

General

Reviews of Call Termination Markets and End-to-End Connectivity Condition

BT Group submission to Ofcom – Non-confidential
version

20 October 2025

Executive summary

Ofcom has made fundamental errors in its market assessment

BT encourages Ofcom to consider a fundamental and broader review of landline and mobile phone call regulations to ensure they remain effective and proportionate in light of evolving consumer behaviour and technological developments.

Since Ofcom's last market review, shifts away from 'traditional' Electronic Communications Services (ECS) to alternatives (such as ECS delivered via internet protocol or Online Communications Services – OCS) have accelerated, meaning that Ofcom's approach of largely 'rolling over' existing rules now appears at odds with current market structure. For example:

- The volume of fixed voice calls has declined by over 60% (Consultation, Figure 3.1).
- The total minutes of voice and video calls via OCS was more than two and a half times the total for landline and mobile phone calls (Consultation, paragraph 3.30).
- IP voice traffic now makes up around 95% calls sent via BT's fixed interconnections with other communications providers – with the number to reach 100% in 2027, meaning lower barriers to interconnection for communications providers.

In this context, it is not clear why – except for the proposal to remove the End-to-End (E2E) Connectivity Condition – Ofcom is seeking only incremental change to its regulatory framework for Wholesale Voice. Given both Ofcom¹ and the Government² appear to agree that improved connectivity, through greater network investment, will be a critical driver of UK economic growth, the time is now for Ofcom to consider progressive removal of regulation in this area – particularly given the relatively low value of termination markets (£3.8m – for example – for Wholesale Call Termination in the year ending March 2024). Indeed, we understand around half of EU countries – which apply a very similar regulatory framework to the UK – have now deregulated their respective fixed/voice termination markets. If further countries seek to deregulate in the period to 2031, the UK risks being an outlier in continued regulation.

Ofcom has not justified its proposed real terms price cuts to termination prices

Ofcom has not adequately justified its proposed real terms cuts – at only seven months' notice – to the prices providers can charge for termination. There is credible evidence that certain costs – such as wholesale fixed costs, network energy costs, and labour costs – might rise within the market review period, yet this has not been considered at all by Ofcom.

Indeed, Ofcom's lack of a robust process before introducing real terms cuts is surprising given (i) BT's voice network continues to undergo major modernisation with migration to newer, more reliable technologies (such as voice over IP and 5G), and (ii) the significance of economic value of services to users in pricing approaches has been reiterated – at least at the retail level³.

The misaligned approach to End-to-End Connectivity and "BT-only" SMP remedies is perverse

¹ Ofcom (2025) [Speech: Regulating for network growth](#)

² Department for Science, Innovation, and Technology (2025) [Proposed Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services - GOV.UK](#)

³ See [1381/7/7/21 Justin Le Patourel v BT Group PLC](#)

We fully support the removal of the E2E Connectivity Condition given the competitive transit market already ensures E2E connectivity is readily accessible. Further, the Condition hampers BT's efforts to prevent fraud and causes uncertainty amongst market participants.

Ofcom has not, however, made a clear and coherent case for the retention of the (closely-linked) 'BT-only' remedies in Wholesale Call Termination (WCT). Ofcom's assessment that BT holds greater market power than any other CP has not been established in itself and against the relevant (provisional) market definition of WCT within which Ofcom must conclude its analysis. Even if Ofcom's market power assessment was correct (it is not), each of Ofcom's proposed BT-only SMP conditions fails to meet the section 47(2) Communications Act 2003 ("**CA03**") criteria, given:

- The assessment of evidence concerning BT's "high" market share is inconsistent and does not objectively justify BT-only remedies for WCT, in line with Ofcom's (provisional) market definition.
- The rationale that BT could leverage its SMP in WCT into interconnection is not justified in the context of Ofcom's market definition.
- Ofcom appears to conflate the (competitive) transit market with interconnection for WCT.
- There is no clear articulation of Ofcom's concerns in relation to small providers.
- The objective justifications provided in respect of the requirement for BT to publish a reference offer bear no relationship to the competition concerns identified by Ofcom.

Further, the BT-only WCT remedies unduly discriminate against BT (where many other providers are also vertically integrated) and are not proportionate or transparent against the competition concerns identified in the light of Ofcom's market definition for WCT and the conclusions reached in the review of the E2E Connectivity Condition. In particular, BT's latest Regulated Financial Statements set out the *de minimis* amounts of revenue arising from WCT and related ancillaries concerning interconnection, which highlight the disproportionate nature of Ofcom's regulation in these markets.

1 End-to-End (E2E) Connectivity Condition

The removal of the E2E Connectivity Condition is long overdue and welcome

- 1.1 In response to Question 9.1, BT agrees with Ofcom’s proposal to revoke the End-to-End Connectivity Condition with effect from 1 April 2026, both as a matter of correct regulatory policy and as an appropriate reflection of market developments. Its continued application would not align with Ofcom’s stated ‘bias against intervention’.⁴
- 1.2 The obligation was introduced in a very different market and regulatory context, with new entrants seeking to establish interconnection with all UK number ranges quickly. In today’s mature marketplace, there is less demand for such new interconnections. [Redacted-----]. The competitive transit market, meanwhile, already ensures that end-to-end connectivity is readily accessible from a range of providers to access seekers under commercial terms.
- 1.3 The End-to-End Connectivity obligation - when considered alongside ‘BT-only’ remedies (which we discuss in greater detail below) - hampers BT’s efforts to prevent artificial inflation of traffic occurring on its network, ultimately negative impacting our investors, customers, and consumers. One well-established fraud – for example – involves inducing end users (who might be outside the UK) to send inflated volumes of traffic to communications providers from whom BT is required to purchase termination, with BT paying high rates due to surcharging at the interconnecting provider. When investigated, we have found the receiving numbers to be silent or consist of recorded messages only.
- 1.4 In our experience, providers who engage in such schemes tend to do so repeatedly and egregiously.
- 1.5 As BT has noted previously⁵, we see a need to streamline the regulatory framework to ensure that there is appropriate recourse for good actors in the ecosystem to take action against those engaging in fraudulent behaviour. Given the End-to-End Connectivity Obligation extends to ‘reasonable requests’ only⁶, Ofcom might reasonably believe there is scope for BT to take appropriate steps to reduce this risk to its operations and customers – including removal of our offer to purchase termination in some circumstances. In practice, however, taking such steps can prove difficult, particularly given Ofcom has chosen to retain the obligation at market reviews since 2006 (most recently in 2021).
- 1.6 Moreover, it is not appropriate for BT to be hampered in its ability to protect its subscribers – in extreme cases by electing not to purchase termination – by overregulation of a market where no competition problem exists. Indeed, all third-party communications providers have the option of purchasing transit from third parties under commercial terms should they wish to do so.

⁴ Ofcom (2023) [Impact Assessment Guidance](#) paragraph 1.3

⁵ For example, see BT Group letter to Ofcom, dated 11 February 2025, in relation to Stopping and blocking calls.

⁶ Ofcom (2006) [End to End Connectivity - Statement](#), paragraph 4.2

2 Wholesale Call Termination (WCT) and Mobile Call Termination (MCT)

2.1 In this section, we set out why:

- a. Ofcom's proposed intervention in WCT and MCT is misguided, and why the SMP conditions should be revoked on the basis of competitive retail markets;
- b. Ofcom's market definition is unduly narrow, and why the market actually encompasses at least WCT, MCT and OCS;
- c. Even under Ofcom's unduly narrow market definition, the WCT and MCT markets fail the three-criteria test;
- d. Even if the three-criteria test in relation to WCT and MCT were met, Ofcom's market power assessment is flawed – since Ofcom argues that each terminating provider has monopoly market power on termination in relation to the number ranges that it holds and controls, this necessarily means that each provider has the same extent of market power and therefore BT-specific concerns are unjustified; and
- e. Even under Ofcom's proposed market power assessment, Ofcom has not established why WCT and MCT charge controls should be maintained at current nominal levels, nor why BT-only remedies meet the statutory criteria under section 47(2) CA03.

Ofcom's provisional decision to intervene in wholesale markets

Ofcom's decision to intervene in wholesale markets is not supported by its market trend analysis at the retail level – Ofcom should revoke the SMP conditions on the basis of competitive retail markets

- 2.2 The legal and regulatory framework requires Ofcom to identify markets in which it is appropriate to consider whether to make a market power determination and carry out an analysis of those markets. However, as Ofcom notes in Annex 6, the identification of wholesale markets in which a market power determination may be made starts with an analysis of corresponding retail (or other downstream) market(s): if that retail market(s) is (are) competitive, then Ofcom must determine that regulation is not (or is no longer) required.
- 2.3 Simply put, the relevant (retail) market with which Ofcom's consultation is concerned is products/services that provide voice communications between users. It is therefore disappointing that rather than taking the opportunity to step back to consider – as indeed Ofcom is obliged to do in a Modified Greenfield Analysis – what the available voice products/services are that allow retail users to communicate on the assumption that no regulation is in place, Ofcom commences its consultation with a narrow view of communications by fixed and mobile lines. It is clear from the evidence presented in Ofcom's consultation that the retail market for such products and services is vibrant, diverse and competitive.
- 2.4 Even when engaging on Ofcom's unduly narrow view of fixed (and mobile) services alone, Ofcom's justification for intervention at the wholesale level is not clearly set out when considering its own analysis of these retail markets. Section 3 of the Consultation purports to analyse the downstream

markets for fixed (and mobile) line calling, in which Ofcom's evidence shows that the retail services analysed are in – and have been in – material decline for a decade. In particular:

- a. Total volumes of fixed line calls have been steadily decreasing since 2014, and have more than halved between 2021 (40.3bn minutes) and 2024 (18bn minutes) – decreasing by 23.6% on average each year (Consultation, paragraph 3.17);
- b. The total number of landline connections has declined by 27.2% since 2020, primarily driven by residential connections (Consultation, paragraph 3.18) given that the number of business landlines has remained relatively stable over the last few years (Consultation, paragraph 3.19);
- c. Ofcom's Technology Tracker data shows the vast majority of UK citizens do not have and use a fixed line – only 15% of people under 65 reported they had a fixed line and used it (Consultation, paragraph 3.21);
- d. The volume of mobile calls has returned to a downward trend after a temporary spike during the Covid-19 pandemic, from 190bn minutes in 2020 to 157.7bn minutes in 2024 (a 17% decrease) (Consultation, paragraph 3.15); and
- e. In the international context, all calling abroad via fixed and mobile calls has been in substantial decline (by 40% in aggregate since 2021 and by 16% year-on-year); and mobile calling when roaming abroad has resumed a downward trend since a brief COVID-related spike (Consultation, paragraphs 3.23 and 3.25).

2.5 Despite these conclusions arising from consideration of fixed and mobile line calls, Ofcom continues to consider it appropriate to provisionally conclude that intervention in wholesale markets is appropriate. Notwithstanding the evidence showing volumes, usage and uptake have been in prolonged and steady decline, this appears to be because Ofcom considers the overall volumes of fixed calls to be “substantial” which, according to the consultation data, means 18bn minutes in 2024 (even though this has reduced from 40.3bn minutes in 2021) (Consultation, paragraph 3.12). Similarly, given the total volume of mobile calls is about 9 times that of the total volume of fixed calls (157.7bn mobile minutes vs 18bn landline minutes as of 2024), it is no surprise that Ofcom also characterises the volume of mobile calls to be “substantial” (Consultation, paragraph 3.15).

2.6 However, when taking a step back from the narrowly defined fixed (and mobile) voice communication services, the conclusion that such volumes are “substantial” enough to justify moving to wholesale intervention does not withstand scrutiny when considering the evidence Ofcom presents concerning the preferences of retail users and the available alternatives at the retail level:

- a. As discussed further below, the data that Ofcom presents with respect to Online Communications Services (“OCS”) demonstrates that such services dwarf those of fixed and mobile services – in 2024, the volumes of voice calls alone (i.e. discounting OCS video volumes altogether) were greater than the volumes of fixed and mobile calls combined. Where Ofcom considers that 18bn minutes of fixed voice calls to be “substantial” enough to merit intervention at the wholesale level, Ofcom has failed to explain clearly why 233bn minutes of OCS voice calls alone (i.e. excluding OCS video calls) does not suggest that retail markets for products/services providing voice communications are competitive.
- b. Further, Ofcom's research data suggests that the retail market for voice communication products/services is diverse and competitive. Taking an analysis of fixed calls in isolation – Ofcom's research clearly demonstrates that retail users' preferences are to use other forms of communication (i.e. OCS) over fixed services. In the business context, SME use of a “landline” service (which we understand to mean fixed line) stands at 52%, compared against WhatsApp (81%), Zoom (54%) and only narrowly surpassing Microsoft Teams (48%) and Facebook

Messenger (40%) – with only 1% of SMEs using only landline and mobile services without any OCS. In the consumer context, “landline” service usage was found to be a mere 28%, compared against WhatsApp (83%), Facebook Messenger (54%) and FaceTime (32%) – with OCS being preferred to materially the same degree to fixed and mobile services in 4/8 identified call purposes.

