

# Commitments Update

BT's progress report to Ofcom's Openreach Monitoring Unit

October 2021

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## Contents

<b>Foreword</b>	<b>3</b>
<b>Executive summary</b>	<b>4</b>
<b>1. Performance against Ofcom's aims</b>	<b>5</b>
1.1 The UK is on track for truly widespread full fibre availability	5
1.2 Decent broadband for all is substantially delivered	5
1.3 Quality of Service performance has materially improved since DCR	6
1.4 Structures, people and processes, and culture are mature	6
1.5 Openreach strategic independence is shown in its fibre investment	7
1.6 Equal treatment and industry engagement are core at Openreach	7
1.7 Our compliance monitoring has not found significant issues	8
1.8 We expect Ofcom's reporting dials will reflect positive progress	9
<b>2. Keeping the Commitments relevant</b>	<b>10</b>
<b>3. Future monitoring and reporting</b>	<b>11</b>
3.1 The Commitments must continue evolving as competition grows	11
3.2 Ofcom should be clear on success measures for different tools	11

## Foreword



The last year has been one of immense challenge for the UK, with the systemic importance of digital connectivity in everything from work and education, to health and emergency services, underlined like never before.

The roles that BT and Openreach play are now critical to the smooth functioning of society and the economy in this country and beyond.

The effective working of our Commitments has been clear, with strong cooperation across BT Group to protect the independence of Openreach, strengthen market competition and to put the customer first in all we do. It is precisely this collaborative spirit that drives us towards our goal of building full fibre broadband to 25 million premises by the end of 2026.

The Commitments provide the framework to ensure Openreach remains strategically and operationally independent; observes principles of equal treatment; protects sensitive information; and supports competition in the market. However, they are nothing without BT's and Openreach's people: their culture and day-to-day actions are the real embodiment of the Commitments.

Since our last report, new units – Networks and Digital – have been created to accelerate our transformation agenda. Throughout these changes we have engaged our new senior leaders on our obligations under the Commitments.

As the UK emerges from one of the most challenging periods in its modern history, digital connectivity is an urgent and universal need. In this context, we are well on the way to delivering the original objectives of Ofcom's 2015 Digital Communications Review (DCR).

We have created a strong, mature and more independent Openreach, now building the fibre network this country needs at unparalleled speed, cost and quality, and we are working in partnership with Ofcom and the UK Government to deliver universal broadband.

We have much work to do but we are making strong and rapid progress.

A handwritten signature in black ink that reads "Philip Jansen". The signature is written in a cursive, flowing style.

**Philip Jansen**  
**BT Group Chief Executive**  
**October 2021**

## Executive summary

We remain as committed as we have ever been to the Commitments, Openreach's greater independence, and more broadly delivery of the best outcomes for customers and the industry.

The Commitments are now well established, and meeting our shared goals with Ofcom for:

- widespread fibre, with Openreach's plan to reach 25m premises with full fibre by the end of 2026;
- decent broadband for all including broadband Universal Service Obligation (USO) build and BT's commercial Fixed Wireless Access (FWA) service;
- embedded and mature Commitments structure, processes and culture, reflected as a core element of our "[Being Trusted](#)" ethics code;
- clear Openreach strategic independence, but with appropriate parental oversight, tracked and evidenced by both Openreach and BT Group throughout the fibre investment case; and
- equal treatment and listening to Openreach customers, as seen in Openreach's Physical Infrastructure Access (PIA) CEO Roundtables

Further, compliance monitoring has shown no significant emerging issues – although this remains a strong focus area for the BTCC.

The Commitments framework has been evolving through updating the language and definitions, and exemptions for deregulation. We communicated these clearly and transparently to Ofcom and industry as they occurred.

Looking forwards, it is important the Commitments are considered in their wider environment. They will have to continue evolving to remain relevant and not delay progress in delivering great services to Openreach's wholesale, and the UK's retail, customers. We have been working hard to keep the Commitments front of mind and fit for purpose, through organisational change, and the challenges of Covid-19.

We support continued monitoring of the Commitments and outcomes. Ofcom should continue focussing on customer outcomes and how the market is working, distinguishing between this and claims driven by commercial interests. We think the UK is in a positive position relating to the original Commitments concerns about downstream competitive discrimination. The focus of Openreach monitoring should reflect this situation.

