

Section A: Promoting competition and investment in fibre networks: Hull Area Review 2026-31: CityFibre's response to Ofcom consultation

Overview

- 1.1 CityFibre welcomes the strategic shift in Ofcom's proposals towards the promotion of sustainable, infrastructure-based competition in the Hull Area ("HA") in both the WLA and LLA markets.
- 1.2 In November 2025 CityFibre made available our wholesale network in the Hull Area to more than 30 ISPs, including national brands such as Sky and Vodafone. This means that, for the first time, consumers in the HA have material choice of broadband services, including access to multi-gigabit products, with levels of pricing and quality of service consistent with those available to consumers in the rest of the UK.
- 1.3 [.....]
- 1.4 These developments are directly relevant to and supportive of Ofcom's strategic shift to promoting infrastructure-based competition in the HA.
- 1.5 We particularly welcome Ofcom's new focus on access to KCOM's physical infrastructure (ducts and poles) as the primary remedy in the HA. We consider this should enable a credible path to the establishment of long-term sustainable competition in the HA, possibly as early as the next market review period.

Market analysis

Question 2.1: Do you agree with our proposed market definition for WLA? Please set out your reasons and supporting evidence for your response.

Question 2.3: Do you agree with our proposed market definition for LLA? Please set out your reasons and supporting evidence for your response.

- 1.6 On **Geographic Market definitions**: We agree with Ofcom's findings that:
- The Hull Area represents a discrete geographic market, with distinctive market conditions which are the result of KCOM's historic incumbent position and the absence of BT/Openreach from the Hull Area. We agree with Ofcom's conclusion that, although competitive conditions vary within the HA (specifically through the presence of competing network infrastructure in some but not all of the HA), this does not imply the existence of separate, sub-divided geographic markets. This is because all the HA can potentially be addressed by competing infrastructure in the market review period if Ofcom's

proposed remedies are adopted. To adopt language used by Ofcom in the WFTMR/TAR, all the HA is 'prospectively competitive'.

- These conclusions on geographic market definition apply equally to the Hull Area WLA and LLA as the same supply side considerations apply in terms of incentives to deploy competing fibre infrastructure.

1.7 Product Market definitions: We agree with Ofcom's identification of separate Wholesale Local Access and Leased Line Access markets. As the products being delivered by operators in the Hull Area are based on the same technologies and have the same or similar product features to those being sold in the rest of the UK¹, it is reasonable to maintain two separate markets adopting the same reasoning that Ofcom has followed in the TAR.²

1.8 As in the rest of the UK, Ofcom's LLA market should encompass 'Leased Line Equivalent' services in the form of Ethernet delivered over XGS-PON. [...]

1.9 We agree with Ofcom that the presence of limited competition from FWA services is only a weak constraint to fibre broadband services and should not be included in the relevant markets.

Question 2.2: Do you agree with our provisional conclusion that KCOM holds SMP in the supply of WLA products in the Hull Area? Please set out your reasons and supporting evidence for your response.

Question 2.4: Do you agree with our provisional conclusion that KCOM holds SMP in the supply of LLA products in the Hull Area? Please set out your reasons and supporting evidence for your response.

Question 2.5: Do you agree with our assessment of the competition concerns arising from our provisional findings of SMP in the markets we have identified? Please set out your reasons and supporting evidence for your response

1.10 We agree with Ofcom that KCOM continues to have SMP in both the Hull Area WLA and LLA, and we agree with Ofcom's analysis of the competition concerns that flow from this finding. As Ofcom's analysis shows, KCOM retains very high market shares in both the WLA and LLA, consistent with a super-dominant market position. Moreover, KCOM is not a legally/functionally separated entity and, in the

¹ [...].

²In particular, we agree with Ofcom's conclusion that dedicated capacity business-grade products sit in a separate (LLA) market to contended network products in the WLA.

absence of wholesale competition, has retained extremely high retail shares in the markets downstream of the WLA and the LLA.

- 1.11 As Ofcom shows, competing networks face significant barriers to entry and expansion. Competing networks are present across only a proportion of the HA, whereas KCOM has ubiquitous presence across the entirety of the HA giving it significant advantages of scale and ubiquity.
- 1.12 In addition, having already rolled out a ubiquitous fibre network, KCOM is able to compete against new entrants with broadly comparable products.
- 1.13 We agree with Ofcom that these effects are compounded by the necessity, absent regulated access to KCOM's civil infrastructure, for competing network operators to entirely self-build their own networks, with resultant high subscriber acquisition costs.
- 1.14 KCOM's non-functionally separated status leads to what Ofcom describes as the 'anchor tenancy' of its downstream retail customer base on its network. Given KCOM's dominant position in both the wholesale *and* retail market, this present KCOM with multiple opportunities to engage in pricing strategies which would prevent the emergence of material, sustainable competition in this next market review period.
- 1.15 These arguments apply equally to the WLA and the LLA.

