



Business Connectivity Market Review

May 2015

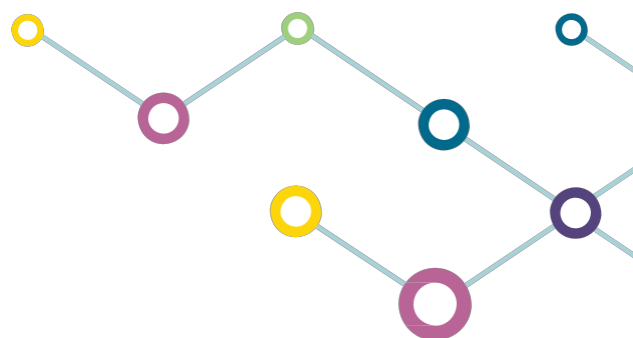
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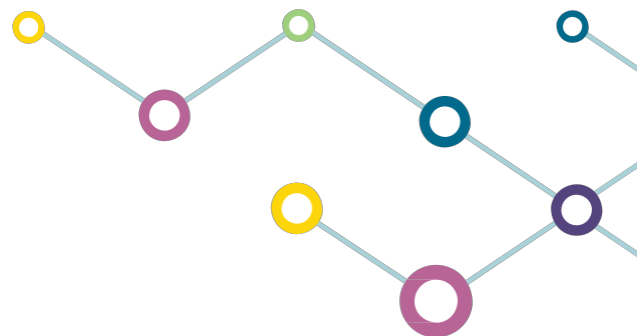
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1 Introduction

This document covers the response of Six Degrees Group (6DG) to the OFCOM May 2015 Business Connectivity Market Review (BCMR)

6DG are a mid-market focused communications provider whose product set covers data connectivity, unified communication/voice, co-location and cloud services. To provide the platform for these services we operate an international network with a focus on the UK. We utilise Openreach services for both direct and indirect last mile connectivity. This consists of direct use of the EAD/EAD-LA product in exchanges where we have installed our equipment and indirect use nationally where our suppliers utilise EAD services and backhaul to NNI connections in our nearest point of presence. It is therefore critical to our business that the Ethernet last mile market in the UK is healthy, competitive and provides the level of service that our customers expect. We are therefore pleased to provide the following input to OFCOM following our evaluation of the BCMR consultation documents.



2 Consultation Responses

2.1 Do you agree with our approach to wholesale product market definition and our proposed wholesale product market definitions in relation to services provided using contemporary interfaces?

We generally agree with the proposed approach to market definitions. We feel that there is a clear case to be made for fibre based Ethernet services to be considered a single product market, given the minimal difference in overall service provide and the equipment used to provide it. There is a price differential between single service and WDM based multi-service on the equipment side, however the underlying architecture remains similar and there are single service and multi-service options at all the available speeds.

Where we would disagree with the OFCOM approach is in considering EFM based services in the same category as the fibre based services. Due to the more volatile nature of their service (speed and quality based on the underlying copper access network, which tends to vary across the period the service is provided) they are far more similar to NGA/VULA based service, in spite of the symmetrical rather than asymmetrical nature. As technologies such as G.Fast start to propagate out then the NGA services may start to compete more, if not in primary connectivity then backup services for a fibre based primary circuit. We would suggest that a copper/asymmetric category for EFM & NGA services is more distinct than a fibre based single service versus WDM.

2.2 Do you agree with our assessment of competitive conditions for very high CISBO services?

The assessment of very high CISBO services seems sensible, the underlying economics of providing last mile VH-CISBO services are certainly closer to the rest of the CISBO market than when assessed three years ago. Generally the same equipment (or class/families of equipment) can be utilised for the higher speed services and the density of the equipment has improved considerably. In terms of how customers are using the service it is becoming a simple upgrade from CISBO to VH-CISBO services and there are many who would look at 10G bearers as a sub-rate (e.g. 1 or 2 Gbps) upgradeable option from the 1G bearers, which they would have considered in the past.

