



Internet Telephony Services Providers' Association

ITSPA response to Ofcom Consultation on Delivering a more independent Openreach

Introduction

The Internet Telephony Services Providers' Association ("ITSPA") represents over 90 UK businesses involved with the supply of next generation communication services over data networks to industry and residential customers within the UK. Our traditional core members are VoIP providers. ITSPA pays close attention to both market and regulatory framework developments on a worldwide basis in order to ensure that the UK internet telephony industry is as competitive as it can be within both national and international markets.

Please note that certain aspects of the ITSPA response may not necessarily be supported by all ITSPA members. Individual members may respond separately to this consultation where a position differs. However, the ITSPA Council is confident that this response reflects the views of the overwhelming majority of ITSPA members.

A full list of ITSPA members can be found at <http://www.itspa.org.uk/>.

Response

ITSPA's support for legal separation, at least as an intermediate step, as opposed to full structural separation, has long been made clear to Ofcom and we have publicly welcomed the steps several times. However, the most recent developments, including removing BT from its undertakings and replacing these with commitments, have caused concern amongst our members that the policy of legal separation will not be introduced in a robust or effective way.

A significant cause for concern amongst our members is the lack of public scrutiny that has been afforded to BT's commitments and also the discrepancies between these and the policy position previously outlined by Ofcom. A notable example of this is the commitment related to the branding of the legally separate Openreach. This does not prevent the company from using BT images or marques but just words – a position which conflicts with Ofcom's previously stated policy.

Furthermore, Ofcom has not provided adequate explanations as to why some of the proposed commitments do not go as far as the policy position that was previously set out. ITSPA would expect a coherent explanation to be provided by Ofcom on such shifts in position.

A further issue which has caused concern amongst ITSPA members is the proposal to remove the underpinning of the regime by the Enterprise Act 2002 and not replace it with any similar statutory underpinning. Additionally, the proposals enable BT to terminate the Commitments on 12 months' notice and we note that there is a lack of clarity over whether Ofcom would be able to replace the Commitments with an appropriate form of regulation at such short notice.



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To conclude, ITSPA is disappointed by Ofcom's proposals to remove BT from its undertakings and failure to adequately consult on the regulatory regime which will be introduced. ITSPA believes that these developments may jeopardise the policy to legally separate Openreach from BT and Ofcom's desire to see a competitive and flourishing market. ITSPA therefore calls on Ofcom to abandon its proposals to remove BT from its undertakings and urges the regulator to carry out a formal and thorough consultation on BT's commitments.