

## **Wholesale Local Access Market Review**

1. This response by Kingston upon Hull City Council to the Wholesale Local Access Markets (WLAM) review includes some general comments as well as replies to the specific questions asked by Ofcom. Many of these comments apply to the Wholesale Broadband Access Markets Review. The focus in these comments is WLAM because, as Ofcom says, this is fundamental to Wholesale Broadband Access Markets.
2. The WLAM review recognises the need to promote investment in 'super-fast' broadband networks. The review's goal is to protect consumer interests by using regulation to promote competition and choice to ensure consumers do not have to pay excessive prices for those services, and that they benefit from innovation and investment. This raises significant issues for the Hull area. Lower levels of regulation applied in the Hull market area in comparison to the rest of the country have not changed the situation in the Hull market area, so this approach is unlikely to work in the future. The remedies applied need to increase the chances of non competition law approaches having a positive impact on competition, choice and investment. The key benchmark is how the remedies proposed contribute to encouraging and enabling investment by KCOM and other connectivity providers.
3. Hull has unusual characteristics in terms of regulation because of its unique history in the UK. The Hull area is a small part of the national market, but it is of course the entire local market. Ofcom needs to be consistent in applying national principles equally in the BT and KCOM SMP market areas. The regulatory remedies applied need to reflect this. The depth of analysis applied to BT is understandable when it applies to over 99% of the UK market. However, Hull exhibits even higher potential SMP effect levels, but these are not adequately analysed or addressed. Without adequate analysis, the risk is that the remedies do not sufficiently address issues constraining service provision and NGA investment by connectivity providers.
4. There is considerable analysis of BT access remedies in Section 7 without any similar review of the situation with regard to KCOM. The 'will review later' approach is not sufficient. There is not enough in depth analysis of the market in Hull, including its connection with other nearby markets. This needs more investigation and examination. For example, there is a reference to the different demographics of Hull and how that may effect investment propositions, without reference to any particular evidence. If this is an assumption, it needs to be tested.
5. The remedies as proposed may constrain the likelihood of CPs being able to provide service offerings to public service clients. This could restrict procurement choices, which could in turn increase costs, reduce choice, and impact on the quality of services available for public, business and residential users. This is likely to be very important during the period the review applies to as service needs are likely develop, driven in part in the

public sector by service transformation and efficiencies programmes and the implementation of major regeneration programmes such as Building Schools for the Future. This is also an important local economic issue. Connectivity dependent businesses will be central to enterprise led recovery from recession, so choice, quality and prices will be critical in the business sector market. The remedies proposed by Ofcom need to be sufficient to enable the best outcomes to be achieved. This risk is that that public funding applied to service and infrastructure procurement would not achieve best value. Whilst it is true that establishing key goals like open access and best value can be a matter between public bodies and CP's, the SMP in Hull may make these harder to achieve in a balanced way because of the lack of choice available and the lack of current plans for next generation connectivity investment.

### **Responses to specific questions**

***Question 1: Do you agree with our proposed product market definition? If not, please explain why.***

Yes

***Question 2: Do you agree with our proposed geographic market definition? If not, please explain why.***

Yes, in principle, but the relationship between the Hull market area and surrounding BT areas needs to be examined.

***Question 3 Do you agree with our proposals that BT and KCOM have SMP in their respective geographic markets? If not, please explain why.***

Yes.

***Question 4 Do you agree with our proposals for the general access requirements that should apply to BT and KCOM respectively? If not, please explain why.***

No – the proposals for KCOM need further examination.

***Question 5 Do you agree that Ofcom should impose a new network access obligation on KCOM, that would require it to follow a statement of requirements process to handle requests for new network access in this market? If not, please explain why.***

Yes, but additional remedies are required.

***Question 6 In relation to LLU, do you agree with the assessment and options set out?***

Yes, but they raise issues about the SMP remedies proposed for KCOM

**Question 7 In relation to fibre access, do you agree with the potential unbundling arrangements for the different fibre architectures and the positions/options set out given the current and expected future availability of fibre within BT's access network?**

Yes, but they raise issues about the SMP remedies proposed for KCOM.

**Question 8 In relation to SLU, do you agree with the assessment and options set out?**

Yes, but they raise issues about the SMP remedies proposed for KCOM.

**Question 9 In relation to PIA, do you agree with the proposed PIA obligation structure and the proposed implementation arrangements?**

Yes, but they raise issues about the SMP remedies proposed for KCOM.

**Question 10 In relation to VULA, do you agree that VULA may be a necessary access remedy in the WLA market and if so, do you agree with the key characteristics identified and how these currently relate to BT's GEA products?**

Yes, but they raise issues about the SMP remedies proposed for KCOM.

**Question 11 Do you agree with the framework for considering specific access remedies on BT?**

Yes, but they raise issues about the SMP remedies proposed for KCOM.

**Question 12 Do you agree that there is a need to have a complementary set of access remedies and if so, do you agree with the proposed set of remedies on BT?**

Yes, but they raise issues about the SMP remedies proposed for KCOM.

**Question 13 Do you agree that no specific access remedies should be imposed on KCOM in the WLA market at this time? Could any remedies on KCOM at the WLA market level address the competition issues that we have identified?**

No. This requires further examination.

**Question 14 Do you agree with our assessment against the legal tests for each specific remedy, as set out in Section 9?**

Yes

#### **Contact details**

Steve Fleming

t. 01482 331437, m. 07831 494617

e. [steve.fleming@hullcc.gov.uk](mailto:steve.fleming@hullcc.gov.uk)