

Promoting competition and investment in fibre networks: Hull Area Review 2026–31

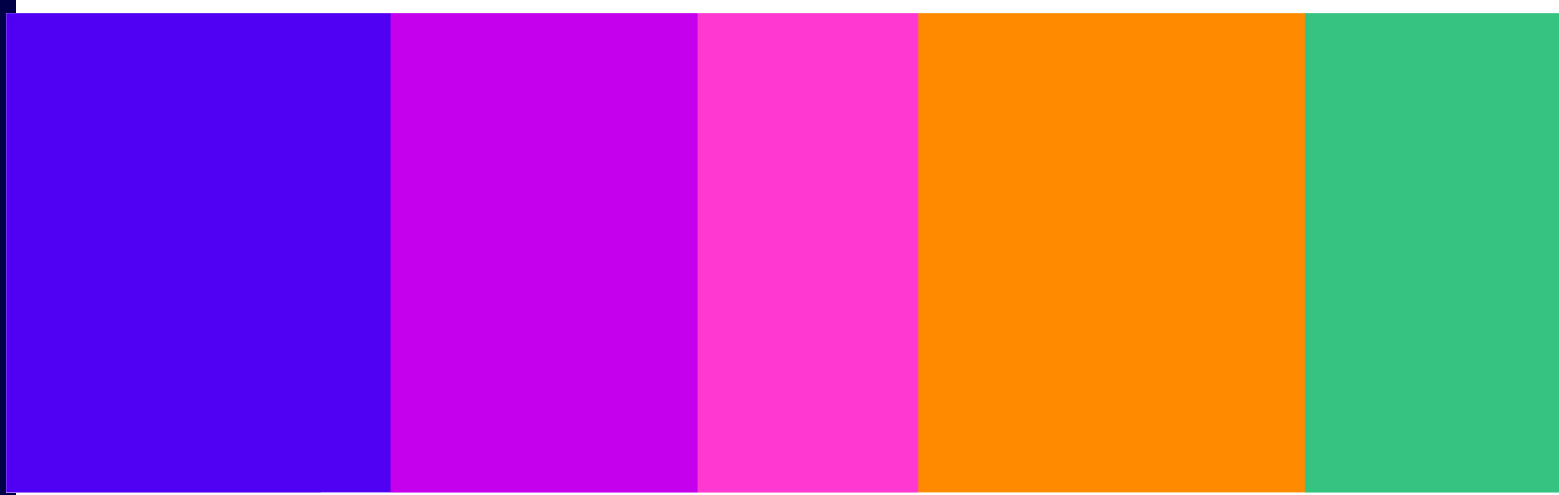
Volume 3: Remedies

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Consultation

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1. Approach to remedies

- 1.1 This section sets out our proposed approach to remedies in the Hull Area Review 2026 (HAR26). These are the remedies that we propose to impose on KCOM to address our provisional finding that KCOM has significant market power (SMP) in the wholesale local access (WLA) market and the leased line access (LLA) market in the Hull Area.¹ The primary purpose of our remedies is to address the competition concerns which we set out in Volume 2, Section 4.
- 1.2 Within the framework set by our powers and legal duties, we have a degree of discretion about what specific remedies to set to address KCOM's SMP. We propose to exercise that discretion in accordance with our objectives which we set out in this section.
- 1.3 We also explain how we have had regard to both our growth duty and the Statement of Strategic Priorities (SSP).
- 1.4 This section is structured as follows:
- First, we summarise the approach we took in our previous review of fixed telecoms markets in the Hull Area in 2021.
 - Second, we briefly describe developments since then.
 - Third, we set out our proposed approach to remedies for this review of the Hull Area market, which informs the remedies we are proposing.
 - Fourth, we summarise the proposed package of remedies in each market. The detail of our proposed remedies is set out in Sections 2 to 5 and the legal tests that apply are covered in Section 6. Our proposals for regulatory reporting requirements and applicable legal tests are set out in Volume 4. Draft SMP conditions and directions to give effect to these proposed remedies are set out in Volume 5.
 - Finally, we consider our legal duties (including our growth duty and our duty to have regard to the SSP) and whether *ex-post* competition law would be sufficient to address the competition concerns we have identified.

Our approach to remedies in 2021

- 1.5 In our last review of fixed telecoms markets in the Hull Area, the Hull Area Wholesale Fixed Telecoms Market Review 2021 (Hull WFTMR21)², our approach to remedies focussed on supporting the growth of competition downstream of WLA and LLA markets, based on wholesale access to KCOM's full fibre network.³
- 1.6 We considered that this approach had the best prospects of providing a long-term resolution to KCOM's market power downstream of these wholesale markets by injecting competition in the retail broadband and business connectivity markets in the Hull Area.
- 1.7 At the time, KCOM had already invested in building a full fibre network, and we considered the investment case for overbuilding KCOM's new full fibre network looked challenging. We did,

¹ Our analysis of these markets is set out in Volume 2.

² Ofcom, 2021. [Hull Area Wholesale Fixed Telecoms Market Review 2021-26](#) (Hull WFTMR21).

³ Hull WFTMR21. [Volume 3: Remedies](#). Section 1.

however, recognise the possibility that local providers with some network presence like MS3 and Connexin, or other entrants, might seek access to KCOM's ducts and poles to deploy their own networks to compete with KCOM. We therefore clarified that requests for a form of physical infrastructure access (PIA) could be reasonable under the general network access obligation. In which case, KCOM would be required to provide PIA on reasonable request as soon as reasonably practicable and on fair and reasonable terms, conditions and charges.

- 1.8 In relation to the WLA market, we recognised that KCOM's wholesale services had not been taken up so far but considered that the prospects for this were better than in the past. We noted the increased willingness of internet service providers (ISPs), who had previously relied on regulated wholesale services from Openreach, to use alternative networks (altnets) as fibre rollout and network competition gathered pace in the rest of the UK.⁴ However, we also recognised that even if our approach was successful, it would take time for competition to emerge at scale and so we would need to continue to monitor KCOM's pricing behaviour and be prepared to intervene to protect consumers.⁵
- 1.9 In relation to the LLA market, we recognised that KCOM faced some competition in the supply of business connectivity services from providers using regulated wholesale services from KCOM, as well as from CityFibre and MS3 who have their own network infrastructure in the Hull Area which they use to supply business connectivity services. We considered that it was appropriate to continue to focus on wholesale access remedies to address KCOM's SMP in LLA and required it to provide dark fibre as well as managed Ethernet leased lines.

Developments since Hull WFTMR21

- 1.10 Since concluding Hull WFTMR21, the competitive landscape for fixed telecoms in the Hull Area has changed significantly. We cover this in some detail in Volume 2.
- 1.11 In summary, there has been significant investment in the rollout of alternative full fibre networks in the Hull Area, with entrants overbuilding a significant proportion of KCOM's footprint. In 2021 almost all homes and businesses in the Hull Area had no alternative to KCOM. As of January 2025, 70-79% have at least one alternative.⁶
- 1.12 This increase in choice is starting to be reflected in take-up of altnet services, although, as of January 2025, KCOM's share of the WLA market remains high at around 71-80% [8<] (down from almost 100% in 2021).⁷
- 1.13 As in the rest of the UK, we recognise that take-up is critical, as it underpins the long-term financial sustainability of altnets and their ability to exert a competitive constraint on KCOM and benefit consumers in the long term.⁸
- 1.14 While we expect a lag between network rollout and take-up of more recently deployed rival full fibre services, altnets face challenges in winning customers given KCOM's incumbency advantages.

⁴ For example, the partner deals done between CityFibre and national ISPs Vodafone, Sky and TalkTalk. See <https://cityfibre.com/homes/broadband-providers>. Accessed on 1 December 2025.

⁵ If necessary, by opening a review of competition in retail markets in the Hull Area.

⁶ See Volume 2, Section 1.

⁷ See discussion of market shares in Volume 2, Section 2.

⁸ Ofcom. March 2025. [Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31](#). (TAR26 March 2025 Consultation.) [Volume 3: Non-Pricing Remedies](#), paragraph 1.18.

- 1.15 For example, KCOM completed the deployment of its full fibre network in 2019 and is looking to complete the migration of the customers still using legacy broadband services over the next 18 months or so. KCOM is also vertically integrated with the largest retail ISP in the Hull Area. As a retailer, KCOM serves almost all retail fixed broadband customers and acts as an anchor tenant for KCOM's full fibre network. It also means that KCOM has existing customer relationships with most broadband customers in the Hull Area.⁹
- 1.16 Since 2021, we also note the following:
- a) There has not been any significant competition based on wholesale access to KCOM's fibre network (in contrast to the rest of the UK where we see ISPs using regulated access to Openreach's network to offer their services).¹⁰
 - b) There has been some take-up of altnet-supplied services introducing some retail competition.¹¹
 - c) KCOM's retail prices have consistently been more expensive than comparable products offered by ISPs in the rest of the UK or by alternative providers in the Hull Area. However recent reductions in KCOM list prices introduced in September 2025 somewhat narrow these differences.¹²
- 1.17 There have been limited changes in the LLA market. KCOM continues to account for the large majority of new and existing leased line circuits in the Hull Area.¹³ Providers other than KCOM have seen modest increases in their take-up during the current review period but continue to provide partial coverage of demand sites in the Hull Area.¹⁴

Implications for 2026–31

- 1.18 Given the significant investment by altnets in the Hull Area, we want to see network competition in the WLA and LLA markets continue to develop where this is sustainable, which ultimately will deliver benefits to consumers across the Hull Area.
- 1.19 Given the substantial network build in the Hull Area since 2021, we consider that there is, or there is the potential for, material and sustainable competition to develop in both the WLA market and the LLA market in the Hull Area.
- 1.20 We consider promoting network competition is the best way to protect consumers in the long term in both LLA and WLA markets. Network competition should bring longer term benefits from innovation, choice, and stronger incentives to price keenly to attract customers and to further improve quality of service.
- 1.21 We recognise that competition may not develop everywhere in the Hull Area but are unable, now, to identify any parts of the Hull Area where competition is unlikely to develop.

⁹ See Volume 2, Section 2.

¹⁰ KCOM's high share of the WLA market are mostly connections used by KCOM's retail business. There has been some recent take up of KCOM's wholesale fibreline local access (WFLA) product [redacted]. [redacted] response dated [redacted] to s135 notice dated [redacted], question [redacted].

¹¹ Set out in more detail in Volume 2, Section 1.

¹² We consider retail pricing in more detail in Volume 2, Section 1.

¹³ See the discussion of market shares in Volume 2, Section 3.

¹⁴ See Volume 2, Section 3.

- 1.22 Our aim to promote network competition also brings our approach to remedies in the Hull Area closer to that adopted in the rest of the UK,¹⁵ noting the following differences:
- a) KCOM has long since completed its rollout of full fibre in the Hull Area;
 - b) take-up of KCOM's full fibre services in the Hull Area is already very high; and
 - c) in the WLA market, wholesale access-based competition remains limited (although the share of the residential and business broadband market served over alternative networks has increased over the current, 2021-26, review period).

Proposed approach to remedies in this review

- 1.23 Because of the market developments set out above, we propose to adjust our approach to remedies in the HAR26, compared to the Hull WFTMR21, to place more emphasis on promoting network competition.
- 1.24 Our objectives in both WLA and LLA markets are as follows:
- a) to promote investment and competition in networks by KCOM and other network providers, where network competition is viable, and to protect consumers and existing models of competition in the short term while this network competition develops; and
 - b) to promote downstream competition based on access to KCOM's network where network competition is not viable.

Access to physical infrastructure remedies

- 1.25 A key element of our proposed approach to promoting network competition is to require KCOM to give other providers access to its duct and pole infrastructure. This lowers the barriers to entry and expansion in the WLA and LLA markets by reducing the cost and increasing the speed of further rival network rollout.
- 1.26 We propose to impose a new specific network access obligation on KCOM to offer wholesale access to its physical infrastructure as a remedy in both WLA and LLA markets. Although KCOM recently launched a PIA reference offer,¹⁶ we consider that imposing a specific network access obligation will help give regulatory certainty to telecoms providers when considering any future investment plans.
- 1.27 Ensuring effective access to KCOM's physical infrastructure should help encourage further investment in the deployment of fibre networks, where viable, and so promote network competition. This is consistent with our general regulatory approach of applying remedies as far upstream as possible to ensure that as much of the value chain as possible is open to competition.
- 1.28 We recognise that altnets have, so far, deployed their networks by building their own physical infrastructure in the Hull Area. However, the availability of an effective KCOM PIA product is likely to promote further network expansion and infill, including into areas where the case for investing in new standalone physical infrastructure is not economic, and avoid duplication of infrastructure where this is inefficient.

¹⁵ In particular WLA Area 2 and LLA Area 2. See TAR26 March 2025 Consultation, [Volume 3: Non-Pricing Remedies](#), Section 1.

¹⁶ KCOM. 2025. [Physical Infrastructure Access \(PIA\): pricing, agreements, and other](#). Accessed on 3 November 2025.

Further WLA and LLA remedies

- 1.29 We recognise that it will take time for network competition to become established, that outcomes are not certain,¹⁷ and that there may be some parts of the Hull Area where network competition is not viable.
- 1.30 Therefore, we consider that continuing to require KCOM to provide wholesale access to its network across the Hull Area is still necessary to protect consumers in this 2026-31 review period. This complements the PIA remedy by supporting retail competition based on access to KCOM's network, both while competition develops, and in any parts of the Hull Area where network competition is not viable.

WLA

- 1.31 We propose to maintain regulated access to KCOM's existing WLA services over the 2026-31 review period. While demand for this form of access is currently limited, we do not want to foreclose the possibility of entry into retail markets through wholesale access-based models of competition over the review period.
- 1.32 Such entry, or the threat of it, could help protect consumers while network competition develops. Maintaining this access could also support entry into retail markets in areas without altnet build and/or where entry proves to be unviable. Such access could complement network competition by, for example, enabling altnet-partnered ISPs to supply services outside the footprint of altnet providers.

LLA

- 1.33 We propose to maintain access to KCOM's existing wholesale leased line services over the 2026-31 review period. This provides adequate protection to leased line consumers and existing models of competition while network competition for leased lines develops. Maintaining this access also supports entry and expansion in areas without altnet build and/or where entry is unviable.
- 1.34 As a result of increased network infrastructure competition and the potential for this to develop further, we propose to remove the specific requirement for KCOM to provide dark fibre for which there has been extremely limited take-up.

Proposed package of remedies

- 1.35 Below we summarise the package of remedies, which have been updated from those imposed previously in the Hull WFTMR21, to reflect changes in the market. We propose to impose these remedies on KCOM over the period 2026 to 2031 in line with the approach to remedies set out in this section, to address the competition concerns we have identified in the WLA and LLA markets as set out in Volume 2, Section 4.

¹⁷ This uncertainty includes the potential for further mergers and acquisitions activity over the 2026-2031 review period which is also happening in the rest of the UK. See Ofcom, 2025. [Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31 Further consultation on leased lines market analysis and various pricing issues](#). Section 3.

General remedies

- 1.36 We are proposing to retain the existing suite of general remedies in both WLA and LLA markets where we have provisionally determined KCOM to have SMP. The primary general remedy is a requirement on KCOM to provide access to its network on reasonable request.
- 1.37 The proposed remedies also include non-discrimination requirements to ensure KCOM does not unduly discriminate between different customers, especially its own business over rivals, when supplying access products.
- 1.38 We also seek to address other competition concerns including, but not limited to, the risks of anti-competitive behaviour such as refusal or delay in providing network access, excessive pricing or price squeeze, poor quality of service, and lack of transparency.
- 1.39 Our proposed general remedies and rationale for these are set out in Section 2.

PIA

- 1.40 We propose to impose a new specific network access obligation on KCOM to offer wholesale access to its ducts and poles (known as PIA) as a remedy in both WLA and LLA markets.
- 1.41 We also propose to benchmark KCOM's PIA product to Openreach's PIA product (the latter of which we have proposed to continue to charge-control at cost¹⁸) and to require it to be provided subject to a strict no undue discrimination obligation. We also set out proposals regarding how we may view the fairness and reasonableness of certain terms, conditions, and charges for the supply of PIA including arrangements around the making of network adjustments.
- 1.42 We set out further detail on our proposed PIA remedy in Section 5 which is in addition to the general remedies that apply as set out in Section 2.

WLA

- 1.43 The following proposals are in addition to our proposal to impose a PIA remedy in the WLA market.
- 1.44 We propose that KCOM should continue to be obliged to provide wholesale access to its fibre local access network on reasonable request and publish guidelines and performance indicators on how it handles any requests for new forms of access.
- 1.45 Our proposed remedies for WLA and the rationale for them are set out in Section 3. This includes further detail on our proposal to benchmark KCOM's entry-level WLA product to Openreach's equivalent 80/20 fibre to the premises (FTTP) product (rather than the 40/10 product previously).

