Introduction

Mobile Broadband Network Ltd (MBNL) welcomes the opportunity to respond to Ofcom's call for inputs in its Review of Cost Orientation and Regulatory Financial Reporting in Telecoms, published on 8 November 2011.

MBNL is a joint venture between Everything Everywhere ('EE') and Hutchison 3G UK Limited ('Three') responsible for the integration of their 3G radio access networks. The comments represent the agreed position of EE and Three in representing the best interests of MBNL in relation to the regulated leased line products it purchases from BT (as set out in the answer to question 1). This response is therefore focused on those products and Three and EE will respond separately on wider issues.

Executive Summary

Ofcom's call for inputs seeks answers to two main questions:

- Under what circumstances should we impose cost orientation obligations, with what objectives; how should those obligations be interpreted and, once imposed, how should they be applied in practice?

- How should BT's and Kcom's regulatory financial reporting obligations be set to best support our regulatory objectives, taking account of stakeholders' needs and the legitimate interests of the regulated companies (e.g. with regard to confidentiality and proportionality)?

MBNL's view is that, in the main, Ofcom should continue to impose cost orientation obligations on BT to protect business purchasers (and eventually end users) from inappropriate (and especially excessive) charges. However, MBNL is concerned that Ofcom's current approach to cost orientation is not adequately effective in controlling BT's charges, and its interpretation of BT's cost orientation condition (and the wording of that condition) is excessively permissive. In particular, the use of Distributed Stand-Alone cost as the relevant cost ceiling provides BT with too much discretion in terms of how to allocate its (substantial) common costs to individual products.

In MBNL's view, any "appropriate mark up" for common costs must be more narrowly defined and be explicitly set out in the cost orientation condition. Otherwise BT enjoys too much discretion in terms of how to allocate its common costs and can exploit its position of significant market power (SMP) to levy excessive charges.

In relation to BT's regulatory financial reporting obligations, MBNL believes that they are a very important tool for those purchasing regulated products from BT. Improving the way in which they are produced would be welcome. BT should maintain appropriate cost accounting systems to be able to demonstrate that it is complying with its cost orientation obligations and other SMP conditions.

Objectives of cost orientation

Q1. How important is cost orientation as a regulatory remedy in telecoms? Why is it important to you in particular?

Ofcom's call for inputs may result in a new set of guidelines on cost orientation and a revised framework for regulatory financial reporting (paragraph 1.7 of Ofcom's call for inputs). Both of these potential outputs will have a significant impact on the regulation of charges which MBNL pays to BT.

Cost orientation is an important remedy. Unless specific individual charges are price controlled (which is not always appropriate or even feasible), cost orientation is a key tool for regulators to ensure that individual charges are not excessive or in other ways anti-competitive. It is therefore an important component of the set of potential remedies set out in the European regulatory framework for electronic communications, and its effective use is also important to ensuring consistent European regulation of telecommunications. Effective use of this remedy is therefore an important part of setting an overall regulatory framework which promotes economic efficiency and protects purchasers of regulated products from the effects of market power.

Q2. What should we seek to achieve with cost orientation and in what circumstances?

MBNL's view is that cost orientation should have two main aims:

- First, to protect customers – both other Communications Providers (CPs) such as MBNL and its shareholders, as well as end users – from monopolistic exploitation by BT. In particular, cost orientation should prevent BT from using its SMP position in the relevant markets to charge excessive wholesale prices (which will feed into higher retail prices and so harm end consumers);

- Second, to prevent competitive distortions between CPs: for example, as between fixed and mobile; BT and mobile operators are vertically integrated and compete to some extent to provide retail services. Although regulators have traditionally found that fixed and mobile services are not closely substitutable, there is some degree of substitution between both types of service (e.g. between fixed-to mobile and mobile-to-mobile calls[1], and also between fixed and mobile broadband services.) To that extent, BT has an incentive to raise mobile operators' costs by setting excessive wholesale charges.