- c. Turning to look at retail market shares that have been presented by Ofcom, BT’s market share by volume for fixed lines is reported as 44% in 2024, with share of connections falling to 32% (Consultation, paragraph 3.10). Even if BT is the largest retail provider (which has not been confirmed but we assume is the case for the sake of the argument), there is no dominant position at the retail level to justify intervention at the wholesale level. This is particularly the case where such retail shares are declining – suggesting that even on Ofcom’s narrow market definition, competition is vibrant and increasing – and where, even when combined with the next largest operator (Virgin Media O2) the combined market share of connections does not surpass 50%. Even if Ofcom were to consider a presumption of dominance, this presumption is clearly rebutted where retail market shares are declining – on a forward-looking basis. It is not clear how Ofcom has concluded that the retail market either is not now, or will not be in the future review period, competitive (i.e. where there are no operators holding a dominant position) to warrant intervention at the wholesale level.
- 2.7 Therefore, on the basis of Ofcom’s own analysis of retail markets – the decision to proceed to analysis of wholesale markets for intervention has not been clearly set out. The (narrow) retail use cases that Ofcom considers for fixed (and mobile) voice services are in materially prolonged decline. Ofcom’s own business and consumer research shows very clearly that OCS are strongly preferred and used over fixed services. In the case of mobile, OCS are preferred to materially the same degree. In the context where fixed volumes have materially and substantially declined (whilst OCS voice services are growing) and where no operator has a dominant position at the retail level on the narrowest basis (i.e. connections of fixed lines to premises for voice communications) Ofcom has not set out why the retail market is not considered to be competitive so as to justify wholesale intervention.

Market Definition

- 2.8 In response to Questions 4.1 and 4.2, BT does not agree with Ofcom’s proposed market definitions in relation to WCT and MCT.
- Ofcom has not established why its focal product for application of the hypothetical monopolist test should be “call termination to a single number”**
- 2.9 Ofcom’s focal product for application of the hypothetical monopolist test (“HMT”) to establish whether a party/parties hold market power in relation to voice communication services is “call termination to a single number”. Ofcom defines the market as the termination of voice calls to UK geographic numbers/mobile numbers held by fixed/mobile communications providers respectively. It arrives at this market definition by applying a Small but Significant and Non-Transitory Increase in Price (SNIPP) on wholesale termination rates over the five-year period starting in April 2026 (Consultation, Section 4).
- 2.10 For the reasons set out in the remainder of this section, Ofcom has failed – when undertaking a Modified Greenfield Analysis – to correctly identify a relevant market. The error that Ofcom makes is adopting an unduly narrow focal product for the purposes of its HMT assessment.
- 2.11 Fundamentally, the retail/consumer use-case concerns products/services that are capable of providing voice communications between people. As set out in Ofcom’s analysis – discussed above –

there are many products that provide voice calls, including number-based fixed and mobile services, and OCS. For example, whilst a business user with a mobile device may decide to place a call to another person with a mobile device using a number-based mobile calling service, it may also use an OCS such as WhatsApp to *the same mobile device* that would be reached by the mobile calling service. Similarly, a residential consumer may decide (and, in our experience as further demonstrated by Ofcom's research and declining volumes, is increasingly preferring) to decline to take a fixed voice service via a landline and instead view that mobile devices services through either a mobile voice service or an OCS (or a combination of the two) is sufficient to enable voice communications with other people. Ofcom's analysis and narrow focal product fails to take into account these other services, which BT (and indeed many other CPs identified as holding SMP) also provide: such as software/cloud communications products via the internet⁷) as an alternative to number-based fixed line or mobile calling products/services.

- 2.12 By limiting the focus to termination of voice calls to a single number, Ofcom *de facto* excludes any consideration of the real-world demand-side substitutes that are available to users of voice communication services that are set out in Section 3 of the Consultation, which are clearly preferred by those users over fixed line and/or mobile calling services. Importantly, this approach also excludes from the assessment the voice communications products and services that are sold by BT and other CPs that are substitute products/service to enable voice communications, and which may also interoperate with the narrowly defined focal product identified by Ofcom. At the very least, the consultation does not grapple with the conclusion that many customers now see a landline and mobile voice service as being plainly substitutable.
- 2.13 Further, Ofcom's choice of an unduly narrow focal product for the SSNIP test is also explained by the fact that it has overlooked the potential for asymmetry in product substitutability. For example, even if there was no price-motivated substitution from fixed/mobile phone calls to OCS (which BT does not concede), if OCS started to charge for calls it is highly likely that customers would materially consider substitution of OCS calls with other fixed/mobile phone calls. This is in circumstances where BT (as a multi-product firm) also supplies OCS and/or facilitates integration with OCS, which potentially allows for such substitution to take place easily within customer products/services. Ofcom presents no evidence or analysis of consumer switching behaviour from this perspective, where such analysis would suggest that "call termination to a single number" is too narrow a focal product.⁸
- 2.14 The analysis below considers wholesale substitution before turning to retail level substitution.

Wholesale level substitution: Ofcom's market definition is too narrow where it fails to consider alternative wholesale substitutes to call termination to a single number

- 2.15 The consultation concludes that OTT VoIP bypass is the only potential wholesale substitute to WCT that would justify broadening the relevant product market, but considers OTT VoIP bypass is not used in practice and is unlikely to be used to a material extent in the review period. However, Ofcom presents no evidence on which to base the conclusion that OTT VoIP bypass is not used in the UK or customer/supplier survey evidence to conclude that would not be a competitive constraint within the review period on a forward-looking basis.
- 2.16 Ofcom not only dismisses OTT VoIP bypass but VoIP calling itself without any analysis (Consultation, paragraphs 4.40-4.42). Ofcom fails to consider that VoIP services themselves may indeed avoid the need for WCT (as narrowly defined by Ofcom) and may therefore act as a credible competitive

⁷ For example, [Redacted-----]

⁸ See [EC Notice on market definition \(2024\)](#), paragraph 18 and footnote 32. See also [BEREC report on impact of fixed-mobile substitution in market definition \(2011\)](#), sections "How much substitution is enough?" and "Symmetric substitution vs. asymmetric substitution".

constraint at the wholesale level. For example, BT offers cloud-based collaboration products that integrate fixed and/or mobile calling products within OCS software collaboration products.⁹ BT's products offer both integration with or replacement of fixed/mobile calling products with cloud calling products that may avoid the need for WCT and/or MCT, depending on how a customer wishes to design their communications estate. Indeed, Ofcom identifies that some business users now rely solely on OCS services instead of WCT or MCT to enable voice communication within their businesses. Ofcom's business call user research indicated 5% of the SMEs sampled relied solely on OCS services for making calls (Consultation, Business Call User Research Report, Slide 13). However, the consultation does not address this common OCS use-case which plainly acts as a substitute for both WCT and MCT.

- 2.17 Finally, Ofcom has not grappled at all in the consultation document with the fact that some OCS – including the most popular OCS: WhatsApp – require a mobile number in order to activate the service. This shows clear substitution at the wholesale level where the “single number” as in Ofcom's focal product is used to activate and provide a voice communication service between both consumers and businesses, without the use of WCT or MCT. Once activated, communications are OTT and avoid the use of any fixed or mobile signalling. A retail user may not even be aware that such substitution occurs. For example, from the perspective of the user generally, a user of WhatsApp sees voice (including video and indeed messaging) communications as being made between mobile numbers. In order to add a contact and place a voice call through WhatsApp, the user must enter the mobile number of the recipient to establish the connection. Further advancements in mobile device software and greater interoperability between apps and mobile device software mean that a typical user can open the traditional call history list and see “calls” to mobile numbers and other OCS such as WhatsApp, Microsoft Teams, etc. all grouped together via the device's ‘native’ calling application. In some cases, the user may not even realise that the “call” being placed is not a mobile call to a fixed number at all, but rather, for example, a WhatsApp call. This is expected to become more prevalent where mobile device software now allows users to select default voice communication services on the device: users of iOS devices may change the default “call” option from number-based mobile calling to (e.g.) WhatsApp or Facetime.

Retail level substitution: Ofcom provisionally defines a narrow market that only includes WCT, however, a sound application of the HMT suggests a broader market definition including at least WCT, MCT and OCS

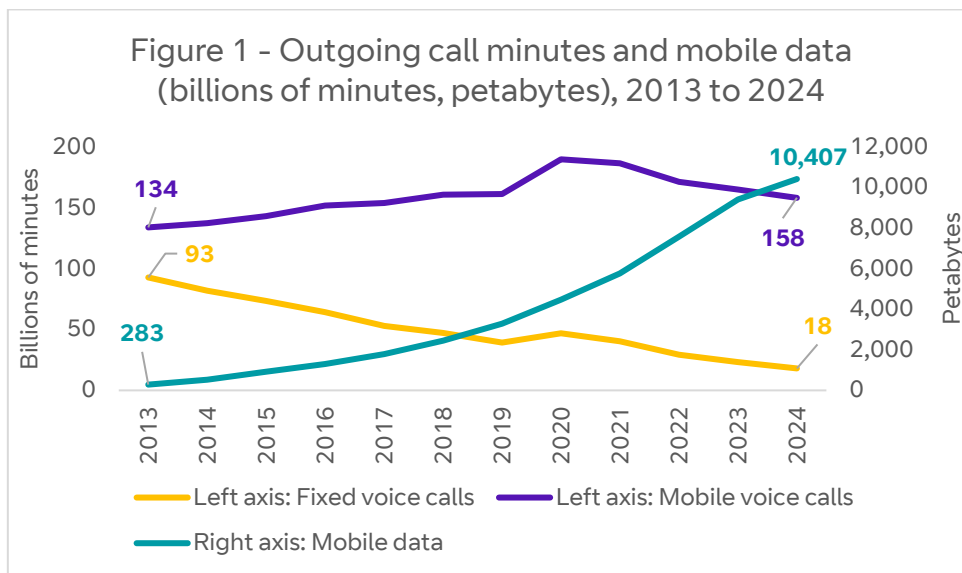
- 2.18 Further, Ofcom's analysis of substitution at the retail level (indirect constraints) is flawed for the following main reasons:
- a. Ofcom ignores the clear evidence of switching away from number-based services to OCS;
 - b. Ofcom bases its HMT solely on a SSNIP test, which is inappropriate for products/services that are very low cost/free. Rather, a Small but Significant and Non-Transitory Decrease in Quality (“SSNDQ”) test would likely demonstrate substitution at the retail level from fixed calls to OCS, rendering a quality reduction unprofitable for the hypothetical monopolist;
 - c. Ofcom does not explain why it considers OCS such as WhatsApp to be a competitive constraint in the context of international calling but not in domestic calling; and
 - d. Even if a SSNIP test was applied, it would likely lead to sufficient substitution at the retail level from fixed calls to mobile calls, rendering a price increase unprofitable for the hypothetical monopolist.

⁹ For example, [Redacted-----]

2.19 Consequently, the market definition is broader than Ofcom suggests and would include fixed call termination services, mobile call termination services, and OCS. We explain these points in more detail below.

2.20 **Switching and preference trends do not support Ofcom’s market definition:** Ofcom has not adequately assessed the evidence presented, which we believe supports the view that OCS are also a sufficient substitute for fixed calls at the retail level in the UK:

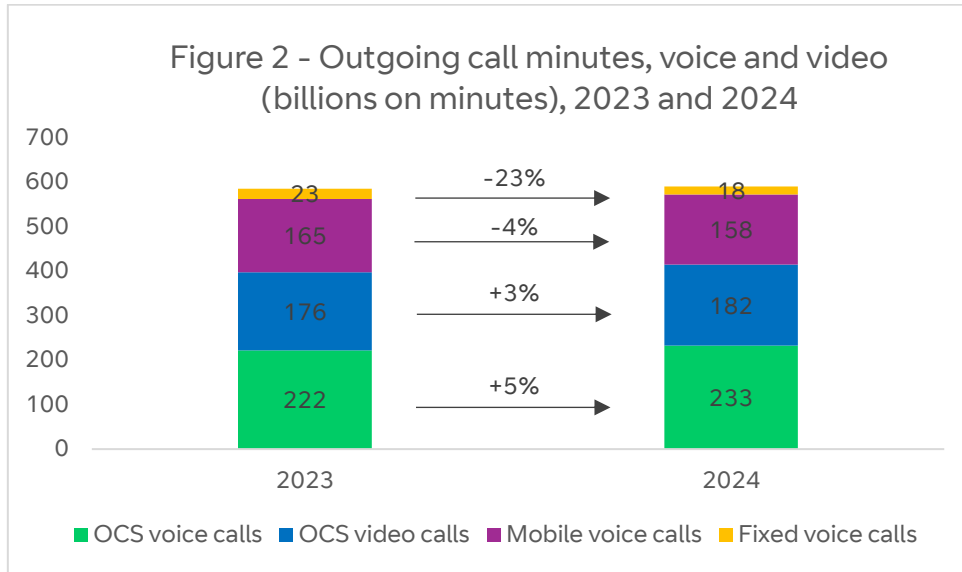
- a. Market trends since the previous market review are consistent with substitution – between 2020 and 2024 the number of landline connections fell by almost a third (Consultation, Figure 3.2) and fixed call volumes dropped by over 60%¹⁰. Over the same period, the volume of outgoing OCS voice and video calls increased by over 800%, from 43 billion minutes to 415 billion minutes.¹¹ Further, Figure 1 shows fixed and mobile voice call volumes have fallen since 2020, coinciding with an increase in mobile data usage. We use mobile data usage as a proxy for OCS call volumes, but Ofcom could measure these more accurately by requesting outgoing call *volumes* from OCS providers. We urge Ofcom to collect this data from OCS providers. Figure 2 shows this more precisely as it shows the recent fall in outgoing fixed voice call minutes (-23%) and mobile call minutes (-4%) has coincided with an increase in OCS voice call minutes (+3%) and OCS video call volumes (+5%). All this evidence shows that substitution from fixed and mobile calls to OCS calls is plausible and merits an adequate assessment by Ofcom.



