

SSE response

Question 4.2: Do you agree with our proposals on the scope of PIA: (1) To broaden usage through a mixed usage generic rule; (2) To modify the PIA condition to define geographic scope by reference to telecoms providers' local access networks.

(1) SSE supports Ofcom in seeking to relax the restrictions on the scope of use of the PIA product and considers that there is likely to be more use of the modified PIA product, the fewer the restrictions on its use by non-BT operators. Our preference was for an 'any usage' option and so we are disappointed that Ofcom's final proposal is for a 'mixed usage' restriction whereby there are 2 criteria for a CP being able to use PIA:

1. The purpose of the network deployment is to be primarily the delivery of broadband services to homes and businesses; and
2. The mixed use proposed enables the investment in the provision of the broadband services element generally.

We appreciate that this allows more flexibility than a specific rule on how mixed usage would be an 'allowable' use of PIA but it also brings considerable uncertainty, which is not conducive to investment. For example, in setting out how the proposals would work in practice, Ofcom refers to the likelihood of disputes under the Communications Act between Openreach and CPs on the topic of whether a specific proposed use of PIA fell within the 'mixed usage' criteria and discusses various features that Ofcom would consider in resolving such disputes. Using the evolution of regulatory disputes on a topic would seem a rather slow and uncertain means of providing clarity for significant investment decisions.

(2) For similar reasons to the proposed relaxation on the scope of use of PIA, Ofcom also proposes to relax the current geographic restriction of the allowable use of PIA from 'between BT's network termination point and BT's local access node' to 'between network termination points and [the CP's own] local access node' so that there is no need to be bound by BT's topology.

We welcome this relaxation as far as it goes but cannot comment on whether it will make much difference to CPs in practice.