



Telecoms Access Review 2026

Sky's response to Ofcom's further consultation on WLA pricing remedies

November 2025

Summary

1. This is Sky's response to Ofcom's Telecoms Access Review 2026 further consultation on WLA pricing remedies.
2. As explained in our response to the main TAR consultation, Sky supports Ofcom's proposal to move the wholesale local access ("WLA") anchor product price control from 40Mbps to 80Mbps. A shift in the anchor is needed to protect consumers and retail competition as most broadband customers now use 80Mbps or faster services. The 40Mbps anchor no longer constrains pricing, creating a risk that Openreach could raise wholesale prices for most copper lines. ✂.
3. In principle, Ofcom's proposed "Contract Focused Approach" in this further consultation could address this risk in a proportionate way. If Openreach's contractual commitments are binding, durable and enforceable and any conditions that ISPs need to meet to unlock Equinix discounts remain easily achievable then they can deliver the same pricing stability as a formal charge control.
4. However, there are several specific changes and clarifications that need to be made to Openreach's contractual commitments to ensure that they offer the same level of protection to consumers and competition as would have been afforded by Ofcom's decision to move the regulated anchor from 40Mbps to 80Mbps.
5. Sky notes Ofcom's proposed carve out to the geographic discrimination prohibition (without Ofcom's prior consent) for FTTP connection fees within the newly defined, larger WLA Area 2. We consider that Ofcom should give Openreach the flexibility to make commercial geographic offers where such offers create a positive impact to consumers and fibre take-up without unfairly harming network competition.

Sky supports Ofcom's 'Contract Focused Approach' provided changes and clarifications are made

6. In Sky's earlier response to the main TAR consultation, we supported Ofcom's proposal to shift the regulated anchor product from 40Mbps to 80Mbps. In Sky's view, the 40Mbps anchor no longer provides an effective constraint on prices for faster broadband tiers because:
 - Most consumers now take products at 80Mbps or higher speeds; and
 - Once consumers have upgraded, they are unlikely to downgrade, so the 40Mbps product no longer constrains the pricing of higher speed services.
7. If the anchor product remained on 40Mbps, Openreach could increase the price of 80Mbps services – leaving most customers unprotected from price rises. Therefore, moving the anchor to 80Mbps provides appropriate pricing protection for the copper product that most consumers consume; and is a more meaningful constraint on the prices of higher speed services as the market continues to transition to full fibre.
8. ✂.
9. Now, Openreach has proposed an alternative approach whereby it commits contractually to provide effective price protection from 2026 to 2031 without Ofcom needing to apply a charge control to 80Mbps services. It proposes to do this by making several contractual waivers, amendments, and price list notifications.

