

**Additional comments:**

**Question 5.1: Do you agree with Ofcom's assessment that there are separate markets for analogue, ISDN2 and ISDN30 wholesale exchange lines and that there are separate geographic markets for the UK excluding the Hull Area and the Hull Area? If not, please explain why:**

Zen Internet Agrees

**Question 5.2: Do you agree with Ofcom's assessment that BT has SMP in analogue, ISDN2 and ISDN30 wholesale exchange lines in the UK excluding the Hull Area? If not, please explain why.:**

Zen Internet Agrees

**Question 5.3: Do you agree with Ofcom's assessment that KCOM has SMP in analogue, ISDN2 and ISDN30 wholesale exchange lines in the Hull Area? If not, please explain why.:**

Zen Internet Agrees

**Question 5.4: Do you agree with Ofcom's analysis of future developments that may affect these assessments? If not, please explain why.:**

Zen Internet Agrees

**Question 6.1: Do you agree with Ofcom's assessment that the relevant call origination market is wholesale call origination on fixed narrowband networks and that there are separate geographic markets for the UK excluding the Hull Area and the Hull Area? If not, please explain why.:**

Zen Internet Agrees

**Question 6.2: Do you agree with Ofcom's assessment that BT has SMP in wholesale call origination on fixed narrowband networks in the UK excluding the Hull Area? If not, please explain why.:**

Zen Internet Agrees

**Question 6.3: Do you agree with Ofcom's assessment that KCOM has SMP in wholesale call origination on fixed narrowband networks in the Hull Area? If not, please explain why.:**

Zen Internet Agrees

**Question 6.4: Do you agree with Ofcom's analysis of future developments that may affect these assessments? If not, please explain why.:**

Zen Internet Agrees

**Question 7.1: Do you agree with Ofcom's assessment that there is a separate market for wholesale fixed geographic call termination for each provider of fixed geographic call termination? If not, please explain why.:**

Zen Internet Agrees

**Question 7.2: Do you agree with Ofcom's assessment that each provider of wholesale fixed geographic call termination has SMP? If not, please explain why.:**

Zen Internet Agrees

**Question 7.3: Do you agree with Ofcom's analysis of future developments that may affect these assessments? If not, please explain why.:**

Zen Internet Agrees

**Question 8.1: Do you agree with Ofcom's assessment that there is a single LTC/LTT market in the UK excluding the Hull Area? If not, please explain why.:**

Zen Internet Agrees

**Question 8.2: Do you agree with Ofcom's assessment that BT does not have SMP in the LTC/LTT market? If not, please explain why.:**

Zen Internet Agrees

**Question 9.1: Do you agree with Ofcom's assessment that there is a single market for conveyance and transit services at the tandem layer in the UK excluding the Hull Area? If not, please explain why.:**

Zen Internet Agrees

**Question 9.2: Do you agree with Ofcom's assessment that BT does not have SMP in the market for conveyance and transit services at the tandem layer? If not, please explain why.:**

Zen Internet Agrees

**Question 10.1: Do you agree with Ofcom's assessment that BT and KCOM should be required to provide interconnection circuits? If not, please explain why.:**

Zen Internet Agrees

**Question 10.2: Do you agree with Ofcom's assessment that BT's product management, policy and planning (PPP) charge incurred in markets where it has SMP and in the provision of interconnection circuits should be regulated? If not, please explain why.:**

Zen Internet Agrees

**Question 11.1: Do you agree that Ofcom should impose a requirement to provide network access on reasonable request on BT and KCOM in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees.

However, Zen Internet believe that the conditional requirement on KCOM only to publish tariffing in the event of a CP first having to negotiate with KCOM upon a request for "reasonable access" is insufficient as it not in the commercial interest of KCOM to provide reasonable access and that such negotiations ultimately amount to nothing.

Zen believes that the lack of a requirement on KCOM to publish WLR pricing is a detrimental and limiting factor as to the lack of a competitive WLR market within the Hull area and Zen believes that Ofcom are failing to fully and effectively regulate the call origination and termination markets within the Hull area.

