

Discussion Paper: KCOM & the Hull Area Telecoms Access Review

November 2025

Introduction

The purpose of this note is to set out KCOM's experience of operating within the constraints imposed by the current Significant Market Power ("SMP") regulatory regime, in the context of the nature of competition that has emerged in relevant markets in the Hull Area. We seek to make some observations about the impact of the current set of Significant Market Power service conditions and conclude that important aspects of the current framework restrict competition and act against consumers' interests, contrary to both Ofcom's intention and the statutory scheme.

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This note follows the paper submitted to Ofcom in July 2025, about the development and impact of competition since the WFTMR in 2021. It is provided to Ofcom on a confidential basis, solely in order to facilitate discussions ahead of the forthcoming Hull Area Telecoms Access Review, and entirely without prejudice to any representations that KCOM may make in that market review, including in relation to market definition (and the statutory three criteria test), competition assessment (and the designation of Significant Market Power) or remedies.

Nature of competition in relevant markets in the Hull Area

In addition to KCOM, there are presently three main competitive fibre network providers in the Hull Area: MS3; CityFibre; and Grain. MS3 and CityFibre have a significant presence in the Hull Area and both providers adopt a “wholesale only” commercial approach.

MS3 has said that it has secured over £100m in investment and that its network passes by 200,000 premises, which are “ready for service”. MS3 has a number of wholesale service provider customers and recently announced agreements with both Zen Internet and PXC (a wholesale platform provider). MS3 claims that it has 20,000 end user customers.

Following its acquisition of Connexin’s fibre network assets in the Hull Area in March 2025, CityFibre has declared its intention to make that fibre network available to its service providers, including national retailers like Sky and Vodafone. Our understanding is that this could happen from November 2025 and we have been made aware of marketing material apparently delivered to an address in the Hull Area during week commencing 27 October 2025:

SAY HELLO!
TO A CHOICE OF BROADBAND

sky | vodafone | TalkTalk

4thUtility | toob | cuckoo

UW Utility Warehouse | connexin | lit

The One | Lightning Fibre | Octaplus

CITYFIBRE'S FUTURE-PROOF FULL FIBRE NETWORK IS ON ITS WAY.

Our network brings you a faster, more reliable* connection, so you don't have to settle for broadband that's just 'good enough'.

While we don't sell directly, you'll soon be able to choose from over 30 trusted broadband providers on our network, offering a wide range of competitive packages to suit your needs - including speeds up to 5Gbps**.

Scan the QR code to register your interest and be the first to know when our full fibre network is live in your area or visit us at cityfibre.com/betterchoice.

DON'T JUST TAKE OUR WORD FOR IT...

★ Trustpilot Excellent | Rated 4.7 out of 5 | Reviews 20,170

Lorna | ★★★★★
Absolutely brilliant service from my initial contact to installation. I was kept fully informed at every step. The engineers were amazing. Continue to do what you are doing and your customers will be very happy. Brilliant price and amazing service.

Giuseppe | ★★★★★
Excellent communication through text/calls regarding the installation. Engineers contacted me before attending, we agreed path of the cable and to date everything is running smoothly. Another positive is there are plenty of providers using the CityFibre network so you can use the provider that suits you.

*Based on comparison of broadband packages delivered on standard fibre using copper cables. **Full fibre broadband. Speeds may vary. See cityfibre.com/betterchoice for more information.

By contrast, excluding its own retail arm, KCOM is a far smaller and less significant wholesale provider. [X]

[X]

At the retail level, as we explained in our July paper, KCOM faces vigorous competition from Connexin and service providers using the MS3 network (in addition to Grain, in its smaller network coverage area). The following table, produced by KCOM's retail arm, sets out some of the current offers in the market:

[X]

Observations about some of the current set of Significant Market Power service conditions

Clearly, when considering its wholesale and retail pricing policies, KCOM needs to be mindful of the SMP service conditions to provide network access on fair and reasonable terms, including in relation to charges. We make the following observations:

1. The duty on KCOM to provide network access on fair and reasonable terms was established by Ofcom in the WFTMR in completely different circumstances, to address competition concerns that have not, in fact, materialised.
 - i) The fibre network competition that has, in fact, emerged, was simply not envisaged in 2021. Indeed, Ofcom discounted the possibility of the emergence of competing fibre networks, on the basis that the business case appeared to be difficult in circumstances where first mover advantage was not available. In KCOM's view, this competition is both material and sustainable. See our paper of July 2025.
 - ii) There are three main competitive fibre network providers in the Hull Area: MS3; CityFibre; and Grain. Both MS3 and CityFibre have a significant presence in the Hull

