

Additional comments:

For the market power assessment we are concerned that based on the information given in section 4 there appears to be little relationship between the number of local delivery points and the revenue and costs in the three market areas. We recognize that competition may reduce the revenue in Market 3 but not to the extent given in Table 4.4 where we expected the revenue to be about £ 745 m representing approximately 72% of the local delivery points. We consider that these values and proportions require further investigation to confirm that they are correct.

Question 3.1: Do you agree with Ofcom's proposed product market definitions? If not, please explain why.:

Currently we are generally in agreement with the proposed definitions. However we consider that the deployment of fibre and the increasing usage of mobile broadband could have an impact during the period covered by the review and more account needs to be taken of any possible changes.

Question 3.2: Do you agree with Ofcom's view of the relevant criteria for assessing the geographic market boundaries? If not, please explain why.:

Generally we are in agreement with the proposals.

Question 3.3: Do you agree with Ofcom's geographic market definitions? If not, please explain why.:

For Market 2 we recognize that there are only a small number of exchanges where there are 3 POs but we wonder if some means could be found to differentiate these exchanges from the others to reflect the different conditions that exist between having 2 POs in an exchange area and 3 POs. We consider that this sub-division could be an appropriate means of addressing some of the concerns raised in subsequent parts of the consultation document. Otherwise we agree with the proposals.

Question 4.1: Do you agree with Ofcom's proposal that BT holds SMP in Market 1? If not, please explain why.:

We agree with Ofcom's conclusions.

Question 4.2: Do you agree with Ofcom's proposal that BT holds SMP in Market 2? If not, please explain why.:

To some extent we agree with Ofcom's conclusions. However the justification indicates that competition is not affecting BT's pricing which is similar to Market 1 but the costs are lower. Thus we consider that these differing trends support our response to question 3.3 that there needs to be more differentiation between exchanges with 3 POs and those with 2 POs. We consider that if this can be achieved it is likely to lead to conditions that could result in a better relationship between prices and costs.

Question 4.3: Do you agree with Ofcom's proposal that no operator has SMP in Market 3? If not, please explain why.:

We agree with Ofcom's conclusions and we note that this market is operating more like the unregulated mobile market. We consider that the key factors in achieving this market should be identified and applied to the larger exchanges, particularly where there are 3 POs, in Market 2 to encourage further migration from Market 2 to Market 3. However there may be a need to consider the implications of reducing the number of exchanges in Market 2 as this could affect the relationship between costs and prices and the level of competition.

Question 4.4: Do you agree with Ofcom's proposal that KCOM holds SMP in the Hull Area? If not, please explain why.:

We agree with Ofcom's conclusions.

Question 5.1: Do you agree with the general access and non-discrimination remedies Ofcom proposes to impose on BT in relation to the market for wholesale broadband access in Market 1? If not, please explain why.:

We consider that more measures should be introduced to increase potential competition in this market. However from examining the proposals it is difficult to identify specific issues that need to be addressed.

Where BT is required to notify any changes in charges, terms, conditions, and technical information we consider that BT should also provide more information on the implications of the proposed changes and justification for making the changes.

We also note that Ofcom establishes the cost accounting requirements and then monitors the application of the rules. We wonder if this appropriate and consider that the rules should be established or at least reviewed by an independent third party to ensure that the correct approach is adopted.

Question 5.2: Do you agree with Ofcom's proposal to impose a basis of charges obligation and a charge control on BT in relation to the market for wholesale broadband access in Market 1? If not, please explain why.:

No comment

Question 5.3: Do you agree with the general access and non-discrimination remedies Ofcom proposes to impose on BT in relation to the market for wholesale broadband access in Market 2? If not, please explain why.:

We consider that it is essential that measures are taken to increase competition in this market. This increased level of competition should influence pricing levels ensuring that they are related to costs. Taking this factor into account our comments related to Question 5.1 are applicable to this question as well though we consider that it should be easier to address the competition issues in this Market than in Market 1.

Question 5.4: Do you agree with Ofcom's proposal to impose a basis of charges obligation on BT in relation to the market for wholesale broadband access in Market 2? If not, please explain why:

We consider that a combination of the retail minus and cost orientation approach are the most appropriate means to encourage the growth of competition in this market. This may address some of the pricing concerns that have been identified in relation to question 4.2. Additionally it may reduce the need for differentiation between the various exchanges though we consider that there could be other benefits from differentiation so we favour the differentiation option.

Question 5.5: Do you agree that Ofcom should allow a period of notice in the exchanges that move from Market 2 to Market 3 in which the above conditions should apply? Do you agree that 12 months is an appropriate period of notice? If not, please explain why.:

Generally we are in agreement with the proposals. However we consider that measures should be taken to improve market forces so that BT is constrained when taking actions that may adversely affect other CPs. If the 3 PO exchanges in Market 2 are treated differently to other exchanges, in that Market, then the transition into Market 3 is likely to be less significant so requiring reduced regulatory protection.

Question 5.6: Do you agree with the general access and non-discrimination remedies Ofcom proposes to impose on KCOM in relation to the market for wholesale broadband access in the Hull area? If not, please explain why.:

Generally we are in agreement subject to the following comment. Where KCOM is required to notify any changes in charges, terms, conditions, and technical information we consider that KCOM should also provide information on the implications of the proposed changes and justification for making the changes.

Question 5.7: Do you agree with Ofcom's approach to price remedies in the Hull area? If not, please explain why.:

No comment

Question 5.8: Are there other remedies that, if imposed by Ofcom, would promote entry into the market in the Hull area by other providers?:

We consider that more measures should be introduced to increase potential competition in this market. However from examining the various factors it is difficult to identify specific issues that could be changed.