Source: Ofcom's Communications Market Report 2025

¹⁰ [Communications Market Report 2025: Interactive data](#), Telecoms and networks, fixed calls minutes: 46.7 billion in 2020 compared to 18 billion in 2024.

¹¹ [Statement: Wholesale Voice Markets Review 2021-26](#), Figure 3.1 and Figure 3.5



Source: Ofcom's Communications Market Report 2025

- b. Ofcom’s research indicates businesses and residential users report having a preference for OCS – Ofcom’s business call user research indicates that 81% of SMEs reported using WhatsApp for voice and video calls and only 52% reported using a landline for calls as of April 2025 (Consultation, paragraph 3.33). As for residential users, Ofcom’s consumer call user research found that 83% of the UK adult population were most likely to use WhatsApp for their phone call services as of March-April 2025 (Consultation, paragraph 3.37).

2.21 **Ofcom ignores (retail) interoperability of fixed and mobile services with OCS:** Additionally, Ofcom appears to ignore that currently, and even more so on a forward-looking basis, OCS can originate a call to someone who does not subscribe to the OCS platform via interconnection with a number-based service. [Redacted -----]. Further, given the CMA’s ongoing work under the Digital Markets, Competitions and Consumers Act, it is puzzling why Ofcom appears to not have engaged with the CMA to assess the real prospect that CMA interventions over the review period could make interoperability of OCS platforms likely. Ofcom also appears to have overlooked the impact that the EU’s Digital Market Act is already having on termination services in the UK, e.g. since March 2025 iOS users *across the world* are able to choose their default iOS apps including those used to place calls.¹² At the retail level, therefore current and greater forward-looking interoperability between number-based services and OCS means that Ofcom’s unduly narrow application of the HMT to number-based services only misses a fundamental shift in voice communication that is well-underway.

2.22 **Ofcom acknowledges that there is no harm at the retail level caused by a SSNIP in wholesale rates:** Even when ignoring this very clear evidence of retail switching behaviour, Ofcom appears to justify its narrow market definition by reference to a SSNIP on wholesale termination rates because minutes and texts are often bundled at the retail level. In turn this would lead retail customers to see no change in retail prices under a SSNIP at the wholesale level, making them unlikely to switch. According to Ofcom’s own analysis of bundle pricing at the retail level, even if terminating operators passed on the entirety of the SSNIP on termination charges, the typical landline (or mobile) bundle would increase by less than

¹² See [The Verge \(March 2025\) - The latest WhatsApp update lets iPhone users choose the platform as their default app for text messages and phone calls](#) and [Apple Support \(UK\) - Change the default apps on iPhone](#)

1%. Moreover, Ofcom claims the potential consumer harm from terminating providers fully passing on the termination charges relates to customers who pay for calls per minute, but at the same time Ofcom acknowledges this proportion of customers is likely to be small (Consultation, paragraphs 4.28-4.30). If the conclusions above on the application of the SSNIP are indeed the case, it is unclear to us what is the harm at the retail level that justifies Ofcom's intervention at the wholesale level where retail users would not see price increases.

2.23 The SSNIP test (i.e. a price parameter) is not suited to the markets analysed, where the analysis should account for (decreases in) quality and innovation as a parameter of competition: Ofcom's assessment of demand-side substitution from both fixed and mobile to OCS is flawed as it relies solely on a SSNIP test. Having highlighted that the vast majority of users would be unlikely to see an increase in the retail price due to the high prevalence of fixed and mobile call bundles, the Consultation fails to engage with the issue that a SSNIP is not appropriate where the potential substitute OCS products are offered for free.¹³ This is a significant oversight given Ofcom's own research shows that the fact that OCS do not require monetary payment by end users is one of the most important factors considered by retail users when considering which OCS to use.¹⁴ Indeed, Ofcom's business user research concludes that the highest scoring reasons for those that stopped using landlines was that (1) cheaper alternatives were available; and (2) other services were free (Consultation, Business Call User Research Report, page 18). The limitations of the SSNIP test in such circumstances have been well-acknowledged in the European Commission's Market Definition Notice¹⁵ and recent enforcement cases.¹⁶ In a market definition exercise, the authority must consider the parameters of competition that customers consider relevant:

"For operational and practical purposes, this assessment usually focuses on reactions to price increases, but it can also consider changes in other competitive parameters, such as in the quality of the product or its level of innovation, [...]

When undertakings compete on parameters other than price, such as quality or the level of innovation, the application of the SSNIP test is difficult, in particular in the context of zero monetary price products and highly innovative industries."¹⁷

2.24 Rather than applying a SSNIP test, Ofcom should consider the extent of substitution to OCS should the hypothetical monopolist apply a SSNDQ. In our view, this would likely lead to significant substitution to OCS given it requires no monetary payment and provides many greater innovative features compared to fixed and mobile call services such as end-to-end encryption, coverage without network via Wi-Fi, voice notes, and multimedia capabilities. Further, it can be expected that where OCS such as WhatsApp also provide for rich messaging capabilities,¹⁸ that an even greater proportion of users will use such services to benefit from such technological advancements which spillover into calling and, therefore, increase the penetration rate of WhatsApp's voice communications capabilities in the UK over the time period considered in the consultation. In any event, 87% adoption rate of WhatsApp among UK online adults (as of May 2024, which is likely to have increased since then) confirms that WhatsApp has already achieved materially ubiquitous penetration in the UK sufficient to act as a viable switching

¹³ See [Oxera \(2020\) - Two-sided market definition: some common misunderstandings, Section 9: What if the price is zero and/or competition is on one side of the platform](#)

¹⁴ [Personal online communication services](#), Figure 3.6.

¹⁵ [EUR-Lex - 52024XC01645 - EN - EUR-Lex](#), paragraphs 15, 27, 30, 50 and 98.

¹⁶ European Commission, AT.40099 *Google Android*, paragraphs 284-305.

¹⁷ [EUR-Lex - 52024XC01645 - EN - EUR-Lex](#), paragraphs 27 and 30 (emphasis added).

¹⁸ See BT's response to Ofcom's market consultation on Business Messaging - [Consultation: Business messaging - Review of the A2P SMS termination market](#).

option and competitive constraint on providers of fixed and mobile call termination (Consultation, paragraph 3.33).

- 2.25 **Ofcom does not reconcile its conclusion that OCS are substitutable in international calling with its conclusion that OCS are not substitutable in domestic calling:** Even without taking a forward-looking view, it is surprising that Ofcom finds OCS are not a sufficient substitute for fixed and mobile calls at the retail level in the UK, given that Ofcom’s evidence clearly demonstrates OCS are a sufficient substitute for fixed and mobile calls outside the UK. Ofcom presents clear evidence of switching from both fixed and mobile number-based calls to OCS – 90% of consumers placing international calls in the last 12 months did so via OCS rather than a number-based voice service. Ofcom observes and puts weight on OCS in international calling as a means for allowing UK terminating providers flexibility against international terminating providers rates. Consultation, paragraph 5.86 notes: “...Similarly, our consumer call user research found that just over half of consumers didn’t make an international call in the last 12 months and among those who did make a call just under one-in-five (19%) called less than once a month. Just under nine-in-ten consumers who made an international call in the last 12 months did so via an OCS, with WhatsApp the service they were most likely to use (64%).” In this context, Ofcom has not explained why it acknowledges retail switching and preferences in the international context but fails to acknowledge the same in the domestic context, where to do so would allow for a broader market definition.
- 2.26 **Beyond OCS, Ofcom’s Consultation fails to engage with the potential that a SSNIP on wholesale termination rates could lead to substitution from fixed termination to mobile termination.** This is clearly plausible. Mobile phone call services are widely available, while at the same time fixed phone call services are becoming less so. As of 2025, Ofcom’s own research indicates that 96% of the UK adult population (+16 years old) have a mobile contract¹⁹ and 4G covers 96% of the UK landmass²⁰. Indeed, Ofcom’s research data in respect of both consumer and business users demonstrates that mobile calling is strongly preferred over landlines.
- 2.27 Other Ofcom research shows that the number of exchange line numbers has consistently fallen markedly over recent years, from more than 32.2 million in Q1 2021 to 23.6 million in Q1 2025²¹. Notwithstanding this evidence that demonstrates such switching between mobile and fixed devices *today*, BT has committed publicly to ensure that 99% of the UK will have 4G mobile coverage by 2030 (i.e. within this review period). Such coverage clearly enables virtually every UK resident to switch at the retail level between a fixed line and a mobile line without any loss of accessibility.

Section 79(2B) CA03 – Three-criteria test

- 2.28 In response to Question 4.3, BT does not agree with Ofcom’s provisional conclusions on the identification of WCT and MCT for the purpose of making a market power determination on the basis that Ofcom has not satisfied the three-criteria test in section 79(2B) CA03.
- 2.29 Ofcom argues the three-criteria test set out in subsection 79(2B) CA03 is met in relation to the provisional WCT and MCT markets over the review period, and therefore it is appropriate to apply ex-ante regulation to these markets. In Ofcom’s view (Consultation, paragraphs 4.72-4.88) the test is met because there is:

¹⁹ [Communications Market Report 2025: Interactive data](#), Market in context

²⁰ [Ofcom - Map Your Mobile – mobile coverage checker update](#)

²¹ [Telecommunications Market Data Update Q4 2021](#), [Telecommunications Market Data Update Q1 2025](#)

- a. Presence of high and non-transitory barriers to entry as the originating provider has no choice but to purchase call termination once its retail subscriber chooses to call a geographic number or a mobile number;
- b. A market structure which does not tend towards effective competition based on the view that each terminating provider has a monopoly; and
- c. Competition law alone would not adequately address the market failure(s) because as each terminating provider has a monopoly in termination, it has the ability and incentive to charge excessively high prices, to provide access on unfair and unreasonable terms, or to refuse access to their network.

Ofcom’s restrictive analysis of the relevant market according to number-range based termination fails to take into account Ofcom’s own trend analysis which demonstrates barriers to entry are low

- 2.30 Ofcom’s application of the three-criteria test is flawed because it is based on an unduly narrow market definition that only includes call termination to a number range. However, even if that market definition is correct, the application of the three-criteria test in section 79(2B) CA03 is undermined where Ofcom fails to recognise the clear trend analysis proven by Ofcom’s own research – that fixed and mobile number-based services are in steady decline, losing both share and user preference to OCS.
- 2.31 We refer to the analysis provided above at paragraph 2.20, Figure 1, and Figure 2, which demonstrate that fixed services have been in continual decline for a decade. In respect of mobile services, although they appeared to be (barely) growing between 2014 and 2020, they have been in sharp decline during the previous Wholesale Voice Markets Review 2021-2025 (“WVMR 2021”) period. As explained above, Ofcom’s own user research explains – in both consumer and business contexts – OCS are not only preferred above landlines and materially to the same extent as mobile, but they are growing at a far sharper rate in relative and absolute terms.
- 2.32 Confusingly, Ofcom readily accepts that in an international context, OCS are very clearly the preferred voice communication method (preferred by 9 out of 10 users making an international call over fixed or mobile services). However, Ofcom does not take note of this analysis in its application of the three-criteria test. If the barriers to entry were high and non-transitory, then 90% of users would not be able to make a voice call using alternative services to either fixed or mobile service that rely on number termination. Again, Ofcom’s unduly narrow focus on number-termination excludes any consideration of the reality of how users of voice communications services actually consume those services. Ofcom’s evidence clearly demonstrates that where there is a higher (foreign) termination rate applicable to such number-based services (which is then likely to be reflected in the retail charges to customers), users do indeed overwhelmingly switch to an alternative, non-number based services.

Ofcom’s unduly narrow focus on number-range based termination fails to take into account a market structure that is trending towards greater competition from OCS

- 2.33 In order to proceed to an SMP analysis, Section 79(2B)(b) CA03 requires Ofcom conclude that there is a market structure which “*having regard to the [...] other sources of competition behind the barriers to entry, does not tend towards effective competition*” (emphasis added).
- 2.34 Simply put, OCS are growing and taking volumes from fixed and mobile services. As Ofcom itself notes: “... many people use voice OCS which now accounts for a significant volume of call minutes and it may continue to increase in the future” (Consultation, paragraph 4.83). However, Ofcom excludes OCS from its market structure analysis on the basis that: (a) Ofcom does not believe OCS are or may become interoperable with fixed/mobile services; and (b) that retail switching to OCS is unlikely to occur where users do not feel the increase in WCT and MCT rates. As we have already addressed, our analysis above at paragraphs 2.15-2.17 has established that not only are OCS already interoperable with fixed and

mobile voice services – see BT’s cloud voice offerings that use Microsoft Teams (see paragraph 2.16) – and that such interoperability is only likely to increase where customers move away from legacy-based services to cloud-based (OCS) services. Further, customers are evidently multi-homing their voice communications services – only 1% of business users in Ofcom’s research do not rely on an OCS at all.