Commitments monitoring should not be confused with wider Significant Market Power (SMP) monitoring, or with bumps in the road of implementing Ofcom's strategy for network competition. These two regulatory tool-sets are complementary, but the specific goals, challenges and policy implications are quite fundamentally different for each.

Overall, the Commitments have been working well, with all of Ofcom's original Commitments outcomes, as assessed by Ofcom's performance indicators, delivered or in delivery (for example, fibre build). We would expect to see this reflected in Ofcom's assessment and the 'reporting dials' in the forthcoming report.

# 1. Performance against Ofcom's aims

## **Openreach's legal separation has delivered on Ofcom's aims set out in the Digital Communications Review**

In 2016, Ofcom set out its concerns competition that BT Group had the incentive and ability to discriminate among Openreach customers. To address these concerns, BT offered a set of Commitments resulting in the legal separation and greater independence of Openreach from wider BT Group.

The Commitments are now a well-established and mature part of everyday life in BT and Openreach. We have moved from embedding to maintaining the Commitments culture and spirit throughout the organisation. This is consistent with our wider "Being Trusted" ethics code to make us the most trusted connector of people, devices and machines by 2030.

The Openreach Board Audit Risk & Compliance Committee (OBARCC) has not had to refer issues or concerns about the way the governance framework is working and about whether BT people are keeping the Commitments front of mind to the BTCC since mid-2020. Commitments maturity is also reflected in very few potential Commitments breaches and non-conformances since our last Report.

When Ofcom accepted BT's Commitments, it set out a range of outcomes it would like to see associated with Openreach's performance. Not all these related to greater strategic and operational independence for Openreach, but Ofcom considered them useful progress indicators. Over the last four years, material progress has been made on all these aims.

### **1.1 The UK is on track for truly widespread full fibre availability**

This year we have made significant progress delivering the future proofed fibre infrastructure the UK needs. We have announced build for 25m fibre premises by 2026, including 3.2m in harder to reach rural areas. This infrastructure build is now well underway: Openreach has reached more than 5m premises, adding 43,000 new premises every week.

As intended by the Commitments Openreach's independence is demonstrated in its leadership on investment and commercial decisions to maximum coverage, drive take-up and end customer benefits.

### **1.2 Decent broadband for all is substantially delivered**

Actions across BT Group have significantly increased decent broadband availability, working collaboratively and consistently with the Commitments across Openreach and BT Consumer. Ofcom estimates the availability of FWA services means that over 500k premises can get decent broadband via FWA from BT or other FWA providers where a fixed service isn't available, and we have made all customers without decent broadband aware of the broadband USO.

In the first year of the broadband USO scheme, nearly 100,000 customers enquired about the services. As at March 2021, we were actively building connections covering 5,000 homes. Since our last report, we have also resolved differences with Ofcom on the broadband USO delivery model.

Today, BT estimates fewer than 100,000 homes cannot today get decent broadband. Government recognises the majority these are harder to reach premises, and we look forward to working together in finding solutions outside the broadband USO to better connect these final homes.

### **1.3 Quality of Service performance has materially improved since DCR**

Openreach kept the UK connected despite unprecedented challenges and disruption caused by Covid-19. There were service impacts, particularly in early stages of the pandemic, when lockdowns meant Openreach engineers could not access end customer sites and so deliver services end to end. Despite these challenges, Openreach performed very well against [Ofcom's Quality of Service \(QoS\) standards](#):

- For larger business connectivity QoS standards, Openreach exceeded 4 out of 5 of the standards in FY 2020/21 and delivered best performance levels in relation to 3 of the standards – mean time to provide (A), repair (B) and date certainty (C).
- Openreach is continuing to deliver good levels of service in 2021/22 and is currently exceeding 5 out of 5 of the larger business connectivity QoS standards.
- For copper-based/residential products, whilst some QoS standards were not achieved in FY 2020/21 due to pandemic disruption, Openreach still managed to improve on the previous year (2019/20) and delivered its best on time service across provision and repair.
- Overall performance in the start of FY 2021/22 has been strong, so far exceeding all the WFTMR QoS standard levels set by Ofcom.

