



Ofcom's Telecoms Access Review consultation

Further submission on Ofcom's assessment of the Wholesale Local Access (WLA) market and its proposed approach to regulation of Openreach

17 October 2025

This additional response to Ofcom's TAR Consultation relates to Ofcom's WLA market assessment.

In Part 1, we provide material supplemental evidence to that contained within our initial June 2025 submission. It demonstrates further and ongoing strengthening of competition in the supply of WLA services and confirms the extent to which competitive conditions vary significantly in different geographic areas. Specifically, we provide:

- Latest data on the extent of competitor network build relevant to identifying areas where there are at least two existing rivals to Openreach.
- Latest data showing further increases in take-up of FTTP on these rival networks relevant to considering trends in Openreach's WLA market shares.
- Detail on the volume of WLA lines that Sky has moved from Openreach to CityFibre since July 2025 when it began multi-sourcing under its new wholesale contract.
- Updated assessment on the extent to which other downstream retail CPs are expanding their use of altnets in multi-sourcing their supply of FTTP broadband lines.
- Analysis of differences in retail pricing in areas where rival FTTP broadband services are available.

In Part 2, we expand on why Ofcom's proposed approach to defining geographic markets – the start point for assessing market power and considering remedies – would be inconsistent with the applicable legal framework.

The additional evidence, analysis and argumentation provided in this additional response confirms that Ofcom cannot sustain its proposed finding in the March TAR Consultation that: (i) there is a single WLA Area 2 market covering 90% of the country across which Ofcom identifies the *potential* for material and sustainable competition; but (ii) there are no postcode sectors within this WLA Area 2 in which "*competition is or will become sufficiently distinct from other postcode sectors...*"¹ such that Ofcom could define a separate geographic market.

In reaching its provisional conclusions, Ofcom has not taken sufficient account of the broad range of evidence showing clear variations in competitive conditions between areas within the proposed WLA Area 2 and has not conducted a proper forward-looking assessment of those conditions. This results in a misdiagnosis of "competition concerns" within the wide WLA Area 2 that could exist in the five-year TAR period to 2031. Competition is much more advanced and is strengthening at a much faster pace in large parts of the proposed Area 2 than Ofcom recognises.

Ofcom's failure to recognise this leads it to propose a rigid approach to regulation that risks providing protection to altnets from fair and efficient competition on the merits

¹ TAR Consultation, Volume 2, paragraph 4.108.

throughout the TAR period. This would result in inefficient market outcomes, threaten future investment decisions and slow the migration of UK end customers to FTTP network connections, to the detriment of consumers. Proposing such a rigid approach over a period where competition will strengthen further is inconsistent with regulatory best practice among international peers where more frequent reviews allow regulation to adapt to evolving competitive conditions.

We therefore believe that Ofcom must reconsult on a revised set of proposals that reflect an up-to-date and complete assessment of market evidence. It is for Ofcom to design a proportionate approach in light of the stated, legitimate objectives of the TAR. Our position remains as set out in our June submission: Ofcom should, based on the clear evidence on differing competitive conditions, segment the proposed WLA Area 2, defining a distinct geographic market covering any postcode sectors where at least two rival networks to Openreach are present or any areas where VMO2 is present. Ofcom should then appropriately assess SMP and impose proportionate remedies in this revised set of segmented geographic markets. Given the fast pace of change in the market, Ofcom should keep the definition of sub-national markets and proposed remedies under periodic review over the next five years.

This more granular approach to assessing the WLA market will prevent damaging and disproportionate over-regulation.

Introduction

1. Openreach submitted its response to Ofcom's Telecoms Access Review (TAR) consultation documents (published in March 2025) on 12 June 2025.²
2. In that Response, among other things, we set out our significant concerns with Ofcom's proposals to regulate Openreach's supply of Wholesale Local Access (WLA) services in the five-year period of the TAR from April 2026 to March 2031. In particular, we provided evidence that shows there are materially different competitive conditions in different areas within Ofcom's proposed WLA Area 2, challenging Ofcom's provisional position that conditions in 90% of the UK are 'sufficiently homogeneous' that they constitute a single geographic market.
3. We explained that Ofcom's proposed approach to regulating WLA both fails to reflect observable competitive dynamics in the market today and fails take a sufficiently forward-looking view of how those dynamics will foreseeably evolve over the TAR Period,³ leading it into error.
4. Our Response, supported by an expert report from NERA, presented evidence and analysis in support of Ofcom adopting a more objectively justifiable and proportionate approach that would better achieve its stated objectives:
 - Segment the proposed Area 2 to define separate geographic markets for areas with at least two rival networks to Openreach and any areas where VMO2 is present on the basis of clear evidence of the variance in competitive conditions in those areas and other remaining parts of the proposed Area 2.
 - Assess SMP on a forward-looking basis within each of those areas, taking account of a wide range of factors in each of those segmented markets.
 - Where SMP is appropriately found, identify the nature of specific competition concerns faced in each geographic area for the period of the TAR in order to set proportionate and flexible remedies that allow competition on the merits.
 - Establish a framework which allows for annual reviews on geographic market boundaries, SMP and remedies based on the latest market data and developments.
5. In our Response, we provided the following evidence, which Ofcom must take into account for a proper assessment of competitive conditions in the supply of WLA services and to conduct a complete forward-looking assessment when defining the geographic market:

² Referred to in this document as the "Response". This further submission is referred to as the "Additional Response".

³ We refer to the period from April 2026 to March 2031 as the "TAR Period".

- The expansion of competitive full-fibre networks since 2021.⁴
 - Diversity in the range of competitors present in different parts of Ofcom's proposed WLA Area 2 and the extent to which retail CPs had signed wholesale deals with altnets and were multi-sourcing their supply of FTTP broadband lines.⁵
 - The impact of competitive presence on Openreach in terms of line losses.⁶
 - Changes in market shares in areas where different competitors are present.⁷
6. Part 1 of this Additional Response provides material updates on this and other market data since our Response together with other relevant information in relation to material industry developments. This further evidence is relevant to Ofcom's assessment of competition in different geographic areas and its final decisions on WLA regulation in the TAR. The evidence also more generally reinforces the fast-paced nature of market developments and highlights the need for Ofcom to conduct a forward-looking assessment based on identified trends and likely future market outcomes. It therefore also supports our proposal that Ofcom should put in place mechanisms that will allow it to adopt a flexible and dynamic approach to regulation through the TAR Period so that its regulatory approach adapts as competition evolves.
7. A more detailed outline of the legal framework within which Ofcom must conduct its assessment to define geographic markets, assess SMP and consider what regulatory remedies to apply is contained in Part 2 of this Additional Response. In summary, we set out our concern that, when defining geographic markets in the TAR Consultation, Ofcom has:
- Not considered the full variety of evidence to assess differences in competitive conditions in defining geographic areas
 - Incorrectly confused its approach to geographic market definition and its assessment of SMP; and
 - Failed to take a suitably forward-looking analysis and approach to competition and regulation in a fast-moving dynamic market context.
8. Taken together, these points mean that:
- Ofcom's SMP analysis is therefore carried out on the wrong basis and must be updated with a focus on appropriately defined geographic markets and to take account of new evidence.
 - Ofcom must also reconsider the extent to which SMP remedies are required to address the specific competition concerns identified in each of those markets.
9. Ofcom must reconsult on its proposals given market evidence of variations and rapid change in competitive intensity make clear these errors in approach.

⁴ Response, document 1, para 74.

⁵ Response, document 1, paras 106-128.