- 2.35 Ofcom’s unduly narrow focus on the “monopoly” position created by its focus on termination to number ranges ignores the overwhelming evidence the OCS are being used and are indeed preferred in some instances as voice communication services. It is not credible for Ofcom to hold that 233bn minutes of OCS voice calls alone (i.e. excluding the 182bn minutes of video calls) against a mere 18bn and 158bn of fixed and mobile call minutes respectively in 2024 “*is unlikely to justify an expansion of the market definition for call termination over the review period...*”. (Consultation, paragraph 4.83).

In such circumstances, competition law alone would adequately address the market failure where the exercise of any such ability and incentive to harm competition would likely be met by even greater switching rates

- 2.36 Ofcom concludes its three-criteria analysis by claiming that ex-ante regulation would be more effective than ex-post competition law in addressing the identified market failure where “*providers of call termination have the ability and incentive to charge excessively high prices, to provide access on unfair and unreasonable terms, or to refuse access to their network*” (Consultation, paragraph 4.86).
- 2.37 However, in the face of Ofcom’s own evidence and the arguments above, it is not credible that WCT and MCT providers have such ability or incentive where customers are already switching away from fixed and mobile voice services. The volumes and rate of growth of OCS services dwarf those of fixed and mobile services on both an absolute and relative scale. Where fixed and mobile services are in sharp decline, it is not credible or rational to hold that price *increases* – and *excessively high* price increases – would be able to be maintained. Neither is it credible that WCT and MCT providers would refuse network access or to interoperate with OCS where there is clear demand from multi-homing customers and where customers expect greater innovation and ability from their voice communication services (such as multimedia, voice notes and end-to-end encryption). For providers to increase prices or refuse such access would likely drive further volumes to OCS. In these circumstances Ofcom has not established why ex post competition law would not be able to adequately address any such market failures, given that rationally acting operators would be highly unlikely to implement such increases.

Market power assessment

- 2.38 In response to Questions 4.4 and 4.5, BT does not agree with Ofcom’s provisional conclusion that each provider of WCT and MCT has SMP in the markets served by that provider respectively.

Ofcom proposes that each WCT and MCT provider has SMP

- 2.39 Following its assessment of the three-criteria test, Ofcom assesses the degree of market power exerted by the terminating provider in the narrowly defined provisional WCT and MCT markets over the review period. It does this based on what Ofcom regards to be the most pertinent criteria to this market from the EC SMP Guidelines (Consultation, paragraphs 4.89-4.126):
- a. High current and future market shares, with each terminating provider having 100% market share for call termination to the number ranges held by that provider;
 - b. High barriers to entry and expansion, with entry seen as unlikely;
 - c. An absence of effective countervailing buyer power (CBP), with originating providers seen as unable to effectively influence termination rates;

- d. Evidence of pricing above competitive levels, with terminating providers generally pricing up to the caps which is seen as consistent with an SMP finding.
- 2.40 Based on its market power assessment, Ofcom provisionally concludes that each terminating provider has SMP in a narrowly defined WCT and MCT markets, and provisionally identifies competition concerns arising from each WCT and MCT provider with SMP (i.e. all WCT and MCT providers) and competition concerning arising from BT's SMP in the WCT market only.
- 2.41 In summary, Ofcom is of the view that retail competition could be distorted, and consumers could be harmed if four competition concerns are not addressed:
- a. **Illegitimate network access restrictions** – Each WCT/MCT provider has the ability and incentive to make network access subject to unfair or unreasonable terms or to refuse access to their network;
 - b. **Leveraging of market power in WCT/MCT market into adjacent markets** – Each WCT/MCT provider has the ability and incentive to leverage its SMP in WCT/MCT into the provision of associated interconnection services/facilities which are necessary for the provision of termination by offering these on terms that are not fair and reasonable, including setting excessive charges.
 - c. **Excessive pricing** – Each WCT/MCT provider has the ability and incentive to set and maintain WCT/MCT rates at an excessively high level;
 - d. **Any combination of the competition concerns above if related to BT in WCT** – Ofcom argues that BT meets a number of characteristics that single it out from the list of 58 WCT providers provisionally found by Ofcom as having SMP in WCT. Ofcom appears to assert that these characteristics mean that the negative impact on retail competition and consumers from any potential discriminatory conduct by BT would be greater and/or more likely than the impact from conduct by any WCT provider.
- 2.42 In Ofcom's view, BT has four characteristics that single it out from any other WCT provider (Consultation, paragraphs 5.35-5.37):
- a. It is vertically integrated;
 - b. It has a "high" share of total WCT volumes;
 - c. It is an "important" interconnection partner for other providers, with 'interconnect' covering both termination (a service where Ofcom has made a provisional market power finding), and transit (where Ofcom has made no market power finding), and;
 - d. Interconnected providers send "comparatively small volumes" of traffic to it.
- 2.43 We reject Ofcom's competition concerns in relation to WCT and MCT as they're based on an unduly narrow market definition, for the reasons set out in paragraphs 2.8-2.27. However, even under this narrow market definition which underpins Ofcom's finding that each terminating provider has SMP in termination, Ofcom has not properly considered the SMP criteria selected in its analysis.

Ofcom fails to give weight to the competition currently sitting behind the barriers to entry and expansion

- 2.44 As set out above, in circumstances where: (i) CPs already provide mixed-portfolios of voice communications services comprising fixed, mobile and OCS services; (ii) such services may already be configured to interoperate; and (iii) users are already multi-homing their voice communications services with OCS in preference to fixed services and preferred to a materially similar extent to mobile services, it is not credible for Ofcom to maintain that the market power of wholesale providers of WCT

and MCT would not be constrained (Consultation, paragraph 4.103). Such constraint is already evident on Ofcom’s own research today, which accounts for the factors listed above through materially declining volumes, let alone over a forward-looking five-year review period.

Ofcom’s analysis of countervailing buyer power (CBP) does not give sufficient weight to the commercial significance of the buyer to the seller

2.45 Ofcom’s market power analysis is constrained by its unduly narrow focus on each provider’s apparent monopoly position without consideration of the highly competitive transit market. Ofcom concludes that *“there is a broad array of originating providers [i.e. buyers], such that individually we consider that they are unlikely to be commercially significant enough for terminating providers to keep their prices for WCT and MCT low in order to retain an individual buyer”*. However, such analysis ignores entirely the reality of the operation of voice calling:

a. **The transit market provides ample CBP but is not assessed at all by Ofcom.** As Ofcom has concluded in previous market reviews, the transit market is highly competitive (such that it was deregulated fully in 2013). However, Ofcom’s CBP analysis considers only the position of an individual buyer of call termination and fails to recognise that the intermediate transit markets in practice may allow several smaller buyers to purchase termination on more favourable terms through large transit providers. The full adoption of IP calling in the UK is likely to further increase the prominence of such commercial arrangements and improve the bargaining power of operators where interconnection may take place directly, quickly and more cheaply. This has been acknowledged by Ofcom in the Consultation (paragraph 9.18).

b. **Ofcom fails to recognise the commercial reality of voice interconnection agreements.**

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Ofcom’s reference to operators pricing to the level of a price cap is not a sufficient basis on which to conclude market power and should be discounted

2.46 Where Ofcom should be applying a Modified Greenfield Analysis, a conclusion that providers have market power because pricing levels have been set at the regulated cap is inappropriate and self-fulfilling (Consultation, paragraph 4.110).

2.47 Ofcom is obliged in the analysis to consider the relevant markets absent regulatory intervention – as provided for in the EC SMP Guidelines: *“In the area of ex ante regulation, i.e. where a product or service is already offered at regulated, cost-based price, a regulated price will be assumed to be set at*

competitive levels...”.²² Accordingly, Ofcom’s observation that providers have been pricing to the regulated caps does no more than show that operators have been pricing at a competitive level, and cannot be used a basis on which to conclude market power in this review. Ofcom should discount this (highly limited) analysis and reconsider its SMP conclusions accordingly.

Ofcom’s market power analysis concluding that BT has additional SMP in the narrowly defined WCT market is not sufficiently evidenced or analysed by reference to Ofcom’s WCT market definition or in accordance with the EC SMP Guidelines

- 2.48 Ofcom’s market power analysis contains just one paragraph (Consultation, paragraph 4.125) which considers that BT has *additional* SMP beyond a monopoly provider because: (a) BT accounts for a “*large share*” of landline calls terminated in the UK; and (b) that BT is an “*important interconnection partner for other landline provider and interconnects with more telecoms providers than any other telecoms provider*”, each of which factors would “*have a greater effect on the availability of WCT and on downstream competition than similar conduct undertaken by other geographic number range holders*”.
- 2.49 In reaching such a conclusion, Ofcom has erred in its market power assessment by expanding the relevant market beyond that which it identified under the three-criteria test under section 79(2B) CA 03. The relevant market that has been identified for the assessment of market power is: “*the wholesale termination services that are provided by [named landline telecoms provider] to another telecoms provider, for the termination of voice calls to UK geographic numbers in the area served by that landline telecoms provider in the United Kingdom*” (emphasis added). However, in its market power assessment in relation to BT only, Ofcom claims that BT has ‘greater’ SMP than any other operator due to its share of fixed calls that are terminated and the number of interconnections that it has with other operators. Each of these points is not supported by Ofcom’s market definition for WCT against which its market power determination must be assessed:
- a. Ofcom’s claims that BT’s share of WCT as being determinative of greater SMP – this conclusion cannot hold where Ofcom has concluded that the relevant market conferring monopoly power over each provider of wholesale termination services is drawn by reference to the number ranges that it holds. In other words, each operator has 100% market share in relation to the number ranges that it holds and controls. This is even true in the case of ported numbers, where Ofcom’s SMP analysis still concludes that the donor retains (and shares) market power for WCT. Accordingly, the fact that BT terminates a greater volume of fixed calls is entirely irrelevant to the market definition that Ofcom has proposed, and on which Ofcom must base its SMP analysis.
 - b. Ofcom’s claims that BT is an “*important interconnection partner*” and “*interconnects with more telecoms providers than any other telecoms provider*” (Consultation, paragraph 4.125) – regardless of whether this is factually accurate, the “importance” of BT’s interconnections with other providers is an out-of-market consideration that cannot be taken into account by Ofcom in its market power assessment, which must be made by reference to the market definition it has proposed. Ofcom’s analysis steps outside of this market definition where:
 - i. As above, the relevant market concerns the number ranges that are held by the provider – at no point does Ofcom expand the market definition to include the number of interconnections that each provider holds as being a parameter of competition capable of defining the relevant market. To the extent that interconnection is held to be an important parameter of

²² [EC SMP Guidelines 2018](#), paragraph 31.

competition, Ofcom's market definition must be amended and the analysis retaken for all providers.

- ii. Ofcom appears to be conflating WCT with the operation of the transit market and the related obligations that BT currently holds in relation to End-to-End Connectivity – whereby providers may interconnect with a small number of other providers in order to benefit from that provider's respective interconnections with third parties, thereby creating a web of interconnection which may avoid the need for all providers to interconnect directly with each other. Conversely, operators may decide to interconnect with many other providers of termination in order to transit calls from other originators to those providers – Ofcom's implicit assumption that just because a provider has a large number of interconnections means that it holds more market power for termination to the number ranges that held by that provider does not hold true in this case. In any event, the number of interconnections (and the ability to transit a greater number of calls) is plainly irrelevant to the market definition that Ofcom has drawn, where it is control over the number range held by the providers that is the relevant market, and where all providers have exactly the same market power in respect of those numbers according to Ofcom's market definition. Accordingly, all providers are under the same onus and obligation to ensure that they are interconnected with other providers in order for their customers to receive calls – that BT has a greater number of those interconnections is plainly irrelevant to the assessment of market power over the termination services to the number range held by the provider: such market power remains constant regardless of the number of interconnections held.
- iii. Moreover, the conclusion that BT remains an “important interconnection partner” is flatly contradicted by, and is wholly inconsistent with, Ofcom's conclusions in the End-to-End Connectivity review. By removing the condition applicable to BT, Ofcom de facto concludes that BT is not a more important route of interconnection than through other providers.
- iv. In any event, even if Ofcom expanded its market definition to account for number of interconnections – it must retake the market power analysis as a whole and do so for each provider for whom it has concluded SMP. For example, if Ofcom concludes that the number of interconnections that a provider holds is a parameter of competition relevant to the market definition, Ofcom must conclude that there is a number of interconnections beneath which market power is not held, which it has not done here.
- v. Crucially and fatally, the failings above reveal that Ofcom's analysis has not taken place on a Modified Greenfield basis, where Ofcom relies on the number of interconnections that are held by BT as a basis on which to conclude that BT has greater SMP in WCT than any other provider. This is because the volume of interconnections that BT holds has been driven and determined by Ofcom's regulatory intervention in End-to-End Connectivity, where the End-to-End Connectivity Condition has since 2006 obliged BT to establish new, and maintain existing, interconnections with providers. The effect of the End-to-End Connectivity Condition means that if a provider connects with BT, it may de facto purchase termination (via BT's obligation to purchase such termination for the provider) for any calls that it receives/originates that are destined for termination on a number range that is not held by that provider. Accordingly, Ofcom must discount the effect of the End-to-End Connectivity Condition from its analysis under a Modified Greenfield analysis – i.e. it must discount the number of interconnections held by BT, and the importance of BT as an interconnection partner.²³ Had Ofcom done so, the

²³ In the alternative, should Ofcom determine that the End-to-End Connectivity Condition is not relevant to its SMP analysis here (a conclusion with which we fundamentally disagree), Ofcom would still be required to take the Condition into account on a forward-looking basis as an “*other types [sic] of (sector-specific) regulation... applicable to the relevant*

conclusion would plainly be that without the End-to-End Connectivity Condition, BT is no longer obliged to maintain the alleged “high” number of interconnections as compared with those of other providers, as it is no longer obliged to purchase termination for any calls received that are destined for non-BT number ranges. This is the basis on which Ofcom’s analysis must be based – i.e. without the regulatory access condition under the End-to-End Connectivity Condition, BT is simply not obliged to maintain such interconnections. BT may, for example, pursue the strategies of other providers and decide to purchase transit services for such calls, or reject them entirely (as they are not calls destined for BT number ranges). Ofcom’s market power analysis is therefore materially undermined by this failure to conduct a Modified Greenfield analysis on this basis.

