



Further consultation on WLA pricing remedies - Telecoms Access Review 2026-31

Response

November 2025

We are Hyperoptic.
And we go **beyond the expected.**



1. Summary

Hyperoptic welcome the opportunity to respond to the Ofcom Further consultation on wholesale local access (WLA) pricing remedies - Telecoms Access Review 2026-31.

We are committed to delivering ultra-fast, reliable, and quality full fibre broadband to UK homes and businesses - including proactively supporting the integration of robust telecoms infrastructure in new housing developments, thereby supporting the government's targets for growth and promoting sustainable network competition.

We welcome Ofcom's analysis of the Openreach (OR) proposals as well as Ofcom's ongoing commitment to promoting competition, investment, and consumer protection in the UK telecoms sector. In respect of the current consultation, we urge caution in moving away from statutory charge controls at this critical regulatory mid-cycle point, given the risks and uncertainties involved with replacing them predominantly by an incumbent-led contract-focused approach.

OR holds a dominant position in the UK fixed access market, benefiting from extensive scale and infrastructure that rivals cannot replicate. The government's Statement of Strategic Priorities for telecommunications (SSP) underscores the need for Ofcom to monitor OR's commercial terms and pricing, and to intervene wherever those arrangements could threaten competition, especially in markets where effective rivalry has not yet developed. Ofcom is expected to "take prompt steps to remedy actions which present a risk to effective competition,"

In the TAR Consultation, Ofcom proposed to find that BT possesses Significant Market Power (SMP), and that absent regulation, BT would have the incentive and ability to fix and maintain wholesale prices at an excessively high level and/or impose a price squeeze so as to have adverse consequences for end-users, including through weaker retail competition. In setting remedies to address this competition problem, Ofcom proposed continuing to set a charge control on an entry-level superfast product (referred to as the anchor product), at current price levels in real terms.

Charge controls, imposed through Ofcom's powers under the Communications Act 2003, are the most reliable remedy to ensure OR does not exploit its market power. Charge controls are legally enforceable and provide clear, public benchmarks for pricing. This means any excessive pricing, discrimination, or anti-competitive conduct can be directly challenged and remedied by Ofcom, rather than relying on attempting to enforce contract terms which may contain ambiguities clauses.

OR proposes that its contract-based pricing commitments will deliver outcomes equivalent to charge controls for the 2026-31 period, potentially reducing its regulatory burden. We contend that while pricing outcomes may superficially resemble charge controls, the contract approach offers no meaningful reduction in regulatory burden on either Openreach or Ofcom and introduces significant risks to competition, market stability, and investment incentives. The risk to competition and consumer protection from unmoderated incumbent dominance far outweighs the cost of maintaining charge controls. Accordingly, retaining charge controls as the primary regulatory mechanism remains essential to safeguard fair competition and regulatory certainty, and for ensuring fair pricing, effective market entry, and robust consumer protection in markets where dominance persists and competitive pressures are still maturing.

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3. Introduction

Hyperoptic is a fully integrated infrastructure provider of full fibre services, delivering ultra-fast, reliable, and quality broadband to consumers and businesses, contributing to excellent consumer outcomes, including day one connectivity in new housing developments, and supporting UK economic growth. Hyperoptic prides itself on a standout passion for its customers, with a commercial model that allows it to reach properties that other Alternative Networks (Altnets) are less likely to serve, thus extending reach and diminishing the need for public subsidies.

Our footprint is extensive. We are present in 64 towns, and our network now passes more than 1.9 million homes and businesses, providing over 400,000 customers with award-winning broadband. By consumer revenues and number of customers, this positions Hyperoptic as the UK's largest retail Altnet.

As well as being the largest retail full fibre alternative broadband provider, we have also built a leading and unique position in connecting new housing developments - bringing high-quality, infrastructure-based competition to an area often overlooked by other Altnets. We have entered into partnerships with over 250 property developers. Our success is driven by our consumer-centric approach, and we would note our continued determination to offer a service which enables customers to switch on their broadband service instantly, with just a simple online activation or a phone call, on the day they move into their new newbuild property. As was announced in June of this year, Hyperoptic will extend our customer offering using OR's FTTP products, with a full launch expected in Q1 of 2026. Through our innovation in supporting customers with easily accessed, high quality and well-priced full fibre services, we place ourselves at the heart of realising Ofcom's vision of delivering consumer benefits through sustainable network competition.

