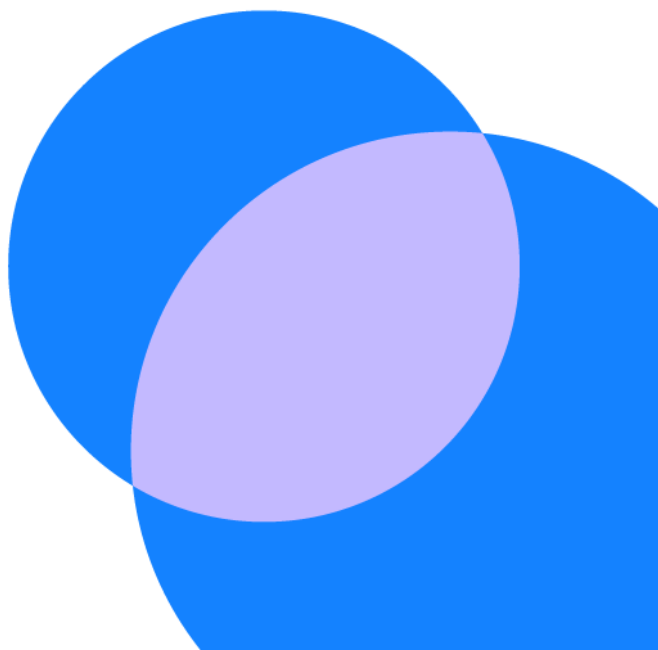


HULL MARKET REVIEW 2026-31

November 2025



Ofcom's forthcoming review of the Hull Licensed Area: Submission from CityFibre

Introduction and Market Context

1. CityFibre understands that Ofcom will shortly be commencing the process of reviewing the market in the Hull Licensed Area (HLA) in order to put regulations in place for the period 2026-31.
2. CityFibre acquired Connexin in March 2025. We have now fully integrated the Connexin footprint into our wholesale platform, making it available to more than 30 ISPs, including major national brands such as Sky, Vodafone and TalkTalk with immediate effect. Please see attached CityFibre's press release of yesterday announcing the integration.
3. [...].
4. We expect this wholesale and retail competition to be transformative for Hull consumers, who have hitherto seen little or no wholesale competition and in consequence have had little choice of retail products, continuing to pay, on average, significantly more for broadband than consumers elsewhere in the UK.¹
5. [...].

Ofcom's overall approach to the Market Review

6. We have considered Ofcom's approach to previous HLA market reviews, including that most recently conducted in 2021. We understand that Ofcom at that time did not expect significant competitive entry into the HLA by alternative fibre builders², and the primary focus remained on requiring KCOM, the incumbent operator, to offer regulated access products to ISPs seeking to enter the HLA retail market. The HLA regulatory approach diverged from that adopted in the rest of the UK where the Wholesale Fixed Telecoms Market Review in the

¹ In the last market review of the HLA, Ofcom noted that "*consumers in the Hull Area paid higher prices for broadband services than consumers in the rest of the UK*". KCOM committed to reducing its retail prices at the time but prices nevertheless remain higher than in the rest of the UK. We understand that KCOM's lowest-priced deal starts around £29.50/month for 175 Mbps, whereas the UK average price for basic broadband is closer to £26/month, with some national providers offering entry-level fibre deals as low as £20-21/month.

² As explained in Vol. 2 paragraphs 3.26-3.28 of the Hull Area WFTMR final statement of October 2021.

same year embodied a strategic pivot to promoting competition through the rollout of competing fibre infrastructure.

7. With significant alternative network build by CityFibre (and potentially others), and with it the entry of major ISPs into the HLA across the CityFibre network, we expect Ofcom to move its regulatory approach towards supporting infrastructure competition. As Ofcom stated in the TAR consultation document of March 2025:

*'Network competition creates stronger incentives to attract and retain customers by offering them the services they want, and so is a more effective spur for innovation and investment in high quality networks than access-based competition. This is because network providers have much greater scope for product differentiation and can strive to win customers and generate higher margins by offering a better service than their competitors. For example, network providers can differentiate on important attributes such as speed, reliability and quality of service. The threat this poses to legacy networks of losing customers to new and existing network competitors is a powerful driver of continued investment in high quality networks, delivering long-term benefits to consumers.'*³

