



Telecoms Access Review Consultation Response

June 2025

We are Hyperoptic.
And we go **beyond the expected.**

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1. Summary

Hyperoptic welcome the opportunity to respond to the Ofcom Telecoms Access Review Consultation. We are committed to delivering ultra-fast, reliable, and quality full fibre broadband to UK homes and businesses - including proactively supporting the integration of robust telecoms infrastructure in new housing developments -, thereby supporting the government's targets for growth and promoting sustainable network competition.

The 2021 Wholesale Fixed Telecoms Market Review (WFTMR) established a robust ten-year telecoms strategy that has successfully fostered competitive network build and enabled significant investment in the sector. The TAR consultation serves as a crucial mid-point review, allowing for recalibration and fine-tuning of the regulatory framework to build upon the successes of the past five years. We strongly support Ofcom's strategic goals and its focus on sustainable network competition, which ultimately benefits consumers.

Our targeted response focuses on key areas where adjustments to the current regulatory regime would further strengthen the delivery of Ofcom's objectives and support the government's growth agenda. These insights stem from both changes in the general economic environment and our practical experience of building networks and serving customers.

Key areas of focus in our response include:

- **Serving New Build Premises:** We highlight the unique challenges and limitations of the current regulatory framework, particularly Passive Infrastructure Access (PIA), in supporting full fibre deployment to new housing developments¹. We propose a targeted, regulated product specifically designed for this critical and growing use case, along with clear Service Level Agreements (SLAs) for acceptance of delivered infrastructure within new developments.
- **Exchange Closure Programme:** While broadly supportive of network rationalisation, we express significant concerns regarding Ofcom's proposed reliance on commercial negotiations for the exchange exit program. We recommend stronger, more prescriptive regulatory backstops, a framework for equitable cost responsibility, clear rules on capacity and access in enduring exchanges, and a more defined roadmap for post-2030 exchange exits to protect competition and ensure fair outcomes for alternative providers.
- **Regulation of Geographic Discounts and Other Commercial Terms:** We welcome Ofcom's proposed approach to regulating geographic discounts and other commercial terms, viewing it as a necessary evolution of the WFTMR framework. We emphasise the importance of clear and enforceable constraints on Openreach's pricing to prevent anti-competitive practices that could stifle investment and competition from both wholesale and fully integrated retail provider.
- **Copper Retirement:** We support Ofcom's approach to copper retirement, recognising its alignment with promoting competition and driving network efficiency. We stress the importance of protecting vulnerable consumers through proactive measures and clearer provision of publicly facing information from Ofcom.
- **PIA Improvements:** We urge Ofcom to reassess its proposed PIA regulation within the TAR, ensuring genuine Equivalence of Inputs (EOI) for new Openreach services by addressing current shortcomings—such as treating PIA needs as an "afterthought"—which impede timely consultation and fair competition. Ofcom should also provide regulatory certainty by clarifying the PIA legal instrument to prevent non-cost-oriented charges, enhance oversight by actively monitoring Openreach's infrastructure use, require justifications for operational differences, and ensure faster, more effective PIA utilisation, particularly in relation to copper recovery plans.

¹ New housing developments in line with the ONS indicators
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/ukhousebuildingdata/overview>



- **Beyond 2031:** We welcome Ofcom's forward-looking perspective on future regulation. To provide greater certainty for long-term capital commitments, we seek enhanced clarity on specific conditions, metrics, or thresholds that would signify "sustainable" or "effective" competition, signalling a path to greater deregulation.

Hyperoptic believes that by implementing the proposed adjustments, Ofcom can further solidify a regulatory environment that fosters sustainable investment and robust competition, ultimately delivering superior outcomes for UK consumers and businesses. The cumulative impact of failure to address these issues risk deterring further investment in competing infrastructure with the resultant negative impact on consumers as well as undermining the industry's ability to advance the government's growth ambitions.



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3. Introduction

Hyperoptic is a fully integrated infrastructure provider of full fibre services, delivering ultra-fast, reliable, and quality broadband to consumers and businesses, contributing to excellent consumer outcomes, including day one connectivity in new housing developments, and supporting UK economic growth. Hyperoptic prides itself on a standout passion for its customers, with a commercial model that allows it to reach properties that other Alternative Networks (Altnets) are less likely to serve, thus extending reach and diminishing the need for public subsidies.

Our footprint is extensive. We are present in 64 towns, and our network now passes more than 1.9 million homes and businesses, providing over 400,000 customers with award-winning broadband. By consumer revenues and number of customers, this positions Hyperoptic as the UK's largest retail Altnet.

As well as being the largest retail full fibre alternative broadband provider, we have developed a unique leadership position in connecting new housing developments, thus ensuring a segment that is otherwise less well served by Altnets is provided with high quality infrastructure-based competition. We have entered into partnerships with over 250 property developers. Our success is driven by our consumer-centric approach, and we would note our continued determination to offer a service which enables customers to switch on their broadband service instantly, with just a simple online activation or a phone call, on the day they move into their new newbuild property. This is something that Openreach, as a wholesaler is not able to replicate, because a customer would need to choose a provider that is offering service over the Openreach network, contract with them and place an order before they could set about delivering equipment etc. This is key, in a world where more and more people are reliant on the internet for communication, homeworking, education, banking services, watching tv, smart devices including for health monitoring, security and increasingly in smart homes etc. Through our innovation in supporting customers with easily accessed, high quality and well-priced full fibre services, we place ourselves at the heart of realising Ofcom's vision of delivering consumer benefits through sustainable network competition.

4. Context of the TAR

The UK communications landscape has been transformed by full fibre infrastructure build and competition for consumers that is, in turn, driven by Altnet investment. This is down to funding and build from Altnets, but it has been made possible by appropriate and effective regulatory changes delivered by Ofcom.

Ofcom correctly identified that, for large parts of the UK, competitive network investment was possible, but that this required a stable regulatory framework, the removal of key obstacles to build, and an environment that recognises the need to ensure the possibility of returns to those that make risky investments.

Ofcom also recognised that for the network economics of reaching urban and suburban conurbations, passive infrastructure access (PIA) represented the correct key building block for alternative network roll out. The scale and reach of investment over the last five years, built on the foundations of the regulated PIA product, have demonstrated this.

The WFTMR set out a ten-year framework which promised stable regulatory conditions for those seeking a return via network investment, whether from existing providers Virgin Media and Openreach, or the challengers that seek to compete with these incumbents. As such, the TAR is effectively a mid-point review. It therefore is entirely logical that Ofcom would choose to maintain the existing strategic goals and not deviate significantly from the plan that has brought us the successes observed to-date.

However, following five years of experience, there is now an opportunity to reassess, recalibrate and strengthen some parts of the regulatory framework, and to reconsider other policy factors that impact the ability of network providers to support continued investment and competitive delivery to businesses and consumers.



We note in this context that both in the TAR launch document published in March 2024 and the current consultation, Ofcom states that it wants to see “sustainable network competition, which ultimately will deliver benefits to consumers”. We support this focus on sustainability and consider it to be vital that Ofcom look at sector developments, and remedies, through this lens in order to maintain that.