4. Robustness and Regulatory Certainty

In the UK telecoms sector, regulation of firms with Significant Market Power (SMP) is grounded in ensuring lasting and enforceable remedies that mitigate market dominance risks.

The government's proposed SSP for telecoms (2025) makes clear that the government expects Ofcom to take a cautious approach when considering whether it is appropriate to remove remedies, so that competition can be maintained over time and that its regulatory decisions should be focused on its core objectives of promoting competition and protecting consumers, and should monitor the impact of regulation on investment.

Charge controls provide Ofcom with legally binding power to set defined price caps and conditions, offering transparency and security to the whole market. These controls limit OR's ability to impose excessive prices and restrict discriminatory pricing. Conversely, contract-based approaches rely on OR's voluntary commitments, which, as acknowledged, are conditional on no formal charge controls being in place. This creates significant regulatory uncertainty as the commitments can be withdrawn or renegotiated in future regulatory cycles. Any dispute would have to go to Ofcom and we are aware of [REDACTED: commercially sensitive] because of administrative priorities, with the only alternative being to go to court, which can be very costly. This can deter providers from taking action. This approach could therefore disproportionately favour OR.

There have been examples in other products where OR [REDACTED: commercially sensitive]. Experience also shows that enduring certainty around wholesale access pricing is vital for alternative providers and investors to make long-term infrastructure and service investments. The contractual approach, by lacking statutory force and permanence, weakens this foundation, posing risks of regulatory retreat and market instability.

Ofcom are proposing to modify the guidance for fair and reasonable pricing to include excessive pricing for the anchor products in the WLA market but have not given a clear steer as to what would be needed to be considered unfair and unreasonable. However, experience shows that such subjective standards can lead to protracted disputes and minimal deterrence, they can also be difficult to enforce, particularly against well-resourced incumbents acting within the "letter" but not the "spirit" of commitments. This has been demonstrated e.g. by the way exchange closure has impacted different companies in vastly different ways. Charge controls provide definitive, objective benchmarks to prevent price exploitation.

Recent public statements signalling that large-scale investment decisions, such as the rollout of full fibre to the final tranche of UK premises, are dependent on the regulatory environment. This underscores not only the scale of OR's influence but also the critical importance of maintaining robust and transparent protections, such as charge controls, to ensure that competition and long-term consumer interests are not subordinated to the commercial priorities of any single dominant actor.

5. Dynamic Market and Investment Incentives and Mid-Cycle Stability

Fibre broadband rollout is a capital-intensive, long-term investment with complex incentive challenges. Under both the 2021 Wholesale Fixed Telecoms Market Review (WFTMR) framework as well as in the TAR consultation, Ofcom acknowledges the need to balance incentivising infrastructure investment with safeguarding consumers and competitors from excessive prices. WFTMR established a robust ten-year telecoms strategy that has successfully fostered competitive network build and enabled significant investment in the sector. The TAR consultation serves as a crucial mid-point review.

The 10-year telecoms strategy exists to provide stable, predictable settings for investors. Changing fundamental remedies at the mid-point of the cycle, such as substituting regulatory charge controls with contract-based arrangements, injects regulatory risk and uncertainty. This risks deterring investment from both established altnets as well as deterring newer market entrants, undermining UK government ambitions for gigabit-capable connectivity by 2032, and long-term sustainable infrastructure competition.

Altnets remain a vital but financially vulnerable part of the UK broadband market with many still actively securing funding to sustain and expand their fibre rollouts. However, the sector as a whole faces ongoing challenges including rising costs, investor caution, and slower-than-expected customer growth. This fragmentation and capital intensity create conditions which could entrench Openreach's monopoly position in the long term. Without robust regulatory safeguards such as charge controls, the market risks becoming increasingly concentrated and less contestable, undermining competition and the consumer benefits that arise from healthy market dynamics.

Such a mid-cycle departure also raises the risk of regulatory "cliff edges," where contracts expire or market conditions shift abruptly, causing disruptive re-negotiations or price shocks. By contrast, charge controls allow for gradual and transparent adjustments aligned with market developments.

