

David Michels
Ofcom
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

david.michels@ofcom.org.uk

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Dear David

Strengthening Openreach's strategic and operational independence

This brief response has been prepared on behalf of Union Street Technologies Ltd. Union Street is a leading player and specialist provider of telecoms billing, customer relationship management and, as a "Third Party Integrator" (TPI), WLR ordering solutions for communication providers (CPs).

Our aBILLity application suite is used by more than 400 CPs across the UK (and worldwide) as a core component of their operations. Our CP customers primarily serve the business market. You can find out more about Union Street and the services we provide on our website at www.unionstreet.uk.com. TPIs are critical to Openreach's ability to provide service on an equivalent basis to smaller CPs, who do not have the ability to build their own interfaces.

We welcome this opportunity to respond to Ofcom's latest consultation on the independence of Openreach and we are generally supportive of Ofcom's approach to achieving this.

An efficiently performing Openreach is critical to the efficiency and success of Union Street's customers and in an ideal world we believe that Openreach should be completely separated from BT Group. However, we recognise the potential obstacles that Ofcom has identified which may delay these much needed changes and believe that the Ofcom's preferred option, "legal separation" is likely to deliver significant improvement. Nonetheless, we are pleased to note that Ofcom has not entirely ruled out full structural separation should this prove necessary.

In terms of the current consultation, there are several areas where we feel that Ofcom's proposals are not as strong or as clearly defined as they need to be. We feel that, in order to avoid dilution of Ofcom's preferred approach, these areas will need to be thought through in more detail and, where necessary, negotiated with relevant stakeholders. The main potential areas of concern are as follows:

Articles of Association and Purpose – the final drafting must ensure a clear definition of Openreach's interests, objectives and priorities, set out unambiguously and prioritising its duties to its customers and other stakeholders over those of BT Group

Appointment of the Board – Ofcom has suggested that the Openreach board would be appointed by BT but must be approved by Ofcom. We feel that it would be helpful if some terms of reference on both the profile of individual candidates and the shape of the board is agreed and shared in advance to ensure that the board composition represents all parts of industry, particularly smaller niche CPs and those serving business customers.

Financial Control – This is a particularly important area and it cannot be left to the discretion of BT Group to decide what is appropriate. Ofcom envisages BT setting a "financial envelope" within which Openreach

would have delegated authority. This does not in itself explicitly address what an appropriate level of profit and contribution to BT Group would be which will be absolutely fundamental to the future priorities of Openreach.

In the year ended March 2014 Openreach made an operating profit of over £1 billion on revenue of £5 billion and maintaining this level of contribution to BT Group is arguably one of the factors that has led to underinvestment in key areas and the consequent failures in performance.

Openreach Employees – Ofcom expresses a “strong preference” that employees should be directly employed by Openreach rather than BT Group. We believe that this principle is non-negotiable. In order to ensure the commitment of senior management to Openreach and its future success it will be necessary to stop the current free movement of key personnel between Openreach and other parts of BT Group.

Use of BT facilities – we strongly agree that Openreach should be free to use its own or external resources for research and development, systems development etc. We suspect that the current arrangements significantly inflate the costs of development, meaning that industry requirements are often rejected on grounds of cost.

Statements of Requirement – in connection with the above, we believe that new acceptance criteria for evaluating industry SORs are required. Currently the criteria include that development should be beneficial to Openreach. This is not an appropriate approach for a quasi-monopolistic national provider of critical services.

Incentivising Performance – new arrangements should offer clear incentives for Openreach to make significant improvements over current levels of service performance which is clearly more important for the national interest than Openreach’s financial performance.

Relationship with Third Party Integrators – as a TPI our relationship with Openreach can be problematic in a number of areas. Although TPIs are critical to the consumption of Openreach’s service by smaller CPs, we do not have the ability to contract directly with Openreach. This ambiguity means that we occasionally suffer from failures in communication and are not always able to access information or facilities or to participate directly in trials. We would welcome some clarification of Openreach’s duties and capabilities in this area.

We trust this response is helpful and will be happy to provide any additional information or discuss any of the issues raised further.

Yours sincerely

Michael Eagle
Industry Liaison and Regulatory Support Manager