Gigaclear's Response to Ofcom's Call for Inputs: Openreach's Proposed Commercial Offers

Introduction

1. Gigaclear is the UK's largest rural-focused broadband operator. We have deployed a modern full fibre (FTTP) broadband network to [XX] premises in England and serve [XX] customers. Our network supports rural communities and enables the delivery of high-speed, reliable broadband in underserved areas. We also have a growing wholesale business, selling our network to a range of B2C and B2B partners.

2. We welcome the opportunity to respond to Ofcom's Call for Inputs on the following Openreach pricing offers notified on 1 June 2026:

    - Incremental New to Openreach Customer Offer;
    - Incremental New Openreach Customer Offer in VMO2 Areas;
    - Incremental Ethernet Net Demand Offer; and
    - Six-Month Extension to the Equinox 550Mb Incentive.

3. Ofcom is inviting views on whether the offers are:

    - conditional and raise competition concerns requiring ex ante intervention;
    - geographic and raise competition concerns such that Openreach's application for consent to implement geographic pricing where this would be otherwise prohibited should or should not be granted; and
    - whether the offers raise concerns about low pricing in relation to Openreach's requirement for charges to be fair and reasonable and/or raise more general concerns about undue discrimination that can harm competition.

4. We note that Ofcom's Call for Inputs is not seeking views on two other Openreach offers notified on 1 June 2026. Namely:

    - FTTP Frontbook ARPU Share Offer; and
    - Six-month Extension to the 10 Gb Cablelinks Offer.

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5. Ofcom does not consider either of these offers to be a conditional offer, which Ofcom defines as: *"commercial terms where the price or other contractual conditions are conditional on the volume and/or range of services purchased."*[1]

6. We believe the FTTP Frontbook ARPU Share Offer is conditional offer because:

   - If a communication provider places a sufficient mix of new FTTP orders, such that the ARPU on these orders reaches the £19.32 threshold, then Openreach rebates any excess, so the effective average rental does not exceed this threshold.

   - The FTTP Frontbook ARPU Share Offer therefore causes effective Openreach FTTP line rental charges to be conditional on the mix of FTTP orders made by the communication provider going forward.

7. This appears to be consistent with Ofcom's definition of "conditional terms".

8. Nevertheless, the competition concerns we raise in the rest of this submission do not depend on whether Ofcom treats the FTTP Frontbook ARPU Share Offer as conditional (albeit that they increase the extent of the potential discounts). Even excluding this offer, the remaining offers materially impact the ability of other networks to generate the take-up necessary to become sustainable long-term competitors to Openreach, contrary to Government and Ofcom objectives.

Executive Summary

9. These offers are conditional and raise competition concerns that require ex ante intervention. They link Openreach's discounts to the volume of customers that providers using their network can win from other FTTP networks. As such, they are not normal price competition. Instead, they deliberately target price reductions in altnet areas for the purpose of undermining altnet take-up and the development of material and sustainable competition at a stage when Ofcom has recognised that such competition is both nascent and fragile.

10. The Incremental New to Openreach Customer in VMO2 areas has a geographic element, as it targets VMO2/nexfibre areas but also any altnets with network overlapping these areas. Ofcom is required to consult on this element of the offer, as geographic discounts require their explicit consent (although we would suggest that Ofcom also runs a full consultation on all the offers). In addition to increasing the materiality of these discounts, the geographic element of the offer could also undermine the dynamics of consolidation, since VMO2 are expected to be one of the big players here.

[1] TAR Statement, Volume 3, para 9.173.

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11. Our analysis indicates that these discounts are material, amounting to a potential 50% to 66% reduction in monthly rental charges. Although the offers run for a period of 6-12 months, they can be extended as other Openreach offers have been. In addition, the per circuit benefit runs much longer; between 18-30 months.

12. Ofcom typically assesses the materiality of Openreach offers by comparing Openreach's average wholesale price to that of a Reasonably Efficient Operator (REO), competing against Openreach. However, these offers are targeted and apply at the margin to the most contestable customers, i.e. those who have switched to full fibre broadband already. The REO model is structurally incapable of capturing selective pricing on marginal customers. Ofcom needs to adapt its analytical approach accordingly.

13. Further, these offers constitute undue discrimination because they create differential wholesale pricing for economically equivalent networks based solely on the origin of the end-customer (i.e. whether they are on a competitor network). This does not reflect any underlying cost difference. Instead, it reflects a deliberate targeting of competitive entry. The differential treatment is not objectively justified.

