

General comments

Ofcom's results of the analysis suggest:

1. A lot of investment has been made over the last 3 years
2. There is a significant difference between 2011 and 2014 market share figures

This does not reflect Colt's perception on how the market has operated, for example:

- The apparently substantial decline in Colt's market share is not borne out by our understanding of how the market has developed in practice. We have seen a trend increase over this period which we believe to be in line with the market.
- The apparent reduction in market concentration at the wholesale level does not appear to us to have led to a marked difference in the way wholesale product markets work in practice.

The (admittedly provisional) data reported by Ofcom were a surprise to us given the relative lack of change in observed market behaviour. We would therefore suggest to Ofcom that, before concluding that a material shift in market structure has occurred as a result of the data submitted, the underlying movements behind the data have been well understood and where possible, corroborated by other sources (for example by changes in pricing and/or switching behaviour).

- Questions and Suggestions:

Clarity is needed in order to be able to make a comparison with data from 3 years ago. This is needed to reply consistently on whether changes in the market "make sense". As a result, to reply to the BCMR consultation it is important to know what has really happened in the market over the last 3 years and for this to be distinguished from methodological/data quality differences.

- It would be good if Ofcom could give clarity on factors explaining the changes.
 - the proportion of the change (ie in terms of market share and network reach) that can be explained by the difference in methodology/approach in analysing the data?
 - The proportion of the change can be explained by the difference in type of data provided by CPs?
 - the most important events (ie deployments,...) that have happened in the market and what are the most important differences made to the data interpretation? How much do they contribute to the overall change in data result?
- Overall, clarity is needed on the quantitative and qualitative impact of all the above (ie uncertainty of the data, different sources from CPs, different interpretations and methodologies,...)
- As set in paragraph 1.12 and 1.14, We welcome Ofcom's initiative of analysing those results against qualitative data: overall, the results should be put in perspective/checked against other sources (ie qualitative data such as responses

collected from the market questionnaire and anecdotal evidences from meetings with CPs).

- Figure 4 suggests that a lot of investment has been happening. We believe Ofcom should therefore look at the following: what type of network investment it is, who is responsible for the investment and the purposes for which it has been undertaken.

Specific issues

1. Leased Lines definition. We would like to understand better how the decision has been made to include some circuits as 'leased lines' and to exclude others. Table 7 seems to suggest the deciding factor is the circuit's technology/interface. However, in the last BCMR we understood leased lines were defined as dedicated (meaning uncontended) and symmetric circuits. Colt is a B2B operator but some of the data services we provide are excluded from Ofcom's leased line category, we would therefore welcome clarity on the difference between Ofcom's definition of a leased line and other types of business connectivity service.

Also it would be useful to know the criteria that has been used to determine the boundaries between different types of business connectivity services that have been used to determine market shares, given that – at least in some market segments – traditional leased lines and NGA services are becoming increasingly interchangeable.

2. Network topology (Figure 2). We have already highlighted this to Ofcom: the stylised network example is not representative of what Colt's network topology.
 - a. Colt's network topology is a ring not a star. In many cases this includes the access layer,
 - b. Figure 2 suggests there is no possibility of a link between a business customers and a core node (ie what Colt calls 'Node' as per our submission in response to question D1 of Ofcom's data request). This calls into question the existence of any qualitative distinction between access and backhaul.
 - ⇒ How is this type of situation considered by Ofcom?
 - c. Colt does not distinguish its services in terms of access vs backhaul vs core when providing a circuit to a customer. What is important to distinguish and affect prices is the end to end location. This results in the following distinction: Metro (circuits within the same city) National (between cities in a same country) or International (between two cities in a different country). There is however a similar distinction that is made when purchasing circuits from other CPs: Customer access vs National/International backbone.

⇒ We strongly believe Ofcom's data analysis, the conclusions it draws from them and the policy conclusions, should not be prejudicial to any particular network architecture. There are specific ways in which Colt's network architecture differs from BT's. The use of fibre rings means that the CPE inside any given building can be both a CPE and a node. And any particular connection to an individual customer can be both access and backhaul (ie access to that specific customer, backhaul to other customers, including those on different rings). The use of modular MSP equipment in customer premises allows the

extension of adjacent fibre rings from that customer's premise. Colt doesn't not recognise the distinction between aggregation nodes and core/trunk nodes. For more details on this, Colt has submitted an overview of its network architecture in response to question E1 of the data request.