Customer satisfaction also reflects Openreach's QoS performance. For example, we have seen the best ever customer satisfaction performance on business leased lines: the 12-month rolling average net promoter score ('NPS') was 'outstanding' at +64.5 (end of March 2021). 2020/21 saw a positive improvement in customer perceptions of Openreach for copper and fibre despite unprecedented volumes and restrictions in accessing customer premises due to Covid-19.

As we roll out FTTP, we've also seen service performance continue to improve as it becomes a more mature product. We have successfully navigated through the pandemic, with on-time delivery above 90% as of September 2021.

### **1.4 Structures, people and processes, and culture are mature**

We have embedded and made sustainable enduring Commitments principles across structures, people and processes, and culture in BT Group. Examples of activity to sustain the Commitments culture include:

- introducing our refreshed "Being Trusted" ethics code, with the Commitments an underpinning element of this code;
- refreshing our Guidance Notes giving colleagues and executives working across BT – Openreach boundaries the right guidance on key areas such as legal, policy and commercial pricing processes;
- we have launched "Azure Information Protection" allowing confidentiality markings to be added to emails and documents, to help prevent inadvertent sharing of Openreach Commercial Information (CI) or Customer Confidential Information (CCI);

- continued Commitments training for all colleagues. Our mandatory training, “Living up to Our Commitments” was refreshed in late 2020, bringing it into line with ‘in-life operation’ as opposed to ‘implementation’; and
- targeted further training and messaging– with targeted, tailored sessions for senior leaders throughout the organisation.

We want to be trusted, not only because of our ambition to be the most trusted connector of people, machines and devices, but because it’s the right thing to do. Our approach is reflected in the BT Strategic Framework and our “Being Trusted” code:



The Commitments have also been maintained in our structures through BT’s ongoing transformation as we created two new units – Digital and Networks. The Commitments were a key consideration in our new organisational designs.

We have focused on building awareness and buy-in amongst key new executives and their teams, and helping our leaders build the right relationships with Openreach – in line with a culture of legal separation of Openreach.

### 1.5 Openreach strategic independence is shown in its fibre investment

One of Ofcom’s aims from the DCR was Openreach setting its own strategy within the wider BT Strategic Framework. This framework, launched in July 2020, takes Openreach’s greater independence directly and explicitly into account. The BTCC continues to closely monitor BT’s compliance with the Commitments, and the extent to which DCR objectives are being met including greater strategic and operational independence for Openreach.

The recent fibre investment case is a good example: the Openreach Board acted independently of BT Group, and Group maintained parental oversight only so far as necessary for fiduciary and legal purposes.

Developing the fibre business case and taking the relevant investment decisions required considerable engagement between BT and Openreach. Throughout this process, the Commitments Assurance Office (CAO) worked with Openreach’s Commitments Monitoring Office to review how BT engaged with Openreach. This included a combination of key stakeholder interviews, access to key documents, and observing relevant meetings of the BT Investment Board.

### 1.6 Equal treatment and industry engagement are core at Openreach

A culture of equal treatment has been implemented and is sustained in Openreach. For example, Openreach engaged openly and scaled up PIA, so that other Communications Providers (CPs) can access Openreach infrastructure and information about, for example, wayleaves, to support their infrastructure builds.

Openreach has ensured its PIA portfolio has kept pace with increased customer demand, investing in cutting edge systems to streamline PIA for CPs, and actively developing its services so they are both efficient and easy to use. As of July 2021 Openreach, had 134 CPs established with PIA. In addition, CPs can raise any concerns they have about PIA through six monthly proactive CEO Roundtables, and customers' feedback is taken on board and incorporated into PIA changes being implemented in Openreach.

We do not believe PIA availability is a core barrier or key concern for alternative network operators ("altnets"). For example, the INCA' May 2021 report, [Metrics for the UK Independent Network Sector](#), showed 'Using PIA from Openreach' was towards the bottom of the list of altnet concerns.

As Openreach builds rapidly towards its 25m fibre homes goal, there will inevitably be competitive build by different fibre providers in the same area. This is fundamental to Ofcom's network competition strategy. Openreach continues to observe principles of equal treatment and no undue discrimination in how it makes build decisions. Openreach carefully manages information so competitive build cannot be based on knowledge Openreach may have about its customers' build plans.