⁶ Response, document 1, para 129.

⁷ Response, Annex 1 - NERA report.

Why this matters:

Ofcom's flawed approach to defining geographic markets matters will lead to the wrong conclusions on regulation required, harming customers as a result

It leads to undue restrictions on Openreach's ability to compete on the merits, to the detriment of consumers

Ultimately, Ofcom's proposal to define a single, wide Area 2, based on its flawed assessment that competitive conditions in that area are sufficiently homogenous, matters because it leads Ofcom to constrain Openreach's ability to compete fairly within that wide area as the various competitive challenges emerge.

In particular, Ofcom's proposal would place the burden of justifying any form of geographic pricing on Openreach and introduce considerable delay into what should be a normal commercial process. Openreach is concerned that, by reversing the burden of proof, there is a presumption against all offers, including those which should be seen as legitimate competition on the merits in a competitive area.⁸

This means Openreach faces ongoing challenges in responding to prices offered by wholesale providers such as CityFibre and in supporting its CP customers in responding to the retail prices offered by suppliers such as Community Fibre or Hyperoptic.

It undermines our investment incentives

Openreach should be allowed to compete fairly on the merits to address these competitive challenges. Restricting our ability to do so undermines our FTTP investment case and incentives to complete the FTTP build across the UK, limits our ability to work with our customers to drive migrations to FTTP and withdraw legacy services and risks protecting inefficient altnets. This is to the long-term detriment of UK consumers, who will inevitably face higher prices in both the short-run and long-run, and to the detriment of the UK overall.

Like all market participants – and as acknowledged by Ofcom⁹ – Openreach invested on the basis that it would have the opportunity (but not the guarantee) to make a return on investment. This return included better outcome scenarios where we achieved higher take-up and worse outcomes (for Openreach) where either take-up was lower, or indeed competitors secured a higher share.

Ofcom's clear preference for the significant and protracted protection of particular altnets makes clear that Ofcom wants Openreach to lose market share, and that it will prevent Openreach from having the opportunity to seek to retain and win customers through fair competition on the merits. Ofcom's proposal to define a wide WLA Area 2

for the duration of the TAR Period means Openreach would face constraints to its competitive responses even in areas where its market share was below 50%.

Looking forward, this means the weighted average 'expected' return from both current and future investments will be lower wherever Ofcom expects altnet competition – on its measure, up to 90% of the country (30m premises). Openreach's incentives to invest are therefore significantly reduced as its expected returns will be lower in this policy environment – especially in comparison to its previous investment decisions which were taken on an understanding that regulatory constraints would roll back as competition grew.

The investment put at risk goes beyond fibre build

Ofcom's proposed regulation limits Openreach's ability to support efficient migrations and legacy network closures. The UK's interests and pro-growth policy are best served by the rapid (but careful) adoption of full fibre by all end-customers, and the closure of legacy networks:

- Openreach's own fibre deployment will create £66bn of productivity and workforce benefits per annum by 2029¹⁰
- Fault rates on fibre are [X] of that on legacy copper services. Complete full-fibre adoption would lead to [X] fewer faults in the UK every year¹¹
- More efficient networks unlock savings which benefit customers through either lower prices or the industry's greater headroom to invest – in Spain, exchange closure is estimated to have created financial benefits of Euro 300m pa.¹²

One of the best ways to promote fibre adoption is through creative and innovative pricing. But Ofcom's proposed approach would unfairly and disproportionately limit Openreach's freedoms to innovate on price levels, structures and commercial terms to wholesale customers, to the detriment of end-customers.

Slower adoption of full fibre is not in the UK's wider interests. And while certain altnets may see migration as their main opportunity to grow customers, that notion is incorrect. Ofcom recently heralded the success of its intra-network switching policy (One Touch Switch) with more than 1.6m people using it in a year. This switching platform will be a key driver of competitive broadband markets across the future.

⁸ Importantly, removing constraints on geographic pricing will not result in unfair freedoms for Openreach - which would remain subject to more general SMP obligations (unless no SMP is found) and competition law.

⁹ TAR introductory document, para 2.14.

¹⁰ CEBR research November 2024 [£66 billion broadband boost predicted for the UK Economy](#).

¹¹ Openreach internal analysis.

¹² Arete Research: European Telcos: Full Fibre Diet published 26 September 2025,

Part 1: Updated evidence on competitive conditions within different geographic areas

10. Part 1 of this Additional Response sets out material supplemental evidence, which Ofcom must take into account together with the evidence provided in our Response.

A) Latest data on competitor network build

11. Ofcom's assessment of network availability in the TAR Consultation used data gathered for its 2024 Connected Nations report, referencing fixed network information as at July 2024. This found 1,812 postcode sectors (23% of premises) in which two or more competitors' networks had individually passed at least 50% of premises.¹³ Ofcom's consideration of whether any part of the proposed Area 2 should be included in an Area 1 focused on these 1,812 postcode sectors.¹⁴

12. In our June 2025 response, we set out why we believed Ofcom's provisional assessment of competition within these postcode sectors was flawed. Analysis conducted by NERA¹⁵ set out why Ofcom should, in fact, identify any postcode sector with at least two rivals as a separate geographic market. NERA defined these as 'Area 1s' and set out its analysis identifying clear differences in competitive conditions between these Area 1s and the other parts of Ofcom's proposed Area 2¹⁶.

13. This definition of Area 1s, based on competitor network availability and overlap, should reflect the latest available information on coverage. Ofcom's June 2024 data was already out of date at the time the TAR Consultation was published and will need to be updated ahead of Ofcom's final decision, especially in light of the fast pace of change in the market. The ongoing expansion of competitor network build suggests that this area will be substantially bigger than the 1,812 postcode sectors referenced in the TAR Consultation.

14. To give a sense of the likely trend, the table below shows Openreach's estimates of the growth in total coverage figures for the three biggest rival network builders since June 2024 (i.e. the data used in the TAR Consultation), to the figures included in our June response that were dated 31 December 2024 and to the latest published figures. This demonstrates the very quick expansion seen in the period since the TAR Consultation and even since our Response.

¹³ TAR Consultation, Vol. 2 para 4.100.

¹⁴ TAR Consultation, Vol. 2, paras 4.100 to 4.108.

¹⁵ Response, [Annex 1](#).

¹⁶ To clarify terminology, NERA defined "Area 1s" as all postcode sectors with at least 50% coverage from at least two rival networks to Openreach. It identified a range of evidence and analysis to demonstrate that competitive conditions in across these Area 1s were sufficiently different from the remainder of Ofcom's proposed Area 2 such that a separate geographic market should be defined. Assessment of SMP within those geographic markets would then be subsequent step.

Table 1: Openreach estimates of network coverage figures

	June 2024	Figure quoted in our Response (December 2024)	Latest updated figure (June to October 2025)
VMO2/nexfibre	17.5m	18.3m	18.5m ¹⁷
CityFibre	3.3m	4.1m	4.3m ¹⁸
Netomnia/brsk	c1.5m	2.1m ¹⁹	2.7m ²⁰

15. Overall expansion of network coverage will inevitably increase rival network overlap and the share of UK postcode sectors covered by two rival networks to Openreach. Ofcom’s Spring 2025 Connected Nations update, published in May 2025 and quoting data relevant to coverage at January 2025, showed this share had already increased from the 23% (as quoted in the TAR Consultation) to 27% of premises, and projected that 39% of premises would have 3 or more networks by 2028.²¹

16. Ofcom will have Connected Nations data up to June 2025 by the time it makes its final decision and it is important that the latest available information is used by Ofcom to assess its proposed geographic market boundaries before going on, in turn, to properly assess SMP and the nature of any competition concerns within those markets as part of its decision on remedies.

