

# Changes to BT & KCOM's Regulatory & Financial Reporting 2010/11 Update

UKCTA Response to Ofcom

Submitted to Ofcom: 31<sup>st</sup> March 2011

UKCTA is a trade association promoting the interests of competitive fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the interests of its members to Ofcom and the Government. Details of membership of UKCTA can be found at [www.ukcta.com](http://www.ukcta.com).

UKCTA welcomes this regulatory accounting consultation. A reliable and transparent accounting regime is a prerequisite for a robust and accountable regulatory regime which is able to effectively remedy instances of market failure and combat market power. Without detailed regulatory accounting output we'd have no way to ascertain if BT had met its regulatory obligations in relation to cost orientation or charge control compliance. This information is needed more than ever, with BT's regulatory accounting output increasingly used to underpin regulatory decision making. Ofcom needs to take steps to create the right kind of culture around the preparation of the accounts. It is vital that cost allocations are made using transparent and objective criteria that are designed to align with regulatory objectives and aren't influenced by the needs of the BT business.

The 2008 restatement and the decision to revalue the asset base in 2009/10 underlines the need for a drains up review of the entire regime. If confidence is to be maintained we need to see some real reforms to improve the quality of the output produced to increase certainty, and remove the opportunity for bias. Only when this is achieved will stakeholders be able take advantage of the stability to the market to drive investment and benefit end consumers.

The remainder of this response focuses on the issues raised by Ofcom in the current consultation.

## **1. Review of Conveyance & Single Transit**

The proposed changes around Single Transit and Local to Tandem conveyance reflect the removal and modification to the SMP remedies that have already been consulted upon. In the case of call conveyance there are significant common costs between the various products/services and some element of compulsory purchase still occurs, with CPs still

required to buy Local to Tandem Conveyance to some BT switches, as interconnection isn't available and Number portability charges are also based in part on these costs. Ofcom must ensure that BT's common costs are fairly and appropriately shared between products so that BT isn't in a position to favour its own business at the expense of its UKCTA members. This would have an adverse impact on consumers.

## **2. NTS Retail and PRS Bad Debt Surcharge Reporting**

UKCTA members fully support Ofcom's proposal to require BT to produce Additional Financial Information (AFI) regarding the services controlled by the NTS Retail Uplift Charge and PRS Bad Debt Surcharge. The AFI requirement is entirely proportionate and long overdue and may help us avoid the type of protracted dispute we have seen over the past 18 months where BT has sought to impose a PRS Bad Debt surcharge on industry, only to have an Ofcom directed audit uncover errors which resulted in the surcharge being revised significantly.

The uncertainty caused and the costs involved for both Ofcom and UKCTA members make the production of this AFI information justifiable.

## **3. Disclosure of AISBO Services**

UKCTA supports any proposals to increase transparency within this growing and important market. With increasing market demand and an ongoing charge control remedy it is important to provide UKCTA members and other stakeholders with more granular AISBO Regulatory Accounting data.

While we agree that it is entirely reasonable to consolidate low revenue AISBO items, we don't think the decision to consolidate or report separately should be viewed in simplistic revenue terms alone. A more practical approach is required, one that considers not only current revenue, but how that revenue is expected to change over the years ahead. In cases where a product is expected to grow strongly it should be reported separately.

As the AISBO market matures we are seeing BT launch a range of new or updated/rebadged products. It is important that BT is not able to circumvent its regulatory reporting obligations by simply changing product names or dissecting existing products to fall below the materiality

threshold. Until such time as we have a stable product set it would seem sensible to report revenue and volumes for growth products, even if those products are starting from a relatively low revenue base.

While UKCTA members are willing to consent to consolidated reporting, in cases where it is sensible to do so, we must voice our opposition to any proposals to suppress the connection volume information on the Ethernet Backhaul Direct (EBD) product. This is an example of where Ofcom must act pragmatically in order to preserve the public interest. EBD is an essential building block to enable competitive supply downstream and it is expected to grow extensively in the years ahead, meeting demand for both new supply and as a direct replacement for legacy services. It is essential for UKCTA members to have access to detailed cost information, even if the volumes are not particularly significant in the early years. In the early years of reporting it would be acceptable to consolidate the information across all bandwidths, separating them by bandwidth only when volumes grew to justify it.

UKCTA members urge Ofcom to require BT to report on internal use of EBD. To deny UKCTA members who purchase the product this level detail will undermine transparency in the market, making it easier for BT to potentially discriminate against external supply and avoid detection. A key aspect of the current regime is the ability of stakeholders to raise concerns they may have based on the information available. Indeed the recent PPC Cost Orientation dispute highlights the important role that stakeholders have in helping to police regulatory compliance. BT's internal consumption is an important aspect of the market and to exclude it from reporting would be a significant error of judgement.

In the case of Ethernet Access Direct (EAD) UKCTA members also believe that demand for this product is likely to grown substantially and it would therefore be appropriate to include a bandwidth breakdown within the accounts. As a minimum we would ask that 10Mbit/s, 100Mbit/s and 1G product categories are shown separately, with a separate breakout for Local Access where it is supplied. A reporting requirement wouldn't place a disproportionate burden on BT and not including it would hampers effective scrutiny of costs by stakeholders.

UKCTA is happy with Ofcom's proposals to cease reporting for the BNS product due to the stage in the product lifecycle and the future expected drop in volumes.

#### **4. Wholesale Broadband Access Market Review**

In the case of the WBA market UKCTA recognises that Ofcom's proposals are merely implementing the change in SMP remedies previously consulted upon. Where a wider market has been partitioned into competitive and non-competitive parts which share a degree of common costs we are keen to get an assurance that the competitive products will bear a fair and proportionate share of the common costs and that an undue cost burden does not fall on the regulated product set.

#### **5. Presentational Changes**

UKCTA welcomes any move to improve the format of the accounts to increase usability; however this should not be achieved at the expense of removing useful and relevant information. Ofcom's proposal to delete internal and external sales information at a service level is therefore unwelcome and we ask Ofcom to rethink this proposal. We warmly welcome Ofcom's proposal to enhance reporting for charge control compliance, believing it to be both proportionate and necessary as it is unlikely to place a significant burden upon BT.

**- END -**