In setting a cost orientation remedy Ofcom is required to promote competition and the interests of consumers (which involves considering both short and long run efficiency). As such, cost orientation should aim to ensure that prices are controlled to promote economic efficiency (allocative, dynamic and productive).

[1] See for instance Oftel's views on market definition for fixed and mobile services, page 3. http://www.ofcom.org.uk/static/archive/oftel/publications/mobile/ctm_2002/definitions0502.pdf

Q3-Q4. How should cost orientation interact with other remedies, such as charge controls or non-discrimination? Are there other remedies that could potentially avoid the need for a cost orientation obligation, and if so what would you propose?

As with all ex ante remedies, cost orientation needs to be considered in light of its effectiveness and proportionality in fulfilling Ofcom's statutory duties when compared with the other remedies available. Cost orientation can clearly be (and has been) used as a complement to, and as a substitute for, charge controls.

MBNL agrees with Ofcom's practice of using cost orientation to complement charge controls, particularly when a charge control is set for a basket of products. Cost orientation can then constrain the price of individual services and prevent BT from taking advantage of its pricing flexibility to recover excessive common costs on individual products. As Ofcom has noted, compliance with a charge control does not require that each and every one of BT's charges are cost oriented.[2]

MBNL believes that great care needs to be taken in using cost orientation as a substitute to charge controls. Where there is an absence of effective competition in an input market due to SMP, a charge control is likely to be required and cost orientation should only substitute it where there are strong reasons to do so.

<u>Current use of cost orientation</u>

Q5 – Q8. How well defined is our implementation of the basis of charges obligation? How useful are the current guidelines, and why? Which elements of our implementation of cost orientation are least clear / clearest? How well do you understand how BT / Kcom demonstrate compliance with the basis of charges condition? Why is that? How do the cost orientation obligations in place on BT and Kcom, and our interpretation of them, compare with your understanding of cost orientation obligations on telecoms operators in other countries, particularly elsewhere in Europe?

The wording of BT's basis of charges (i.e. cost orientation) condition is standard and requires BT to ensure that:

"Each and every charge offered, payable or proposed is reasonably derived from the costs of provision based on a forward looking long-run incremental cost approach and allowing an appropriate mark up for the recovery of common costs including an appropriate return on capital employed".

Ofcom's broad policy in relation to cost orientation (the use of Long Run Incremental Cost (LRIC) cost floors and Stand Alone Cost (SAC) cost ceilings for example) is well understood and has been in place for a number of years (having been applied in different contexts, principally in a dispute resolution context). However, MBNL believes that it would be beneficial to have greater clarity about the status of Ofcom's Guidelines and the interpretation, and crucially implementation, of cost orientation.

[2] See for instance Annex 14 of Ofcom's Review of Wholesale Fixed Narrowband Markets.

MBNL understands that the implementation of this condition is based on Oftel's 2001 Network Charge Control Guidelines. To assess whether an individual charge is cost oriented, Ofcom applies a 'first order test' based on 'floors' and 'ceilings'. Our understanding of the rationale for this approach is as follows: economic theory states that a multi-product firm in a competitive retail market will not price a service below its LRIC or above its efficient SAC:

- **LRIC floor.** The LRIC of a service is the additional cost the firm incurs in the long run to provide a particular service. LRIC includes service-specific fixed costs incurred on behalf of the service in question but makes no allowance for common costs, or costs which arise from the provision of a group of services but which are not incremental to any individual service. LRIC sets a floor because a price below LRIC would be loss-making and cannot be sustained – by definition, the regulated firm would increase profits by not supplying the service in question**;**

- **SAC ceiling.** The firm could not charge more than efficient SAC, or the cost that would be incurred by an efficient entrant to produce that service alone, including common costs. SAC sets the ceiling – by definition, any higher price would bring new entrants to the market and lower the price.

To mimic the effects of a competitive market, a regulator should use LRIC and SAC to set the permissible boundaries for cost oriented prices. Strictly, to ensure that common costs are not over-recovered, price floors and ceilings should apply not only to each individual service but to every combination of regulated services which share common costs ('combinatorial tests').[3] This is because a price for a single product which lies between LRIC and SAC may still allow a regulated firm to over-recover its common costs.