2.3 Do you agree with our approach to geographic market definition and our proposed geographic market definitions? In particular do you agree with our proposals to define the Central London Area (CLA) and the London Periphery (LP) as separate geographic markets

We broadly agree with the geographic market definitions, with some reservations. In our experience a 100-metre value for the buffer zone as representative of providers commercial appetite for connecting "near-net" customers is overstated. Generally in our experience dig distances beyond 10m-50m depending on provider will not be considered commercially viable. This appears to be backed up by the median data collected by OFCOM. Often this will then lead to the provider utilising an Openreach based tail for delivery, despite having network within 100m of the customer. Note also that there is a strong differentiation between radial distance and actual dig distance, rarely is the dig "as the crow flies",

therefore given the buffer is being given as 100m radial this seems overly optimistic on both counts. We also note that given that BT are generally the “provider of last resort” in off-net connectivity that it may be considered more commercially viable for them to extend their network which is then likely to be utilised by multiple CPs services as opposed to a single customer connection for an alternative CP.

The separation of CLA and LP seems sensible given our experience of commercial availability of services from alternative CPs; there is a marked difference in on-net versus off-net service provision across the two proposed regions. Retaining the flexibility offered by deregulation of the LP to the same level as during the BCMR2013 period in WECLA seems fair given that providers will be able to utilise the passive remedies to compete where infrastructure is not in place.

2.4 Do you agree with our approach to SMP assessment? In particular, do you agree with our proposals to find no CP to have SMP in the market for CISBO services in the Central London Area (CLA), and to find BT to have SMP in the markets for CISBO services in the London Periphery (LP) and Rest of the UK (RoUK)?

Our reservations in 2.3 regarding the buffer zone aside we are broadly in agreement regarding the lack of SMP in the CLA, as a user of wholesale CISBO products from alternative CPs in the area along with Openreach products directly we can usually provide competitive options to build customer solutions (generally the impediment to utilising alternative CP connectivity where we wish to is way-leave/landlord related¹ rather than availability of alternative network options). We are also in agreement that BT has SMP in the LP and RoUK markets.

2.5 Do you agree with our approach to product and geographic market definition for wholesale CI core conveyance services and do you agree with our proposed market definitions for wholesale CI core?

We believe that the approach of verifying the data beyond accepting external Cablelink connectivity as a sign that the providers are providing their network is necessary and appropriate. It is also important to verify that where alternative CPs have connected a site that they are able to provide competitive backhaul services into, our experience has been that a number of sites have been provisioned by CPs solely for internal backhaul purposes and are not able to provide backhaul for other CPs.

2.6 Do you consider that our list of candidate competitive exchange and data centre locations is correct?

We believe that the list requires further analysis, for example there are datacentre sites that are listed twice under different names (such as Tutis Point). Also we believe that a smaller list of the truly competitive sites would be a more suitable starting position for this review period. We do not have sufficient insight into the wider backhaul market to verify the candidate competitive exchanges. We note that a large percentage of those datacentre sites, which would be considered truly competitive already reside within the CLA therefore there is perhaps limited utility in separately defining this.

¹ Openreach often have grandfathered access into a building where the process for negotiation of way-leave with the landlord for new CPs is protracted and often viewed as a revenue stream skewing the commercials in Openreach's favour

2.7 Do you agree with our assessment that connectivity between additional candidate nodes and data centres are competitive?

We would question how competitive some of the datacentres listed are, while some such as Telehouse or Telecity in the Docklands have a multitude of carriers some others while being listed as carrier neutral may have highly limited options for connectivity. It is important to note that often carriers will end up utilising other CPs physical infrastructure to establish presence in datacentre sites, which can result in a distorted picture of the true competition. There are also often limitations on the services that are provided in the smaller datacentre sites.

2.8 Do you agree with our proposal to identify a single product market for Traditional Interface Symmetric Broadband Origination (TISBO) services at low bandwidths, with a single geographic market for the UK (excluding Hull)?

6DG do not currently have input to make on this question.

2.9 Do you agree with our proposal not to identify any other Traditional Interface Symmetric Broadband Origination (TISBO) services above 2Mbit/s?

6DG do not currently have input to make on this question.

2.10 Do you agree with our SMP assessment with respect to low bandwidth TISBO service?

6DG do not currently have input to make on this question.

2.11 Do you agree with our approach to, and proposed product and geographic market definition for, wholesale TI trunk, including our proposal to treat 'regional trunk' segments as part of the TISBO market?

6DG do not currently have input to make on this question.

2.12 Do you agree with our approach to (wholesale and retail) market definition in the Hull Area?

6DG do not currently have input to make on this question.

2.13 Do you agree with our assessment of SMP to the markets for low bandwidth TISBO and CISBO services in the Hull Area?

6DG do not currently have input to make on this question.

2.14 Do you agree with our assessment of wholesale remedies not being sufficient to sustain effective competition in retail markets in the Hull Area?

