Vodafone response to Ofcom's

Promoting competition in fibre networks – Quality of service

December 2020

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1 Summary

1.1 At Vodafone we pride ourselves on the experience we offer to our customers. We seek to deliver reliable services where both the delivery journey and in life experience exceed customer expectations. Where we get it wrong, we always seek to put things right, learning as we go. In both the consumer and enterprise fixed market we are heavily dependent on Openreach, who supply many of the wholesale services used to underpin our retail offerings.

1.2 Openreach has sought lighter regulated quality of service obligations at a time when customers are more reliant than ever on their communications services. Instead of taking steps to assure the quality of its services, Openreach appear to be stepping back. After the end of the previous service crisis, we had hoped that Openreach would take steps to use its own diagnostic tools to actively support end customers, embracing concepts like proactive testing, taking their own process beyond simple observation to one of actual proactive repair. Instead anticipating service concerns has been left to downstream retailers who use their own proactive testing to get in front of the issues, and in so doing improving the experience for all consumers.

1.3 Openreach has failed to properly invest for years in its copper network or to invest in a speedy transition from legacy copper to modern fibre services. Over the period since 2006 Openreach has received payments from communication providers (and indirectly from consumers) which have not only given it an appropriate rate of return for its capital but also an additional £12.3BN[1] of extra cash returns. These excess profits have not been appropriately channeled to create quality fit for purpose products. Their market power has left it to Ofcom to require service improvements via the imposition of regulated quality standards. It is simply not right that Openreach can be rewarded through excess returns for failing to invest. This would happen if Ofcom were to countenance a reduction in the quality of service standards.

1.4 These updated proposals are a backward step. A reduction in quality standards. In aggregate, the proposals put quality levels back to the levels of service where Ofcom first found it necessary to intervene. UK consumers will pay the price. Ofcom need to correct for the adverse impact of market power on Quality of Service and put in a place a progression of quality standards that better reflect what UK consumers and businesses expect. The transition to fibre isn't an excuse to exit quality. The Copper network and the business networks used to deliver Ethernet connectivity have millions of end users that need assurances over the services they receive. Openreach have form – when Ofcom step back, so do standards. We've witness two prolonged service crisis in the past decade. FTTC roll out seemed to derail Openreach's day to day operations. We fear FTTP roll out might well do the same. History may repeat itself, that is why Ofcom need to create a framework that keeps standards high.

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[1] https://www.ofcom.org.uk/__data/assets/pdf_file/0019/207622/vodafone-annex-1.pdf

2. Proposals

Question 3.1: Do you agree with Ofcom's proposal on how to deal with the potential impact of COVID-19 on Openreach's QoS performance?

We do not agree with the proposed revisions to the previously consulted upon QoS framework for 2021 to 2025. We consider that, post COVID, if any alternation were to be made to the initial proposals they should seek to raise standards, not decrease them.

COVID has accelerated the adoption of digital interactions in our society, with a transformation that had been anticipated to take seven years occurring in a matter of weeks and months[2]. These digital activities are reliant on effective and functioning access to the internet. Ofcom QoS levels to protect the necessary reliability is more important than ever. Ofcom should be working with Openreach to drive efficient work practices to both maintain the current framework of regulations and to surpass these in the forthcoming market review period.

The justification for the change in proposals is vague, with a simple COVID justification given. COVID is a temporary situation. It will come to an end. The Govt is optimistic that by the middle of 2021 life will be returning to normal. COVID cannot be used as an excuse to dial-down service standards until 2025. Of course Openreach has to keep its people and the public safe, but that doesn't mean re-setting the target, it just means implementing temporary changes to working practices. The industry is understanding of genuine COVID mitigation measures, Ofcom shouldn't seek to abuse this understanding by undermining standards in the name of COVID. Indeed, on the whole, the communications sector has demonstrated a far greater level of preparedness for the consequences of COVID on how we live and work, being in enviable position as adopters of technology that can be used to offer solutions to other sectors, maintaining access to customers and markets at times when other forms of interaction aren't possible. As technology leaders we need to "walk the talk" using best practice tools in our own business operations.

The debate should not be about the dilution of quality standards but instead about Openreach investing more to support the standards, using the technologies it seeks to retail to other enterprises ultimately ensuring the network that the UK relies upon is up to the task. Now that service charges are no longer directly linked with costs there will be wider scope for greater investment in service levels without the restriction of strict charge control formulas. We observe that Openreach has notified increases of 25% to the charges associated with Care Level 4.