LLA

- 1.46 The following proposals are in addition to our proposal to impose a PIA remedy in the LLA market.

¹⁸ TAR26 March 2025 Consultation, [Volume 4: Pricing Remedies](#), Section 4.

- 1.47 We propose to continue to require KCOM to provide ethernet access and end-to-end circuits by means of re-imposing a specific network access obligation, as a significant number of customers continue to rely on these products.
- 1.48 We propose to continue to benchmark KCOM's charges for ethernet circuits against Openreach's equivalent leased line products, namely the LLA Ethernet products in Area 2.
- 1.49 We also propose to no longer require KCOM to offer dark fibre. However, we propose to apply transitional arrangements to provide stability and protect consumers as a part of the phase out of a regulated product.
- 1.50 Our proposed remedies for LLA and the rationale for them are set out in Section 4 which includes further detail on our benchmark pricing proposals.

Regulatory financial reporting

- 1.51 We propose to continue to impose financial reporting obligations on KCOM to ensure sufficient and robust information is published by KCOM. In Volume 4 we propose:
- a) An accounting separation obligation, to prevent discrimination by KCOM in favour of its own activities to prevent unfair cross-subsidy.
 - b) Cost accounting obligations, to ensure that KCOM has in place a system of rules that support the attribution of revenues and costs to individual markets and services.
 - c) Directions to implement our regulatory financial reporting requirements. They include the publication of information on PIA services and network adjustments to support our proposed PIA remedy.

Retail measures

- 1.52 With the potential for competition in retail markets to intensify, we expect KCOM to respond to that increased competitive pressure in terms of future innovation, keener pricing and better quality. However, we note the importance of competition being on the merits rather than through unfair or anti-competitive practices.
- 1.53 We will therefore review KCOM's pricing behaviour and any potential impacts on competition if and when needed and to help inform any potential enforcement action should any pricing issues arise. We discuss our proposed approach to addressing competition concerns around both excessive pricing and the risks of a price squeeze in Section 2.
- 1.54 In addition, there are more general retail regulations set by Ofcom that sit alongside any proposed remedies that we set out in this review. They include one touch switching (OTS), end of contract notifications (ECNs) and annual best tariff notifications (ABTNs), and requirements to provide, for example, clear and accurate pricing information.¹⁹ We expect these and other initiatives will support the development of competition over this 2026-31 review period.

Legal duties

- 1.55 In Volume 1 we explain how our objectives and the package of remedies we are proposing are consistent with our duties under sections 3 and 4 of the Communications Act 2003 (the Act). In the following two subsections, we explain how we have had regard, as legally required, to the

¹⁹ See the discussion on the role of existing retail regulation in Volume 2, Section 1.

desirability of promoting economic growth and the previous government’s Statement of Strategic Priorities in formulating our proposals. In Section 6, we then go on to explain how our proposed remedies meet the more specific legal tests set out in the Act.²⁰

Growth duty

- 1.56 In formulating our proposals, we are required to have regard to the desirability of promoting economic growth (the ‘growth duty’).²¹ We do so in the context of our primary duty to further the interests of citizens and consumers, where appropriate by promoting competition, and having regard, amongst other things to encouraging investment and innovation.
- 1.57 In accordance with the statutory guidance on the growth duty²², where we have discretion to do so, we have considered how best to promote growth through our proposals, and in particular how to positively affect the key drivers of economic growth identified in the guidance. As set out in the guidance, not all of the drivers identified will be applicable to every regulator or to each policy choice. We therefore set out below the drivers which we consider most relevant to Ofcom and this review:
- a) **Infrastructure and investment:** The guidance identifies infrastructure as playing a vital role in supporting a competitive and growing economy, by providing services upon which businesses and citizens depend. This is at the heart of our strategy to promote investment in gigabit-capable networks by incumbents and other telecoms providers to promote network-based competition. Delivering this strategy is central to economic growth, supporting higher productivity and innovation across all sectors of the economy, providing opportunities for the deployment of new technologies and public sector transformation. Our proposed intervention to impose a specific PIA remedy should provide altnets with greater certainty over the utility of KCOM’s PIA product, encouraging further build – and supporting network competition – in the Hull Area where viable.
 - b) **Innovation:** The guidance also identifies innovation as a key driver of economic growth through the development of new ideas, products and processes. Innovation may also drive economic growth by increasing access to resources, leading to competitiveness through the creation of new products and services. The network competition we are seeking to promote with our proposals should bring longer term benefits from innovation, choice, and stronger incentives to price keenly to attract customers and to further improve quality of service. We consider that network competition is a more effective spur for innovation and investment in high quality networks than access-based competition. This is because network operators 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. Network competition allows market forces to play a much stronger role in shaping decisions about what technologies to use, and how to deliver them more cost effectively. It also promotes more aggressive competition to attract and retain customers by offering them the services they want.
 - c) **Competition:** As set out above, our principal duty is to further the interests of citizens and consumers, where appropriate by promoting competition, and as highlighted above, promoting competition is one of the strategic objectives of this review.

²⁰ Our proposals for regulatory reporting requirements and how these meet the legal tests are set out in Volume 4.

²¹ Section 108, Deregulation Act 2015.

²² Department for Business & Trade. 21 May 2024. [Growth Duty: Statutory Guidance – Refresh](#). Accessed on 22 August 2025.

- 1.58 In developing our proposals to give effect to our strategic approach, we have demonstrated the behaviours of smarter regulation. Above we have discussed how our proposals will facilitate innovation by encouraging investment. In developing the proposals themselves, we draw on our sectoral and regulatory expertise, as well as the ongoing engagement we have undertaken with our stakeholders.

Statement of Strategic Priorities

- 1.59 We are required by section 2B(2) of the Act, when carrying out our telecoms functions, to have regard to a Statement of Strategic Priorities (SSP) that has been laid before Parliament and designated by the Secretary of State (or any subsequent amended or replacement SSP that has been so laid and designated).
- 1.60 On 29 October 2019, the previous government designated its SSP for telecommunications, the management of radio spectrum, and postal services. We have a duty to take the SSP into account in carrying out our telecoms functions, including publishing our proposals in this document for consultation. We expect the current UK Government to designate a replacement SSP before we issue our final statement, in which case, we would be required to have regard to that (rather than the current SSP) in reaching our final decisions.
- 1.61 This review includes proposals which would take forward a number of the areas covered by the current SSP:
- a) world-class digital infrastructure;
 - b) furthering the interests of telecoms consumers; and
 - c) ensuring secure and resilient telecoms infrastructure.
- 1.62 There are several areas of the SSP on full-fibre connectivity which are particularly relevant, which we address in turn:
- a) Making the cost of deploying full-fibre networks as low as possible by addressing barriers to deployment and supporting market entry and expansion by alternative network operators through effective access to a dominant operator's ducts and poles. In this review, we are proposing to mandate access to KCOM's physical infrastructure to encourage further investment in the deployment of fibre networks across as much of the Hull Area as is viable. Further details about our proposals to regulate PIA can be found in Section 5.
 - b) Stable and long-term regulation that incentivises network investment and ensures fair and effective competition between new and existing network operators. We recognise that the long-term nature of network investments requires stability of regulation. This document therefore sets out our detailed plans for regulation of the fixed telecoms markets from 2026-2031. We aim to provide a stable regulatory environment.
 - c) An 'outside in' approach to deployment that means gigabit-capable connectivity across all of the UK is achieved on a similar timescale, and no areas are left behind. Our proposals will continue to complement any schemes from the UK Government to help improve coverage of broadband services to the hardest to reach areas. PIA is available so any commercial rollout by altnets is supported, as discussed above. PIA is also available to support publicly funded rollout.
 - d) The policy and regulatory framework should be sufficiently flexible and forward-looking to support convergence between fixed and mobile networks. We continue to see more convergence in the telecoms sector. We adapted our reviews to take account of that,

undertaking a single unified market review since 2021. Our decisions also support the deployment of 5G networks through promoting network competition.

Insufficiency of competition law

1.63 Before proposing *ex-ante* regulation, we consider whether competition law would be sufficient to address the competition problems we have identified. For the reasons set out in Volume 2 as part of our provisional assessment of the three-criteria test under section 79(2B) of the Act, we consider that competition law alone would not be sufficient to address our competition concerns in the relevant markets.²³

Consultation question

Question 3.1: Do you agree with our proposed approach to remedies? Please set out your reasons and supporting evidence for your response.

²³ Set out in Volume 2, Section 4.

2. General remedies

- 2.1 In this section, we set out the general remedies that we propose to impose on KCOM over the forward-looking period 2026-31 apart from proposed regulatory financial reporting obligations which are covered in Volume 4. Combined with the specific network access remedies discussed in Sections 3 to 5, these general remedies are designed to address the competition concerns arising from our provisional SMP determinations²⁴ and in line with our proposed approach to remedies discussed in the previous section.²⁵
- 2.2 The proposed general remedies would require KCOM to provide network access on reasonable request²⁶ and impose supporting obligations as applicable in the WLA and LLA markets in the Hull Area where we have provisionally determined KCOM as having SMP.²⁷
- 2.3 Table 2.1 below provides a summary of the proposed general remedies and the markets in which they apply, noting they are generally similar to those imposed in Hull WFTMR21.²⁸

Table 2.1: Summary of the proposed general remedies

| Proposed general remedies |
|---|
| • Requirement to provide network access on reasonable request, and on fair and reasonable terms, conditions and charges (WLA, excluding copper-based services, and LLA) |
| • Requirement to publish and operate a process for requests for new forms of network access (WLA only) |
| • Requirement for no undue discrimination (WLA and LLA) |
| • Requirement to publish a reference offer (WLA and LLA) |
| • Requirement to notify changes to charges, terms and conditions (WLA and LLA) |
| • Requirement to notify technical information (WLA and LLA) |
| • Requirement to publish quality of service information (WLA and LLA) |
| • Regulatory financial reporting requirements (WLA and LLA)* |

* Set out in Volume 4.

- 2.4 We describe below the form of remedy which we are proposing to impose in each market. In addition, we also consider specific aspects of this proposed regulation, particularly where further guidance is required, in each of the subsequent specific remedy sections WLA, LLA, and PIA.²⁹

²⁴ See Volume 2, Section 4.

²⁵ Section 1 of this volume.

²⁶ Excluding legacy WLA copper-based services.

²⁷ See Volume 2.

²⁸ Hull WFTMR21, [Volume 3](#), Section 2.

²⁹ Sections 3 to 5 of this volume.

Requirement to provide network access on reasonable request, and on fair and reasonable terms, conditions, and charges (WLA, excluding copper-based services, and LLA)

Our proposals

- 2.5 We propose to reimpose the requirement that KCOM must offer network access in the WLA and LLA markets where a third party reasonably requests it. Access must be granted on fair and reasonable terms, conditions and charges, as soon as reasonably practicable.
- 2.6 We propose that this obligation should include a requirement that any charges, made by KCOM for the provision of network access, must be fair and reasonable. We set out further detail on how we propose to apply this pricing condition to particular forms of network access in WLA and LLA markets below.
- 2.7 We propose that this obligation includes the power for Ofcom to make directions in order that we can secure the supply of services and, where appropriate, fairness and reasonableness in the terms, conditions and charges of network access.
- 2.8 We propose to continue to exclude legacy copper-based network access services from the network access obligation in the WLA market. Competition in WLA in the Hull Area will be centred on fibre-based network access services over the 2026-31 review period.

Our reasoning

- 2.9 We consider that our proposed network access obligations are appropriate and proportionate in relation to KCOM's market power in the WLA and LLA markets.
- 2.10 Notwithstanding altnet investment in network rollout which we have seen in parts of the Hull Area since 2021, the level of investment required by a third party to replicate KCOM's ubiquitous WLA and LLA networks, and the time it would take to do this remain significant barriers to entry or expansion. Even where altnets have already rolled out, it takes time for network competition to become established. Moreover, network competition may not develop everywhere in the Hull Area.
- 2.11 An obligation requiring KCOM to provide network access where a third party reasonably requests it is therefore important in promoting competition and protecting consumers. Without such a requirement, KCOM would have the incentive and ability to refuse access or provide access on less favourable terms to rivals than itself, ultimately to the detriment of consumers.

Ancillary services

- 2.12 Our proposed network access obligation includes an obligation on KCOM to provide any ancillary services that are necessary to make that network access effective. We propose that any necessary ancillary services should also be provided on fair and reasonable charges, terms and conditions.

Fair and reasonable pricing

- 2.13 In Volume 2, Section 4, we identify several potential competition concerns. This includes our provisional view that in the WLA and LLA markets there is risk, absent regulation, that KCOM might:
- a) fix or maintain some or all of its prices for network access – wholesale and passive infrastructure – at an excessively high level; and/or
 - b) impose a price squeeze in relation to such access.
- 2.14 We consider both behaviours are likely to have adverse consequences for end-users, including through weaker competition. To remedy our concerns, we consider that a regulatory constraint on KCOM’s network access prices is appropriate.
- 2.15 We therefore propose to impose in the WLA and LLA markets (including PIA) an obligation for charges for network access to be fair and reasonable. We would consider KCOM’s charges to be fair and reasonable if they are reasonably derived from the cost of provision, 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.
- 2.16 We discuss the rationale for our proposal relating to excessive pricing and price squeeze in more detail below.

Excessive Pricing

- 2.17 We consider a fair and reasonable obligation, combined with identifying appropriate benchmark prices for KCOM’s charges, is the most effective and proportionate approach to address this excessive pricing risk.
- 2.18 We do not consider the use of alternatives such as a charge control or basis of charges obligation as proportionate, for an operator of KCOM’s scale, given the potential increase in costs needed to support such an alternative approach that is unlikely to deliver significant benefits when compared to the approach proposed.
- 2.19 For most charges including rentals and ancillaries, and in order to inform any potential enforcement action in relation to excessive pricing, we consider that the corresponding Openreach prices would:
- a) act as an appropriate cost-based benchmark with which to compare KCOM’s prices;³⁰ and that
 - b) if KCOM’s charges were aligned with (or lower than) the benchmark, there would be a presumption that KCOM’s charges are not excessive.
- 2.20 In particular, we consider the following published prices as benchmarks to be appropriate for the following rental and ancillary charges:

³⁰ Openreach product prices are available at <https://www.openreach.co.uk/cpportal/products/pricing>. Accessed on 24 November 2025.

- a) For WLA wholesale network access services at or around 80Mbit/s, the Openreach 80/20 VULA³¹ product (e.g. GEA³²).
 - b) For LLA wholesale network access, the Openreach Ethernet products (e.g. EAD³³).
 - c) For PIA services, the corresponding Openreach PIA product prices.³⁴
- 2.21 We discuss these benchmarks in more detail in the following WLA, LLA, and PIA remedy sections, including the proposed approach to higher bandwidth WLA services.
- 2.22 If KCOM's prices are in excess of these specific benchmarks, we would be likely to give further scrutiny to those charges. In these cases, we would need to consider if charges are, and can be shown to be, consistent with our interpretation of fair and reasonable as set out above.
- 2.23 We note that our interpretation set out above requires KCOM's charges to be reasonably derived from the cost of provision and consistent with making a reasonable return over costs including a reasonable contribution to common cost recovery.³⁵ This is intended to prevent KCOM from setting excessive charges. KCOM is free to reduce prices, provided its charges do not result in a price squeeze (discussed further below), and do not infringe competition law.
- 2.24 For this review, we also propose to set a direction for KCOM to amend its reference offer in relation to charges for network adjustments.³⁶

Risk of price squeeze³⁷

- 2.25 We want KCOM to compete but note the importance of competition being on the merits rather than through unfair or anti-competitive practices. When setting prices, we expect KCOM to ensure they do not equate to a price squeeze i.e. leave insufficient margin for competitors to compete and as earlier, have adverse consequences for end-users including through weaker competition.
- 2.26 Firstly, we consider there is a risk of a price squeeze harming downstream competition based on wholesale access to KCOM's network. That is, that KCOM could implement a price squeeze between its WLA or LLA prices and the corresponding retail prices, such as by increasing its wholesale prices or lowering its retail prices (or a combination of both). This would potentially reduce the ability of KCOM's wholesale customers to compete with KCOM at the retail level.
- 2.27 Secondly, we consider there is a risk of a price squeeze harming network competition based on access to KCOM's physical infrastructure. That is, that KCOM could implement a price squeeze between its PIA and wholesale access prices. In other words, that KCOM's wholesale access

³¹ Virtual Unbundled Local Access. VULA is the name of a regulatory obligation requiring BT to provide access to its fibre to the cabinet (FTTC) and fibre to the premises (FTTP) network deployments which allows telecoms providers to connect at an access aggregation node (the Openreach Handover Point) and are provided a virtual connection from this point to the customer premises.

³² Generic Ethernet Access. Openreach's wholesale service providing telecoms providers with access to its FTTC and FTTP networks to supply higher speed broadband services. The GEA service meets BT's obligation to provide VULA. Openreach's contract for GEA is at <https://www.openreach.co.uk/cportal/products/fibre-broadband/fibre-contracts>. Accessed on 24 November 2025.