14. We believe that Ofcom should closely analyse both the New to Network offers and reject them, given that they create a material barrier to altnet take-up, a strong incentive for providers to favour the Openreach network over altnet networks and undermine the Government's and Ofcom's objective of supporting material and sustainable competition to Openeach, both at a retail and wholesale level. Alternatively, if Ofcom believe that an outright rejection of these offers is not warranted, it should consider capping the monthly per circuit discount at a level significantly below the 50% to 66% that could be achieved.

The Importance of Take-Up to Sustainable Network Competition

15. Both Government – in its Statement of Strategic Priorities – and Ofcom – in its Telecoms Access Review, recognised important role that network competition has played in full fibre investment and in improving long-term broadband provision for consumers. In its final TAR statement, Ofcom recognised that network competition has not developed to the point where Openreach no longer has Significant Market Power. It highlighted the importance of take-up for altnets, as opposed to coverage, as the key to network competition to competition becoming sustainable:

    "The presence of a rival network alone is not necessarily sufficient to deliver material and sustainable competition in the long term. ***Take-up is critical****, as it underpins the*

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ability of altnets to exert a strong competitive constraint on Openreach (and VMO2) in the long term, and so for competition to be sustainable." (Emphasis added)[2]

"While altnets have made progress in winning customers and increasing take-up, they require further take-up to become strong long-term competitors to Openreach."[3]

16. In the TAR, Ofcom also recognises Openreach's significant incumbency advantage and its incentive, absent regulation, to undermine altnet take-up by, for example, using targeted price reductions and/or other commercial terms.[4] Consequently, Ofcom treated altnet take-up as one of the most important considerations in designing remedies for the 2026 – 2031 period:

"We consider it important that regulation should address Openreach's SMP in a way which maintains a reasonable opportunity for reasonably efficient altnets to compete and increase take-up during this review period."[5]

17. According to INCA's 2026 Annual Report, the average take-up rate among altnets is 18%. Whilst Gigaclear's take-up rate of [XX] is among the higher altnet take-up rates, as it stands, no altnets are to close achieving take-up of 40% assumed in Ofcom's Reasonably Efficient Operator (REO) model.[6] In fact, only Openreach, with its market-leading take-up rate of 38.3%, is reasonably close.

18. Take-up is particularly important currently because altnets' pricing (and consequently revenues) has been constrained by Openreach's Equinox terms (in the wholesale market) and by communication providers (in the retail market). Ofcom itself recognises that the retail price of residential FTTP services have reduced considerably since 2021.[7]

19. The figure below shows the average retail price over 24 months for Gigaclear, BT Retail's three brands, Sky, Vodafone and TalkTalk.[8]

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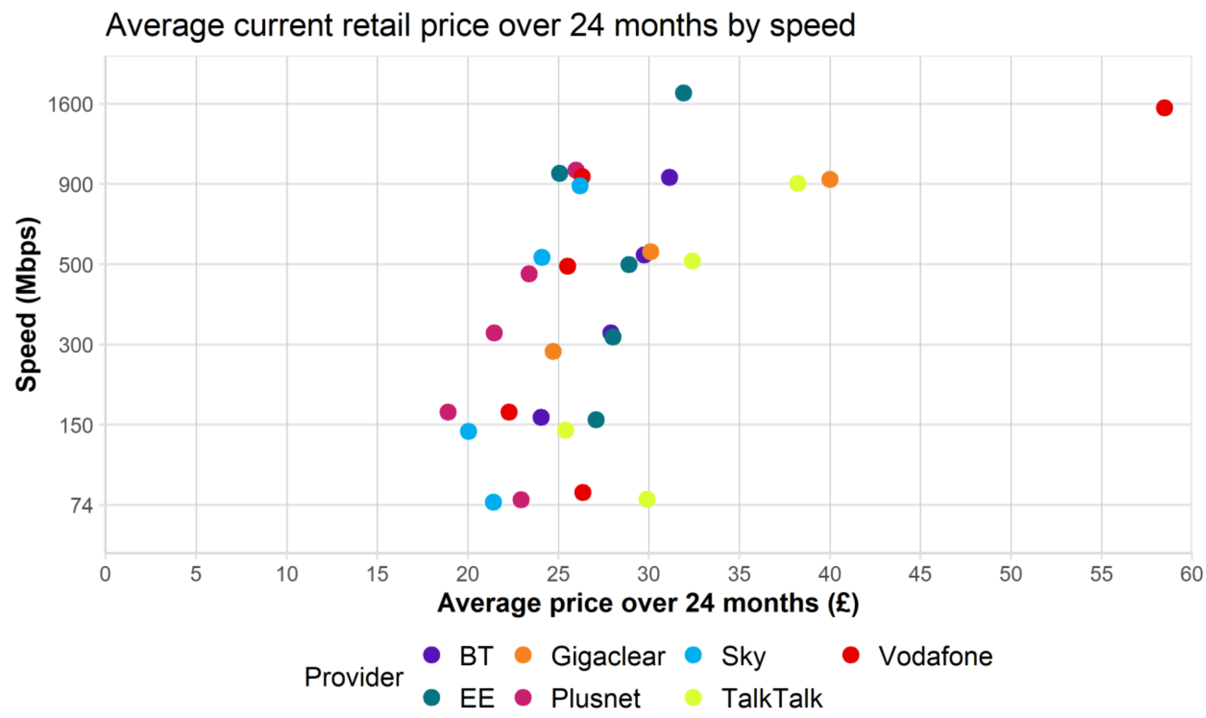
[2] TAR Statement, Volume 3, para 1.17.
[3] TAR Statement, Volume 3, para 1.24.
[4] TAR Statement, Volume 3, para 1.56.
[5] TAR Statement, Volume 3, para 1.56.
[6] 40% take-up assumption applies to homes in Ofcom's low-cost scenario, where a REO has 5m homes in Area 2. Ofcom's uses a 30% take-up assumption in the high-cost scenario (20m homes in Area 2).
[7] See, for example, TAR Statement, Volume 2, para 2.61
[8] We collected broadband only packages available at a specific address in the Gigaclear footprint where Openreach has also rolled out FTTP. We collected price data from the operators' websites as well as a price comparison website (Money Supermarket) on 10 June 2026. We subtract the value of cashback/voucher sign-up offers from the monthly price where applicable. Apart from Gigaclear, the prices concern 24-month long contracts. Gigaclear offers 18-month contracts. We therefore apply Gigaclear's current standard (or 'list') prices in the last 6 months of the 24-month period.