17. Ongoing expansion of network build and the expected network consolidation by wholesalers, also highlights why it is vital that Ofcom takes a forward-looking view of competitive dynamics and keeps market definition and SMP assessments under review through the TAR Period.

B) Ongoing acceleration of competitor FTTP take-up

18. In the TAR Consultation, Ofcom stated that, across the 1,812 postcode sectors it had identified with two or more competitor networks in June 2024, Openreach’s overall WLA market share (i.e. across all copper and fibre broadband connections) was above 50%. Of these 1,812 postcode sectors, Ofcom also noted it had identified a subset of 321 postcode sectors where Openreach’s share was below 50%, but did not consider these

¹⁷ At 30 June 2025 <https://news.virginmediaio2.co.uk/wp-content/uploads/2025/07/VMO2-2025-Q2-Results-infographic-final.pdf>

¹⁸ 4.6m premises passed at 1 October 2025 (source: [CityFibre doubling rate of customer connections... | CityFibre](https://www.cityfibre.com/news/cityfibre-doubling-rate-of-customer-connections)) however 4.3m premises ready for service, as shared by Richard Tag, CEO Zen, at Connected Britain on 25 September 2025.

¹⁹ 2.1m as at December 2024 as quoted in Response document 1 para 72. Note that Response document 1 para 122 incorrectly stated 2.2m.

²⁰ As shared by Richard Tang, CEO Zen, at Connected Britain on 25 September 2025.

²¹ [Connected Nations update: Spring 2025 - Ofcom](https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/multi-sector/infrastructure-research/connected-nations---planned-network-deployment/2025/cn2025-planned-network-deployments-tables.xlsx?v=396520) (for current coverage) and <https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/multi-sector/infrastructure-research/connected-nations---planned-network-deployment/2025/cn2025-planned-network-deployments-tables.xlsx?v=396520> (for future coverage).

postcode sectors to be sufficiently competitive, with particular weight placed on the low aggregate market share of the second network rivals across those sectors.

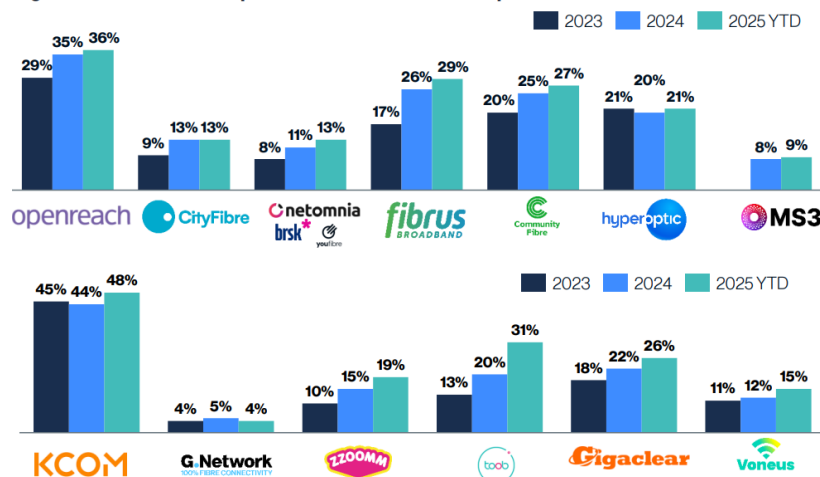
19. As set out in our Response, our position is that Ofcom's assessment of whether these 1,812 postcode sectors represented a separate geographic market from the rest of the proposed Area 2 was flawed and wrong on the evidence before it. Ofcom essentially conducted a highly limited and flawed assessment, ostensibly focussed on identifying whether Openreach had *SMP* in the 1,812 postcode sectors and then within selected subsets of those postcode sectors. Ofcom's approach should have been focussed on first identifying whether there are differences in competitive conditions between areas and should have taken account of a wide range of forward-looking factors in assessing competitive conditions for the purpose of defining the relevant geographic market. Instead, Ofcom adopted a very narrow focus on aggregated point-in-time market share data for Openreach and its rivals for the purpose of supporting *SMP* designation.
20. Notwithstanding this criticism of Ofcom's approach, observed market share data, trends in that data over time and differences in that data between areas are clearly all important factors in assessing competitive conditions and how they vary in areas with different levels of competitive network availability.
21. The NERA report, using more recent data (network coverage to March 2025 and Openreach take up at May 2025), showed that in the postcode sectors with at least two rival networks, Openreach's market share was [X]% and highlighted the clear difference between this figure and the [X]% share in the remainder of Area 2 postcode sectors.²² NERA also highlighted that take-up on altnets varied by the age of network build and would therefore grow over time.²³
22. Our Response referenced the latest available take-up data from altnets.²⁴ More recently published data shows ongoing acceleration of take-up by altnets. The data in Figure 1 provide updates to analysis from EightAdvisory on take-up by different altnets up to the end of March 2025 and highlight the ongoing growth.

²² NERA Report, Table 2.2.

²³ NERA Report, para 2.3.1.

²⁴ Response, document 1, paras 106-128.

Figure 1: FTTP take-up overall across selected operators²⁵



23. Table 2 focuses on the biggest altnets to provide more recent published take-up data from the individual companies, confirming further growth since March 2025.

Table 2: latest altnet take-up data

Operator	Take-up figure in our Response	Latest published take-up figure
VMO2/nexfibre	31%	31% ²⁶
CityFibre	13%	17% ²⁷
Netomnia/brsk	11%	14% ²⁸
Community Fibre	25%	30% ²⁹

24. We provide further data below on how an increase in CityFibre’s take-up is being driven by its new wholesale deal with Sky, alongside its ongoing deals with Vodafone, TalkTalk and Zen and 36 other ISPs.

25. An increase in take-up is to be expected, even absent new wholesale arrangements, as take-up on all new build naturally takes time to grow. Take-up on older cohorts of altnet build gives a clearer forward-looking view of the success of the altnets in selling services from their built network and we provided a summary of take-up on these older cohorts for selected altnets in our Response. Analysis of overall take-up across altnets from the most recent report from EightAdvisory, published July 2025 (using data to March 2025),

²⁵ Sourced from EightAdvisory report published July 2025 [UK Fibre to the Home \(FTTH\) Take-up & Churn: Latest insights on key commercial KPIs.pdf](#).

²⁶ Take up of 31% as reported in February 2025. No figure has been reported since. [Virgin Media O2 results reveal 6.4 million premises full fibre footprint | thinkbroadband](#).

