Openreach supplementary submission relating to Ofcom's fixed access market reviews and charge controls

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Comments on this response should be sent to:
Kathryn Elliott, Openreach Regulatory Affairs, via email at kathryn.elliott@openreach.co.uk

Table of contents

1 Introduction

1. Ofcom is expected to issue its final decisions on the Fixed Access Market Review ("FAMR") and on the future charge controls to apply to WLR and LLU services ("Charge Controls") together "this Review" in the next 2-3 months. We are therefore approaching the end of a lengthy and complex review of where and how regulation should be applied. This exercise effectively began at the end of 2012 when Ofcom issued its first Call for Inputs on these matters and will end with a refreshed set of SMP remedies and new charge controls on the copper access services to run until March 2017.

2. During the course of this Review, Ofcom has received a large number of submissions from across the wide range of stakeholders with an interest in the regulation of upstream fixed access markets. These submissions have included both direct responses to formal Ofcom consultations inviting comments (namely, the initial Call for Inputs of November 2012 ("CFI"), the two specific FAMR consultations of July 2013 and January 2014 and the two specific Charge Control consultations of July 2013 and December 2013) and through stand-alone submissions which have either provided further detail on specific elements of Ofcom's review or charge control modelling or have been responses to the submissions made by others. Furthermore, Ofcom has requested a significant amount of information from stakeholders under its formal information gathering powers. Notably, to support the development of the charge control models, Ofcom has required that Openreach provide, among other things, historic costs and volumes of providing its regulated copper access services and internal information on the potential future drivers of unit costs.

3. Ofcom will need to base its final decisions across the FAMR and associated Charge Controls on all the evidence and analysis it has received with the overall objective being to establish regulation that operates in the best interests of consumers and where appropriate promoting competition. We recognise that where SMP is found, the delivery of key upstream inputs from Openreach on fair and reasonable terms is vital to the effectiveness of downstream competition.

4. The objective in regulating the prices of the copper access services is to establish economically efficient charges that support efficient downstream entry and the incentives to invest and innovate that will result as suppliers compete on the merits to meet consumer needs. It is a recognised and accepted point of principle that upstream price regulation should provide Openreach with a reasonable opportunity to recover its efficiently incurred costs of supplying the relevant services, including a fair return on assets and reflecting risks faced, during the period.

5. In simple terms, where Ofcom has clearly established that price regulation is a necessary and proportionate measure in light of the regulatory review of markets it has conducted, then such regulation should be established by reference to a cost estimates which:

   - accurately identifies from the latest available data all the relevant costs faced by Openreach in providing the services in the base year; and

   - takes a reasonable view on how the key drivers of those costs during the period of the control will move, reflecting a fair assessment of the available evidence.

6. The submissions Ofcom has received from stakeholders in relation to price regulation matters in this regulatory review demonstrate the different views held on many of the individual elements of the charge control model. The position Ofcom takes in deciding the appropriate approach to each of these elements could materially 'swing' the final level of the Charge Controls.

7. Having reviewed the submissions Ofcom has received from other stakeholders and also taken stock of where we think debates around certain factors have got to, we have decided to provide a final summary submission clarifying our position on a subset of issues. We do not seek to repeat all the arguments made in our earlier submissions. Nor should an absence of comments on a point made by another stakeholder be taken as acceptance of that point.

2 Comments on points raised by other stakeholders

2.1 TRC/SFI

8. In this response BT makes a limited number of observations on specific third party comments in response to Ofcom's second FAMR consultation of January 2014 ("Second FAMR Consultation"). In the main, we rebut points made by Sky and Talk Talk that are incomplete or incorrect. We would urge Ofcom to consider our observations before giving any weight to these submissions by Sky and TalkTalk.

Sky – Sky's Response to the Charge Control Elements of Ofcom's December 2013 and January 2014 Consultations

9. Sky states that *"[t]he costs of TRC and SFI services, which often relate to connecting new customers, are passed on to consumers and can impact switching in the same way as migration costs."*[1] [✂].

