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Dear Ofcom,

**Ofcom Consultation on Openreach Proposed FTTP Offer: Equinox 2**

I am writing to you on behalf of Open Fibre Networks Limited (OFNL), part of the BUUK Infrastructure Group of companies (BUUK), in response to the Ofcom February 2023 consultation regarding the [Openreach Proposed FTTP Offer starting 1 April 2023: Equinox 2](#). I can confirm that our response is not confidential.

BUUK invests in energy and utility networks for new homes. We started with ownership of regulated gas networks and have gradually expanded our portfolio into other utility sectors including electricity, fibre, water, and heat. OFNL has been providing gigabit ready full fibre broadband connections to the new build housing sector since 2008 and our fibre networks are often chosen by developers in preference to the solutions offered by the monopoly incumbent. We also operate a wholesale business, Open Fibre Networks (Wholesale) Limited (OFN(W)L), offering wholesale services to Communication Providers across the UK.

**Summary of OFNL views on the Ofcom consultation**

We are aware of the disparate views within the industry regarding the proposed Openreach Equinox 2 offer. While Communications Providers (CPs) are supportive of the proposed new product, given the resulting price reductions from which they could benefit, AltNets across the industry have expressed significant concerns regarding the offering given the impact that the reduced prices could have on their commercial position.

We look at this issue from a slightly different perspective to the remainder of the industry. In this respect, the specifics of our commercial model mean we are unlikely to be significantly impacted by the proposed Openreach offering but we are cognisant of the potential implications for other AltNets. We are particularly concerned about the resulting impact the proposed offering could have in terms of competitive conditions in the sector. We therefore have reservations about the Openreach Equinox 2 proposals and consider that Ofcom

should complete a thorough review of the potential market impacts and associated outcomes that could result. Our views on this issue reflect the following concerns.

- **The competitive landscape in fibre:** Our position as a multi-utility network provider gives us a unique perspective when it comes to the competitive conditions in fibre. While most utilities are characterised by regional and / or sectoral monopolies, there tends to be more than one monopoly player in the industry, and this helps to dilute dominance and brand recognition. In contrast, in fibre BT / Openreach is the only incumbent and has both dominance and strong brand awareness. Combined, these characteristics make it incredibly difficult for new entrant network providers to effectively penetrate the market. Historically, it has been possible for AltNets to compete for new business (wholesale or retail) based on an attractive price offering but, as BT / Openreach increasingly reduces its prices via offers such as Equinox 2, it becomes ever more difficult for AltNets to effectively compete.
- **The additional obstacles that AltNets face:** Where a CP decides to use an AltNet's wholesale services to deliver its retail services, it will need to take steps to effectively integrate the AltNet systems with its own, and this inevitably involves some level of cost / resource. In contrast, if the CP chooses to use the Openreach network, there is unlikely to be a need for system integration as, given Openreach dominance, the respective systems of the network provider and the CP will already have the ability to interact with one another. Given the likely additional cost / resources involved in system integration where a CP uses an Altnet, there would need to be sufficient incentives to encourage the CP to make this alternative choice. Until recently, there was sufficient headroom in Openreach tariffs to enable AltNets to compete, but Equinox 1 has begun to erode these margins and, if Openreach is permitted to roll out Equinox 2, this headroom will be further diminished.
- **Implications for choice:** Under normal market conditions, if a participant was unable to effectively compete with counterpart market offerings, it would be defensible to allow the company to fail and exit the sector. However, the dominance of BT / Openreach in fibre means these are not normal market conditions and, if AltNets successively exit the industry, the competitive pressures that 'bite' on BT / Openreach will be reduced, customer choice will become constrained, and innovation in the market is likely to slow or even disappear. It is not only end customer choice that will be impacted but also government choice in the allocation of funding to support the roll out of gigabit networks. In addition, in the absence of comparator companies, it is likely that more stringent regulation would need to be applied to BT / Openreach to protect end customers but, without industry benchmarks for cost and / or innovation, the effective definition of these parameters will be challenging.

As outlined above, we are aware of the disparate industry views regarding Equinox 2. While we fully understand the enthusiasm of CPs for lower Openreach prices, we expect that this short-term benefit is likely to be undermined by the longer-term outcomes that could result, in the form of impacts on the competitive market. These outcomes will not benefit AltNets, CPs, customers, or Ofcom if new entrants are unable to sustain their position in the market and BT / Openreach effectively reassumes its monopoly. And, if considered in this context,

we are not convinced that CPs would be quite so welcoming of Equinox 2. Indeed, CPs might have greater sympathy for the position of AltNets in the industry who have expressed significant concerns regarding the offering given the impact it could have on their commercial position. Recognising the potential industry outcomes that could emerge if Equinox 2 is approved, we have provided relevant OFNL data to INCA, with the intent of supporting their efforts to better understand / model the impacts of this Openreach offering.

I hope these comments are helpful. We would welcome a formal response, from Ofcom, to the concerns we have raised. I would be happy to discuss our response in more detail; feel free to get in touch via email ([keith.hutton@bu-uk.co.uk](mailto:keith.hutton@bu-uk.co.uk)) or phone (07970 730688).

Yours sincerely



Keith Hutton

**Regulation Director, Water, Heat and Fibre**