



Response to Further consultation on leased lines market analysis and various pricing issues

Non-Confidential

17th December 2025

1 Executive summary

- 1 INCA is pleased to respond to this consultation (the November TAR consultation). Ofcom has included a number of complex and material issues in this consultation and INCA has done its utmost to provide full and comprehensive responses to them all.
- 2 The very short time allowed to respond to this consultation and the lack of data to support several of Ofcom's proposals do, however, present significant problems for INCA and other respondents.
- 3 Although INCA understands that Ofcom has limited time left before the scheduled completion of the Telecoms Access Review (TAR) process, INCA considers it important to ensure that the TAR conclusions are based on thorough, transparent and evidence-based analysis. INCA. Therefore, suggests that Ofcom consider a slight delay to completing the TAR process.
- 4 One consistent thread in this consultation is that it seeks to reflect proposals made and changes sought by BT/Openreach. Whilst there are no doubt valid reasons for BT/Openreach seeking those changes, INCA is concerned that such last-minute requests, and Ofcom's apparent willingness to entertain them, puts the integrity of the overall TAR process at risk and materially reduces transparency as well as skewing the outcomes in favour of the incumbent.
- 5 Despite our concerns set out above, we outline briefly below our responses to the topics covered in the November TAR consultation.
- 6 **Assessment of prospective competition in the LLA market** - Ofcom appears to presume that Altnets that are not yet established in the leased lines access (LLA) market, cannot successfully enter and/or expand in that market. INCA is concerned that Ofcom tends to underestimate the potential for Altnets to successfully enter markets which causes Ofcom to create regulatory structures that become self-fulfilling prophecies. INCA urges Ofcom to 'give competition in the LLA market a fair chance'.
- 7 Ofcom consults on two specific aspects of how it defined the LLA Area 3 market (where Ofcom proposes to impose cost-oriented charge controls because it does not expect material and sustainable competition to BT/Openreach). One being whether to consider the likely impact of Altnet

consolidation and the other whether to expand the 'buffer distance' used for setting the boundary between the LLA Area 2 and Area 3 markets.

- INCA urges Ofcom to reconsider its unduly pessimistic and conservative assessment of how Altnet consolidation is likely to impact the ability of Altnets to present material and sustainable competition in the LLA. Not doing could prevent the emergence of network competition and deny Altnets access to the economies of scope enjoyed by their largest competitor, it could also significantly disrupt the consolidation process as it effectively devalues Altnets operating in the LLA Area 3 market.
 - INCA favours an expansion of the buffer distance from 50m to 100m. This is because the increased use of PIA has reduced the costs of network expansion and also because the use of XGS PON-based leased line equivalent connections makes it easier for operators to connect other premises located between their existing footprint and the location of new LLA demand sites.
- 8 Pricing for the Simplified lead-in product** – Ofcom proposes changes to the pricing set out in the March TAR consultation. This change results from BT/Openreach alerting Ofcom to a potential error which Ofcom has accepted, resulting in a material change to the proposed pricing.
- INCA Considers that, although the BT/Openreach correction may be correct, Ofcom has not investigated whether the use of the three network elements for lead-in purposes changes the utilisation of those elements and Ofcom should do so before simply adopting the solution proposed by BT/Openreach.
 - INCA considers that, as Ofcom is setting pricing to reflect the mature PIA usage scenario, it is appropriate to make the proposed Simplified lead-in price reduction as a starting adjustment, not as a glidepath. A glidepath would effectively allow continued over-recovery costs.
- 9 Changes to cost allocations** - Ofcom proposes to change regulated charges as a result of changes proposed by BT/Openreach to how it allocates costs between different products. Those changes are yet to be implemented and have not yet been approved by BT's auditors. No data has been published about the detailed changes proposed, nor the detailed consequences of those changes.