Remedies

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

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

- 1.16 We agree with Ofcom that a change in market conditions with significant competitive investment in alternative fibre networks in the Hull Area requires a change in the focus of regulatory remedies imposed upon the SMP operator, KCOM. We agree with Ofcom that the focus should be to facilitate the development of material, sustainable infrastructure-based competition to KCOM over the 2026-31 period.
- 1.17 We also agree that this shift in approach should be applied in relation to remedies imposed in both the WLA and LLA markets. [...].
- 1.18 CityFibre agrees with Ofcom that the core remedy required to facilitate sustainable infrastructure-based competition in the HA should be regulated access to KCOM's existing comprehensive network of ducts and poles across the

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HA. Whilst alternative fibre networks in the HA have, thus far, been constructed using entirely self-built civil infrastructure, the resultant high costs of subscriber acquisition will necessarily limit the scale and speed of rollout going forward as well as placing alternative networks at a commercial disadvantage to KCOM, which all other things being equal will be able to set prices at non-replicable levels given its much lower cost base.

- 1.19 In addition, as Ofcom recognises, there is considerable public hostility in the HA to the proliferation of civil infrastructures necessitated by the non-availability of a PIA remedy. [.....].
- 1.20 For these reasons, we see the early implementation of a comprehensive PIA remedy as an essential step.
2. As CityFibre does not currently consume the pre-existing wholesale products in either the WLA or LLA, we take no position on the appropriateness of the general remedies that Ofcom proposes to retain that would apply to such products, except as discussed in relation to the Fair and Reasonable Pricing obligation below.

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.

Question 3.4: Do you agree with our proposed Ethernet leased lines 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.

Price controls and benchmarking

- 1.21 We consider that pricing remedies imposed for other regulated products in the WLA and LLA should be consistent with the overarching strategic shift towards promoting infrastructure competition in the HA. In practice, a conflict can arise where regulated wholesale prices are set at levels which undermine incentives to invest in competing infrastructure. We consider that Ofcom's proposals for a

price benchmarking approach for wholesale WLA products and for Ethernet leased lines in the LLA, as outlined in paragraph 2.20 of the consultation, strike an appropriate balance and would not have the effect of undermining infrastructure competition.

- 1.22 CityFibre specifically welcomes the proposed removal of the Dark Fibre Access remedy imposed in the previous market review. We consider that a remedy of this kind should only be offered in areas where sustainable infrastructure competition is unlikely to emerge, following the same logic that Ofcom has applied in the rest of UK, where in the TAR consultation it proposes to require Openreach to offer DFA only in Area 3.

Anti-competitive pricing practices

- 1.23 Ofcom is right to recognise that an additional competition concern could arise from KCOM setting prices in ways which has the potential to foreclose competition. We agree with Ofcom's proposals to assess potential 'price squeezes' in relation both to PIA and other wholesale LLA and WLA products, and between LLA and WLA products and retail prices, as outlined in paragraphs 2.25-2.29 of the consultation. We consider that Ofcom should put in place a monitoring and enforcement programme of pricing behaviour by KCOM, of similar scope and character to that recently announced in relation to Openreach special offers.³

- 1.24 In relation to wholesale LLA and WLA pricing, CityFibre understands that KCOM self-supplies wholesale products to its own retail business and hence wholesale pricing could be used to foreclose competition at the infrastructure level. For example, KCOM could set wholesale prices at unsustainably low levels, either across the whole of the HLA, or across the subset of the HLA where infrastructure competition is present. Ofcom should make clear that, in addition to applying the proposed price squeeze test to forms of wholesale pricing changes, it will closely scrutinise any proposal for geographically targeted offers within the HLA focused on areas of infrastructure competition.

- 1.25 The separate wholesale-retail price squeeze test proposed by Ofcom is a necessary measure given the specific circumstances of the Hull Area market, namely the non-functionally separated status of KCOM and its very high retail market shares. This necessitates Ofcom considering ways that KCOM retail market conduct could undermine wholesale competition.