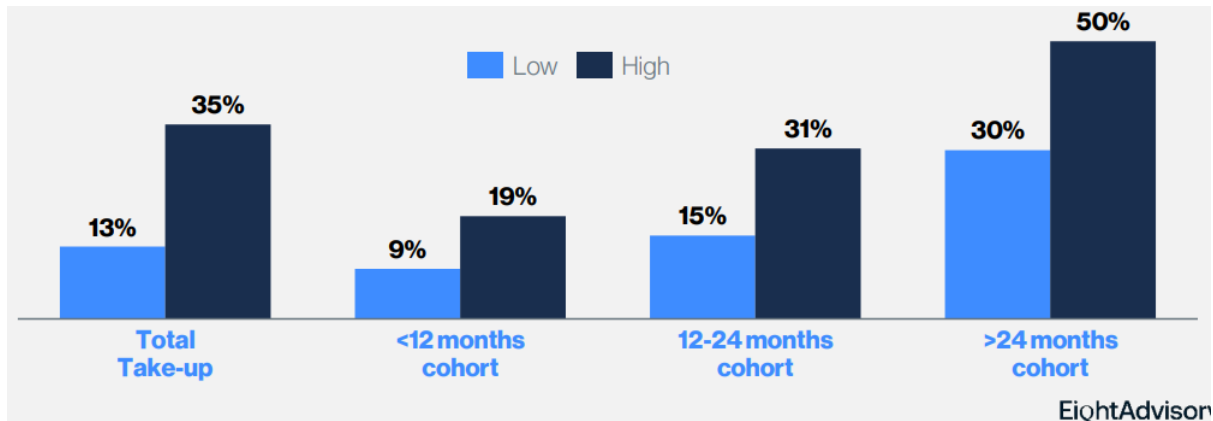
²⁷ 730k customers connected with 4.3m premises RFS as of 1 October 2025 [CityFibre doubling rate of customer connections... | CityFibre](#).

²⁸ 380k customers with 2.7m premises RFS, as shared by Richard Tang, CEO Zen, at Connected Britain on 25 September 2025.

²⁹ 30% announced 9 September 2025 [Community Fibre announces continued customer growth](#) increased from 25% at December 2024.

is shown in Figure 2. This view is supported by statements made by Jeremy Chelot (CEO, Netomnia) and Tim Stranack (Chair, INCA and CEO, Community Fibre) that given rates of churn and altnet share of new connections, altnet take up is trending to 30%.³⁰

Figure 2: FTTP take-up split by time since build³¹



26. We have also extracted more recent internal data to assess the extent to which the share data quoted by Ofcom in the TAR Consultation may have shifted in-line with an ongoing increase in take-up of altnets. This is set out in Table 3.

27. To conduct this exercise, we reviewed Openreach's share of broadband lines within postcode sectors – this is based on our count of Openreach's own supply of broadband lines and the overall number of premises within each postcode sector, together with an assumption that [x%] of premises over all sectors take a broadband connection. We then show the number of postcode sectors where our share is below 50% and how this has shifted in the last 12 months. While Openreach does not have access to the data required to carry out a direct comparison to the data quoted by Ofcom in the TAR Consultation, this review does reveal trends in shares.

³⁰ Comments made at Connected Britain, 24 September 2025.

³¹ Sourced from EightAdvisory report published July 2025 [UK Fibre to the Home \(FTTH\) Take-up & Churn - Latest insights on key commercial KPIs.pdf](#). Note that, unless there is a sudden and significant increase in altnet build, during the 2026-31 market review period the majority of the altnet build will be >24 months, where historically they have achieved take-up rates in the range of 30-50%.

Table 3: Openreach postcode sectors <50% market share³²

	Sept 2024	March 2025	Sept 2025
Number of [X] postcode sectors	[X]	[X]	[X]
Number of [X] premises in these sectors	[X]	[X]	[X]

28. This data gives a clear sense of the rapid pace at which competition is growing and further emphasises why it is vital that in defining geographic markets based on differences in competition, assessing SMP within those markets and then considering the nature of competition concerns, Ofcom must take a forward-looking view based on a range of factors using the data gathered under formal powers. It also emphasises why Ofcom must keep market conditions under ongoing review during the TAR Period in ultimately considering where and how it should restrict Openreach's ability to compete.

C) Volume of Sky broadband lines that have moved to the CityFibre network

29. Sky is the largest independent CP with just under 6 million broadband end-customers. It signed a wholesale supply agreement with CityFibre in August 2024. In the TAR Consultation, Ofcom noted that:

- The CityFibre deal with Sky "...was still in the process of being implemented".³³ This was an important factor in Ofcom finding that CityFibre had the potential to be a material and sustainable competitor to Openreach but was not yet such a competitor.
- A key barrier to entry for WLA competitors was "challenges in securing deals with large wholesale customers". While recognising that many altnets have, in fact, secured such deals, Ofcom again noted that work was "still underway to enable Sky's broadband services on the CityFibre network from 2025".³⁴

30. In our Response, we explained that CityFibre's deal with Sky was a significant market change, and that it represented evidence that should shape Ofcom's approach to defining geographic markets, assessing SMP and considering the nature of competition

³² Openreach internal analysis using active Openreach lines at these three points in time. Does not take into account presence or coverage of Altnets. Volumes by postcode data has already been shared with Ofcom in S135 TAR 2 (Pricing remedies) question A4.

³³ TAR Consultation, Vol. 2, paras 4.60(c) and 4.190(a).

³⁴ TAR Consultation, Vol. 2, para 4.190 (a).

concerns.³⁵ We also referred to other altnets' deals with major CPs, which Ofcom should take into account.³⁶

31. We set out our view that areas where CityFibre is a rival to Openreach are now fully contestable and all ISPs now have clear countervailing buyer power that should be given significant weight in Ofcom's forward-looking assessment of competition.
32. At the time of our Response, Sky had only just begun using CityFibre for FTTP broadband orders, and we estimated that c. [redacted] lines per week were being connected to the CityFibre network instead of the Openreach network, as Sky was placing end customer FTTP broadband orders over CityFibre connections.
33. We now have a further 4 months of data to demonstrate the scale and growth in the customer broadband lines Sky is moving to CityFibre. [redacted]:
 - [redacted];
 - [redacted];
 - [redacted]; and
 - [redacted].
34. Figure 3 captures our internal estimate of these orders, based on our weekly order intake from Sky. It shows the volume of lines we estimate Sky is now placing with CityFibre that would previously have been placed with Openreach from week 9 (w/e 30/5/25) until week 28 (w/e 10/10/25). [redacted].

Figure 3: Estimated level of Openreach volumes being moved by Sky to CityFibre per week³⁷

[redacted]

35. Given CityFibre's current footprint of 4.3m premises (and not taking into account any extension of that footprint during the 2026-31 as per CityFibre's own announcements), this increased acquisition rate would suggest an increase in take-up of [redacted] percentage points each year, notwithstanding ongoing build. CityFibre's latest reported data shows they had added 108,000 customers in the 3 months to September 2025, doubling the quarterly customer additions from the period to June 2025,³⁸ confirming the rate of acceleration in take-up that is underpinned by the Sky deal. With a reported base of 730,000 customers this suggests CityFibre's take-up has grown to 17% in September 2025 from 13% in June 2025.
36. This clear, real-time evidence [redacted] must be reflected in Ofcom's assessment of the WLA market in the TAR Consultation final decision. As set out below, it also has much broader

³⁵ Response, document 1, paras 113-120, 172.

³⁶ For example, Response, document 1, para 51.

³⁷ Openreach analysis based on changes in Sky demand within and outwith the CityFibre footprint. Prepared September 2025, refreshed view of data shared with Ofcom on 11 August 2025.

³⁸ <https://cityfibre.com/news/cityfibre-doubling-rate-of-customer-connections-quarter-on-quarter>

relevance in that all the major external CPs are now actively multi-sourcing their wholesale network requirements and this should be reflected in Ofcom's consideration of the strength of countervailing buyer power and its forward-looking appraisal of competition in areas where wholesale altnets are likely to be available.

