



## **Virgin Media's response to Changes to BT and KCOM's Regulatory and Financial Reporting Obligations 2013/14 update**

## **Introduction**

Virgin Media is pleased to respond to Ofcom's annual update of the financial reporting obligations placed upon BT. The RFS remain vitally important to industry to provide transparency in BT's costs and an ability to monitor their conduct in relation to markets in which they are dominant, and also to have confidence that the regulatory regime imposed continues to provide an appropriate competitive framework in which to operate. Without sufficient transparency, the industry will suffer and regulation will become less well informed, potentially creating a vicious circle of decreasing effectiveness.

This year's update comes at a time when the overall reporting regime is under review, however, it remains unclear as to what Ofcom's intention is in relation to the partially completed Cost Orientation review, and as discussed in our response to Section 4, below, Virgin Media is concerned that there has been a decrease in regulatory certainty in regard to reporting obligations imposed on BT, and submits that this should be addressed by Ofcom.

## **Responses to Questions**

### **Section 3**

#### *Q1 : Amalgamation of Call Origination / Termination services*

Virgin Media has no comment in relation to this proposal.

#### *Q2 : Grouping of results to market*

Virgin Media notes that the proposed change does not affect the level of reporting required by BT, but is intended to make the RFS more accessible given the current split of "Access" and "Other Wholesale" means that intra-market information can be spread over different pages.

Virgin Media supports a change to make the RFS more accessible and transparent, as they remain a critical document in allowing CPs to understand key underlying financial information relating to SMP markets.

#### *Q3 : Changes to the list of components*

Virgin Media does not have any comment in relation to the proposed changes

### **Section 4**

The BCMR concluded that it would not be appropriate to require BT to publish LRIC data as the cost orientation obligation imposed in 2008 was not re-imposed.

Clearly, given that is a decision that has been made then it is logical for this review to ensure that it is reflected in the RFS. However, Virgin Media still consider that will be a lack of information available to stakeholders relating to

the underlying LRIC cost of the services, which remain subject to an obligation to be supplied, *inter alia*, on fair and reasonable charges.

In this regard Virgin Media would refer to its response to Ofcom's consultation on Cost Orientation and in particular, the relative lack of clarity of the fair and reasonable condition (applied in relation to the provision of Network Access). In particular Virgin Media considered that a response to stakeholder comments to this consultation was essential to ensure that Ofcom maintained a transparent approach to regulation. Although Ofcom had proposed not to publish a final statement, but to deal with issue in individual market reviews, it did indicate that it would publish stakeholder comments.

Ofcom has not yet published those responses, nor has it responded to Virgin Media's invitation to publish a further consolidating document. Further, in its subsequent consultation in the review of the Fixed Access Markets, there is no additional guidance to suggest the extent of what may be covered by the proposed fair and reasonable obligation.

Therefore, although the proposal in this document is, essentially a *fait accompli*, in that the decision not to publish has already been made, Virgin Media continues to have significant concerns over the reduced level of transparency that this will lead to.

It is significant that the actual reporting burden on BT will not reduce, as a result of the proposal to require the information to be provided in the AFL. Therefore there would be little additional effort on the part of BT to publish this information, which would be a material consideration when assessing the proportionality of any obligation.

Virgin Media acknowledge that there is a difference between the BCMR markets and the NMR markets, in that the provision of wholesale origination and termination services are regulated on a specific basis, which mean that the LRIC values for each of the services will have less significance. The decision in the NMR that BT does not need to publish FAC figures (again, the proposal in this document, simply to implement an existing regulatory decision cannot really not be challenged), should be monitored by Ofcom, given the unique basis of the charge control applied to the markets. The only information available to stakeholders in these markets will be the wholesale charges that reflect pure LRIC for termination and an aggregate origination figure of LRIC+ (an FAC proxy) plus an additional mark up for common costs attributed to termination, thus providing significantly less information on these important markets going forward.

Virgin Media has no comment in relation to the changes that reflect different BCMR market definitions, the removal of Single Transit reporting, Retail TI reporting or obligation in relation to KCOM.

Virgin Media  
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