

Ofcom Telecoms Access Review: Consultation response from APFN

1. This is AllPoints Fibre Networks' (APFN's) response to Ofcom's proposals for the regulation of the fixed telecoms markets for the period from April 2026 to March 2031: the Telecoms Access Review or 'TAR'.

Key Points

2. We are broadly supportive of Ofcom's proposed approach to the regulation of the fixed telecoms market from April 2026 to March 2031 as set out in the TAR consultation. However, we would urge Ofcom to:
 - Reverse its proposal to allow geographic pricing in WLA Area 3.
 - Exercise caution when deregulating WLA Area 2 and the HNR area, considering the example of the CLA which was deregulated based on competing networks rather than sustainable competitors.
 - Maintain its position on Other Commercial Terms, allowing Openreach (OR) to compete with altnets and introduce further Equinix style discounts, subject to the regulatory rules proposed in the TAR.
 - Be more ambitious in relation to copper to fibre switchover by allowing OR to exclude any premises built by competitors when calculating whether an exchange is complete and opting for the Fixed Percentage approach for the second threshold, safe in the knowledge that copper based products cannot be withdrawn at this stage in the process.
 - Introduce QoS on FTTP products in Area 2, as well as on FTTC products and FTTP products in Area 3.

Background to APFN

3. APFN is a full-fibre wholesaler operator. APFN is owned by Fern Fibre Trading Limited (FFTL), which is part of the Fern group of companies, who are managed by Octopus Investments, part of the Octopus Group.
4. APFN recently launched aquila – our new, future-ready, and user-friendly wholesale platform designed to simplify access to the UK's largest full fibre networks, including the OR and CityFibre (CF) networks, as well as the full fibre network owned by APFN itself. Aquila is used by our in-house ISPs, Cuckoo Fibre and Brillband and by third parties [REDACTED].
5. In relation to its own network, APFN is an active user of OR Passive Infrastructure Access (PIA) products. In areas where we have no network, we are busy enabling OR and CF fibre exchanges. We also take Wholesale Local Access (WLA) products from BT Wholesale where we have not enabled an exchange. In addition, we use OR and CF products in the Leased Line Access (LLA) market and make limited use of the OR Dark Fibre Exchange (DFX) product in the Inter-Exchange Connectivity (IEC) market. We currently use some Ethernet Access Direct (EAD) products for aggregation and Optical Spectrum Access (OSA) products, purchased directly from OR and third parties.



Executive Summary

6. **Overall:** Ofcom's proposals provide the regulatory stability that we - and the wider market - are seeking, including through the retention of existing product and geographic market definitions, and the findings that OR wields Significant Market Power ('SMP') in the upstream national telecoms PIA market, and in three downstream markets, being the WLA, LLA and IEC markets.
7. **PIA:** We support the continuation of the requirement for OR to allow network operators to operate their own infrastructure through OR's passive infrastructure products and Ofcom's approach to rental charges on these products, as amended by Ofcom in response to representations by us, the PIA Coalition and others in the run-up to the publication of the TAR consultation.
8. **WLA:** We agree with the expansion of Area 2 to 90% of the UK (from 70%) and consequent reduction in Area 3 to 10% (from 30%). In terms of Ofcom's proposed remedies, we do not agree with the introduction of geographic pricing in Area 3. Ofcom's reasoning is limited and ignores the fact that much of Area 3 will be built by several operators, and not just OR, both commercially and because of the Government's Project Gigabit programme. Ofcom's proposals do not appear to take the potential for commercial build in Area 3 or the reality of the Project Gigabit programme into account, making the regulatory analysis flawed.
9. **LLA:** We have concerns about the expansion of the High Network Reach (HNR) area, particularly if it leads to complete deregulation after 2031. We do not believe that deregulation has worked in the Central London Area (CLA) and that a simplistic analysis, based on the number of network operators in an area without any consideration of whether that competition is established and sustainable, is fundamentally flawed.
10. **IEC:** The simplification and expansion of the Dark Fibre Exchange (DFX) remedy, which we called for in our pre-submission response and which has expanded DFX to nearly 1,300 more exchanges, is welcome.
11. **Other Commercial Terms:** We agree that OR should be allowed to compete with altnets and introduce further Equinox style discounts, subject to the regulatory rules introduced in the last market review, the Reasonably Efficient Operator (REO) test and Ofcom's proposals in this market review. In relation to the latter, we support Ofcom's proposed increase in the notification period from 90 days to 120 days.
12. **Copper Switchover:** We agree with Ofcom's proposal to retain the three-stage regulatory framework set out in the last market review to enable the transition from OR's copper-based network and towards newer full fibre networks. The second stage of the framework – after OR has built to 100% of an exchange less any excluded premises agreed with Ofcom – entails the transfer of regulation from copper-based products to full fibre products, with OR granted flexibility to increase copper-based pricing where full fibre (FTTP) is available.
13. Ofcom has proposed two options for excluding premises from the 100% requirement, the Defined Exclusions approach and Fixed Percentage approach. In relation to either option, we believe that Ofcom should be encouraging the switch from copper based to fibre-based regulation. As such, we are in favour of measures that help speed progress to the second threshold rather than slow it down. On this basis, we firstly agree with OR that premises served with ultrafast broadband by other networks should be excluded, regardless of whether they have been built with public subsidy or not. Ofcom's reasoning for rejecting this proposal – that