Area and both adopt a “wholesale only” commercial approach. MS3 has recently entered into an arrangement with Zen. CityFibre has said that it will bring national ISPs into Hull from the end of 2025. Excluding its own retail arm, KCOM is a far smaller and less significant wholesale provider, compared to its competitors [3]. In KCOM’s view, there is no sense in which it can be argued that reliance on KCOM’s wholesale WLA service is necessary to support competition at the wholesale level (contrary to the position of Openreach in the rest of the UK).

iii) [3] Ofcom should note that KCOM continues to offer a service in the Wholesale Broadband Access market and copper-based wholesale services, despite not being required to do so by sectoral regulation.

2. The impact of wholesale price regulation has been to restrict competition, rather than to promote it, as Ofcom had intended. This is because of the way that competition between fibre networks has developed, which Ofcom had simply not anticipated when it established the current regulatory regime.

Ofcom’s rationale for wholesale price regulation in the Hull Area was set out in the Hull Area WFTMR statement:

“2.27 Our main aim in setting wholesale price regulation is to promote effective competition at the retail level.

2.28 We consider that in the WLA and LL Access markets there is risk that KCOM might fix or maintain some or all of its prices for network access at an excessively high level, or impose a price squeeze in relation to such access so as to have adverse consequences for end users of telecoms services.”¹

¹Hull Area Wholesale Fixed Telecoms Market Review Volume 3: Remedies, Ofcom, 28 October 2021: <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/198237-hull-area-wftmr-2021-26/associated-documents/statement-hull-wftmr-volume-3-remedies.pdf?v=327070>

Ofcom established the Significant Market Power SMP duty on KCOM to provide active wholesale services in the WLA market on fair and reasonable terms. In relation to charges, Ofcom explained that:

“2.30 In general, we consider that KCOM’s charges would be fair and reasonable if they are consistent with making a reasonable return over costs including a reasonable contribution to common cost recovery, and if they do not equate to a price squeeze...”²

However, because competition has, in fact, developed *between different* fibre networks (and does not rely to any material degree *on access to KCOM’s network*), in KCOM’s view, the present constraints on KCOM imposed by the regulatory duty to provide network access on fair and reasonable terms SMP has the effect of *restricting* competition, rather than *promoting* it, and this acts against the interests of consumers.

- i) As noted above, Ofcom’s view is that under the SMP regime, in general, KCOM’s charges would be fair and reasonable if they are consistent with making a reasonable return over costs ***including a reasonable contribution to common cost recovery*** (emphasis added).
- ii) [~~⊗~~]
- iii) [~~⊗~~]
- iv) The regulatory duty to provide WLA services on fair and reasonable terms also requires KCOM to avoid a price squeeze. As noted above, the rationale behind this is to promote competition at the retail level. However, competition at the retail level has developed through the emergence of significant competition between fibre networks. This competition has successfully driven down retail prices and KCOM’s market share (see KCOM’s July paper).

² *ibid*

The impact of the regulatory duty on KCOM to avoid a price squeeze limits its ability to compete in the retail market. [X] Service providers using the MS3 network are able to offer £29. Grain is cheaper, still.

[X]

KCOM believes that reliance on upstream access to KCOM's ducts and poles and on competition law (to the extent that KCOM holds a dominant position in any relevant market) would better promote competition and benefit consumers.

3. The current duty on KCOM to provide WLA service is a potential disincentive to invest in further fibre network
 - i) A duty on KCOM to provide active wholesale services might disincentivise further investment in competing fibre networks, to the extent that it provides potential investors with an alternative option (i.e., using KCOM's fibre network). The availability of KCOM's PIA service meets the regulatory objective of promoting competition as far upstream as possible.

4. In the LLA market, there should be no duty on KCOM to provide dark fibre, consistent with the proposed approach in LLA Area 2 in the UK TAR
 - i) A regulated DFA product may increase incentives for customers to use KCOM products rather than those offered by competing network operators, and could therefore undermine the development of stronger network competition across the Hull Area. [X]