6. Regulatory Burden and Proportionality

Openreach contends that contract-based remedies reduce the regulatory burden by avoiding direct regulatory control, and they argue that by achieving the same outcome, it would be more proportionate to proceed with the Contract Focused Approach. While reducing regulatory burden is always welcome, we would argue that it should not come at the expense of effectiveness and clarity. Regulatory certainty and enforceability are paramount in markets with entrenched market power and high barriers to entry, as is the case in the UK.

In respect of the point of a reduction in regulatory burden, it is questionable how much of a reduction the proposed changes would bring in reality. From the consultation and published letter, there does not appear to be any clear evidence to establish a case of reduction in regulatory burden in real terms. Regulatory burden comprises not only formal price control processes but also complex oversight, contract monitoring, compliance verification, and dispute resolution activities. Contractual remedies can increase these softer regulatory activities due to ambiguities and the potential need for more adjudication in less clear-cut contractual environments. Additionally, because contract commitments are conditional on no formal charge control being imposed, this creates a fragile regulatory foundation with potentially higher costs in managing uncertainty and enforcement. Thus, reliance on contracts does not clearly reduce regulatory burden in practice, and removing

charge controls based on an illusory reduction would be disproportionate as well as undermining effective market supervision.

7. Critical Timing – Upholding Regulatory Stability

The mid-point of a 10-year review cycle is a crucial juncture where regulatory predictability and stability are paramount to safeguarding long-term market confidence. Sudden shifts in remedy approach risk destabilising market structures, investor confidence, and plans for continued fibre rollout. As set out above, Ofcom's approach under WFTMR has been to provide clarity and stability of regulation and Ofcom we set the expectation that they would maintain a consistent approach in the period 2021 to 2031 to avoid destructive regulatory uncertainty. Introducing contractual remedies prematurely mid-cycle could undermine this commitment and unintentionally reinforce incumbent market power by introducing ambiguity and scope for opportunistic behaviour. This is particularly the case given the changing macro-economic conditions when compared to the period when Ofcom were consulting on WFTMR.

Accepting self-regulation by a long-standing dominant incumbent may set a damaging precedent and erode trust in the sector's regulatory architecture. Investors weighing commitment to UK fibre projects may see this as a signal that future remedies for exclusionary or predatory conduct could be similarly diluted or as signal of the beginning of premature deregulation at a time when Ofcom have not found any areas that meet the Area 1 conditions. This in turn could result in raising the cost of capital for new infrastructure projects by non-incumbents

Retaining charge controls ensures continuity and clear expectations aligned with broader government and Ofcom goals to foster sustainable competition and infrastructure investment and avoids the above risks.

8. Conclusion

OR's dominant market position affords it substantial influence over the UK's broadband infrastructure and competitive landscape, as recognised by both the government's proposed SSP and Ofcom's regulatory mandate to safeguard competition and consumer interests. Recent commercial dynamics, where major investment decisions and network rollout ambitions are closely linked to the regulatory environment, highlight the need for strong, enforceable safeguards to prevent dominance from undermining open, competitive markets.

Altnets remain critical to stimulating competition and innovation but face ongoing financial pressures and are actively pursuing funding rounds to expand coverage and service offerings. However, the sector lacks a clear, viable path for consolidation among smaller altnets, effectively allowing Openreach to consolidate its monopoly through acquisition or market dominance. Without robust, transparent charge controls, there is a heightened risk that competition will weaken, harming consumer choice and long-term infrastructure development.

Given the risks and uncertainties inherent in replacing statutory charge controls with contract-based remedies at this mid-cycle point, and the lack of real, evidenced regulatory burden reduction, we firmly support retaining charge controls for WLA anchor products for the TAR26 period. This approach best protects consumers, competition, investment incentives, and regulatory stability, ultimately aligning with the UK's national broadband and digital infrastructure ambitions.

Given that the TAR regime will remain in place for 5 years, maintaining statutory charge controls on WLA anchor products is essential to ensure genuine competitive outcomes, long-term investment incentives, and consumer protection in what Ofcom have positioned as the second half of UK telecom sector's critical infrastructure phase. It is critical that Ofcom do not signal premature deregulation or any or remove remedies that might weaken competition during this pivotal phase of network development and market maturation.



We therefore urge Ofcom to retain charge controls as its preferred remedy for the TAR26 period to ensure a vibrant multi-operator ecosystem vital to national connectivity and growth ambitions.