10. Ofcom's proposal is for the SFI module prices to use the "TRC additional hour" as an input. Sky is therefore mistaken in assuming that Ofcom's proposals to align SFI and the TRC additional hour charge would result in the SFI Base module being the same price as the TRC standard chargeable visit (including up to the first hour of engineering work)[2]. In order to manage stakeholder expectation, it is important that Ofcom clarify this is not the case.

11. Sky states that it has "*concerns in relation to … the way that BT structures the SFI product*."[3] It is inaccurate for Sky to imply that the SFI product is effectively unilaterally structured by BT. In fact, a series of collaborative workshops were held with CPs and the OTA to develop the product to meet industry's requirements. Sky goes on to state that "*there is currently very little visibility afforded to CPs regarding how Openreach engineers decide whether or not they should undertake each SFI module.*"[4] Again, this is inaccurate - as part of the collaborative workshops an SFI checklist was introduced to provide transparency on exactly how Openreach engineers decide to undertake each module.

12. Openreach is disappointed to learn that the SFI2 product development has apparently not met the requirements of one of its largest CP customers. That was certainly the objective of the collaborative and transparent approach adopted. Openreach would welcome a further product review with Sky and other CPs should they consider this necessary in order to address possible issues around modules and task times. Alternatively Sky could submit a Statement of Requirement ("SOR") via the industry agreed SOR process which will be reviewed and assessed collaboratively. Openreach notes that Sky has used this approach to request product changes in other instances. If Sky truly has concerns of the nature outlined above, these are most appropriately dealt with through commercial or SOR channels; the concerns do not support the need for a charge control on SFI services.

13. Finally, Sky claims it has to pre-authorise all the SFI modules because, "*it is not possible for Sky to predict accurately which of the SFI modules might be required …*"[5]. [✂]. As Sky offer no evidence to substantiate its claim Ofcom should attach no weight to this assertion.

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[1] Sky Response, Charge control elements of Ofcom's December 2013 and January 2014 Consultations, February 2014, paragraph 7.22

[2] Sky Response, Charge control elements of Ofcom's December 2013 and January 2014 Consultations, February 2014, paragraph 7.30

[3] Sky Response, Charge control elements of Ofcom's December 2013 and January 2014 Consultations, February 2014, paragraph 7.33

[4] Sky Response, Charge control elements of Ofcom's December 2013 and January 2014 Consultations, February 2014, paragraph 7.37

[5] Sky Response, Charge control elements of Ofcom's December 2013 and January 2014 Consultations, February 2014, paragraph 7.35

TalkTalk – TalkTalk response regarding TRC / SFIs dated February 2014

14. TalkTalk has provided a number of voluminous submissions on this topic and for the sake of brevity we confine our comments below to specific material points.

15. TalkTalk states that it does "*not consider that using FAC (rather than FAC plus an additional margin) will increase the incentive on BT to diminish quality – BT already has incentives to decrease quality, and has in fact done so in recent years but pricing at FAC will not worsen this incentive*."[6] TalkTalk offers no evidence to substantiate this assertion and Openreach refutes it. In contrast, Openreach has provided Ofcom with evidence to demonstrate TRC and SFI product developments and initiatives implemented[7]. Furthermore, Openreach is disappointed to learn for the first time in a market review submission that TalkTalk does not consider these TRC and SFI product developments to be beneficial to it. This feedback has not been received through the more appropriate normal commercial/business processes. We suggest that TalkTalk submit an SOR to request specific changes to the products in order to deliver the improved quality TalkTalk seeks.

16. TalkTalk states that "*the full hourly charge is levied for part hours. For instance, if the engineer spends 30 minutes on a job a full hour's charge is levied.*"[8] As Openreach has explained to Ofcom previously, TRCs are charged in units of an hour, but the engineering visit charge was revised in 2009[9] to include the first hour of engineering work in order to derive a standard price, which:

   - was calculated on a weighted average in order to cover the vast majority of TRCs on repair, and was then reduced by [✂];
   - was explained to CPs at the Copper Products Commercial Group Forum, where a consensus in favour of it was reached (including the TalkTalk representative); and
   - has not subsequently been the subject of any SORs from CPs requesting a separation out of the visit charge and first hour of work.