- 2.50 Even if these market definition issues could be addressed – which BT does not accept can be overcome without amendment to Ofcom’s proposed market definition – Ofcom has failed to set out clearly in the Consultation with any reference to the EC’s SMP Guidelines:
- a. Why BT is different from other WCT providers based on an appropriate use of the evidence available, equivalent application of the EC SMP Guidelines to BT and all other operators, and well-reasoned regulatory judgement; and
 - b. What is exactly the consumer harm that Ofcom believes could arise from potential discriminatory conduct by BT specifically, over and above that which could arise from conduct by any other (monopoly) provider of WCT?
- 2.51 For example, it is not clear how Ofcom has defined the characteristics set out in paragraph 4.125 of the Consultation (e.g. what is a “large” share of total WCT volumes) and how it used the evidence available to assess whether BT, or indeed any other terminating provider, displays those characteristics. We note that Ofcom has published updated and unredacted market share data,²⁴ in which Ofcom concludes that it overstated BT’s market share but continues to maintain that BT’s share of WCT volumes is “high” at 60% of WCT volumes. However, the revised data still does not support an accurate or sound basis on which to conclude that BT has greater market power than any other 100% market share operator. Critically, even when leaving aside that Ofcom’s justification for additional market power conclusions in respect of BT are inconsistent with a finding that each operator has a 100% market share (i.e. monopoly) position, Ofcom’s purported 60% market share figure for all WCT volumes itself remains flawed for the following key reasons:
- a. **The 60% market share figure does not exclude volumes between BT’s own number ranges**, i.e. for which (on Ofcom’s own market power analysis) there can be no competition for any other provider and therefore no ability for BT to leverage any claimed additional market power. In circumstances where Ofcom’s apparent concern is to demonstrate that BT’s holds the ability to leverage its market position to a greater extent than any other SMP operator – i.e. as regards interconnections between non-BT number range origination and BT-number range termination, this is a fundamental error. Ofcom must provide figures that exclude such volumes to provide an accurate basis on which to support its market power conclusion.
 - b. **The 60% market share figure does not exclude volumes that originate on BT’s mobile network (EE)**, i.e. for which (on Ofcom’s own market power analysis) there can be no competition from any other provider and therefore no ability for BT to leverage any claimed additional market power.

retail and related wholesale markets during the review period”. In particular, the fact that the Condition will be removed should be taken into account – the effect of such analysis is therefore the same as presented, where Ofcom should discount the relevance of BT’s alleged importance as in interconnection partner on account of the Condition being removed (see, [EC SMP Guidelines \[2018\]](#), paragraph 17).

²⁴ [Call termination market review disclosure, correction and clarification note](#)

For the same reasons as in a. above, this is a fundamental error in Ofcom's market power analysis. Ofcom must provide figures that exclude such volumes to provide an accurate basis on which to support its market power conclusion.

- c. **The 60% market share figure does not exclude ported out numbers**, i.e. those numbers with respect to which market power is also held by the provider to whom the number has been ported and who sets their own termination rate. Accordingly, Ofcom's analysis should be adjusted to reflect that for any numbers that have been ported out, BT is not the only holder of market power. Indeed, the most defensible way to rectify the market power analysis on this basis would be to discount those ported-out numbers entirely. For the same reasons as in a. above, this is a fundamental error in Ofcom's market power analysis. Ofcom must provide figures that exclude such volumes to provide an accurate basis on which to support its market power conclusion.
- d. **It is unclear how Ofcom establishes the 60% market share figure by proxy against BT's number of exchange lines**. Ofcom claims that "*If the number of calls terminated per exchange line²⁵ is constant this would imply that BT's overall share of WCT volumes was around 60% in 2023/24*", however, it is not clear how Ofcom has arrived at this figure where BT's share of exchange lines in 2023 was – according to Ofcom published data – 35.5%, falling to 33.4% in 2024 (i.e. far short of any position of dominance in a competition law context). Further, in circumstances where the All-IP transition means that calls will be delivered over IP/broadband connections, it is not clear that the measure of market power by reference to exchange lines is sufficiently forward-looking or reflects the reality of how voice services are currently being delivered²⁶. Further, it is plainly inappropriate to use access lines as being determinative of market power in the current review where Ofcom's (proposed) remedies in the WFTMR (and Telecoms Access Review) constrain alleged market power in relation to access services that would support voice services (e.g. Wholesale Local Access lines). Accordingly, should any use of access lines be made to support Ofcom's conclusions in voice markets, it would only be BT's retail shares that would be of relevance to the analysis, as BT (Openreach) lines may deliver services of many other CPs).

2.52 With respect to the number of interconnections, Ofcom claims that BT "*is interconnected with, and received call traffic from, more networks than any other networks over three times more than Vodafone, the next largest provider by this measure*". However, Ofcom provides no data to underpin this claim such that BT can understand whether such relative difference is in fact meaningful (i.e. what is the denominator, post-application of the data cleansing points above). If Ofcom is to advance its market power assessment based on these factors (which BT does not accept), Ofcom must provide sufficient evidence and data to support its conclusions.

2.53 Further, with respect to the competition concerns identified against BT specifically in WCT that arise from its market power determination, Ofcom has not addressed at all how BT can have further market power than other monopoly termination providers. Indeed, Ofcom already notes that every provider already has such ability and incentive, which we understand is Ofcom's rationale for imposing the general WCT SMP Conditions on WCT and associated facilities. Ofcom must set out how BT could have any further market power in:

- a. The provision of WCT given that, under Ofcom's analysis of market power, "*each WCT/MCT provider with SMP has the ability and incentive to set and maintain prices (i.e. call termination rates) for WCT/MCT at an excessively high level*"; and

²⁵ We note Ofcom has not sought to define 'exchange line' in the context of the July 2025 Consultation. It is not clear whether this captures a subset of total regulated (via the WFTMR) Wholesale Local Access services – or something else.

²⁶ See Ofcom's most recent [Telecommunications Market Data Update, Q1 2025](#), p4 (summary of exchange lines).

- b. The provision of associated interconnection services required for WCT given that, under Ofcom’s analysis of market power, *“each termination provider we have provisionally identified as holding SMP has the ability and incentive to leverage its SMP in WCT/MCT into the provision of associated interconnection services/facilities which are necessary for the provision of termination. In particular, they have the incentive and ability to offer such associated services/facilities on terms that are not fair and reasonable, including setting excessive charges”* (emphasis added).
- 2.54 Accordingly, in response to Question 4.6, BT does not agree with the competition concerns arising from SMP in the WCT and MCT markets that Ofcom has provisionally identified. In particular, with respect to the additional competition concerns identified for BT specifically, Ofcom’s conclusion that due to BT’s share of WCT termination and its importance as an interconnection partner BT holds further market power is not sufficiently well-reasoned or coherent where Ofcom has concluded the monopoly market power of every termination provider in its market definition and market power assessment.
- 2.55 Where there is no (longer) market power sufficient to conclude Ofcom’s SMP analysis in respect of the existing SMP conditions, Ofcom has a statutory duty to remove all of the relevant SMP conditions. As Ofcom has not determined BT’s additional market power beyond that identified as applying to all providers, Ofcom must therefore remove the BT-only SMP conditions (this is regardless of the assessment of whether those remedies satisfy the relevant statutory criteria as discussed in the next section).²⁷

General Remedies

- 2.56 Ofcom’s statutory duties in setting remedies to regulate SMP are primarily set out in sections 47, 87 and 88 CA 03. In particular, Ofcom’s proposed remedies must meet all of the statutory criteria under section 47(2) CA03, where Ofcom must demonstrate that each and every SMP condition is:
- objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - not such so as to discriminate unduly against particular persons or against a particular description of persons;
 - proportionate to what the condition (or modification) is intended to achieve; and
 - transparent in relation to what is intended to be achieved.

For the reasons set out below, Ofcom has not satisfied these criteria with respect to a number of remedies, in particular those that apply to BT only.

Obligations on all WCT and MCT providers in relation to network access

- 2.57 In part response to Questions 5.1 and 5.3, BT raises the following comments and requests for clarification in Ofcom’s approach to setting the network access obligations for all providers. We address the BT-only remedies in the next section, with which BT does not agree.
- 2.58 To address its concern in relation to network access (paragraph 2.41 a), Ofcom’s proposal is to retain the current SMP condition that requires all WCT and MCT providers to provide network access on reasonable request, on fair and reasonable terms and conditions. This also requires all WCT and MCT

²⁷ Section 84(4) CA03: *“Where on, or in consequence of, a further analysis under this section, OFCOM determine that a person to whom any SMP conditions apply is no longer a person with significant market power in that market, they must revoke every SMP services condition applied to that person by reference to the market power determination made on the basis of the earlier analysis”* (emphasis added).

providers to provide access on fair and reasonable charges, except where a charge control applies (Consultation, paragraphs 5.11-5.14).

- 2.59 Under Ofcom's narrow market definition, BT does not raise comments in relation to the network access obligation that applies equally to each WCT and MCT provider (in response to Question 6.1).
- 2.60 However, to comply with Ofcom's obligations on transparency in setting remedies, Ofcom should clarify whether providers can continue to nominate different points of Connection (POCs) within their networks where the charge-controlled termination rates can be accessed, as this is essential for allowing all providers to manage interconnection efficiently and resiliently in accordance with the characteristics of their networks. Where the vast majority of interconnection is now provided on an IP basis and where Ofcom concludes that the costs of such interconnections for providers are low, we do not anticipate that there should be any change to Ofcom's position under WVMR 2021, which allowed providers discretion to organise and manage their networks as they see fit.

Obligations on all WCT and MCT providers in relation to market power leveraging

- 2.61 To address its concern in relation to the leveraging of market power in the WCT and MCT markets into adjacent markets (paragraph 2.41b), Ofcom is proposing to retain the current remedies requiring WCT and MCT providers to provide interconnection, accommodation and related services required to access WCT and MCT on reasonable request and on fair and reasonable terms, conditions and charges - subject to any charge control (Consultation, paragraph 6.4).
- 2.62 Under Ofcom's narrow market definition, BT does not raise comments in relation to these obligations as they apply equally to each WCT and MCT provider.

Obligations on all WCT and MCT providers in relation to excessive pricing in WCT and MCT termination of UK calls (charge controls) – Ofcom has not established why the charge control should be maintained at current real levels for the next five years

- 2.63 In response to Questions 5.2 and 5.4, BT does not agree with Ofcom's proposed charge controls for WCT and MCT.
- 2.64 To address its concern about excessive pricing (paragraph 2.41c), Ofcom is proposing to introduce a cap on termination rates. Crucially, unlikely previous caps, the cap for 2026-2031 will no longer allow for inflation indexation.
- 2.65 Ofcom contends that removing inflation indexation is preferable to retaining it because:
- a. Ofcom's expects the real-terms cost of voice termination would go down as network technology develops and where voice traffic makes up a small proportion of network use, and
 - b. Setting termination rates in nominal terms avoids the need for providers to conduct an annual revision of domestic charges in their billing systems and incur consequential costs.
- 2.66 We disagree with the removal of inflation indexation. Rather, indexing call termination rate caps to inflation is the only proportionate approach when Ofcom has no visibility of costs today (where it is relying on models from 2017 and 2021 for WCT and MCT respectively) over the review period.
- 2.67 While we support Ofcom's preference for not building or updating the costs models underlying the fixed and mobile call termination rates as this involves significant time and resources in respect of declining services (i.e. terminating providers would need to collect detailed cost data, and Ofcom would need to scope, specify, and reach a determination on the models), this means Ofcom has no view of costs over the review – whether today or on a forward-looking basis.