8. Competition in HLA has been limited to date, and KCOM has SMP in both WLA, LLA and at the retail level. Regulation is required but should pivot towards the specific competition problems that arise in the context of infrastructure-based competition.
9. CityFibre considers that the introduction of a workable and scalable Physical Infrastructure Access product in the HLA is key, allowing CityFibre to extend its footprint across the HLA as a whole in line with our strategic vision outlined above.
10. The introduction of a PIA remedy should be accompanied by remedies intended to prevent KCOM using its market dominance to foreclose competition through pricing tactics at the wholesale or the retail level. This is consistent with the approach Ofcom has adopted in the rest of the UK, subject to modifications to reflect the circumstances of the HLA market.
11. Finally, Ofcom will need to consider which, if any, of the pre-existing wholesale remedies imposed in earlier market reviews it is necessary to retain alongside these recommended remedies. Given the lack of take up of wholesale products on the KCOM network, and the risks to network competition which arise from requiring regulated products, CityFibre considers that wholesale access remedies downstream of PIA are no longer required. For example, consistent with the approach in the rest of the UK LLA Area 2, Ofcom should not impose a regulated Dark Fibre Access remedy in the HLA since this would prevent risk to alternative networks' incentives to invest in leased line products. To the extent that any

³ Vol 1 paragraph 2.12, TAR Consultation March 2025

additional wholesale access remedies are retained, Ofcom should ensure that these do not undermine incentives to invest in competitive fibre infrastructure.

12. In the remainder of this submission, we discuss these issues in turn.

Market Definition and SMP in the HLA

13. CityFibre's view on market definition and SMP is as follows:

14. Product Market: The retention of separate WLA and LLA markets remains appropriate in the HLA, on the same reasoning that Ofcom has relied upon in the TAR consultation. There are no reasons to believe that the position is any different in the HLA than in the rest of the UK.

15. As regards LLA, [...]. The approach in the TAR therefore applies equally in the HLA in terms of the product market for LLA.

16. Geographic Market: The HLA constitutes a single geographic market, distinct from the rest of the UK, since it is KCOM rather than Openreach which enjoys a dominant position. Within the HLA, competitive conditions are sufficiently homogeneous to preclude further sub-division of the HLA. [.....].

17. The HLA in its entirety resembles 'Area 2' in the TAR in that it is prospectively competitive but clearly does not yet satisfy the 'Area 1' conditions of competition being fully established in any part.

18. These conclusions on the geographic market apply equally to both the WLA and the LLA product markets.

19. Finding of SMP: KCOM remains super-dominant at both the wholesale and retail level in HLA, across both the WLA and LLA:

- We are not aware of any material market entry from large ISPs despite Ofcom efforts to encourage them to enter Hull using KCOM regulated WLA and LLA products. KCOM's regulatory finance statements show that there are no sales of wholesale WLA products by KCOM and LLA volumes are low.
- The altnets present in the HLA, including Connexin prior to its acquisition by CityFibre, have gained only modest market shares, [...].
- There is a 'competitive fringe' consisting of some Wireless Infrastructure operators (WISPs) and resellers of KCOM 'white label' products in the WLA market. The information available to us suggests that, as found by Ofcom in the 2021 market

review, this competitive fringe exerts little competitive constraint on KCOM.⁴

20. KCOM continues to enjoy a position of SMP in both WLA and LLA markets. KCOM also continues to enjoy a position of SMP at the retail level, with a market share of over 80% in retail broadband services⁵.

Physical Infrastructure Access

21. The strategic importance of access to pre-existing physical infrastructure for the purposes of promoting competition in the HLA mirrors that which Ofcom has identified for PIA in the TAR consultation, in which Ofcom states that:

*'We consider PIA to be our primary remedy for promoting network competition and investment in WLA and LLA networks. Mandating access to Openreach's physical infrastructure has been transformational in enabling investment and deployment of fibre networks across the UK, as it reduces the cost and increases the speed of network rollout by competitors. An effective PIA remedy is critical as it secures the access to Openreach's physical infrastructure for existing altnet deployment, future expansion and connecting customers to networks.'*⁶

22. CityFibre has carefully considered the voluntary PIA offer made by KCOM in September 2025. We do not consider that this voluntary offer is fit for purpose to allow efficient consumption of KCOM's physical infrastructure at any scale. In the attached annex, we provide a detailed summary of the deficiencies of the offer from an operational perspective.

23. As in the rest of the UK, PIA is a means of levelling the playing field by ensuring that entrants face similar costs as the incumbent, to incentivise investment in alternative networks and promote competition in the HLA. In the absence of a workable PIA remedy not only is any self-build likely to be substantially more expensive than in the rest of the UK, but [...].

24. In addition, as Ofcom is aware, there is significant political and public concern at the amount of new self-built civil infrastructure in HLA in the absence of a PIA remedy. This has culminated in the Digital Minister writing an open letter to the industry urging that no further pole installations are undertaken.⁷ Citizens in Hull rightly question why their city, uniquely, does not have in place a process whereby the existing infrastructure of the incumbent can be reused.