17. The requirement to bill in less than 1 hour minimum units, was raised some time ago via the SOR process and was discussed at length with industry and the OTA. Ironically at that time, TalkTalk were one of the key supporters of a simpler approach and 1 hour minimum charges. Again, it is regrettable that one of Openreach's major CP customers has simply not asked for this development to be re-considered via normal commercial channels.

18. Openreach notes that much of the lengthy TalkTalk response gives weight to direct cost comparisons with their alternative supplier, Qube. TalkTalk claims that "*[Qube] are similarly skilled to BT engineers (indeed) many are ex-BT engineers) and have similar overheads.*"[10] While Openreach cannot comment on the employment history of Qube engineers, it does question the validity of this statement. Openreach assumes that Qube engineers only conduct internal engineering activities (to avoid interfering with the Openreach Access Network) and are consequently not required to carry all the equipment and tools for, or to comply with all the necessary training risk and health and safety obligations associated with, work on an external network. All of which gives rise to additional cost. In addition, Openreach is obliged to cover all areas whereas Qube is able to 'cherry pick' where it visits, which will affect the costs associated with visiting the customer's premises. It will be quite obvious to Ofcom that there are clear and material differences between the costs incurred by Openreach and Qube. TalkTalk's comparative analysis should be regarded with significant caution and Ofcom should not be misled by false comparisons.

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[6] TalkTalk Response, TRC / SFIs, February 2014, paragraph 2.6

[7] Openreach Response, Fixed access market reviews: Further consultation on notification periods, compliance with requirements on the VULA margin, and approach to pricing for TRCs and SFIs,19 February 2014, paragraphs 36 and 59

[8] TalkTalk Response, TRC / SFIs, February 2014, paragraph 3.7

[9] Openreach pricing paper of 6 July 2009

[10] TalkTalk Response, TRC / SFIs, February 2014, paragraph 3.11

19. Openreach also questions TalkTalk's assertion as to the scope to reduce labour costs "*for example through substitution of technology for labour, changing skillsets or reducing task times*."[11] As the standard TRC visit charge including the first hour of work was based on a weighted average when introduced and the SFI modules are based on task times for the engineering activities outlined, there is minimal scope to make efficiency gains through reduced job duration. TalkTalk's alternative suggestions are not feasible and indicate a lack of understanding of these products:

    - "changing skillsets": if this equates to reducing the skill level and training of engineers it runs counter to TalkTalk's quality of service argument. Such an approach would likely increase task times[12] and/or the need for a second engineering visit. Openreach believes that neither outcome, is in the interests of customers and would result in consumer harm.

    - "substitutional technology": TalkTalk's suggestions are vague and fanciful in the short to medium term. We would urge TalkTalk to raise any such suggestions for product improvements through normal commercial channels to enable meaningful discussions to take place.

20. The greatest prospect for efficiency gains is in avoiding unnecessary engineering call outs altogether through better use of remote diagnostics and customer support. The Openreach Response to the 2nd FAMR consultation provided evidence of the variation among CPs in this regard and noted the risks of unintended consequences resulting from increased regulation which would reduce incentives for CPs to invest in this area. Ofcom must resist arbitrary calls for regulation based on an aspirational view that "something might appear" in circumstances where it looks more likely than not that the scope for new technologies to emerge over the next three years seems limited. Overall Openreach finds that the arguments advanced by TalkTalk concerning labour comparisons and efficiency gains are illogical and contain a number of contradictions. Consequently Ofcom should treat them with a high degree of caution.

2.2 Corporate Overheads – Overseas subsidiaries

21. TalkTalk submits that the pay and asset data that BT uses to allocate corporate overheads is incorrect[13]. In particular, TalkTalk alleges that it appears that the allocations do not allocate any cost to overseas subsidiaries – thereby allocating an excessive amount to regulated products (which are exclusively based in the UK).

