

Dear Lawrence

Ofcom Dispute Consultation (published 14 November 2011) - Dispute between TalkTalk Group and Openreach relating to the MPF rental charge ("Dispute Consultation")

Telefónica UK Limited (O2) is an SMPF/ WLR based provider^[1] competing in the supply of fixed voice and broadband services with MPF (and other) based providers such as TTG.

We note Ofcom's provisional assessment of the matters in dispute set out in the Dispute Consultation, including that Openreach's MPF rental charge is compliant with the relevant regulatory obligations and that Ofcom's Charge Control proposals (upon which TTG's argument rely) were for consultation and not "settled"^[2].

We would be concerned at the distortionary competitive effect in favour of MPF based providers were Ofcom to reach a contrary assessment to that which it has set out in the Dispute Consultation (i.e. that MPF rental prices should be reduced and that Openreach be required to make payments to TTG by way of an adjustment for overpayments made) without also making an assessment as to the appropriate charges and adjustment for any overpayments made in respect of SMPF charges.

Please do not hesitate to contact me if you wish to discuss our views in more detail.

Yours sincerely

Ian Roy
Regulatory Manager

^[1] And a provider of other communications services including mobile.

^[2] Indeed, since publishing the Dispute Consultation, Ofcom has also published the "LLU and WLR Charge Control – Further Consultation" (23 November 2011) which amongst other things identifies a misallocation of £100m of Information Service projected expenditure identified post Ofcom's March 2011 Consultation (and accordingly Ofcom proposes an adjustment to the core rental ranges of its proposed Charge Control and associated reduction in its "base case" assessment for MPF, SMPF and WLR rental Charge Controls). http://stakeholders.ofcom.org.uk/binaries/consultations/912888/summary/LLUWI_RCC-consultation.pdf