³ Open letter to stakeholders from Natalie Black October 2025:
<https://www.ofcom.org.uk/siteassets/resources/documents/phones-telecoms-and-internet/information-for-industry/fairness-for-customers/open-letter-to-industry-openreach.pdf?v=405640>

1.26 Recognising this specific concern, CityFibre believes Ofcom should proactively monitor other aspects of KCOM retail market behaviour to ensure that it does not engage in practices designed to foreclose wholesale competition, such as placing specific barriers to network switching in place. Ofcom notes at paragraph 1.54 of the consultation the existence of other initiatives it has taken, such as the imposition of General Conditions covering OTS, ECNs, and ABTNs. In addition, Ofcom should be prepared to investigate anti-competitive pricing behaviour in the retail market using its concurrent powers under Chapter 2 of the Competition Act 1998, and also to monitor KCOM's compliance with Ofcom's guidance on Early Termination Charges under the Unfair Terms in Consumer Contracts regulations.

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.

1.27 We welcome Ofcom's proposals to require KCOM to introduce a comprehensive PIA product, largely modelled on the existing remedy imposed on Openreach. We agree with Ofcom that, with a handful of exceptions where full replication of the Openreach remedy might be disproportionate, there is no reason why KCOM should not largely adopt the PIA product features and processes already developed under the Openreach PIA regime.

1.28 We agree with Ofcom's proposals to replicate the Openreach licence condition structure whereby the PIA remedy is underpinned by an obligation to provide PIA as a specific form of network access, along with necessary ancillaries; to create a process whereby operators can request new forms of network access (ie: iterations of the PIA product over time); to produce a Reference Offer; and to comply with a No Undue Discrimination Obligation.

1.29 We welcome Ofcom's specific guidance on the approach to cost recovery of Network Adjustments. We agree with the general principle that KCOM should cover costs up to the financial limit. As regards the financial limit, we do not have sufficient information at this stage (in the absence of real-world experience

of the incidence of NAs required to bring KCOM's network into acceptable condition) to offer evidence on the appropriateness of the level proposed.

Regulatory financial reporting

Question 4.1: Do you agree with our proposed regulatory financial reporting SMP condition and directions? Please set out your reasons and supporting evidence for your response.

1.30 CityFibre supports the specific proposals contained in Volume 4 to extend financial reporting obligations to the new PIA product. As KCOM PIA will (we assume) not be consumed internally by KCOM, financial reporting on external costs and volumes is an important mechanism to reassure users of the product that the PIA No Undue Discrimination obligation is being complied with.

Section B: Period between now and the effective implementation of a specific PIA Network Access remedy

2.1 CityFibre is concerned about the lack of availability of a useable PIA Network Access remedy during:

- The period between now and the publication of Ofcom’s Hull Market Review decision (from November 2026 at the earliest); and
- The period post Ofcom’s decision on the Market Review, during which a specific PIA Network Access remedy is implemented which could be at least throughout 2027 and 2028 based on past precedents with Openreach and the past behaviours of KCOM.

2.2 CityFibre believes it is critical that Ofcom proactively encourages KCOM to engage with immediate effect in PIA negotiations with potential users. Given that KCOM is already subject to an obligation to provide network access on reasonable request,⁴ this would not pre-empt the outcome of Ofcom’s current consultation for the Market Review period 2026-31.

Market context

2.3[.....].

2.4[.....].

2.5[.....].

2.6 The KCOM PIA ‘voluntary offer’ is not fit for purpose as currently proposed for reasons set out in our detailed critique of that offer submitted prior to this consultation.

PIA Remedy

2.7 Ofcom has proposed the introduction of a Physical Infrastructure Access remedy in the Hull Market Review.

2.8 In our detailed critique of the KCOM PIA ‘voluntary offer’ we noted that it is very poorly specified as regards access to poles. Below we set out the steps which we think KCOM should immediately take to allow pole re-use.

2.9 We are ready to engage as soon as possible in commercial negotiations with KCOM. However, we believe these would be much more productive in terms of effectiveness and timing if facilitated by Ofcom either directly or via the OTA2. In that context, whilst our preference would be for a voluntary discussion we note

⁴ As discussed in paragraphs 2.11-2.14 of the Hull Market Review 2021 Final Statement

that under the existing Network Access obligation imposed upon it in the 2021 Market Review Ofcom has a power to direct.