In practice, Ofcom has considered that combinatorial tests are rarely practical when many products share common costs. It is then necessary to allocate common costs in a 'reasonable' manner. Hence, the cost orientation condition allows "an appropriate mark up for the recovery of common costs". To determine what an "appropriate" mark up is, Ofcom's 'first order test' checks whether a cost oriented charge is between Distributed LRIC (DLRIC) and Distributed SAC (DSAC), both of which allocate common costs to individual products. Ofcom does not apply the test mechanistically and considers other factors, such as the magnitude and duration of any charge in excess of DSAC, or whether charges above DSAC could have caused economic harm to BT's customers**.**[4]

Given the above approach to cost orientation, MBNL considers that there are a number of areas where Ofcom's review could lead to greater clarity. In particular:

- the status of the Guidelines and Ofcom's interpretation of cost orientation could be usefully updated and clarified in light of the Competition Appeal Tribunal's ('CAT')

[3] Baumol, Panzar and Willig *Contestable Markets and the Theory of Industry Structure* Harcourt Brace Jovanovich, 1982.

[4] Determination to resolve disputes between each of Cable & Wireless, THUS, Global Crossing, Verizon, Virgin Media and COLT and BT regarding BT's charges for partial private circuits (Oct 2009). Paragraph 1.21. http://stakeholders.ofcom.org.uk/binaries/consultations/draft_deter_ppc/PPC_final_determination.pdf

judgment in the recent Partial Private Circuits ('PPC') dispute between BT and other operators;[5]

- The way in which cost orientation remedies have been monitored and enforced as a general proposition could be clarified;

- Ofcom's implementation of the DSAC ceiling is unclear (see response to next question on cost standards).

In the PPC dispute, the CAT found that the wording of BT's cost orientation condition does not stipulate a particular method of allocation of common costs, save to say that the mark-up must be "appropriate". In the CAT's view, there is no single correct way of allocating common costs. In the first instance, the CAT found, it is for BT to decide how to allocate common costs, provided that it does so appropriately and can demonstrate this to Ofcom's satisfaction. Only if BT is unable to do so can Ofcom then consider how compliance must be tested, by applying its cost floors and ceilings (DLRIC and DSAC).[6]

In summary, the CAT found that provided BT allocates its common costs "appropriately", it is not open to Ofcom to impose an alternative allocation method upon BT. This finding appears to allow BT to adopt an "appropriate" cost allocation method which yields a charge above Ofcom's DSAC ceiling and still complies with its cost orientation condition. MBNL is therefore concerned that the current wording of the cost orientation condition provides BT with too much discretion in terms of how to allocate its common costs. In MBNL's view Ofcom's review should therefore encompass both the wording of BT's cost orientation obligation and the way in which this has been interpreted by the CAT in any new Guidelines.

The way in which cost orientation remedies have been enforced as a general proposition could also be clarified. MBNL believes that this review could usefully consider Ofcom's approach to implementing its guidelines as well as the appropriate cost standards to use in setting cost orientation remedies. For example, if the floor and ceiling approach is to be a 'first order test', then greater clarity would be useful on what subsequent tests would be appropriate

Further, greater detail on what will be taken into account on considering whether common cost mark ups are "appropriate" would also be beneficial. MBNL acknowledges that a purist implementation of combinatorial tests has significant practical difficulties. However, it would be useful for this review to consider whether there are more pragmatic approaches. 'Cost oriented' charges which are <u>all</u> set at SAC would clearly not be economically efficient or promote competition.

Simply finding that charges are between LRIC and SAC for an individual product is therefore not a sufficient regulatory protection in general. As explained below, DSAC is too permissive as a ceiling. A pragmatic alternative to full-blown combinatorial tests might be a test set in relation to the FAC or DLRIC cost standards. At this stage MBNL is not advocating any particular approach but considers that these are important issues which warrant investigation

[5] http://catribunal.org/239-7046/Judgment-.html
[6] Paragraphs 245-249, 285, 297.

as part of this review process. MBNL would also advocate greater clarity on how the cost orientation remedies are tested and applied.