The OBARCC has sought multiple assurances and increased disclosure across Openreach's fibre build programmes. The OBARCC found there is strong governance in place. The OBARCC has also received assurances that Openreach is using a fully transparent process to understand its customers' priorities for FTTP rollout.

We are aware of some CP concerns about fibre pricing and discounts set out by Openreach. Openreach continues to engage with its industry stakeholders to ensure that fibre pricing discount arrangements are fair for all players, and support delivering better cost outcomes for end-users. Ofcom has recently concluded it has no concerns on Openreach's most recent fibre pricing.

## **1.7 Our compliance monitoring has not found significant issues**

BT Group compliance and assurance functions have seen a low level of Commitments breaches and non-conformances this year. This is consistent with the level of maturity we now see in the framework across the organisation.

There were 5 trivial breaches and 3 trivial non-conformances with process during the period July 2020 to June 2021. There was one serious breach: acting at pace in the early stages of the pandemic to facilitate home working, BT introduced new Microsoft Teams functionality that inadvertently enabled BT people to have access to some Openreach meeting recordings. No evidence was found of deliberate intent to circumvent the Commitments, and the issue was swiftly identified and addressed.

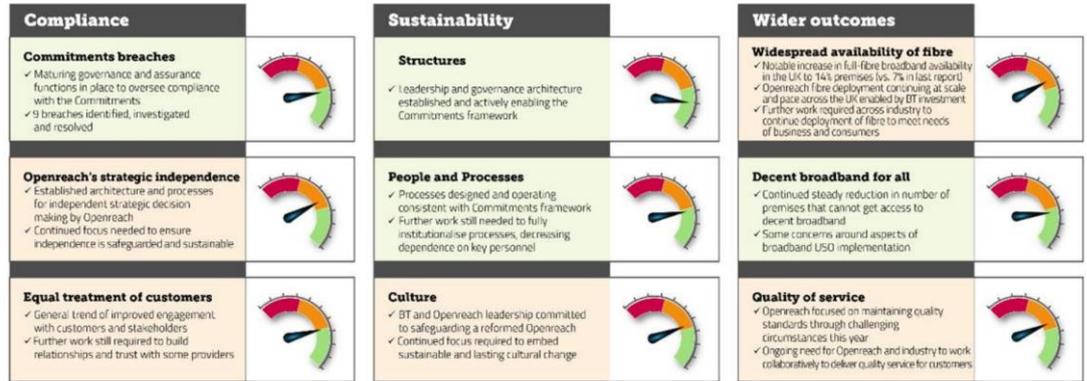
Indications from compliance and assurance teams (including the CAO and Openreach Commitments Monitoring Office, CMO) have been that the Openreach Board is content with current governance and levels of greater strategic and operational independence for Openreach. The BTCC continues to oversee Commitments assurance functions and review any breach reports.

Ofcom, BT Group, and Openreach's monitoring of the Commitments has been focused on the original competition concern related to Openreach governance – namely BT's ability and incentive to influence Openreach in ways that could lead to discrimination against downstream providers. This is distinct from monitoring of BT Group's adherence to significant market power regulation and obligations.

## 1.8 We expect Ofcom’s reporting dials will reflect positive progress

Over recent years, Ofcom has summarised its view of Commitments performance by outcome through a series of progress indicator ‘dials’. Taken together, movements on these indicators have been used to demonstrate how far the Commitments have been delivered. Ofcom’s 2020 report showed stable or positive movement on all these metrics from 2019.

Figure 1: Indicators of Openreach’s performance



Given the evidence outlined in this report, we would expect to see improvements in all of Ofcom’s above dials, reflecting an overall positive year for the Commitments and BT and Openreach’s performance against all outcomes.

## 2. Keeping the Commitments relevant

### **The Commitments have seen several small adaptations over this year to keep them fit for purpose**

To keep the Commitments fit for purpose, we have made several changes since our last report to ensure they reflect the current state and operation of the organisation.