D) Extent to which other downstream retail CPs are expanding their use of CityFibre and other wholesale altnets

37. We estimate that of the c[3]m premises with competitor presence today, around [3]m are currently available on a wholesale basis to retail CP broadband providers. However, the TAR Consultation contains only a cursory reference to CityFibre's existing and operational deals with Vodafone (2017)³⁹ and TalkTalk (2020)^{40,41} and makes no mention of its deal with Zen (2020).⁴² Ofcom does not analyse the effect of these deals either individually or collectively. Overall, this leads Ofcom to place little to no weight on the relevance of wholesale supply to its assessment of competition in the supply of WLA services. For instance, in assessing countervailing buyer power as a factor in considering whether Openreach has SMP across the proposed Area 2,⁴³ Ofcom stated that:

*"Whether an ISP has countervailing buyer power in practice will depend on a number of factors including ... the degree of commitment/risk required from the buyer and the cost and speed of switching to alternative wholesale providers."*⁴⁴

*"Since 2021 several altnets have built FTTP networks and ISPs have started to engage with them. However, over the review period, altnets will still need to overcome substantial challenges before they can become a credible alternative to BT."*⁴⁵

38. But this understates the current use by all major external CPs of the CityFibre network and the clear and growing willingness and ability of CPs to use a range of wholesale altnets where available.

39. The impact of CityFibre's presence on Openreach's overall WLA volumes across copper and FTTP connections as a result of the deals they have struck with Sky, Vodafone, TalkTalk and Zen can be seen in Figure 4. This shows the monthly change in active Openreach broadband lines, and shows the percentage change in the Openreach's Revenue System Size ("RSS", effectively Openreach's broadband base) from one month to the next. This is split within and outside of the estimated CityFibre footprint area. [3].

³⁹ [Vodafone and Cityfibre bring gigabit-speed fibre to the UK](#)

⁴⁰ [CityFibre acquires FibreNation and adds TalkTalk as... | CityFibre](#).

⁴¹ TAR Consultation, Vol. 2, para 4.189.

⁴² See for example, CityFibre's announcement: [Zen extends partnership to offer Full Fibre broadband... | CityFibre](#).

⁴³ As noted in our Response, Ofcom's assessment of countervailing buyer power in the TAR Consultation is framed within the broadly defined Area 2 (TAR Consultation, Vol. 2, para 4.239-4.241), where no individual altnet has full coverage and not all altnets included in the coverage measure currently wholesale. This is why it is vital that Ofcom recognise differences in competitive conditions in areas where altnets are present today in defining geographic markets and then assess the strength of countervailing buyer power in those narrower markets.

⁴⁴ TAR Consultation, Vol. 2, para 4.198.

⁴⁵ TAR Consultation, Vol. 2, para 4.199.

Figure 4: Monthly change in Openreach broadband volumes, inside and outside the CityFibre footprint

[REDACTED]

40. In this context, we also highlight a number of other significant developments since our Response in the wholesale space, which are clearly relevant to a proper forward-looking assessment and which Ofcom must take into account:

- **Vodafone's use of Community Fibre:** Vodafone recently onboarded Community Fibre as a wholesaler across Community Fibre's extensive 1.3m London footprint.⁴⁶ It has been reported that Vodafone have a clear preference for altnet supply.⁴⁷ This additional Vodafone / Community Fibre competition could be around [REDACTED] lines per annum from Openreach to Community Fibre based on our internal modelling. Such performance would increase Community Fibre from 30% to [REDACTED]% take-up in the first year of the TAR Period, demonstrating a clear and well-established scale competitor to Openreach in the London area.
- **Netomnia wholesale:** Netomnia announced a wholesaling platform in July 2025 to make it easier for ISPs to access Netomnia's 2.8m fibre premises.⁴⁸ [REDACTED]. Our internal modelling estimates that Openreach [REDACTED]. Netomnia's current take-up of 14%⁴⁹ could increase to [REDACTED]% in the first year of the TAR Period [REDACTED] (even excluding the current 1 percentage point increase in take-up per quarter that Netomnia are trending at).
- **AllPoints Fibre Network** have made their first sales through their Aquila platform which aggregates multiple networks.⁵⁰
- **VMO2 wholesaling ambitions:** On 17 September 2025, VMO2 announced that it had created a dedicated Fixed Wholesale unit combining its consumer and business facing wholesale teams in order to pursue its ambition to be a "scaled wholesale alternative across the UK".⁵¹
- **Zen sourcing from multiple wholesalers:** Zen have recently announced a sixth wholesale agreement with MS3, to add to five existing arrangements with Openreach, CityFibre, Trooli, Freedom Fibre and ITS. A seventh deal is in progress, to be announced soon.⁵²

41. The use of altnets by the largest CPs by volume is illustrated in Figure 5.

⁴⁶ [Community Fibre launches strategic wholesale agreement with VodafoneThree.](#)

⁴⁷ [Vodafone now selling full fibre using Community Fibre XGS-PON network | thinkbroadband](#)

⁴⁸ [Netomnia to Expand Wholesale FTTP Broadband to More UK ISPs as New MD Appointed - ISPreview UK.](#)

⁴⁹ [Netomnia Expand FTTP Broadband Coverage to 2.56 Million UK Premises - ISPreview UK.](#)

⁵⁰ [Comms Business - Brillband places first orders on APFN's Aquila platform.](#)

⁵¹ [Virgin Media O2 brings together new team to challenge the fixed wholesale market - Virgin Media O2.](#)

⁵² Announced by Richard Tang, Zen CEO, at Connected Britain on 25 September 2025.

Figure 5: Current use of altnets by the largest CPs⁵³

	CityFibre	Community Fibre	freedom fibre
TalkTalk	✓		✓
PLATFORMX	✓		
vodafone	✓	From Q2 FY26	
sky	From Q2 FY26		
zen	✓		From Q2 FY26

42. Taken together, these developments show there is and will continue to be a growing intensity in competitive conditions that inevitably varies by geography within what Ofcom proposes to define as Area 2. The availability and growing use of alternative wholesale networks will clearly reduce Openreach’s market share materially during the TAR Period and strengthens the countervailing buyer power of retail ISPs in those parts of the UK where wholesale alternatives are available. The evidence available today must be factored into a robust forward-looking assessment of competitive conditions to define geographic boundaries at a more granular level and subsequently assess SMP.

43. The limited weight Ofcom attaches to all existing wholesale deals and references made to the challenges faced by altnets in securing large wholesale deals must be revisited and updated to reflect market realities. There is clear evidence that retail CPs are willing and able to multisource from CityFibre and different wholesale suppliers. This radically shifts any assessment of countervailing buyer power and how market shares may move where wholesale networks are available on a forward-looking basis.

44. Notwithstanding Openreach’s view that Ofcom’s current approach is unsustainable, these developments also further reinforce the position set out in our Response as to why, with rapidly changing market conditions, Ofcom needs to take a flexible approach to regulation during the course of the TAR Period by regularly reviewing markets to take account of developments. It is unrealistic for Ofcom to expect competitive conditions during the TAR Period to be comparable to those in 2024 and inconsistent with the need to assess the market on a forward-looking basis. Again, this has become best practice among other European regulators.

E) Differences in retail prices in different geographic areas

45. We set out below additional evidence on geographic retail competition, which shows significant geographic variations in retail competition within Ofcom’s proposed WLA

⁵³ Sourced from public announcements. Where arrangements have been announced or been operationalised since our Response, this has been indicated by the text “From Q2 FY26”.

Area 2. These differences in retail pricing behaviour show that, from the point of view of consumers, variations in competitive conditions are giving rise to significantly different competitive outcomes.

46. The TAR Consultation did not consider relevant differences in retail competition. If Ofcom fails to properly take these retail differences into account in its assessment of whether its proposed Area 2 is “sufficiently homogeneous” to constitute a single geographic market, its assessment will be based on an incomplete assessment of the facts.