5. Hyperoptic’s core message

We support Ofcom’s strategy. It has successfully enabled competitive network build. It has allowed us to raise finance and invest, confident that the regulatory rug will not be pulled out from under our feet. But, with the first five years of learning from the WFTMR regulatory regime, there are some adjustments that would strengthen delivery of the outcomes that Ofcom has been seeking. These stem both from (i) changes in the general economic environment; and (ii) practical experience of building networks and serving customers under the regulatory regime currently in place.

5.1 Serving new build premises

Hyperoptic is the lead Altnet focusing on serving new housing developments. A new housing development can be best described as a planned, purpose-built group of new dwellings, constructed on a defined site (often with new infrastructure (roads, utilities, landscaping), with planning approval, and meeting modern standards—regardless of whether it’s on greenfield or brownfield land. This shared set of characteristics is used in official statistics, planning, and policy documents by the government and the ONS.

These are often on the edge of towns and a substantial number of planned developments will fall long distances from exchanges or outside the viable use of PIA. We are experts in reaching new developments, and in being able to connect new owners and tenants on the day they occupy their new homes. We can arrange for routers to be pre-installed in new homes ready for those moving in to get broadband service as soon as they enter their new homes via a simple digital experience or phone call. As a result of the fantastic consumer experience we have pioneered, we have built up excellent relationships with developers. This is a smooth journey for all involved.

5.1.1 Current Regulatory Framework and Limitations

Competitive infrastructure roll out has generally been focused on the traditional model of building and connecting to homes in relatively densely populated areas. This form of build has been served well by the existing suite of regulatory products supplied by Openreach, primarily focused on PIA as a remedy. In WFTMR, Ofcom interpreted the network access obligations in the LL Access markets not to require Openreach to provide active leased line circuits or dark fibre access circuits where they would be used to aggregate FTTP to multiple premises for the purposes of deploying a fibre access network given the availability of PIA to serve those premises. Instead, PIA was assumed to be sufficient. However, experience has shown that this failed to accommodate the unique requirements of new housing developments.

The connecting of new housing developments may have previously been viewed as a small element of network build or a niche segment. However, the new government are targeting 1.5m new homes to be built over the next five years² as part of its overall strategy for stimulating growth. This underscores the strategic importance of this segment. It is vital that the correct regulatory building blocks are in place to support this national growth objective, including across telecoms. This is a requirement across the new housing developments specifically and is particularly acute where a substantial number of planned developments will fall long distances from exchanges or outside the viable use of PIA.

² <https://www.gov.uk/government/news/planning-overhaul-to-reach-15-million-new-homes>



As we will set out below, PIA was not designed for the specific purpose of building fibre networks to new housing developments, nor do the economics of PIA lend themselves to this specific use case.

5.1.2 Challenges with Current Solutions

As a result of the regulated remedies not supporting network roll-out to new build housing developments, Hyperoptic has instead had to [REDACTED – Commercially Sensitive]. While this has allowed Hyperoptic to roll-out to a number of new housing developments, working in partnership with developers, it has a number of shortcomings:

- The pricing for [REDACTED – Commercially Sensitive] is unregulated and could therefore be above the price that would be in force if it was under Ofcom determined charge controls.
- As a result, while it has allowed build to a number of new housing developments, it is possible that a number of business cases for roll out to particular developments have not yielded a positive decision to build, and would have done so had a more appropriate cost-based regulated product been available. The result of this is that these premises will receive service via an Openreach monopoly whereas, on an efficient cost-based assessment, they should be receiving competitive service from Openreach and Hyperoptic (or another Altnet).
- [REDACTED – Commercially Sensitive] We are of the view that such an arbitrary difference in charges, not based on any cost drivers or objective justification, would not be permissible for a product that was constrained by regulatory charge controls. This charge has since morphed into a stand-alone product, which has additional implications.
- Because [REDACTED – Commercially Sensitive] are not part of Ofcom’s charge controls, Openreach is free to raise these charges unilaterally (including the magnitude of the [REDACTED – Commercially Sensitive] charge) at any point in the future. This creates uncertainty and a risk to the Hyperoptic business case for connecting to new housing estates, with a consequence that some business cases that should offer a positive expected return will be thrown into negative expected return and therefore will not proceed. This will have a chilling effect on further investment in new alternative infrastructure build to new housing developments, which will result in more new homes only being able to receive service from Openreach resellers, rather than receiving the benefits of infrastructure competition. [REDACTED – Commercially Sensitive]
- As a dominant provider with SMP, Openreach has the incentive and capability to use pricing as a way of leveraging its existing market position to expand its dominance into the new housing development sector.

Without the commercially viable model that Hyperoptic has successfully developed, we could face any of the following:

- Openreach-only provision to new build premises, with a loss of the benefits of infrastructure competition.
- Hyperoptic and others would either have to desist from serving these new housing developments and potentially withdraw from current ones, or would only serve them as Openreach resellers – a very poor second best to the prize of full competing infrastructure choice all the way to the home.
- Where Altnet rollout for new build premises is no longer commercially viable, and where the threat of competition was previously a primary driver for Openreach to also invest, Openreach might hold off from serving these segments and instead wait for the prospect of public subsidy via the BDUK process.
- Customers could lose the benefit of the sleek processes developed by Hyperoptic as an innovative fully integrated infrastructure challenger. The process whereby the consumer can move into their new build



home and get gigabit broadband activated on the same day³ is not currently replicable by ISPs competing via the Openreach network⁴.

5.1.3 Market failure in the context new housing developments

Our analysis about the use of PIA to build to new housing developments shows two distinct issues, which when taken together, result in the non-viability of PIA for this use case.

1. For those parts of our roll out where we do not have existing network, but Openreach does, the PIA product as currently configured does not allow us to reach the new housing developments. Using PIA for backhaul for “traditional” Altnet build (i.e. to large clusters of existing homes) will cost-in because (a) the cost is spread across a large number of connections and (b) some Altnets can breakout from the backhaul link to serve homes on route.
 - Neither of these applies to the commercial model for serving new build housing developments, which typically targets clusters with less properties which are not necessarily located close to other viable locations. The distribution of the network means that it is inefficient to build a dedicated network for 1 or 2 circuits. [REDACTED – Commercially Sensitive]
 - Please see [REDACTED – Commercially Sensitive], and the consequential impact on business cases when building to new housing developments.

PIA is not fit for this use case. We therefore believe that what is required is a dedicated regulated product, cost-based and designed specifically for this critical and growing use case.

2. For those parts of our network build where there is no network infrastructure from Openreach, we have difficulty in getting timely and cost effective build from Openreach for segments where it is known that they will build (i.e. where they are committed to connecting to the same new build estates that we wish to serve), but where they have not yet built out and declared the new infrastructure “ready for service”. This includes both the leg connecting current Openreach infrastructure into the new development as well as the infrastructure within the development itself.

