

Consultation response form

Please complete this form in full and return to hullreview26@ofcom.org.uk.

Consultation title	Consultation: Promoting competition and investment in fibre networks - Hull Area Review 2026-31
Full name	[CONFIDENTIAL]
Contact phone number	[CONFIDENTIAL]
Representing (delete as appropriate)	Organisation (Alternative Fibre Network Operator)
Organisation name	Grain Connect
Email address	[CONFIDENTIAL]

Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom's General Privacy Statement](#).

Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.	Nothing
Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.	Appendix 1 only
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes

Your response

Please tell us how you came across about this consultation.

- Email from Ofcom
- Saw it on social media
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- Found it on another website
- Heard about it on TV or radio
- Read about it in a newspaper or magazine
- Heard about it at an event
- Somebody told me or shared it with me
- Other (please specify)

Question	Your response
Volume 2 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.	Not confidential – Please see response below
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.	Not confidential – Please see response below
Question 2.3: Do you agree with our proposed market definition for LLA? Please set out your reasons and supporting evidence for your response.	Not confidential – Please see response below
Question 2.4: Do you agree with our provisional conclusion that KCOM holds SMP in the supply of LLA products in the Hull Area?	No comment

Question	Your response
Please set out your reasons and supporting evidence for your response.	
<p>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.</p>	Not confidential – Please see response below
<h2 style="color: #800080; text-align: center;">Volume 3 Remedies</h2>	
<p>Question 3.1: Do you agree with our proposed approach to remedies? Please set out your reasons and supporting evidence for your response.</p>	Not confidential – Please see response below
<p>Question 3.2: Do you agree with our proposed general remedies? Please set out your reasons and supporting evidence for your response.</p>	Not confidential – Please see response below
<p>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.</p>	Not confidential – Please see response below
<p>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.</p>	No comment

Question	Your response
<p>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.</p>	<p>No comment</p>
<p>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.</p>	<p>No comment</p>
<p>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.</p>	<p>Not confidential – Please see response below</p>
<p>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.</p>	<p>Not confidential – Please see response below</p>
<h2 style="color: #800080;">Volume 4 Regulatory financial reporting</h2>	
<p>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.</p>	<p>No comment</p>

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Hull Market Review – Grain Response

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.

Grain Connect ('Grain') supports Ofcom's product and geographic market definitions for the Wholesale Local Access market. These are consistent with market conditions and regulatory practice. Grain does not operate in this market, neither as a supplier nor as a customer, but all our business in Hull competes in the downstream retail broadband market for which WLA is a wholesale input.

We support Ofcom's proposal not to define a Physical Infrastructure market. Grain makes extremely limited use of physical infrastructure access products offered by any other operator anywhere in the UK. (The only exceptions concern instances in which we make use of Openreach duct access where it is economically unviable to build our own; for example, to cross level crossings.) We build all our own physical infrastructure, trenches, ducts, chambers, cabinets and cables.

This strategy has made Grain the lowest cost alternative network operator ('Altnet') in the UK, in terms of a) cost to deploy, b) cost to connect and c) cost to operate. This is demonstrated in the two slides included in Appendix 1 and Appendix 2 below. Our strongly held view, supported by the reality of our strategic and commercial success, is that infrastructure-based (i.e. own-build) competition to incumbents is more effective, more sustainable and more economically attractive than competition based on regulated physical infrastructure access. For this reason, we agree with Ofcom's proposals not to define such a product market in Hull, and comment further on the proposed remedies below.

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.

We support Ofcom's finding that KCOM holds SMP in the WLA market in Hull.

We understand that Ofcom has derived market shares in the WLA market from operators' market shares in the downstream retail market. However, we would emphasise that Grain does not compete in the WLA market, we have zero wholesale customers and expect to have zero wholesale customers throughout the period of the review; we are not technically equipped to supply customers in this market. So, the reality of KCOM's SMP is even stronger than Ofcom's finding.

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

Grain does not operate in the Leased Line Access market, neither as a supplier nor as a customer, nor in the downstream retail market. For this reason we have not considered the market conditions to an extent that would be helpful to Ofcom and so we are not commenting on Ofcom's proposals.

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.

No comment.

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.

Grain does not have any competition concerns in the *retail* broadband market in Hull.

We are making good progress in acquiring retail customers, in line with plan expectations and in line with market benchmarks across the UK, without accessing any physical infrastructure or wholesale access products from KCOM. We do not consider that KCOM are capable of exclusionary practices through its products and pricing in the retail broadband market. We do not consider we would be adversely affected if KCOM were subject to no SMP regulation.