6DG do not currently have input to make on this question.

2.15 Do you agree with our finding that the three criteria test is met when applied to the retail markets in the Hull Area?

6DG do not currently have input to make on this question.

2.16 Do you agree with our approach to assessing what remedies are appropriate to address the competition problems we have identified in the markets in which we propose to find that BT and KCOM have SMP?

We agree with the approach that OFCOM are using to assess the appropriate remedies for markets where there is an identified operator with SMP.

2.17 Do you agree with our assessment of the benefits that a package of passive and active remedies can offer relative to a package of active remedies only?

As per our response to the November 2014 consultation on passive remedies we feel that a mix of passive and active remedies would be more beneficial than purely active remedies. The introduction of a passive product set will allow for greater innovation and differentiation between CPs utilising the Openreach product set especially outside of the CLA where dark fibre availability from alternative CPs is extremely limited.

We also believe that the mixture of passive and active remedies will provide a balance along with an incentive for Openreach to reduce the excessive pricing of some of its active high bandwidth products.

2.18 Do you agree with our assessment of the risks associated with imposing passive remedies?

We agree that for the introduction of passive remedies a careful approach needs to be taken, with the view point that it is easier to take a slightly risk averse position on this initial iteration of a passive remedy with the potential to go further in the future if those risks turn out to be overstated. However it is important to balance the risk mitigation against making the dark fibre a viable product for CPs to take up. For the work that is involved in making passive remedies a reality it is important to ensure that CPs are able and likely to consume the product in a competitive fashion.

2.19 Do you agree that our proposal of a dark fibre remedy priced and designed in the way we have described in this consultation provides the best balance between the benefits and risks that we have identified?

The general approach of active-minus seems sensible from a product introduction standpoint and the utilisation of EAD1000 as a reference product while not the ideal choice for promotion of uptake of the passive remedies does provide a potentially safer starting point for passives with the ability to re-assess in the next market review.

We are however concerned (as mentioned in our Nov '14 response) that the imposition of business rates on individual circuits may make utilisation of dark fibre assets impractical. The rates are applied to those "lighting" a circuit, so on active circuits they are currently paid by BT however with passive circuits they would be paid by the CP. To give an example, based on the VOAs 2010 Fibre Rent Scale (ex London) a

single fibre circuit of 1km a CP² would be liable to an annual rates bill for the circuit up to £739.50, for a 3km single fibre circuit this would raise to £936.21. There are discounts as networks scale up but it is unclear how the VOA would assess these potentially non-contiguous circuits and there is also likely to be confusion where the majority of the circuit is in the same ducting as other circuits for the same CP and how that would be accounted for. We also note the comments Level 3 have made regarding the effect that artificial “active minus” pricing for dark fibre may have on the rating lists. Given the differing approaches to assessment between BT and other CPs by the VOA we would suggest that OFCOM consider the impact of this and liaise with the VOA to ensure that this shift in provision doesn’t increase the tax burden which would then be passed on to end users.

2.20 Do you agree with our assessment of passive remedies, and our proposal to include dark fibre in the package of remedies we propose to impose on BT?

For the initial implementation of passive remedies it seems appropriate to start with dark fibre rather than duct access. Dark fibre closely mirrors the current deployment scenarios and should therefore be the quickest and easiest option to implement for the initial iteration of passive remedies. It also fits in with the historical industry asks of Openreach through the SOR process for dark fibre.

2.21 Do you agree with the general remedies we propose for BT in the wholesale TISBO and CISBO markets?

We agree with the general remedies being proposed for BT in the CISBO market. The CPI±X charge control has been reasonably effective in restraining BTs pricing in areas without competition while being competitive in those with it. The safeguard cap on high bandwidth CISBO of CPI-CPI seems reasonable given the balance of expected uptake of the passive products versus time to introduce the product. It also seems reasonable to continue the lack of regulation in very high CISBO in LP given its current status in WECLA and the availability of passive options. We do not currently have input to make on the wholesale TISBO remedies that have been proposed.

2.22 Do you agree with our proposals in relation to the dark fibre remedy?

As per prior responses in this document and to the Nov 2014 consultation we agree generally with the proposals and are keen to see them implemented. We believe that the implementation and pricing details will be the key to determine the success of the proposals and we look forward to working with Openreach alongside industry in forming the product definitions. It is important that BT provide information similar to those provided by other dark fibre suppliers in order to make the product usable. These include electronic mapping (in a common GIS format) at the planning stage so the CP can verify the routing of the proposed service and full optical testing and result handover.

