

Westminster eForum conference 28 June 2018

Priorities for telecommunications infrastructure in the UK - investment models, the regulatory framework and delivering fibre to the home

INTRODUCTION

Thank you to the Westminster eForum for inviting me.

The world seems a little topsy turvy at the moment. It is June in the UK and we seem to have a summer. In the World Cup, England is playing like Germany and Germany is playing like England...but tonight order may be restored...who knows

What we do know is that we are on the brink of hearing what government thinks about delivering high quality connectivity in the UK (following the Future Telecoms Infrastructure Review)

So it's a great moment to take stock and read the runes a little – perhaps with a bit of help from DCMS who will be joining later.

A PERFECTLY TIMED REVIEW

The DCMS call for evidence was perfectly timed I thought.

Why? Because it is right that policy makers should grapple with the big questions:

...what do we want by way of world class digital connectivity and – importantly – who should pay and over what time period?

But also because it put on the table some fundamental questions which needed to be scrubbed off and re-examined.

Questions about demand, network competition, asset duplication and risk... the “hydraulics” (if you like) of fixed and mobile infrastructure.

But, when you lift the bonnet, you find complexity (particularly in fixed markets)

- there is infrastructure competition but also market power
- there are national markets, but also a lot of local variation;
- the economics of asset duplication are changing; and
- decent broadband should absolutely be available to all; but enhanced services are more discretionary purchases

These issues are not new but they did not previously create the fundamental tensions that they do today.

Yes - Openreach has faced infrastructure competition from Virgin Media...

... but Openreach has still been found (by Ofcom) to have market power in national markets (at least the residential fixed access markets).

And when more competition from network rivals seemed remote...

...then regulation of Openreach to mimic the effects of infrastructure competition, and drive vigorous downstream competition made sense.....

...as well as regulation to ensure appropriate degrees of separation within BT.

Yes – there have been demand and technology risks in past

...but these have been notionally addressed through nuances in the way that market power is remedied in order to leave some commercial flexibility for risks to be managed...

THE FUTURE WILL BE VERY DIFFERENT

The future strikes me as being different in every respect...

- There are much greater risks...the demand and supply side of FTTP investment is uncertain in many different ways. Particularly for scale, wholesale operators like Openreach.
- There will be convergence....between market segments and between competing access technologies.
- There will be more infrastructure competition. But only in some areas... so we have greater universality and fairness issues

[pause]

We can watch how all this unfolds and tweak the regulatory and policy framework when things become clearer

But decisions about investment are being made now ...so a framework and a direction of travel needs to be established now...(precisely what I'm hoping the review conclusions will help provide)

...at least so that investors can see whether they are bearing market risk (in simple terms, loss of customers to better/cheaper rivals or technologies) or regulatory risk...rather than the strange combination we have now

Risk sharing (between infrastructure providers and CPs) is needed either way...but in one world it can be commercially led....and in the other the rules for risk sharing need to be part of the regulatory construct

So let's look at the risks in a bit more detail.

RISK SHARING

The risks going forward are orders of magnitude different to the overlay investments of the past.

Take up and willingness to pay, in particular, are very uncertain.

Now... because customers like their attractively priced superfast products (even more so when WLA price reductions filter through).

In the future... because they might like attractively priced wireless products.

Investment costs are high – tens of billions for a scale deployment.

We will learn more as we deploy – but laying fibre to the premise involves intense civil engineering activity and it takes time

This is not special pleading, I'm sure all the fibre investors would agree that the case has long pay backs and is not for the faint hearted

Risks need to be addressed in order to unlock investor support, and the market can potentially play a greater role than in the past in allocating those risks.

[pause]

If the large wholesale customers of Openreach have some credible alternatives – or they can create them – then access to new technologies and pricing can be left to commercial negotiation.

Regulation doesn't need to micro-manage these situations, ...in fact it's a very poor substitute for commercial arrangements in a fast paced market where market players are testing new things, and bringing them to their customers

[pause]

I do understand how this looks: "BT calls for de-regulation" is perhaps a predictable headline.