20. Gigaclear currently offers 300 Mbps, 550 Mbps and 900 Mbps packages:

21. At 300 Mbps, Gigaclear's effective price point (£24.75) is in the middle of BT Retail brands' price range. Plusnet is £3.38 lower than Gigaclear. EE and BT are £3.24 above Gigaclear.

22. At 500 Mbps, the prices of Gigaclear, BT and EE are within £1 of each other. TalkTalk's prices are higher. While Sky, Vodafone and Plusnet 500 Mbps prices are lower than Gigaclear's, this reflects the impact of these providers' voucher and cashback offers. Excluding vouchers/cashback, the price difference between Gigaclear and these providers is £0.50 to £3.00.

23. At 900 Mbps, Gigaclear's prices are similar to TalkTalk's prices.

24. Another key factor in take-up is overbuild. Gigaclear's take-up rate is [XX] in the [XX] of the Gigaclear network that is currently overbuilt by other FTTP networks (primarily Openreach). Gigaclear's take-up rate is [XX] in the currently non-overbuilt part of our network. In other words, Gigaclear's take-up rate is [XX] times higher in non-overbuilt areas than overbuilt areas.

25. While not in itself a causal estimate, this comparison is consistent with the proposition that overbuild materially reduces attainable take-up. It also illustrates why a uniform take-up assumption in the REO framework may fail to capture the competitive conditions facing altnets in overbuilt areas.

26. It is important for Ofcom to assess Openreach's new conditional offers in this context. The cumulative effect of these offers, on the back of Equinox 1 and 2 and Openreach's

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previous offers is to make it significantly more attractive for Openreach providers to target customers from other networks and less likely than these networks will become sustainable competitors to Openreach.

Openreach's Latest Offers

27. All the new offers announced by Openreach on 1 June 2026 are conditional, including the FTTP Frontbook ARPU Share offer (as we set out in the Introduction section). The "Incremental New to Openreach" offers have the most material impact. They apply only to customers that are not currently connected to the Openreach network, i.e. *"premises where no Openreach products or services have been provided on the relevant line at any time during the 90 consecutive days prior to the date of an Order for the Primary Service"* subject to some exclusions.[9]

28. Therefore, the new offers will only apply where a broadband consumer stops receiving broadband over the VMO2 network or an altnet's network and instead receives an Openreach FTTP-based broadband service. These offers will not apply where a copper-based broadband consumer switches to an Openreach FTTP connection.

29. The design and effect of the new offers is to win market share from VMO2 and altnets. The new offers achieve this by reducing the marginal cost to communication providers (including BT Retail) of acquiring a customer that is new to Openreach. This in turn facilitates more aggressive pricing of Openreach-based FTTP broadband packages in the retail market by communication providers (including BT Retail).