2.23 Do you agree with the PPC Direction that we propose for BT in the wholesale TISBO market?

6DG do not currently have input to make on this question

² Based on CP of a size ineligible to take advantage of small business rates

2.24 Do you agree with the interconnection and accommodation remedies that we propose for BT in the wholesale TISBO and CISBO markets?

We recognise that the interconnection and accommodation remedies are key to ensuring that the rest of the regulated services are consumable by CPs. We note the development of passive handovers along with the Ciena “2nd vendor” equipment should allow development of higher density handover solutions, which given space restrictions in exchanges should help with minimising CP footprint size and in turn “keep the door open” for new entrants.

One approach to maintaining competition in this space may be to require the fibre serving exchange for a postcode to map to an exchange that has available accommodation space (i.e. if the local exchange is full then EAD-LA pricing is made available from an adjacent exchange). This would be a similar setup to the VULA/GEA setup with parent/child exchanges and would encourage Openreach to maximise the available space in exchanges. We agree that Cablelink provisioning is often more drawn out than it needs to be, we would also question the overuse of deemed consent for issues which appear should be within Openreach’s domain.

2.25 Do you agree with our assessment of Openreach’s Ethernet provisioning process, how it has been working in practice, and the root causes of performance deterioration and process developments? Does our assessment reflect your experiences and understanding of Openreach’s wholesale Ethernet provisioning performance?

We would agree that Openreach’s performance for provisioning has been well below that which would be expected. Our experience of ordering circuits directly, via 3rd party CPs and BT downstream divisions leads us to agree that there is not a strong bias towards BT internal orders. It should be noted that the delays appear not just to be related to lack of “boots on ground” in terms of engineers and planners, but also in back-office areas such as way-leave.

2.26 Do you agree with our provisional conclusions on Openreach’s performance?

We agree with OFCOMs conclusions regarding the deterioration of Openreach’s performance.

2.27 Have we accurately captured the reported impact of poor performance?

As is a common theme amongst the CPs reporting regarding the impact we concur that it is difficult to accurately quantify the direct costs but that there is indeed direct impact to staffing, workload and time taken to manage the underperformance of Openreach. Also as mentioned throughout the industry responses the reputational damage is a key concern, especially in service providers where provisioning issues in connectivity can have a knock on effect on other product lines (such as voice or cloud services).

2.28 Do you agree with our assessment of Openreach’s incentives to deliver acceptable Ethernet provisioning quality of service?

It seems a fair statement given the identified conclusions on the underlying issues in Openreach’s delivery that greater volume would not have been deliverable, which causes volume based incentives to

be limited. The excessive use of deemed consent that has been noted by industry also helps minimise the SLG incentives, so we would agree with OFCOMs assessment.

2.29 Do you agree that it is appropriate to exclude customer caused delays from the minimum standard performance measures for provision activities?

Yes, as is standard throughout industry it is entirely appropriate to exclude genuine customer caused delays from performance measures. However this should take into account reasonable CP response times and not be used to stop the clock in the style of a game of chess every time a response is solicited.

2.30 Do you agree that it is appropriate to include the “non-customer” delays (also including Third Party delay in Openreach data) in the minimum standard performance measures for provision activities?

We would agree that including the non-customer delays in the minimum standards is likely to incentivise better management of 3rd parties who are causing the issues. It may also lead to more pro-active maintenance of the network to ensure that activities, which would cause delays in excess of those, mandated were performance asynchronously from the provisioning process.

2.31 Do you agree that it is appropriate to include delays due to events covered by MBORC declarations in the minimum standard performance measures for provision and repair activities?

The analysis performed by OFCOM seems to imply that repair during MBORC is suitable to be included in the performance measures and we would be happy to see both repair and provisioning included. We would hope this will incentivise Openreach to maintain a suitable strength in depth for engineering that can adapt to the conditions as necessary.

2.32 Do you agree that it is appropriate to apply the minimum standards nationally?

It is important that the standards are applied in a uniform basis across the country. It would cause undue overhead maintaining different regimes on a geographical basis and we don't believe that there is justification in doing otherwise.

2.33 Do you agree with our proposals regarding the application of minimum standards over the three-year period of this review?

Given the potential recruitment and reorganisation that Openreach may need to perform in order to meet the standards we feel that a phased approach across year 1 and 2 is an appropriate method for their introduction.