As a result of the unviability of PIA due to the reasons set out above, we use EADs to connect to the new build development to facilitate backhaul (including network in advance to allow pre-order), and PIA within the new build development itself, for the final leg of the connection into the premise. However, we cannot pre-order for PIA and without certainty over when the new infrastructure will become subject to PIA, risk connections not being ready for when the new homeowner or tenant moves in – a vital part of our offering and a crucial requirement for the customer. In the TAR consultation, Ofcom refer to monitoring for undue discrimination if Openreach or BT’s downstream divisions get earlier access than rivals, but this is reactive rather than preventative and also does not address the issue of unnecessary delays affecting acceptance of infrastructure. There is no clear enforcement mechanism or timeline guarantee, so delays could persist with little recourse for alternative providers.

We are also concerned that, where we are required to pay all of the cost of new civils for what is considered to be new Openreach infrastructure (the leg connecting current Openreach infrastructure into

³ Barret Homes advice to new homeowners flags that there is an inability to get phone and broadband services working in time for moving in, and that this is a UK wide issue - <https://www.barratthomes.co.uk/help--support/home-maintenance--snagging/settling-into-your-new-home/>

⁴ The most recent research from USwitch states that 1 million movers were offline for 8 days - <https://www.uswitch.com/broadband/guides/broadband-moving-house/>



the new development), we are essentially paying the cost of a network that will be used by two parties (ourselves and Openreach), and where some form of cost sharing would be more appropriate and pro-competitive.

We believe tweaks to the current PIA product would allow Altnets to reach new build properties using the correct cost-based inputs, with some form of delivery timing guarantees, and with appropriate cost recovery shared fairly between beneficiaries of Openreach new build.

5.1.4 Impact of Inadequate Regulatory remedy

As set out above, [REDACTED – Commercially Sensitive] If [REDACTED – Commercially Sensitive] remains outside the scope of network access obligations placed on Openreach in the LL Access market, or [REDACTED – Commercially Sensitive] light regulation results in significant changes to the product or charges, there is a real risk that the [REDACTED – Commercially Sensitive] pricing becomes too high.

This would result from the fact that we, as well as other potential providers, would be unable to compete and to effectively offer consumers services based on a sustainable network competition model. As a result, millions of homes could be left without a viable and sustainable infrastructure competitor which is the basis for sunk cost and thus pricing competition. It is our strongly held belief that this would detrimentally impact consumer choice and price as well as product innovation.

In contrast, robust network choice delivers substantial and enduring benefits to consumers by fostering competition among broadband providers. When multiple networks are present, providers are incentivised to invest in advanced, high-quality infrastructure, leading to faster speeds, greater reliability, and ongoing service improvements. Consumers benefit from a broader selection of service packages and more tailored options, while competitive pressures help to lower prices and maintain high standards of quality. As gigabit-capable networks expand, consumers also gain future-proofed connectivity that adapts to evolving demands. Ultimately, strong network choice reduces the need for intensive regulation by enabling market forces to drive innovation, value, and long-term satisfaction for consumers. It also offers consumer the ability to have two networks running into their home where they decide to have a backup solution due to a network outage and need a resilient solution due to working from home or health needs.

In Volume 3 of the consultation, Ofcom set out the view that Openreach should not be required to provide aggregation circuits. Our understanding is this view is primarily driven by the objective of promoting investment in competing fibre access networks. The view is that competitors should build their own full access networks, ideally using PIA or self-build, rather than relying on Openreach's network for key aggregation links. Ofcom explicitly site the objective of promoting network competition as far up the value chain as possible. A significant concern highlighted is the risk that mandating access could allow Altnets to 'cherry pick' attractive premises within an area, thereby undermining existing or planned network build by competitors utilising PIA or self-build. Ofcom further set out a concern that even in instances where regulated aggregation circuits could enable competitive provision in the Wholesale Local Access ("WLA") market that would not otherwise arise, it is not possible to target just these areas and avoid their concerns. Ofcom propose to continue to interpret the network access obligations in the WLA and Leased Line Access ("LLA") markets as not requiring Openreach to provide active leased line circuits or Dark Fibre Access ("DFA") circuits where they would be used to aggregate FTTP to multiple premises for the purposes of deploying a fibre access network, stating that in these cases, downstream remedies allow telecoms providers to purchase wholesale products from Openreach to compete in the retail broadband market.



5.1.5 Proposed targeted remedy

In the remainder of this section, we address the concerns that Ofcom have set out and propose a targeted regulated remedy, targeted at new housing developments only that addresses the market failure in respect of provision of backhaul to new build development sites.

Premises within a new build development may be considered "attractive" or "easy" to connect locally once an Altnet is on site, however, the challenge and significant cost lie in establishing the aggregation link back to the wider network, particularly in new build scenarios where this requires a new, potentially lengthy, PIA build or self-dig specifically for this purpose. In such a context, denying access to a regulated aggregation circuit (LLA or DFA) does not prevent "cherry picking" of easy sites in the sense of Altnets taking the most economic sites and avoiding the rest. Rather, it risks preventing Altnets from economically serving these specific, potentially high-cost-to-serve for aggregation areas altogether. Denying access to a regulated alternative means that the Altnet may be unable to compete via a fibre network build in that specific location, despite having the capability and desire to deploy fibre within the site itself. Serving such a development via a regulated aggregation circuit isn't about selecting easy sites, it is enabling competition in a specific, potentially hard-to-aggregate site where a full self-build or PIA (including the backhaul) is not economically viable for the Altnet. By denying regulated aggregation access for these "specific sites," Ofcom's policy risks inadvertently protecting Openreach's position in these niche, potentially high-cost-to-aggregate areas.

Ofcom point to downstream remedies that allow telecoms providers to purchase wholesale products from Openreach to compete in the retail broadband market. This outcome moves competition down the value chain, which is inconsistent with Ofcom's stated objective of promoting competition *as far up the value chain as possible*⁵. While downstream competition is preferable to having none at all, it should not be seen as a satisfactory outcome when upstream infrastructure competition is potentially viable — even in a limited hybrid model combining Altnet local networks with Openreach backhaul. This would enable a degree of infrastructure-based competition at the access level, which is a significantly more pro-competitive outcome than forcing reliance solely on WLA. This approach would be more consistent with the overall regulatory strategy of promoting network competition and as Ofcom note in their consultation, "the network competition we are seeking to promote should bring longer term benefits from innovation, choice, and stronger incentives to price keenly to attract customers and to further improve quality of service"⁶.

We also believe that it would be very straightforward to focus a remedy designed to address the unique conditions in new housing developments whilst at the same time not undermining existing or planned build by Altnets that are deploying their own access network using PIA (or self-build). Each new housing development is allocated a specific reference by Openreach identifying it as a new housing development⁷, after they have gone through their internal process for determining a new housing development, including a bespoke page for registering a new housing development⁸. Limiting the use of the remedy to sites with such a reference, precludes use of the remedy

⁵ Emphasis added.

⁶ Page 3, <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-telecoms-access-review-2026-31/main-documents/volume-1-overview-summary-and-structure.pdf?v=392944>

⁷ As we understand it, Openreach use the following process and sources to identify a new housing development

Source	Role
Developer submissions	Primary method – required to trigger site provisioning
Planning data	Secondary verification and intelligence gathering
Government & housing bodies	Partnerships for large-scale project visibility
GIS & postcode systems	Used for technical deployment planning

⁸ <https://www.openreach.com/building-developers-and-projects/fibre-for-developers/registering-your-site>



for cherry-picking only attractive premises within an area given that it could therefore not be used as an alternative to building an access network or part thereof.