it would not be 'appropriate' – is weak and perverse, since it may end up forcing OR to build to premises where it is not commercial for it do to so, i.e. to act anti-competitively. This goes beyond Ofcom's statutory powers.

14. Secondly, we are in favour of the Fixed Percentage approach, under which a fixed percentage of premises, e.g. 2%, would be excluded when assessing whether the second threshold has been met. Ofcom are unduly concerned about the prospect of setting the fixed percentage too low, given that their proposed regulatory rules would prevent OR from:
 - Increasing copper-based prices for those consumers for whom a full fibre option is not available.
 - Prevent OR from withdrawing copper-based services entirely, since this would only be allowed once a third – as yet undefined - threshold is met.
15. **QoS:** Ofcom's proposals risk creating a perverse situation in which OR is incentivised to prioritise installations and repairs on its copper-based network instead of its newer full-fibre network. Ofcom justifies this based on there being network competition in WLA Area 2, even though OR retains SMP here, and the largest other open access wholesale option is City Fibre, with around 4.3 million premises passed (or less than 15% of UK premises). This is irrational, given that Ofcom argues strongly elsewhere that competition in WLA Area 2 is not yet sustainable. We are strongly in favour of Ofcom introducing QoS for FTTP across the whole of Area 2 and Area 3. If Ofcom feels unable to do so, a logical fallback option to avoid a perverse regulatory situation emerging would be to further reduce the QoS requirements on copper-based products, beyond the minor changes it has proposed in this market review. However, our strong preference remains for the introduction of QoS on all FTTP products.
16. **Beyond 2031:** Looking forward, Ofcom should develop its thinking about the future deregulation of the market, looking specifically at the example of the CLA, which was largely deregulated based on the presence of other networks as opposed to whether the competition provided by these networks was sustainable.



APFN's Response to Ofcom Consultation on the TAR:

Ofcom's market structure, product and geographic markets:

17. We agree with Ofcom's analysis of the broadband supply chain. Under Ofcom's typology, APFN acts primarily as a full-fibre only **wholesale provider**, selling network access to retail ISPs who then sell broadband services to residential consumers and small businesses.
18. It also acts as a **Network Operator**, i.e. it has its own FTTP network, built by its predecessor companies, Swish Fibre, Jurassic Fibre and Giganet before the recent merger. It has also built a core network and is developing an increasingly dense edge network to access OR and CF full fibre premises, through the local enablement of their exchanges.
19. Finally, in areas where OR PIA is not available and it has deployed its own network, APFN is a **Physical Infrastructure Operator**, i.e. it has built and now operates its own duct and pole network.

