is, in our view, deliberately and strategically drip feeding staged price reductions to train CPs that, like London buses, "another price cut will be along soon" as a means of raising switching costs for Communications Providers (CPs). This behaviour has the effect of distorting or restricting competition, as we will demonstrate later in this Section, and Ofcom needs to take appropriate action.

106. Our analysis in this section draws on Behavioural Economics, as we see the staged reductions in and of themselves to be having an anticompetitive effect rather than the actual level of prices. This does not, of course, mean that we think Ofcom is right to accept parts of the NTO package as not causing a competition problem.

107. This Section first looks at the history of price reductions introduced by Openreach since the WFTMR, then draws on Behavioural Economics to argue that these reductions appeal to customer biases to deter switching to altnets.

108. Our conclusion remains that Openreach's offers have individually and cumulatively had the effect of chilling competition in this market, allowing it to retain the dominant share of the WLA market. We are therefore of the view that this behaviour should be considered by Ofcom's competition function, if necessary using Ofcom's formal information gathering powers.

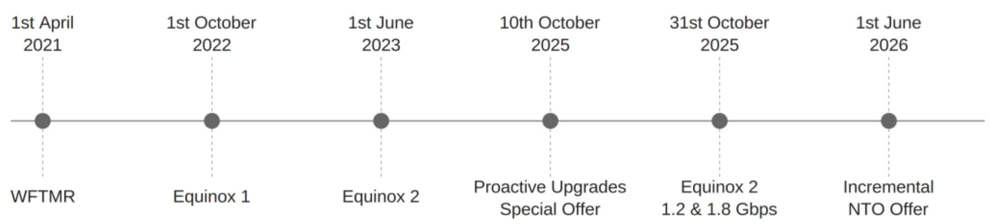
4.2 History of Price Reductions by Openreach

109. Since the WFTMR came into force in April 2021, Openreach has introduced a range of price reductions, starting with Equinox in October 2022 and followed by Equinox 2, the Proactive Upgrade Special Offer, Equinox 2 1.2Gbps and 1.8 Gbps and eventually the Incremental New to Openreach and associated offers that are the subject of the

current consultation. The timeline of these reductions is shown in Figure 1 below, starting from the WFTMR.

110. To date, Ofcom has treated each of these price reductions on a standalone basis, deploying traditional economics and has not considered their cumulative effect on the behaviour on customers and the competitiveness of the market

Figure 9: Timeline of Openreach Price Reductions since WFTMR



4.3 Why is this behaviour anticompetitive?

111. Openreach's behaviour is anticompetitive in its own right, regardless of the level of prices set in each new pricing offer (although we also argue that price levels in the NTO package are anticompetitive). By continuously lowering the prices of WLA services, Openreach is behaving strategically in a manner that has the effect of training CPs that the cost of switching to one its rivals is too high because "another price cut will be along soon". This allows Openreach to retain a higher level of market share than would otherwise be the case meaning that it retains its SMP, which is contrary to the government's SSP and Ofcom's policy objectives.

112. We explain why this is the case drawing of Behavioural Economics, which uses insights from psychology to inform economic thinking.

4.4 Behavioural Economics and Competition Policy

113. The presence of switching costs in markets is well known and these can strengthen the position of an incumbent supplier. Whilst a CP might be indifferent between two fibre networks before executing a supply agreement with one of them, once the supply contract is in place the CP can face significant costs if it decides to change supplier. These additional costs include transaction and learning costs associated with changing supplier and learning new processes, and also the additional network costs of building out to the new supplier.

114. In recent years, competition and regulation authorities, including Ofcom, have begun to consider some market failures through the lens of Behavioural Economics, as a

complement to the more established neo-classical approach. Traditional economics views economic agents (consumers and suppliers) as rational, well informed and utility maximising. This approach, therefore, assumes agents make decisions only on what maximises their utility.

