

Ofcom: Business Connectivity Market Review
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Introduction

The [Federation of Communication Services](#) is the UK trade association for the professional communication services sector. Our c400 members and associates deliver voice and data functionality and services to business and public sector users by means of copper, fibre and radio transmission infrastructures. We are pleased to have the opportunity of responding to the Ofcom preliminary consultation on passive remedies as part of the BCMR.

Overview

The FCS is keen to see a greater range of options available to CPs and believes that Ofcom, as the regulator, must create a market in which business services can operate effectively, unhindered by technological constraints. We would like to see a shift from the current position where the UKComms plc market is effectively in the hands of BT, to one where CPs and their customers have a greater variety of choice, both in service options and costs, allowing the true development of a competitive market.

Answers to Ofcom's Questions

Q1: Do you agree with our preliminary framework for considering the case for passive remedies?

Yes, we agree with the preliminary framework. It is important that remedies imposed simplify rather than complicate the current situation leading to a position which allows the market, rather than the regulator, to manage growth in interactions and variety of service offerings.

Q2: Do you agree with our preliminary views on the potential benefits of passive remedies? Please provide evidence to support your view.

FCS members need to have greater flexibility to offer new services and move away from the standard BT product set and service standards.

The business market served by FCS members is hugely diverse with no one-size-fits-all answer to customer needs. The more competition is allowed into the market by virtue of passive remedies, the more our members will be able to provide the bespoke services that their customers demand.

Providers are looking for new ways to deliver high speed fibre services, as demonstrated by the joint project between Sky, Talk Talk and City Fibre in York, which is being delivered with no Openreach involvement. Many independent smaller projects are being delivered by Alt Nets around the UK, offering greater flexibility for commercials and SLAs to meet customer requirements.

Q3: Do you agree with our preliminary views on the impacts and risks of passive remedies? Please provide evidence to support your view.

We agree with the views put forward by Ofcom. Maintaining the current status quo in investments and cost allocation should not be a reason to avoid change resulting from the introduction of new opportunities offered by passive remedies.

Q4: What are your views about the potential impact of passive remedies on the pattern of common cost recovery and the associated distributional impacts?

The FCS is not in a position to comment in detail on common cost recovery, but we understand that a mix of active and passive remedies in other countries has not been shown to have any detrimental effect on common costs or downstream pricing.

If BT is artificially keeping residential costs down and recouping common costs through high leased line costs, as hinted at in para1.18 of the consultation, it would benefit other suppliers to the residential community to reduce this distortion.

Q5: Do you agree with our initial view that mobile backhaul and fixed broadband backhaul are likely to be the primary applications with significant demand for passive remedies?

We accept that these two areas are of prime interest but would not wish Ofcom to lose sight of the Business Connectivity market; research by the FSB has shown that over 70% of small businesses predict an increase in reliance on the internet and almost half would welcome an increase in the availability of bespoke telecoms and IT packages.

Q6: What benefits might duct access offer over dark fibre and vice versa? Is there a case for having both remedies?

The FCS would welcome as many passive remedies as possible, some CPs may wish to install their own fibre in existing ducts, others to “rent” existing dark fibre installations; the variety of service requirements of the business community call for a variety of solutions, there are many markets for business connectivity.

Q7: If passive remedies were restricted to particular product types or geographic areas how might this affect the usefulness and benefits of the passive remedy?

We note Ofcom’s consideration of geographic areas for the purpose of considering SMP, which could see passive remedies restricted by geography and would look for increased competition in these areas as a result of passive remedies. One would hope that the areas not found to have SMP would be able to offer the benefits similar to those created by passive remedies via the natural competition that already exists.

The aim should be to create a national default position of open access to physical infrastructure; in areas where SMP exists, the regulatory mechanism should be, effectively, a rent cap on the amount the PI owner can charge a third party for access.

Q8: What arrangements would be appropriate for the supply of new infrastructure for passive remedies?

We accept Ofcom’s view that infrastructure arrangements for duct access and dark fibre are likely to be similar to those for wholesale leased lines. For new road, rail and business parks applications, there could be requirement to lay empty ducts as a condition of planning permission.

Q9: Do you agree with our initial views about the non-discrimination arrangements for passive remedies?



We would welcome any new passive remedies being provided on an Equivalence of Inputs basis but note that a no undue discrimination obligation may be more practicable in some circumstances.

Q10: In light of the trade-offs identified, which broad options on pricing do you consider would be most appropriate for passive remedies and why? Please also provide details if there is another pricing approach you consider would be appropriate in light of the considerations identified in this section.

The FCS would like to see FRND adopted, but notes that this could require considerable new guidance; CPs may be happier with a cost based charge control approach.

Q11: If a value-based (active minus) approach to pricing dark fibre were adopted, what do you think would be an appropriate active wholesale product (or products) to reference?

We do not have a view on this question.

Q12: Do you have any other comments on the issues raised in the document or comments that might aid our consideration of the passive remedies as a whole?

We have summarized anything not covered in answers to specific questions in our overview and conclusion sections.

Conclusion

For FCS members the requirement is for greater flexibility and agility with response times that are geared to customer requirements – without relying on the timescales and quality of service offered by a single supplier.

Removing downstream regulation and allowing the market to be driven by competition and innovation can only be beneficial for CPs and their customers' many and varied needs.