30. The extent of the discount depends upon the volume of customers that the provider can win from VMO2 and the altnets with the discount lasting for 18 months for volume performance 5% above the historic baseline and rising to the 30 months for performance more than 10% above the historic baseline. As a result of the offer, telecoms providers will be encouraged to concentrate their growth on Openreach, in preference to rival networks, to exceed their historic baseline.

31. This offer is also potentially very beneficial for BT Consumer whose customer base has been largely flat over the past three years at just over 8 million customers, implying relatively low gross net adds. In addition, whilst over half of these customers are now on FTTP, it is likely that most of these customers will have upgraded from Openreach copper-based products rather switched back to Openreach from an altnet network, particularly as most consumer contracts are now 18-24 months. This suggests that BT Consumer's historic New to Network (NTN) baseline could be very

[9] Openreach, Special Offer Terms— FTTP Incremental National NTN Offer.

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low, giving BT Consumer a significant incentive to target altnet areas, particularly given that Openreach still forms part of the wider BT Group.

32. Ofcom also highlighted retroactive rebates in the TAR, where a rebate is applied to units purchased from Openreach once a certain volume threshold is reached, as a specific example of the type of arrangement that they would view as overtly loyalty inducing.[10] The New to Openreach Customer offer is clearly a retroactive rebate.

33. Our submission largely focuses on the issues arising from the conditional nature of the offers. However, the Incremental New Openreach Customer Offer in VMO2 Areas is geographic, as well as conditional. “VMO2 Areas” is not a geographic area defined by Ofcom in the either the TAR or its predecessor (the Wholesale Fixed Telecoms Market Review). We understand that Openreach has defined VMO2 Areas as a specific list of postcodes, although it is not clear whether these postcodes include those where nexfibre is present. That list is unavailable to us, must also be carefully scrutinised by Ofcom and subject to a full consultation. Other aspects of this offer are similarly opaque such as the calculation of the historic baseline.

34. In its final TAR statement, Ofcom recognised that a wide range of networks have the potential to become material and sustainable competitors to Openreach on the basis of consolidation.[11] The VMO2 New to Openreach Customer offer has the potential to make it even more difficult for VMO2 to build take-up on their new and existing networks, including any networks that it acquires. As such, these offers could materially impact the dynamics of consolidation in the market and further slow the development of material and sustainable network competition to Openreach.

Materiality of the new conditional offers

35. These new conditional offers, if cleared by Ofcom, will materially reduce the FTTP rental charges available from Openreach on “incremental” New to Openreach customers, i.e. customers won back from VMO2 and the altnets

36. These offers will be available for 6 to 12 months initially:

- FTTP Frontbook ARPU Share Offer will be available for 12 months from 1 July 2026 to 30 June 2027;
- The Incremental New Openreach Customer Offers will be available for at least six months from 1 October 2026 to 31 March 2027. However, Openreach has signalled a potential six-month extension in the relevant briefing.

[10] See Volume 8 of the Final TAR Statement, paragraph A8.67
[11] See Section 4, Volume 2 of the Final TAR Statement, paragraph 4.147

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- The Six-Month Extension to the Equinox 550Mb Incentive will be available for six months from 1 October 2026 to 31 March 2027.

37. Openreach could extend these supposedly time-limited offers in the same way as it is currently proposing to do with the Equinox 550Mb incentive. In addition, the per circuit benefit period of the offers is much longer than the 6–12-month offer period. It is a minimum of 24 months per eligible circuit for the FTTP Frontbook APRU Share Offer, running no later than 30 June 2029 and between 18-30 months for the New to Openreach Customer offer.

38. The tables below set out that the combined effect of the offers is to reduce wholesale FTTP rentals by up to three quarters for customers in Area 2 that are switched away from rival networks.

39. Table 1 below combines the New to Openreach Customer Offer, the 550MB incentive and the FTTP Frontbook ARPU Share offer. It demonstrates that these offers could at least halve Openreach's FTTP rental charges, compared to those available under Equinox 2.