115. Behavioural Economics sees economic agents as having bounded rationality and being subject to "biases" that affect their behaviour. These biases may raise switching costs and lead agents, both consumers and business customers, to make decisions that not purely rational or utility maximising but align with various agents' biases.

116. Examples of biases that are relevant to our argument are:

6. **Status quo bias** – a systematic preference for the incumbent option beyond what switching costs and rational preferences explain.
7. **Present bias (hyperbolic discounting)** – Overvaluing immediate rewards relative to future ones, even when the future reward is objectively better.
8. **Loss aversion** – Losses feel more painful than equivalent gains feel good, making people overly cautious about potential losses.
9. The latter two biases may be considered as contributing to an agent's status quo bias.

117. Biases have been found to exist in many markets and circumstances. For example, Ofcom has itself identified that consumers have biases in broadband markets, specifically:

- Loss aversion/regret aversion (fear of making wrong decision)
- Status quo bias
- Mental 'bandwidth/reduced headspace" (too difficult to think about)[13]

118. In a seminal paper, Samuelson and Zeckhauser report on a series of experiments designed to test for status quo bias in decision making. They find that:

> *"Faced with new options, decision makers often stick with the status quo alternative, for example to follow customary company policy, to elect an incumbent to still another term in office, to purchase the same product brands, or to stay in the same job."* [14]

119. The authors also report examples of status quo bias from real life. For example, they refer to households choosing their long distance telephone provider (bearing in mind the paper was written in 1988). In some parts of the USA the data showed that AT&T (the status quo alternative for most consumers at the time) was chosen by 75% - 80% of all consumers.

[13] Ofcom "*Qualitative research: Consumer engagement in fixed broadband"* September 2019, p. 9
[14] Samuelson, W., & Zeckhauser, R. (1988). Status quo bias in decision making. *Journal of risk and uncertainty*, *1*(1), 7-59.

120. Samuelson and Zeckhauser's concluding remarks are particularly relevant to our argument and so are quoted in full below.

> *"Rational explanations can be provided for the status quo bias. However, a variety of psychologically based theories provide more robust explanations: that is their more specific predictions are validated. The two classes of explanations, we believe, are complementary. Assuming the status quo bias proves important, rational models will present excessively radical conclusions, exaggerating individuals' responses to changing economic variables and predicting greater instability than is observed in the world. Status quo effects account for diverse economic phenomena: the difficulty of changing public policy, preferred types of marketing techniques, and the nature of competition in the market*

121. The status quo bias, and other biases, does not only affect retail consumers, it also affects business customers. Most famously, there was a saying in business computer markets back in the 1980s that "nobody got fired for buying IBM". The reasoning was that if the manager bought an IBM computer and it went wrong, it was IBM's fault. However, if they bought an alternative to IBM and it went wrong, that failure was likely to be considered the manager's fault. Thus many competitors failed to get in the market because IBM was the safe bet.

122. The existence of biases in markets is, therefore, well established and is found in both the demand and supply side. The important point for this section of our response to Ofcom's consultation is that dominant companies can, and do, make use of biases to exploit customers and, in this matter, exclude rivals. Further, *"the presence of unyielding cognitive biases makes individual decision makers susceptible to manipulation by those able to influence the context in which decisions are made."*[15]

123. Prof. Amelia Fletcher of the UEA Centre for Competition Policy, who has written extensively on behavioural economics and competition policy writes that "*competition in markets can be weakened or distorted when consumers face cognitive limitations and exhibit systematic behavioural biases. Firms can also act strategically to exploit or exacerbate these consumers biases, and so worsen the situation further"*[16] *(emphasis added).*

124. There are myriad examples of sellers playing to consumers' biases, from framing prices by showing a premium priced product close to a more standard product to make the standard product look better value for money, to the use of loyalty cards to increase the cost of switching brands and so create a preference for the status quo. As the IBM saying recognises, business customers are also human beings and so also subject to cognitive biases, although they may be less exaggerated.