47. Competitive variations across the UK are clearly visible in the level of retail prices that different altnets are making available, as illustrated in Figure 6. Openreach-based ISPs therefore continue to face significant pressure from both retail altnets placing clear pressure on our wholesale price levels.

Figure 6: Retail pricing using Openreach wholesale input compared Retail pricing using Altnet wholesale input and Retail Altnets⁵⁴

[X]

48. Price variation driven by competition brings consumers additional benefit of lower prices, but also brings benefits from higher FTTP adoption. Specifically:

- **Vertically integrated retail ISPs** are driving take-up through very low prices with FTTP 1Gbps services being available for as little as £17 per month from Hyperoptic. Hyperoptic are focusing these very deep discounts in locations where they face full fibre competition. Where there is no fibre competition, Hyperoptic are charging £26 and £35 per month respectively for the same products. Such discounting is clear evidence of differential outcomes based on the dynamics of competition in different areas.
- **Sky retail prices in CityFibre areas.** In areas that overlap with Openreach, we understand [X]. This is clear evidence of how the different competitive conditions in CityFibre areas are driving different market outcomes in terms of price level and price structure.
- **Other retail prices.** We see the same differentiated geographic retail pricing from TalkTalk and Vodafone in areas where they purchase from CityFibre and other wholesalers. This is a strong indication of a variance in wholesale prices based on geography.⁵⁵

⁵⁴ Sourced from presentation to the Openreach board, 14 October 2025 using current pricing.

⁵⁵ European Commission notice on market definition 3.3.11 65 highlights this as useful evidence that competitive conditions are not homogenous [EUR-Lex - 52024XC01645 - EN - EUR-Lex](#).

Part 2: Ofcom's proposed market definition, and subsequent regulation, is inconsistent with the ex ante regulation legal framework and the evidence provided

49. Ofcom's approach to market definition (and as a result to SMP findings and remedies) is inconsistent with the legal framework and the evidence before it. The following points are discussed in more detail below:

- Ofcom has not considered the full variety of evidence to assess competitive conditions in defining geographic areas, described well in the EC's Notice on the definition of the relevant markets. Ofcom has instead overly focused on a combined measure of the presence of, or prospect of, competitive network build.
- Ofcom has incorrectly confused market definition and SMP assessment by considering the presence of 'effective and sustainable competition' as a relevant factor in its market definition analysis. This is the same mistake for which the CAT corrected Ofcom in its 2017 BCMR judgment.
- Ofcom has failed to take a suitably forward-looking analysis and approach to competition and regulation in a fast-moving dynamic market context.

50. Taken together, these points mean:

- Ofcom's SMP analysis is therefore carried out on the wrong basis and must be updated to focus on appropriately defined geographic markets and to take account of new evidence, including obtaining further information from all relevant market participants;
- Upon updating its analysis, Ofcom would need to reconsider the extent to which SMP remedies are required to address the specific competition concerns found in each area (it is at this point that Ofcom may consider the sustainability of competition). In this regard and in any event, it would be inappropriate to set remedies that apply for five years in circumstances where the pace of change is so great.

51. As a result, Ofcom must reconsult on its proposals given that market evidence of variations and rapid change in competitive intensity make clear these errors in approach. To correct the clear, fundamental errors in approach Ofcom will have to re-consult on its proposed market definition, and therefore also reassess its proposed SMP findings and associated remedies.

A) Ofcom must define geographic markets with direct reference to a variety of factors, including all of those included in Openreach's supplemental evidence.

52. When defining the relevant market, Ofcom places undue weight on a static analysis of whether individual altnets are yet 'well established' and can be considered 'material and sustainable' competitors and does not give sufficient weight to other evidence of

competitive trends and conditions.⁵⁶ This means that, at the outset, Ofcom has dismissed clear differences in the strength of competition today in different geographic areas, leading it to take the wrong starting point when assessing the degree to which competitive conditions are sufficiently homogenous across different areas.⁵⁷

53. This approach is analogous to that taken in the 2016 Business Connectivity Market Review ("BCMR"), when the CAT criticised Ofcom for asking itself the wrong question. In that case, Ofcom erred in asking itself whether the central business districts were sufficiently similar to the London Periphery, rather than to the rest of the UK.⁵⁸ In the end, Ofcom's reassessment determined some of these areas were distinct from either the London Periphery or the rest of UK.⁵⁹

54. Ofcom has explained that its key consideration in defining geographic markets is whether competitive conditions are sufficiently homogeneous across all areas, or whether there are any areas in which competitive conditions are likely to be appreciably different and distinguishable such that it should consider defining sub-national markets.⁶⁰ This language is consistent with that used in the European Commission's notice on the definition of the relevant market (the "EC market definition notice").⁶¹

55. However, as set out in this Additional Response, Ofcom's proposed geographic market definition, particularly for Area 2, does not properly assess whether competitive conditions are sufficiently homogeneous because it has seemingly not taken into account a range of behavioural and structural indicators in its assessment. It errs by taking as its starting point the question of whether individual competitors are 'material and sustainable' so as to be capable of being included in Area 1.⁶² Having decided there is no Area 1, Ofcom goes on to take a binary approach: postcode sectors in which there is (or is potential for) 'material and sustainable' competition are in Area 2; sectors in which there is not are in Area 3.

56. This binary approach is wrong – Ofcom should assess the range of factors that can result in differing conditions of competition across and within each of its pre-defined areas. This would be consistent with the criteria set out in relevant EC materials.⁶³ Instead, Ofcom

⁵⁶ See in particular Ofcom's assessment and provisional conclusion at and around TAR Consultation, Volume 2, paragraph 4.107.

⁵⁷ As required by section 79(2A) of the Act.

⁵⁸ *BT v Ofcom* [2017] CAT 25, para 370.

⁵⁹ While the BCMR appeal was subject to a 'merits' standard of review, the CAT found on this point that Ofcom had not applied the test it had identified. This error would, in our view, equally be an error under a 'judicial review' standard.

⁶⁰ TAR Consultation, Vol. 2, paras 3.33 and A5.26.

⁶¹ EC market definition notice, paras 12(b) and 38.

The EC Recommendation on relevant product and service markets within the electronic communications sector (at recital 38) states that regulatory authorities should aggregate together units that exhibit similar competitive conditions, noting that non-adjacent geographic markets may be identified and analysed together.

⁶² TAR Vol 2, paras 4.92-4.99.

⁶³ EC market definition notice, para 30 sets out the evidence the European Commission examines when carrying out its assessments: (1) the presence of the same or different suppliers across geographic areas; (2) similarities or differences in the market shares and prices of these suppliers; (3) similarities or differences in customer preferences and purchasing behaviour; (4) the barriers and costs associated with supplying customers in a different area; (5) distance-related factors affecting costs, (6) quantities available or the reliability of supply; and (7) trade flows and patterns of shipments.

simplistically defines Area 2 based on the presence or planned presence of certain network operators to cover 50,000 premises by 2031.⁶⁴

57. Openreach's supplemental evidence provided in this Additional Response, together with the evidence provided in our Response, highlights that Ofcom's Area 2 groups together areas with competitive conditions that are not sufficiently homogeneous and instead aggregates areas with notably different competitive conditions and market dynamics. There are substantial variations in network availability, consumer purchasing behaviour, and both retail and wholesale pricing across different postcode sectors within Area 2. Evidence around countervailing buyer power must also be taken into account alongside these factors above (an example being the CityFibre / Sky wholesaling arrangement which clearly exerts significant competitive pressure on Openreach).
58. Ofcom's reliance on the notion that competition need not be "perfectly homogeneous"⁶⁵ appears to sidestep its responsibility to provide robust evidence that it has grouped areas with sufficiently similar competitive conditions.⁶⁶ Instead, Ofcom's approach results in too broad an Area 2, which obfuscates competitive differences by aggregating more and less competitive areas together.
59. While Openreach can provide useful and relevant information on competitive conditions and market dynamics, Ofcom is uniquely positioned – and it is obliged – to collect sufficient information from all market participants to show the full competitive picture. Ofcom must collect this evidence in order to achieve this objective, building on the latest and wide-ranging evidence of competitive intensity including the evidence set out above. Such evidence gathering will support our point about competitive variations within Ofcom's proposed Area 2.