³³ Ethernet Access Direct. An Ethernet product offered by Openreach providing high bandwidth, point-to-point connections. Openreach's connectivity services contract is at <https://www.openreach.co.uk/cportal/products/ethernet/contracts>. Accessed on 24 November 2025.

³⁴ Openreach's passive product contract is at <https://www.openreach.co.uk/cportal/products/passive-products/passive-contracts>. Accessed on 24 November 2025.

³⁵ We note that models to allocate common costs can yield different but valid estimates depending on assumptions and allocation methods.

³⁶ See Section 5.

³⁷ Also referred to as a 'margin squeeze'.

prices leave insufficient margin for a reasonably efficient operator (which uses PIA) to compete. This could be as a result of KCOM raising its PIA prices or lowering its wholesale access prices (or a combination of both).

- 2.28 We therefore propose to interpret our fair and reasonable pricing condition to mean KCOM should not set prices in the WLA or LLA markets that would equate to a price squeeze. While we would assess any complaint on the relevant facts, our proposed starting point for evaluating cost and margins in this context would be as follows:
- a) where the potential squeeze could harm downstream competition, our starting point for evaluating cost and margins on individual services in this context would be to allow a long run incremental cost (LRIC) retail margin on each service, assessed by reference to an equally efficient operator (EEO) standard. For the avoidance of doubt, under our interpretation of this fair and reasonable requirement, KCOM is also required to cover its retail costs across a broader portfolio of broadband products, such that KCOM's rivals can supply a comparable range of products.
 - b) where the potential squeeze could harm network competition, our starting point is that KCOM should not set prices that leave an insufficient margin between its weighted average wholesale FTTP prices and PIA prices. While we would assess any complaint on the relevant facts, our starting point for assessing a complaint is that a sufficient margin should be based on the costs of a reasonably efficient operator (REO).
- 2.29 To inform any potential enforcement action in relation to margin squeeze, we may consider a number of sources of evidence that would be relevant at the time of any such action. These could include, but not necessarily limited to, relevant KCOM cost and pricing information, the proposed Openreach benchmarks as set out above, prevailing competitor market prices, and any cost modelling information such as Ofcom's latest Fibre Cost Model, insofar as we consider these sources of evidence are relevant.³⁸

Provisional conclusion

- 2.30 We consider that these proposed requirements in the WLA and LLA markets to provide network access on reasonable request are proportionate in that they are targeted at addressing the market power that we have provisionally found KCOM holds. We do not consider that different types of obligations or more limited network access requirements would be sufficient to address the competition concerns we have identified.³⁹
- 2.31 To give effect to this, we propose to set SMP condition 1 set out in Volume 5. Section 87(1) of the Communications Act 2003 (the Act) provides that, where we have made a determination that a person (here KCOM) has SMP in an identified services market, we shall set such SMP conditions authorised by that section as we consider appropriate to apply to that dominant provider in respect of the relevant network or relevant facilities and apply those conditions to that person. Specifically, section 87(3) of the Act authorises Ofcom to set SMP services conditions requiring the dominant provider to give such entitlements as Ofcom may from time to time direct as respects the provision of network access to the relevant network, the use of the relevant network and the availability of relevant facilities.

³⁸ TAR26 March 2025 Consultation. [Volume 4](#). Paragraphs 1.40 to 1.50.

³⁹ As set out in Volume 2, Section 4.

- 2.32 Section 87(5) of the Act provides that SMP services conditions authorised under section 87(3) of the Act may include provision for securing fairness and reasonableness in the way in which requests for network access are made and responded to, and provision for securing that the obligations contained in the SMP services conditions are complied with within the periods and at the times required by or under the conditions.
- 2.33 In determining which conditions are authorised by sections 87(3) to set in a particular case, we must take into account, in particular, the factors set out in section 87(4). In this case:
- a) The economic viability of building alternative access networks to replicate KCOM's ubiquitous coverage in the Hull Area means that in the absence regulatory intervention, it is unlikely that there will be effective competitive entry in parts of the Hull Area during the review period by rival telecoms providers;
 - b) We consider that it is feasible for KCOM to provide the access remedies we are proposing in the WLA and LLA markets and we have designed the scope of our proposed remedies with this in mind;
 - c) We do not consider that our proposal will risk undermining KCOM's investment in its fibre network deployment, as it has already invested and did so in circumstances where it was subject to a fair and reasonable pricing obligation; and
 - d) We consider that our proposed network access requirement is an important element of securing effective competition in the long term at a level that is appropriate to the market conditions of the Hull Area.
- 2.34 In Section 6, we explain why the setting of these draft SMP conditions would satisfy the tests set out in section 47 and 88 of the Act.

Requests for new forms of network access (WLA only)

Our proposals

- 2.35 We propose to reimpose an SMP obligation in the WLA market requiring KCOM to publish guidelines that would set out a statement of requirements (SoR) process by which it will address requests for new forms of network access, and deal with any request in accordance with those guidelines. In addition, we propose that KCOM must comply with any direction Ofcom might make under this condition.
- 2.36 We propose that this condition should continue to require KCOM to:
- a) publish information on each SoR request it receives, sufficient to enable other telecoms providers to consider whether they are interested in such access (redacted to protect the commercial confidentiality of the access seeker);
 - b) implement a process that enables an access seeker to identify to KCOM the information that is to be treated as confidential;
 - c) publish prominently on its website non-confidential SoR data in the form of key performance indicators (KPIs);
 - d) include in any response rejecting a request for new network access, information about the avenues of redress; and
 - e) be transparent where its SoR process applies to any particular request for new network access.

Publication of KPIs

- 2.37 The KPIs we are proposing to require are, the number of:
- a) SoR requests received by KCOM;
 - b) SoR requests that are unanswered by KCOM 25 working days or more after receipt;
 - c) SoR requests that are unanswered by KCOM 75 working days or more after receipt;
 - d) SoR requests accepted;
 - e) SoR requests rejected;
 - f) SoR requests KCOM took longer than 25 working days to reject;
 - g) SoR requests KCOM took longer than 45 working days to reject;
 - h) project plans agreed between KCOM and access seekers;
 - i) project plans agreed between KCOM and access seekers more than 80 working days after the SoR request was received; and
 - j) project plans agreed between KCOM and access seekers more than 95 working days after the SoR request was received.
- 2.38 We propose to require that KCOM publish this data no later than one month after the preceding six-month period (in respect of August to January and February to July).

Options of redress for rejected SoRs

- 2.39 We propose to continue to require KCOM to inform the provider responsible for submitting the SoR of the avenues of redress available. Such avenues would include any dispute resolution process that KCOM has, in addition to dispute resolution provisions under the Act.

Transparency as to when SoRs relate to regulatory obligations

- 2.40 We propose to continue to require KCOM to provide transparency on whether an SoR falls within the scope of the guidelines which apply to new requests for regulated access. This would add clarity as to the status, process and timings that apply to a telecoms provider's SoR request.

Our reasoning

- 2.41 In the absence of a specific access obligation in the WLA market, the SoR process allows telecoms providers to request the forms of access that they need and address the concern that KCOM, as a vertically integrated telecoms provider, will discriminate in favour of its own downstream business in the handling of requests for new types of network access.
- 2.42 Apart from the request for access to KCOM's physical infrastructure in January 2024, the SoR process has not been reported by KCOM as having been used since Hull WFTMR21.⁴⁰ Despite this, we remain of the view that the SoR process remains an important remedy to propose over the 2026-31 period, to give confidence to any potential access seekers that requests for new forms of network access will be handled appropriately by KCOM.
- 2.43 Given the relatively small scale of the potential Hull Area WLA market, the publication of SoRs provides a mechanism to aggregate demand for network access requirements and allow the cost to be spread out between access seekers. If the costs of developing a particular form of access were borne by only one access seeker this could create a significant barrier to competition and so the SoR process helps address this risk.

⁴⁰ See <https://www.kcom.com/wholesale/products/service-information/network-access-requests/>. Accessed on 7 November 2025.

- 2.44 While the proposal may remove a first-mover advantage from providers seeking access, in our provisional view the benefits of sharing costs among multiple providers to assist the development of effective competition outweigh the cost of removing a first-mover advantage.
- 2.45 We consider that the transparency and reporting obligations we have included in the proposed condition are the minimum necessary both to secure that SoRs are dealt with promptly and appropriately by KCOM, and to give potential entrants sufficient confidence that this will be the case.

Provisional conclusion

- 2.46 This SMP condition would be an appropriate and proportionate *ex ante* measure to support future access-based competition and complements the general network access obligation discussed above.
- 2.47 The form of requirement we are proposing only goes as far as we consider is necessary to address our concerns. Rather than specifying the exact process that KCOM must follow, the condition we are proposing for the WLA market would allow KCOM to implement its own process within certain parameters.⁴¹
- 2.48 In order to implement this, we propose to set SMP condition 3 set out in Volume 5. Section 87(5) of the Act allows access obligations authorised by section 87(3) to include provision for securing fairness and reasonableness in the way in which requests for network access are made and responded to and for securing that the obligations in the conditions are complied with within periods and at times required by or under the conditions.
- 2.49 In making our proposals, we have also taken into account the factors set in section 87(4) of the Act. In particular, having considered the economic viability of building access networks to achieve ubiquitous coverage that would make the provision of network access unnecessary, we consider that the SMP condition is required in the WLA market to secure effective competition, including economically efficient infrastructure-based competition, in the longer term.
- 2.50 In Section 6, we explain why the setting of these draft SMP conditions would satisfy the test set out in section 47 of the Act.

Requirement for no undue discrimination (WLA and LLA)

Our proposals

- 2.51 We propose to reimpose a requirement on KCOM to not unduly discriminate in relation to the provision of network access in the WLA and LLA markets. We consider it necessary to retain this requirement as KCOM has the ability and incentive to unduly discriminate against other telecoms providers in favour of its own business.
- 2.52 We consider that our proposed non-discrimination obligations are appropriate and proportionate in relation to KCOM's market power in the WLA and LLA markets.

⁴¹ KCOM's current SoR process can be found at <https://www.kcom.com/wholesale/media/2yzfgoxo/kcom-request-for-new-wholesale-services-v21-030420.pdf>. Accessed on 7 November 2025.

Our reasoning

- 2.53 It is important that KCOM does not unduly discriminate between different customers when supplying access services. Whenever possible, it should provide access to non-KCOM access seekers and internally to KCOM itself on the same terms. Without this level playing field, KCOM could engage in practices that could distort competition: for example, by providing access on less favourable terms compared to those obtained by its own business. This may discourage altnet deployment using PIA and therefore undermine the development of further network competition. It may also discourage the development of downstream competition based on access to KCOM’s network, particularly in areas where altnet deployment ultimately proves unviable. Both would negatively affect consumer outcomes.
- 2.54 Generally speaking, we consider equivalence of inputs (EoI) to be the most effective form of non-discrimination obligation. EoI is a strict form of non-discrimination i.e. a complete prohibition of discrimination with no discretion. However, we do not consider it appropriate to apply an EoI obligation in relation to the Hull Area in either the WLA or the LLA markets, given the limited size of the markets and the significant re-engineering work KCOM would have to carry out to existing systems and processes in order to comply with it.
- 2.55 We propose a no undue discrimination obligation as the minimum necessary to prevent discrimination in favour of KCOM’s own business. A no undue discrimination obligation allows KCOM more flexibility and may result in a more practical and cost-effective implementation of wholesale inputs in cases where it is economically justified, although it does allow for certain discriminatory conduct provided that the discrimination is not undue.
- 2.56 In the WLA and LLA markets, we will interpret undue discrimination to be where a dominant provider “does not reflect relevant differences between (or does not reflect relevant similarities in) the circumstances of customers in the transaction conditions it offers, and where such behaviour could harm competition.”⁴²
- 2.57 In relation to our proposal to require KCOM to provide PIA as a specific network access remedy in WLA and LLA, we set out proposals concerning no undue discrimination in Section 5.

Provisional conclusion

- 2.58 We consider the proposed imposition of the no undue discrimination condition as detailed above to be proportionate in that it seeks to prevent discrimination that would adversely affect competition and ultimately cause detriment to citizens and consumers.
- 2.59 To give effect to this, we propose to set SMP condition 4 in Volume 5. Section 87(6)(a) of the Act authorises the setting of an SMP condition requiring the dominant provider not to discriminate unduly against particular persons, or against a particular description of persons, in relation to matters connected with network access to the relevant network or with the availability of relevant facilities. Section 87(6)(b) of the Act authorises the setting of an SMP condition requiring the dominant provider to publish, in such a manner as we may direct, all such information as Ofcom may direct for the purpose of securing transparency in relation to such matters.
- 2.60 In Section 6, we explain why the setting of this draft condition would satisfy the test set out in section 47 of the Act.

⁴² Ofcom, 2005. [Undue discrimination by SMP providers](#), paragraph 3.5.

Requirement to publish a reference offer (WLA and LLA)

Our proposals

- 2.61 We propose to reimpose a requirement that KCOM must continue to publish a reference offer in relation to the provision of network access in the WLA and LLA markets. We propose that the reference offer must continue to set out several matters at a minimum, including the terms and conditions for provisioning, technical information, and service level agreements and guarantees.
- 2.62 We consider that the proposed requirement is appropriate and proportionate in relation to our provisional findings of KCOM's market power in the WLA and LLA markets.
- 2.63 Our proposed condition, like the existing one, provides for Ofcom to give directions requiring KCOM to modify its reference offer.
- 2.64 In Section 3, we set out our proposal to reimpose the direction from Hull WFTMR21 requiring KCOM to modify its WLA reference offer to remove provisions which require access seekers to be located at exchanges and to provide interconnection arrangements anywhere in the Hull Area.
- 2.65 In relation to our proposal to require KCOM to provide PIA as a specific network access remedy in WLA and LLA, we set out specific proposals for a PIA reference offer and internal reference offer in Section 5.

Our reasoning

- 2.66 A requirement to publish a reference offer has two main purposes:
- a) to assist transparency for the detection of potential anti-competitive behaviour; and
 - b) to give visibility of the terms and conditions on which other telecoms providers will purchase network access.
- 2.67 The reference offer helps ensure stability (in regard to investment and promoting market entry) in the relevant fixed telecoms markets, allowing for speedier negotiations, avoiding possible disputes and giving confidence to those purchasing wholesale services that they are being provided on non-discriminatory terms. Without this, market entry might be deterred to the detriment of long-term competition and hence consumers.
- 2.68 The proposed reference offer obligation specifies the information to be included in the reference offer and how the reference offer should be published. We are proposing to require the reference offer to set out (as a minimum):
- a) A description of the services on offer, including technical characteristics and operational processes for service establishment, ordering and repair;
 - b) The locations at which network access will be provided;
 - c) Terms and conditions for the provision of network access, including charges, terms of payment and billing procedures, ordering and provisioning procedures, dispute resolution procedures, details of relevant intellectual property rights, details of duration and renegotiation of agreements and confidentiality provisions;
 - d) Information relating to technical standards for network access, interfaces and points of interconnection;
 - e) Conditions relating maintenance and quality, i.e. service level agreements (SLAs) and guarantees (SLGs); timescales for acceptance or refusal of a request for supply and

- delivery of services and support services, compensation payable and provisions on limitation of liability and indemnity and procedures for service alterations;
- f) Conditions for access to ancillary, supplementary and advanced services;
 - g) Details of traffic/network management (applicable to WLA reference offer only); and
 - h) Details of measures to ensure compliance with respect to network integrity (also applicable to WLA reference offer only).
- 2.69 To the extent that KCOM uses the service(s) in a different manner from other telecoms providers or uses similar services, we propose that KCOM should be required to publish an internal reference offer in relation to those services. This internal reference offer would allow Ofcom and telecoms providers to identify any differences in the processes for internal use of network access compared to such use by third parties. The internal reference offer should, at a minimum, set out the same matters as set out in the previous paragraph above.

Provisional conclusion

- 2.70 We consider the proposed requirement in the WLA and LLA markets for KCOM to publish a reference offer is appropriate and proportionate in that it is targeted at addressing the market power that we have provisionally found KCOM holds in these markets.
- 2.71 We consider that the information that we are proposing should be published in the reference offer is the minimum that is necessary for providing transparency for monitoring potential anti-competitive behaviour and to give visibility on the terms and conditions of network access.
- 2.72 To give effect to this, we propose to set the draft SMP condition 5 in Volume 5. Section 87(6)(c) of the Act authorises the setting of SMP services conditions requiring the dominant provider to publish, in such a manner as Ofcom may direct, the terms and conditions on which it is willing to enter into an access contract. Section 87(6)(d) also permits the setting of SMP conditions requiring the dominant provider to include specified terms and conditions in the reference offer. Finally, section 87(6)(e) permits the setting of SMP conditions requiring the dominant provider to make such modifications to the reference Offer as may be directed from time to time.
- 2.73 In Section 6, we explain why the setting of these draft SMP conditions would satisfy the test set out in section 47 of the Act.