Since the last report, we have implemented minor variations and updates to the Commitments:

- to support our 'Making Finance Brilliant', we updated IT system references in Annexes A – C to reflect simplified financial processes;
- we updated the definition of CI to include 'Network Coverage and Capabilities', so this aligns with the definition of CI in SMP Conditions;
- we amended section 17 to incorporate the suite of guidance provided (guidance notes, online training etc.) and not just the Codes of Practice;
- we updated the list of shared Management Information Systems (MIS) in Annex B of the Commitments; and
- we updated language to bring it in step with the current company structure, for example updating BT Group committee names and references to BT incentive plans.

We also implemented specific exemptions to keep the Commitments in step with environmental priorities and Ofcom deregulation:

- In November 2020, BT and Openreach agreed an exemption so Openreach could include a BT-wide environmental objective in its Scorecard. This was to support of BT's environmental goal of carbon neutrality by 2030.
- In January 2021, BT and Openreach agreed a narrowly focused exemption from the equal treatment commitment to implement deregulation in Ofcom's 2019 Business Connectivity Market Review (BCMR). We engaged Ofcom and wrote to industry about the exemption before proceeding, and it was subsequently [published on the BT website](#).

## 3. Future monitoring and reporting

### **To be effective, Ofcom must be clear on what regulation it is monitoring, and what good looks like for each intervention**

Since our last report, we have continued to deliver on Commitments outcomes and we continue fibre rollout at pace – notwithstanding the extraordinary challenges we have faced since the start of the pandemic.

We have seen the relationship between BT and Openreach working well overall, and even as Covid-19 impacted customer experience and rollout, BT Group did not feel it necessary to exercise step-in rights with regard to Openreach.

#### **3.1 The Commitments must continue evolving as competition grows**

BT Group will need to continue adapting and delivering new products and services to meet our consumers' needs and adjusting to growing competition in the relevant markets. We therefore expect further Commitments updates will be required over time. For example, to support legacy network closure programmes, changes relating to convergent networks, or updating the information management provisions to reflect the use of cloud services.

We will ensure that the Commitments evolve in line with digital transformation, new market dynamics, greater competitive pressure and accelerating altnet build, to remain fit for purpose.

#### **3.2 Ofcom should be clear on success measures for different tools**

In our view the Commitments are on a broadly positive trajectory, with the original DCR Commitments outcomes (summarised in Ofcom's nine-box performance indicators) delivered or in delivery. In future, Ofcom should continue to monitor these nine 'Commitments' outcomes and report on them where they are not being met. Given the Commitments maturity, we think this will require relatively light touch oversight unless outcomes wane.

Given the policy and market focus on competitive network investment, Ofcom may choose to turn its attention to monitoring success measures that reflect the current market context and activities. Importantly, Commitments that looked to address a concern on downstream discrimination may become less relevant to this focus compared to monitoring of significant market power regulations.

Commitments monitoring and reporting should not be confused with SMP regulation monitoring. Ofcom set out three clear areas for the Openreach Monitoring Unit's assessment:

- implementation of the new arrangements;
- compliance with the commitments and new rules; and
- whether the arrangements provide Openreach with the level of independence necessary for it to make its own strategic decisions, and whether it is treating all of its customers equally.

Whilst in part complementary, these different regulatory tools have been set up for different purposes. Effective regulation requires Ofcom and industry being very clear on the purpose of the Commitments (preventing undue discrimination in downstream competition), the wider goals of SMP regulation (e.g. promoting efficient investment through upstream network competition) and the role public policy plays (e.g. extending decent broadband to the very hardest to reach).

There may be wider outcomes Ofcom would like to consider in future relating to BT's regulated activities undertaken by Openreach, including: progress on PIA products, pricing of regulated services, delivery of resilient and reliable high-speed connectivity for all UK residents who want it, quality of service, customer experiences, and consumer fairness. However, outside goals such as equal treatment and greater strategic independence for Openreach, these are not specific to the Commitments but to wider regulation.

The Commitments have provided a robust, appropriate framework for governing the relationship between BT and Openreach, maintaining competition in the market through Openreach treating all their customers equally, and ensuring greater strategic and operational independence for Openreach.

We look forward to working with Openreach, Ofcom and other stakeholders on continuing the future evolution of the Commitments.