Additionally, the aggregation link, while technically part of the wider access network, is functionally distinct from the local loop build connecting individual premises, which is primarily facilitated by PIA (including within the new build development). Enabling regulated access to the aggregation link in genuinely uneconomic backhaul scenarios does not remove the economic incentive or requirement for Altnets to build the local access network to homes and businesses using PIA. [REDACTED – Commercially Sensitive]

However, experience has shown that neither of these options are viable alternatives when it comes to new housing developments. [REDACTED – Commercially Sensitive]

Furthermore, Ofcom is proposing to extend the availability of Dark Fibre for Inter-Exchange Connectivity (DFX) at BT Only and BT+1 exchanges, explicitly allowing Altnets to use Openreach dark fibre for backhaul between exchanges. This is also a form of using Openreach fibre for "other parts of the access network". We believe that regulating aggregation links in highly specific, high-cost scenarios aligns closely with the rationale behind regulating DFX in areas where alternative backhaul infrastructure is unlikely to emerge, than it does with undermining local loop build via PIA. The goal is efficient infrastructure-based competition wherever appropriate.

Ofcom's previous decision in WFTMR and the provisional decision in the current consultation was based on the view that PIA could be utilised to provide network level competition in all situations. It did not adequately foresee the specific challenge of uneconomic backhaul distances to new housing development premises that has been demonstrated by experience. Absent targeted regulation for this specific network element, no fibre infrastructure competition (beyond WLA reliance) will emerge, thereby limiting consumer choice and hindering investment in the local access network using PIA in new housing developments.

We believe enabling this targeted access would be consistent with Ofcom's core legal duty to further the interests of citizens and consumers, where appropriate by promoting competition. Ofcom have already set out that they believe that there will be more limited build during the next review period, making new housing developments the main source of additional growth in the future. Taken together with the government's targeting of 1.5m new homes to be built over the next five years as part of its overall strategy for stimulating growth it is essential that the correct regulatory building blocks are in place to support this growth agenda.

The [REDACTED – Commercially Sensitive] programme referenced above has highlighted that there can be a difference between a new housing development during deployment and in the early stages thereafter compared to an older, well established new build site. For some of the latter, competition to Openreach has emerged from other providers. This being the case, we believe that a regulated remedy would fall naturally into the regulatory cycle. By this we mean, that where sites become competitive, they would move from being able to use such a remedy and Ofcom could then include with the general interpretation of the network access obligations in the WLA and LLA markets and not requiring Openreach to provide active leased line circuits or DFA circuits where they would be used to aggregate FTTP to multiple premises for the purposes of deploying a fibre access network. This would follow a similar approach to that outlined by Ofcom in WFTMR and TAR for allocating premises between the different Areas. It is also consistent with how Ofcom have treated leased lines more generally.

With respect to the remedy itself, ideally this would be fully cost based, however, as a baseline, [REDACTED – Commercially Sensitive] to-date have been sufficient for the purposes of new housing developments, with the only issue being that they are now deemed to be unregulated where they are used for [REDACTED – Commercially



Sensitive]. This being the case, we believe a regulated offering along similar lines is appropriate, either utilising DF or EADs.

When considering how to apply this remedy, Ofcom faces two principal options. The first is to apply the remedy retrospectively, which would involve recalculating charges or obligations for the period during which pricing regulation was absent. This approach could address any potential overcharging or market distortions that occurred during the regulatory gap, offering redress to affected parties. However, we appreciate retrospective application may introduce legal and practical complexities, including challenges related to the recovery of past charges and the potential for disputes over the calculation of appropriate adjustments.

Alternatively, Ofcom could bring [REDACTED – Commercially Sensitive] back within the scope of pricing regulation and implement a forward-looking cap on the [REDACTED – Commercially Sensitive] charge to prevent further increase. This would provide immediate clarity and predictability for market participants while avoiding the complexities and uncertainties associated with retrospective remedies. It would prevent excessive pricing and support competition in the new housing developments sector going forward. This approach aligns with Ofcom's established practice of using charge controls to manage market power.

5.2 PIA within new housing developments

In terms of the lack of regulatory remedy on infrastructure within the new development site until it is accepted as part of the Openreach estate. We believe a reasonable SLA between 2 to 5 working days from when Openreach is notified that the infrastructure has been completed, with appropriate SLGs for failure to meet the SLA would address our concerns. Rules should also be implemented to prevent installation prior to the site officially being live for all parties.

Ofcom have identified that the PIA remedy is only on existing infrastructure and therefore PIA users can only make use of new infrastructure at a new housing development once it is 'live' on the Openreach PIA system. We believe that there is ample reason to distinguish between the treatment of infrastructure within a new housing development and the general lack of obligation on Openreach to build new infrastructure. Within the context of a new housing development, Openreach will be the party ordering and building new infrastructure for its own network expansion. The infrastructure, once built, is intended to become part of the Openreach estate and support retail and wholesale services. Delays in accepting and activating infrastructure can directly impact residents and businesses moving into new premises, potentially leaving them without essential connectivity. Timely acceptance is therefore crucial for meeting the needs of end-users and supporting economic growth. The regulatory framework emphasises the importance of infrastructure deployment for economic growth and innovation. Ensuring prompt acceptance of new infrastructure that Openreach orders and builds for itself and has end-to-end control over the process, aligns with these objectives and supports Ofcom's duties under the Communications Act and the growth duty.

We believe that the approach set out in paragraph 5.66 of volume 3 is inadequate to address the above concerns as this approach relies on monitoring whether access is granted in line with no undue discrimination (NUD) after Openreach builds the infrastructure. This means that the harms outlined above will have occurred before any ex-post intervention can remedy the situation.

We set out more general comments on PIA, unrelated to new housing developments lower down in this response.



5.3 Exchange Closure

We recognise that Openreach's exchange exit program is a long-term initiative intended to drive network efficiency and ultimately benefit the industry and consumers. We are broadly supportive of the principle of network rationalisation where it contributes to a more efficient and sustainable telecommunications market. It is not however without risk to competition which could ultimately negatively impact consumers. The program is primarily designed to deliver significant cost savings for BT Group Plc through reduced rental, power, and operational expenses. Some industry experts have pointed to developments in Europe and America where other TowerCos have turned thousands of towers and exchanges into edge data centres, repurposing existing infrastructure for edge computing driven by the explosive growth in AI and data demand and have speculated that BT could be positioning to do the same.

However, the current proposals impose considerable migration costs on Communication Providers ("CP") that rely on Openreach's infrastructure—costs that would likely be passed on to consumers through higher prices or reduced service quality. BT Group's vertically integrated structure means its retail arm, BT Consumer may be able to absorb these migration costs more effectively than its competitors, giving it an unfair advantage and threatening to undermine competition in the market. This distortion could result in diminished choice and value for end-users.