40. Where a communication provider does not hit the existing Equinox 2 ARPU revenue share threshold of £18.12 per line, the discount is in the range of 50% - 59%. If a communication provider achieves the existing Equinox 2 ARPU threshold, after which any incremental revenue beyond £18.12 is shared 50/50 between Openreach and the provider, the combined effect of the new offers could be as large as a two-thirds reduction in rental charges (i.e., on 1.8 Gbps rentals), as shown in Table 1 below. Please note that the table does not include the one-off £50 rebate that is additionally available in VMO2 areas (and which may also contain altnet coverage

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Table 1

	Equinox 2 FTTP rental charges (as of 1 April 2026)		Combined effect of offers (£)	Effective reduction in Equinox 2 charges	
	Without Equinox 2 ARPU share (£)	With Equinox 2 ARPU share (£)		Without Equinox 2 ARPU share (%)	With Equinox 2 ARPU share (%)
40 Mbps	£17.83	£17.83	-£9.50	-53%	-53%
55 / 80 Mbps	£17.18	£17.18	-£9.50	-55%	-55%
115 Mbps	£17.50	£17.50	-£9.50	-54%	-54%
160 Mbps	£17.94	£17.94	-£9.50	-53%	-53%
220 Mbps	£19.17	£18.97	-£9.50	-50%	-50%
330 Mbps	£20.28	£19.53	-£10.46	-52%	-54%
550 Mbps	£20.61	£19.69	-£12.17	-59%	-62%
1.0 Gbps	£22.76	£20.77	-£12.94	-57%	-62%
1.2 Gbps	£22.76	£20.77	-£12.94	-57%	-62%
1.8 Gbps	£23.83	£21.30	-£14.01	-59%	-66%

Note: Equinox FTTP rental charges (as of 1 April 2026) are per the Openreach website. The impact of the offers is calculated as follows. We first assume a £9.50 rebate applies to all download speeds (per ACCN OR1108). We then assume a £2.67 reduction in the rental charge for 550 Mbps (per ACCN OR1105). We then assume line rentals are capped at £19.32 per month (ACCN OR1108).

41. If the effect of the FTTP Frontbook ARPU Share Offer (ACCN OR1106) is excluded, the combined effect of the remaining offers is a reduction in rental charges of between 40% and 62% per line. This range still represents a material reduction.

42. The new conditional offers also materially reduce Openreach's FTTP connection prices. The connection rebates more than fully offset NTN connection prices in Area 2. The rebates also offer a substantial (28% to 67%) reduction in Area 3 NTN connection prices. This analysis is based on the NTN connection prices available under Equinox 2, as shown in Table 2 below.

Table 2

	Equinox 2 NTN connection price (as of 1 April 2026, £)	Effect of offers		Effective reduction in NTN Equinox 2 connection price	
		Non-VMO2 Area (£)	VMO2 Area (£)	Non-VMO2 Area (%)	VMO2 Area (%)
Area 2	£32.70	-£35.00	-£85.00	-107%	-260%
Area 3	£127.26	-£35.00	-£85.00	-28%	-67%

Note: Equinox FTTP connection prices (as of 1 April 2026) are per the Openreach website.

43. The rental charge and connection price reductions are individually significant. Combined, they materially reduce the cost to communication providers of bringing a new customer to the Openreach network over a typical contract period of 24 months:

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- the rental charge rebate of £9.50 will apply for 18, 24 or 30 months depending on the communication provider's performance;
- the FTTP Frontbook ARPU Share Offer applies for a minimum of 24 months and no later than 30 June 2029; and
- the 550 Mbps offer applies for 12 months.

44. These offers reduce the total cost of bringing a new customer to the Openreach network over 18-month contract by 37% to 49% in non-VMO2 parts of Area 3. If a communication provider secures the rental charge rebate for 24 months, the provider's total savings over 24 months would be at least 47%, as shown in Table 3 below, and potentially as high as 58%.

Table 3

	Area 3 connection price + 24 months of current Equinox 2 rental charges (£)	Combined effect of offers		Effective reduction in cost	
		Assuming 18 months rental rebate (£)	Assuming 24 months rental rebate (£)	18 months rental rebate (%)	24 months rental rebate (%)
40 Mbps	£555.18	-£206.00	-£263.00	-37%	-47%
55 / 80 Mbps	£539.58	-£206.00	-£263.00	-38%	-49%
115 Mbps	£547.26	-£206.00	-£263.00	-38%	-48%
160 Mbps	£557.82	-£206.00	-£263.00	-37%	-47%
220 Mbps	£582.54	-£206.00	-£263.00	-35%	-45%
330 Mbps	£595.98	-£229.04	-£286.04	-38%	-48%
550 Mbps	£599.82	-£253.52	-£310.52	-42%	-52%
1.0 Gbps	£625.74	-£288.56	-£345.56	-46%	-55%
1.2 Gbps	£625.74	-£288.56	-£345.56	-46%	-55%
1.8 Gbps	£638.46	-£314.24	-£371.24	-49%	-58%

Note: Equinox FTTP rental charges and connection prices (as of 1 April 2026) are per the Openreach website. We assume that current rental charges apply for 24 months.

