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## **Verizon Enterprise Solutions response to Ofcom's Excess Construction Charges for Openreach Ethernet Access Direct proposed Directions in relation to the Leased Lines Charge Control**

1. Verizon Enterprise Solutions ("Verizon") welcomes the opportunity to respond to Ofcom's Excess Construction Charges ("ECCs") for Openreach Ethernet Access Direct proposed Directions in relation to the Leased Lines Charge Control.
2. Verizon is the global IT solutions partner to business and government. As part of Verizon Communications – a company with nearly \$108 billion in annual revenue – Verizon serves 98 per cent of the Fortune 500. Verizon caters to large and medium business and government agencies and is connecting systems, machines, ideas and people around the world for altogether better outcomes.
3. Please note the views expressed in this response are specific to the UK market environment and regulatory regime and should not be taken as expressing Verizon's views in other jurisdictions where the regulatory and market environments could differ from that in the UK.

### **Summary**

4. Verizon disagrees with Ofcom's proposal to allow BT Openreach to exempt most orders for EAD services from ECCs, and to balance the resulting loss of its revenue by recovering it from the standard connection charges for all orders for the same EAD services.
5. Verizon considers that such a realignment of charges is discriminatory and would adversely distort competition.
6. The time to provision benefits Ofcom considers will result from the implementation of these proposals are minimal and would not lead to material benefits in the overall provision time for Business to Business ("B2B") providers.
7. Whilst Ofcom acknowledges that the measures, if adopted, will result in some CPs paying more and others less as a result of the introduction of the 'balancing charge', Verizon considers that Ofcom has underestimated the distributional impacts.
8. It is not clear from the consultation document whether Ofcom has fully investigated the dynamics which drive the benefits they consider will accrue to some CPs so as to better understand the full implications of implementing these proposals. This is key to understanding who will be the winners and losers and to understanding the full competitive impacts resulting from the adoption of these proposals.
9. Furthermore, Ofcom has not provided sufficient reasoning in its consultation document to reassure industry that the outcome of the implementation of the proposals will not unduly

benefit BT Group as a whole; the focus appearing to be on ensuring the impact on BT Openreach is revenue neutral.

## Consultation question

*Consultation Question: Do you agree with the assessment of Openreach's proposal set out in this document, and do you agree with the Directions we propose to issue as set out in Annex 4?*

10. Verizon does not agree with Ofcom's assessment of Openreach's proposal and considers that Ofcom has underestimated the impact this proposal will have on competition and the detriment that some CPs will face as a result.
11. Verizon also considers that the benefits resulting from these proposals, as identified by Ofcom, are marginal. For example, the perceived time to provision benefits expressed by Ofcom as only "a reduction of several days"<sup>1</sup> would not materially impact the overall provision time for Business to Business (B2B) providers. ✂.
12. Ofcom notes that the proposal has distributional impacts with CPs and end customers whose EAD orders require fewer ECCs than average paying more, whilst CPs and end-customers which place orders that require more ECCs than average end up paying less. However, Verizon considers that Ofcom has underestimated the distributional factors.
13. Such distributional impacts are not limited to services which terminate in locations already served by fibre, such as exchanges, which is the example noted by Ofcom but extend to the topography of the location of the customer. Accordingly, BT (Retail and Wholesale) has a significant advantage in areas outside of the metropolitan centres, as recognised by the finding of SMP resulting from the latest Business Connectivity Market Review. It is considered likely that customers located in areas outside of the metropolitan centres are more likely to incur significant ECCs than those in high density cities where buildings are more likely to be already lit. Therefore, BT Group is likely to be a significant beneficiary of these proposals and probably stands to gain more than any of its competitors which will in turn reduce the strength of competition.
14. Ofcom states that there will be no impact on competition for individual circuits as all CPs purchasing EAD services to supply an end-user would face the same terms. Ofcom goes on to note that *"There may be an indirect impact on competition in that some CPs which order EAD services to provide backhaul for their fixed broadband services may face an increase in average EAD charges (although others will pay less). Our analysis suggests this impact would be modest and unlikely to have any material effect on competition."* In effect Ofcom considers the proposals will not have a material impact on competition.
15. Verizon disagrees. There are additional concerns other than the issues Ofcom highlights in the consultation. For example, Ofcom states that *"We have compared the total ECCs paid by CPs for orders completed in the FY 2012-2013 and the total ECCs that CPs would have paid had the proposal been implemented during the same period"* and goes

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<sup>1</sup> Consultation paragraph 4.1



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on to state that as a result Ofcom anticipates *“that the overall impact of the proposed change is likely to be revenue neutral”*.

16. Although we assume that the term ‘CPs’ in the above referenced quote includes BT Retail and Wholesale, given the concern mentioned in paragraph 13 above, Verizon is concerned that Ofcom has not determined precisely who will be the winners as a result of these proposals, particularly focusing upon BT.
17. Verizon is concerned that, as far as we can determine from the information contained within the consultation, Ofcom has not investigated sufficiently the full impact on industry of the implementation of these proposals from a competition perspective. This may have very significant consequences which do not appear to have been factored into Ofcom’s thinking.
18. Whilst Ofcom state that from a BT Openreach perspective these changes will be revenue neutral, no assessment appears to have been made of the benefits to BT Group as a whole as a result of the changes. BT Retail and Wholesale are significant customers of Openreach for EAD services and indeed given its dominance and significant market share in National markets, BT is likely to be one of the main beneficiaries of these proposals as they are likely to currently incur a relatively high proportion of annual ECC charges. So having regard to the 2012/13 ECC data the outcome may well be as Ofcom considers, revenue neutral from an Openreach perspective, it could well be revenue positive for BT Group, and therefore overall negative for the rest of industry combined and therefore detrimental to competition as a result.
19. This is borne out by a review of the 2012/13 RFS (i.e. the RFS for the period which Ofcom has based its findings upon), which shows that internal ECC costs (i.e. internal BT Group downstream customers) for the year amounted to £35m whilst external ECC costs were £10m (i.e. those attributable to all other CPs).
20. Whilst there is some discrepancy between the total ECC costs contained in the RFS to the figure Ofcom states in the consultation document (the difference likely to be due in part to Ofcom excluding resilient option 1 orders from its calculations) it is clear that internal BT customers spend more on ECCs than BT’s external competitors by a factor of over 3:1. As a result, if these proposals are accepted by Ofcom, BT will be disproportionately benefited to the significant detriment of competition. This cannot be Ofcom’s intention.
21. Verizon considers that Ofcom should, if it hasn’t already done so, re-visit its impact analysis to ensure the implementation of these proposals does not disproportionately favour BT as a whole and not just focus on the revenue impact on one part of BT (Openreach).
22. Verizon would urge Ofcom to take the above into account when finally determining whether or not to implement these proposals.

Verizon Enterprise Solutions  
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