As a result of the above risks, we have significant concerns regarding Ofcom's proposed approach to exchange. We believe that the current proposed approach, which appears to rely heavily on commercial negotiations supported by existing regulatory backstops, is insufficient to adequately protect competition and ensure fair outcomes for alternative providers during this critical network transition phase for the reasons set out below.

5.3.1 Over-Reliance on Commercial Negotiation in the Context of Openreach's SMP

Ofcom notes the ongoing commercial negotiations between Openreach and telecoms providers regarding the terms of exit in the Priority 108 exchanges. While commercial engagement is necessary and valuable for agreeing practical aspects of migration, relying primarily on this process with an operator holding SMP across relevant wholesale markets creates an inherent power imbalance. There are strong incentives on Openreach to manage the exit in a way that minimises its own costs and complexity, which may not align with the needs of Altnets who require significant network reconfiguration and customer migration. Unconstrained commercial negotiation with an SMP provider risks leading to outcomes that are not genuinely pro-competitive or fair, particularly for smaller or less established altnets.

A related concern to reliance on commercial negotiation between Openreach and its wholesale customers is that larger ISPs that resell over Openreach's network are in a stronger position to negotiate favourable terms due to their scale, and commercial leverage and that they are not in direct competition with Openreach, whereas Altnets are both customers and competitors. This dynamic risks allowing the largest ISPs to secure preferential migration arrangements or commercial terms, enabling them to compete more effectively with Altnets—whose networks and customer bases are smaller and who lack the same negotiating power. As a result, competition may increasingly favour retail providers reliant on Openreach's network, rather than supporting genuine network-based competition, which is essential for long-term innovation, resilience, and consumer choice. This pushes competition down the value chain, which is inconsistent with Ofcom's stated objective of promoting competition as far up the value chain as possible and undermines Ofcom's strategy for promoting investment in gigabit-capable networks through network competition where this is viable.

5.3.2 Significant Unmitigated Cost Burden and Operational Disruption for Altnets



Exchange exit imposes substantial, unplanned costs on Altnets. These costs arise from the need to reconfigure network backhaul (especially for those with physical fibre presence at the closing exchange), migrate customers from exchange-dependent services, and install new equipment or secure space in enduring exchanges. While Openreach's Non-Discrimination Obligations (NDOs), such as Equivalence of Inputs (EOI) and No Undue Discrimination (NUD), are intended to apply to the *process*, they do not guarantee that Openreach will bear a fair or proportionate share of the *costs* imposed on Altnets solely due to Openreach's decision to decommission its infrastructure. This cost burden can disproportionately impact infrastructure-based competitors who have invested in connecting to Openreach exchanges in good faith. The impact will differ between Altnets, partly due to how they configured their network build. The key point is that legitimate network investment and architecture decisions were made in good faith absent warning that those investment decisions would be undermined by future choices by Openreach. Had the exchange closure been signalled earlier, different decisions would have been made. This relates to the point below about the absence of critical information for future investment decisions.

Ofcom consider PIA as their primary remedy for promoting network competition and investment in WLA and LLA networks. However, although the consultation discusses PIA network adjustments and cost recovery, but the specific costs imposed on Altnets *directly due to the exchange decommissioning itself* (e.g., re-routing altnet backhaul fibre previously connecting to the closing exchange) are not explicitly addressed as requiring a specific cost-sharing framework beyond general negotiation, yet these will drive a large part of the unmitigated cost burden. Our current working assumption to carry out this activity for the 7 exchanges impacted by this phase of the Openreach exchange exit is that it would cost in the region of £6.4 million, none of which would be subject to compensation from Openreach.

5.3.3 Lack of Regulatory Clarity for the Post-2030 Exchange Exit Program

The current regulatory focus and Openreach's published plans largely concern the Priority 108 (P108) exchanges targeted for exit by 2030. However, Openreach intends to exit a significantly larger number of exchanges (c.4,500) in the 2030s. The proposals provide less definition on the regulatory framework, timelines, and expectations for this second, larger phase. Openreach has proposed formal notifications for exchanges beyond P108, but this leaves long-term uncertainty for Altnets at a crucial phase of FTTP build.

5.3.4 Potential for Discrimination and Capacity Issues in Enduring Exchanges

Although NDOs apply, practical challenges remain in ensuring equivalent treatment during migration. Concerns exist regarding the allocation of space and power in the enduring exchanges to which services are migrated. Potential capacity constraints in physical infrastructure like ducts, which may be needed for re-routing or accessing the new aggregation points, could also create practical difficulties for Altnets compared to Openreach's own network requirements. The complexity of the exit process increases the risk of practical discrimination or capacity bottlenecks.

5.3.5 Risk to the Broader Wholesale Ecosystem

The pressure on Altnets to migrate quickly from closing exchanges might inadvertently lead to them ceasing their own backhaul presence in those areas, potentially reducing the addressable market for third-party backhaul providers and impacting upstream wholesale competition. In addition to this and beyond the unmitigated cost burden, the exchange closures could have a significant impact on the competitive dynamics in the market, therefore Ofcom must consider this holistically when reviewing the potential consequences to competitive dynamics of the market as a whole.



5.3.6 Recommendations

To address these weaknesses and ensure the exchange exit program proceeds in a manner that protects and promotes competition, we urge Ofcom to adopt stronger, more prescriptive regulatory backstops and provide greater certainty. We recommend the following be incorporated into the final decisions:

- **Strengthen Regulatory Backstops for Commercial Negotiation:** While commercial negotiation is the primary mechanism, Ofcom should establish clear, binding regulatory rules that apply when negotiations fail or where competition risks are high. These should go beyond general NDOs and could take the form of a specific, fast-track dispute resolution mechanism overseen by Ofcom or the OTA2 dedicated to resolving specific issues arising from the exchange exit process that commercial negotiation fails to address.
- **Establish a Framework for Cost Responsibility:** Ofcom should take on an arbitration role to resolve disagreements around compensation amounts, or at a minimum, define principles or a framework for the equitable sharing of significant, unavoidable costs imposed on Altnets due to Openreach's exchange decommissioning. This is particularly crucial for costs associated with re-routing owned fibre infrastructure or complex customer migrations.
- **Implement Clear Rules on Capacity and Access in Enduring Exchanges:** Set clear, enforceable NDOs and potentially specific requirements regarding guaranteed access to and sufficient, timely provision of space, power, and related physical infrastructure (like tie-cables) in enduring exchanges and necessary duct routes for Altnets migrating services.
- **Define Clear, Ex Ante Criteria for Disapplying Access Obligations:** If Ofcom retains the power to consent to the disapplication of access obligations for "tail" customers, the criteria for granting such consent should be clearly defined *in the SMP conditions or associated directions*, rather than being purely discretionary case-by-case decisions. These criteria should place a clear burden on Openreach to demonstrate that all reasonable commercial and technical options for migration have been exhausted or refused by the Altnet.
- **Provide a More Defined Roadmap for Post-2030 Exchange Exits:** Ofcom, should mandate that Openreach provide greater clarity and a more concrete timeline or framework outlining the regulatory approach for the larger tranche of exchanges planned for exit post-2030. This is essential to enable Altnets to make informed, long-term investment decisions, particularly regarding backhaul infrastructure without the fear that these decisions will be undermined by subsequent exchange closures.