45. In Area 2, where Gigaclear is mainly present following the TAR's reduction in the size of Area 3, the effective reduction in cost is even more significant, as set out in Table 4 below. In Area 2, assuming the VMO2 connection "overlay" rebate applies, and the rental charge rebate applies for 24 months, a communication provider's savings would be at least 64% and potentially as high as 77%.

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Table 4

	Area 2 connection price + 24 months of current Equinox 2 rental charges (£)	Combined effect of offers		Effective reduction in cost	
		Assuming 18 months rental rebate (£)	Assuming 24 months rental rebate (£)	18 months rental rebate (%)	24 months rental rebate (%)
40 Mbps	£460.62	-£256.00	-£313.00	-56%	-68%
55 / 80 Mbps	£445.02	-£256.00	-£313.00	-58%	-70%
115 Mbps	£452.70	-£256.00	-£313.00	-57%	-69%
160 Mbps	£463.26	-£256.00	-£313.00	-55%	-68%
220 Mbps	£487.98	-£256.00	-£313.00	-52%	-64%
330 Mbps	£501.42	-£279.04	-£336.04	-56%	-67%
550 Mbps	£505.26	-£303.52	-£360.52	-60%	-71%
1.0 Gbps	£531.18	-£338.56	-£395.56	-64%	-74%
1.2 Gbps	£531.18	-£338.56	-£395.56	-64%	-74%
1.8 Gbps	£543.90	-£364.24	-£421.24	-67%	-77%

46. These reductions are material because they are large relative to retail broadband margins and because they apply at the margin to contestable customers, who are most likely to switch networks. They therefore create a very strong volume-based incentive for Openreach-based communication providers to target the customers of VMO2 and the altnets, either through lower retail prices, higher cashback/voucher offers, higher acquisition spends, or some combination of these.

Assessing the new conditional offers

47. We anticipate that Ofcom will assess these new offers under the framework established in its review of the Equinox 1 and Equinox 2 offers, over the course of the new, extended 120-day review period.

48. This means Ofcom will assess three questions:[12]

- Do the notified commercial terms potentially create a barrier to using rival networks?
- Are the notified commercial terms likely or unlikely to have a material impact on network competition?
- Are the notified commercial terms likely to generate clear and demonstrable benefits?

[12] TAR Statement, Annex 8, para A8.69.

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49. We anticipate that Ofcom will assess whether the new conditional offers raise *prima facie* concerns by comparing Openreach's average FTTP price against Ofcom's estimate of the costs of a Reasonably Efficient Operator (REO) deploying a fibre network. Ofcom uses the REO cost range to assess whether Openreach's charges are fair and reasonable more broadly.[13]

50. However, this comparison between the REO benchmark and Openreach risks failing to capture the full impact of the new conditional offers on altnets ability to generate sufficient take-up to become sustainable competitors to Openreach.

Issues with Ofcom's REO benchmark & Assessment Framework

51. The low end of the REO range assumes that an altnet covers 5m premises in Area 2 and achieves 40% take-up after five years. The high end assumes coverage of 20m premises in Area 2 and 30% take-up after five years. Build and connection capex assumptions also vary between the low-cost and high-cost scenarios.

52. The take-up assumption significantly influences the REO cost range modelling and the ability of altnets to become sustainable competitors to Openreach.

53. The REO benchmark:

    - Reflects a take-up rate that Gigaclear, all other altnets (and even Openreach) are yet to achieve;
    - Likely reflects an overly optimistic operating expenditure assumption for most altnets (only CityFibre's footprint is close to the 5m footprint assumed in the low-cost scenario); and
    - Does not reflect the geographic variety of rollout costs, particularly as rollout moves towards the Area 2 fringe and into Area 3.

54. The offers are unlikely to have a material impact on Openreach's average FTTP price. This is because the offers will not affect existing orders or future orders arising from migrations:

    - from Openreach copper to Openreach FTTP;
    - from one Openreach communication provider to another; or
    - from one FTTP speed tier to another.

55. However, the impact of the new offers on Openreach's average FTTP price is not the correct assessment here. Much more relevant is the impact of the new offers on the average Openreach FTTP prices that altnets will need to compete against in areas of

[13] TAR Statement, Annex 8, para A11.2.

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overbuild. Put differently, the competition issue is the impact of these new conditional offers on altnet take-up, given their current starting point.