⁴ The limited competitive impact of WISPs discussed at paragraphs 3.9-3.13 of Hull MR statement Vol2; the limited impact on the retail market of white label resellers discussed at paragraph 2.10 of the same document

⁵ CityFibre estimate

⁶ TAR Consultation Volume 3 paragraph 5.2

⁷ See: https://assets.publishing.service.gov.uk/media/65f2e8589d99de001103debc/letter_from_dsit_minister_to_fixed-line_telecom_operators.pdf

25. CityFibre notes that KCOM has positioned its voluntary PIA offer as final, and not subject to further negotiation. Even if KCOM were willing to enter into negotiations to amend the offer to remove some of its problematic features, CityFibre believes that a commercial offer which is not underpinned by regulatory obligations will be inadequate, given that, as the dominant operator in the HLA, KCOM has the incentive and ability to frustrate the build plans of rival networks by making PIA operationally difficult or impossible to make use of. Our hard-won experience of using Openreach PIA is that improving the product requires a continuous process of engagement with the provider, underpinned by regulatory obligations monitored and enforced by Ofcom.
26. CityFibre accepts that it is unlikely to be proportionate to expect all aspects of Openreach's PIA regulatory obligations to be replicated in full for the smaller market of the HLA. In our view, the regulatory obligation should at minimum consist of the following elements:
- PIA should be stated to be a specific form of Network Access that KCOM must provide. KCOM SMP Condition 2 should mirror Openreach SMP Condition 2.2, including carrying over the same definition of PIA. Ofcom should ensure that the condition makes clear that the obligation extends to the provision of necessary Network Adjustments and Ancillaries services to make PIA useable.
 - The obligation to provide new forms of Network Access (as set out in current KCOM SMP Condition 3) should refer specifically to PIA, creating a legal basis for a Statement of Requirement (SOR) process under which KCOM would work with wholesale customers to develop and improve the product over time.
 - The obligation to publish a Reference Offer should be amended to include a section setting out requirements for a PIA RO: much of the language can be taken from current SMP conditions applied to Openreach. Within this, Ofcom should make clear that orders should be accepted without pre-validation of plans as is the case with Openreach PIA, addressing one of the key operational concerns identified in the attached annex.
 - The No Undue Discrimination obligation should be stated to explicitly apply to the provision of PIA. Ofcom should issue guidance on how it would assess compliance with this obligation. This should include requiring KCOM to produce effective KPIs for order acceptance and works completion to allow for monitoring and enforcement – this is a key operational concern, see the annex.
 - The existing KCOM SMP condition on Statement of Charges should specify that PIA Pricing should be offered on Fair, Reasonable and Non-Discriminatory terms. These should require that KCOM PIA prices are benchmarked against Openreach's prices. If that is the case, CityFibre does not consider it would be necessary to require a specific PIA Charge Control to be imposed.
 - A key concern for CityFibre is that the voluntary offer requires extensive forecast information to be provided in advance of placing orders and the submission of a complete build plan for authorisation by KCOM before works can proceed. Sharing highly sensitive commercial information with the dominant market

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competitor presents obvious difficulties. The lightest touch solution to this is to pare back the forecasting and pre-approval requirements themselves, none of which are required by Openreach in order to make use of OR PIA. This could be addressed through an SMP condition setting out the PIA RO requirements, supplemented by guidance from Ofcom.

27. CityFibre has a number of other concerns with the voluntary offer which would also have a material operational impact – see the attached critique of the offer. In taking a proportionate approach, we have not suggested immediate regulatory intervention in relation to all of these. Instead, we consider Ofcom should provide for direction-making powers to allow it to intervene over the lifetime of the market review if this proves necessary. As with Openreach PIA, we consider the Office of the Telecoms Adjudicator (OTA2) could play an important part in supervising processes for ongoing improvements. As we set out in our response to the TAR consultation, CityFibre considers the OTA2 plays a vital role in driving such improvements, but given its lack of enforcement powers, these must be monitoring by Ofcom, backed up by the ability for Ofcom to intervene through a combination of direction-making and SMP condition enforcement.
28. For example, CityFibre has significant concerns about KCOM's proposed approach to determining and apportioning the costs for Network Adjustments. The proposed cap on KCOM contributions looks very low unless the incidence of Network Adjustments required to repair physical infrastructure turns out to be much lower in the HLA than in the rest of the UK. However, we are conscious that we do not as yet have the evidence required to formulate a proposal for a Network Adjustment cost cap of the kind which Ofcom imposed on Openreach in the WFTMR and proposes to retain in the TAR. We consider that Ofcom should have the scope to subsequently intervene, via a direction, to impose a revised cost cap in the future should this prove necessary to ensure a fair apportionment of costs associated with Network Adjustments to KCOM's infrastructure.
29. Similarly, under the voluntary offer, KCOM's proposed approach to management of PIA orders is to adopt manual processes (with orders being received, acknowledged and processed entirely via email). We do not propose that KCOM should be required to automate processes at this stage, but it should be possible to make requests for automation should order volumes justify it, as part of an SOR process overseen by the OTA2, to achieve incremental improvements in the product over time.
30. Finally, we note the importance of a PIA remedy being unrestricted as to the downstream market that the fibre installed using PIA is addressing. PIA will be an important means to facilitate the rollout of competing LLA products.