[15] Hanson, J. D., & Kysar, D. A. (1999). Taking behavioralism seriously: The problem of market manipulation. *NYUL rev.*, *74*, 630.
[16] Fletcher, A. (2026). The role of behavioural economics in competition policy. *Draft chapter for Cambridge Handbook on the Theoretical Foundations of Antitrust and Competition Law (Cambridge University Press, forthcoming 2026).*

125. Our contention is that Openreach is behaving in a manner consistent with Fletcher's description by acting strategically to exploit or exacerbate customer biases and so weaken competition in the market.

4.5 Empirical Evidence

126. In this section we present what we consider to be empirical evidence of Openreach deliberately feeding price reductions into the market to raise CPs' switching costs. We first show how the price offers set in Figure 1 above compare with how Openreach prices would have progressed under the charge controls set in the WFTMR. ✂.

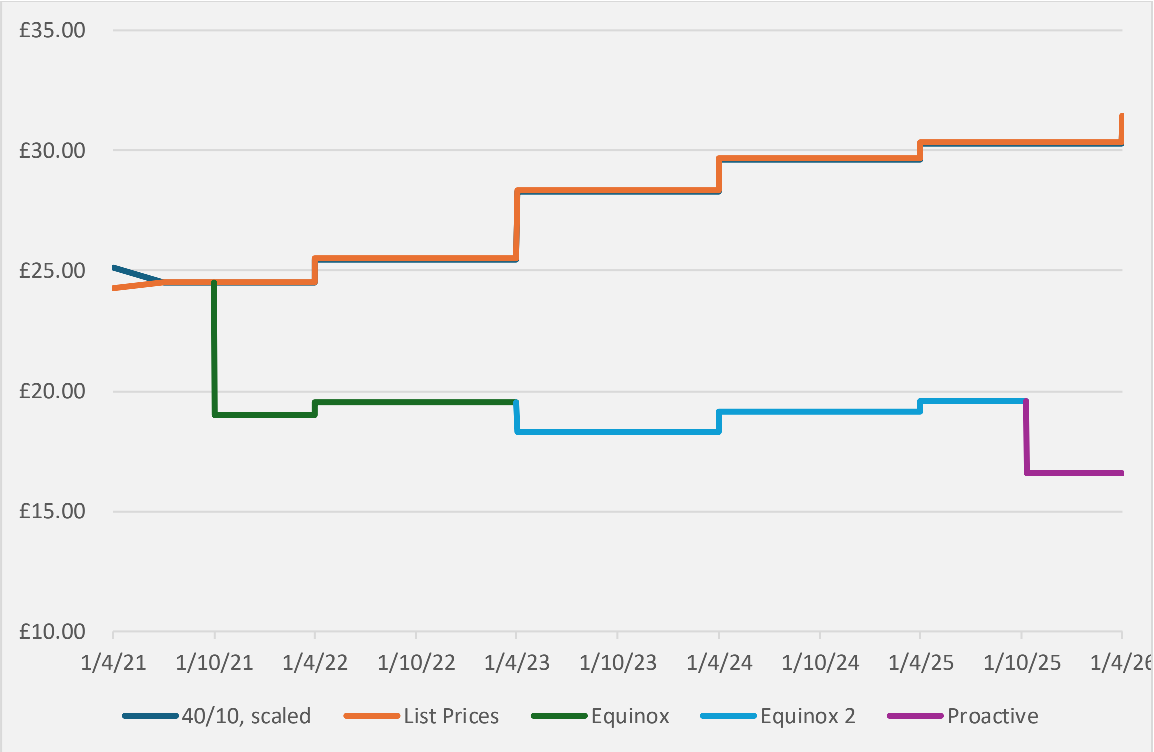
4.5.1 Prices

127. The WFTMR came into force in April 2021 and set a charge control on the "anchor product" (40 Mbps). Prices for higher speeds were not subject to a price control as, under the theory of anchor pricing, Openreach's ability to set too high a price for these products will be constrained by the anchor product.