Ideally, exchange space should be fully regulated, given the centrality of exchanges to the UK telecoms framework. Absent the statutory underpinning for such regulation, we believe that the measures outlined above are necessary and proportionate to mitigate the risks inherent in an SMP operator undertaking such a significant network transformation. Failing to provide sufficient regulatory protection during the exchange exit process risks undermining the investment made by Altnets and reinforcing Openreach/BT's dominant position, reducing the viability of alternative networks, and ultimately limit the scope and sustainability of competition in the UK telecoms market. This would undermine Ofcom's strategic objective of promoting network-based competition.

A less competitive market will lead to higher prices, reduced service quality, and less innovation for consumers. Without effective competition, Openreach will have weaker incentives to improve services or offer better value, and the benefits of cost savings from copper retirement may not be passed on to end users. These outcomes would be inconsistent with Ofcom's statutory obligations under sections 3 and 4 of the Communications Act, which require Ofcom to further the interests of citizens and consumers, promote competition, and encourage investment and innovation.

5.4 Regulation of geographic discounts and other commercial terms

As the dominant provider of key access network inputs, Openreach has the capacity to change pricing in a way that would make it impossible for BT's rivals to compete, build, or offer service. A particular focus has been on



Openreach's Equinox and Equinox 2 pricing, whereby lower prices are made available to traditional retail providers – such as BT, Sky, TalkTalk and Vodafone – if they agree to use mainly Openreach's full-fibre products for new orders instead of its legacy copper products.

Openreach's introduction of its Equinox 2 pricing starting in April 2023 triggered the requirement for prior notification and review by Ofcom. At the time, Ofcom concluded that it should not take action on the proposed pricing as it considered that the offer did not present a material barrier to access seeker take up of alternative network operator services. Hyperoptic supported Ofcom's conclusions, as set out in our March 2023 response to Ofcom's consultation on the issue.

Although that particular set of proposals did not give rise to concern, we were concerned that there remains the possibility of Openreach price changes that could still have a significant detrimental impact on competitors, but that would not require pre-notification to Ofcom and the ability for Ofcom to scrutinise the changes before they come into effect, with the possibility of blocking the changes if Ofcom concludes that they would indeed have a damaging effect.

The focus of analysis of Equinox pricing has often been on wholesale providers of full fibre access connectivity – if Openreach pricing falls to anti-competitive levels, it can mean alternative reasonably efficient wholesale-only providers are no longer able to sell service at a price that allows them to make a reasonable return. As a fully integrated provider, we feel it is necessary that it is clear that the threat to sustainable competition does not stop there. Anti-competitive pricing by Openreach not only prevents fair and efficient competition from its wholesale competitors, it equally risks squeezing out fully integrated retail providers of full fibre services. Any Ofcom analysis of Openreach pricing must therefore take account of the likely impact on any provider that is investing in full fibre networks, regardless of whether the provider is then focused on selling to internet service providers or directly to residential and business end users.

We note in this context, that the legacy brand advantage of the incumbents, including BT, makes it particularly important for Altnets to continue to be able to challenge incumbents on the basis of a competitively priced offering. Any changes which threaten efficient Altnets from being able to sustain attractive pricing for consumers threatens our future viability and therefore our ability to invest, challenge and innovate for the ultimate benefit of consumers.

It is vital that Ofcom give comfort that it has the means and appetite to police Openreach pricing effectively to prevent charges that would price out Altnet's that are investing and operating efficiently. The mechanisms by which Ofcom would do this need to be established and communicated in advance. Without advanced assurances that practices to squeeze out infrastructure competition would be blocked before introduction, there is a risk that investors will not have the confidence to fund new build. For these risks not to have a chilling effect on investment, it needs to be clear that the conditions for market competition are fair and will remain so, with Ofcom preventing future changes that could damage the competitive marketplace for infrastructure-based full fibre service provision.

In our March 2023 response to Ofcom's Equinox 2 pricing consultation, we suggested a mechanism by which Ofcom could provide appropriate comfort to the market. We also set out that, if we are to continue on the trajectory set by the WFTMR of consumer benefit through sustainable network competition, it is vital that we do set clear and enforceable constraints to limit the risk of future Openreach pricing squeezing out competitors.



We therefore welcome Ofcom's proposed approach to the regulation of geographic discounts and other commercial terms as set out in the consultation. The proposed changes represent a necessary and proportionate evolution of the regulatory framework established in the WFTMR. By expanding the scope of prohibited geographic discrimination and increasing the transparency and review period for conditional terms, Ofcom is taking concrete steps to ensure that Openreach's SMP is constrained and that the market remains conducive to the significant investments being made by Altnets in building competing networks. This will ultimately serve the long-term interests of end-users through greater choice, innovation, and competitive pricing.

5.5 Copper Retirement

Hyperoptic are supportive of the approach that Ofcom are proposing in the consultation. We believe that the approach is consistent with Ofcom's objective to promote competition as far up the value chain as possible. The regulatory environment, including the visibility provided by the transition framework (notifications, thresholds etc), provides the regulatory stability that supports long-term investment decisions by all operators, including Altnets. The framework is consistent with the approach and pro-investment signals set in WFTMR. The Second Threshold provides a clear signal for ISPs and end-users to migrate to FTTP (including an Altnets). This measured step helps to set clear expectations that migration will be necessary, and such a signal can be beneficial for all providers as it can stimulate migration to their networks, thereby increasing take-up on competing networks.

Part of the rationale for copper retirement and for the proposed approach by Ofcom, is to facilitate the decommissioning of Openreach's copper-based network and thereby avoiding the costly running of two parallel networks. We would expect such savings to be fed back into the relevant pricing remedies in due course but point to the asymmetry of information that preclude offering any detailed proposals.

Ofcom have noted, it is essential that consumers, particularly vulnerable ones are protected through this period. Although Ofcom have invited stakeholder views on how best to deal with situations where there is a barrier to these customers migrating and the Second Threshold Notice has been issues, we believe that Ofcom need to take a more proactive approach, to ensure that vulnerable customers are adequately protected. Lastly, there have been isolated instances of misinformation or scaremongering reported. Information presented by the regulator can go a long way towards countering such misinformation, however, we believe that it would be beneficial for greater promotion by the Ofcom of their dedicated pages relating to the move to digital technology. Simple and unbiased information is key to helping some consumers understand what is taking place and not being misled as well as the fact that they have various options beyond being upgrading directly onto an Openreach service. Currently it is currently not so easily discoverable by the average consumer.

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We are also of the view that this change is not required, with alternative options available that would be pro-competitive and would still have the effect of facilitating access. We believe that the impacts of such changes on the competitive dynamic are potentially so significant that Ofcom should consider these impacts as part of the TAR.

