



Vodafone non confidential version

December 2015

Response to Ofcom's Consultation:
BCMR retail very low bandwidth



Treatment of RPCs that are wholesale purchases

Prior to the establishment of regulated partial private circuits, CPs purchased retail leased lines from BT. The PPC product did not include wholesale equivalents of analogue services, these continue to be purchased from BT on a retail basis - although used as wholesale inputs by CPs exactly as per PPCs.

CPs, also due to a variety of reasons, continue to purchase retail leased lines from BT even where equivalent service and bandwidth PPCs exist. For example these include circuits that are fully offnet and circuits that have novated between CPs. These circuits are used as wholesale inputs by CPs exactly as per PPCs.

In the event that Ofcom concludes that retail very low bandwidth leased lines should be deregulated we consider that at the same time that those services purchased as retail from BT for wholesale purposes should be:

- a) redesignated as PPCs variants and therefore subject to wholesale regulation, or
- b) be subject to a much clearer customer commitment from BT in relation to ongoing pricing and service.

Ofcom proposes to deregulate the RPC very low bandwidth market. In the transition from regulated to unregulated supply BT has offered a voluntary commitment not to raise prices more than +8%. We consider that what is in fact required is proper end of life regulatory policy. In the event that such policy is not proposed we consider that BT's offer of price commitments would more appropriately be a commitment not to raise prices more than CPI. We have no understanding of what would cause BT to raise prices other than to exploit loyal and long standing customers. We and our customer cannot be expected to move to alternative services in the time given in order to avoid the price rise. This means that either we or our end customers are paying for the removal of regulation. An up to 8% price increase is entirely discriminatory as there is no obligation upon BT to charge itself and therefore its own retail customers such a price rise.

The proposals to deregulate retail leased lines would be consistent with other retail market deregulatory measures *if* an appropriate wholesale product was or planned to be made available. In the absence of this, we do not understand why Ofcom has refused to carry out a market review to understand whether BT still holds SMP in the retail market.

In the absence of retail market regulation, but recognising the importance of these circuits to our customers (which does not diminish between 31 March 2016 and 1 April 2016) alternatives would be to:

- a) reclassify the circuits that are purchased as wholesale PPC variants or
- b) ensure the appropriate commitments regarding pricing, migration arrangements and parity across purchasers are in place before proceeding with deregulation.

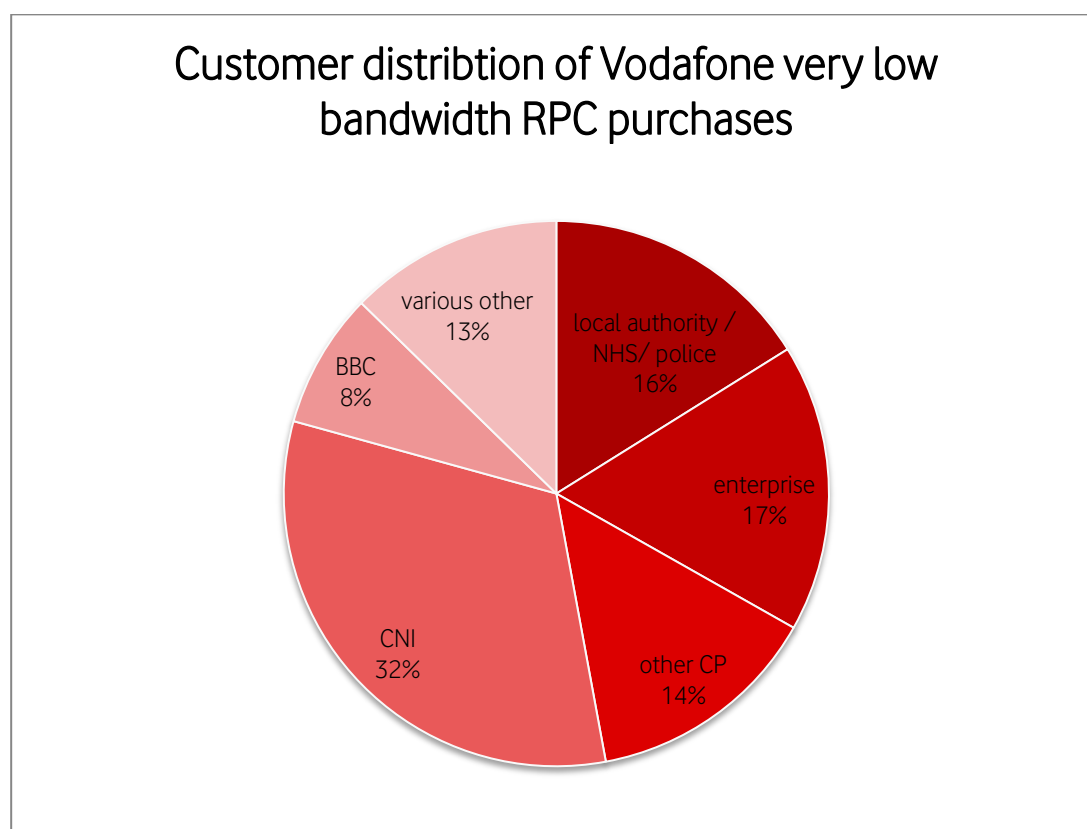
The incentives that BT operates under for the sale of services to its own end retail customers are very different compared to those which are sold to and intermediated by CPs. As we enter a difficult period where the users of very low bandwidth services are forcibly migrated to other services it is important that the appropriate regulatory care and engagement is made equally available to all end users. We consider that BT will have greater commercial interest to satisfy its direct retail customers and that end customers who are



served by intermediary wholesalers such as ourselves are at risk of inferior service and migration capability / offers during this important period.

We have highlighted during this consultation process the inadequacies of current approaches to migration for SMP services. While Ofcom may consider that SMP is not evident in the retail markets and adequately dealt with by upstream wholesale regulation this clearly does not hold when CPs themselves are purchasing retail inputs and not accessing, for whatever reason, the upstream market remedy. The prospects for resolving migration for the end customers in this scenario are far bleaker than in the regulated SMP markets and ought to be of concern to Ofcom.

While Ofcom appears keen to support and aid CNI customer, Vodafone continues to serve some [] different customers with [] RPC. We identify the range of customers below:



Ofcom will note the mixture of our sales to CNI customers, council and emergency services, retail end customers and other CP customers. It is our view that each and every one of these types of customers requires appropriate protection and care in achieving a resolution to the force migration that BT's closure of the very low bandwidth services platform creates. We genuinely believe that our end customers will be disadvantaged in the event that are left in a regulatory lacuna following deregulation of these retail services.



A simple, practical and justifiable resolution is to reclassify these CP purchased retail services as wholesale PPC variants. This will ensure that BT is under clear obligations with respect to the provision of reference offers and no undue discrimination obligations.

Alternatively if Ofcom does not reclassify wholesale purchased RPCs, Ofcom needs to secure far better provisions from BT in the event of reregulation. We suggest price rises no more than CPI and non discriminatory access to migration aid (planning, offers etc).