2.68 The proposal to maintain the caps on call termination rates at their current nominal terms is not objectively justified in relation to the market power assessment made by Ofcom, or proportionate when considering the very real risks that providers may be forced unnecessarily to recover their costs in other services (as indeed noted by Ofcom as a likely consequence), which is a poor outcome for customers, In particular: :

- a. **There is very limited evidence on costs** – Ofcom hasn’t revisited or updated the inputs going into the WCT cost model for almost a decade (2017). Similarly, Ofcom last updated the inputs feeding into the MCT cost model almost five years ago (2021). This means Ofcom has no timely evidence on factors relevant to the cost of providing termination services including wholesale migrations to IP voice services, transitional migration services (such as Pre-Digital Phonelines (“PDPL”)), and 5G+ and 6G investments. There is also a lack of coherence around a regulatory framework which has suggested services which use some common network assets should be priced flat in real terms (as in this review), CPI (as in Ofcom’s Business Messaging market review), and CPI+ (as held in the *Le Patourel v BT* [2024] CAT 76 litigation²⁸).
- b. **It is not clear why the caps on WCT and MCT are fundamentally different from other charge controls on communications services that allow for inflation indexation** – Allowing for inflation indexation is a well-established practice for charge controls in telecoms (e.g. Business messaging for mobile services and the Telecoms Access Review for fixed services) so it is not clear why WCT and MCT are any different.
- c. **Removing inflation indexation undermines terminating providers’ ability to recover costs and invest.** Stable and predictable regulation, including inflation indexation of regulated charge controls, is key for supporting investments. The “*fair bet*” principle—endorsed by Ofcom—requires that investors be allowed to earn returns commensurate with the risks taken at the time of investment. Inflation indexation helps preserve the real value of those returns over time. As the inflation spikes of 2021-2022 illustrated, external shocks (inherently unforeseeable) could quickly erode returns on investment if indexation is not allowed. The cap on WCT and MCT is based on a pure LRIC basis, so eliminating inflation indexation risks the recovery of variable cost. In turn, this would lead providers to stop any investment on the networks and, at the extreme, creates the conditions for terminating providers to consider exiting the termination market. Indeed, if Ofcom’s market analysis is correct and there is no other competitive constraint on providers of WCT and MCT, then Ofcom’s intervention to remove indexation would logically remove any incentive to maintain or increase investment in developing services which, ultimately, risks negative customer experience and service. BT faces a number of incremental costs in the provision of termination that tend to follow inflation and which we’d risk no longer being able to recover from termination rates that are fixed in real terms. For example, these incremental costs include:
 - i. **wholesale fixed inputs** from Openreach and other providers that provide wholesale access for services (e.g. in a bid context to supply voice services to business customers, or the provision of a new consumer/residential connection) which, in the case of Openreach, are indexed to inflation and are un-capped for other upstream providers;
 - ii. **network energy costs** including electricity which, even in an all-IP world, result in greater energy consumption the more calls are placed through circuits, servers and related items (e.g.

²⁸ In reaching its view on the use of BT’s RFS that had not been updated since 2009, the CAT even concluded that: “...the uprating by use of the CPI Index may underestimate any costs increases...” (paragraph 779), which highlights not only the issues arising from reliance on outdated cost models, but that even uprating by CPI underestimates the increases in costs that are faced by providers.

cooling), and diesel purchases (for use in back-up generators, intended to provide resilience), where these costs remain exposed to volatile commodities markets; and/or

iii. **network labour costs** – noting that although call volumes increasingly run on IP rather than TDM, there is still a sizeable share of the latter which incurs on material incremental costs compared to the IP network. On average, [Redacted] of fixed voice incoming minutes in 2025 (January to August) ran on BT’s TDM network, as opposed to BT’s IP network.

d. **Proposing to remove inflation indexation with only eight months’ notice sets a bad precedent and undermines regulatory predictability.** Ofcom published its proposals in July 2025, which is only eight months before they are due to come into force in April 2026. Prior to July 2025, there was no suggestion this was being considered by Ofcom. Network investments over the past years have been made partly on the basis that inflation-indexed charge controls will prevail in recognition of the fair bet principle.

e. **Although in theory terminating providers could increase unregulated prices to compensate for the removal of inflation indexation (water-bed effect), in practice strong competitive constraints mean this is unlikely.** One could envisage that in a world of rising costs and termination caps set in nominal terms, the prices of unregulated prices would have to go up. However, the highly competitive nature of the markets – as discussed above – in which terminating providers operate means there is limited space for increasing unregulated prices. As shown in Ofcom’s mobile pricing trends analysis, the average price of a basket of mobile services reflecting average use in 2024 was 5% lower in real terms than one based on average use and prices in 2023. Overall, the basket price in 2024 was 23% lower than the price of a basket of mobile services based on prices and use in 2019 in real terms, and 5% lower in nominal terms, despite average data use having almost trebled over this period. Ofcom’s claim that providers can simply recover these costs from elsewhere ignores the highly competitive and cost-strained environment in which UK telecommunications providers operate.

2.69 In response to Question 8.5, in relation to the charge control for 070 numbers (personal numbers), while BT does not disagree with the proposal to continue to set a cap on termination rates for calls to 070 numbers that is equivalent to the proposed cap for mobile termination rates, it is unclear what if any cap applies to calls from international or unidentifiable CLIs. We urge Ofcom to clarify this.

Obligations on all WCT and MCT providers in relation to excessive pricing in WCT and MCT termination of international calls

2.70 In response to Question 5.5, BT raises the following comments and requests for clarification in Ofcom’s approach to the reciprocity condition.

2.71 To address its concern about excessive pricing (paragraph 2.41c) for termination of international calls, Ofcom is proposing to retain the reciprocity conditions introduced in 2021, with a few amendments and clarifications (Consultation, paragraphs 5.75-5.119).

2.72 We broadly agree with Ofcom’s proposals. However, Ofcom should clarify:

- a. How exactly Ofcom defines Calling Line Identifications (CLIs) as “invalid”, and;
- b. What is the risk that Ofcom is trying to address in relation to “Donor pays all” (DPA) and Porting, i.e. arrangements between a donor provider and recipient provider in the context of international calls to UK geographic numbers that have been ported.

BT-only Remedies

Obligations on BT specifically in relation to the greater likelihood and/or impact of any discriminatory conduct by BT (i.e. illegitimate network access restrictions, market power leveraging and/or excessive pricing)

- 2.73 To address its concerns in relation to the greater likelihood and/or impact on retail competition and consumers that would arise from discriminatory conduct by BT (paragraph 2.41d), Ofcom proposes to retain the additional WCT remedies on BT only (Consultation, paragraph 5.41), i.e.:
- a. a requirement not to unduly discriminate in the provision of network access for WCT;
 - b. a requirement to publish a Reference Offer for its provision of WCT;
 - c. requirements to notify changes to charges and to publish information about its quality of service; and (Consultation, Section 6)
 - d. regulatory reporting remedies in the form of accounting separation and cost accounting obligations (Consultation, Section 7).
- 2.74 Additionally, Ofcom proposes the following remedies on BT only in relation to interconnection, accommodation, and related services (Consultation, paragraph 6.6):
- a. amended guidance for BT specifically on a “fair and reasonable charges obligation” for IP interconnection and accommodation services;
 - b. a requirement to publish a Reference Offer;
 - c. a requirement not to discriminate unduly;
 - d. a requirement to notify charges;
 - e. a requirement to publish information about quality of service, supplemented by a direction specifying key performance indicators (KPIs) that BT must publish for IP interconnection; and
 - f. accounting separation and cost accounting requirements.
- 2.75 **We fundamentally disagree with Ofcom’s proposal to retain remedies that apply to BT only (in part response to Question 5.1, and in responses to Questions 6.2, 6.3 and 6.4).** As set out above, Ofcom’s assessment that BT holds greater market power than any other CP has not been established in itself and against the relevant market definition of WCT within which Ofcom must conclude its analysis.
- 2.76 However, even if such market power assessment was correct (which BT does not concede), for the reasons set out below, each of Ofcom’s proposed BT-only SMP conditions fail to meet the section 47(2) CA03 criteria.

The BT-only remedies in respect of the provision of WCT are not objectively justified in relation to the services that have been identified in Ofcom’s proposed WCT market definition

- 2.77 In our view, the proposal for additional WCT remedies on BT only is likely to be based on a flawed assessment of the evidence as set out in the Consultation and cannot be objectively justified because:
- a. **The assessment of evidence concerning BT’s “high” market share is inconsistent and does not objectively justify BT-only remedies for WCT, in line with Ofcom’s market definition** – Ofcom appears to make two apparently mutually exclusive assessments of the market power in the market definition and remedies sections respectively. In the market definition section, (Consultation, paragraph 4.111) Ofcom notes that its market definition is premised on “*each WCT provider ha[ving] 100% of the market share for call termination to the geographic numbers in the*

area served by that provider, which enables a presumption of SMP in each relevant market”. We understand this to mean that termination of geographic numbers to a given provider’s number range constitutes its own market. However, in its assessment of why certain remedies are only appropriate for BT (Consultation, paragraph 5.37) Ofcom also suggests that competition concerns are particularly ‘acute’ given “*BT’s high share of total WCT volumes*” and BT’s incentive to provide WCT “*on terms and condition that disadvantage downstream rivals or discriminate selectively between competing providers*” (Annex, A8.38). We understand this to mean Ofcom believes BT’s (provisional) market power in one termination market gives it a power to impact outcomes in a separate termination market where another provider has (monopoly) market power. The two conclusions are entirely inconsistent. Ofcom’s SMP finding of 100% market share and a monopoly provision in call termination for each and every WCT provider logically mean that BT would be unable to exert any such market power over access to numbers which it does not control – the disadvantage to “downstream rivals” over and above any other monopoly provider of WCT does not make sense in this context and provides no objective justification in respect of BT-only. Further, Ofcom also offers no evidence or analysis to underpin its conclusion that BT is able to exercise such market power in a Modified Greenfield Analysis (i.e. assuming there are no regulatory obligations in place) over and above any other providers. Simply put, all providers must provide access and Ofcom’s general WCT SMP condition applicable to all already achieves this – there is no further justification that can be afforded due to BT’s high share of WCT volumes and there is not further incentive accruing to BT to disadvantage other providers in achieving connectivity to its number ranges.

- b. **The rationale that BT could leverage its SMP in WCT into interconnection to justify additional BT-only remedies for interconnection is not justified in the context of Ofcom’s market definition** – Ofcom’s rationale is that without additional remedies for interconnection, accommodation and related services required to access WCT, BT could “*leverage its SMP in WCT into interconnection by: (i) refusing access to its network or providing access subject to unfair or unreasonable terms or excessive prices; and/or (ii) discriminating between telecoms providers in a way that harms competition*”. Both of these claims are logically incoherent where Ofcom has concluded the monopoly power of all providers through its market definition and market power assessment; and where the general WCT SMP conditions applicable to all providers already provide remedies to mitigate these risks. Ofcom has not set out any justification as to why any other provider could not leverage their SMP in their WCT market in exactly the same way. In fact, Ofcom confirms that it believes the general SMP conditions applicable to all to be sufficient to mitigate the risk of competitive distortions: “*...WCT providers other than BT are subject to identical regulatory obligations when they seek to purchase WCT from each other, we therefore consider that there is a lower risk of any competitive distortion in the provision of interconnection.*” (Consultation, paragraph 5.33). The mere fact that BT is interconnected with more providers or terminates a greater proportion of fixed traffic is entirely irrelevant where Ofcom has concluded that all providers are dominant (monopoly) providers for their number ranges. In line with Ofcom’s market definition – to which its analysis must be bound – there is no objective justification for any additional BT-only remedies.
- c. **Ofcom appears to conflate the (competitive) transit market with interconnection for WCT** – Ofcom makes no assessment of transit markets in the Consultation within its market definition of WCT. Yet in its explanation (Consultation, paragraph 5.37) as to why it believes BT should be subject to a unique remedy set for WCT, Ofcom cites BT’s relative significance in ‘*interconnection markets*’ and its “*prominent role in transit*” as a reason for its BT-only remedies. Again, Ofcom has erred in its analysis by not only referring to out-of-market considerations after concluding the relevant market for the application of its market power assessment. However, Ofcom compounds

the error further by referring to a market that Ofcom has concluded since 2013 is fully competitive (and indeed makes such observations in its justification for removal of the End-to-End Connectivity Condition from BT). It is not clear why Ofcom believes imposing a set of remedies in one market specifically to constrain BT in an adjacent market which Ofcom has not assessed – and even regards as competitive – is objectively justified in the context of Ofcom’s duties under the Act.