- INCA considers it potentially reckless, should Ofcom decide to implement proposed changes that have not been subject to appropriate scrutiny.
 - INCA has identified a number of apparent flaws and indications of potential bias and opportunism in the way BT/Openreach is proposing to reallocate costs. Changes that consistently result in moving costs to products consumed by BT/Openreach's competitors but not by BT/Openreach itself.
 - The proposed change to the DFX Main Link charge is temporary and appears to be an opportunistic attempt by BT/Openreach to get its competitors to cover the costs inefficiencies during the early stages of FTTP take-up.
- 10 Changes to the proposed LLA Area 3 charge control** – To accommodate Openreach systems challenges Ofcom proposes to delay the introduction of the proposed charge control by one year, but to achieve the same level of cost reductions in the remaining for years of the TARE period.
- INCA considers the LLA Area 3 charge control to be inappropriate and in direct conflict with the UK government policy to promote network investment and competition.
 - INCA is concerned that the restructuring the charge control could result in a further reduction in investment incentives for the LLA Area 3 market.
- 11 Allocating sales and product management costs to dark fibre products**
INCA is concerned that Ofcom's proposal will further harm investment incentives and that Ofcom has not applied sufficient critical scrutiny to Openreach's proposed cost allocation charges.

2 Introduction

2.1 About INCA

- 12** The members of the Independent Networks Cooperative Association (INCA) are supporting, planning, building and operating sustainable, independent and interconnected networks that advance the economic and social development of the communities they serve and permit the provision of applications and services through open competition, innovation and diversity. We are working together to create cohesive interconnected next generation networks.

2.2 Introduction

- 13 The majority of the topics addressed in this consultation result from late submissions from BT/Openreach, whether observations on Ofcom's approach to pricing of changes to its regulatory financial statement (RFS).
- 14 Whilst INCA would always support the need for Ofcom to use up-to-date evidence to support its regulatory designs and interventions, this should not create a platform for BT/Openreach to introduce last-minute data changes causing material changes to Ofcom's proposals, and that cannot be sufficiently scrutinised by other stakeholders due to the very limited time remaining in the market review process.
- 15 For Ofcom to entertain late data submissions from BT/Openreach, such data must not have been available to BT/Openreach (or been able to be produced) in time for the main consultation period or shortly thereafter. There should also be an assessment by Ofcom as to the necessity of taking account of the new data and the likely impact on other stakeholders of the regulatory changes resulting from the new data. INCA is concerned that Ofcom is at risk of being gamed by BT/Openreach's late intervention tactics.
- 16 The subjects covered in this consultation are complex and the 1 month response period is extremely short. Whilst we understand that Ofcom has limited time before needing to complete the full TAR process, it is inappropriate that late interventions from the incumbent should be allowed to cause such significant issues to be rushed through in this manner. The timeline for the Telecoms Access Review has been known for a number of years making suitable evidence available should have been a priority instead of demanding late entry of information that cannot be scrutinised. The timeline for the Telecoms Access Review has been known for a number of years; making suitable evidence available within the Telecoms Access Review's consultation window should have been a priority instead of using late entry of information that appears to hinder scrutiny by other parties.
- 17 Nevertheless, we have performed as much analysis as possible and hope that this response will be of assistance to Ofcom to reach evidence-based conclusions for the TAR Statement in March.

3 Leased line access market and modelling the boundaries of the geographic markets

18 In this part of the consultation, Ofcom consults on two points:

- The 'buffer distance' used for determining the boundary between the LLA Area 2 and 3 geographic markets; and
- Whether Altnet consolidation should be considered when doing forward-looking analysis of prospective competition in the LLA market and how this should influence the boundary between the LLA Area 2 and 3 geographic markets

19 It should be noted that at least one INCA member is in favour of a larger LLA Area 3 definition. Individual members may submit separate responses to this consultation and may set out a view that differs from that presented below.

3.1 Ofcom's approach to defining geographic markets within the leased lines access (LLA) product market

20 In the March consultation, Ofcom tentatively concluded that only leased-lines-only (LL-only) providers and VMo2 and CityFibre would be in a position to be (existing or prospective) material and sustainable competitors to BT in the LLA.

21 INCA disagrees with that conclusion and considers that it ignores both the prospect of other Altnets entering or growing their presence in the LLA market. INCA also considers that Ofcom's analysis ignores some very localised market situations such as the Isle of Wight, where BT/Openreach faces material and sustainable competition from WightFibre.

22 Although INCA agrees that there are barriers to market entry and expansion in the LLA market, INCA considers that Ofcom has overestimated those barriers and also underestimate the ability of Altnets to enter and expand their presence in that market. INCA's main TAR response sets out the fact that many Altnets have made chosen to enter the LLA market later than the WLA market. That is a rational business decision but does not in any way reflect their inability to enter and expand in the LLA market.