56. As we have shown, the new offers materially reduce the cost to communication providers of serving a customer over the Openreach network when that customer has switched from a competitor network. In these areas, the offers lower the incremental wholesale cost of using Openreach for the very customers that altnets need to win or retain to increase take-up. This is likely to translate into lower Openreach-based retail prices and more intensive customer acquisition targeted at altnet-served premises. The consequence is not simply a reduction in Openreach's average FTTP price, but a reduction in the attainable take-up and revenues available to altnets in overbuilt areas, undermining the assumptions on which Ofcom's REO benchmark depends.

57. When applicable, the new offers reduce Openreach's line rental charges by 53% to 66%, or 40% to 62% excluding the FTTP Frontbook ARPU Share Offer, as we have shown above. BT Retail and other Openreach Communication Providers would be incentivised to pass on a significant part of this to their retail customers.

58. If the £9.50 line rental rebate and £35 connection price rebate are passed on in full, the average effective retail price of Gigaclear's competitors would fall by 40% on average in this worst-case scenario.

59. The figure below illustrates how this would impact the positioning of Gigaclear, before a competitive response from Gigaclear. For simplicity, we illustrate the pricing of the BT Retail brands only. Crosses denote effective average prices without the NTN rebates. Dots account for full pass-through of the line rental and connection price rebate. Full pass-through of the rebates would provide BT Retail with a significant price advantage over Gigaclear's current positioning. This advantage would be larger if the supplementary VMO2 connection price rebate applies (worth around £2.08 per month).

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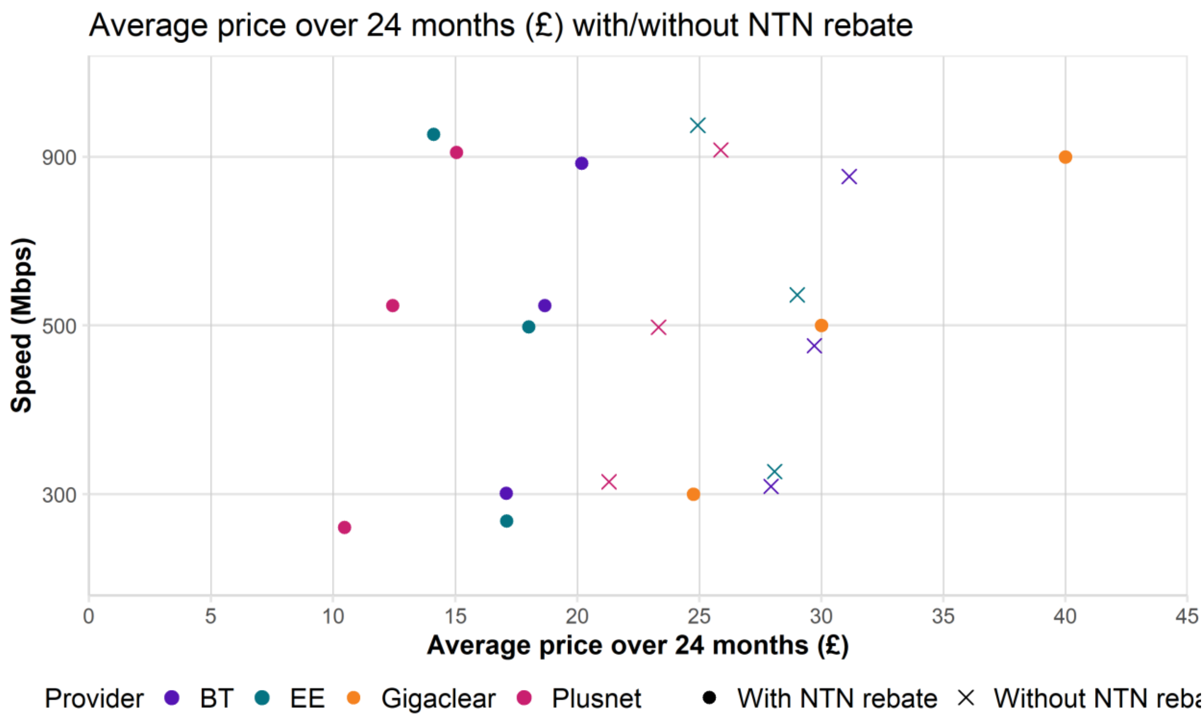

60. Full pass-through is not required for the offers to have a material effect. The offers may affect competition through lower headline prices, cashback, vouchers, higher commissions to comparison sites, higher sales incentives, increased marketing spend, or retention offers. These mechanisms all reduce the ability of altnets to win and retain customers and become sustainable competitors to Openreach. They come when Ofcom has only recently characterised network competition as nascent and fragile.