Product Markets:

20. The product markets for Physical Infrastructure Access (PIA), Wholesale Local Access (WLA) and Leased Line Access (LLA), and Inter-Exchange Connectivity (IEC) defined by Ofcom accurately reflect APFN's experience of the key products sold within this value chain. They underpin the network capability required to deliver broadband connectivity to homes and businesses. We agree that competition has not developed sufficiently to define a single product market for wholesale access services, rather than separate markets for WLA and LLA.

Geographic Market Definitions:

21. Distinguishing geographic markets according to their potential for competition to OR remains the most rational way of tailoring regulatory objectives to local conditions and encouraging investment. It provides a sensible means to determine where OR should be required to offer infrastructure and wholesale network access to competitors.
22. Below we give our more detailed view on each of Ofcom's proposed product markets (PIA/WLA/LLA/IEC) and their geographic (e.g. Area 2/Area 3/HNR) sub-markets, and Ofcom's assessment of Significant Market Power (SMP) in these markets. We support Ofcom's general remedies including network access, transparency/notification/reporting, Quality of Service (QoS), equivalence of inputs (EOI), no undue discrimination (NUD) and Reference Offers (RO).

Physical Infrastructure Access (PIA):

23. APFN supports Ofcom's conclusion that there is a single national product market for the supply of wholesale access to telecoms physical infrastructure, which excludes non-telecoms infrastructure and wireless technologies.
24. OR remains the dominant owner of telecoms-ready duct and pole infrastructure, despite significant competitor expansion since the last market review. Given the costs and resources required to build a



competing offering, we see little scope for this to change during the review period or beyond. Ofcom is therefore right to find that OR has SMP in this market.

25. We agree with the requirement on OR to offer unrestricted PIA on fair and reasonable terms, as soon as is reasonably practicable. We benefit from the certainty given by the specific PIA access remedy, in addition to the general access remedy.
26. OR's PIA product has improved over time, and we support the industry groups which are working with OR to make it even better as there is still more to do here, including on the process by which industry can suggest changes to the product (the Statement of Requirements or 'SOR' process). We also believe that Ofcom should do more to actively monitor OR compliance, including with a more visible presence at industry meetings with Openreach and the OTA. On PIA rental charges, we agree with Ofcom's proposed approach, as adjusted in response to representations by us, the PIA Coalition and others. Importantly, this includes a proposal to assume PIA inflation at 2% (rather than in line with CPI or RPI) and a reduction in the share of lead-in duct and single-end-user pole attachment costs recovered from third parties.

Wholesale Local Access (WLA)

27. We support Ofcom's continued definition of a single product market for the supply of WLA services at a fixed location and proposal to exclude mobile, other wireless and leased line services from this market.
28. While competition continues to develop in the provision of WLA, we also agree with categorising WLA product markets according to their geographic potential for material and sustainable competition to OR.
29. We agree with Ofcom's assessment that OR have SMP in all WLA postcodes currently. Even with substantial industry consolidation, we see little prospect of this changing at a national level during the market review period until/unless VMO2/nexfibre offers widescale wholesale access to their network.

Areas 2 & 3:

30. Ofcom's assessment of the extent of WLA areas with potential for sustainable network competition has changed considerably since its last review, with Area 2 now comprising 90% of the UK (up from 70%) and Area 3 reducing to 10% (from 30%). [REDACTED]
[REDACTED] This reflects the fact that we only invest where we believe we can compete sustainably with another network.
31. This is important because it shows how easy it is to seriously underestimate industry build plans. We think this should point Ofcom towards caution when considering new regulation in less densely populated locations, such as Area 3, which might stymie further commercial investment, or hamper efforts to deliver publicly funded schemes.
32. Yet this is exactly what the proposal to allow geographic pricing of copper/part-fibre by OR in Area 3 will do. It will undermine the business cases of Area 3 builders by slowing take-up of their full-fibre products. Ofcom's reasoning for this proposal is very limited. It simply says: "*We consider that material and*