Options for cost orientation implementation

Q9 . What are the credible alternative cost standards that could be applied in interpreting the basis of charges condition? (e.g. LRIC+, DSAC / DLRIC, FAC, etc).

MBNL believes that cost orientation should apply to individual charges in order to constrain the price of individual services and prevent BT from recovering excessive common costs on specific products or charging in a way which distorts competition (e.g. by charging below cost or above cost for input products on which its retail competitors rely). In theory, several cost benchmarks may be used to assess whether individual BT charges are cost oriented.

- **LRIC –** as explained above, LRIC includes service-specific fixed costs incurred on behalf of the service in question but makes no allowance for common costs;

- **DLRIC –** DLRIC first defines a product group which contains the product in question. DLRIC equals the LRIC of the product plus a share of the intra-group common costs (i.e. costs which are common between individual products in the group), where the allocation of common costs is typically based on an equi-proportionate mark-up over LRIC. As a consequence, DLRIC is normally above LRIC for an individual product. As explained above, DLRIC sets the floor for cost oriented charges in Ofcom's Guidelines;

- **FAC –** FAC is an accounting measure designed to ensure that all of a firm's costs are attributed to its services. All costs – whether incremental or common – are distributed amongst a firm's various products according to a particular allocation method. If a firm sets its charges equal to unit FAC, it would then recover (but not over-recover) all its costs, including common costs;

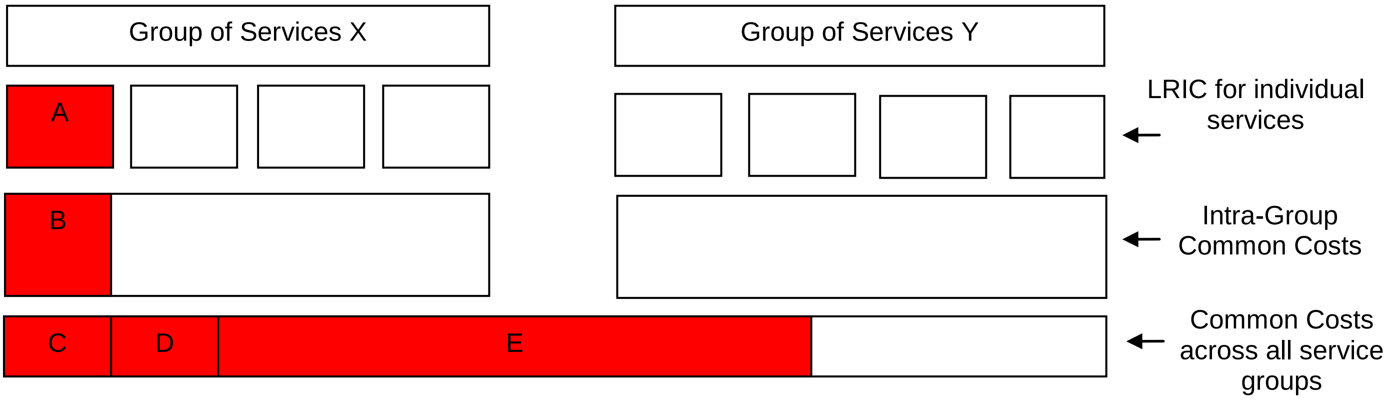
- **DSAC –** like DLRIC, DSAC includes a share of the intra-group common costs. The DSAC for any individual service also includes a proportion of costs that are common across all groups of services, calculated as an equi-proportionate mark-up over LRIC. As explained above, DSAC sets the ceiling for cost oriented charges in Ofcom's Guidelines;

- **SAC –** SAC is the cost of providing a product on its own, including all common costs which would be incurred in a single product firm but which in practice are shared with other products in a multi-product firm. Common costs incurred by the multi-product firm which would not be needed to provide the service in isolation are not included in SAC (see below).