Plus it may not look like CPs hold many cards from where we stand now – altnets being small and Virgin Media is not a wholesaler.

But the logic of putting duct and pole access front and centre in Ofcom's suite of remedies (which it has)... is that Ofcom does not envisage Openreach holding all the cards over activities downstream of duct...

These activities are (in the language of economics) deemed to be contestable.

If so, CPs have leverage. If so, regulation can be rolled back to some extent....

And let's be clear, this would act as an enormous stimulant to investment.

Because if regulation no longer offers up on a plate cheap access to BT's network...

...make no mistake, alternatives and risk sharing arrangements, which support investment, will be actively considered.

We call this a "market-driven" market model.

In simple terms, competitive pressure allows Ofcom to pull back from extensive wholesale access regulation and focus instead on duct and pole access

...much as you see in other European countries like Spain and Portugal..which have a lot of FTTP

[pause]

REGULATORY ENABLERS

But we are in a world of regulation right now and even in the future, regulation of Openreach is likely to continue in some areas

We ask, therefore, for some regulatory and policy support to help manage certain risks:

[pause]

...take demand risk....A managed migration from legacy to new platforms within a set timeframe can materially help to bring forward demand. And allow customers to benefit from enhanced services earlier.

...take willingness to pay...Openreach does not have a free reign when it comes to pricing. Far from it....market prices are constrained by Virgin Media ...by far the largest ultrafast operator.

But we would like the regulatory constraints on our ability to drive higher revenue on full fibre lines to be eased...

And this can be combined with appropriate protections for those customers who only want basic services or are vulnerable

...when it comes to the fair bet some signals would be helpful as to how Ofcom would apply the framework for FTTP. And a lot of brain power at Ofcom and our side has gone into this of late...so something pragmatic is achievable

And barriers busting goes without saying – I'm sure my fellow speakers will have more to say on wayleaves and planning issues.

And ideally we would like a system for business rates which is more predictable and more consistent across the industry.

This is an area where the industry speaks with one voice – fixed and mobile operators alike

UNIVERSALITY

Perhaps a word or two about universality...

There are undoubtedly benefits associated with increased infrastructure competition...innovation and greater choice for example

But it is less clear that this market model will serve all customers....rather than those lucky enough to be fought over in densely populated areas

Competition is competition...it will play out and we don't subscribe to the views of some that areas can be – in some way - parcelled up between infrastructure providers

But we do need to have a solution for less competitive areas

And this is where we think BT and Openreach – with the right regulatory enablers – might be able to use its scale and expertise, to deploy in areas which are commercial (but will not support multiple operators).

The enablers I've described are essential and there is the additional issue of how to reflect early investment in the

regulatory treatment of legacy assets..... and how to promote rapid migration through appropriate price signals.

But a regulatory framework aligned to the objective of full fibre investment is a potential solution for this areas.

REMOTE AREAS

That leaves the areas which are not commercial.

FTTP in very remote areas will require funding (as has superfast coverage).

The challenge will be doing this fairly (not leaving the most remote until last again); but keeping the funding requirement within reasonable bounds.

...and – most importantly – coordinating with other initiatives (USO and BDUK in particular) to avoid fixing with one initiative and then fixing again a short time later.

We are giving this careful thought as we care very much about decent broadband for all and about decent coverage

And we don't want to miss an opportunity to think about this in a joined up manner

CONCLUSIONS

So we look forward to the conclusion of the review

Whichever model is preferred, risks needs to be shared more widely than has occurred in the past.

An enduring framework is required to signal whether this will commercially-led or mediated through regulation...and the models and rules which will apply in different parts of the country

We think that more can be left to the market, a DPA-only regime would really drive incentives to support investment...

...but there is also a place for enablers (delivered through policy and regulation) which can “turbo charge” investment...particularly on switchover; greater price flexibility and barrier busting

We hope that that the signals from government and from Ofcom in the coming weeks will be helpful in unlocking support for investment (by BT and other investors).

And I also hope that I’m wrong about England’s chances against Belgium...

Thank you