*sustainable network competition is unlikely to develop in WLA Area 3. Therefore, we do not consider that it is necessary to extend [the geographic pricing prohibition] to WLA Area 3*¹. This ignores:

- How badly Ofcom previously underestimated the commercial viability of Area 3 postcodes in the WFTMR², dismissing evidence of build plans from multiple altnets. Yet, in the WFTMR, Ofcom sensibly allowed for the possibility of such an error by regulating to prevent OR from undercutting any operators that did build through a specific restriction on geographic price discounting. The TAR consultation provides little evidence as to why Ofcom have come to a different conclusion in this market review, even though the WFTMR promised regulatory certainty for a period of 10 years.
- The fact that Area 3 will be built by multiple different operators, not just OR, because of the Government's Project Gigabit programme. Permitting any geographic price subsidy will reduce the potential benefit of taxpayer subsidies by allowing reductions in Fibre to the Cabinet (FTTC) wholesale pricing to maintain market share in response to Project Gigabit build. However, Project Gigabit is scarcely mentioned in the TAR consultation, even though it will have a material impact on full fibre build in the final 10% of the UK. Ofcom's analysis is flawed by virtue of its failure to take this programme into account.

33. Evidence from the HNR area suggests OR will seek to undercut if allowed. It is rational for OR to do this to maintain market share and Ofcom's own analysis in Section 9 of Volume 3 suggests that this is likely. Evidence from broadband rollout over the past five years shows that OR and altnets have frequently raced to gain first mover advantage by deploying infrastructure in Area 3. Ofcom should anticipate the same competitive behaviour from OR when it comes to pricing. [REDACTED]

Other Commercial Terms

34. We support Ofcom's proposal to maintain the current notification regime for commercial terms where the price or other contractual terms are conditional on the volume and/or range of services purchased (e.g. Equinox 3), with the additional protection proposed in the TAR consultation of a longer notification period of 120 days (instead of 90 days as previously).

Pricing:

35. We agree with Ofcom's proposed pricing continuity approach in Areas 2 and 3 where an inflation indexed charge control is set on MPF and FTTC 80/20 rentals, and on FTTP 80/20 rentals where a copper-based service is not available, and for other bandwidth charges to be fair and reasonable. We note and agree with the bandwidth increase in the anchor product from 40/10 in the last market review to 80/20 in this one.

¹ Telecoms Access Review, Volume 3, 9.23

² Wholesale Fixed Telecoms Market Review



Leased Line Access

36. We agree with Ofcom's proposal to continue defining a single product market for leased line services at all bandwidths but with different geographic markets within the Leased Line Access (LLA) market.
37. We see no prospect of any leased line competitor in the near- to medium-term future, exerting a material and sustainable constraint on OR at a national level. We therefore think Ofcom is right to find that OR has SMP in the provision of LLA in Areas 2 and 3, and in the HNR area, and support continued regulation to require OR to offer access to active leased lines in all these areas.
38. Unlike the WLA market, we note that Ofcom has reduced its assessment of the scope for competitors to OR to emerge in Area 3, with this area expanding from 38% of postcode sectors to 46%. Ofcom has also proposed to expand the HNR area, based on the presence of two sustainable competitors to OR, including those who provide Ethernet over XGS PON type products.
39. Ethernet over XGS PON differs from leased lines significantly. We do not agree that it will provide an effective constraint on leased lines during this market review period. Upgrading from a dedicated point to point service is not simple, will have a negative impact on the customer's bandwidth and increase security vulnerabilities. Further analysis from Ofcom is necessary before it reaches the conclusion that XGS PON is an effective constraint on leased lines.
40. We believe that Ofcom should be very cautious about the future deregulation of the HNR, based on the experience of the CLA area. The CLA was deregulated based on network competition to OR rather than any consideration of whether those competitors were established and sustainable. The HNR area is similarly based on a simplistic analysis of whether there are two competitors to OR present, even though OR has significant incumbency advantages which cannot easily be replicated by newer entrants to the market.
41. By contrast, the approach adopted by Ofcom in relation to the WLA market considers both network competition but also whether that competition is sustainable based on a range of factors, including the scale of the competitors and for how long they have been operating (n.b. the latter is particularly important in the Leased Line market, given the increased importance of brand awareness and trust).
42. The result of the simplistic analysis applied to the CLA in the past is a geographic market which is still dominated by OR, which retains a 50%-60% market share that has not fallen significantly since deregulation. Ofcom should avoid making this mistake again in relation to the HNR areas and, in considering future deregulation in the LLA, should adopt a similar approach to the one that it proposes in the WLA market.