Requirement to notify changes to charges, terms and conditions (WLA and LLA)

Our proposals

- 2.74 We propose to reimpose a requirement on KCOM to give advance notice before making changes to its charges or terms and conditions for the provision of existing or new network access in the WLA and LLA markets. We also propose that this obligation includes the power for Ofcom to direct any such changes that it might consider appropriate under this condition.

Our reasoning

- 2.75 This condition would require KCOM to publish an access charge change notice (ACCN) relating to any changes to charges for wholesale network access services in the WLA and LLA markets.

- 2.76 Notification of changes to charges at the wholesale level has the joint purpose of improving transparency so as to detect possible anti-competitive behaviour and giving advance warning of price changes to competing providers who purchase wholesale access services. The latter purpose ensures that competing providers have sufficient time to plan for such changes, as they may want to restructure the prices of their downstream offerings in response to charge changes at the wholesale level. Notifying changes therefore helps to ensure stability in markets.
- 2.77 There may be some disadvantages to advance notification, particularly in markets where there is some competition. It can lead to a ‘chilling’ effect where other telecoms providers follow KCOM’s charges rather than act dynamically to set competitive charges. We do not consider, on balance, that this consideration undermines the rationale for imposing a notification of charges condition in these markets.
- 2.78 We propose to continue to require that, in both markets, ACCNs include the following:
- a) a description of the network access in question;
 - b) a reference as to where the terms and conditions associated with the network access in question can be found in KCOM’s reference offer;
 - c) the date on which the new charges take effect (or the period over which the new charges will apply); and
 - d) the current and proposed charge.
- 2.79 We propose to continue to require KCOM to publish advance notification of changes to the following notice periods:
- a) Changes involving new network access – 28 days;
 - b) Price reductions for existing network access – 28 days;
 - c) Price rises for existing network access which return the charge to the original level after the end of a temporary price reduction – 28 days; and
 - d) Any other changes for existing network access – 56 days; except for any other changes relating to PIA where we propose a notice period of 90 days.
- 2.80 We consider that our proposal to keep the same notification periods as we imposed in Hull WFTMR21, excluding PIA, remains appropriate for the Hull Area over the 2026-31 review period. These notification periods have remained unchanged since our review in 2018.⁴³ We do not see that the specific market conditions in the Hull Area relating to the provision of wholesale services other than PIA suggest that any change is warranted.
- 2.81 In relation to our proposal to impose PIA as a new specific form of network access in both WLA and LLA markets over the 2026-31 review period, we consider 90 days to be an appropriate notice period for ‘any other changes’ (i.e. other than those changes for which a 28-day notice period applies). We set out why we consider this to be the case in Section 5.
- 2.82 The proposed condition does not require notice to be given of changes that are directed or determined by Ofcom. Further, we consider that the direction making power would enable Ofcom to intervene more quickly when appropriate, for example, if changes are needed to the manner of notification.

⁴³ Ofcom. July 2018. [Wholesale Local Access and Wholesale Broadband Access Market Reviews. Review of competition in the Hull Area.](#)

Provisional conclusion

- 2.83 We consider that the proposed requirement to notify charges, terms and conditions is proportionate in that it only requires that information that other telecoms providers would need to know, in order to adjust for any changes, would be notified. The proposed notification periods are the minimum required to allow changes to be reflected in downstream offers.
- 2.84 To implement this, we propose to set the draft SMP condition 6 in Volume 5. Section 87(6)(b) of the Act authorises the setting of SMP conditions requiring the dominant provider to publish, in such manner as Ofcom may from time to time direct, all such information as they may direct for the purposes of securing transparency in relation to matters connected with network access. Section 86(6)(c) of the Act authorises the setting to of SMP services conditions which require the dominant provider to publish, in such manner as Ofcom may direct, the terms and conditions on which it is willing to enter into an access contract.
- 2.85 In Section 6, we explain why the setting of these draft SMP conditions would satisfy the test set out in section 47 of the Act.

Requirement to notify changes to technical information (WLA and LLA)

Our proposals

- 2.86 We propose to reimpose a requirement on KCOM to publish any new or modified technical characteristics, points of network access and technical standards within a reasonable time period and at least 90 days in advance of KCOM entering into contract to provide new network access or making changes to existing network access, unless Ofcom consents otherwise.
- 2.87 We propose that this requirement applies to network access provided in the WLA and LLA markets.

Our reasoning

- 2.88 We consider that the requirement to notify technical information which we are proposing in each market is appropriate and proportionate; and complements the requirement to publish a reference offer.
- 2.89 The aim of this regulation in providing advance notification of change to technical characteristics is to ensure that competing providers have sufficient time to respond to changes that may affect them. For example, a competing provider may need to introduce new equipment or modify existing equipment or systems to support a new or changed technical interface. Similarly, a competing provider may need to make changes to its network in order to support changes in the points of network access or configuration.
- 2.90 This remedy is important in the fixed telecoms markets to ensure that providers who compete in downstream markets are able to make effective use of existing or, where applicable, new wholesale services provided by KCOM. The technical information required by competing providers includes (but is not limited to):
- a) information on network configuration;
 - b) locations of network access; and
 - c) technical standards (including any usage restrictions and other security issues).

- 2.91 We believe that the requirement to publish changes 90 days in advance is an appropriate safeguard to allow sufficient time for competing providers to make modifications to their network to enable them to support such changes.
- 2.92 For the LLA market, we propose to continue to allow the exception to the minimum notice period for amendments to technical specifications that are developed through the NICC Standards Limited forum.⁴⁴ Telecoms providers are likely to be aware of NICC specifications due to their participation in the forum and in these circumstances should KCOM provide notification of changes based on the NICC standard, we would not consider it necessary to impose a 90-day notice period. We do, however, expect KCOM to provide a notification in these circumstances within a reasonable period of time.
- 2.93 The proposed condition does not require notice to be given of changes that are directed or determined by Ofcom.

Provisional conclusion

- 2.94 We consider that the proposed requirement to notify technical information is proportionate in that it only requires information that other telecoms providers would need to know and that the proposed notification periods are the minimum required to allow changes to be reflected in downstream offers.
- 2.95 To give effect to this, we propose to set SMP condition 7 at Volume 5. Section 87(6)(b) of the Act authorises the setting of SMP conditions which require a dominant provider to publish, in such manner as Ofcom may direct, all such information for the purposes of securing transparency in relation to network access as Ofcom may direct.
- 2.96 In Section 6 below, we explain why the setting of these draft SMP conditions would satisfy the test set out in section 47 of the Act.

Quality of service reporting requirement (WLA and LLA)

Our proposals

- 2.97 We are proposing to reimpose an SMP condition in the WLA and LLA markets which requires KCOM to comply with any quality-of-service (QoS) reporting requirements Ofcom may direct.
- 2.98 KCOM has the ability and incentive to reduce the QoS it provides with regard to the provision of network access in both markets in order to reduce costs and increase its profits. There is also a risk that KCOM discriminates in the QoS it provides to its own downstream retail business over business rivals. Such actions by KCOM would undermine other telecoms providers' ability to compete with KCOM's downstream business.
- 2.99 This obligation will allow us to require KCOM to publish QoS information to provide transparency about the QoS it provides if it becomes necessary and proportionate to do so.

Our reasoning

- 2.100 As a vertically integrated operator, KCOM has the ability to favour its own downstream business over third party telecoms providers by discriminating on price and/or non-price factors such as

⁴⁴ See <https://niccstandards.org.uk/>. Accessed on 7 November 2025.

the terms and conditions of access. The latter could involve variations in the QoS: either in service provision and maintenance, or in the quality of network service provided by KCOM to external providers compared with its own operations.

- 2.101 Such discrimination has the potential to distort competition at the retail level by placing third party telecoms providers at a disadvantage in terms of the services they can offer to compete with the downstream retail business of the vertically integrated operator. Where it includes a distinction between internal and external supply, the publication of QoS information by KCOM can allow other telecoms providers in the Hull Area to ensure that the service they received is equivalent to that provided by KCOM to its own retail operations.
- 2.102 Additionally, KCOM has the ability and incentive to reduce QoS where such action would reduce its costs (thus increasing its profits). This consumer harm is a direct result of KCOM's market power as, in a competitive market, providers are driven to improve QoS to acquire and retain customers. The publication of QoS information by KCOM would enable us to monitor QoS performance and ensure that the QoS received by consumers, such the speed and certainty of service installations and repairs, in the Hull Area is comparable to that received by consumers in the rest of the UK.
- 2.103 This obligation requires KCOM to publish information as directed by us, rather than requiring KCOM to publish specified information from the date of the imposition of the obligation. This is the same condition previously imposed on KCOM in both the WLA and LLA markets.
- 2.104 Whilst the incentive and ability of KCOM to harm competition through QoS remains a concern over the 2026-31 review period, we note that we have not, to date, made any direction under this condition. There has been limited uptake of its wholesale products, and we have not seen evidence thus far of substantive concerns about the QoS provided by KCOM to warrant proposing such an intervention. However, given the risks to QoS described above, we still think it is necessary to propose maintaining the SMP condition so that if any issues do arise in this review period, we are able to require KCOM to comply with any QoS reporting requirements we may direct in a timely way.

Provisional conclusion

- 2.105 We consider that the proposed requirements, set out above, are proportionate in that they are addressing the market power that we have provisionally found KCOM holds in the WLA and LLA markets in the Hull Area. Our proposals go no further than is necessary to remedy KCOM's ability and incentive to provide poor quality provisioning and repair services.
- 2.106 To give effect to this, we propose to set SMP condition 8 in Volume 5 requiring KCOM to comply with any QoS reporting requirement we may direct in relation to network access it provides in the WLA and LLA markets. Section 87(6)(b) of the Act authorises the setting of SMP services conditions requiring the dominant provider to publish, in such a manner as Ofcom may from time to time direct, all such information as it may direct for the purposes of securing transparency in relation to matters connected with network access.
- 2.107 In Section 6, we explain why the setting of the draft SMP conditions would satisfy the test set out in section 47 of the Act.

Consultation question

Question 3.2: Do you agree with our proposed general remedies? Please set out your reasons and supporting evidence for your response.

3. Remedies: wholesale local access market

- 3.1 In this section we set out our specific remedy proposals for the WLA market over and above the general remedies and regulatory reporting set out in Sections 2 and Volume 4. This includes additional detail on how we propose to interpret the requirement for fair and reasonable charges, and the re-imposition of a direction in relation to KCOM's WLA reference offer.
- 3.2 We also propose a new specific access obligation to provide PIA in both WLA and LLA markets. We set out our rationale in more detail in Section 1 together with further detail on the proposed PIA remedy in Section 5.
- 3.3 A summary of our proposed specific remedies for the WLA market are outlined in Table 3.1 below. Our proposed remedies are designed to address the competition concerns we have provisionally identified in Volume 2, Section 4 and are in line with our approach to remedies (Section 1).

Table 3.1: Summary of the proposed specific remedies in the WLA market

| Proposed specific remedies in the WLA market |
|---|
| <ul style="list-style-type: none"> Requirement to provide PIA |
| <ul style="list-style-type: none"> Direction requiring KCOM to amend its WLA reference offer |

Benchmark for fair and reasonable pricing in the WLA market

Our proposals

- 3.4 Section 2 sets out the general network access requirements we are proposing to impose, including the requirement to offer fair and reasonable charges in the WLA market. For many charges including rentals and ancillaries, we identify corresponding Openreach prices would act as an appropriate benchmark in order to inform any potential enforcement action in relation to excessive pricing.
- 3.5 In the WLA market, we propose to set a specific benchmark rate only for KCOM's services at or around 80Mbit/s, using Openreach's equivalent FTTP product (80/20).

Our reasoning

- 3.6 In 2021, we decided to set a specific benchmark only for services at or around 40Mbit/s. We considered that the price of services at or around 40Mbit/s would constrain the prices which KCOM could charge for higher bandwidth products and so we did not consider there was a need to set an additional specific benchmark rate on higher bandwidth prices.⁴⁵

⁴⁵ Hull WFTMR21. [Volume 3: Remedies](#), pages 11-15.

- 3.7 In TAR26, Ofcom has proposed to move our regulation from Openreach’s products that support download speeds of up to 40Mbit/s to those supporting up to 80Mbit/s, in line with changes in the market. We considered that adopting the 80Mbit/s basic superfast broadband product as the anchor continues to promote investment by Openreach and competing networks while sufficiently protecting consumers. In particular, based on a range of evidence, we considered that an 80Mbit/s anchor is more likely to sufficiently protect consumers than a 40Mbit/s anchor during 2026-31.⁴⁶
- 3.8 Based on the analysis and evidence set out in the TAR26, we are proposing to update the benchmark rate we use in the Hull Area, and benchmark KCOM’s services at or around 80Mbit/s for the period 2026-31.⁴⁷
- 3.9 Consistent with the approach in Hull WFTMR21, we do not propose to set additional benchmark rates for WLA services at higher bandwidths. Instead of using a direct benchmark, to evaluate whether the prices are fair and reasonable, we propose to take into account the available evidence in line with the pricing approach set out in Section 2.

Provisional conclusion

- 3.10 Given changes in the market, we provisionally consider setting a specific benchmark rate only for KCOM’s services at or around 80Mbit/s will help address the risk of excessive prices in this review period, while supporting the development of network competition.

Direction requiring KCOM to amend its WLA reference offer

Our proposals

- 3.11 In Section 2, we set out our proposal to re-impose an obligation on KCOM to publish a reference offer in relation to the provision of network access in the WLA and LLA markets and which also provides for Ofcom to give directions to KCOM to modify its reference offer.
- 3.12 Using this proposed direction making power, we propose to reimpose a direction on KCOM requiring it to modify its WLA reference offer so as to remove provisions which require access seekers to be located at exchanges; and to require KCOM to provide appropriate interconnection arrangements to meet reasonable requests anywhere in the Hull Area.

⁴⁶ TAR26 March 2025 Consultation, [Volume 4: Pricing Remedies](#), pages 10-12 and Annex 8.

⁴⁷ We note that in TAR26, two options for setting the Openreach 80/20 anchor product prices are currently being consulted on – using a charge control for rentals, connections, and ancillaries; or relying on Openreach’s contractual arrangements to set the prices for rentals and connections with a charge control for ancillaries. We consider a benchmarking approach in the Hull Area could apply independently of whether Openreach’s 80/20 FTTP prices are determined by a charge control or by Openreach’s contractual arrangements given they are both expected to achieve the same pricing outcome. We also note that the final decision on the approach for regulating Openreach prices will be made by the time of our final statement for Hull Area, and we would publish the actual benchmark rates to be used in our final statement. For further information, please see Ofcom. October 2025. [Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31, Further consultation on WLA pricing remedies.](#)

Our reasoning

- 3.13 In Hull WFTMR21, we decided that it was appropriate to require KCOM to modify its WLA reference offer to remove provisions which require or have the effect of requiring access seekers to be located at exchanges and to describe the manner in which an access seeker may interconnect its network with KCOM's anywhere in the Hull Area where a reasonable request for such interconnection might be made.⁴⁸
- 3.14 We did this because:
- a) Evidence from some stakeholders at the time suggested that the costs associated with building space in exchanges was prohibitive and was therefore dampening the prospect of market entry based on using access to KCOM's fibre WLA product; and
 - b) Requiring access seekers to locate equipment in local exchanges was not, in any event, necessary to access KCOM's fibre network in a way in which it might have been necessary to access legacy copper networks.
- 3.15 We recognise that demand for KCOM's fibre WLA product since the Hull WFTMR21 has been limited and that demand over the 2026-31 review period is uncertain. However, we do not want to foreclose the possibility of entry into retail markets through wholesale access-based models of competition for the reasons we explain in Section 1.
- 3.16 We consider that the reasons set out above and discussed in more detail in Hull WFTMR21, remain relevant. We therefore continue to consider that requiring KCOM to offer access to its fibre WLA product on the same terms as we previously directed, improves the prospect of uptake of the product by access seekers. We do not propose to include an implementation period because we are re-imposing an existing remedy that KCOM currently complies with.

Provisional conclusion

- 3.17 We consider that this requirement is the minimum necessary to secure that KCOM provides an appropriate reference offer, which does not tie access seekers unnecessarily to the purchase of space in its exchanges.
- 3.18 The proposed direction is not onerous on KCOM given that it requires it to continue to offer its fibre WLA product under the same arrangements as it must do currently.
- 3.19 We propose to implement this by giving a direction under section 49 of the Act and proposed Condition 1.3(b)(ii), 1.4 and 1.5 and Condition 5.11. A draft of the direction is set out in Volume 5.
- 3.20 In Section 6, we explain why the giving of this direction would satisfy the test set out in section 49 of the Act.