B) Ofcom incorrectly applies the concept of 'sustainable' competition to the market definition exercise, as opposed to its assessment of SMP

60. Ofcom's approach conflates distinct regulatory concepts. The notion of "sustainable" competition is mainly relevant to the setting of SMP pricing conditions under ss. 87(9) and 88 of the Act.⁶⁷ Ofcom's approach to market definition misapplies this concept by focussing unduly on whether specific network operators are sustainable competitors when assessing the geographic market boundary, rather than assessing broader competitive conditions (including the range of factors set out in the EC market definition notice and the European Electronic Communications Code "EECC"). This is a flawed

⁶⁴ TAR Consultation, Vol. 2, para 4.109. This argument also relies on Connected Nations data that only extends to 2027.

⁶⁵ TAR Consultation, Vol. 2, para 4.111.

⁶⁶ For the avoidance of doubt, the approach proposed in our Response (including the NERA report) and this Additional Response does not seek to achieve 'perfect' homogeneity, but rather to identify 'sufficiently' homogeneous areas by reference to all of the appropriate competitive conditions for which we have evidence.

⁶⁷ Section 88 of the Act, as explained at A5.42 of the TAR Consultation.

approach and risks shifting attention from a proper holistic assessment of competitive conditions to the performance of individual competitors.⁶⁸

61. A similar approach led Ofcom into error in the BCMR, where the CAT made clear that market definition should precede the analysis of SMP.⁶⁹ The CAT concluded in that case that “[Ofcom] erred in allowing its decision on the definition of geographic markets as regards the CBDs to be influenced by its provisional assessment of SMP and remedies”.⁷⁰ In this case, Ofcom should not allow its views on the sustainability of individual competitors to determine its conclusions on the scope of the relevant market.
62. As explained above, when defining the geographic market, Ofcom must properly consider whether competitive conditions are ‘sufficiently homogeneous’ throughout Area 2. Openreach therefore provided evidence in its Response showing the wide range of suppliers across different geographic areas, as well as the significant differences in their market shares. The supplemental evidence provided above about the extent of wholesale use of CityFibre and the scope for growth in use of other wholesale networks demonstrates that competitive conditions vary significantly across the proposed Area 2.
63. The additional evidence of differences in customer preferences and purchasing behaviour shows that CPs including Sky and Vodafone are purchasing services from more network operators – areas where these network operators are present cannot be homogeneous with areas where they are not present – these are clearly “*appreciably different*” areas, given the corresponding impact on choice, competition and price that these differences produce.
64. We have also shown significant differences in geographic retail competition. This shows that conditions of competition are not sufficiently homogeneous to constitute a single market as Ofcom purports to show and as is best practice.

C) Ofcom is required to carry out a forward-looking assessment when defining geographic markets and assessing SMP.

65. Ofcom recognises it is required to conduct a forward-looking assessment of the market, taking into account expected or foreseeable developments that may affect competition. This requirement is explicit in the Act⁷¹ and is explained further in the EECC⁷² (to which Ofcom may have regard).⁷³

⁶⁸ This point is made in our Response, document 1, para 132. It is illustrated by Ofcom saying “we are mindful of the fact that altnets compete across their footprint, and, as discussed above, their position as material and sustainable competitors is dependent on reaching sufficient scale and market position (including take-up) overall. Therefore comparatively stronger performance in a minority of their footprint is not necessarily indicative of sufficiently well-established competition.” (TAR Consultation, Vol. 2, para 4.116).

⁶⁹ *BT v Ofcom* [2017] CAT 25, pars 392 and 393.

⁷⁰ *BT v Ofcom* [2017] CAT 25, para 398.

⁷¹ Section 79(1A) of the Act, as explained at A5.15 of the TAR Consultation.

⁷² Article 67 EECC. The UK was required to implement the EECC under the terms of the Withdrawal Agreement with the EU.

⁷³ Section 79(2BA) of the Act, set out at A5.32 of the TAR Consultation.

66. The supplemental evidence provided with this Additional Response clearly shows competition has strengthened and is continuing to strengthen at pace in different areas within the proposed Area 2, including where: (1) CityFibre is present (owing, in part, to its wholesale agreement with Sky); and (2) other retail and wholesale networks are reporting continuing competitive successes (for example, Community Fibre reporting a 30% take-up rate).
67. Basing a market definition on a static assessment of market shares of individual altnets across wide areas where the overall level of network coverage and age of network in place will tend to dilute figures is fundamentally flawed and insufficient to capture the rapidly evolving competitive dynamics and conditions. In this regard, while a useful indicator, market shares are just one *outcome* of the competitive process in an evolving market, rather than the driver of it, and a more holistic assessment of forward-looking factors should be made, building on observable trends in the evidence above.
68. Openreach welcomed Ofcom comments at Connected Britain that it accepts competition will develop and change over the TAR Period, and that Ofcom is considering how regulation should be applied to reflect these developments.⁷⁴ The current proposal - a static view of average competition across 90% of the UK for the next five years - is clearly neither appropriate nor consistent with a proper forward-looking assessment; it leaves no room for any change at all.⁷⁵ Moreover, in its proposals, Ofcom places too much weight on market developments evidence up to around July 2024 (its data collection point),⁷⁶ and insufficient weight on evidence that shows not just where the market is now, but how it will foreseeably develop in the next five years.
69. The importance of, and ability to, conduct a more dynamic, future-looking assessment is illustrated by the case of how the Italian regulator (AGCOM) evolved its position following the European Commission's review.⁷⁷

Case study in forward-looking geographic market assessment – Italy⁷⁸

In April 2024, AGCOM defined the following markets with associated remedies:

- Market 1A: 14 municipalities (3% of population) – fully competitive – remedies withdrawn
- Market 1B: rest of Italy – within which 95 'more competitive municipalities' were identified – lighter remedies imposed in this sub-set

⁷⁴ Comments by Ben Harries, TAR Policy Director at Ofcom, during Regulation panel, 24 September 2025.

⁷⁵ Ofcom's approach to geographic market assessment is a matter of contention for other stakeholders as well. For example, CityFibre states that "Ofcom's current proposals for geographic market definition do not work. Large swathes of CityFibre's actual and planned deployment fall within Ofcom's proposed [Area 3s]". CityFibre calls out the flaws in relying on narrow Connected Nations submissions, which is time-bound and limited in scope. See CityFibre response at para 3.3.

⁷⁶ See e.g. TAR Consultation, Vol. 2, Table 4.2 and Table 4.3.

⁷⁷ This approach is not unique to Italy – see Annex 3 to our Response. This Annex refers to market reviews carried out by other European regulators, and illustrates how regulators have carried out forward-looking reviews as well as how they have taken account of rapid changes in the market (for example, in Croatia the regulator has put in place a two-year review period).