22. Each overseas subsidiary - e.g. BT Italy – is a business in its own right and has its own headquarters functions as well as its own costs associated with property, communications, fleet, operations etc. BT Global Services governs the overseas subsidiaries. As a market facing unit (MFU), corporate overhead costs are allocated from BT Group to BT Global Services where appropriate just as they are to BT Retail[14], BT Wholesale and Openreach.

23. As TalkTalk points out, the question of allocating these corporate overhead costs to overseas subsidiaries was addressed by the Competition Commission ("CC") in its determination of the Carphone Warehouse appeal of the 2009 charge control[15]. While the CC did consider it likely that some amount of management time was devoted to overseas subsidiaries, TalkTalk has ignored the CC's more pertinent comments in finding that Ofcom had not erred in not allocating corporate overheads to overseas subsidiaries, namely that "*the likely significance of the costs involved is small*" and that there is "*no obvious method of identifying the precise costs involved*"[16]. In particular

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[11] TalkTalk Response, TRC / SFIs, February 2014, paragraph 4.2

[12] TalkTalk appears to recognise this paradox at paragraph 5.2 of its response, where it asserts that "*BT could effectively increase its prices and profits by using less qualified or less experienced staff who cost less but take longer*."

[13] TalkTalk Response, TRC / SFIs, February 2014, paragraph 3.40

[14] Now BT Consumer and BT Business.

[15] The Carphone Warehouse Group Plc v Office of Communications, Case 1111/3/3/09, Competition Commission Determination of 31 August 2010, paragraphs 2.592 to 2.596.

[16] The Carphone Warehouse Group Plc v Office of Communications, Case 1111/3/3/09, Competition Commission Determination of 31 August 2010, paragraph 2.596.

the CC noted that "*overseas companies need to comply with local legislation with regard to legal, tax and accounting requirements and that therefore most, if not substantially all, of the Group HQ functions would relate to UK activities*" and "*Ofcom's evidence shows that Property and IT costs are not relevant to overseas subsidiaries*".

24. TalkTalk do not put forward any new evidence that would undermine the logic of the CC determination and fail to articulate any method for precisely identifying the costs involved (which would be immaterial in any case). There is, therefore, no reason for Ofcom to change its approach in the Charge Controls and it should ignore TalkTalk's arguments in respect of the allocation of corporate overheads to BT's subsidiaries.

2.3 Cumulo

25. Ofcom's first Charge Control consultation of July 2013 ("First Charge Control Consultation") proposed to allocate Cumulo costs on the basis of the Profit Weighted Net Replacement Costs (PWNRC) method. Ofcom set out the background to this proposal in Annex 14 of that consultation considering, among other things, points raised by the CC in considering appeals of Ofcom's 2012 WLR and LLU charge control decision and points raised by TalkTalk in response to the CFI and in subsequent face to face meetings with Ofcom. Overall, we support Ofcom's proposals.

26. However, TalkTalk's response to the First Charge Control Consultation proposed a new method for allocating Cumulo cost which appeared to be based on an assumption that all reductions in Cumulo costs that are associated with an increased share of MPF lines should be loaded onto future MPF volumes[17]. Openreach does not believe there is any merit in TalkTalk's proposals.

27. TalkTalk's proposed approach would mean that the allocation of BT's total Cumulo costs to any single service would not be based on the actual use of the specific assets required to provide that service. There would be no link between the allocation methodology and the Net Replacement Cost of the assets. A result of this is that, under TalkTalk's proposed methodology, the allocation of Cumulo costs to very similar services, using similar assets and earning similar returns, diverge widely. This is neither a logical nor sensible outcome as Cumulo costs are driven by the specific rateable value (RV) of BT's underlying rateable assets or hereditament.

28. TalkTalk tries to justify its proposed approach on the basis that there is a "cost causal" relationship between the number of MPF lines and the level of the RV given its observation of reductions in Cumulo alongside increases in MPF volumes. This is not correct. Any lower RV that follows from the increased volume of MPF lines actually reflects the reduced level of market profitability in the core network, due to increased competition and the lower BT volumes at that downstream level. A change in the level of activity and profitability in one market (or, in this case, a set of downstream markets) should not have direct consequences for costs in another market altogether.