- d. **There is no clear articulation of Ofcom’s concerns in relation to small providers** – Ofcom has not set out why it believes small providers face a particular risk of discriminatory conduct from BT (as opposed to – say – Vodafone, from whom they will equally need to purchase termination from to access the number ringer that are held by Vodafone). Ofcom expressly notes that “*the scope for discriminatory conduct may be mitigated to a significant extent... [by] the obligation to provide network access on fair and reasonable terms and conditions*” – and further notes that any differential terms for WCT between providers may not be unfair or unreasonable. In these circumstances, Ofcom has not objectively justified why it is justified or proportionate to impose further regulation on BT where: (i) it acknowledges there is no harm beyond that which would be remedied by the SMP conditions applicable to all WCT providers; and (ii) every WCT provider has SMP – i.e. such providers could (following Ofcom’s logic) apply the same unduly discriminatory terms to other providers.
- e. **The objective justifications provided in respect of the requirement for BT to publish a reference offer bear no relationship to the competition concerns identified by Ofcom** – Ofcom’s rationale for imposing the obligation for BT to publish a reference offer is: “*to give visibility to the terms and conditions on which other providers can purchase WCT from BT, to enable faster negotiations, to minimise the risk of disputes and to facilitate monitoring.*” (Consultation, paragraph 5.47). Ofcom has not explained why such concerns are unique to BT where all other operators have the same monopoly market power for WCT. In effect, Ofcom’s remedies shift the burden onto BT to negotiate and provide interconnection for all providers. This is wholly inconsistent with Ofcom’s findings in the review of the End-to-End Connectivity Condition, which concluded that BT is no longer important or in a position of market power in the provision of such connectivity. Not only are Ofcom’s remedies not objectively justified by reference to its market definition and market power assessment in the WCT, but they are wholly disproportionate in circumstances where Ofcom acknowledges that BT no longer plays an important role in facilitating connectivity with other providers for the purchase of call termination.

The BT-only WCT remedies unduly discriminate against BT where Ofcom’s market definition and market power assessment finds that all WCT providers hold monopoly market power and where the providers that Ofcom states account for 90% of exchange lines in the UK are also vertically integrated

- 2.78 At paragraph 5.126 of the Consultation, Ofcom sets out its reasoning as to why the BT-only WCT remedies are not unduly discriminatory. Ofcom claims that its proposed remedies do not discriminate against BT on the basis that there are: “*particular features of its market position identified in our initial market analysis, which distinguish it from other telecoms providers.*” Ofcom has failed to transparently set out to which features it refers – those identified in the preceding analysis appear to be: BT’s share of WCT volumes; BT’s number of interconnections with other providers; and that BT is vertically integrated. For completeness, we address all these issues.
- 2.79 In relation to the requirement for BT not to discriminate unduly in the provision of WCT (and the associated remedies that Ofcom proposes for BT-only in Section 6 of the consultation in respect of interconnection and financial reporting):

- a. As set out above, the fact that BT terminates a large proportion of fixed calls is not relevant to the market definition that Ofcom has adopted, where every operator holds monopoly power in relation to their numbers. In such circumstances, there can be no greater BT-only SMP than that which is already held over the number ranges to justify additional remedies. As set out above, Ofcom appears to be making the entirely inconsistent claim that without such remedies BT would be able to exert market power over other monopoly operators in respect of the number ranges that they control. If Ofcom believes that there can be further market power arising in relation to termination to the number ranges not held by BT (or indeed any other provider), it must: (i) amend its market definition; (ii) retake the s79(2B) CA03 three-criteria analysis; (iii) retake its market power assessment; and (iv) explain why the same remedies should not also be imposed on all other providers. Ofcom's failure to do so and imposition of further remedies only on BT is unduly discriminatory.
- b. Further, the fact that BT may be interconnected to more providers does not grant BT any further ability compared to any other provider to discriminate between other providers in agreements for WCT, in circumstances where a fair and reasonable network access requirement and a charge control already applies to BT under the general WCT SMP conditions. As such is noted by Ofcom itself in the consultation: "*We recognise that the scope for discriminatory conduct may be mitigated to a significant extent by the package of remedies we are proposing for WCT. For example, unduly discriminatory terms and conditions would likely be inconsistent with the obligation to provide network access on fair and reasonable terms and conditions.*" (Consultation, paragraph 5.44). Ofcom's ready acceptance of this conclusion for every other provider apart from BT is plainly unduly discriminatory under Ofcom's market definition and market power assessment.
- c. Ultimately, Ofcom's analysis appears to conclude that such BT-only remedies are justified because of the fact that BT is vertically integrated. **However, such a conclusion is plainly discriminatory where the other providers are also vertically integrated and face no further regulation.**²⁹ Indeed, Ofcom's market definition concerns *wholesale* call termination – most (if not all) providers identified by Ofcom also provide retail services. To the extent that Ofcom is concerned about the providers' share of WCT termination in this respect, the other six large operators that are individually identified by Ofcom in its analysis as comprising 90% of all exchange lines in the UK together with BT (Gamma, Platform X (TalkTalk), Sky, Virgin Media and Vodafone) are also all vertically integrated as each provides wholesale call termination and retail phone services. Ofcom's claim that BT's vertical integration gives rise to a more "*acute [risk] given BT's scale in the provision of WCT and its importance as an interconnection partner*" does not make sense in this context.
 - i. For the reasons set out above, where Ofcom's market definition and market power assessment has concluded the monopoly power of terminating providers, the fact that BT has a higher share of WCT or that it is interconnected with more providers is irrelevant to the exercise of market power within the market definition that Ofcom has provided. Where the vast majority of providers of WCT in the UK are also vertically integrated in the same manner as BT, Ofcom has not set out any analysis of the extent to which at least these other identified

²⁹ We assume that Ofcom is not referring to vertical integration in respect of access services that may be provided to facilitate WCT – e.g. Wholesale Local Access or Leased Line Access products. Such reference and conclusion would be plainly inappropriate and incorrect as a matter of law and regulatory policy where: (a) Ofcom's Wholesale Fixed Telecoms Market Review 2021 (WFTMR) and the Telecoms Access Review 2026 (TAR) conclude that such services comprise separate wholesale markets to WCT; and (b) where WFTMR and TAR provide access remedies to neutralise any such market power arising from BT's vertical integration with Openreach.

providers comprising the vast majority of WCT volumes in the UK are not also at the same risk of undue discrimination as BT in these circumstances.

- ii. Further, Ofcom's own analysis undermines its position against BT-only in respect: *"Where a dominant provider is a vertically integrated provider that also provides retail phone services... it may have an incentive to provide network access on terms that disadvantage downstream rivals that provide phone services or to discriminate selectively between competing providers."* (Consultation, paragraphs 5.43 and 6.73). Ofcom's own market power analysis has concluded every operator is in a dominant (monopoly) position for the number ranges they hold and, therefore according to Ofcom, also dominant over the provision of the interconnection and accommodation services required to access those numbers. As above, most of these operators that Ofcom identifies as holding such a dominant position are also themselves vertically integrated – at the very least, those operators for whom Ofcom has concluded represent 90% of all exchange lines are vertically integrated and therefore give rise collectively to the same risks that Ofcom identified against BT as regards BT's "high" share of fixed call termination. Ofcom's position that BT's vertical integration has the potential to give rise to more market power and harm than that of any other vertically integrated dominant provider does not make any logical sense and is plainly discriminatory.
 - d. In the alternative, Ofcom's justification for not extending the BT-only remedies to the other WCT providers is as follows: *"This is because no other landline provider terminates such a large proportion of fixed calls as BT or plays such a central role as that of BT in the provision of wholesale fixed voice services. Moreover, WCT providers other than BT are subject to identical regulatory obligations when they seek to purchase WCT from each other, we therefore consider that there is a lower risk of any competitive distortion in the provision of interconnection."* (emphasis added) (Consultation, paragraph 5.33). Here Ofcom in fact concedes that its proposed "identical regulatory obligations" on each SMP provider is sufficient to mitigate the risks of any competitive distortion. In circumstances where Ofcom's market definition and market power assessment establishes that each operator has a monopoly position, and where at least 90% of those providers of WCT are also vertically integrated, Ofcom has not established why the remedies it sees fit to constrain those other providers do not also constrain BT. To reach any different conclusion against BT alone is plainly discriminatory.
 - e. Simply put, if Ofcom believes that a (monopoly) provider's vertical integration creates a competition concern through greater incentive and ability to impose unfair and unreasonable terms and conditions for purchase of WCT and associated interconnection facilities, then Ofcom must apply the proposed additional remedies to every single other vertically integrated (monopoly) provider of interconnection.
- 2.80 In relation to the requirement for BT to publish a reference offer for the provision of WCT (and the associated remedies that Ofcom proposes for BT-only in Section 6 of the consultation in respect of interconnection and financial reporting):
- a. Ofcom's rationale for imposing the obligation for BT to publish a reference offer is: *"to give visibility to the terms and conditions on which other providers can purchase WCT from BT, to enable faster negotiations, to minimise the risk of disputes and to facilitate monitoring."* (Consultation, paragraph 5.47). Ofcom notes this is to ensure that WCT (and associated facilities) are being provided on non-discriminatory terms to all providers – for brevity, we do not repeat the arguments in the previous paragraph which are equally applicable to this remedy. In particular, the requirement is clearly premised on Ofcom's conclusion that BT is somehow *uniquely* vertically

integrated compared to other providers: for the reasons above, this is clearly not the case and is plainly discriminatory against BT alone.

- b. The requirement to publish a reference offer is further discriminatory against BT where only BT is required to publish its terms for WCT, in circumstances where all WCT providers hold monopoly market power. Ofcom's claim that this would "enable faster negotiations" with BT is plainly discriminatory, where – even leaving aside the fact that the general WCT SMP conditions require all providers to provide access on fair and reasonable terms – all providers are already under an obligation under General Condition A1.2 to "negotiate with that provider with a view to concluding an agreement for Interconnection (or an amendment to an existing agreement for Interconnection) within a reasonable period" (emphasis added). Ofcom has not set out any analysis as to why the existing regulatory remedy would be insufficient to ensure that BT or any other provider concludes "faster negotiations".

2.81 In relation to BT's specific obligations regarding interconnection and accommodation charges, Ofcom has failed to demonstrate that the proposed remedies do not unduly discriminate against BT where:

- a. All providers have the same monopoly market power in respect of interconnection to access termination to their number ranges – as set out above, for Ofcom to claim that BT has further market power than monopoly power sufficient to attract further remedies is incoherent with Ofcom's market definition and discriminatory where all other providers are not subjected to the same remedies as proposed for BT.
- b. All providers are already subject to a fair and reasonable access requirement under the proposed WCT SMP conditions. For Ofcom to impose additional regulations only on BT's interconnection and accommodation vis-à-vis any other provider is plainly discriminatory.
- c. Ofcom seeks to implement further restrictions on its interpretation of what is fair and reasonable in the context of BT-only. Critically, this has significant cost-recovery implications for BT where Ofcom's remedies specify that only BT should be limited to recouping the direct costs of such interconnection, rather than the forward-looking LRIC costs. The remedy plainly discriminates against BT where every other provider has significantly more freedom to increase charges to recover their costs than BT under Ofcom's revised guidance in what are exactly the same (monopoly) markets under Ofcom's market definition and market power assessment. This is in circumstances where Ofcom has also assessed, through its amended WCT and MCT charge controls, that the relevant cost standard for all providers is a LRIC cost standard. Ofcom has not demonstrated or provided any evidence as to why BT should now face a more restrictive cost standard than LRIC costs that are enjoyed by all other providers. Such treatment is plainly discriminatory and not justified by Ofcom's market power assessment.

The BT-only remedies are not proportionate or transparent against the competition concerns identified in the light of Ofcom's market definition for WCT and the conclusions reached in the review of the End-to-End Connectivity Condition

2.82 The BT-only remedies in respect of WCT and related interconnection and accommodation are not proportionate when considered in the context of the legal and economic circumstances and changing market conditions:

- a. **The proposed WCT SMP conditions applicable to all providers already provide for the same outcomes as the BT-only remedies** – as discussed above, the network access conditions and obligations provided under the WCT SMP conditions applicable to all providers already ensure that any operators seeking termination must be provided with network access, and on fair and reasonable terms, conditions and charges. In this context, it is wholly disproportionate to apply

further remedies to BT where the mitigations against Ofcom's competition concerns will have already been implemented. Ofcom has not set out with any degree of clarity or transparency – in the light of the limitations of Ofcom's market definition, as discussed at length above (i.e. monopoly termination markets over which any other providers – including BT – logically cannot have any control if Ofcom's market definition is correct) – how the BT-only remedies are proportionate against the risks that Ofcom itself concludes are mitigated through its general WCT SMP condition applicable to all providers.