61. If Gigaclear is competing in a market with lower prices targeted at their network, Gigaclear will necessarily respond. However, as a rural-focused altnet, it is unlikely that Gigaclear would be able to respond with a 40% retail price reduction of its own. Given Gigaclear's business plan and the need to aim for a reasonable return, such a reduction would not be commercially sustainable.

62. The implication is that Gigaclear's ability to retain customers is reduced in the part of its footprint that has been overbuilt by Openreach. Given the materiality of the potential discounts, Gigaclear will likely lose existing customers that come to the end of their Gigaclear contracts to BT Retail and other Openreach-based communication providers. As Openreach expands its FTTP footprint, further overbuild is likely, causing Gigaclear's customer losses to Openreach to increase further.

63. Gigaclear is not asking Ofcom to protect smaller altnets from normal competition, nor to adopt a more favourable benchmark than the 40% take-up assumption used in Ofcm's low-cost REO scenario. We support competition on price and quality.

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64. Gigaclear's concern is narrower, with targeted, SMP-enabled pricing structures that distort the conditions for altnets to achieve sustainable levels of take-up. If they are allowed, these new offers will make it materially less likely that Gigaclear could get close to Ofcom's own 40% take-up assumption. [XX]. The offers would reduce the wholesale cost faced by Openreach-based communication providers for precisely the customers that Gigaclear needs to retain to maintain take-up momentum. This creates a material risk that Gigaclear's attainable take-up in overbuilt areas [XX] and may fall further below that level as Openreach's overbuild expands.

65. Ofcom should therefore assess the offers not only by comparing Openreach's average FTTP price with the REO cost range, but also by considering whether the offers undermine the take-up assumptions on which the REO benchmark, and Ofcom's objective of sustainable network competition, depends.

Further competition issues

66. Ofcom's Call for Inputs also asks for views on whether Openreach's offers raise more general concerns about undue discrimination that could harm competition.

67. In addition to the pricing impact, we wish to highlight that these offers are likely to disadvantage altnets through "targeting".

68. These offers alter the value of specific prospective customers for any Openreach-based communication provider by systematically differentiating between different customers based solely on whether an end user is on an altnet network. This difference is not cost justified, but competition targeted.

69. A prospective customer that qualifies as NTN is more valuable to the communication provider than one who does not. This is because:

- Acquiring a prospective NTN customer increases the likelihood that the communication provider passes the NTN order baseline that triggers the New to Openreach Incremental Offers. This is valuable to communication providers. Non-NTN prospective customers do not contribute to the NTN order baseline being met.

- A communication provider may be able to achieve a higher margin with a prospective NTN customer if the New to Openreach Incremental Offers are not passed on in full than they would with a prospective Non-NTN customer.

70. This means that communication providers will face a greater incentive to win prospective customers that meet the NTN definition. This is likely to cause Openreach-based communication providers to:

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- Invest less in winning current BT Retail customers. If a communication provider knows that a prospective customer is a current BT Retail customer, then the provider also knows that the prospective customer is not NTN;

- Invest more in winning current Gigaclear, YouFibre and other exclusively altnet-based communication providers. Communication providers know that these prospective customers are highly likely to be NTN, as are current VMO2 customers; and

- Potentially invest less in winning customers from other Openreach-based communication providers. A current Sky, Vodafone or TalkTalk customer is less likely to qualify as NTN than a customer of an altnet-only retail brand but is more likely to qualify as NTN than a BT Retail customer.

71. If these offers are approved by Ofcom, this "targeting" incentive will further amplify the challenge that altnets will face in establishing take-up to become material and sustainable competitors to Openreach.

72. Finally, the frequency with which Openreach is now drip-feeding offers into the market is creating market uncertainty and making it hard for rivals to price against Openreach (as it is difficult to know what the effective pricing is after all the stacked incentives). Whilst we disagreed with Equinox 1 and 2, they were at least transparent. The 'offer stacking' approach that Openreach is now adopting is producing asymmetric price competition, which altnets struggle to compete against because of Openreach's scale and SMP. These offers might be appropriate when the market is more mature, but they merit careful assessment by Ofcom at the current time.

Conclusion

73. In summary, these offers are conditional and raise competition concerns that require ex ante intervention because they:

    - Materially lower the cost to Openreach ISPs of acquiring altnet customers
    - Encourage these ISPs to target acquisition effort on these customers
    - Will make it more difficult for altnets to achieve the retail and/or wholesale take-up levels necessary to compete with Openreach in the long-term

74. Ofcom should closely analyse these offers and refuse to approve them. Alternatively, if Ofcom believe that an outright rejection of these offers is not warranted, it should could consider capping the monthly per circuit discount at a level significantly below the 50% to 66% that could be achieved.

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