Inter Exchange Connectivity ('IEC')

43. We support Ofcom's conclusion that there is a single product market for IEC exchanges and agree that categorising exchanges according to the number of OR connectivity competitors present is the simplest way to assess their competitiveness. We agree that OR wield SMP in all exchanges with fewer than two competitors.
44. We are pleased that Ofcom are proposing that the DFX access remedy is expanded and becomes available at *all* exchanges with fewer than two competitors, as opposed to a subset of them based on whether a



Principal Core Operator (PCO) has network within 100m of the exchange, which limited the number of exchanges at which DFX was available in the last market review.

45. Linking OR exchanges is critical to the development of competition in the WLA and LLA markets, but the costs of replicating OR's inter-connectivity are vast, and, in most exchanges, IEC competitors to OR have not emerged. The proximity of a *potentially* competitive PCO within 100m rarely indicates any realistic prospect of *actual* competition, with physical obstacles frequently impeding connectivity, or PCOs building in a direction or to a bandwidth which doesn't meet our needs, meaning we still have to buy from OR. This is even more likely to be the case with OR proposing to reduce its exchange footprint from c,5,600 exchanges to c1,000 in the 2030s.
46. We also agree with Ofcom's proposal to extend the transitional period for exchanges which move from being DFX eligible for non-DFX eligible a year to 2-3 years. Our experience – and the experience of others including Commsworld and Ogi - is that a minimum period of two years is necessary to arrange alternative provision if DFX becomes unavailable.

Copper Retirement

47. We support Ofcom's proposed exchange-based framework for managing the transition from wholesale copper to wholesale full fibre services in WLA markets in Area 2 and Area 3. This framework includes three key thresholds, which are:
- **First Threshold: 75% of an exchange has ultrafast coverage**, after which OR can stop selling new copper-based services where FTTP is available.
 - **Second Threshold: Ultrafast coverage of an exchange is complete**, less any 'excluded premises' after which Ofcom regulation will switch from copper-based products to FTTP instead.
 - **Third Threshold: Currently undefined**, after which OR would be permitted to withdraw copper-based services.
48. Ofcom have asked for views on two options for excluding premises from the second threshold. These premises would not be required to have ultrafast coverage for the threshold to be met. The two options are:
- **Option 1 (Defined Exclusions):** Defining the specific circumstances under which premises would be excluded.
 - **Option 2 (Fixed Percentage):** Setting a percentage of premises that would automatically be excluded.
49. In relation to either option, we believe that Ofcom should be facilitating the switch from copper-based to fibre-based regulation. As such, we are in favour of measures that help speed progress to the second threshold rather than slow it down. We note that Ofcom has rejected OR's proposal that premises served with ultrafast broadband by other networks should be excluded, unless they are served or contracted to be served by a non-OR provider using public funding. In Annex 12, Ofcom says that this would 'not be appropriate' because it would represent a significant departure from the approach envisaged in the WFTMR2021. This argument is weak and undermined by the fact that Ofcom is proposing some significant departures from the WFTMR in the rest of the TAR consultation, including:



- Significant divergence between the Area 2 and Area 3 boundaries in the WLA and LLA markets, which were previously aligned.
- The introduction of geographic pricing into WLA Area 3, which was prohibited in the last market review.
- A major expansion of the DFX remedy in the IEC market, albeit one that we advocated for and support.