128. Figure 10 shows the progression of Openreach prices over the period since the WFTMR in April 2021 in nominal terms. We show the prices for the 330 Mbps[17] service rather than the anchor product, as the former is a very pertinent speed variant in this regard. However, we can say that the trajectory of list prices for the 40 Mbps and 330 Mbps run parallel with each other as the list price for the 330 Mbps service has changed according to the charge control placed on the anchor product. Figure 2 shows the 330 Mbps superimposed on the 40 Mbps price with the latter adjusted to the same starting price as the 330 Mbps service.

[17] We have chosen 330Mbps as that product used by Ofcom in its assessment of whether the ARPU cap prices is above or below the midpoint of the REO cost range. (see page 9 above)

Figure 10: List and Offer Prices for Openreach 330 Mbit VULA Service



Source: SPC Network based on Openreach Price List Data

129. The lower line shows the nominal prices for the same 330 Mbps service taking the prices under Equinox (green section), Equinox 2 (blue section) and the Proactive Upgrade Offer (purple section).

130. Unsurprisingly, the graphs shows the widening gap between Openreach's list price and the discounted price. The launch of Equinox introduced a discount of £5.49 per month, which increased to a gap of £10.07 with the launch of Equinox 2 and further to £13.78 with the Proactive Upgrade Offer.

4.5.2 Effect on Market Structure

131. We have examined the number of mergers & acquisitions that have taken place during the period of each discount, summarised in the table below. See Annex 2 for list of mergers.

132. Figure 11 below shows the number of mergers that have taken place between FTTP providers in the UK during each of the price offer periods since the launch of the WFTMR in April 2021 and calculates the average number of mergers per month for each of those periods.

133. AS CPs find it harder to compete with Openreach, we would expect to see some degree of consolidation in the market. What the Figure shows is that since the launch

of Equinox, the number of mergers per month has been steadily increasing from 0.1 per month between the launch of Equinox and Equinox 2, to 0.5 per month since the launch of the Proactive Upgrade offer

Figure 11: Analysis of Mergers During Price Offer Periods

Period	Number of months	Mergers	Mergers per month
WFTMR – Equinox	6	1	0.16
Equinox – Equinox 2	18	2	0.11
Equinox 2 – Proactive Upgrade	30	12	0.4
Proactive Upgrade to August 2026	10	5	0.5

134. In and of itself, this table does not provide evidence of cause and effect between Openreach's various price offers and the increasing pace of consolidation. However, as we show below, there is other evidence that points in the same direction of Openreach's behaviour making it more difficult for altnets to gain access to retail markets and so compete effectively in the market.

4.5.3 Extension of the Equinox Area

135. The extension of the Equinox footprint by just 3 months is another avenue of drip feeding price changes. Openreach has a publicly stated ambition for its FTTP network to pass 25m build by end of 2026 and a further 5m build by 2030/31. This announcement means ISPs only have certainty for a further 3 months of build at current Equinox pricing but no certainty, other than standard pricing, on the remaining 4.75 years of build. This is creating cliff edge scenarios and will make ISPs wary.

4.5.4 ✂

136. ✂.

137. ✂.

138. ✂.

139. ✂.

140. ✂.

    10. ✂.
    11. ✂:

1. ✂.
2. ✂

141. ✂:

12. ✂

142. ✂.

143. ✂.

✂

144. ✂.

4.6 Summary

145. Whether by intention or effect, Openreach's drip feeding of new offers has a chilling effect on competition. ✂. The constant drip feeding of price offers by Openreach has the effect of raising switching costs for CPs to altnets to foreclose the market.

146. We therefore consider this strategy to be anticompetitive in its own right regardless of the level of prices offered by Openreach and ask that Ofcom considers this matter more rigorously than they have hitherto as we believe it is a serious threat to the sustainability of competition and so also to Ofcom achieving both its and the government's strategic objectives for the WLA market.