Complementary remedies to prevent market abuse/foreclosure

31. As noted KCOM retains a position of super-dominance at both the wholesale and retail level in the HLA. Moreover, the HLA market differs from the rest of the UK in that KCOM is not



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subject to functional/legal separation and there has been, to date, very limited wholesale competition.

32. As the vertically integrated dominant provider of both wholesale and retail products in the HLA, KCOM has the ability and incentive to engage in discriminatory conduct as regards the supply of upstream inputs into downstream markets in order to protect its downstream market share. Hence, it is important to retain an obligation not to unduly discriminate and to specifically apply this to the supply of the proposed PIA product.
33. In addition, KCOM has the incentive and the ability to engage in conduct in the downstream (in this case, retail) market to restrict or foreclose competition in the upstream, wholesale market. An obvious tactic that KCOM could pursue in this regard is to temporarily reduce its retail prices, either selectively in areas of competitive network build or across the entire HLA, [...]. The effect of this would be to substantially restrict or foreclose competition at both the retail level and the wholesale level, by limiting take-up on existing network footprint and strongly disincentivising further network build in the remainder of the HLA.
34. In the WFTMR, and in the TAR consultation, Ofcom has recognised the risk of pricing behaviour by Openreach undermining infrastructure competition. This has led Ofcom to impose focused restrictions on Openreach's prices:
- A restriction on targeted geographic pricing offers;⁸ and
 - A 'margin squeeze test' that involves a cross-check on prices included in Openreach offers to ensure that these do not fall below the levels that a Reasonably Efficient Competitor could replicate.⁹
35. Such behaviour undertaken by a dominant operator would amount to an abuse of dominance under Chapter 2 of the Competition Act 1998. However, CityFibre considers that competition law would not be an adequate substitute for imposing ex ante remedies for all the reasons Ofcom has cited as grounds for imposing ex ante pricing remedies on Openreach in the WFTMR/TAR.¹⁰
36. CityFibre considers Ofcom should impose a margin squeeze test condition as part of its wholesale 'fair and reasonable pricing' obligation on KCOM. This would ensure that KCOM maintained a sufficient margin between any retail price (including selectively targeted discounts) and upstream prices being levied for wholesale inputs.

⁸ TAR consultation Vol 3, section 9 paras 9.7-9.8

⁹ TAR consultation Vol 4 section 1 paragraph 1.91

¹⁰ For example, in TAR consultation document Vol. 3 section 9, paragraphs 9.17-9.20 and paragraphs 9.59-9.61.

37. CityFibre considers that Ofcom should also accompany the market review with a monitoring and enforcement programme to ensure that KCOM does not engage in other forms of retail market conduct designed to restrict or foreclose competition. Examples of this would include KCOM imposing new two-year contracts on existing customers in areas where [...]. This would be particularly problematic if KCOM also sought to impose punitive Early Termination Charges, contrary to Ofcom's guidance on ETCs under the Unfair Terms in Consumer Contracts Regulations 1999,¹¹ on customers who nonetheless sought to exit their contracts to take-up new offers.

Pre-existing wholesale remedies (WLA and LLA)

38. In the 2021 HLA market review, Ofcom imposed wholesale access obligations on KCOM. However, there is no take-up of WLA wholesale products and very limited take-up of LLA.

39. With the possibility of network level competition, Ofcom should consider whether existing remedies should be removed altogether in the forthcoming market review. Intervening at only one level of the wholesale market would be consistent with regulatory best practice not to impose multiple layers of wholesale remedies. It would also contribute to ensuring that the overall regulatory burden on KCOM was proportionate, with a PIA remedy sufficient to deliver Ofcom's objectives of delivering network competition.

40. If Ofcom decides to retain wholesale remedies in WLA and LLA, it must ensure that the design of those remedies does not interfere with the investment incentives of fibre network builders. It should ensure that any imposed price regulation leaves sufficient economic headroom for a reasonably efficient challenger to compete.

41. CityFibre has a specific concern about the retention of a regulated Dark Fibre Access remedy, as imposed by Ofcom in the HLA in 2021. Ofcom has chosen not to impose DFA in Area 2 in the rest of the UK, recognising that it acts as a specific disincentive to infrastructure-based competition in the LLA. [...]. We therefore would strongly urge Ofcom to remove this specific remedy in the forthcoming market review.

CityFibre
November 2025

¹¹ <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/uncategorised/8471-addcharges/associated-documents/secondary-documents/guidance-on-unfair-terms-in-contracts-for-communications-services?v=331996>