50. We believe that Ofcom's refusal to allow OR to exclude premises that have been built by others from the 100% threshold unless they have been built through public subsidy is perverse, since it prevents OR from taking rational commercial decisions, as well as slowing down the necessary switch from copper-based to fibre-based regulation. In some circumstances, Ofcom's regulation could force OR to act anti-competitively. We do not understand why Ofcom believes that this approach is reasonable or within the statutory powers that underpin the market review process. The market review process is not intended to force SMP providers to build where it is uneconomic, particularly where others have done so already.

51. We are also in favour of the Fixed Percentage rather than the Defined Exclusions option as it provides OR, its customers and consumers with more regulatory certainty, and will speed up the necessary transition to predominantly fibre-based regulation. That said, we agree with Ofcom that there are risks of setting the Fixed Percentage too high, for example skewing OR's build to focus on exchanges where the fixed percentage can be hit and reducing build in exchanges where it cannot. However, Ofcom overestimates the risks associated with setting the Fixed Percentage too low. A lower percentage would enable a quicker migration from copper-based products to full fibre, avoiding the delays that have plagued the PSTN migration without the same potential for consumer detriment. Consumer with access to FTTP would have an additional incentive to move to a better product. Those consumers without access to FTTP would not suffer any detriment because Ofcom is not proposing to allow OR to:

- Increase copper-based pricing for these consumers (i.e. those for whom FTTP is not available); or
- Withdraw copper-based services entirely, since this would only be allowed once a third – as yet undefined - threshold is met.

52. Under the Defined Premises approach, Ofcom has proposed that the following premises are excluded:

- Premises that OR is unable to access because of permission to access issues
- Premises where the cost to OR of making ultrafast services available is high and that are served, or contracted to be served, with gigabit capable broadband by non-OR providers through public funding
- Other premises where the cost to OR of making ultrafast services available is very high and that are not expected to be supported by existing public funding

53. If this approach is adopted, we agree that premises that OR is unable to access should be excluded from the 100% threshold. There are two obvious points at which this could be demonstrated. Either when OR has taken the matter to the Lands Tribunal and their application has been refused, which could overwhelm the Lands



Tribunal to the detriment of other types of disputes, or when it has issued a Statutory Notice to the occupier of the land and the time period for the occupier to consider that notice has expired. This period is 28 days for Statutory Notices seeking the conferral of code rights under paragraphs 20(2) and 27(1) of Part 4 of Schedule 3A of the ECC. The notice periods are different – but similarly clear – in relation to code rights where there is an unresponsive occupier.

54. We also agree that high-cost premises served, or contracted to be served by other providers using public funding should be excluded from the 100% threshold (and argue above that this should be extended to any premises connected by another provider, whether funded through public subsidy or not). Ofcom raises several issues with access to Project Gigabit data. None of these appear to be insurmountable issues that cannot be resolved by further engagement and closer working between Ofcom and Building Digital UK/DSIT.
55. We also agree that other very high-cost premises should be excluded from the 100% threshold. Ofcom raises challenges with estimating the costs of deploying ultrafast broadband to these premises and with identifying when costs are sufficiently high. Again, our view is that this matter could be resolved by closer working between Ofcom and BDUK/DSIT. There are four types of premises in the UK:
- Premises that have already got ultrafast coverage, either commercially or with public funding support. Together, Ofcom and BDUK/DSIT will have access to this data.
 - Premises that operators plan to build ultrafast coverage to commercially. Ofcom and BDUK will have access to this data through the Connected Nations and OMR data they collect respectively.
 - Premises that operators have secured public subsidy to build. BDUK have access to this data.
 - Premises that have been descoped from Project Gigabit contracts or voucher schemes due to cost. BDUK will have access to this data.
56. The issue of how to handle premises that have not got ultrafast coverage will have to be considered again by Ofcom when they come to set the third threshold for the withdrawal of copper-based services and by Govt as part of its target to reach nationwide coverage. In addition, the legislation underpinning the USO acts as a statutory back stop for consumers.