- 2.10 The areas outlined below do not constitute a complete list of improvements that CityFibre would wish to see as the voluntary offer is converted into a Reference Offer underpinned by an SMP obligation. However it represents the minimum of priority improvements CityFibre considers necessary to enable it to reuse KCOM's physical infrastructure in the near term.

Survey rights

- 2.11 Prospective PIA users must, as a first step, be permitted to undertake survey work to determine the useability of KCOM poles (and the associated ducts needed to utilise those poles) and the requirement for network adjustments. At present, the KCOM Voluntary Offer does not provide any such rights and appears to expect requesting operators to submit their plans in full without preparatory survey.
- 2.12 KCOM should be required to provide information contained in its own internal GIS systems to facilitate surveys of the pole estate.
- 2.13 A key consideration in undertaking any work on poles is that the work can be conducted safely. It would therefore also be necessary for KCOM to provide transparency on the testing regime it operates to assess the condition of poles. This allows operators seeking to make use of poles to determine whether poles can be climbed or whether a Mobile Elevating Work Platform (MEWP) is required. Similarly, clarity would be needed on the pole loading assumptions (ie: how many dropwires KCOM assumes a pole can sustain and what rules it follows in terms of the radial loading of poles) and the current loading status of individual poles.

Rights to place apparatus at pole top

- 2.14 Requesting operators must be permitted to place connector apparatus at pole top and effect connections to consumers. As with Openreach PIA, users should also be permitted to run fibres between poles, and to run fibre up or down poles to effect connections with ground apparatus (eg: allowing a connection to be made to an underground network adjacent to the pole).
- 2.15 In practice, such rights must come with reciprocal obligations, which we would expect to cover basic engineering principles such as the height on the pole at which apparatus can be placed and limitations on the amount of space that apparatus can take up. These rules should be based on the equivalent requirements agreed under the Openreach PIA process: we see no objective justification to 'reinvent the wheel'. KCOM's scope to introduce additional

complexity or onerous engineering rules should be restricted. Our understanding is that KCOM's network is similar to that of Openreach in terms of its fundamental architectural design.

Pole Network Adjustments

2.16 In the absence of survey rights, we cannot know at the outset what the physical condition of KCOM poles will be, but we can anticipate that the following general problems may arise, consistent with our experience of using Openreach PIA:

- Congested poles, where pre-existing deployments of apparatus limit the scope to deploy new apparatus;
- Poles in poor physical condition such that it would be dangerous to place new apparatus on them and/or to climb them.

Pole top congestion

2.17 Under Openreach PIA, users have secured certain rights to undertake some Network Adjustments in order to alleviate pole-top congestion. First, operators may utilise certain limited engineering solutions to alleviate pole-top congestion, including relocation of the Bass Step (the last climbing step on the pole) to create additional space and the installation of an offset bracket on the pole, allowing apparatus to be installed. There are agreed engineering processes and specifications for both these limited engineering solutions, which should be adopted from the Openreach PIA remedy.

2.18 Second, operators can remove redundant drop wires – that is, customer connections which are clearly not 'live' (eg: second lines previously installed to support faxes, dial-up internet connections etc).

2.19 KCOM should be required to offer equivalent freedoms for users to conduct NAs on its poles, with necessary safeguards aligned with those that apply in the Openreach PIA world. KCOM should not be permitted to introduce additional onerous obligations beyond these.

Repair/replacement

2.20 We accept the general position that KCOM alone should undertake pole repair/replacement works.

2.21 KCOM should be required to provide to PIA operators, as part of the general obligation to share its data on its physical infrastructure, information that it holds on the condition of the pole estate showing which poles are in good order, which require repair or replacement, and the test dates of all poles. This information

should include current expected repair or replacement times. We would expect KCOM, as a responsible operator, to already have a good overview of the physical condition of its assets.

- 2.22 Users should then, having identified unusable poles and with clarity that these are not likely to be imminently improved, be able to request the repair or replacement of these poles by KCOM.
- 2.23 In the absence of formalised SLAs/KPIs, we would want the following ways of working to be clearly established: (a) KCOM must acknowledge NA requests in a timely fashion; (b) must provide a Committed Date for repair and replacement with limited scope for moving the Committed Date and an obligation to keep PIA users informed when such changes are unavoidable; (c) must explain any refusals to undertake NAs by providing specific, clearly defined, objective grounds for not undertaking the work explaining why it considers work to be unnecessary or impracticable.

CityFibre February 2026