2.4 Copper Scrap (Depreciable value approach)

29. Frontier (on behalf of TalkTalk) argues that, "*at some point in the future, it is likely [copper] cable will be removed and the copper within the cables recovered and recycled. At this point BT would receive a cash payment when it sells the scrap cable. This would reflect the value of the copper in the cable, less the cost of extracting the copper.*" TalkTalk essentially proposes that Ofcom should calculate this scrap value in the future and discount the CCA replacement cost of the copper assets to reflect the present value of that potential scrap.

30. Without going into the merits (or otherwise) of this proposal, there are a number of practical concerns:

- The values quoted (based on removing 28m copper lines) are illusory
- It is unclear what view of future copper commodity prices would be used, on what basis they would be forecast, or what the extraction costs might be.

[17] TalkTalk Response, Approach to setting LLU and WLR Charge Controls, October 2013, section 2.4.

31. In effect, TalkTalk seems to want Ofcom to put a terminal value on for the copper network, presumably revising this in consecutive market reviews against a highly uncertain set of variables.

32. The suggestion that Openreach will (or would have the option to) remove all or the bulk of its copper estate (around 28 million copper lines in total) is unrealistic. For the period of this proposed control, there is no plan to do. Indeed, such plans would run counter to the manner in which fibre is being deployed in the Access Network, where GEA-FTTC is a fibre overlay on a working copper line. This suggests the figures referred to on behalf of TalkTalk are illusory.

3 Supplementing previous submissions

3.1 DSLAM Capital Maintenance

33. Ofcom is concerned that OR DSLAM Capital Maintenance ("ORDCM") component costs attributed to SMPF rental may need to be adjusted for costs relating to SFI. This ORDCM component cost includes 100% of the costs of the class of work ("CoW") MDSL. Investigation of CoW reveals that c70% of the time booked to MDSL in 2011/12 related to SFI.

SFI costs in the 2011/12 RFS

34. SFI costs in the RFS were dealt with in two steps.

Step 1: Calculate SFI costs[18]

SFI Kmh (1,000)	[✂]
Hourly rate (Direct pay)	[✂]
SFI Direct pay cost (Kmh x hourly rate)	[✂]

35. In 2011/12 the direct pay costs to be attributed to the SFI service were determined by multiplying the number of 'KMH' engineering hours associated with SFI by a labour rate. The RFS usually collects labour costs by CoW. However, there is not a CoW that captures the SFI activity, so the costs have to be determined separately.

Step 2: Exclude SFI costs from fixed access repair costs

36. The SFI costs calculated in Step 1 were then deducted from five CoWs proportionately in relation to direct pay. The CoWs were OR, UEL, UDL, MDF and MDEN, which are repair CoWs that predominately [✂] relate to Fixed Access Markets. This was based upon the assumption that SFI time would be mostly spent upon these CoWs, so the costs against these CoW were reduced by the costs for SFI.

37. The way the adjustment was processed within the regulatory accounts in 2011/12 was to attribute a share of these CoW into the SFI plant group. The calculation above was performed using cost and volumetric information up to Period 8 2011/12. The [✂] equated to [✂] of the pay cost for the five CoW. For the purposes of the full year 2011/12 RFS, it was assumed that this percentage would not change.

38. The total costs attributed into SFI plant group from these five CoW in 2011/12, calculated by multiplying the full year cost for each CoW by [✂], amounted to [✂]. The total SFI cost in 2011/12 was [✂], mostly reflecting other attributions into SFI Plant Group that are attributed on the basis of pay, such as overheads.

Net impact

39. As explained in BT's response to Q17of the 9th S135, the net impact of the above methodology is that the total costs for SFI in 2011/12 ([✂]from the five CoW) were deducted from the fixed access repair costs in the RFS.