2.34 Do you agree that it is appropriate to use a combination of initial CDD and TTP as the basis around which to set the new delivery date certainty minimum standards?

The combination of initial CDD and TTP seems an appropriate pair of metrics to set standards around delivery dates. While the majority of end-users are primarily interested in low TTP for their circuits once a CDD is issued they expect it to be met. They also expect it to be set early on in the delivery process. Given that there are often many stages beyond the delivery of the circuit involved in providing the overall service it is also important from a CP perspective that the CDD is met and provided promptly so resource can be appropriately scheduled.

2.35 Do you agree that it is appropriate to set the metrics for the delivery time certainty minimum standard to the initial value of 80% and final value of 90%?

Yes, given 80% has already been agreed as a baseline for today's resource levels and processes then it appears entirely appropriate as a starting level. Given the desire to use these standards to incentivise Openreach to improve and provide a greater quality of service bringing this up to 90% by year 3 also seems a fair and reasonable target.

2.36 Do you agree that it is appropriate to apply limits to mean TTP and upper (97%) and lower (40%) percentiles as the basis for the lead-time minimum standard?

Requiring Openreach to perform at least as well as it did in 2011 does not seem an overbearing measure and should be what the organisation aspires to as a minimum. As such we believe that 97/40 as the minimum standard should be achievable and is a suitable basis for this review period. It also helps preserve the Cat 1 performance, which as noted has generally been acceptable, and discourage diversion of resource away from that area.

2.37 Do you agree that it is appropriate to set the upper percentile initial and final values to 159 and 118 working days and the lower percentile initial and final values to 30 and 29 working days for the lead-time minimum standard to the values?

Given our support for the 97/40 values and the phasing in of the standards then the values suggested would seem in line and we would agree with them.

2.38 Do you agree that it is appropriate to set the repair time minimum standard to 94%?

We feel that it is important to ensure that repair activities are protected from a resource drain to focus on provisioning activities. As such a backstop minimum standard that is marginally more generous than

Openreach are currently performing at we feel would maintain the generally good performance of Openreach's T2R processes.

2.39 Do you agree with our proposal to set a new SMP services condition which provides for OFCOM to direct BT to comply with all such quality of service requirements in relation to network access provided by BT pursuant to our proposed general and specific network access requirements?

6DG agrees with OFCOMs proposal to use it's powers to set an SMP condition to direct BT to comply with the quality of service requirements.

2.40 Do you agree that it is appropriate to assess compliance with the proposed minimum standard on an annual basis?

We would hope that an annual basis for the standards would be sufficient, however it may be prudent to consider 6 monthly periods in order that sufficient data points are available to assess the effectiveness of the conditions as they are implemented and in the next market review.

2.41 Do you agree with our proposals to direct BT to comply with minimum performance standards for setting initial contractual delivery dates, delivery against initial contractual delivery dates, fault repair performance and overall mean time to provide?

We agree with the proposals to direct BT to comply with the minimum performance standards subject to our comments above.

2.42 Do you agree with our proposals to direct BT to provide the KPIs we have specified?

The proposal to direct BT to provide public KPIs regarding its performance we believe should help act as an incentive to meet the standards and also help inform industry and end users. Providing the per-CP stats will provide a useful check against the overall average. Therefore we agree with the proposals that OFCOM have specified.

2.43 Do you agree with our proposals to maintain the existing SLG Direction?

Given the on-going work currently in progress in industry to negotiate a new SLA/SLG regime it seems prudent for OFCOM to allow these discussions to continue while providing a backstop of the existing SLG direction. If agreement cannot be met then that is the point at which it would be appropriate for OFCOM to intervene.

2.44 Do you agree with our proposals regarding the conduct of, and principles and criteria to be applied from now on, to contractual negotiations concerning SLAs/SLGs for the provision of Ethernet services?

We agree with the proposals regarding the SLA negotiations, using the OTA2 to facilitate industry discussions with the ability to refer to OFCOM if discussions breakdown or fail to come to an acceptable solution.

2.45 Do you agree with the remedies that we propose for KCOM in the retail TI and AI markets?

6DG do not currently have input to make on this question

2.46 Do you agree with the remedies that we propose for KCOM in the wholesale TISBO and CISBO markets?

6DG do not currently have input to make on this question



Six Degrees Group
Commodity Quay
St. Katharine Docks
London
E1W 1AZ

For more information
Tel 0800 012 8060
Email info@6dg.co.uk

www.6dg.co.uk

Connect with us.
www.6dg.co.uk



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