23 INCA is concerned that, should Ofcom not change this approach, it will become a self-fulfilling prophecy. This is because Ofcom's proposed

regulatory objectives and draft remedies for the LLA area 3 market are such that they actively deter market entry and expansion. This is tantamount to Ofcom 'picking winners' in the market and INCA considers this to be inconsistent with Ofcom's duty to protect consumer interests through competition. INCA considers that the dynamic benefits of infrastructure competition are likely to significantly outweigh and short-term static benefits of regulated price reductions in the LLA Area 3 market and urges Ofcom to reconsider its approach.

- 24 INCA considers that, Ofcom should continue the approach adopted in the wholesale fixed telecoms market review (WFTMR), where Ofcom defined the Area 2 and 3 geographic submarkets for the WLA and LLA markets consistently and recognised the ability of new full-fibre networks to serve both the WLA and LLA markets. The fact that many Altnets have chosen a staggered market entry approach¹ does not invalidate the principle that they are able to serve both markets, nor does it indicate that Altnets can't or won't become material and sustainable competitors in the LLA market.

3.2 The role of consolidation in defining geographic LLA markets

- 25 INCA disagrees with Ofcom's reasoning on the likely effect of consolidation on competition in the LLA market.
- 26 INCA welcomes that Ofcom has taken the opportunity of this additional consultation to set out its analysis and tentative conclusions on how market consolidation could impact on the development of material and sustainable competition to BT/Openreach in the LLA market. This was missed out in the March consultation.
- 27 Ofcom has tentatively concluded that only consolidation that involves the parties identified as already representing present or prospective material and sustainable competition to BT/Openreach would likely impact on the level of competition in the LLA market. Ofcom, therefore, dismisses the ability of other larger entities created through consolidation to enter and expand in the LLA market. As with the analysis of existing competitors, Ofcom bases this conclusion on the presence of barriers to market entry and expansion.

¹ Focusing initially on the residential mass-market and moving into the more complex business market once their residential market position is established.

- 28 INCA considers that, like for its analysis of existing and prospective competition, Ofcom is underestimating the ability of Altnets to challenge BT/Openreach in the LLA market. In INCA's view Ofcom's proposed approach in terms of regulatory objectives and remedies in the LLA Area 3 market will constitute an active deterrent to market entry and expansion and Ofcom's presumption against Altnet entry and expansion in the LLA market will become a self-fulfilling prophecy. Once again, it appears that Ofcom considers it to its role to pick winners rather than to create market conditions that allow market forces to determine where and to what extent competition can and will develop in individual markets.
- 29 By dismissing the ability of current Altnets to enter and expand in the LLA market, Ofcom also dismisses the ability of future larger entities created by the combination of two or more of those Altnets to do so. INCA considers this approach to be based on static market assumptions and inappropriate for a forward-looking market in which many existing Altnets have unequivocally stated that they plan to enter and expand in the LLA market.
- 30 By not acknowledging the impact of Altnet consolidation, Ofcom will almost certainly influence the actual consolidation process itself. Altnets located in the LLA Area 3 market will become unattractive for larger entities that have already entered the LLA market and want to expand their footprint and deliver LLA services throughout that footprint. If a potential target Altnet is located in an area where Ofcom's proposed aggressive charge control is applied, then this would likely make that target unattractive. This, in turn, could likely reduce the valuation of such Altnets.
- 31 INCA is concerned that Ofcom should not be 'picking winners' but instead promoting investment and competition to the benefits of consumers. INCA does not consider that Ofcom's proposed approach to geographic market definition in the LLA market is consistent with that objective, nor with stated government policy.
- 32 In the WFTMR, Ofcom materially underestimate the Altnet investment in what Ofcom defined as the WLA Area 3 market. That resulted in a market definition that was very far from the reality that unfolded. And placed rural Altnets at a competitive disadvantage and allowed Openreach to introduce the Equinox pricing discounts at levels materially below Area 3 costs.

- 33 Ofcom is at risk of repeating that error again and should instead provide a competition friendly regulatory environment. A consistent tendency to underestimate the prospects of competition serves neither consumers, nor the national economy.