**Question 11.2: Do you agree that Ofcom should impose a requirement not to unduly discriminate on BT and KCOM in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees

**Question 11.3: Do you agree that Ofcom should impose a requirement that BT's charges and KCOM's charges should be subject to a cost orientation obligation in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees.

However, KCOM's retail local call charging does not currently reflect this and Zen believes that KCOM is supplying retail local call services below cost which is being subsidised through its line rental charges.

Zen wish to make Ofcom aware that KCOM's current tariffing of lines and calls through the KCOM illegal "tying" of local calls and telephony lines is illegal under the UK Competition

Act due to the effect that "tying" has in restricting competition in retail markets where KCOM has been found by Ofcom to have SMP in both markets for lines and calls. Zen also wishes to point out that Ofcom have already received a complaint made by Nexus Telecommunications concerning the illegality of the KCOM "tying".

Zen wishes to make Ofcom aware that there are now a number of legal cases pending Under UK Competition and OFT legislation, in terms of both domestic and business users in the Hull area who are using IDA (Indirect Access) carrier calls services from other CP's in the Hull area, all of whom are currently forced to take local call services on a per line basis from KCOM in the Hull area where KCOM, in all cases, will be unable to prove objective justification for the "tying" of services, which upon judgement, will have significant implications on both Ofcom and KCOM.

Zen therefore urges Ofcom to check that KCOM's tariffing in the "tying" of lines and local telephone calls in the provision of both business and domestic retail telephony services is both appropriate and acceptable. IE: that KCOM are able to provide telephone line services on the pre-condition that the subscriber MUST take local call services from KCOM.

**Question 11.4: Do you agree with our approach on cost orientation? If not, please explain why, indicating in particular the mechanism you consider to be appropriate.:**

Zen Internet Agrees

**Question 11.5: Do you agree that Ofcom should impose a requirement to publish a reference offer on BT and KCOM in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees

**Question 11.6: Do you agree that Ofcom should impose a requirement to notify charges, terms and conditions on BT and KCOM in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees

**Question 11.7: Do you agree that BT and KCOM should provide 28 days notice of price changes following a six month transition period? If not, please explain why.:**

Zen Internet Agrees

**Question 11.8: Do you agree that Ofcom should impose a requirement to notify technical information on BT and KCOM in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees

**Question 11.9: Do you agree that Ofcom should impose a requirement to provide transparency as to quality of service on BT in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees

**Question 11.10: Do you agree with Ofcom that service provision and fault repair remain critical areas for this remedy to monitor?:**

Zen Internet Agrees

**Question 11.11: Are the KPIs proposed above sufficient to provide industry with the necessary level of transparency? If not, what additional KPIs should be included?:**

Zen Internet Agrees

**Question 11.12: Is the reporting provided by the Openreach online KPI tool sufficient to provide the relevant KPI data?:**

Zen Internet Agrees

**Question 11.13: Do you agree that Ofcom should impose an obligation on BT to follow a statement of requirements process to handle new requests for network access in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees

**Question 11.14: Do you agree that the condition should allow changes to be made to the current SOR process if agreed by BT with industry? If not, please explain why.:**

Zen Internet Agrees

**Question 11.15: Do you agree that Ofcom should impose an obligation on BT and KCOM to comply with obligations governing cost accounting systems and processes as set out by Ofcom in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees. However, this is clearly not happening in the KCOM Hull area.

**Question 11.16: Do you agree that Ofcom should impose an obligation on BT and KCOM to comply with obligations governing accounting separation as set out by Ofcom in the markets and technical area discussed? If not, please explain why.:**

Zen Internet Agrees. However, this is clearly not happening in the KCOM Hull area.

**Question 12.1: Do you agree with the obligations Ofcom proposes to impose on BT in the wholesale fixed geographic call termination markets? If not, please explain why.:**

Zen Internet Agrees.

**Question 12.2: Do you agree with the obligations Ofcom proposes to impose on KCOM in the wholesale fixed geographic call termination markets? If not, please explain why.:**

Zen Internet Agrees.