10. In principle, Sky supports this approach provided that the contractual commitments Openreach proposes provide the same level of pricing protection as under a regulated anchor approach. However, in its current form, the Contract Focused Approach is not broadly equivalent to a regulated anchor price control on 80Mbps services. Sky highlights four specific concerns about Openreach's proposed approach:
- i. ISPs pay materially higher 80Mbps copper prices than the proposed regulated cap initially before receiving 6-monthly rebates
 - ISPs would be required to continue to pay the 'undiscounted', rate-card 80Mbps copper price for six-months before Openreach subsequently issues a rebate to account for the difference in the rate card price and the discounted price (with the discounted price being the same as the proposed 80Mbps anchor cap) over that period. This approach is not equivalent to the regulated anchor approach where ISPs would pay the lower price immediately (as they do for the regulated 40Mbps copper anchor service today).
 - Openreach's 'rebate' approach is an artefact of the initial 112/Batman offer where the discounts were contingent on ISPs meeting certain targets which necessitated an ex-post reckoning before the discounts could be applied. However, while 112/Batman pricing has continued through a series of pricing notifications, the offer itself and its conditionality have long expired (August 2023) and therefore there is no objective justification to the rebate approach to continue.
 - The impact to ISPs' cash flows and working capital is material and unjustified. ✂.
 - ✂.
 - We recommend that the Contract Focused approach is amended such that ISPs pay the lower, effective 80Mbps price immediately as opposed to the rebate approach.
 - ii. While ISPs are currently meeting the Equinox FTTP order mix targets comfortably, it is unknown whether this will continue through to 2031
 - We agree with Ofcom that ISPs can currently easily achieve the Equinox order mix targets upon which the Equinox discounted prices are contingent. However, it is uncertain whether this would continue to be the case over the next five years as full fibre penetration matures and the proportion of remaining copper customers who are resistant to taking fibre grows.
 - If under the Contract Focused approach it transpires that the Equinox targets are no longer easily achieved, then it would no longer deliver broadly equivalent outcomes to Ofcom's regulated anchor approach, and we would expect Ofcom to intervene to ensure that ISPs continue to pay discounted prices for 80Mbps and consumers and competition are protected as a result.
 - iii. Openreach proposes to 'waive' certain rights under the relevant contracts
 - To guarantee pricing certainty for FTTC and SOGEA 80Mbps, Openreach proposes to (i) publish special offer pricing terms for the period 1 April 2026 to 31 March 2031 under which prices will only increase by CPI each year; and (ii) waive certain contractual rights over that period, including the right to increase

prices beyond the new special offer pricing terms and the right to terminate the contract.

- Openreach’s proposed approach to issue a waiver is, in effect, a unilateral statement by Openreach to waive those contractual rights. It is not, however, an amendment to the contract. There is a risk that this would be regarded as a waiver by estoppel and, as such, under the law of equity it may be possible for Openreach subsequently to revise unilaterally the terms of that waiver.
- In addition, the waiver includes a right for Openreach to terminate it if Ofcom introduces a charge control. We consider that this is too broad.
- Ofcom should specify that this can only occur once a relevant charge control has legally taken effect, and that any resulting price changes must apply only prospectively with proper notice.
- To mitigate these risks, we request that Ofcom requires Openreach to implement the terms of the waiver by an amendment to the contract and/or include in the waiver clear and unequivocal language that Openreach will not revoke it before 31 March 2031.

iv. Conditions attached to the waiver

- Openreach’s proposed waiver is set out as *“subject to the condition that ... all other terms and conditions of the Primary Contracts and the Special Offer shall remain unchanged and in full force and effect”*.
- The phrase *“all other terms ... remain unchanged”* could inadvertently restrict Openreach from making standard contractual updates (i.e., unrelated to copper pricing). Ofcom should require Openreach to confirm that these apply only to terms directly affecting the pricing of the offer products.

11. With these changes in place, Sky considers that the Contract Focused Approach can appropriately mitigate the same risk that justified Ofcom’s proposal to shift the regulated anchor product to 80 Mbps anchor – namely, unrestrained price increases for the main broadband product – while avoiding unnecessary regulatory intervention.
12. In relation to FTTP, Sky welcomes Openreach’s proposal to amend the Equinox offers to clarify that a change in Ofcom’s anchor product does not give it the unilateral right to change prices. ✕.
13. Most importantly, Ofcom should also make clear that if Openreach withdraws or does anything to weaken the pricing certainty given by these contractual commitments, Ofcom will use its powers to step in and restore pricing protections to maintain market stability.

Carve-out to the geographic discrimination prohibition

14. Sky notes Ofcom’s proposal for a targeted carve-out to the geographic discrimination prohibition, which would allow Openreach to maintain existing geographic differences in FTTP connection charges under the Equinox offers.
15. Sky considers that Openreach should have the ability to introduce new commercial pricing offers where they benefit consumers and fibre take-up without unduly harming competition. As explained in our response to the main TAR consultation, the Equinox offers have shown that appropriate commercial flexibility can:
 - Accelerate migration to full fibre and support copper switch-off;

- Stimulate investment and competition at both network and retail levels; and
- Deliver lower prices and better outcomes for consumers.