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Dear Steve

### **Review of the wholesale broadband access market**

This response has been prepared on behalf of relevant member groups within the Federation of Communication Services, including our Fixed Service Provider and VoIP groups. FCS is the trade association for the UK communications industry representing 350 companies delivering fixed, mobile and radio products and services subject to regulation by Ofcom. FCS has more than 150 members delivering fixed telephony services including Wholesale Line Rental (WLR), calls packages and broadband including a large number of resellers. A list of our members can be found on the FCS website - [www.fcs.org.uk](http://www.fcs.org.uk)

FCS welcomes this market review by Ofcom as the ongoing rollout of fibre by Openreach (and others) will have a very significant impact on the fixed telecoms marketplace especially with regard to the provision of broadband and services which are provided over broadband connections.

In responding to Ofcom's parallel review of the wholesale local access market we have stressed the continuing importance of the reseller model and we believe that many of the same principles apply in the wholesale broadband market. Our response to this consultation focuses on these issues and in preparing it we have concentrated on setting out a number of general points rather than providing detailed responses to the individual questions.

We agree with Ofcom's analysis of the impact of the wholesale broadband market on customer choice. FCS members provide broadband services to a range of business and residential customers and need to be able to source appropriate wholesale inputs which recognise the needs of all of these clients.

We believe there is a case for considering the business and residential markets to be separate as businesses often require higher levels of quality and reliability for their broadband services,

particularly in the growing VoIP market and it is important to ensure that appropriate wholesale products are available to support service provision in these more specialised retail markets.

There is a clear focus in the current consultation on competition based on LLU. However, we would like to stress the continuing importance of services delivered by resellers in all the markets identified by Ofcom (including Market 3) and the reliance which resellers still have on wholesale services to support service provision.

Resellers, by purchasing from a range of wholesale providers, are able to tailor and bundle services to meet more precisely the needs of their clients. Service provision is closely managed on a day to day basis providing essential support to small businesses whose needs may change rapidly. Consolidated billing, providing charges for all the services provided on a single bill, is seen as a significant benefit by many end-user customers and purchasing from a single source means small businesses have a single point of contact to resolve any issues in what may be a complex multi service solution.

Resellers have demonstrated the ability to adopt new technology rapidly and to innovate in developing new service propositions and business models. The rapid growth and continuing success of WLR demonstrates the success and importance of the reseller sector and the resellers concerned will generally deliver broadband alongside voice as part of a consolidated service. Customers who purchase services from smaller CPs and resellers value the supportive and flexible customer care which they receive and quality of service in this area is vitally important to businesses. In many ways, service is the unique selling proposition for resellers.

However, most LLU providers use their unbundled lines to provide services to their own end-user customers rather than providing wholesale products which are equivalent to those currently provided by BT. There is, consequently, an ongoing reliance on BT to provide the wholesale broadband services required to support resellers. This applies to all the markets identified by Ofcom and in this sense we would suggest that BT still has SMP nationally in all the markets defined in the review (with the exception of the Hull area). Certainly, it is the case that BT is the only wholesaler providing national coverage which in itself confers a degree of market power.

Ofcom discusses the impact of the withdrawal of SMP services conditions in the context of exchanges moving in to Market 3 in paragraphs 5.311 – 5.315 and suggests arrangements to protect the interests of affected CPs who rely on BT. For the reasons set out above, we believe that there is an enduring requirement to protect the interests of reseller CPs in this market as they may not have the opportunity to make alternative arrangements where competitive wholesale products are not available. Ofcom itself notes that in the absence of regulation there is little incentive on the larger CPs to provide such wholesale services.

We also have a concern that relaxation of the requirement to publish prices and BT's ability to offer bespoke products and volume discounts in Market 3 may favour its own downstream divisions (as the larger players in the retail market) making it harder for other resellers to compete at the retail level. Figures provided in the consultation document demonstrate that this is an increasingly profitable area for BT which may, therefore, benefit from regulation to prevent generation of excessive products.

Consequently, we would like to see the continuing provision of regulated wholesale broadband products in all the markets identified in the consultation - and in both the current generation and next generation environments. We believe that this will foster competition both by supporting established resellers and encouraging new entrants.

We do believe that it will be beneficial to develop more passive products for the NGA world in parallel with that above and would hope that some of the CPs who adopt the “next generation” versions of LLU type products will support competition by developing their own alternative wholesale products. However, we are cautious about the likelihood of this happening in the absence of regulation and urge Ofcom to maintain the broad base of remedies outlined in this response to support both infrastructure and reseller based delivery while monitoring the development of the market.

We trust that the comments in this brief response are helpful. Our members would be happy to meet with Ofcom to discuss any of the issues raised in greater detail.

Yours sincerely

A handwritten signature in blue ink that reads "Michael Eagle". The signature is written in a cursive, slightly slanted style.

Michael Eagle  
General Manager