5.6 PIA in-life

The usability of the PIA product has improved significantly since its creation in 2011, however, industry-led discussion and negotiation alone cannot fully address the detailed implementation challenges of PIA. The OTA facilitates invaluable industry discussions, but it lacks formal powers to resolve deadlocks or discourage



intransigence, such as Openreach's attempt to impose "compensation" charges for unauthorised use beyond cost-recovery. Consequently, the industry is reliant on Ofcom to continuously monitor Openreach's delivery of PIA and take necessary regulatory action, including enforcement where necessary, to ensure the product remains viable and effective long-term. We urge Ofcom to reconsider its proposed approach to PIA regulation within the TAR and address the ongoing challenges CPs face in using PIA in order to more effectively promote competition.

5.6.1 Openreach's 'No Undue Discrimination' ("NUD") Obligation

Ofcom proposes to maintain Openreach's existing NUD obligation and not introduce a full Equivalence of Inputs (EOI) obligation, citing disproportionality due to potential "re-engineering" and organisational restructuring within Openreach, along with associated disruption and cost. This mirrors the position taken during the WFTMR.

Notwithstanding a preference for a full EOI obligation, we support Ofcom's proposal to require EOI for "new or upgraded services, systems and processes" for PIA supply. To-date, real-world experience does not align with the aspiration of EOI for new and upgraded services. On numerous occasions, the needs of PIA users have been relegated to an 'afterthought' during Openreach's development of new systems or apps, with timely consultation simply not occurring. This has deprived CPs of meaningful opportunities to contribute to service, system, and process development, potentially giving Openreach an operational advantage detrimental to competition. Openreach's lack of consultation with its customers should not be permitted, as it wastes an excellent opportunity for PIA CPs' requirements to be properly understood and incorporated into new systems and processes efficiently from the outset.

Examples stemming from the current approach are evident in the introduction of the "Tungsten" finance system and the launch of apps used by network engineers to report and monitor safety defects. For the apps, Openreach was initially reluctant to provide equivalent access to CPs, and the issue was ultimately resolved through the time-consuming SOR process, and even then, not for every app accessible to Openreach engineers. We are encouraged that the proposed EOI obligation for new or upgraded services, systems, and processes will address these concerns. To ensure this, we encourage Ofcom to actively monitor Openreach's compliance and provide as much clarity and detail as possible in the TAR on how this obligation will operate in practice.

We also encourage Ofcom to consider practical steps to ensure that industry's needs and views are properly heard and considered by Openreach from the outset. One option, suggested by UKCTA, which we support, could be to formally require the creation of a new CP-industry sub-group. Through this group, Openreach would be required to signal at the earliest opportunity when new processes, systems, or apps are being designed or have become available from other products, allowing for meaningful discussion and incorporation of industry's needs. This could potentially be achieved through existing groups like the PIA Executive Steering Group or the monthly Passives Product and Commercial Group. The key is a formal regulatory requirement for Openreach to engage with the industry on such topics.

Many of the concerns surrounding the introduction of an EOI obligation have now diminished. Openreach's working practices are not so entrenched as to make changes inviolably expensive, and continued operation of two different systems for itself and the rest of the industry is inefficient and leads to higher costs for consumers. If over 150 CPs can effectively use the product, there is no justifiable reason why Openreach cannot. We also understand from the OTA2 that a trial conducted by Openreach in the Plymouth area last year demonstrated Openreach's ability to consume PIA effectively without significant business disruption. Therefore, as a regulatory backstop, we believe that failure to meet this requirement could result in the imposition of full EOI.

This would significantly enhance governance and accountability, thereby better ensuring operational equivalence.



5.6.2 PIA Legal Instrument

The need for greater clarity in the PIA legal instrument has become more evident due to negotiations between Openreach and the industry regarding changes to the PIA 'unauthorised use' regime. During these discussions, Openreach expressed the view that it is entitled to receive financial compensation from CPs for unauthorised use of PIA, not only to recover lost revenue and associated costs, but also to reflect its "legitimate commercial interest" in ensuring CPs report unauthorised use promptly. This additional "legitimate commercial interest" element clearly goes beyond a cost-orientated approach and into a penalty concept. We understand Openreach believes this additional component is justified as an 'incentive' for certain behaviour by CPs and that it believes this does not constitute a regulated charge or other payment within the scope of the PIA legal instrument (i.e., the instrument is 'silent' on the issue), therefore allowing Openreach to claim an additional amount.

Negotiations on a revised unauthorised use regime are nearing conclusion, with this specific point largely set aside. Throughout these negotiations, us and other CPs have consistently made it clear to Openreach that we do not agree with its interpretation of its right to impose non-cost-orientated charges. Such a view is based on the fact that the PIA remedy imposed by Ofcom is cost-based, as are the required Service Level Guarantees ("SLGs"). Openreach itself has frequently emphasised the cost-based nature of SLGs in negotiations, using this as the rationale for why SLGs payable to the industry for poor Openreach performance regarding network adjustment orders should reflect rental charges rather than the true cost to a CP.

The PIA remedy applies a special set of rules to achieve a competitive outcome that standard commercial legal principles could not deliver. This being the case, the PIA remedy should not permit Openreach to introduce contract terms, pricing, or any other type of fee or charge on CPs that go beyond cost recovery principles. Should such a requirement be needed, only Ofcom should possess the power to impose one. Openreach disagrees with the industry view, and it is clear there will be no likely meeting of minds on this point in the near future, despite negotiations on a revised unauthorised use regime being close to conclusion.

We remain particularly concerned that Openreach's position, if allowed to stand, potentially setting a dangerous precedent for Openreach's future dealings with the industry, extending beyond PIA to its entire product portfolio. The OTA is not empowered to resolve such an impasse. Therefore, we request that Ofcom proactively engage and clarify this matter in the TAR to remove any ambiguity and provide regulatory certainty for stakeholders. Ideally, such clarification would be provided in the PIA legal instrument to ensure the highest levels of transparency and certainty for all parties involved. Without such clarity and proactive engagement from Ofcom, the only recourse available to CPs would be to raise a dispute, which would be expensive and time-consuming and not in the best interests of all parties.

5.6.3 Regulatory Oversight of PIA

Ofcom has proposed to maintain its current PIA compliance monitoring, including Openreach's Internal Reference Offer (IRO). While the IRO highlights differences in how Openreach and PIA users access infrastructure, it lacks the detail needed to judge whether these differences give Openreach an undue advantage or ensure compliance with "no undue discrimination" (NUD) and equivalence of inputs (EOI) obligations. Ofcom's approach—relying on the IRO and the Openreach Monitoring Unit (OMU)—remains insufficient for ensuring transparency and accountability.

The IRO's shortcomings—such as not explaining why differences exist and insufficient clarity about acceptable practices—leave PIA users unable to confidently assess Openreach's compliance. Information asymmetry persists, allowing Openreach to maintain incremental advantages, consciously or otherwise, which helps preserve its dominance in the fixed network market – at a time when Ofcom considers the network competition build phase to be ending. We urge Ofcom to explore solutions beyond the IRO, such as proactive monitoring of Openreach's



infrastructure use and requiring Openreach to justify its NUD compliance. Ofcom's current proposal—to rely on its ability to request compliance demonstrations—does not go far enough.