However, we understand that Ofcom wishes to sustain competition in wholesale markets based on regulated wholesale products. We support Ofcom's market assessment in wholesale markets for this market review period. In the absence of regulation, KCOM could engage in exclusionary and/or exploitative practices in wholesale markets, as Ofcom suggests.

However, we would emphasise that own-build infrastructure-based competition is a better competitive solution, more economically sustainable, in the long run than competition based on regulatory intervention, as Grain has demonstrated in practice. This is clear from external benchmarking analysis and statutory accounts filed by Altnets available from Companies House, as provided in Appendix 1 and Appendix 2. Not only does Grain enjoy substantial capital expenditure cost advantages with the next most efficient Altnet, who have 47% higher costs to build and connect a customer via its PIA-based network (see Appendix 1), but Grain also has more than 60% lower operating cost per customers than other Altnets relative to the industry scale curve (see Appendix 2). This clearly demonstrates that PIA based regulation is not the right remedy, as companies can make a higher return and provide more effective competition by building their own infrastructure and operating their businesses efficiently to compete with the legacy providers. Own-build competition is a better solution than competition based either on WLA intervention or on physical infrastructure intervention.

Competition based on use of KCOM's physical infrastructure is not true end-to-end network competition, only an instance of partial network competition. We would urge Ofcom to be clear in its language and decision-making on this point.

We would encourage Ofcom to consider how to ensure that wholesale intervention is not, and is not expected to be, permanent; otherwise Altnets will make investment decisions that are dependent upon indefinitely continued regulatory support.

Remedies

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

PIA remedies

We urge Ofcom *not* to impose a PIA remedy upon KCOM.

To the extent that Altnets use a regulated PIA product and make sunk-cost investments in such network, to such an extent they will fail to make their own investments in independent physical infrastructure, as Grain has done, and to that extent they will be dependent on Ofcom's regulation indefinitely.

We do not agree with Ofcom's assessment that "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" (vol.3 §1.25). On the contrary, Grain has demonstrated in practice, not just in Hull but across Great Britain, that own-build infrastructure competition is less costly and quicker to deploy than competition based on PIA products. Ofcom recognises that "altnets have, so far, deployed their networks by building their own physical infrastructure in the Hull Area" (vol.3 §1.28). That is correct and the reason why PIA intervention is not required.

Ofcom's proposed intervention in Hull will distort competition from own-build network operators, which is the form of sustainable long-term competition that Ofcom should be seeking to promote, and which will release Ofcom from the burden of regulatory intervention in competitive markets in the long run.

It would be a mistake to believe that competition from operators who make investments in PIA is a stepping stone to independently viable own-build competition: the investments in PIA are sunk and not reusable. An Altnet will not be able to reuse the fibre it has deployed in KCOM's duct in any own-build duct it might deploy in future. Such operators will always require PIA regulation. The "regulatory certainty" (vol.3 §1.26), which Ofcom considers such an intervention will provide, is the basis for long-term regulatory dependence.

The case for PIA intervention can only be made in relation to geographic areas where it is economically unviable to build new independent networks, which naturally will be areas where premises are more dispersed. Ofcom is proposing not to define distinct geographic markets in Hull. We support Ofcom's proposal not to define artificial geographic boundaries before competition and investment in the market have unfolded. However, in our experience, the large majority of premises in Hull are in areas where premises are sufficiently dense that alternative own-build networks are viable. Based on the benchmarking data we have, we estimate that Grain's own-build methodology is a more efficient approach for premises up to 12 metres from the boundary of its adjacent premises and therefore likely to be the most efficient approach in all urban scenarios. PIA may become more efficient in rural areas, though whether this is at a level to create a sustainable business may be in question. However, Ofcom could nonetheless provide that, where own-build networks are viable in urban areas that PIA need not be provided by KCOM. That way, Ofcom can mitigate the risk that its intervention will displace competitive own-build network investment. In the absence of that solution, Ofcom could instead provide that where Altnets have deployed, and / or are committed to deploying, their own-build networks, in those areas PIA does not need to be provided by KCOM.

If, in the fullness of time, it becomes evident which areas are unviable for new independent own-build networks, then we would support Ofcom in defining geographic markets and imposing a PIA obligation in those economically unviable areas (only).

Ofcom believes that a "KCOM PIA product is likely to promote further network expansion and infill" (vol.3 §1.28). If this expansion and infill takes place in geographic areas that are economically viable for

own-build networks, the intervention risks displacing own-build networks. The intervention is only merited where expansion and infill takes place in geographic areas that are *not* economically viable for own-build networks.

Ofcom might be concerned that the absence of regulated access to KCOM's pole infrastructure may result in a proliferation of poles to the detriment of customer sentiment. We do not believe this would happen. In Grain's experience, the economics of underground infrastructure are superior, in terms of total cost of ownership in the long run, to overhead infrastructure and Grain has never installed a new telegraph pole in any of its network build areas. Poles may be required in a rural setting where large distances need to be covered but are completely unnecessary in an urban setting.