Quality of Service (QoS)

57. Ofcom proposes to maintain QoS standards on OR's fibre to the cabinet (FTTC) and Metallic Path Facility (MPF) products and introduce new backstop minimum QoS on FTTP in WLA Area 3. This means that there will be QoS on FTTP for 10% of the country but not for the other 90%.
58. In the last market review, there was no QoS on FTTP. Ofcom justified this on the basis that FTTP products were too new. Ofcom now argues that network competition will drive QoS in Area 2. We question whether market forces will drive this alone and strongly believe that regulatory intervention is necessary in the period before 2031. Currently there is little competition to OR at a wholesale level. The VMO2/nexfibre network is vertically integrated, apart from a very small and early-stage trial with Giffgaff. The other big open access wholesale provider - CityFibre - currently has around 4.3 million premises passed (or less than 15% of UK premises).



This does not sufficiently constrain OR's market power, a fact acknowledged by Ofcom in designating Area 2 as an area where OR has SMP and network competition is not yet sustainable.

59. This proposal also creates a potentially perverse situation in which OR will be encouraged to prioritise installations and repairs on its legacy network rather than its newer network if it is at risk of missing its QoS targets on FTTC. This will undermine take-up of full fibre products. As such, we are strongly in favour of the introduction of QoS for all FTTP products. If Ofcom is unprepared to introduce QoS on FTTP then, as a fallback option and to avoid a perverse regulatory framework, it should reduce QoS on FTTC beyond the minor tweaks to reporting that it has proposed in the TAR. However, our strong preference remains for the introduction of QoS on all FTTP products.

Regulation Beyond 2031

60. Finally, as a result of further commercial build and the Government's Project Gigabit programme, we are likely to see almost UK-wide coverage of full fibre in the WLA market by the end of the next market review period. As this process completes, some densely populated locations will emerge where three or more network providers compete, i.e. potentially Area 1 WLA locations. This is already happening to a limited extent in some of the smaller market towns in which we operate. Similarly, there is likely to be further investment into the LLA market, with more areas potentially moving from the HNR area into the CLA.

61. We support deregulation in competitive areas, but only once network competition in those areas is established and sustainable. In developing its thinking, Ofcom should look specifically at the example of the CLA, which was largely deregulated based on the presence of other networks as opposed to whether the competition provided by those networks was sustainable. Ofcom should consider if the outcomes in the CLA are what it expected in terms of increased competition and what lessons it can learn for future deregulation.

62. In relation to the WLA market and Area 1, we would also ask that Ofcom considers further how it will transition locations from Area 2 to Area 1, so that the sector can plan for the withdrawal of regulated access products (or changes to their terms) and adjust their network provision accordingly. For example, is a WLA area deregulated in stages, or does it simply switch from regulated to deregulated?

Conclusion:

63. We are broadly supportive of Ofcom's proposed approach to the regulation of the fixed telecoms market from April 2026 to March 2031 as set out in the TAR consultation. However, we would urge Ofcom to:

- Reverse its proposal to allow geographic pricing in WLA Area 3.
- Exercise caution when deregulating WLA Area 2 and the HNR areas, considering the example of the CLA which was deregulated based on competing networks rather than sustainable competitors.
- Maintain its position on Other Commercial Terms, allowing OR to compete with altnets and introduce further Equinix style discounts, subject to the regulatory rules proposed in the TAR.
- Be more ambitious in relation to copper to fibre switchover by allowing OR to exclude any premises built by competitors when calculating whether an exchange is complete and opting for the Fixed



Percentage approach for the second threshold, safe in the knowledge that copper based products cannot be withdrawn at this stage in the process.

- Introduce QoS on FTTP products in Area 2, as well as on FTTC products and FTTP products in Area 3.

END