3. Flexibility points. The interpretation of this aspect of the data request was of important concern to colt from the very beginning of the data request (ie comments in regard to Ofcom's feasibility request). Ofcom has actually decided to consider all of those points as 'available' given CPs where not able to identify whether they were or not. Also Ofcom considers that if there are enough manholes inside one postcode, it is reasonable to conclude that a given proportion of them is available.

Colt does not agree with this:

- Postcodes cover a very small area and there is not a significant amount of manholes located within the same postcode,
 - Postcodes considered as competitive (ie WECLA) are the ones for which the probability of having full or unusable manholes for expansion is the highest. This can be illustrated by the sample Colt provided to Ofcom in response to the feasibility request,
 - Our digging decisions in the UK do not have a standard process that considers the location of manholes as an input. In fact, a case-by-case analysis is conducted (and one of the factors considered in the build/buy decision is the cost of conducting the initial survey to check box availability).
- ⇒ Overall, if 200m is merely the threshold above which the minimum conditions for effective competition are unlikely to be met, this does not constitute a basis for applying deregulation to everything below that threshold.

Responses to specific questions

Scope and Coverage of the Data

Question 1: Are you aware of any fixed network operators that have access infrastructure that Ofcom has not requested data from that are likely to have a material impact on our network reach or service share analysis?

We are not aware of any such fixed network operators that have not been included in Ofcom's analysis.

Data processing

Question 2: Are there any missing circuits in the leased line data you provided to Ofcom? If so, please provide your best estimate (together with, if possible, a lower and an upper-bound estimate) of the number (or percentage) of circuits that are potentially missing and indicate whether they are likely to be accounted for primarily by a particular set of interfaces or bandwidths.

Colt does not believe any circuits are missing. However, please note those are circuits Colt was still billing for at the specific date the data was extracted. This methodology has some limits in terms of all the circuits being considered as “live” circuits (ie meaning active). However, since it is the only data Colt is able to provide, we see no more accurate basis for making the estimation.

Question 4: Do you agree with our approach to classifying circuits that are delivered using WDM technology? Have we correctly classified circuits as WDM in the data you have provided, based on our current definition?

Colt believes the approach is consistent. In terms the qualification of WDM circuits themselves, what is important to note is the specificity of HSS services. This is something that has been described in response to the data request and discussed in more details in a recent meeting Colt had with Ofcom regarding pricing.

Question 5: Do you agree that ‘Ethernet over SDH’ circuits should be classified as Ethernet circuits? If not, please explain why.

Colt agrees with this. Indeed those circuits are actually SDH circuits, but what is important is the technology delivered to the customer.

Question 6: Do you agree that presenting a service shares range is the most appropriate way of quantifying the uncertainties involved in identifying network sites for the purposes of this review? Are there alternative methodologies for dealing with this issue?

The approach seems reasonable. However, Colt would welcome any explanation of the impact those uncertainties have on the data analysis itself but also on how any caveat could impact Ofcom’s policy decisions in the end.

Question 7: Do you agree with our preferred approach of estimating the supply of wholesale leased lines by counting ‘on-net’ circuits only? Do you have any concerns with this approach?

Yes.

Question 8: With respect to missing information, do you agree with our proposed approach of using uplifts for three variables and presenting ranges for two variables? Should we consider alternative methodologies for dealing with missing information?

The approach seems reasonable. However Colt would welcome any explanation of the impact this methodology has on the data analysis itself but also on how the degree of uncertainty would be taken into account by Ofcom in forming its conclusions.

Question 9: Do you have any views on other aspects of our data processing and cleaning, as set out in Annex 7?

Please see paragraph specific comments.

Data Outputs

Question 10: Do you have any comments on our methodology for processing data on flexibility points and business locations in light of our network reach outputs? Would you suggest alternative methods or assumptions?

Please see paragraph general and specific comments.

Question 11: Do you have any comments on our methodology for processing circuit data in light of our service share outputs? Would you suggest alternative methods or assumptions?

Please see paragraph specific comments.