We observe that quality levels of Openreach's networks and services have not changed over the last year, it is simply that customers are now at home more often to witness the weaknesses in the quality levels. Technically Openreach has been getting away with lower quality network services and network monitoring as customers haven't been at home to make these observations.

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[2] https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/how-covid-19-has-pushed-companies-over-the-technology-tipping-point-and-transformed-business-forever

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Vodafone has been on the cusp of launching its membership of the automatic compensation scheme. The changing landscape of the requirements upon Openreach to provide quality and timely inputs adds substantial cost and reputational risk of doing so. As we discuss later, this is not aided by Openreach's objection of the tools we seek to deploy to ensure service quality in place of Openreach using its own tools.

Question 4.1: Do you agree with Ofcom's proposal to set the FAD standard to require Openreach to offer appointments that are within 12 working days of an order being placed, and that this requirement be met in 89% of instances? Please set out your reasons and supporting evidence for your response.

Question 4.2: Do you agree with Ofcom's proposal not to introduce a glide path to return to a tighter FAD QoS standard?

We do not agree with the proposal to make changes to the FAD, taking it back to 12 working days after the years it has taken to finally get it to the 10 day level.

The present 10 day FAD has been in planning since the QoS consultation in March 2017 and was finally put in place for 20/21. Vodafone has invested in changes to its provisioning processes to utilise a 10 day FAD in good faith. This investment will be wasted and there will be further new costs if the FAD changes going forward.

We have serious concerns that the data collected by Openreach is unrepresentative of the current situation as CPs adapt to the 10 day FAD. The data is likely to reflect factors such as a cautious approach to installation timescales by ourselves, where we have allowed ourselves an extended provisioning period while our business was in startup mode. This has now changed as our understanding of the product, processes and customer environment have developed. Confidential text removed.

The proposal justification

Ofcom has not sought data from market participants regarding their current and prospective plans for customer provisioning. The data used for this consultation is not in line with our business plans.

We observe that the Openreach workforce for service provision and service repair are not interchangeable, as set out in this consultation. For provisioning, Openreach has a high propensity to use external contractors where as for repair tasks, they tend to use direct labour engineers. The workforce has segmentation and task orientation which will not lead to provisioning engineers undertaking fault repair. We do not therefore agree that FAD needs to move to 12 days to support the workforce focus on repairs.

Vodafone has noted that there has been increased provisioning demand over the last few months, likely due to COVID and end users wanting second lines in support of home working. We anticipate this to be a temporary issue and that Openreach should be able to manage a 10 day SLA under BAU conditions.

5.1: Do you agree with Ofcom's proposal to change the definition of Relevant Region in Directions 3 and 4, to align with Openreach's new operational structure?

Question 5.2: Do you agree with Ofcom's proposal to keep the High-Level MBORC allowance at two regions per year, with a maximum of eight weeks per region?

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We do not understand the rationale for changing the operating areas. An explanation has not been provided. We note that Openreach struggled to provide reasoning and evidence in 2019 to Industry of the benefits of this new structure.

We do not agree that 2 regions of 8 weeks should continue to apply under the new structure. This would substantially lessen the quality standard levels. Whilst, for several regions there is no impact to the proposed change, the merging of North East and North West regions and the same for the North Wales & North Midlands and South Wales & South Midlands regions is significant. Should Openreach declare MBORC across these regions, this covers approximately half the UK landmass. With Ofcom's proposal to retain the allowance of 2 regions per year, this could have a significant impact.

We consider the proposal in the context of the overall quality framework. The January 2020 consultation proposes an obligation to repair services within SLA 88% of the time. Repair on time will include a 3% fixed allowance for force majeure (known as Local MBORCS – Matters Beyond Our (BT's) Reasonable Control165) thus making the repair on time target over a year actually 85%. Additionally Openreach is permitted to declare High Level MBORCs for two regions in each year for periods of up to eight weeks per incident giving the optionality to further the reduce the 85%.

16 weeks' worth of High Level MBORC across an average fault regime could result in a further significant reduction in the target obligation. If we assume an equal distribution of faults and assume that HMBORC was applied to the new largest region for 16 weeks, this could possibly result in the national performance falling to 72% in real experience terms.

The full MBORC and High Level MBORC adjusted QoS obligation attainment levels lack adequate transparency. We consider that Openreach should publicly report on adjusted performance. Ofcom should make clear the impact that this allowance may have in a best and worst case situation to enable properly informed consideration of the proposal.