Consultation question

Question 3.3: Do you agree with the proposed price benchmarking approach and WLA reference offer direction? Please set out your reasons and supporting evidence for your response.

⁴⁸ Hull WFTMR21, [Volume 3: Remedies](#), pages 23-29.

4. Remedies: leased line access market

- 4.1 In this section we set out our proposals for the LLA market over and above the general remedies and regulatory reporting set out in Sections 2 and Volume 4. These include the continuing requirement to provide Ethernet services and our proposal to remove the requirement to provide dark fibre access and our proposal to remove the requirement to produce pricing transparency reports.
- 4.2 We also propose a new specific access obligation to provide PIA in both WLA and LLA markets. We set out our rationale in more detail in Section 1 together with further detail on the proposed PIA remedy Section 5.
- 4.3 A summary of all our proposed specific remedies for the LLA market are outlined in the Table 4.1 below. Our proposed remedies are designed to address the competition concerns we have provisionally identified in Volume 2, Section 4 and are in line with our approach to remedies (Section 1).

Table 4.1: Summary of the proposed specific remedies in the LLA market

| Proposed specific remedies in the LLA market |
|---|
| <ul style="list-style-type: none"> Requirement to provide PIA. |
| <ul style="list-style-type: none"> Requirement to provide Ethernet network access in the following circuit configurations: <ol style="list-style-type: none"> connecting end-user premises and KCOM's optical distribution frame (ODF)⁴⁹ site or third-party premises; and connecting an end-user premises and another end-user premises.⁵⁰ |

Requirement to provide Ethernet network access

Background

- 4.4 In the Hull WFTMR21 we required KCOM to provide Ethernet and dark fibre network access. Our view was that without a form of specific network access, KCOM could seek to withdraw or change the active products it currently offers under the general network access obligation.⁵¹

Our proposals

- 4.5 We propose to retain this requirement to provide Ethernet network access, in addition to the proposed requirement for PIA.

⁴⁹ The ODF is a structured frame for the termination and cross-connection of optical fibres.

⁵⁰ This type of connection can also be referred to as a wholesale end-to-end segment.

⁵¹ Hull WFTMR21. [Volume 3: Remedies](#), paragraphs 3.70-3.73.

4.6 We also propose that this obligation includes the power for Ofcom to make directions in order that we can secure the supply of services and, where appropriate, fairness and reasonableness in the terms, conditions and charges of network access.

Our reasoning

4.7 The main reasons underpinning this provisional view are three-fold:

- a) Firstly, we envisage that competition based on infrastructure access would reduce the need for a regulated active fibre product. However, we expect that this will take time to establish and therefore it is important that active services continue to be provided in the interim in order to provide protection for consumers while competition continues to develop, and in areas where network competition may not be viable.
- b) Secondly, as we provisionally found in our market analysis in Volume 2, KCOM has not only a largely stable customer base but has also accounted for at least 61-70% [8<%] of new connections each year between January 2020 and December 2023.⁵² Although altnet presence has been increasing, absent regulation, there is a risk that KCOM could seek to withdraw or change the active products it currently provides.
- c) Thirdly, given the importance of leased lines to support downstream services, we consider it appropriate to go beyond the general network access obligation to address the above concerns and ensure telecoms providers and consumers have certainty and security that active services will continue to be provided over the review period.

4.8 Taking account of the general access obligation which KCOM is under, we consider this proposed remedy to be proportionate, as the specific access obligation we are proposing to impose secures the continued provision of the types of wholesale access product that KCOM already provides and helps to address the competition concern we have identified.

4.9 Therefore, we consider the impact of imposing the specific access obligation on KCOM is small compared to the benefits to competition which together appear to us to be sufficient to justify imposing a specific remedy.

Provisional conclusion

4.10 We consider that these proposed requirements in the LLA markets to provide Ethernet access on reasonable request are proportionate in that they are targeted at addressing the market power that we have provisionally found KCOM holds. We do not consider that different types of obligations or more limited network access requirements would be sufficient to address the competition concerns we have identified.

4.11 In order to implement these proposals, we have included the requirements set out above, in draft SMP conditions 1 and 2 published in Volume 5. Section 87(3) of the Act authorises Ofcom to impose network access requirements, and we have taken into account the factors set out in section 87(4).⁵³ Section 87(6)(c) to (e) authorises Ofcom to set SMP services conditions requiring the dominant provider to give such entitlements as Ofcom may from time to time direct as respects the provision of network access to the relevant network, the use of the relevant network and the availability of relevant facilities.

⁵² Volume 2, Section 3, paragraph 3.50.

⁵³ Our commentary on the section 87(4) factors set out in Section 2 also applies, where relevant, to the specific network access remedies.

- 4.12 In Section 6 below, we explain why the setting of these draft SMP conditions would satisfy the tests set out in section 47 and 88 of the Act.

Benchmark for fair and reasonable pricing in the LLA market

- 4.13 Section 2 sets out the general network access requirements we are proposing to impose, including the requirement to offer fair and reasonable charges in the LLA market. For many charges including rentals and ancillaries, in order to inform any potential enforcement action in relation to excessive pricing, we identify corresponding Openreach prices would act as an appropriate benchmark.
- 4.14 In the LLA market, we propose to benchmark KCOM's active leased lines against Openreach's equivalent active leased line products in LLA Area 2,⁵⁴ which we proposed in the TAR26 March 2025 Consultation should be subject to a CPI-0% charge control for the 2026-2031 period.⁵⁵ We consider the proposed benchmarking approach will help address the risk of excessive prices in this review period, while supporting the development of network competition.

Approach to dark fibre

Background

- 4.15 In the Hull WFTMR21, we introduced a dark fibre access remedy. Our view was that a specific dark fibre access remedy was the most proportionate measure as there was limited prospect of infrastructure-based competition. Since then, we have found that there has been an extremely limited take-up of KCOM's regulated product, and it has only supplied an extremely limited number of [S<] circuits as of October 2025.⁵⁶
- 4.16 Following an increase in network infrastructure competition since 2021, there has however been an increase in competition to supply dark fibre products and, looking forward, our expectation is that this could continue. This could act to further limit future take-up of KCOM's regulated dark fibre product.⁵⁷
- 4.17 In addition, the recent publication of KCOM's PIA reference offer and our proposed PIA remedy also provides greater scope for network competition, as altnets have an option to use KCOM's PIA to supply customers particularly where they have no existing infrastructure coverage.
- 4.18 Our provisional market analysis indicates that [S<], while KCOM continues to be the main supplier for active products.⁵⁸

Our proposals

- 4.19 Our primary objective of this review is to promote competition and network investment and in instances where we take regulatory action, our duty is to ensure that any such action is

⁵⁴ Refer to Section 2 for further details on our approach to benchmarking.

⁵⁵ TAR26 March 2025 Consultation, [Volume 4: Pricing Remedies](#), Volume 4, paragraph 2.6.

⁵⁶ Volume 2, Section 1, paragraph 1.52.

⁵⁷ Volume 2, Section 1, paragraphs 1.52-1.53.

⁵⁸ Volume 2, Section 1, paragraphs 1.52-1.53.

proportionate and justifiable. We typically seek to apply remedies as far upstream as possible, to ensure that as much of the value chain as possible is open to competition.

- 4.20 Given the potential for network competition, we propose to no longer impose the SMP condition requiring KCOM to provide access to dark fibre. In our view, the proposed PIA and active leased line remedies, in combination, are the appropriate measures to meet our overall objectives of promoting competition and investment. We therefore provisionally consider that imposing a specific dark fibre access remedy would go beyond the necessary regulatory intervention and would not be proportionate.
- 4.21 We note that KCOM is not prevented from continuing to provide dark fibre products on a commercial basis.

Transitional arrangements for the provision of dark fibre

- 4.22 In this subsection, we outline our proposal to require KCOM to continue to provide existing dark fibre circuits for a period of five years. We recognise that KCOM may be the only available supplier for some users or, in case of altnet presence, the migration from one supplier to another may be challenging and take time.
- 4.23 We consider that KCOM's existing customers require time to ensure a stable transition to alternative products and price stability during that time to avoid disruption in their investment. As such, we consider that transitional arrangements are required to protect existing consumers. These arrangements will allow sufficient time for consumers to arrange suitable commercial terms with KCOM for ongoing supply or find a suitable dark fibre alternative from an altnet competitor.

Our proposed approach

- 4.24 We consider that a transitional period of five years for KCOM to continue to provide dark fibre access, is appropriate. This proposed approach applies to circuits purchased between November 2021 and October 2026 (i.e. the 2021-2026 review period). We also propose to continue to benchmark the price of these circuits against Openreach's equivalent dark fibre leased line products in LLA Area 3 (which we proposed in the TAR26 March 2025 Consultation should be subject to a cost-based charge control), during this transition period.⁵⁹
- 4.25 We recognise that longer transitional arrangements could reduce incentives for customers to purchase services from other providers where available. However, we consider that this is unlikely to have a material impact on the development of network competition given the limited volumes currently sold by KCOM relative to altnets.
- 4.26 In Volume 5, we set out how we are proposing to give effect to and implement these proposals.

Pricing transparency reports

Background

- 4.27 In the Hull WFTMR21, we required KCOM to provide us with pricing information for certain elements of its active and dark fibre leased line products, on an annual basis.⁶⁰ The pricing

⁵⁹ TAR26 March 2025 Consultation, [Volume 4](#), paragraph 2.53.

⁶⁰ Hull WFTMR21. [Volume 3: Remedies](#), paragraphs 2.158-2.167 and [Volume 4](#), SMP condition 10.

transparency reports were designed to provide key insights into the status of the LLA market and enable us to regularly monitor KCOM's compliance with our regulations.

Our proposals and reasoning

- 4.28 We propose to remove the requirement for KCOM to produce pricing transparency reports and no longer impose it as an SMP condition.
- 4.29 Our expectation is that KCOM will continue to gather and hold pricing data as a part of its commercial operations and as previously provided through the pricing transparency reports. However, we believe that there is no longer a case for KCOM to automatically submit the reports to us on an annual basis. Instead, we consider that by gathering information through our statutory information gathering powers⁶¹ as and when required, we can reduce the regulatory burden on KCOM in a way that is proportionate and justifiable.
- 4.30 In particular, we are able to require KCOM to provide the relevant information whenever we consider it appropriate, through the information gathering powers assigned to us under section 135 of the Act. This mechanism allows us to require KCOM to collect and provide the same information that is currently gathered through the pricing transparency reports and gives us the same level of insight to monitor compliance as and when required. The additional benefit of using our information gathering powers is that they allow us to tailor our data requests specifically to any issue(s) we are considering, such as for monitoring of prices.

Consultation questions

Question 3.4: Do you agree with our proposed Ethernet leased line access remedy and proposed price benchmarking approach for the LLA market? Please set out your reasons and supporting evidence for your response.

Question 3.5: Do you agree with our proposal to remove the dark fibre access remedy from the LLA market and our proposed transitional period arrangements? Please set out your reasons and supporting evidence for your response.

Question 3.6: Do you agree with our proposal to remove the requirement to provide annual pricing transparency reports from the LLA market? Please set out your reasons and supporting evidence for your response.

⁶¹ Section 135 of the Act.

5. Physical infrastructure access remedy

- 5.1 In this section, we set out our proposals to impose on KCOM a requirement to provide specific network access in the form of PIA in the WLA and LLA markets in order to address the competition concerns that we have provisionally identified in our market assessment (see Volume 2, Section 4), and in line with our approach to remedies set out in Section 1.
- 5.2 Our proposed regulation should ensure that other network providers have access to PIA services on terms that provide a level playing field with KCOM’s own use. We set out our proposal to require KCOM to publish information to provide transparency around non-discrimination. We also set out our proposals to require KCOM to provide PIA ancillary services and publish an updated PIA reference offer.

Table 5.1: Summary of proposed specific PIA remedies

| Proposed PIA specific remedies in the WLA and LLA markets |
|--|
| • Specific access obligation to provide PIA, including network adjustments. |
| • Specific requirement to provide PIA ancillary services. |
| • Specific requirement for the publication of a reference offer in relation to PIA. |
| • Specific requirement to publish such information as we direct to provide transparency in relation to compliance with no undue discrimination obligations in relation to PIA. |
| • Direction requiring KCOM to modify its PIA reference offer. |

- 5.3 As explained in Section 1, we are proposing to require KCOM to provide PIA, and in Section 2, that it must do so on fair and reasonable terms, conditions and charges, and publish an updated PIA reference offer within six months of the start of the new review period. We also set out our proposal to use a benchmarking approach for pricing, including the pricing of ancillary services. This section also sets out our proposed approach to the recovery of network adjustment costs.

Specific access obligation to provide PIA

Our proposal

- 5.4 We are proposing to introduce a specific network access remedy in the form of PIA in the Hull Area. This will allow other telecoms providers access to KCOM’s underground ducts and chambers and/or overhead telegraph poles to deploy and maintain their own networks.
- 5.5 We propose that the PIA remedy should have no usage restrictions and that it should be available throughout the Hull Area (i.e. there should be no geographic restrictions).

Our reasoning

- 5.6 For the reasons set out below, we consider that our proposals are appropriate and proportionate given our provisional conclusion that KCOM has SMP in the WLA and LLA markets.
- 5.7 The reason for proposing to require KCOM to provide network access in the form of PIA is to promote competition by facilitating continued investment in competing networks by third parties. We consider that the efficiencies arising out of deploying a network using PIA, instead of building a new physical infrastructure network, will facilitate investment which would not otherwise be viable.
- 5.8 In particular, competing telecoms providers can choose to avoid the costs and time associated with duplicating the physical infrastructure network, and instead only pay a share of the costs of the existing physical infrastructure. Our objective in imposing PIA is to unlock these efficiencies to the greatest extent possible to help facilitate such future investments in the Hull Area.
- 5.9 We note that on 1 August 2025, KCOM published a PIA reference offer providing access to its physical infrastructure under the existing general access obligation.⁶² This followed an extensive period of engagement in relation to physical access between KCOM and relevant altnets. Key events include:
- a) [X] stated that it initially sought access KCOM's physical infrastructure in 2022 under the Access to Infrastructure (ATI) Regulations. However, [X] stated its view that the terms on which it was offered access by KCOM were uneconomic and it did not proceed.⁶³ Similarly, MS3 attempted to access KCOM's physical infrastructure under the ATI Regulations in 2022 but found the process lengthy and not commercially viable.⁶⁴
 - b) In January 2024, Connexin submitted a SoR for KCOM to develop a PIA product under the general access obligation introduced in 2021.⁶⁵ Following this, discussions progressed between KCOM and interested parties leading to two waves of trials and culminating in KCOM's 1 August 2025 PIA reference offer.
- 5.10 Submissions we have received from MS3⁶⁶ and CityFibre⁶⁷ have highlighted various concerns about the terms of KCOM's 1 August 2025 PIA reference offer. They argue that various changes are needed to make it workable. [X].⁶⁸ As at 28 November 2025, there had been no take up of KCOM's PIA product, however KCOM told us that it was administering a request for onboarding from one altnet.⁶⁹ We discuss issues raised in submissions about KCOM's 1 August 2025 PIA reference offer further below.
- 5.11 Although the general network access remedy we propose in Section 2 is aimed at addressing the competition concerns that we have identified in Volume 2, Section 4, it does not provide

⁶² KCOM. August 2025. [Reference Offer for the provision of KCOM Physical Infrastructure Access dated 1 August 2025](#). Accessed on 5 December 2025.

⁶³ [X] response received on [X] to s135 notice dated [X], question [X].

⁶⁴ MS3 response received on 29 September 2025 to s135 notice dated 8 August 2025, question 6.

⁶⁵ See [Network Access Requests | KCOM](#). Accessed on 5 December 2025.

⁶⁶ MS3. Confidential submission to Ofcom. July 2025. Pages 4-10.

⁶⁷ CityFibre. November 2025. [Ofcom's forthcoming review of the Hull Licensed Area: Submission from CityFibre. Pages 5-7. Critique of the KCOM PIA Offer \(Annex\)](#). Pages 2-9.

⁶⁸ [X].

⁶⁹ KCOM response dated 28 November 2025 to s135 notice dated 6 November 2025, question 6(b).

telecoms providers with much certainty as to the basis on which they have access to KCOM's physical infrastructure.