WLA and LLA remedies

We support Ofcom's proposals for remedies in the WLA market. We have no comment on LLA remedies.

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

With respect to WLA and LLA remedies, but not PIA remedies for the reasons set out above, we broadly support Ofcom's proposal for general remedies. However, it should be recognised that statements of requirements obligations risk a proliferation of network access products, when own-build networks would be a superior long-term competition solution.

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.

We support Ofcom's proposal for price benchmarking for fair and reasonable pricing and WLA reference offer.

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.

No comment.

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.

No comment.

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.

No comment.

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.

As set out above, Grain does not support Ofcom's proposal for a PIA remedy: it risks displacing viable competition from own-build networks (including but not limited to Grain), who could build their own physical infrastructure economically and efficiently rather than relying on regulatory intervention.

Secondly, the relevant terms on which regulated products should be provided are not those pertaining to the incumbent's own use (vol.3 §5.2), but those that safeguard competition from new entrants building their own networks. Ofcom should not provide an artificial cost incentive for Altnets to use the PIA product rather than to build their own infrastructure, otherwise regulation will displace economically viable competitive investment.

Thirdly, for this reason, we do not support Ofcom's proposal to benchmark the pricing of PIA products in Hull against the cost-orientated prices of Openreach's PIA prices (vol.3 §1.41) in the rest of the UK.

There are good reasons for believing that the cost structures in Hull are different from those in the rest of the UK: the scale and conditions of the two geographies are not comparable. The question for Ofcom is how to set PIA prices so that regulation does not displace economically viable own-build competition in Hull, which does not rely on regulatory support: this cannot be assessed without an economic cost analysis pertaining to the relevant geographic market.

We do not support Ofcom's proposal that PIA should be mandated throughout Hull (vol. §5.5). It should only be mandated where own-build infrastructure is not viable. As the scope of such an area has not been defined, Ofcom should not mandate PIA in any area in order not to displace competitive investments not dependent on regulation. Alternatively, Ofcom should not mandate PIA in any area where there is already evidence of economically viable own-build competition.

Similarly, we do not support the associated PIA remedies related to ancillary services or requirements for reference offer.

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.

We do not support Ofcom's proposal (vol.3 §5.21) that KCOM should be obliged to make network adjustments to accommodate PIA usage. In such instances the case for the greater economic efficiency of own-build networks is even stronger than in the generality of PIA. Ofcom should include as a fourth test (in relation to the other three tests in vol.3 §5.30) which would require the assessment of whether it can be demonstrated that the required network adjustment would not displace own-build network investment.

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.

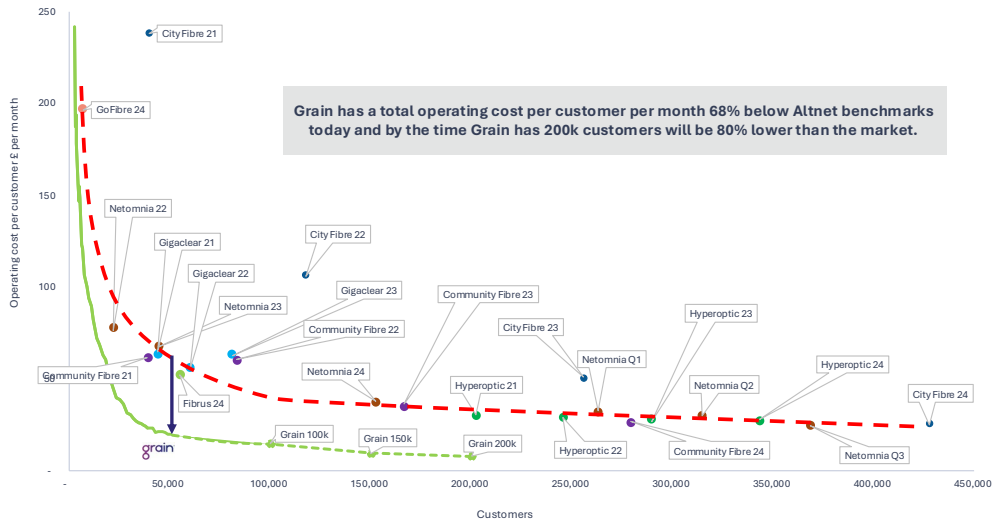
No comment.

Appendix 1 – CONFIDENTIAL

[CONFIDENTIAL]

Appendix 2

Grain is the lowest cost Altnet as to its operating expenditure costs:



Source: All data taken from Companies House (i.e. in the public domain)