Question 6.1: Do you agree with Ofcom's proposal to amend the definition of a fault, allowing the exclusion of those flagged and agreed by telecoms providers to be resolved under a separate process as set out in the applicable service level agreement?

We do not agree that it is appropriate for Ofcom to make this change which would censure industry discussions and interrupt a live negotiation already being mediated by the OTA. Vodafone would not accept a reduced SLA or QoS level against faults which are in Openreach's network and therefore entirely within their gift to proactively monitor and fix.

There are two separate fault issues here. The first is where the CP conducts a quality control of the service being installed for their customer as the line is handed over by Openreach ready for the customer's first use and therefore represents the customer's first experience of the Vodafone service. When Openreach provisions a line for a customer commencing service with us, we will conduct a test to ensure the line is working properly. This is equivalent to us undertaking a quality control check in the same way in which eggs are checked by

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supermarket staff before a customer is allowed to pay and leave with the egg box. In the same way a supermarket checkout assistant wouldn't allow a customer to take home and pay for a broken product, we won't allow our customer to take a new installation that is faulty at the point of handover. Such a situation is unacceptable to us and the customer. These installation repair faults are raised due to poor quality control by Openreach during its provisioning processes and entirely avoidable. Faults will only be raised when Openreach's own quality control is poor. Indeed, in this scenario where Openreach has not delivered a working service, Vodafone believes Openreach should be operating to an enhanced SLA, rectifying the issue faster. If CPs have taken Care Level 1, for example we see no reason why customers should wait longer for a fix than the care level that has been purchased.

The second set of faults are in life quality control testing processes which find service faults and result in network faults being raised proactively by retailers on behalf of their customers and ideally in advance of their customers noticing service degradation. We are aware that Openreach itself proactively assesses customer connections but chooses to take no immediate remedial action to resolve the problem or to resolve the problem in advance of the customer themselves reporting the fault. We consider not taking proactive action when the necessary tools are available to us as a shocking lack of customer care and service ownership. Given that communications services are of a more critical nature to end users and that digital age tools exist to enable a better user experience with seamless fault diagnosis and repair we can't imagine why any party would seek to prevent or limit proactive repair. We are surprised that Ofcom with its role as a consumer advocate would consider support of a repair regime that causes customer inconvenience when there is the option to remove this inconvenience part of the time.

Contrary to the position advocated by Openreach we observe that Retailers are charged a substantial levy from Openreach of £130 for faults not found in the Openreach network (SFVA charge) so have incentives to be careful with their diagnostics and reporting.

The proposals for Ofcom's QoS measures to exclude these fault types is premature. The approach to these faults is subject to industry discussion with the OTA. These discussions have not yet reached a position anywhere close to resolution. Regulation should respect these negotiations and implement their conclusions rather than seek to override / conclude in advance of them. We note that Openreach has previously made representations to Ofcom about the expectation of industry plans which have subsequently changed. In the case of DOJ for Ethernet, Openreach prematurely put forward the case to Ofcom that the QoS measures would undermine the effectiveness of its DoJ proposals. After more in-depth industry engagement DoJ did not proceed. This illustrates that Openreach development proposals should not influence Ofcom policy, as proposals do not always come to fruition and Openreach's petition is again premature.

Question 7.1: Do you agree with the change of the design of the standard to focus on open orders? Please set out your reasons and supporting evidence for your response.
Vodafone supports the change of design of the standard although it notes that whilst there is a potential incentive for Openreach to "game" the measure, in reality it's unlikely that they will do so given they will then fall foul of other measures such as Mean Time to Provide and iCCD performance.

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Question 7.2: Do you have any views on the level of the Open Orders Upper Percentile standard? Please set out your reasons and supporting evidence for your response.

Vodafone would prefer to target Openreach to a stretching target against this measure which ensures that the most complex orders in the work stack are delivered as swiftly as possible. Whilst we note that performance has fluctuated, there have been significant periods where Openreach has performed better than the proposed 5% target. Given that this regulatory period will last 5 years, some form of stepped improvement target would seem appropriate to ensure continuous improvement to an acceptable standard.

Question 8.1: Do you agree with the proposed change to KPI (k)?

Vodafone agrees with this proposal as we understand the intent is to measure Openreach's performance which becomes very difficult with customer delay still included.