3.3 The buffer distance

- 34 Ofcom has correctly identified that the use of PIA and the inclusion of leased line equivalent services in the relevant product market have changed the economics of providing leased lines services and operators are now routinely extending their networks significantly further than 100m to reach new demand sites for leased lines provision.
- 35 INCA is aware that individual members have submitted data to Ofcom about the distances they are willing to extend their networks to reach new demand sites, either in response to s.135 requests from Ofcom and/or as part of their own individual responses to the March consultation. INCA is not able to present new data in that respect in this response but has encouraged its members to do so.
- 36 It is, however, overwhelmingly clear from the inputs received from INCA's members that they consider 100m to be a feasible network expansion distance to reach demand sites. Although the economics of each opportunity varies, and some opportunities may not justify a 100m expansion, INCA considers that a 100m buffer distance is a safe assumption for Ofcom to adopt.
- 37 INCA has been told that, in many cases, its members have extended their networks significantly further than 100m to reach new demand sites. As Ofcom has correctly identified this is partly due to the much increased use of PIA and also due to the ability to serve demand sites from the FTTP XGS-PON network and serve other premises from that network extension.

3.4 Conclusion

- 38 With regards to Ofcom's assessment of existing and prospective competition from existing providers and from larger entities created through future market consolidation, INCA considers that Ofcom's approach is flawed. Ofcom would appear to ignore or dismiss the staggered market approach adopted and explained by many Altnets as the reason for why they had not addressed both residential and business markets at the same time.

- 39 A staggered market entry approach is good business sense. Ofcom has clearly acknowledged the complexity of the business connectivity market and the requirements for out of hours support and other aspects not necessary for the residential market. It makes perfect sense to adopt a staggered market entry approach and it is inappropriate that the sector regulator should punish operators for this by creating a regulatory framework that effectively forecloses access to the business connectivity market for the majority of Altnets who are now reaching the level of maturity where LLA market entry is appropriate.
- 40 INCA considers that Ofcom's approach to assessing potential market entry and expansion by Altnets in the LLA market (whether from existing Altnet entities or from future larger merged Altnet entities) to be a classic example of over-regulation, also known as a Type I regulatory error by which the regulator introduces regulatory measures that stifle the development of competition and effectively deny consumers the dynamic benefits of true competition.
- 41 INCA calls for Ofcom to recognise the Altnet staggered market entry approach and for Ofcom to not substitute the commercial assessment by Altnets of whether to enter the LLA market with its own over-cautious and static market assessment. INCA considers that Ofcom's approach is to the detriment of consumers and not consistent with its primary duty to protect consumer interests.
- 42 As for the proposed adjustment to the buffer distance, INCA welcomes Ofcom's review of this parameter can support the introduction of a 100m buffer distance.

4 Simplified lead-in PIA charges

- 43 In the March consultation, Ofcom proposed significant reduction in the simplified lead-in pricing. The rationale for this was that, over time, the lead-in parts of the network would house an increasing number of fibre cables. This is a natural consequence of consumers churning between providers and the high cost of removing the fibre connections after a customer moves to another provider. INCA agrees with that principle and approach.
- 44 INCA understands that Openreach has argued that two of the three components in the simplified lead-in product are already subject to fair use discounts and that, therefore, it would be wrong to introduce an

additional discount on top of those already applied. We understand that Ofcom has Accepted Openreach's position is proposing to apply the 46% fair share percentage to the lead-in duct itself, leaving the other two elements priced using the existing fair share discounts.