- 5.12 For example, we note that in the absence of a specific access obligation on KCOM to provide PIA, KCOM may seek to withdraw existing products or make changes to their terms and conditions. This could have the effect of deterring investment in competing networks and limiting competition which could harm consumers.
- 5.13 Our assessment is that we do not think it is sufficient to rely on the general network access obligation to address the competition concerns we have identified. We consider it is appropriate and proportionate to impose a new specific network access obligation on KCOM to offer wholesale access to its ducts and poles as a remedy in both the WLA and LLA markets. We consider that this will complement our proposed remedies in the WLA and LLA markets.
- 5.14 We are proposing to require PIA as a remedy in both the WLA market and the LLA market, as we are seeking to promote network competition that could constrain KCOM in both markets. The introduction of unrestricted PIA in the rest of the UK (on Openreach's network) has helped support network build by altnets that offer both WLA and LLA services, as well as altnets focussed on providing one or the other.⁷⁰
- 5.15 When considering the form of our proposed network access obligation, our starting point is not to impose restrictions on usage or geographic scope.
- 5.16 In general, when imposing network access obligations, restrictions on usage or geographic scope are unnecessary as the obligations are typically not expected to result in effects on products in other markets. Further, restrictions present a risk of regulatory failure as they may limit a telecoms provider's flexibility to use the remedy in ways that the regulator has not foreseen but that are nevertheless consistent with the intended purpose, which may reduce the remedy's effectiveness. Therefore, in most cases, imposing an unrestricted network access obligation is both appropriate and proportionate.
- 5.17 In the case of PIA, we consider that usage and geographic restrictions have the potential to undermine the effectiveness of the PIA remedy. Usage restrictions limit the technological flexibility and/or limit the scope of the PIA remedy. This is likely to materially increase the risk that a telecoms provider takes the view that it is not viable to invest in using PIA. Restrictions on geographic scope may put limitations on network architecture and design that may impede efficiency, innovation and investment.⁷¹
- 5.18 However, to a greater extent than other forms of network access, a PIA obligation can be used as an upstream input into several downstream products. This means a PIA remedy without usage or geographic scope restrictions could be used in the deployment of any service in any location, and some of these uses and locations will impact on downstream markets. As a consequence, there might be a risk that a PIA remedy may impact competition in downstream markets that are already competitive, stifle dynamic and allocative efficiency, increase the cost

⁷⁰ Based on Ofcom analysis of Openreach data. See TAR26 March 2025 Consultation, [Volume 3: Non-pricing remedies](#). Page 87.

⁷¹ Further explanation and reasoning on why usage and geographic restrictions would limit the effectiveness of a PIA remedy (in the context of the rest of the UK and Openreach) can be found in Ofcom. March 2021. Promoting competition and investment in fibre networks: Wholesale Fixed Telecoms Market Review 2021-26. [Volume 3: Non-pricing remedies](#). Paragraphs 4.15-4.22.

of competition and KCOM's costs and resource requirements, and cause some unintended effects related to network adjustments.

- 5.19 Our assessment is that the risk of these outcomes is low and that any adverse effects on downstream markets would not be disproportionate to our overall aim. We also note that since introducing the specific PIA remedy in 2019 in the rest of the UK (on Openreach's network), we have not seen evidence of significant adverse effects and have no reason to expect the experience in the Hull Area to be different.⁷²
- 5.20 Given the above, we consider that usage and geographic restrictions would undermine the effectiveness of the PIA remedy, and our provisional conclusion is that any adverse effects are not disproportionate to our overall aim. Therefore, it is our view that the proposed PIA remedy in the Hull Area should not have usage restrictions or geographic restrictions.

Network adjustments

Our proposal

- 5.21 We are proposing to impose an obligation on KCOM to provide network access in the form of PIA. We consider that the concept of network access includes making adjustments in order to make available to another user facilities and/or services for the purpose of providing electronic communications services. We therefore propose that the PIA obligation should include a requirement on KCOM to make adjustments to its physical infrastructure (network adjustments) in certain specific circumstances.

Our reasoning

KCOM should be required to make network adjustments to its physical infrastructure where it is unusable

- 5.22 Telecoms providers using PIA to deploy a competing network may encounter sections of KCOM infrastructure that they cannot use, either because the existing infrastructure is faulty or because there is insufficient capacity in that section. For the reasons set out below, our view is that the PIA remedy will be ineffective unless KCOM is required to adjust the physical infrastructure network to make it available for use in certain circumstances.
- 5.23 Our reason for proposing to require KCOM to provide network access in the form of PIA is to promote competition by facilitating third-party investment in competing networks (as discussed above). When a telecoms provider encounters an unusable section of KCOM's physical infrastructure it will be necessary to overcome this. One approach would be for telecoms providers to install their own ducts or poles alongside KCOM's to circumvent the unusable section in KCOM's infrastructure. Another approach would be for KCOM to adjust the existing physical infrastructure to remedy the unusable section, for example, by repairing the faulty infrastructure or installing additional capacity where the existing capacity is full.
- 5.24 Given the range of options available to KCOM to overcome unusable sections of infrastructure, we expect it to be more efficient (i.e. quicker, easier and/or cheaper) for KCOM to adjust the existing physical infrastructure than for a telecoms provider to install their own infrastructure alongside KCOM's. For example, it may cost less for KCOM to repair faulty infrastructure than for a telecoms provider to build new, parallel infrastructure.

⁷² TAR26 March 2025 Consultation, [Volume 3: Non-pricing remedies](#). Page 88.

- 5.25 Without a requirement on KCOM to adjust the existing physical infrastructure in these cases, telecoms providers deploying competing networks would need to incur additional cost and/or delay building their own infrastructure to overcome unusable sections of KCOM's physical infrastructure. The deployment of competing networks will therefore entail unnecessary duplication of the physical infrastructure network, and the benefits from sharing KCOM's existing physical infrastructure will not be fully realised. Ultimately, this will reduce the scope for competitive network investment and in general the remedy will be less effective.
- 5.26 Further, requiring telecoms providers to install their own infrastructure to bypass the unusable sections would not ensure a level playing field with KCOM in those cases where it can overcome unusable sections of infrastructure at lower cost in any competing network deployment of its own. Knowing that KCOM has this competitive advantage could undermine the incentives to invest in competing networks in the first place, rendering the PIA remedy ineffective as a basis for scale rollout of competing networks.
- 5.27 Therefore, we propose that the PIA access obligation should extend to requiring KCOM to make adjustments to its network where this is necessary for its physical infrastructure to be available to telecoms providers for the purpose of deploying their own networks. This will promote network competition by realising greater efficiency benefits from sharing KCOM's existing physical infrastructure and ensuring a level playing field with KCOM. Without such a requirement, the benefits resulting from other telecoms providers deploying competing networks are unlikely to be realised in full.

The requirement to make network adjustments is limited

- 5.28 We have considered the approach we should take to specifying the extent of the obligation on KCOM to make adjustments to its network. In our view, specifying the precise extent of this obligation in the SMP condition would carry a risk of regulatory failure given that what is necessary is likely to depend on the specific circumstance of the case.
- 5.29 Given the risk of regulatory failure, we do not consider that it would be appropriate to set prescriptive rules about which types of adjustments should be included in the obligation. We therefore propose to supplement the general and specific network access requirements with guidance on where this obligation would apply. This guidance is consistent with the approach we take in the rest of the UK.
- 5.30 We set out our proposed guidance at Annex 8, in which we identify what criteria should be applied to determine whether a particular network adjustment falls within the scope of the PIA obligation. The three criteria are:
- a) **Is the requested adjustment necessary?** This criterion considers whether an alternative option exists which would render the requested adjustment unnecessary, provided this alternative allows for a reasonably equivalent outcome for the telecoms provider compared to making an adjustment.
 - b) **Is the requested adjustment feasible?** This criterion considers whether there are barriers that prevent KCOM from being able to make the required adjustment.
 - c) **Does the requested adjustment improve efficiency?** This criterion considers whether the requested adjustment promotes efficiency and is therefore consistent with the rationale for requiring KCOM to provide PIA (i.e. to unlock the efficiencies from sharing existing infrastructure).

- 5.31 The application of these criteria and guidance will determine whether a network adjustment request is valid and, therefore, which network adjustment requests KCOM will have to accept (and recover costs in accordance with our proposals below).
- 5.32 We consider that the package of measures we are proposing, including the three criteria and the guidance we provide in Annex 8 on their application, will ensure that KCOM has sufficient scope to implement any appropriate financial and budgetary controls and authority over any costs incurred (per job and in total).
- 5.33 We note that under our proposal, KCOM would be required to make network adjustments in specific circumstances, however this would not prevent PIA users undertaking network adjustments themselves (called self-provide orders) by agreement, as is envisaged under KCOM's 1 August 2025 PIA reference offer (and is the case on Openreach's network).⁷³

Specific requirement to provide PIA ancillary services

Our proposal

- 5.34 To support the network access obligation in relation to PIA, we propose to include a requirement on KCOM to provide such PIA ancillary services as may be reasonably necessary for the use of PIA.

Our reasoning

- 5.35 We consider that it is appropriate and proportionate to require KCOM to provide PIA ancillary services. The purpose of this requirement is to assist in promoting competition in WLA and LLA markets. We consider that such ancillary services are necessary to support the provision and use of PIA.⁷⁴
- 5.36 We propose that our specific access remedy should require KCOM to provide these ancillary services, including as a minimum: power, accommodation services (including PIA Co-Location and PIA Co-Mingling)⁷⁵, site access, Cable Connect⁷⁶ and information about its network to allow telecoms providers to produce network plans⁷⁷, and any other services used to support or enable this specific PIA service.

Specific requirements for the publication of a reference offer

Our proposal

- 5.37 We propose to require the publication of an updated reference offer in relation to PIA taking into account any proposed obligations within six months of the start of the review period. As part of our proposed general remedies (explained in Section 2), we are also proposing to

⁷³ KCOM. August 2025. [Agreement for the provision of KCOM PIA, Schedule 5: Network Adjustments](#). Accessed on 5 December 2025.

⁷⁴ For example, having access to sites where a telecoms provider locates its electronic equipment for the purposes of deploying a network using unrestricted PIA.

⁷⁵ These involve the provision of space and the ability to house equipment in a KCOM exchange or equivalent.

⁷⁶ Cable Connect is a necessary PIA ancillary service because PIA provides a telecoms provider with access to a co-location space within an exchange where they can put their equipment, but if they want to connect between co-location spaces within the same exchange or connect to a third-party network outside the exchange, then Cable Connect is necessary.

⁷⁷ Information about KCOM's network will support planning the deployment of network over KCOM's physical infrastructure by telecoms providers. In support of this obligation, we consider that network records should be provided by KCOM in an electronic format where available.

reimpose the requirement for KCOM to publish an internal reference offer, which sets out any differences, including in relation to processes and IT systems, between KCOM's own use of its physical infrastructure for the deployment and operation of full-fibre networks, compared to the equivalent processes and systems for PIA.

- 5.38 Requirements to have a published reference offer and internal reference offer are important to provide key information on the terms which telecoms providers can purchase PIA access, and for establishing transparency. This obligation is also important for establishing a legal framework for KCOM's customers to agree appropriate service level agreements⁷⁸ and service level guarantees (SLAs and SLGs) in support of the provision and use of PIA.

Our reasoning

- 5.39 The requirement to publish a reference offer (and an internal reference offer, where there is non-equivalence between the processes and systems used for KCOM and those used for PIA users) has two main purposes:
- a) To assist transparency for the monitoring of potential anti-competitive behaviour; and
 - b) To give visibility of the terms and conditions on which other telecoms providers will purchase wholesale services.
- 5.40 We consider that these purposes apply to PIA and therefore propose to require a specific reference offer in relation to PIA.
- 5.41 We recognise that KCOM published a PIA reference offer on 1 August 2025 for its PIA product under the existing general network access obligation.⁷⁹ However, as explained above, we consider that a specific PIA remedy is necessary to provide greater certainty to telecoms providers on the basis on which they have access to KCOM's physical infrastructure. Further, a specific reference offer in relation to PIA, which includes the specific requirements we propose below, is crucial to support the effective take up of the PIA product by competing telecoms providers. We therefore consider that this proposed requirement is appropriate and proportionate in relation to KCOM's market power in the WLA and LLA markets.
- 5.42 We propose to require the PIA reference offer to set out (as a minimum):
- a) Conditions for:
 - i) telecoms providers to gain access to physical infrastructure including if appropriate training, certification and authorisation requirements for personnel to access and work in/on physical infrastructure.
 - ii) the provision of forecasts by telecoms providers in respect of their future requirements for PIA.
 - iii) the inspection of the physical infrastructure at which access is available or at which access has been refused on grounds of lack of capacity.
 - iv) reserving capacity.
 - v) the installation and recovery of cables and associated equipment.
 - b) The location of physical infrastructure or the method by which telecoms providers may obtain information about the location of physical infrastructure.

⁷⁸ Sometimes referred to as service level commitments.

⁷⁹ KCOM. August 2025. [Reference Offer for the provision of KCOM Physical Infrastructure Access dated 1 August 2025](#). Accessed on 5 December 2025.

- c) Procedures for the provision of information to telecoms providers about spare capacity, including arrangements for visual surveys of physical infrastructure to determine spare capacity.
- d) The methodology for calculating availability of spare capacity in physical infrastructure.
- e) Arrangements for relieving congested physical infrastructure, including the repair of existing faulty infrastructure and the construction of new physical infrastructure.
- f) The information that a telecoms provider is required to provide to KCOM where that telecoms provider is requesting the repair of existing faulty infrastructure and/or the construction of new physical infrastructure necessary for SLAs and SLGs.
- g) Conditions on which telecoms providers may elect to undertake repair or build works on behalf of KCOM.
- h) Technical specifications for PIA, including:
 - i) Technical specifications for permitted cables and associated equipment;
 - ii) Cable installation, attachment and recovery methods;
 - iii) Technical specifications relevant to the repair of existing faulty physical infrastructure; and
 - iv) Technical specifications relevant to undertaking build works.
- i) The arrangements for maintenance of cables and associate equipment installed by telecoms providers and of the physical infrastructure, including the provision for the temporary occupation of additional infrastructure capacity for the installation of replacement cables.
- j) SLAs and SLGs in relation to timescales for:
 - i) KCOM to respond to a request by a telecoms provider for PIA including where relevant to relieve congested physical infrastructure other than a congested pole, where such a response confirms that the order has been accepted and includes how KCOM proposes to relieve that congestion.
 - ii) completion by KCOM of any works necessary to relieve congested physical infrastructure (including the repair of existing faulty infrastructure and the construction of new physical infrastructure) other than a congested pole.
 - iii) KCOM to respond to a request by a telecoms provider to undertake works itself to relieve congested physical infrastructure.
 - iv) KCOM to respond to a request by a telecoms provider to relive a congested pole where such a response confirms that the order has been accepted and how KCOM proposes to relive that congestion.
 - v) completion by KCOM of any works necessary to relieve a congested pole.

5.43 We consider that these requirements comprise the minimum information necessary to achieve the purposes set out in relation to PIA. They cover planning and surveying, maintenance and repair, connecting end-customers and network deployment, which are all areas we understand are critical to, and valued by, telecoms providers who want to use PIA and to ensure that the PIA reference offer is effective.⁸⁰ We also note that they are the same requirements as we have set for the rest of the UK.

⁸⁰ Our understanding of what is important and valued by telecoms providers who want to use PIA is based on stakeholder submissions and the experience of implementing PIA on Openreach's network.

Stakeholder submissions

5.44 Stakeholders have made a number of submissions relating to the 1 August 2025 PIA reference offer, launched by KCOM under the existing general network access obligation. We received a submission from MS3⁸¹, CityFibre⁸² and KCOM.⁸³ The key issues raised include:

- a) The manual nature of processes (e.g. ordering);⁸⁴
- b) Extent of forecasting information required from PIA users;⁸⁵
- c) Confidentiality of PIA users' commercially sensitive information;⁸⁶
- d) Requirements before surveys can be carried out;⁸⁷
- e) Limitations on access to available duct space;⁸⁸
- f) Timescale commitments for key processes;⁸⁹
- g) Arrangements in relation to network adjustments;⁹⁰
- h) Contract lengths for use of KCOM's physical infrastructure;⁹¹ and
- i) Market consolidation and PIA.⁹²

5.45 We have considered the points made by stakeholders and set out below our provisional views on the implications of our proposed requirements for no undue discrimination and fair and reasonable terms for a PIA offer in the Hull Area:

- a) We consider it may be proportionate for a PIA offer in the Hull Area to be operated using more manual and simpler processes than those applied to Openreach's PIA product in the rest of the UK. Such differences should reflect differences arising from the small size of the Hull Area and limited number of altnets who may use the product. Simplifications should aid the operation of the PIA product for KCOM and access seekers and not unreasonably limit the scale or timing of PIA use.
- b) In relation to the provision of forecasts by telecoms providers in respect of their future requirements for PIA, we expect that the level of forecasting detail requested by KCOM from PIA users should be lower than is required by Openreach, or potentially forecasts may not be required at all. In the rest of the UK, the aim of the provision of forecasts by telecoms providers in respect of their future requirements for PIA is to assist Openreach in planning its resources (across the UK) to respond to requests for adjustments to its networks and meet its SLA targets where PIA usage requires use of Openreach's resources.⁹³ However, given the small size of the Hull Area and the fact that KCOM completed its FTTP rollout in 2019, in our view KCOM does not face the same scale of

⁸¹ MS3. July 2025. Confidential submission to Ofcom.