Enhanced Ofcom involvement and regulatory oversight could accelerate PIA remedy development. The current framework is slow and bureaucratic, with little evidence that Ofcom is fully aware of or addressing issues that hinder PIA users. Another example is the apparent lack of scrutiny by Ofcom of Openreach's plans for copper cable recovery (distinct from copper cable retirement). This is critical to generating additional PIA capacity and delivering efficiencies that support the long-term viability of PIA. Despite these anticipated benefits, there has been very limited copper recovery during the current charge control period. Openreach has, in practice, widely opted to retire copper rather than recover it. This presents a fundamental issue in respect of PIA charges, as Openreach were permitted to increase charges in the last review, on the understanding that users of PIA would occupy a greater proportion of physical infrastructure space in ducts once copper had been removed. This argument was clearly without merit, and we believe the permitted PIA charges should be lowered accordingly. Ofcom must monitor these plans more closely to ensure they lead to tangible outcomes for the benefit of PIA users and, ultimately, consumers. To deliver meaningful efficiencies, such plans should include, for example: clear and measurable targets for copper removal, transparent reporting of copper recovery activity, prioritisation of recovery in areas where duct capacity is most constrained, and alignment of recovery activity with fibre rollout plans to maximise efficiency.

To foster greater industry confidence, Ofcom should adopt a more proactive and transparent approach to monitoring Openreach, clearly communicating both the scope and methodology of its oversight activities. This could be achieved through increased Ofcom participation in industry forums and the provision of explicit, accessible guidance regarding monitoring procedures.

6. Beyond 2031

The consultation provides insight into how Ofcom expects to approach regulation and future decisions beyond the 2026-31 review period. This forward-looking perspective is necessary because investments made by network operators in gigabit-capable networks have long payback periods, and material competition takes time to develop and become sustainable. Whilst Ofcom cannot bind future decisions and state that they will depend on the specific market circumstances that exist when they conduct their next reviews, Ofcom set out an expectation that by 2031, the regulatory strategy will have provided a ten-year window for network rollout and the development of competition. Ofcom expects competition from new providers to continue to develop and is aiming for a path to even greater deregulation in the future where competition can permanently replace regulation.

From the perspective of an Altnet making long-term capital commitments in direct competition with Openreach, the principles outlined in the consultation provide an understanding into Ofcom's expected approach and the potential treatment of BT Group Plc under future regulation which is consistent with what has been previously stated. Enhanced clarity in specific areas would significantly improve certainty and further support the stated objective of promoting investment and sustainable network competition.

Greater clarity over specific conditions, metrics, or thresholds (e.g., market share levels, take-up rates, number and scale of viable competitors in a given area, level of investment by Altnets) would constitute "sustainable" or "effective" competition sufficient to reduce or remove regulation in currently regulated areas. The closest proxy available is the approach taken by Ofcom in the LLA market to the Central London Area ("CLA") and High Network Reach ("HNR"). Disappointingly, there has not been research into the CLA that would inform whether the criteria applied in order to find it competitive have actually achieved demonstrable constraint on Openreach. Such a view would naturally feed into initial thoughts into when it would be appropriate to begin to deregulate. Altnets are



making long-term capital commitments and would welcome a view as to under what observable future conditions the regulatory safety net might be withdrawn. It is understandable that Ofcom wants to avoid predetermining outcomes to influence competition, a clearer indication of the types of market indicators they would assess could be beneficial. Avoiding rigid timelines for deregulation is understandable to prevent influencing market outcomes, providing possible scenarios tied to observable market evolution could offer more clarity without predetermining outcomes.

7. Conclusion

We remain committed to delivering ultra-fast, reliable full fibre broadband to UK homes and businesses and proactively supporting infrastructure integration in new housing developments, thereby advancing government growth targets and promoting sustainable network competition. We strongly support Ofcom's strategic goals and focus on sustainable network competition, which ultimately benefits consumers.

The current regulatory framework, while successful in fostering competitive network build and investment, requires targeted adjustments to address evolving market dynamics and ensure sustained competition. Our targeted response has highlighted critical areas where recalibration is essential to further strengthen Ofcom's objectives and support the government's growth agenda.

Our targeted response highlights key areas where adjustments to the current regulatory regime are necessary to strengthen the delivery of Ofcom's objectives and support the government's growth agenda. Based on our practical experience of building networks and serving customers, particularly as the leading Altnet full fibre ISP focusing on new housing developments, we have identified specific challenges.

- Firstly, the current regulatory framework, particularly PIA, has limitations in supporting full fibre deployment to new housing developments due to i[REDACTED – Commercially Sensitive] and risk deterring investment in this critical growth segment.

We therefore propose a targeted, regulated product specifically designed for this use case, alongside clear SLAs for infrastructure acceptance within new developments, to enable continued competition and deliver superior consumer outcomes in new housing developments, including connectivity on day one.

- Secondly, while broadly supportive of the principle of network rationalisation through Openreach's exchange exit program, we have significant concerns regarding the proposed reliance on commercial negotiations, given Openreach's SMP. This approach risks imposing significant, unmitigated cost burdens and operational disruption on Altnets, potentially favouring larger players and pushing competition down the value chain, contrary to Ofcom's objectives. This risks undermining Altnet investment and reinforcing Openreach/BT's dominant position, ultimately leading to higher prices, reduced service quality, and less innovation for consumers.

We recommend stronger, more prescriptive regulatory backstops, a framework for equitable cost responsibility (especially for re-routing owned fibre), clear rules on capacity and access in enduring exchanges, and a more defined roadmap for post-2030 exchange exits to protect competition and ensure fair outcomes.

- Thirdly, we welcome Ofcom's proposed approach to regulating geographic discounts and other commercial terms. This is a necessary evolution to prevent anti-competitive pricing by Openreach that could stifle investment and competition from both wholesale and fully integrated retail providers like ourselves. Clear and enforceable constraints are vital to provide investors with the confidence that market conditions will remain fair.



- Fourthly, we urge Ofcom to reassess its proposed PIA regulation within the TAR and ensure genuine Equivalence of Inputs (EOI) for new Openreach services, as current practices often relegate PIA needs to an "afterthought," hindering timely consultation and fair competition; furthermore, Ofcom must provide regulatory certainty by clarifying the PIA legal instrument to prevent Openreach from imposing non-cost-oriented charges and enhance its oversight by actively monitoring Openreach's infrastructure use and requiring justifications for operational differences, ensuring faster, more effective PIA utilisation, especially concerning copper recovery plans.
- Finally, we welcome Ofcom's forward-looking perspective beyond 2031. In order to provide greater certainty for long-term capital commitments, we seek enhanced clarity on the specific conditions, metrics, or thresholds that would signify "sustainable" or "effective" competition, signalling a path to greater deregulation.

By implementing the proposed adjustments, Ofcom can further solidify a regulatory environment that fosters sustainable investment and robust competition. Failure to address these issues risks undermining the successes achieved thus far under the WFTMR framework, deterring further investment in competing infrastructure, and negatively impacting consumers through reduced choice, higher prices, reduced service quality, and less innovation. Ensuring these adjustments are made is essential to the delivery of superior outcomes for UK consumers and businesses and is consistent with Ofcom's statutory obligations to further the interests of citizens and consumers and promote competition.