- 45 It is, however, not clear that the use of the two elements in question (the lead-in link duct (effectively single-bore spine duct) and the facility hosting/junction box) for which fair use discounts have already been applied, would not be increased by the additional use for the simplified lead-in product. We urge Ofcom to perform proper analysis of how the simplified lead-in product affects the fair share assumptions of the two elements to which fair share discounts are already applied.
- 46 Ofcom will be aware that INCA has several concerns with the way PIA costs are calculated and recovered, as set out in detail in our main TAR response and the INCA pre-consultation submissions. It is additionally concerning that adjustments proposed by Openreach that have the effect of further increasing PIA costs for Altnets when the legitimate issues raised by INCA and others including the need to adjust asset lives and other objective flaws in how PIA costs are calculated remain unaddressed.
- 47 Further, INCA does not believe that the price reduction for simplified lead-in (regardless of whether it is adjusted as proposed by Ofcom) should be introduced through a glidepath.
- 48 Glidepaths should be applied when price reductions are related to anticipated cost reductions and efficiency improvements, not when the price change reflects an error in how cost have previously been recovered. An over-recovery of costs should be corrected at the earliest opportunity, and this is best achieved through the application of a Starting Charge Adjustment (SCA).
- 49 A glidepath would delay the correction of a known distortion, prolong above-cost price levels and undermine economic efficiency and competition; this is precisely the scenario Ofcom identifies as warranting an SCA.²
- 50 INCA considers that artificially elevated lead-in prices during the early years of the control period risk suppressing PIA-based CP volume growth,

² TAR, Vol.4, para 6.9.

contrary to Ofcom's stated objective of promoting competitive fibre rollout and a level-playing field.

51 INCA, therefore, asks that Ofcom apply the Simplified lead-in price reduction as an SCA.

5 Cost-based charge controls in the LLA and IEC markets: Fibre cost reallocations and glidepath design

52 In this part of the consultation, Ofcom presents two proposed changes from its March consultation:

- To change cost allocations (and resulting prices) in the LLA market resulting from the BT/Openreach response to the March consultation that there may be an error in how costs of backhaul fibres are allocated in its RFS. BT/Openreach has also subsequently published a 'Part 1' Change Control Notification³ – proposing changes to the RFS cost allocation methodology resulting in a re-allocation of costs between the LLA and WLA markets (the change notification). And
- To change the glidepath design for the LLA Area 3 LBW services

5.1 Changes to cost allocations in the LLA market

53 Ofcom describes the contents of the BT/Openreach's change notification as follows:

³ BT Group. 2025. Change Control Notification: Part 1 – 3 October 2025.

- the existing methodology for allocating CJF costs assumes that FTTC and FTTP services always use CJF cables to connect child exchanges to parent exchanges. However, BT's analysis has identified that this is often not the case, and that access spine fibre cables are often used to connect child exchanges to parent exchanges.
 - CJF cables are also used to provide Main Link connectivity for services in the LLA and IEC markets (including Ethernet, WDM and dark fibre services). For Main Link services, the existing calculations for CJF cost allocations use the straight-line billed distance multiplied by 1.2 to account for route inefficiencies, whereas BT's planned new methodology calculates CJF cost allocations based on actual lengths of CJF cables used across Main Link, FTTC and FTTP services.
 - the existing allocation methodology uses the maximum capacity (in terms of potential fibre count supported) of the fibre cables associated with a given product (regardless of whether they are utilised or unutilised). BT's planned new methodology instead calculates Access Spine Fibre cost allocations based on the number of utilised fibres associated with a given product.
- 54 After having assessed the BT/Openreach change notification, Ofcom concludes: "We consider that these methodological changes will correct erroneous assumptions and improve the accuracy of BT's reporting."
- 55 INCA and its members have spent a considerable amount of resources analysing the proposals and attempting to getting to the bottom of the underlying rationale and motivation behind the proposed RFS changes. Our concerns fall into three categories:

- Detailed data for the proposed changes have not been published, and the change notification does not provide the necessary data to properly analyse the proposed changes. Ofcom’s proposal to reflect these future adjustments in the TAR is unsound and disproportionate due to the inability of stakeholders to properly scrutinise the detailed changes, their justification and ramifications.
- The use of spine fibres to connect child and parent exchanges may be an engineering choice made by Openreach, but the connections (or the majority of connections) could equally be made using CJF fibres. If Openreach’s choice to use spine fibre for this purpose results in a higher cost connection that could be achieved using CJF fibres, then Openreach should only be able to charge its wholesale customers for the most cost-effective means of providing that service.
- The use of actual utilisation at a point in time for cost allocation creates a temporary distortion due to Openreach having dimensioned its spine fibre count to cater for future FTTP demand. This enables Openreach to shift FTTP costs to the LLA market and also significantly increases the costs for Openreach’s rural FTTP competitors who rely on DFX connections for backhaul.