⁸² CityFibre. November 2025. [Ofcom's forthcoming review of the Hull Licensed Area: Submission from CityFibre;](#) and [Critique of the KCOM PIA Offer \(Annex\)](#).

⁸³ KCOM. July 2025. [The Evolving Landscape for Fixed Line Telecoms in the Hull Area](#).

⁸⁴ CityFibre. November 2025. [Critique of the KCOM PIA Offer \(Annex\)](#). Pages 2 and 4.

⁸⁵ CityFibre. November 2025. [Critique of the KCOM PIA Offer \(Annex\)](#). Page 3; MS3. 7 July 2025. Confidential letter to Ofcom. Pages 3-4.

⁸⁶ CityFibre. November 2025. [Critique of the KCOM PIA Offer \(Annex\)](#). Pages 2 and 4.

⁸⁷ CityFibre. November 2025. [Critique of the KCOM PIA Offer \(Annex\)](#). Pages 2-3.

⁸⁸ CityFibre. November 2025. [Critique of the KCOM PIA Offer \(Annex\)](#). Page 4.

⁸⁹ MS3. July 2025. Confidential submission. Page 9; CityFibre. November 2025. [Critique of the KCOM PIA Offer \(Annex\)](#). Pages 2 and 6.

⁹⁰ MS3. 7 July 2025. Confidential letter to Ofcom. Pages 2-3; MS3. July 2025. Confidential submission. Pages 5-7; CityFibre. November 2025. [Critique of the KCOM PIA Offer \(Annex\)](#). Pages 2 and 5-8.

⁹¹ MS3. 7 July 2025. Confidential letter to Ofcom. Page 4.

⁹² MS3. July 2025. Confidential submission to Ofcom. Page 4.

⁹³ TAR26 March 2025 Consultation, [Volume 3: Non-pricing remedies](#). Page 92, paragraph 5.46, footnote 154.

challenge in managing its resources as Openreach. In addition, we consider that in the event that PIA users mostly make network adjustments themselves (called self-provision), as KCOM envisaged under its 1 August 2025 PIA reference offer, it is likely that the use of PIA by telecoms providers will have a minimal impact on KCOM's resource plan.

- c) In many cases we expect that KCOM will not need PIA users to provide information beyond the details of the duct and poles they are seeking access to within a particular area ahead of an intended build programme of work. Where commercially sensitive network build information is shared by PIA users with KCOM, KCOM will need to be mindful of the legitimate concerns of providers regarding confidentiality and fair competition. Any information, such as commercially sensitive information, provided to KCOM in confidence as part of a PIA application is protected through the requirements set out in General Condition A1.3. This precludes the passing of information gathered for the process of negotiating network access to any other part of KCOM where it could provide a competitive advantage.⁹⁴
- d) We also consider it reasonable that PIA users should be able to carry out site surveys ahead of submitting plans to KCOM as these are necessary to develop and optimise such plans ahead of any final investment commitment by them and to avoid unnecessary delays in the end-to-end process of delivering network infrastructure.
- e) We consider that no undue discrimination requires equal access to available duct space and service levels between KCOM and third-party PIA users.
- f) We would expect parties to agree on timings and SLAs and SLGs that allow each side to plan their work flows efficiently with sufficient certainty.
- g) We set out our proposals in relation to network adjustments above. We explain our proposed approach to the recovery of network adjustment costs, including any financial limits in paragraphs 5.58-5.89 below.
- h) Our expectation is that KCOM would establish contract lengths which are appropriate for the network access obligations. Our proposed regulation would not prevent KCOM from offering different contract lengths i.e. longer than five years for PIA. We note that offering a minimum contract length of longer than 5 years would be beneficial where prospective customers of altnets place weight on long-term security of supply. We note that under our proposals, KCOM's offered contract lengths (together with all aspects of providing specific access to its physical infrastructure) would need to comply with the no undue discrimination requirements. We also note that KCOM would be required to offer PIA on fair and reasonable terms.
- i) It is possible that further industry consolidation takes place through mergers and acquisitions of altnet networks over this review period (2026-31). PIA processes and contractual requirements will be part of this process. We consider it important that PIA processes and contractual requirements work smoothly and efficiently in these circumstances and do not act as a barrier to consolidation by unduly adding complexity or delay to the process.

⁹⁴ Ofcom. 2025. [General Conditions of Entitlement: Unofficial Consolidated Version with effect from 22 April 2025](#). See GC A1.3.

Providing transparency on non-discrimination

Our proposal

- 5.46 In Section 2, we explained that we are proposing to maintain the current obligation on KCOM that requires it to not unduly discriminate in relation to the provision of network access in the WLA and LLA markets (which would include PIA).
- 5.47 In addition, we are proposing to require KCOM to publish such information as we direct to provide transparency around non-discrimination in relation to its compliance with its obligations to provide PIA.

Our reasoning

- 5.48 Given the importance of non-discrimination and of creating an environment in which competing telecoms providers have the confidence to make capital investments relying on access to KCOM's duct and pole network, we consider that it is necessary to impose an obligation on KCOM to publish such information on non-discrimination as we may direct.
- 5.49 However, we think it is too early to direct KCOM to publish specific information at this time and instead we will consider what requirements (if any) it might be appropriate for KCOM to report as KPIs once KCOM has published any revised internal reference offer. This is because after this has been published, we will be better placed to identify which processes are the most relevant to indicate the performance of network access products. These aspects can then be appropriately compared with measures concerning KCOM's own internal consumption.
- 5.50 We also encourage KCOM to propose and agree transparency KPIs with industry on a voluntary basis (similar to the approach in the rest of the UK). This is likely to be a quicker and more flexible approach in the early stages of PIA implementation. Depending on how the KPIs develop over time, we may use our direction powers if required to meet our overall objectives of promoting infrastructure competition.

Provisional conclusion: network access and supporting obligations

- 5.51 For the reasons set out above in paragraphs 5.4-5.36, we consider that our proposed PIA network access requirement (which includes network adjustments and other ancillary services) is proportionate.
- 5.52 To give effect to our proposals, we propose to set draft SMP conditions 2.3 and 2.4 published in Volume 5, Legal Instruments. As set out in Section 6, section 87(3) of the Act authorises Ofcom to impose network access requirements, and we have taken into account the factors set out in section 87(4).⁹⁵
- 5.53 For the reasons set out above in paragraphs 5.37-5.45, we consider that our proposed requirement for the publication of a reference offer in relation to PIA is proportionate.
- 5.54 To give effect to our proposal, we propose to set SMP condition 5 in Volume 5, Legal Instruments. Section 87(6)(c) to (e) of the Act authorise the setting of SMP services conditions in relation to the reference offer.⁹⁶

⁹⁵ See section 87(3) and 87(4) of the Act.

⁹⁶ See section 87(6)(c) to (e) of the Act.

- 5.55 For the reasons set out above in paragraphs 5.46-5.50, we consider that our proposed requirement for KCOM to publish such information as we direct to provide transparency around non-discrimination is proportionate.
- 5.56 To give effect to our proposal, we propose to set SMP condition 4 in Volume 5, Legal Instruments. Section 87(6)(b) of the Act authorise the setting of SMP services conditions in relation to the publication of information for the purposes of transparency on non-discrimination.

Application of the general access remedies in relation to PIA

- 5.57 Below we provide additional information on how the general access conditions set out in Section 2 relate specifically to PIA. In particular, we provide additional information on our:
- a) proposed approach to the recovery of network adjustment costs, including any financial limits;
 - b) proposed application of no undue discrimination and fair and reasonable principles to non-pricing PIA terms;
 - c) proposed position on quality-of-service in relation to PIA; and
 - d) proposed approach to PIA implementation and compliance.

Proposed approach to the recovery of network adjustment costs

- 5.58 Consistent with our position for Openreach, our provisional view is that KCOM should recover network adjustment costs over all users of the infrastructure, in the same way as it does for adjustments relating to its own deployments, subject to a financial limit.
- 5.59 We are proposing that the level of the financial limit should be set at £2,725 per kilometre of spine duct. We welcome receiving further evidence on the appropriate level of the financial limit.
- 5.60 We are proposing to direct KCOM to amend its reference offer to reflect our view on the network adjustment cost recovery principle and the financial limit.

Our reasoning

KCOM should recover the costs of network adjustments over all users of the physical infrastructure

- 5.61 We consider network adjustments required by competing telecoms providers are similar in nature to adjustments made by KCOM to support its own use of the physical infrastructure; both involve making necessary changes to facilitate continued use of the physical infrastructure for the provision of a range of wholesale access services.
- 5.62 To date, KCOM to a large extent has pooled the costs of its infrastructure build and network adjustments required to accommodate the deployment and maintenance of its networks and recovers them across its entire base of wholesale users (internal and external).
- 5.63 KCOM has adopted a different approach to recovering the costs of network adjustments required by competing telecoms providers in its 1 August 2025 PIA reference offer. Under this reference offer, the costs of network adjustments are – up until a financial limit – split 50:50 between KCOM and the third-party requesting PIA use. We consider this is likely to render the product ineffective as a basis for promoting the deployment of competing networks for the reasons set out below.

- 5.64 The approach to network adjustments taken in KCOM's 1 August 2025 PIA reference offer results in differences in the per customer cost of network adjustments for KCOM and altnets, arising from differences in the size of KCOM and altnets' customer bases being served using KCOM PIA. As a consequence, KCOM faced (and continues to face) lower risks associated with its network investments than competing telecoms providers. This is because KCOM is able to recover the costs of network adjustments over a much larger user base than altnets,⁹⁷ which reduces its risk associated with the use of the physical infrastructure, compared to altnets.
- 5.65 The business case for investing in full-fibre networks is inherently risky, with uncertainty around a range of factors such as the cost of deployment, the time it will take to complete roll-out of the network, consumers' willingness to pay for fibre services, customer penetration, and the competitive response from existing market participants. In this context, the higher risk that competing telecoms providers face relative to KCOM could undermine incentives to invest in further network deployment.
- 5.66 Moreover, competing telecoms providers face this disadvantage in a context where KCOM has substantial incumbency advantages.
- 5.67 We consider it important that KCOM recovers the costs of network adjustments related to PIA users in the same way as network adjustments in support of its own use, i.e. shared across all users. As well as promoting a level playing field, recovering the costs of network adjustments over all users of the infrastructure, rather than only from the telecoms providers that request them, would have the following benefits:
- a) It would avoid the risk that telecoms providers are charged more than the incremental cost of network adjustments associated with their network deployments. For example, telecoms providers would not be required to pay the cost of infrastructure adjustments to KCOM's network which increase the capacity available to KCOM or other third parties, nor would they be required to pay the cost of network adjustments to KCOM's network which KCOM would have needed to undertake anyway.
 - b) It would reduce KCOM's ability to exploit any flexibility that it has to increase the costs of network adjustments to competing telecoms providers.
 - c) It would promote competitive network investment by reducing the upfront costs of network deployment and the uncertainty that competing telecoms providers face over the level of expenditure required to make the physical infrastructure useable.
- 5.68 We therefore propose to direct KCOM that it should amend its 1 August 2025 PIA reference offer such that, up until a financial limit discussed below, network adjustments costs are recovered across all users.

A financial limit should apply to network adjustments to mitigate the risks associated with our approach

- 5.69 As in the rest of the UK, we consider it appropriate to introduce a financial limit to the shared recovery of network adjustments. In setting the financial limit we are mindful that there are risks both to the limit being too high or too low. If the financial limit is too low, it may impede the efficient use of PIA. However, the higher the cost of adjustments, the greater the risk of promoting competitive network investment where the benefits to consumers are outweighed by the costs of the adjustment. Accordingly, we consider it desirable that access seekers bear

⁹⁷ We consider market shares of KCOM and other altnets in Volume 2, Section 1.

some of the costs of network adjustments in circumstances where these are likely to be particularly costly.

- 5.70 We are of the view that a financial limit should be set on a per kilometre basis, and that a financial limit should apply to each PIA order based on the total number of kilometres of spine duct requested as part of that order. This follows the approach used in the rest of the UK and is therefore familiar to industry participants.⁹⁸ Any costs incurred above the financial limit would be recovered directly from the telecoms provider requesting the network adjustment, through ancillary charges.
- 5.71 In principle, we consider that the financial limit should cover the same adjustments that the financial limit imposed on Openreach, in the rest of the UK, was designed to capture. The financial limit should be sufficient to cover those adjustments that are typically in scope of the access remedy, such as duct blockages, and include some allowance for adjustments that are in scope in certain circumstances, such as addressing insufficient capacity up to the final distribution point or in underground lead-ins.
- 5.72 As in the rest of the UK, we consider it appropriate to treat the costs of network adjustments for the purpose of attaching dropwires differently from other network adjustments. We discuss these adjustments at the end of this sub-section.

Level of the financial limit

- 5.73 In the rest of the UK, Openreach network adjustments are subject to a £4,750 per kilometre of spine duct financial limit. In our March 2025 TAR Consultation, we proposed maintaining this financial limit for eligible Openreach network adjustments in the next review period.⁹⁹
- 5.74 We have received limited information on the expected incidence or cost of network adjustments in the Hull Area. KCOM's PIA has so far only been used in small scale trials, the outcomes of which may not be representative of potential network adjustments across the Hull Area. However, the limited evidence available, suggests that both the incidence and the cost of network adjustments may be lower in the Hull Area than in the rest of the UK.
- 5.75 KCOM completed its FTTP build in 2019 and will have undertaken its own network adjustments to enable this. In contrast, Openreach is still deploying its FTTP network.¹⁰⁰ As such, the incidence of network adjustments required by PIA users may be lower on KCOM's network than in the rest of the UK. KCOM told us [redacted].¹⁰¹ Consistent with this view, KCOM stated that during the Wave 1 and Wave 2 PIA trials [redacted].¹⁰²
- 5.76 In relation to the cost of network adjustments, comparing Openreach and KCOM list prices for clearing duct blockages, KCOM's prices are at the lower end of the Openreach prices. This may suggest that KCOM's average costs of clearing such blockages is lower than for Openreach. For example:
- a) Openreach list prices for clearing a first duct blockage vary from £651.11 (ex-VAT) for ducts underneath soft surfaces or footways, to £1,011.81 (ex-VAT) for duct blockages

⁹⁸ Ofcom. March 2018. [WLA Market Review Statement: Volume 3 Physical infrastructure access remedy](#).

⁹⁹ TAR26 March 2025 Consultation, [Volume 4 pricing remedies](#). Paragraph 4.70.

¹⁰⁰ Also, the data used to set the financial limit in the rest of the UK pre-dated much of Openreach's FTTP build.

¹⁰¹ KCOM response dated [redacted] to s135 notice dated [redacted], question [redacted].

¹⁰² KCOM response dated [redacted] to s135 notice dated [redacted], question [redacted].

under carriageways. Openreach prices for clearing subsequent blockages are somewhat lower.¹⁰³

b) KCOM's list price for clearing duct blockages is £700 (ex-VAT), across all types of surfaces, and for first and subsequent blockages.¹⁰⁴ KCOM told us [redacted].¹⁰⁵

- 5.77 As a result, we do not currently think it is appropriate to benchmark the financial limit to that used by Openreach in the rest of the UK, as the incidence and cost of network adjustments, based on the information we have available to us, appear to be higher in the rest of the UK than in the Hull Area.
- 5.78 However, we also consider the current financial limit used in KCOM's 1 August 2025 PIA reference offer is likely to be too low. KCOM stated that the financial limit in its PIA offer [redacted].¹⁰⁶ We consider that the financial limit should include an allowance to capture normal adjustment costs that are above the average. It should also include an allowance for other adjustments which may be in scope depending on case specifics.
- 5.79 Uncertainty around how many adjustments will be required before network deployment means that setting a financial limit based on the average costs could deter entry even in areas where network adjustment costs would be below the average. As such, we consider that KCOM's £700 per kilometre of spine duct financial limit is insufficient.
- 5.80 We therefore expect that a financial limit within a range between the £4,750 per kilometre of spine duct level which applies in the rest of the UK, and KCOM's current financial limit of £700 per kilometre of spine duct is likely to be appropriate.
- 5.81 There is considerable uncertainty as to where within this range the financial limit should be, but considering the available evidence in the round, and exercising our regulatory judgement, we propose to set the financial limit at the midpoint between the Openreach financial limit (which we expect is too high for the Hull Area), and the financial limit in KCOM's PIA offer (which we consider is too low).
- 5.82 Accordingly, we propose to direct KCOM that it should amend its PIA reference offer to increase the financial limit to £2,725 per kilometre of spine duct and require it to cover the full cost of network adjustments up until this limit. KCOM would recover these costs across all users, as set out at paragraph 5.68 above.
- 5.83 We welcome views on the proposed financial limit and are open to revising this figure should new evidence indicate a different level is more appropriate.
- 5.84 As set out above, the purpose of the financial limit is to capture those adjustments that are typically in scope of the PIA remedy. We would therefore not expect to see high volumes of network adjustments which exceed the financial limit. If we did see higher than anticipated volumes of network adjustments which exceed the financial limit, we may need to revisit the level of the limit and direct KCOM to amend it to a level more consistent with experience.