40. At the time of preparation of the 2011/12 RFS, BT was not aware that 70% of the costs in the MDSL CoW were SFI costs. Had BT been aware of this, the costs for this class of work would also have been reduced along with the other five CoWs. The total adjustment would still have been [✂] but the reduction to each of the OR, UEL, UDL, MDF and MDEN CoWs would have been correspondingly less, i.e. less than the [✂] used.

[18] Determined using cost and volume information up to Period 8 2011/12.

41. Thus, while it is true that the reduction in cost relating to time spent on SFI activities was not made to MDSL costs at the time of preparing the 2011/12 RFS, and therefore, not made to ORDCM, the total cost for SFI was deducted from the fixed access repair costs.

Implication of Ofcom's proposals

42. To now remove 70% of the MDSL costs for the purpose of Ofcom's cost modelling would have the effect of removing those SFI costs twice

    - Once from the five classes of work in step 2 above; and
    - Again from ORDCM costs in Ofcom's cost model.

43. Therefore should Ofcom remove costs for SFI from the ORDCM costs from SMPF, it should re-attribute the costs excluded to the copper repair components.

3.2 Efficiency

44. Ofcom proposes to assume Openreach would reduce costs by 5% each year in real terms up to 2016/17 which, over the five years from 2011/12, would take 23% out of unit costs. This is an increased efficiency assumption compared with the 4.5% applied in the current WLR and LLU charge controls.

45. Although Ofcom claims to consider both internal BT and exogenous information in arriving at this proposal, its conclusions rely almost exclusively on BT's historic efficiency and future efficiency plans all but discounting the external evidence.

46. We continue to caution Ofcom against too heavy a reliance on BT's historic performance and its ambitious plans in setting a future efficiency target. Such an approach effectively penalises BT (i) for its aggressive cost cutting in the past; (ii) for setting itself aspirational and stretching efficiency challenges for the future; and (iii) creates a disincentive to such behaviour going forwards. This would be to the detriment of BT's customers and consumers. Instead, Ofcom should take this information into consideration alongside external evidence in arriving at its own view of a stretching but achievable efficiency target

RFS

47. Oxera's report attached to our response to the First Charge Control Consultation[19] showed that in the three years to 2011/12, efficiency amounted to c. 4% for Openreach as a whole and c.6% for the WFAEL market specifically. These historic levels of efficiency were largely due to cost reductions made in the period up to 2010/11. Both for Openreach as a whole and for WFAEL, Oxera showed that the rate of efficiency gains had been reducing from 2011/12 onwards.

48. The 2012/13 RFS costs are historic and available; BT has provided these costs to Ofcom on the same basis of allocations as the 2011/12 RFS. Openreach has compared the forecast Opex costs for 2012/13 in Ofcom's model with the comparable actual Opex costs for 2012/13 in the RFS. This analysis shows that Ofcom's model understates the 2012/13 actual Opex costs by [✂] or roughly [✂] of Opex costs. This recent evidence suggests that Ofcom is imposing an unrealistic efficiency target and that this can now be seen in the RFS data available to Ofcom.

PVEO

49. BT has provided Ofcom with a revised PVEO analysis, covering recent history and plans.

50. The forecast PVEO analysis includes "challenge", particularly the 2014/15 efficiency [✂]. That is, the "E" has been derived from plans which are aspirational and intended to be challenging to the business – they are not a "Base Case".

[19] Oxera, Assessment of Ofcom's analysis to set the efficiency target, September 25th 2013.

51. There are two further aspects of the PVEO analysis that Ofcom must recognise in any proposed use of the "E" in its charge control modelling:

- The "E" specific to the "P" which was assumed in its derivation; that is, Ofcom should not treat either of these elements in isolation. If Ofcom were to change its "P" assumptions, then it would need to change the "E";

- The "E" also includes economies of scale; Ofcom already includes these economies of scale in its charge control modelling through the use of CVEs and AVEs and hence they would be counted twice were Ofcom to use the PVEO derived "E" in its model. Use of the PVEO derived "E" directly into the Ofcom model therefore requires an adjustment to avoid double-counting economies of scale.