- b. **To the extent any further regulation over all providers is required, this is already guaranteed by the General Conditions** – as above, if Ofcom wishes to conclude the BT-only remedies, it must retake its market definition exercise and market power assessment against all providers (noting that most of, and certainly all of the largest six providers comprising 90% of exchange lines, are also vertically integrated in the same manner as BT). However, even in those circumstances, any further intervention over and above the general WCT SMP conditions is disproportionate where the General Conditions already provide for interconnection remedies.
- i. General Condition A1.2 provides that all providers must negotiate interconnection and complete an agreement within a reasonable period. As discussed above, Ofcom's justification that BT-only remedies – in particular the BT Reference Offer – would enable “faster negotiation” is clearly disproportionate where the General Conditions already provide an obligation conclude agreements within a reasonable period.
 - ii. General Condition B4.2 provides that all providers must ensure that end-users can access all telephone numbers in the UK – including geographic numbers that are subject of WCT. To the extent that BT has any greater incentive and ability to discriminate against any other provider, this is clearly mitigated by the General Condition. To impose further remedies to achieve the same outcome is disproportionate.
 - iii. These General Conditions (A1.3 and B4.2) operate alongside the proposed general WCT SMP conditions which guarantee fair and reasonable terms, conditions and charges for the purchase of WCT and associated facilities including interconnection. Again, where providers already have a right – guaranteed by a combination of the General Condition and the WCT SMP conditions – to purchase WCT from BT on fair and reasonable terms, conditions and charges – any further regulation is wholly disproportionate and duplicative.
- c. **Ofcom's review of End-to-End Connectivity has established that the risk of “interconnection failure” has been already “significantly reduced”** – Ofcom's analysis to revoke the End-to-End Connectivity Condition is wholly inconsistent with its approach to the BT-only remedies in WCT markets. In the former, Ofcom concludes that “*there is now a smaller risk of interconnection failure, because commercial barriers to interconnection appear to have significantly reduced since 2006*” (Consultation, paragraph 9.24). Ofcom's analysis here is directly relevant to the justification for, and proportionality of, Ofcom's BT-only WCT remedies:
- i. Ofcom notes that there are many other fixed interconnection partners available to transit a call to (i.e. are interconnected with) BT's network including Vodafone, Gamma and Magrathea which provide “*credible alternatives to BT*” (Consultation, paragraphs 9.19-9.20). Indeed, Ofcom's analysis and justification for the BT-only remedies on the basis that BT may discriminate against smaller fixed providers seeking to obtain fair and reasonable terms for interconnection does not make sense in this context, where such providers have alternative interconnection options via the competitive transit market to terminate a call. In concluding its End-to-End Connectivity analysis, Ofcom expressly concludes that interconnection “*is likely to be less dependent on BT's relationship with smaller fixed providers*” (Consultation,

paragraph 9.27). Indeed, if these providers are noted as being significant enough competing and providers of transit services sufficient to remove the End-to-End Connectivity Condition from BT, it follows that they are also interconnected to a sufficient degree with smaller providers to mitigate against Ofcom’s competition concerns in WCT interconnection and accommodation services; or, alternatively, that those same providers should also have additional remedies applied to them.

- ii. Ofcom also notes that migration to IP networks has reduced the cost of direct interconnection – lower connection costs using common infrastructure through IP networks are now being realised and will complete during this review period. Ofcom itself concludes that *“the cost and complexity of establishing interconnection [which] acted as a barrier to purchasing termination, ... has reduced significantly.”* (emphasis added) (Consultation, paragraph 9.24).
 - iii. Indeed, Ofcom places weight on the greater availability and more efficient operation of wholesale hosting services as further evidence that interconnection (and thus end-to-end connectivity) can be achieved *“without the need to establish [the operator’s] own direct interconnection with other providers.”* In this context, further remedies for BT-only to provide for such interconnection on a stricter basis than any other operator is disproportionate.
- d. **The administrative cost placed on BT in managing the no undue discrimination requirement and obligation to publish a reference offer places a substantially disproportionate burden on BT** – Ofcom’s conclusions that these remedies represent a *“comparatively small”* administrative burden is incorrect and wholly without any evidential basis. [Annex, A8.40]. BT’s interconnection team is placed under significant and substantially disproportionate resource constraints (including time and cost) in managing and dealing with all providers on an equivalent basis (to ensure no undue discrimination) and maintaining a reference offer that is capable of being accepted on the same basis by all providers. [Redacted-----

-----]. This overly burdensome process caused by the additional BT-only remedies is preventing BT from agreeing amendments to the SIPIA for the benefit of all providers (and, indeed, end users) to cover – for example, dealing with the treatment of artificially inflated traffic and invalid CLIs to deter and reduce spam calling. [Redacted-----

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- e. **The BT-only remedies are disproportionate where, as Ofcom notes, BT is already interconnected with most providers** – in our experience, BT now receives [Redacted-----] requests for interconnection from new providers ([Redacted-----
-----]). Ofcom’s BT-only remedies are therefore unduly disproportionate where most providers that wish to do so have already negotiated interconnection with BT. Further, in that context and applying Ofcom’s reasoning in imposing the obligations on BT, there is in fact greater risk of other vertically integrated providers abusing their monopoly position to impose unfair and unreasonable terms, conditions and charges on smaller providers where those providers are now able and incentivised to purchase direct interconnections through IP points of connection (also taking account of the removal of the End-to-End Connectivity Condition). The balance of risk now lies not with BT, but with the other large providers of whom Ofcom notes comprise the majority of WCT exchange lines.

- f. **In the absence of the BT-only remedies, Ofcom’s dispute resolution mechanism provides a more proportionate means to guarantee fair and reasonable provision of WCT and associated interconnection and accommodation** – as above, the general WCT SMP condition provides for fair and reasonable access to WCT and associated facilities. In that context, any provider has a right to bring a dispute before Ofcom under section 185 CA03 where they believe that BT’s provision of WCT and associated facilities would not be on a fair and reasonable basis. There is no need for additional remedies on BT in this context, where the more proportionate remedy is to allow those providers who are directly affected by any such discriminatory conduct to raise a dispute with Ofcom through existing processes and rights under the CA03. Although Ofcom’s decisions in a dispute resolution procedure do not hold precedential value, they provide a clear route for all providers to see what is Ofcom’s view of what would be fair and reasonable and also a direct route for Ofcom to amend the relevant agreement so as to be fair and reasonable. BT would likely, in those circumstances, be incentivised to amend its other agreements to be compatible with that decision and intervention (to avoid the risk of further disputes being raised).
- 2.83 To briefly and simply conclude, on the analysis above a proper assessment by Ofcom of the evidence available would indicate that the WCT remedies applicable to any terminating provider either:
- a. are sufficient to address Ofcom’s concerns, and therefore additional WCT remedies on any terminating provider (including BT) are not needed; or
 - b. are insufficient to address Ofcom’s concerns, and therefore additional WCT remedies are needed for all (monopoly, vertically integrated) terminating providers.
- 2.84 For Ofcom to apply WCT remedies to BT-only in this context is incompatible with section 47 CA03, where Ofcom has failed to establish that the additional remedies would be objectively justified, proportionate and transparent and would not be unduly discriminatory against BT.

3 Regulatory financial reporting requirements

- 3.1 In this section we set out our comments on Ofcom's proposed reporting requirements, as set out in Section 7 of the consultation, and our response to Question 7.1.

Ofcom's proposed regulatory reporting requirements

- 3.2 Ofcom proposes to impose regulatory financial reporting requirements on BT which require the production of Regulatory Financial Statements (“RFS”). These proposed requirements are consistent with the Telecoms Access Review 2026-31 (“TAR”) Consultation and its main proposals related to WCT and IP interconnection are to:
- a. Remove reporting requirements on TDM interconnection.
 - b. Maintain current reporting and publication requirements on WCT and IP Interconnection.
 - c. Maintain current private reporting requirements on IP Interconnection.
- 3.3 In addition, Ofcom intends to retain the following requirements:
- a. SMP Condition (re-numbered as Condition 7) which would be substantially in the same form as the current WVMR 21 SMP Condition 8, other than a few clarificatory changes and updates to ensure consistency with the regulatory reporting condition proposed in the TAR Consultation (Condition 11) and to reflect the proposed withdrawal of the Network Component Direction (e.g., by omitting Conditions 8.25 and 8.34)
 - b. The Regulatory Accounting Principles Direction
 - c. The Audit Direction
 - d. The Consistency Direction
 - e. The Reconciliation Report Direction (which Ofcom has proposed to re-name as the ‘Change Control and Reconciliation Report Direction’ in the TAR Consultation)
 - f. Form and Content Direction
- 3.4 Ofcom proposes that BT has SMP and that that BT would be the only operator subject to additional remedies in relation to the provision of WCT and IP interconnection
- 3.5 Consequently, Ofcom proposes to maintain a cost accounting obligation in respect of BT's provision of WCT and IP interconnection.
- 3.6 In the interests of brevity, we do not repeat the arguments raised above in relation to the determination of market power according to Ofcom's market definition, which Ofcom has not sufficiently established in order to impose the reporting requirement remedies in SMP Condition 7.
- 3.7 Further, as set out above, Ofcom has not established with reference to the market power determination that the proposed remedies in SMP Condition meet the section 47(2) CA03 criteria. Again, we do not repeat those arguments here in the interests of brevity but consider they apply equally here. In particular, where Ofcom has not established any greater market power held by BT according to its market definition and market power assessment, the proposed remedies are not objectively justified and are wholly disproportionate against BT alone. In those circumstances, where other providers are

also vertically integrated and – in the case of those identified by Ofcom’s clarification, also comprise the majority of WCT services – the remedies against BT are unduly discriminatory.

- 3.8 We make the following specific points in relation to the financial reporting obligations below.

The regulatory financial reporting obligations on BT in relation to TDM interconnection, WCT, and IP interconnection should all be removed

- 3.9 We support Ofcom’s proposal to remove the regulatory financial reporting obligations on BT in respect of TDM interconnection as they are no longer required.
- 3.10 We disagree with the requirement to continue to report on WCT and IP interconnection.
- 3.11 Our concerns over complexity generating no value in the RFS remain as described in our response to the TAR, therefore this response should be read in conjunction with our response to the TAR consultation.

Complexity of the RFS creates a disproportionate burden on BT

- 3.12 Complexity is increasing in the RFS as we’re directed to add more detail in each review without rationalising anything that already exists. Given the reporting in these markets, Ofcom should not lose sight of that overall concern highlighted in detail in our response to the TAR.
- 3.13 Taking weeks to collect, validate, process and assure relevant data the reporting requirement is wholly disproportionate to the 2 lines of information that are actually on the face of the RFS.
- 3.14 The pattern over previous market reviews is that directions have been modified so that information continues to increase. As a result, no reductions/deletions are made and the complexity and weight of data has commensurately increased.
- 3.15 As noted above, there are very low levels of revenue in the WCT market (and negligible levels in the IP interconnect market), that would not even reach the materiality level of a service in other SMP markets. Any small movements have significant impacts in percentage terms and reduces the value of processing and publishing this information further.
- 3.16 Given Ofcom’s proposed remedy of flat nominal pricing control – pricing compliance is easily demonstrated through published price lists, which would be a more proportionate manner of addressing Ofcom’s competition concerns.
- 3.17 Given these factors, we argue that publishing the proposed schedule (Consultation, tables 7.1 and 7.2) does not support Ofcom in helping it to “*make informed regulatory decisions*” (Consultation, paragraph 7.17), nor does it “*inform stakeholders so they can have confidence that BT is complying with its obligations*” (Consultation, paragraph 7.18). Indeed, it can serve simply to confuse. If the billing data is scraped and divided by volumes from a different source, it is highly unlikely to generate the same price year on year (because of timing and input differences). Therefore, the pricing remedy is not demonstrated by financial reporting
- 3.18 The current construct of the RFS and supporting models and systems, along with the new chart of accounts and ERP systems in BT do not enable the reporting for WCT and IP interconnection. This must then be achieved via other methodologies, which are more labour intensive and create further cost and resource burden on BT.

Accounting separation creates a disproportionate burden on BT that is not appropriate in WCT given the small revenues and lacks transparency as to the objectives pursued

- 3.19 Whilst we have no objections to accounting separation and cost accounting in principle, this is relevant to the TAR rather than to this consultation. The wording lifted from the TAR may be appropriate to the scale of markets on which that Regulatory Financial Reporting (RFR) is intended but is not so here in WCT. Ofcom has not demonstrated transparently, according to the scale of the WCT market, why such an intervention and burden placed on BT is proportionate in such a low revenue market.

Reporting of cross-market ancillaries is disproportionate in the light of low revenues and where it is not clear that Ofcom's objectives are being met

- 3.20 We agree that Cross Market Ancillaries should be reported in aggregate (Consultation, paragraph 7.76), however our concerns detailed in the response to the TAR remain the same here and the conditions proposed in the TAR (detailed below) would still apply for any market being reported on.
- 3.21 Ofcom has proposed that BT separately reports accommodation services where total revenue exceeds £5m³⁰. That would add unnecessary complexity and increased risk of error in the preparation of the RFS without benefiting the users of the information. Each additional accommodation service would create 300+ additional published numbers in the RFS on current preparation basis
- 3.22 Ofcom states publishing internal and external information for services in cross-market ancillaries will support stakeholders' assessment of the impact and effectiveness of remedies in Volume 4³¹. However, while this is a current reporting requirement, accommodation and electricity services are externally provided only, and removing the reporting requirement for the services provided externally only, will support Ofcom in its aim to provide stakeholders with clear information.

Preparation and assurance

- 3.23 BT has already commented on Ofcom's proposals in this regard³² but we maintain these are relevant to the TAR and these immaterial levels of revenues should not be reported and therefore this section would be irrelevant here. BT's Regulatory Financial Statements for the period ending 31 March 2024 – for example – shows IP Interconnection External Revenues of around £54,000 – with component parts of this as low as £19,000. Such a reporting requirement clearly falls below any proportionality threshold – and seems contrary to the UK Government's objective to reduce the burden of regulation where appropriate³³.

³⁰ [TAR, March 2025 Consultation, Volume 6: Regulatory Financial Reporting](#), paragraph 4.116

³¹ [TAR, March 2025 Consultation, Volume 6: Regulatory Financial Reporting](#), paragraph 4.117

³² BT response to TAR, March 2025 Consultation, Volume 6: Regulatory Financial Reporting, section 5

³³ HM Treasury (2025) [New approach to ensure regulators and regulation support growth \(HTML\) - GOV.UK](#)



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