Figure 2 shows that cost benchmarks towards the bottom of the list make an increasingly greater allowance for common costs than those above.[7]

[7] For instance, see Annex 11 of Ofcom's Determinations to Resolve the PPC Pricing Disputes.

Figure 2 – Cost benchmarks



Long Run Incremental Cost (**LRIC**) = A;
Distributed LRIC (**DLRIC**) = A + B;
Fully Allocated Cost (**FAC**) = A +B + C;
Distributed Stand Alone Cost (**DSAC**) = A + B + C + D
Stand Alone Cost (**SAC)** = A + B + C + D + E

Q10-Q13. What do you see as the advantages and disadvantages of the different approaches, both theoretical and practical? Which approach do you believe we should take, and in what circumstances? How does this depend, for example, on the state of competition and any other regulatory remedies imposed alongside cost orientation? What tests should we apply in assessing compliance with the basis of charges condition, for instance in disputes? How should this vary depending on circumstances, for instance different levels of complexity? At what level of aggregation (e.g. product level, market level, price list level) should cost orientation apply, and why?

As explained above, MBNL believes that cost orientation should apply to individual charges in order to constrain the price of individual services and complement charge control baskets.

MBNL's view is Ofcom's current approach to cost orientation based on DSAC is not adequately effective in controlling BT's charges. Simply relying on a DSAC ceiling assessed for individual charges is therefore not sufficient to ensure that prices are not too high. MBNL's view is that the DSAC ceiling needs to be replaced by alternative standards (such as DLRIC or FAC).

As Ofcom has recognized, a significant proportion of BT's cost base for individual services consists of common costs.[8] In MBNL's view, common cost allocation is an essentially arbitrary exercise and stand-alone cost concepts (such as DSAC and SAC) provide too much scope for BT to over- recover common costs from its regulated charges. Figure 2 above shows that the scope for 'judgment' in the allocation of common costs becomes greater the closer the chosen benchmark is to SAC.

[8] Determination to resolve disputes between each of Cable & Wireless, THUS, Global Crossing, Verizon, Virgin Media and COLT and BT regarding BT's charges for partial private circuits (Oct 2009). Paragraph 5.64. http://stakeholders.ofcom.org.uk/binaries/consultations/draft_deter_ppc/PPC_final_determination.pdf

In particular, SAC (and, correspondingly, DSAC) should be based on the costs of an efficient stand-alone supplier, and not on BT's costs. However, BT does not provide products on a stand-alone basis and its network and cost structure reflect the fact that it supplies a large number of services. As Ofcom recognized in its PPC Determination, it is unlikely that BT would have built so large and geographically spread a core network to provide an individual product.[9] This reflects the fact that a network architecture and business structure which is the most efficient way of producing a large number of services is unlikely to be the most efficient way of producing each individual service.

Hence, both SAC and DSAC require Ofcom and BT to make highly complex judgments about the network and operating costs that would be incurred by a hypothetical stand-alone operator, in an industry in which such operators are unlikely to exist or be viable (due to the existence of large economies of scale and scope). This is because the SAC of product X allocates to product X only costs that an efficient operator would incur to produce X in isolation (i.e. area E does not cover all costs common across all services groups).[10] For example, the SAC and DSAC of a TISBO Low Bandwidth leased line product should take into account only the cost that an efficient firm would incur in providing TISBO at speeds between 2Mbit/s and 8Mbit/s and no other product.

MBNL's view is therefore that stand-alone cost concepts (such as SAC and DSAC) are likely to be inappropriate as benchmarks in cost orientation. They provide BT with too much discretion in terms of how to allocate its common costs when used as a ceiling in cost orientation. In MBNL's view, any "appropriate mark up" for common costs must be more narrowly defined and be explicitly set out in the cost orientation condition. Otherwise BT enjoys too much discretion in terms of how to allocate its common costs and can exploit its SMP position to levy excessive charges.