Dropwires should be exempted from the financial limit

- 5.85 We consider that the costs of making network adjustments for the purpose of attaching dropwires should be treated differently from other network adjustments and we propose that

¹⁰³ [Openreach price list](#). Accessed on 4 November 2025.

¹⁰⁴ [KCOM Passive Infrastructure access price list](#). Accessed on 4 November 2025.

¹⁰⁵ KCOM response dated [redacted] to s135 notice dated [redacted], question [redacted].

¹⁰⁶ KCOM response dated [redacted] to s135 notice dated [redacted], question [redacted].

such costs should instead be recovered from all PIA users without limitation. We view the balance of risk for overhead lead-ins to be materially different from other types of network adjustment.

- 5.86 Overhead lead-ins are likely to be the lowest cost means of connecting individual premises to a network. This is because using an aerial cable avoids the costly civil works required to deploy underground lead-ins. Therefore, we think the risks associated with not applying a financial limit for these network adjustments are small.
- 5.87 Moreover, the barriers to installing additional poles (for example, opposition from residents) make KCOM's existing pole infrastructure a particularly important enabler of commercially viable network competition. If we subject these network adjustments to a financial limit, there is a risk that we will undermine the effectiveness of the remedy.
- 5.88 Therefore, we propose not to impose a separate financial limit for poles network adjustments. This is consistent with our regulation already in operation in the rest of the UK.¹⁰⁷ Specifically, the costs associated with the following network adjustments are not included for the purposes of determining whether the financial limit has been exceeded:
- a) Network adjustment costs related to the provision of capacity for dropwires; and
 - b) Network adjustment for making poles (used for providing dropwires) usable which are currently not usable because they are damaged, decayed or defective.
- 5.89 Other network adjustments on poles but not related to enabling poles to be used for dropwires, would still be subject to the financial limit.

Provisional conclusion

- 5.90 For the reasons set out above, we consider that our proposed approach to PIA network adjustments is proportionate. We propose to issue a direction, under SMP conditions 2.5, 2.6 and 5.11, requiring KCOM to modify its PIA reference offer to bring the terms into alignment with these proposals. We propose that KCOM should be required to make these changes to its reference offer within 6 months of the start of the review period.
- 5.91 The draft direction can be found in Volume 5.
- 5.92 In Section 6, we explain why the giving of this direction would satisfy the test set out in section 49 of the Act.

Application of no undue discrimination and fair and reasonable principles

PIA developments

- 5.93 We expect KCOM, in line with the current no undue discrimination requirement (which we explain in Section 2 we propose to maintain for the 2026-31 period), to ensure that any developments to systems, services or processes that impact the use of physical infrastructure must not put PIA users at a disadvantage, particularly in terms of extra cost, time or uncertainty, compared to the processes KCOM follows internally.
- 5.94 To ensure that changes to systems, services or processes that impact the use of physical infrastructure do not lead to a material competitive disadvantage for PIA users, KCOM should consider how any such changes impact equivalence of outputs i.e. ensures a level playing field.

¹⁰⁷ TAR26 March 2025 Consultation, [Volume 4](#), paragraphs 4.71-4.75.

Similarly, when KCOM is considering a request from third parties for changes to systems, services or processes, it must ensure that any changes continue to deliver equivalence of outputs.

- 5.95 As set out in Section 2, the current requirement for an internal reference offer, which we are proposing to maintain for the 2026-31 period, is designed to provide transparency about the differences between KCOM's use of physical infrastructure in comparison to the use of third parties via PIA access.
- 5.96 The proposed internal reference offer requirement does not require KCOM to justify all those differences or explain its decision-making process that resulted in any differences. However, we expect KCOM on request to be able to demonstrate how it has considered these impacts and demonstrate that it is not putting PIA users at a material competitive disadvantage as a result of any physical infrastructure developments.
- 5.97 KCOM should therefore be able to set out why any developments that introduce or maintain non-equivalent systems, services or processes are necessary, justified, and comply with the proposed no undue discrimination requirement.
- 5.98 If we have any concerns that a lack of transparency from KCOM to industry is leading to a potential negative impact on the level playing field (in the form of a material competitive disadvantage), or a non-equivalent output, we may consider issuing a direction (under proposed condition 4.3 explained above) to require KCOM to publish such information as we direct to provide transparency around non-discrimination.

Network build to new housing developments

- 5.99 New housing developments present an opportunity for competing fibre network providers to supply fibre connections to new homes in the Hull Area. Where KCOM provides the new infrastructure, PIA users should be able to access the new infrastructure (and information about the new infrastructure) on the same timelines as KCOM itself. For example, once the duct or poles have been installed, both alternative network operators and KCOM should be able to install new connections from the same date.

Quality of service in relation to PIA

- 5.100 In Section 2, we explained that we are proposing to maintain the current requirement for KCOM to publish such information as we direct to provide transparency around QoS in relation to network access.
- 5.101 Given the KCOM PIA reference offer initiated under the existing general network access obligation was launched on 1 August 2025, and as at 28 November 2025 there had been no take up of this product¹⁰⁸, it is too early to assess whether there is an issue in relation to QoS and if so, what the appropriate standards should be. We are therefore not proposing to require KCOM to publish information in relation to QoS at this stage.
- 5.102 We note that if we were to encounter concerns in relation to QoS during the review period which led us to consider that publication of information on QoS, pursuant to the proposed QoS SMP condition, was a proportionate and necessary intervention, then we could at that point exercise our direction-making powers.

¹⁰⁸ KCOM response dated 28 November 2025 to s135 notice dated 6 November 2025, question 6(b).

Advance notice of changes to charges, terms and conditions for PIA

- 5.103 We have considered what notification period should apply before KCOM makes changes to its charges or terms and conditions for the provision of PIA. As set out in Section 2, we propose to set the notice period at 90 days for ‘other changes’ relating to physical infrastructure access.¹⁰⁹
- 5.104 We consider that 90 days gives sufficient time for PIA users to plan for price changes and changes to terms of conditions. We note that PIA users may want to restructure the prices of their downstream offerings or make other changes to their downstream products and services in response to changes.
- 5.105 We also note that 90 days is the notice period which applies to Openreach in the rest of the UK when it makes changes to its PIA product, and we do not see why a different notification period should apply in the Hull Area.

Our approach to PIA implementation and compliance

- 5.106 Our aim is to ensure that PIA works effectively for altnets in the Hull Area. We plan to actively monitor compliance with all aspects of our proposed requirements, including implementation of the specific PIA remedy and no undue discrimination requirements.
- 5.107 We are also conscious that the PIA offer will need to evolve over time to ensure it is effective and meets our overall strategy of promoting infrastructure competition.
- 5.108 In our view, the best way of ensuring that PIA products are workable is to encourage cooperation between KCOM and altnets in the development of the PIA product in the Hull Area directly, or with such negotiations facilitated by the Office of the Telecoms Adjudicator (OTA2).¹¹⁰ The OTA2 has considerable experience in this area having undertaken a similar role in relation to the development of the PIA product on Openreach’s network over recent years.¹¹¹

Consultation questions

Question 3.7: Do you agree with our proposed specific remedies to support PIA in the WLA and LLA markets in the Hull Area? Please set out your reasons and supporting evidence for your response.

Question 3.8: Do you agree with our proposed approach to PIA network adjustments and the rationale for our proposed network adjustment financial limit? Please set out your reasons and supporting evidence for your response.

¹⁰⁹ This is the proposed notice period for changes to PIA other than those for which we consider 28 days’ notice to be appropriate, such as price reductions, as detailed in Section 2.

¹¹⁰ The level of engagement by the OTA2 will be subject to any resource constraints and priorities in the context of its wider programme of work.

¹¹¹ The OTA2 will conduct this role in accordance with the principles set out in the OTA2 Scheme’s Terms of Reference. Office of the Telecoms Adjudicator 2, 2021. [OTA2 Scheme Charter Terms of Reference](#). Accessed on 5 December 2025.

6. Legal tests

- 6.1 In Sections 2 to 5 we set out our proposals to require KCOM to provide network access and associated remedies designed to support and make effective that network access. In summary we propose to the extent set out above the following in both WLA and LLA markets: ¹¹²
- a) Requirement to provide network access on reasonable request, and on fair and reasonable terms, conditions and charges);
 - b) Requirement to publish and operate a process for requests for new forms of network access [WLA only];
 - c) Requirement not to unduly discriminate;
 - d) Requirement to publish a reference offer;
 - e) Requirement to notify changes to charges, terms and conditions;
 - f) Requirement to notify technical information; and
 - g) Requirement for quality of service.
- 6.2 We also propose to impose the follow specific remedies in the WLA and LLA markets:
- a) Access obligation to provide PIA, including network adjustments.
 - b) Requirement to provide PIA ancillary services.
 - c) Requirement for the publication of a reference offer in relation to PIA.
 - d) Requirement to publish such information as we direct to provide transparency in relation to compliance with no undue discrimination obligations in relation to PIA.
 - e) Requirement to provide Ethernet network access in the following circuit configurations:
 - i) connecting end-user premises and KCOM’s optical distribution frame (ODF) site or third-party premises; and
 - ii) connecting an end-user premises and another end-user premises. ¹¹³ [LLA market only]
 - f) Direction requiring KCOM to amend its PIA reference offer.
 - g) Direction requiring KCOM to amend its WLA reference offer [WLA only].
- 6.3 In order to give regulatory effect to our proposals we propose to set the draft SMP conditions and draft Directions set out in Volume 5.

Section 47 tests

- 6.4 For each draft SMP condition set out in this consultation, we consider that the conditions we are proposing satisfy the tests set out in section 47 of the Act, namely that the proposed obligation is:
- a) objectively justified in relation to the networks, services or facilities to which it relates;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what the condition or modification is intended to achieve; and

¹¹² We also propose in this consultation to impose requirements on KCOM in respect of regulatory financial reporting. We set out these proposals in Volume 4 and also consider the applicable legal tests within that volume.

¹¹³ This type of connection can also be referred to as a wholesale end-to-end segment.

- d) transparent in relation to what it is intended to achieve.

Objectively justified

- 6.5 We consider that each of the draft SMP conditions we are proposing is objectively justifiable. The remedies that we are proposing are designed to address the competition concerns that we have identified in our market analysis (see Volume 2). As explained in Volume 2, Section 4, our provisional market analysis has found that KCOM has the ability and incentive:
- a) to refuse to supply access and thus restrict competition in the provision of products and services in the relevant downstream market;
 - b) to set excessively high prices and/or to engage in price squeeze behaviour between wholesale products at different levels of the value chain and/or between wholesale and retail services;
 - c) to provide access to its services on less favourable terms than to its own business divisions, to the detriment of its competitors in the relevant wholesale and retail markets, by both price and non-price discrimination;
 - d) to target price reductions or adopt other commercial terms in relation to access to its network in order to undermine the development of material and sustainable competition; and
 - e) to not continuously deliver an adequate level of service quality in relation to network access.
- 6.6 Therefore, in the absence of a requirement to provide network access, supported by associated obligations, KCOM could refuse or impede access, or it could provide access on less favourable terms and conditions compared to those obtained by its own downstream businesses. We are proposing to exercise our discretion in setting these obligations in favour of an approach that supports investment in fibre networks through promoting network competition in areas where this is economically viable, while protecting consumers from excessive pricing or a loss of retail competition in the short term and in areas in which network competition is unlikely to develop.
- 6.7 We explain in Sections 2 to 5 for each obligation we are proposing why we consider that obligation is objectively justified in the context of the markets we are reviewing.

Not such as to discriminate unduly

- 6.8 We consider that each of the draft SMP conditions does not discriminate unduly against KCOM. We are proposing that it is the only telecoms provider to hold SMP in the markets that we have provisionally identified and the draft SMP conditions seek to address that market position.

Proportionate

- 6.9 We consider that each of the draft SMP conditions we are consulting on is proportionate to what that condition is intended to achieve. In each case, we are proposing an obligation on KCOM that is effective to achieve our aim; is no more onerous than is required to achieve that aim and does not produce adverse effects which are disproportionate to our aim. We explain why we consider each proposed remedy is proportionate in the context of the markets we are reviewing in Sections 2 to 5.

Transparent

- 6.10 We consider that each of the draft SMP conditions we are proposing is transparent in relation to what is intended to be achieved. The text of the proposed draft SMP conditions is published in Volume 5 for consultation and the operation of those SMP conditions is aided by our explanations in this document. Our final statement will set out our analysis of responses to this consultation and the basis for any final decision that we take.

Section 49 tests

Directions

- 6.11 In Section 3, we propose to make a Direction in the WLA market relating to KCOM's reference offer.
- 6.12 We consider the Direction we are proposing satisfies the tests set out in section 49(2) of the Act, namely that it is:
- a) Objectively justifiable because the requirements will remove an unnecessary barrier to entry for access seekers in that market and secure the provision of access wherever in the Hull Area it is reasonably appropriate.
 - b) Not unduly discriminatory because it reflects KCOM's market position in the Hull Area.
 - c) Proportionate because the requirements will be no more than is necessary to ensure the effectiveness of the proposals in this consultation.
 - d) Transparent because it is clear that the intention of the modifications is to make sure that KCOM's reference offer contains appropriate provisions as to ancillary services.
- 6.13 Further, in Section 5, we also propose to make a Direction to KCOM in relation to its PIA reference offer.
- 6.14 We consider the Direction we are proposing satisfies the tests set out in section 49(2) of the Act, namely that it is:
- a) Objectively justifiable because the requirements will secure that network adjustments costs, up to a certain financial limit, are shared across all users of the infrastructure.
 - b) Not unduly discriminatory because it reflects KCOM's market position in the Hull Area.
 - c) Proportionate because the requirements will be no more than is necessary to ensure the effectiveness of the proposals in this consultation.
 - d) Transparent because it is clear that the intention of the modifications is to make sure that KCOM's reference offer contains appropriate provisions as to network adjustments.

Section 87 factors

- 6.15 We are proposing SMP conditions requiring KCOM to give such entitlements as Ofcom may direct from time to time in respects the provision of network access to the relevant network, the use of the relevant network and the availability of the relevant facilities. As explained in Sections 2 to 5, in determining which conditions are authorised by section 87, we have taken into account in particular the factors set out in section 87(4) of the Act.

Section 88 tests

- 6.16 In Section 2, we set out the risks we see that KCOM might fix its prices at an excessively high level or may impose a price squeeze as a consequence of its SMP in the WLA and LLA markets, which would have adverse consequences for end-users of public electronic communications services.
- 6.17 We are proposing SMP conditions requiring KCOM to provide network access with a fair and reasonable charging obligation in each of WLA and LLA markets (including PIA), with benchmarked prices.
- 6.18 In relation to these proposed controls on prices, as required by section 88 of the Act, we consider that the setting of the SMP conditions is appropriate for the following purposes:
- a) Promoting efficiency – we consider that supporting network-based and access-based competition promotes efficiency. In the absence of competitive pressures, we believe that KCOM would have limited incentives to reduce the cost of providing these services. Our proposed requirements encourage KCOM to achieve greater productive efficiency by allowing it to keep any profits it earns from reducing costs over the review period.
 - b) Promoting sustainable competition – the draft conditions are intended to support competitive entry at the most upstream level where we consider that it will be viable in the Hull Area. We consider that during the review period there is the potential for material and sustainable competition in both the WLA and LLA markets. Whilst this network competition develops – and in areas where it remains not viable – our proposed pricing remedies also seek to promote downstream competition based on continued wholesale access to KCOM’s network, by ensuring KCOM does not price excessively or impose a price squeeze on access seekers.
 - c) Conferring the greatest possible benefits on end-users of public electronic communications services – we consider that network competition will offer the best long-term outcome for consumers and businesses. As noted above, we also seek to promote downstream competition. Our view is that it is necessary to require KCOM to provide access services on fair and reasonable charges in order to set the right conditions for competitive entry. We consider that the long-term benefits to consumers of our approach will be larger than any short-term costs incurred by KCOM.
- 6.19 As set out in this consultation, we do not consider that a demonstrable retail price constraint is present, or that we could ensure effective and non-discriminatory access without controlling prices.
- 6.20 We have also taken account of the extent of KCOM’s investment in building a full-fibre network. We consider that the pricing remedies we are proposing are appropriate in each of the WLA and LLA markets. They allow KCOM the ability to recover its costs (including a reasonable return on its investments) and can incentivise KCOM to increase its productive efficiency as a way of increasing its profitability.
- 6.21 By setting a fair and reasonable obligation and price benchmarks we provide predictability and stability over the control period.

Ofcom's duties

- 6.22 As set out in Volume 1, we consider the package of proposed SMP conditions and the draft directions we are proposing to set both individually and together meet our duties in sections 3 and 4 of the Act.