**Mr John Walters**

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| **Title:** | *Mr* |
| **Forename:** | *John* |
| **Surname:** | *Walters* |
| **Representing:** | *Self* |
| **Organisation (if applicable):** | |
| **Email:** | *[Removed]* |
| **What do you want Ofcom to keep confidential?** | *Keep nothing confidential* |
| **If you want part of your response kept confidential, which parts?** | |
| **Ofcom may publish a response summary** | *Yes* |
| **I confirm that I have read the declaration** | *Yes* |
| **Ofcom should only publish this response after the consultation has ended** | *You may publish my response on receipt* |

**Question 1: Do respondents have any comments, additional to those made in their responses to the November consultation, on Ofcom's approach and conclusions on market definition as set out in Section 3 of this document?**

**Question 2: Do respondents have any comments, additional to those made in their responses to the November consultation, on Ofcom's proposed market power findings for the Hull area, Market 1 or Market 2?**

**Question 3: Do respondents agree with the approach set out by Ofcom for its market power assessment in Market 3 and its conclusion that there is no-SMP?**

**Question 4: Do respondents have any comments, additional to those made in their response to the November consultation, on Ofcom's proposed regulatory remedies for the Hull area Market 1 or Market 2?**

**Question 5: Do respondents agree with Ofcom's proposals in relation to providing affected parties with a period of notice**

**prior to the removal of certain SMP services conditions in Market 3? In particular do respondents agree with the proposed notice period and the proposed SMP service conditions to which the notice period applies?**

**Additional comments**

Forgive me for lumping my comments together under 'additional comments', but I believe they are applicable to all 4 Markets as you define them and also indicate EITHER continuing SMP by BT OR a 'refusal to compete' that is against consumer interest by providers.

CURRENT & FUTURE BROADBAND CUSTOMER REQUIREMENTS

The UK market has developed in such a way that places an unusual dependence on Asymetric DSL. In the past this has been less important, but now the internet has developed in such a way that substantial content is distributed using p2p technology and where IP-phone, self-broadcasting and UGC generally places greater emphasis on UPload rather than download speeds, this dependence has been highlighted.

Examples of UGC include sites such as YouTube, while the online delivery systems of the BBC (iPlayer), ITV, Channel4 and Sky all rely on p2p technology. Together with traditional systems such as BitTorrent, estimates put the proportion of net activity which is p2p now to be the overwhelming majority.

PREFERENCE FOR PROVISION BY ISPs AND THEIR NON-COMPETE BEHAVIOUR

However, providers regard UPloading net activity to be a far less potentially lucrative use of bandwidth than DOWNload activity. Nevertheless, I take it as read that as a regulator you would not regard it as acceptable for Providers to dictate to Consumers what use they put their purchased net connections to! Nor that they may behave in such a way as to attempt such a dictation. True competition SHOULD be the way by which such a dictat can be avoided: if one provider attempts it, they should lose out to others willing to provide what consumers want.

The evidence points to this specifically not happening and that this is

being accomplished in part through deceiving consumers about the nature of UK broadband connections. It is a positive development that questions are now being asked about whether providers should be allowed to advertise connections of 2Mbits when real-life speeds are 3/4 of that and 8Mbits when they are less than 1/2 of that. However, the fact that these quoted speeds are ONLY download speeds while UPload speeds of just 1/4 Mbits (256 Kbits) are totally hidden is little short of a scandal.

Even with the large providers, actually discovering what the UPload speed is can be extremely difficult - not only are these speeds not advertised along with the faster download speeds, they are usually positively hidden. This is unacceptable because it denies consumers fundamental knowledge about the product they are buying. Most consumers will not even appreciate that in one direction, the speed of their connection may be just 1/32 of what they think they are paying for. But it also amounts to a non-compete agreement by the providers which eliminates the need for them to improve Upload speeds for consumers.

While there are some technological issues in the case of ADSL (see below), that this is largely an anti-competitive business decision by providers is most clearly illustrated by Virgin's cable product: there are no technical issues which require a differential up/down speed here and outside the UK consumers commonly get the same speed in both directions, however because of the non-competitive environment in the UK Virgin is able to offer a download speed of 20Mbits while capping upload speed at just 768Kbits - under a twenty-fifth of the headline 'broadband speed'. Not only is this anti-competitive agreement prejudicial against consumer interests, it will also damage the UK as a whole since other markets are not being held back in this way.

## TECHNICAL ISSUES

The main, though wholly disingenuous, response to this issue by providers is liable to concern the actual technological restrictions of ADSL (although as I indicate above with the Virgin XL Cable Service, unless this issue is tackled NOW, even as the UK develops faster technology in the future, providers will still attempt to evade offering UK consumers the Upload speeds that are enjoyed even now outside the UK). UK providers are currently capping ADSL Upload speeds universally at 256Kbits. The technical limit on the current ADSL

product implemented by BT is 732Kbits; so Upload speeds are being artificially restricted to around 1/3 of what they should be.

What I do not know is whether BT is limiting the product it wholesales, or whether this is being done by the companies that then retail the BT product to consumers.

In addition, even the 732Kbits Upload speed is NOT the technical limit for the UK copper-wire infrastructure. BT have equipped several hundred exchanges with DSL equipment capable of 2Mbits up and down - and this is no more expensive to provide than the ADSL technology. However, BT adopted a business plan whereby this would be an extremely expensive product to end-users - effectively limiting it to businesses only (a restrictive and anti-competitive approach which, again, it should not have been permitted to adopt). Due to the predictable lack of take-up at BT's prohibitive prices for this product, roll-out of the DSL equipment has been largely halted - denying the UK the high-speed 2Mbits up/down network enjoyed by consumers elsewhere, and further stultifying the broadband marketplace.

RECOMMENDATIONS

1. Providers MUST advertise the UPload speed of their connections with the same prominence of their DOWNload speeds.

2. If BT is responsible for capping its 732KBits Upload capable ADSL products at 256Kbits, it must be instructed not to do so and to make available the full 732KBits Upstream capacity to resellers.

3. Further investigations should be made as to how a proper market in affordable high-speed (2Mbits+) Upstream broadband across copper-wire can be developed for home users in the UK, beginning with a look at the equipment already installed for that purpose by BT.