56 INCA is particularly concerned with the resulting very significant increases to the DFX main link product. The impact on EAD main link pricing is also a concern but is less material due to that service also covering costs of active electronic equipment. Further, the DFX product is a critical input for rural Altnets, so increases in DFX pricing will have the direct and material effect of disadvantaging BT/Openreach’s rural FTTP competitors.

57 We discuss our three areas of concern in turn.

5.1.1 Lack of transparent data to support the proposed changes to LLA cost allocations

58 The change notification published by BT/Openreach provides no details as to the justification, rationale or detailed impact of the proposed changes. The description is high level and does not enable proper scrutiny.

59 INCA attended a meeting with Ofcom towards the end of this consultation process, during which some additional insight was given, but it was clear from those discussions, that Ofcom’s specialists were not fully familiar with the actual engineering practices nor how and why those practices were followed by Openreach.

60 Given the very significant concerns explained below about BT/Openreach’s possible motivation behind the proposed changes and material impact those changes could have on Openreach’s competitors in

the rural FTTP market, INCA considers that Ofcom's proposal to accept Openreach's proposed changes before they have been properly implemented and scrutinised is unsound and represents a serious risk of regulatory misdirection by the incumbent.

61 INCA asks that Ofcom questions BT/Openreach's motivation behind these proposed changes to cost allocations. Two factors stand out in that regard:

- The proposed changes reduce costs in the WLA market, where BT/Openreach is facing the most intense level of competition, and
- The proposed changes directly and significantly disadvantage BT/Openreach's competitors in the rural FTTP market.

62 INCA therefore urges Ofcom to not implement the proposed change into the TAR costing and pricing framework.

5.1.2 Allowing Openreach to charge for inefficient network design and utilisation

63 From discussions with Ofcom, we understand that Openreach engineers have in some cases chosen to provide the main link components of EAD and DFX services using spine fibres rather than the CJF fibres running between exchanges.

64 Those decisions may be motivated by the engineering desire to gradually reduce the dependency on CJF fibres that run between exchanges that will ultimately be closed down as part of the Openreach exchange closure programme. Openreach's regulatory obligation, however, is to provide connectivity between exchanges that exist today, regardless of whether they are scheduled for closure. The timing of future exchange closures is also very uncertain and could in many cases be more than ten years from now.

65 Over its course of regulating BT/Openreach wholesale access, Ofcom has consistently applied the principle that any improvements Openreach chooses to make to its network should be funded by the improvements sought and that the pricing of existing regulated services should not be inflated to reflect such changes. INCA considers this a prime example of Openreach choosing to not use 'legacy' fibres despite those fibres being fit-for-purpose and likely to remain in place for a considerable period of time (at the very least until after the expiry of the TAR regulations in March 2031).

66 It would be entirely inappropriate for the regulated operator to be able to design suboptimal network configurations and engineering practices and be able to pass the costs of those designs and practices on to its competitors through wholesale access services. This would effectively be tantamount to the introduction of 'rate of return' regulation instead of the existing use of incentive regulation. Rate of return regulation has been proven to encourage inefficiency and 'gold plating' of networks to the detriment of consumers who ultimately will pay for those excesses, regardless whether they purchase service from the incumbent or a competitor reliant on wholesale access to the incumbent's network.

5.1.3 Use of static utilisation as the key cost allocation key

67 As INCA understands the BT/Openreach proposals (no data being available to validate or challenge our understanding), it is proposed that the cost of fibres used for 'backhaul' services (but that actually form part of the spine fibre network) should be allocated between the WLA and the LLA markets based on their current respective levels of utilisation of the total spine fibre capacity.

68 Whilst that approach may have some initial appeal, it is essential that any cost allocation is done with the full knowledge of why the full fibre capacity is at the level chosen by BT/Openreach and what future utilisation levels are likely to be. Ofcom needs to ensure that its price regulation does not allow temporary capacity surplus to result in significant price changes that could destabilise the prospect of sustainable competition.

69 It is our understanding that the move to use actual utilised fibres for the cost allocations (as opposed to the current approach which uses total cable capacity (utilised and unutilised) is linked to Openreach's choice to use spine fibres for the LLA main link/backhaul elements. That is, this change would not have been proposed if Openreach engineers had decided to always (or whenever viable) use CJF fibres for those services. This change should, therefore, be seen in the light of any motivation by BT/Openreach to seek to recover (currently underutilised) spine fibre costs from the LLA main link product despite there being legacy fibre that can deliver that service more cost effectively.