Over-arching questions on cost orientation

Q14 – Q15. What impact, if any, should changes in technology have on our use and interpretation of cost orientation? E.g. the transition from copper to fibre in the access network, or the replacement of traditional telecoms network switching equipment with more modern equivalents? Are there any other factors or considerations we should take into account in our review of our guidance on cost orientation? E.g. demand patterns over time, or efficiency considerations.

MBNL understands that BT prepares its Regulatory Financial Statements (also known as the 'Current Cost Financial Statements') based on the principle of current cost, where assets are valued on the basis of replacement cost, or the costs of replacing an asset with a modern equivalent. It follows that

[9] http://stakeholders.ofcom.org.uk/binaries/consultations/draft_deter_ppc/PPC_final_determination.pdf paragraph 7.107.

[10] In Ofcom's terminology, the efficient SAC will normally be lower than the sum of BT's incurred incremental and common costs. For instance, the SAC of a particular leased line product would not include the full salary of BT's executives, but only the salary of the executives that would be required to provide the leased line product in isolation. See Determination to resolve disputes between each of Cable & Wireless, THUS, Global Crossing, Verizon, Virgin Media and COLT and BT regarding BT's charges for partial private circuits (Oct 2009). Footnote 284. http://stakeholders.ofcom.org.uk/binaries/consultations/draft_deter_ppc/PPC_final_determination.pdf

any changes in technology (such as replacing switching equipment with more modern equivalents) should be incorporated and reflected in lower permissible charges, given that the adoption of modern technology tends to lower the cost of providing wholesale services. Further, great care needs to be taken in allowing any rise in legacy product prices due to a change in technology.

Q16-Q34. Regulatory accounting considerations

In general, Ofcom must impose regulatory financial reporting obligations (including wholesale and retail cost accounting and accounting separation) on BT and other dominant undertakings for two main reasons:

- to be able to monitor and enforce its remedies, such as cost orientation and price controls; and
- to resolve disputes and investigations more quickly and efficiently.

In the main, regulatory accounts are required where the other remedies imposed on an SMP operator require them. Regulatory accounts are required to provide relevant information to make such alternative remedies effective, in circumstances where purchasers are not protected by a competitive market. The appropriate requirements for regulatory accounts therefore need to assessed in the context of the SMP which exists and what other remedies are applied to deal with that market power.

Given the breadth of related products over which BT retains SMP in wholesale markets, and the cost orientation and non-discrimination remedies applied to BT, its regulatory accounts remain an important tool to assess compliance. MBNL believes that the accounts are a very important tool for those purchasing regulated products from BT, and improving the way in which they are produced would be welcome. We have not addressed the detailed questions in the call for input on this area but have the following high level and specific comments, which touch on many of the issues raised by Ofcom.

The purpose of these accounts should be to provide stakeholders (including Ofcom) with sufficient information that they are able meaningfully to engage with charge controls and make, at least first order, assessments of whether individual charges are cost oriented and non-discriminatory. As such, MBNL considers that the accounts should retain sufficient detail on the relevant cost standards for individual products to make such assessments.

As part of this review, MBNL would therefore support Ofcom investigating and providing guidelines on the degree of detail at which BT is required to provide data. While there are clear benefits to aligning the regulated accounts (at least showing how they reconcile to) statutory accounts, the purposes of regulated accounts should be to allow a view to be taken about whether regulatory remedies are being complied with.

While at a pragmatic level BT will need to aggregate some products, MBNL is concerned that relatively low volume products – which are nonetheless commercially very significant for purchasers – can be aggregated in the accounts in such a way that purchasers such as MBNL can no longer assess whether BT is complying with its regulatory obligations. MBNL’ s specific concerns in this area were set out in its response to Ofcom’s Business Connectivity Market Review (BCMR) Call for Inputs (see answer to question 21 of that response, the relevant extract of which is attached as an annex to this response).

