

Consultation response form

Please complete this form in full and return to cloudreport@ofcom.org.uk

Consultation title	Public cloud infrastructure services, Consultation: Proposal to make a market investigation reference
Full name	[X]
Contact phone number	[X]
Representing (delete as appropriate)	Self as former employee of UKCloud (in Compulsory Liquidation)
Organisation name	
Email address	[X]

Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see [Ofcom's General Privacy Statement](#).

Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate.	Please keep my name confidential/No
Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate.	Not confidential
For confidential responses, can Ofcom publish a reference to the contents of your response?	Yes

Your response

Question	Your response
<p>Question 2.1: Do you consider that our analysis is correct with respect of the suspected features of concern in the supply of public cloud infrastructure services in the UK?</p>	<p><i>Is this response confidential? – N</i></p> <p><i>Yes, I agree with Ofcom’s analysis of the suspected features of concern in the supply of public cloud infrastructure services in the UK.</i></p> <p><i>These concerns are well understood within the industry and relatively straightforward to evidence.</i></p> <p><i>As Ofcom has already acknowledged, the features of concern are not the only potentially anti-competitive practices within the industry.</i></p> <p><i>An absence of competitive process when procuring cloud services, particularly within the UK public sector, should also be a concern, as should a tendency on the part of the customer to rely on relationships with their cloud providers as part of the cloud selection process.</i></p>
<p>Question 2.2: Do you consider that the proposed scope of the reference, as set out in the draft terms of the reference, would be sufficient to enable the market investigation to properly assess the features referred to above?</p>	<p><i>Is this response confidential? – N</i></p> <p><i>Yes</i></p>
<p>Question 3.1: Do you have any views on our current thinking on the types of remedies that a MIR could consider (see above and Section 8 of the market study final report)? Are there other measures we should consider?</p>	<p><i>Is this response confidential? – N</i></p> <p><i>I am in broad agreement with Ofcom’s proposals. In terms of the specifics:</i></p> <p><i>Data egress fees:</i> <i>data egress fees should be “at cost” or prevented altogether. The risk with either approach would be that it creates a perverse incentive where the hyperscaler would impose other barriers to exit.</i></p> <p><i>One way to mitigate egress fees would be to regulate for upfront transparency in a providers pricing – in other-words, a costed exit plan based on typical usage forecasts should be</i></p>

compulsory before a customer onboards any data onto the cloud infrastructure – even for free trials.

Interoperability and portability: I do not agree that extensive transparency requirements “would put an unnecessary burden on hyperscalers”. We have to recognise the dangers in the current direction of travel in the market and should not be afraid to take action that is in the national interest.

In addition, cloud buyers need to be educated. Ofcom has already identified that some buyers have a high level of cloud literacy, but many don't. The government should be producing guidance for cloud buyers that enables them to navigate the pitfalls of technical lock-in.

Committed spend discounts: are an area of potential intervention but also appreciate that there could be unintended consequences that Ofcom has already identified

However, committed spend discounts are anti-competitive and an effective mechanism for lock-in when it comes to the cloud infrastructure market.

Ofcom might want to consider making privately negotiated committed spend discounts reportable to Ofcom once a certain commitment threshold has been reached to enable Ofcom to determine whether an intervention is needed on a case-by-case basis.

Ofcom could also consider putting in place legal mechanisms to prevent cloud providers from demanding higher spend commitments in return for discounts at the point of contract renewal.

In other words, if a customer has benefited from an e.g 18% discount for e.g £5m spend over e.g 3 years there should be a legal obligation for this discount to be carried over into any future contract.

Billing transparency: is an area of potential intervention.

	<p><i>Imposing a standard approach to pricing would ultimately be helpful but difficult to achieve as the standard would have to be based on something and whichever cloud providers pricing model was closest to the something would be given competitive advantage.</i></p> <p><i>Two measures might help to mitigate the difficulties here – prohibiting price bundling and compelling the cloud providers to enable potential and actual customers to access cost modelling tools before and throughout the duration of any engagement.</i></p>
<p>Question 3.2: Do you have any views on areas where we should undertake further analysis or gather further evidence as part of an MIR in relation to the supply of public cloud infrastructure services?</p>	<p><i>Is this response confidential? – N</i></p> <p><i>I would recommend that Ofcom collects further evidence of the lack of competitive process when procuring cloud services as well as the reliance on relationships.</i></p> <p><i>It would be beneficial to the UK if Ofcom would collect wider evidence on the impact of cloud concentration over and above consumer harm.</i></p>
<p>Question 3.3: Do you agree with our proposal to exercise Ofcom’s discretion to make a market investigation reference in relation to the supply of public cloud infrastructure services in the UK?</p>	<p><i>Is this response confidential? – N</i></p> <p><i>Yes.</i></p>

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