Analysts' views

52. In the Consultation, Ofcom reviews statements concerning BT's future cost reductions made by industry analysts[20]. It concludes that *"analysts suggest that BT, and Openreach in particular, has the potential to continue to cut costs but that it may get increasingly difficult to achieve the reductions."* This conclusion is completely at odds with Ofcom's proposal to set a higher efficiency target for the forthcoming Charge Controls than it did for the current charge controls. Moreover, any assumed 5% rate of cost reduction conflicts with the consensus view for Q3 2013/14[21] (itself consistent with the analyst views available during the consultation) that Openreach costs going forwards will be flat in nominal terms.

AT Kearney / Deloitte external evidence

53. [✂]

54. [✂]

55. [✂]

56. Other external studies, such as the Deloitte study[22] appended to the BT Wholesale response to the WBA charge control consultation, have consistently found a trend rate of underlying efficiency improvement (ie the shift of the efficiency frontier) of around [✂] per annum in real terms. Without any evidence that Openreach is inefficient, we believe it is wrong to impose an assumption which implies Openreach has a large scope for efficiency catch-up i.e. that it is starting from well behind the frontier.

3.3 Volumes

3.3.1 Household growth

57. Whilst Ofcom has assumed 272,000 new households would be formed every year between and 2016/17 in the UK, Openreach's response to the First Charge Control Consultation showed that the number of new homes were expected to increase by an annual average of only about 146,000 in the UK. Even allowing for other sources of dwellings, the number of new households assumed to be formed by Ofcom over the period was implausible.

58. Since Openreach's response, new housing construction data has been published. There has been an upturn in house building: in calendar year 2013, housing starts were 23% higher than a year earlier, at 123,000 in England (equivalent to 147,000 for the UK) and in the same period

[20] Ofcom Consultation, Fixed access market reviews: Approach to setting LLU and WLR Charge Controls, 11 July 2013, paragraphs A7.37-A7.42.

[21] Submitted to Ofcom on 7 February 2014 in response to the WLR LLU15th S135, question 5.

[22] Deloitte report for BT, 2013, 'Analysis of the efficiency of BT's regulated operations' - http://stakeholders.ofcom.org.uk/binaries/consultations/review-wba-markets/responses/BT_Deloitte_Report.pdf

completions were 109,000 in England (equivalent to 131,000 for the UK). Despite this upturn, these figures are still broadly in line with the forecasts provided to Ofcom in September 2013 and certainly still a long way short of the level needed for Ofcom's assumptions to be realised. We calculate that completions will need to be c.153,000 each year between 2014 and 2016 to match our cumulative forecast, a rate which is ahead of the current volume of starts.

3.4 Caller Display

59. Ofcom considers that the charge for Caller Display should reflect LRIC, a significant price cut which Ofcom accepts will increase demand. Two key questions therefore are: (i) what is likely demand for Caller Display in the face of a 90% - 95% price; cut and (ii) what level of investment would be required to meet that demand.

60. To avoid failure to meet an increase in demand it would be expected that network investment is required unless the current network has the capacity to cope with the extra demand. Ofcom essentially sidesteps the possibility of further investment being required by asserting that BT could meet higher demand at "acceptable service levels" (which Ofcom does not define) without extra investment. The only way increased demand could be met would be if it was deemed acceptable that caller display would fail intermittently to customers who have paid for it.

61. We are currently investigating how higher demand could be met by some limited incremental investment. However, in order to understand what might be achieved, at what cost, we need to work with our equipment vendors to understand what solutions are possible, and what timescales are involved. BT stresses that it would be irrational for Ofcom to make any decisions on the incremental cost of Caller Display before this work is completed. Until the costs and the effectiveness of possible upgrades are known, it is premature to consider a price reduction to placate stakeholders when the evidence in support of this proposal is clearly not robust

62. Ofcom needs to ensure that the network will be able to meet such an increase demand resulting from their proposals. Openreach is working with the equipment vendor (Telent) to understand these issues and is due to produce a report in April 2014. Given Ofcom's decision to delay the results of the market review, Ofcom therefore has the time available to take account of these findings before publishing a decision.