70 It is further our understanding that the level of spine fibre capacity was designed by BT/Openreach to accommodate future FTTP requirements. As FTTP services are still in the early part of their life-cycle, it is therefore understandable that the spine fibre utilisation is relatively low (and

therefore the unit cost of spine fibre is higher than it will be once FTTP take increases). Based on our understanding as set out above, the consequence of the BT/Openreach change notification would be that it recovers parts of the costs of early stage FTTP inefficiencies from other markets, with the specific consequence of this raising the costs of its FTTP competitors in rural areas.

- 71 As FTTP take-up increases, the spine fibre utilisation will increase, and the unit cost will be reduced. The current high unit cost is therefore temporary and a direct result of BT/Openreach's decision to deploy FTTP access networks across the country. Those same short-term inefficiencies are also born by Altnets as they also have to dimension their networks for future take-up levels.
- 72 Allowing BT/Openreach to cover part of those early-stage inefficiencies by increasing costs and prices for an unrelated service that happens to be consumed by Openreach's competitors is not only wrong, it is perverse.
- 73 The asymmetric nature of Ofcom's high/base/low cases presented for the potential outcome the RFS changes demonstrates loud and clear that Ofcom expects the impact to be temporary and that increased FTTP take-up would (should the DFX price increased proceed) would cause the costs allocated to the LLA market to reduce substantially over time. Taking into account the material impact these short term changes could have on the development of sustainable competition in the WLA market, Ofcom's proposals to implement the BT/Openreach proposals puts into question Ofcom's objectivity and commitment to infrastructure competition.

5.1.4 Conclusion

- 74 INCA considers the proposed RFS changes (and resulting changes to regulated product pricing) to be opportunistic and potentially anticompetitive.

5.2 Changes to the LLA Area 3 charge control glidepath

- 75 Openreach has notified Ofcom that it is unable to get its systems ready for the introduction of the LLA Area 3 charge control from 1st April 2026. Ofcom has accepted this position and is proposing to delay the introduction of the charge control by 1 year, but to redesign the control in such a manner as to achieve the same reductions over the remaining four years if the TAR as would have been delivered under the original five-year charge control design.

- 76 As set out in detail in INCA's main TAR response, INCA considers the proposed LLA Area 3 charge control to be inappropriate and a direct disincentive to Altnet LLA market entry and expansion.
- 77 Not only would the lack of Altnet market entry and expansion be to the detriment of consumers, it would also deny Altnets the economies of scope enjoyed by their biggest competitor – BT/Openreach. When seen in combination with the proposals examined above to potentially nearly double the DFX main link charges over the TAR period, the imposition of the LLA Area 3 charge control (and the consequent denial of economies of scope to rural and semi-rural Altnets) indicates a complete lack of support from Ofcom of infrastructure competition outside the main urban centres in the country.
- 78 As is the case with regards to the exclusion of Altnets current and future LLA market participation when designing the boundary between Areas 2 and 3 in the LLA market, the introduction of this very aggressive charge control is a classic example of a Type I regulatory error, where over-regulation will result in reduced choice and benefits for consumers and potentially weaken the viability of competition in adjacent markets such as the WLA.
- 79 With regards to Ofcom's proposal to change the design of the LLA Area 3 charge control, INCA is concerned that the target of achieving the same cost reductions in a four-year period could lead to lower prices at the end of the TAR period, which would make market entry even harder.

6 Dark fibre cost modelling: Openreach sales product management costs

- 80 In the absence of sufficient information, INCA cannot agree with the revised OSPM cost allocation proposal.
- 81 INCA does not have sufficient information to assess whether the NBT/Openreach RFS changes to how the Openreach sales product management (OSPM) costs are allocated. INCA is, naturally, concerned that the BT/Openreach proposals result in an increase in costs allocated to the DFX product and consider that this could, again, be motivated by short term opportunism.
- 82 INCA understand that Ofcom is also proposing additional changes that would counteract the effect of the BT/Openreach proposal, but, absent

the BT/Openreach proposal, then Ofcom change would have resulted in a real reduction in DFX costs and pricing. This therefore remains a concern for INCA.