⁷⁸ This case study updates the analysis set out in our Response (Annex 3 – see Assembly's summary for more detail of the approach in Italy prior to June 2025). Decision available here https://www.agcom.it/provvedimenti/delibera-114-24-cons#integrato_da

The criteria used by AGCOM were as follows:

Market 1A (fully competitive)	Market 1B (more competitive municipalities)	Market 1B (less competitive municipalities)
Retail market share <30%	Retail market share <38%	Where these conditions are not met
Wholesale market share <50%	Wholesale market share <70%	
Coverage by altnet >80% of premises	Coverage by altnet >70% of premises	
FTTP take-up >40%	FTTP take-up >30%	

The European Commission reviewed AGCOM's geographic market analysis and found that the criteria were too stringent and not sufficiently forward-looking, as required by the EECC. The European Commission invited AGCOM to consider the opportunity for an intermediate review of the geographic market, stating that "AGCOM should introduce a mid-term review of the geographic market definition to ensure that regulation is timely withdrawn in geographic areas that become effectively competitive over time". AGCOM agreed with this point.

AGCOM published a consultation on a further geographic market review in August 2025.⁷⁹ It now proposes to deregulate 247 municipalities, covering 7% of the population based on more appropriate criteria:

Market 1A (fully competitive)	Market 1B (more competitive municipalities)	Market 1B (less competitive municipalities)
Retail market share no longer specified	Retail market share no longer specified	Where these conditions are not met
Wholesale market share <50%	Wholesale market share <70%	
Coverage by altnet >60% of premises in 2024 and >80% by 2030	Coverage by altnet >60% of premises in 2024	
FTTP take-up >40%	FTTP take-up >20%	

⁷⁹ While the structural separation of TIM's fixed access network provided a catalyst for a further market review, the revised criteria proposed by AGCOM do not depend on this point.

70. The revised approach provides a benchmark for progressive deregulation of geographic markets. It shows how a forward-looking assessment has been carried out in Italy, applying Article 67 of the EECC, and demonstrates AGCOM's openness to reconsidering its market analysis in response to changing competitive conditions.⁸⁰
71. In Openreach's view, this contrasts with Ofcom's approach which is even more stringent than AGCOM's starting point that was criticised by the European Commission and does not recognise the need to adapt for changing competitive conditions.
72. We recognise the challenges involved in carrying out a forward-looking assessment, but the European Commission's approach shows how regulators are able to address these challenges. It is particularly important to engage fully with this requirement given the amount invested by all industry participants to date, the investments that are expected in the next few years and the importance of telecommunication services to the future economic prosperity of the UK as well as in ensuring connectivity services for all end-customers.

D) Market evidence, errors in market definition, and a lack of a proper forward look means Ofcom must also reassess its SMP findings

73. In both our Response and this Additional Response, Openreach has provided evidence in relation to each of the factors referred to by Ofcom in its SMP assessment and associated regulatory remedies, including:
- Market shares and competition from existing network infrastructure: In our Response, we explained the limitations in Ofcom's calculations of market shares.⁸¹ We provided more up to date market share data calculated on the basis of the information available to us, which showed that altnets have higher market shares than Ofcom calculated. We are now providing updated market share data which shows that: (i) altnet market shares are still higher than they were at the time of our Response; and (ii) the change in altnet market shares has accelerated. Ofcom must take this data into account in order to carry out its forward-looking assessment.
 - Barriers to entry and expansion: In our Response, we explained that Ofcom has placed too much weight on customer switching costs as challenges for retail altnets and difficulties securing wholesale deals for wholesale altnets, and pointed to (then) recent successes by altnets in that regard.⁸² We are now providing evidence of further altnet success in overcoming barriers to entry and expansion. Given these developments in

⁸⁰ For instance, AGCOM opened on September 2024 an additional analysis of markets to take into account the Fibrecop separation and subsequently adopted certain interim measures to suspend the applicability of certain remedies on TIM. Then, in April 2025, a consultation was opened for the qualification on Fibrecop of conditions for "wholesale only" operators. In August 2025, a new public consultation was opened including on geographic market analysis. The proposed changes to regulation on Fibrecop go beyond those necessary to address the lack of vertical integration as a result of the sale of Fibrecop by TIM (which was the original trigger). The changes also specifically address the challenge of actual and anticipated changes in the competitive conditions in the relevant markets.

⁸¹ Response, document 1, paras 138-146, document 2, paras 22, 26, 32, NERA report.

⁸² Response, document 2, para 32.

the short period since the TAR Consultation was published, Ofcom cannot reasonably sustain its views on the height of barriers to entry and expansion.

- Countervailing buyer power: In our Response, we explained that Ofcom had placed too little weight on the impact of CityFibre securing wholesale deals with all major external ISPs and the significance of VMO2's willingness to wholesale.⁸³ We are now providing further evidence of the increasing impact of buyer power, with detailed evidence of the impact of Sky's deal with CityFibre.
- Pricing: In our Response, we explained that Ofcom had placed too much weight on Openreach's prices of the anchor products and too little weight on Openreach's discounts. In particular, Ofcom was too quick to dismiss competition as a driving factor behind Openreach's 112 and Equinox offers.⁸⁴ Since our Response, CPs have made additional requests for price reductions from Openreach, particularly to be able to compete against retail Altnets. We have announced or are preparing to announce offers for free New to Network FTTP connections with an additional offer if joining from a Fixed Wireless Access network, a 'try before you buy' offer to encourage proactive migrations to be at higher bandwidths, [3K]. These limited offers reflect the need to respond to CPs requests, within the bounds of the existing regulatory framework.

74. Ofcom will need to modify its approach to assessing SMP to reflect any changes it makes to its market definition assessment. In doing so, it must take into account the evidence provided in our Response and this Additional Response.

E) A correct approach to market definition and SMP will have consequences for the appropriate remedies – re-consultation is necessary

75. Consistent with its legal obligations and regulatory best practice, upon updating its analysis, **Ofcom would need to reconsider the extent to which SMP remedies are required** to address the specific competition concerns found in each area. Further, where Ofcom carries out a forward-looking assessment and considers that markets will become more competitive over time, it is likely that these competition concerns will disappear or reduce in intensity, and so Ofcom should be slow to impose SMP Conditions which will endure for five years. In a dynamic market, even if a remedy is appropriate at the start of the market review period, it risks becoming disproportionate over time, in the absence of mid-term reviews or other flexibility.

76. Ofcom will be aware that it is standard regulatory practice for other UK regulators to use regulatory mechanisms for dealing with uncertainty within regulatory periods, albeit in different contexts. For example, Ofgem includes 'uncertainty mechanisms' within its price control (RIIO) framework to make adjustments in revenue for changes which can arise during the price control period. This aims to protect consumers and stakeholders from such uncertainties and provides flexibility to adapt regulatory decision-making in a proportionate way as circumstances evolve.

⁸³ Response, document 2, para 32.

⁸⁴ Response, document 2, para 32.

77. More broadly, given the nature of the errors made by Ofcom and the clear evidence of the fast pace of change in the competitive conditions, it is very difficult to see how Ofcom will be able to address these issues without reconsulting. To correct the clear, fundamental errors in approach Ofcom will have to re-consult on its proposed market definition, and therefore also reassess its proposed SMP findings and the extent to which remedies are required to address the specific competition concerns in each area. This would include the duration for any remedies imposed and any review mechanism.