



Non-Confidential

**ITS response to Ofcom's
Further consultation on leased lines market analysis and
various pricing issues**

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1 Introduction


- 1 ITS is among the largest wholesale providers of business connectivity services in the UK. Our network now covers more than 25% of business premises in the country (8< business premises) and has already connected over 10,000 business premises with broadband, leased line, or dark fibre connectivity products. Services are sold through a network of over 600 partners including Sky, Zen, PXC and also many large managed IT service providers.
- 2 ITS is already a significant competitor to BT and VMO2 and with an ambition to pass 1 million business premises in the next few years, ITS plans to become the largest business connectivity competitor to BT.
- 3 ITS is an INCA member and is actively supporting the range of papers submitted by INCA as part of the TAR process. However, as a business-only and wholesale-only provider, ITS has a specific perspective and specific concerns which are set out below.
- 4 ITS agrees with INCA's TAR response. This submission provides additional and confidential analysis of the impact on ITS of Ofcom's proposals and why ITS considers that Ofcom's proposed market definition and remedies for the LLA Area 3 market are wrong and need to be amended before the final TAR Statement is issued in March next year.

2 ITS' business model and product portfolio

- 5 ITS builds new full-fibre networks and offers wholesale access to those networks to retail providers. Most of the retail providers using the ITS networks address the business market only, but some do a mixture of residential and business. ITS also has a small number of direct retail customers in both the residential and business markets.
- 6 In the business market, ITS offers three types of connections:

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- Ethernet connections
 - Uncontended XGS-PON connections, and
 - Contended XGS-PON connections.
- 7 ITS' product speeds vary between 100Mbps and 10Gbps. ITS has recently trialled a 50Gbps XGS-PON connection product.
- 8 ITS understands that Ofcom proposes to include the first two product categories in the leased lines access (LLA) market.
- 9 ITS sells approximately % uncontended connections and only a relatively small number of conventional Ethernet connections.

3 Ofcom's proposals for geographic market definition in the LLA

- 10 In its response to the main TAR consultation in March 2025 (the March consultation), ITS stated it was disappointed that Ofcom had not taken into account the likely Altnet consolidation activities over the TAR period. In this consultation, Ofcom has rectified that by stating explicitly that it proposes to not recognise the impact of any industry consolidation on competition in the LLA market.
- 11 Ofcom argues that only acquisitions by (or mergers with) leased lines only operators, VMO2 and CityFibre would be likely to have any material effect on the level of material and sustainable competition to Openreach in a given location. Ofcom states that any other forms of consolidation would not create entities of sufficient size to present sustainable and material competition to Openreach.
- 12 ITS disagrees with Ofcom's assessment on two fronts:
- Firstly, ITS believes that providers other than those listed by Ofcom offer the prospect of material and sustainable competition to Openreach in the LLA. Those operators

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would likely include Community Fibre and Netomnia, to mention just two. ITS, for example, already sees Community Fibre as a competitor in the London area.

- Secondly, ITS believes that consolidation involving the two operators listed above and other large to mid-sized Altnets would create entities that could compete with Openreach in the LLA and are likely to do so.

13 Because of the proposed regulatory objectives and remedies in the proposed LLA Area 3, ITS considers that Ofcom is effectively foreclosing the LLA market to Altnets and therefore denying them the economies of scope they have likely build into their business plans and which form the basis for significant levels of private investment.

14 Because of the proposed regulatory approach in the LLA Area 3 market, ITS urges Ofcom to tread with caution and to avoid over-regulation that will likely cause harm to both the LLA and the WLA markets, directly and indirectly respectively.

15 ITS is actively engaged in network expansion, both organically through network build and through acquisition. Any potential acquisition target located in the LLA Area 3 market would almost certainly be removed from that list, as the heavily regulated prices would be a material deterrent. ITS considers that Ofcom's proposed approach (the combination of the enlarged LLA Area 3 market and the introduction of the charge control in that market) will act to devalue networks already built and a deterrent to a much-needed consolidation process.

16 In economic terms, ITS considers that Ofcom's proposed approach will be a classic example of Type I regulatory error, and that the long-term consequences will be severe across the country. Ofcom's proposed approach to the LLA Area 3 market definition and the price regulation in that market would destroy value in recently built full-fibre networks across the country.

17 On the other hand, ITS is not aware of any consumer harm in the lower speed leased lines market, nor has Ofcom demonstrated or quantified any such harm, as ITS and others are serving that market and providing much needed choice and quality improvements to business consumers with Allowing ITS and others to

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continue to expand their footprints (organically or through acquisition) would deliver those competition benefits to more and businesses across the country. ITS considers that Ofcom's proposed approach will be to the detriment of consumers and investors alike and is, in ITS's view, contrary to Ofcom's duties, its stated policies to promote network competition and to government policy.

4 Recognition of ITS in Ofcom's market analysis

- 18 The November consultation states that Ofcom is still considering responses received about the recognition of competitive networks in Ofcom's geographic market analysis. This is disappointing, as ITS's existing network footprint and planned network expansions were not properly recognised in the March consultation and the continued uncertainty increases the overall risk to the business and has a negative impact in funding activities.
- 19 ITS set out in its main TAR response how Ofcom's proposed LLA Area 3 market definition and associated charge control would affect the business and its ability to raise future funding and expand the network. It is imperative that ITS gains clarity on these matters as soon as possible.