**Question 12.3: Do you agree that BT and KCOM should provide 28 days notice of price changes following a six month transition period? If not, please explain why.:**

Zen Internet Agrees.

**Question 12.4: Do you agree that all other providers of fixed geographic call termination should be required to provide this on fair and reasonable terms? If not, please explain why.:**

Zen Internet Agrees.

**Question 12.5: Do you agree that it would be disproportionate to require all other providers of fixed geographic call termination to notify charges? If not, please explain why.:**

Zen Internet Agrees.

**Question 13.1: Do you agree that Ofcom should impose an obligation on BT to provide WLR products in the wholesale analogue, ISDN2 and ISDN30 exchange lines markets? If not, please explain why.:**

Zen Internet Agree. However, the same obligation should also be placed on KCOM in the Hull area.

**Question 13.2: Do you agree that the maturity of the WLR products plus BT's obligations under its Undertakings means that Ofcom does not need to impose an obligation on BT to comply with a functional specification for ISDN2 and ISDN30 WLR products? If not, please explain why.:**

Zen Internet Agrees.

**Question 13.3: Is it appropriate for the pricing of value-added features to be subject to a basis of charges obligation? Do you think Openreach would have the correct incentives to develop new features in a regime where these may become subject to basis of charges obligations?:**

Zen Internet Agree. Openreach will be forced to develop services in line with market requirements.

**Question 14.1: Do you agree that Ofcom should impose an obligation on BT and KCOM to provide CPS? If not, please explain why.:**

Zen Internet Agree.

**Question 14.2: Do you agree that Ofcom does not need to impose an obligation on BT and KCOM to comply with a functional specification for CPS? If not, please explain why.:**

Zen Internet Agree. However, there should be a requirement on KCOM to provide a CPS facility where WLR is in place of which is and obligation on BT.

This would also mean that KCOM could also compete to provide CPS to CP's and other retailers offering services within the Hull area whom are currently using IDA services from other CP's.

**Question 14.3: Do you agree that Ofcom should impose an obligation on BT and KCOM to provide carrier selection (Indirect Access)? If not, please explain why.:**

Zen Internet Agrees.

**Question 15.1: Do you agree that Ofcom should impose an obligation on BT in relation to NTS call origination? If not, please explain why.:**

Zen Internet Agrees.

**Question 16.1: Do you agree that Ofcom should impose charge controls on BT in wholesale analogue exchange lines, wholesale call origination, wholesale fixed geographic call termination, interconnection circuits, PPP and the NTS retail uplift charge? If not, please explain why.:**

Zen Internet Agrees.

**Question 16.2: Do you agree that it would be disproportionate to impose charge controls on KCOM? If not, please explain why.:**

No. Zen believe that KCOM in the Hull area is not sufficiently regulated and strongly believes that regulation in the Hull market is "sleeping" and cites Ofcoms allowance of illegal

"tying" to persist in the market for lines and calls where it has found KCOM to possess SMP in both retail markets under UK Competition legislation.

**Question 17.1: Do you agree that, based on BT's reported returns, Ofcom should impose additional obligations on BT in relation to wholesale ISDN30 exchange lines? If not, please explain why.:**

Zen Internet Agrees.

**Question 17.2: Would a cost orientation obligation be sufficient to address the concerns raised by Ofcom in relation to BT's returns?:**

Zen Internet Agrees.

**Question 17.3: Would a charge control be a proportionate response to the concerns raised by Ofcom in relation to BT's returns?:**

Zen Internet Agrees.

**Question 18.1: Do you agree that Ofcom should revoke the obligation on BT to provide FRIACO? If not, please explain why.:**

Zen Internet Agrees.

**Question 18.2: Do you agree that Ofcom should revoke the direction requiring BT to provide local-tandem transit and inter-tandem transit for Indirect Access traffic? If not, please explain why.:**

Zen Internet Agrees.

**Question 18.3: Do you agree that Ofcom should revoke the direction relating to BT's credit vetting supplemental agreement? If not, please explain why.:**

Zen Internet Agrees.