

# Telecoms Access Review 2026-31

## Geographic discrimination prohibition: INCA note on Openreach late submission

INCA briefing note to Ofcom (for TAR record)  
Date: 18 February 2026

### Introduction

Openreach has submitted a late paper (22 January 2026) asking Ofcom to remove or materially soften the proposed geographic discrimination prohibition (GDP) in WLA Area 2 and LLA Area 2, and to make any consent process fast and effects based.

Openreach argues that competition is now “more established” than in 2021 and the GDP should be removed. If Ofcom retains the GDP, Openreach asks Ofcom to provide guidance so consent can be granted quickly, and to focus the consent test on the effects of pricing, rather than whether pricing is targeted at areas where competition is present.

### INCA’s concerns

#### Openreach strong-arm tactics

INCA is concerned at the recurring incidents of last-minute submissions by Openreach on material aspects of Ofcom’s analyses, which could result in Ofcom not being able to analyse Openreach’s positions in sufficient detail and not be able to see stakeholder views either. The increased use of such tactics bears the hallmarks of a dominant operator trying to strong-arm the regulator.

INCA urges Ofcom to respond to Openreach stating that, unless there is a new material discovery change that could not have been foreseen, Ofcom is unable to take into account unsolicited last-minute submissions such as this.

#### Observations about Openreach’s requests and proposals

The existing WFTMR geographic pricing restrictions (and those proposed for the TAR) already include the possibility for Openreach to seek consent from Ofcom for individual proposed geographic discount schemes. INCA considers that the existing framework is fit-for-purpose and that any reduction in the burden of proof on Openreach to show that any such discounts would not (and could not) cause harm to either the deployment of or the take-up on competitive full-fibre networks would risk material harm to the development of sustainable network competition.

The establishment of sustainable network competition is a long-term process. The very worst outcome would be that many billions of pounds was invested in the new networks, but the regulatory framework allowed the dominant provider to abuse that dominance and deprive the competitive network operators of the opportunity to gain sufficient take-up on their networks to make the investment viable.

INCA believes that the geographic pricing framework proposed by Ofcom for the TAR period is both appropriate and proportionate to the market conditions that can be foreseen for the next five years. INCA and its members look forward to the time when competitive network operators are sufficiently established for the current regulatory structures can be gradually removed, but that time is not now and also not during the 5-year TAR period till 2031. INCA understands Ofcom's obligation to impose the least intrusive remedies that can address the existing or likely future market failures identified and INCA considers that the current TAR proposals meet that criterion.

To introduce any changes in response to Openreach's last minute submission would cause severe concerns to investors in the competitive fibre sector. INCA asks that Ofcom confirm that no changes have been made as a consequence of this this submission by Openreach.