MBNL uses BT's regulatory accounts to assess the charges BT levies on it and whether these are in line with SMP conditions such as cost orientation and non-discrimination. The level of detail of outputs of the accounts (i.e. cost benchmarks for individual products) needs to align with the products which are commercially significant and are purchased subject to regulatory remedies. MBNL also believes that Ofcom could usefully review the level of detail of the underlying assumptions and inputs which BT uses to compile the accounts. These are important to the degree of reliability which the accounts are seen to have by stakeholders. Key assumptions and how they change between each year should be clearly set out and not buried in the detail of multiple cost allocation methodologies for each product.

MBNL supports a review of the approach taken to compiling the accounts to ensure that the confidence which purchasing CPs have in the figures published is increased. This should ensure that the regulatory accounts become a more useful and relevant tool for stakeholders and improve their robustness. At this stage, MBNL does not have firm views on questions such as the audit standard, and process and high level principles by which the accounts are compiled beyond those stated above. However, MBNL would be happy to comment further on more specific proposals in these areas later in this review.

Annex: Extract from MBNL response to BCMR Call for Inputs (relevant parts of answer to Question 21)

Finally, we note the Ofcom statement issued on 2 June 2011 on changes to BT's regulatory reporting requirements stated to be for the purpose of "improving" the presentation of BT's AISBO regulatory accounts (§1.3(iii)), which now removes separate reporting of BT's BNS backhaul connection and rental services and reduces the granularity of BT's BES reporting (reporting only for BES 1000 Mbps rental and BES "other" rental, but not separately for BES 100 Mbps rental and amalgamating connection fees for all BES bandwidths).[11,]

BT's cost accounting obligations in relation to the AISBO services in which it has been found to have SMP are designed to require BT to demonstrate cost orientation and non-discrimination. Yet in Ofcom's statement, it acknowledges that (through responses made to it which were in fact outside of the scope of its consultation), Ofcom has become aware that:

- BT does not report separately on its internal usage of EBD, as EBD is only used by BT as an input to its wholesale products; and
- BT only reports on EAD connection and rental as two separate categories, and not split according to the bandwidths of 10 Mbps, 100 Mbps and 1 Gbps – even though for 4 of these 6 product categories, BT's revenues in 2010/2011 were in the range of £10m to $20 m, and thus in excess of Ofcom's guidance reporting threshold (§§3.11-3.14)

The net result of all of this is that BT has gone from a position of having clear obligations to provide defined WES, WEES and BES products on an EOI basis and with clear and transparent accounting separation obligations in reporting on these products; to

- Withdrawing from new supply its regulated WES, WEES and BES services;
- Reducing the granularity of BT's reporting on those BES services that it continues to supply;
- Seeking to remove from its EOI obligations its above 1 Gibt/s AISBO services (except for backhaul AISBO services);
- Introducing new EAD AISBO services which are less clearly regulated under the Undertakings, and in relation to which BT currently provides no separated accounts according to bandwidth for its connection and rental charges in apparent contravention of its SMP obligations;
- Amalgamating the reporting of its AISBO backhaul services, such that the only product offered for new supply which is separately reported on is EBD, in relation to which BT does not report on internal usage, and the connection and rental charges for which are amalgamated for all bandwidths;

[11] http://stakeholders.ofcom.org.uk/binaries/consultations/bt-kcom-reporting/statement/statement.pdf

- Providing amalgamated connection and rental figures for all other SMP AISBO services provided by BT under the non-descript headings “Other Ethernet” and “Other Services”; and

- Supplying many AISBO products, such as the MEAS used by MNOs, as part of an unregulated managed service supplied by BT divisions other than Openreach.

We do not find this to be a conducive regulatory environment for the facilitation of active understanding, monitoring and enforcement of BT’s SMP and EOI obligations in relation to business connectivity services.

In order to better address the market failures in the current business connectivity markets, we would accordingly urge Ofcom (in the next BCMR or if possible sooner) to consider ways in which Ofcom can make these obligations clearer for practical purposes, and ensure that their purpose and effectiveness is not undermined by technological change; piecemeal regulatory changes which do not consider the entire regulatory context of these obligations; and/or non-enforcement of those obligations imposed.