

1st February 2010

Cable&Wireless is one of the world's leading international communications companies. It operates through two standalone business units – Worldwide and CWI. The Worldwide business unit provides enterprise and carrier solutions to the largest users of telecom services across the UK and the globe. With experience of delivering connectivity to 153 countries – and an intention to be the first customer-defined communications service business – the focus is on delivering customers a service experience that is second to none.

We welcome the ERG's focus on the regulated services for the supply of business services. In order for us to meet our customers' high service demands it is critical that we are able to match our own business quality inputs with regulated inputs of equal quality where we require them (and it is uneconomic for us to supply our own).

Cable&Wireless would like to take this opportunity to draw the ERG's attention to the following issues that are directly related to its forthcoming work package. These are key to the availability of quality fit for purpose business services .

Market review procedure

The market analysis procedure within the market review process must place greater emphasis upon the behaviour and requirements of large business users. Where NRAs undertake geographic market segmentation, Cable&Wireless would argue that insufficient regard is given to the fact that products for large business are often purchased over multi-sites whereas residential products are purchased individually in a single location. So whereas there may be competition in some locations and the market is deemed competitive in those locations for residential customers, it does not mean the same geographic boundaries are relevant for large business services.

Later we discuss the manner in which new services tend to be launched with mass market penetration for residential users the foremost goal. Cable&Wireless observes that market analysis is often conducted at a point at which mass market penetration has occurred for residential users. We believe that the market analysis is at risk of being skewed in its findings. This is because appropriate business specific components in addition to the residential service remains/ are unavailable. The result of the geographic segmentation and deregulation of geographies (based on the consumption of residential / SME users) is the closure of the market to offer services for large businesses. The new entrant may be unable to offer a nationwide solution required by the business user and therefore continue to use traditional business service inputs. Or the new entrant may be limited in geographic scope in using the new input

and therefore business users lose out on the potential cost savings had the solution been available nationwide.

Localised / geographic competition for residential / SMEs does not translate into competition for nationally required services. Cable&Wireless disagrees that the prospect for local suppliers to wholesale services (which may or may not include relevant business services) is sufficient to ensure the availability of services for business customers.

Importance of ancillary services

When Regulators designate access services as SMP, it is essential that due consideration (remedy focus) is given to the ancillary services that complement the access service. For example, Regulators must ensure installation options permit out of normal business working hour options, and that time slots can be booked. Fault repair options must be business grade. These types of business centric products options may add additional supply costs. Should this be the case then it is entirely appropriate for these additional costs to be passed on to purchasers. However it remains essential that charges reflect the regulatory remedy for the access service. Regulators must recall that these ancillary services are directly associated with the basic SMP services and in effect part of the SMP service. The regulatory rules that apply to the basic SMP access service such as cost orientation and non discrimination must apply to the associated ancillary service. It is clearly the case that purchasers of basic SMP products must also purchase the ancillary services from the SMP supplier. It is

not possible to purchase the basic SMP service from the SMP supplier and the installation or repair from another provider.

Evolution of new services

In recent years a number of new access services have been launched, specifically Broadband (bitstream), LLU and Next Generation Access. It is evident in each of these product launches that the target user has been the residential user. Communications Providers wishing to use these new services as inputs to business services have struggled to obtain the service wrap – the ancillary services – that transform these products into effective business inputs. The effect of this is that business users across the EU lose out on the potential for these product innovations to radically transform their business and radically reduce their communications costs. Large business users remain steadfastly loyal to historic leased line services because these services do have the ancillary services that business customers require and have come to expect. To some extent market definition becomes a bi-product of the manner in which a new product is designed and offered to the market. We would argue that it is the unavailability of the business components that we seek that has led in recent reviews of wholesale broadband to the conclusion that residential and business users fall within the same market. In our view the markets for LLU, broadband and NGA simply lack the full range of business components that business users desire. Business users are consequently left to purchase services (leased lines) from other markets or trade off their service requirements for the lower price new product (broadband – either bitstream or LLU based). If large business users'

interests were truly catered for distinct business products would emerge in the market.

Narrow approach to market reviews

EU regulation sets out how markets are to be reviewed. Cable&Wireless identifies a problem with this approach. Reviewing product markets in isolation from the wider communications market ignores the actions of users and suppliers in other markets and how behaviour in other markets will or could impact expectations of behaviour in the market under review. For example historically the leased lines market has offered services specifically designed for business users. Businesses have become used to certain installation procedures and repair timescales. LLU potentially offers substitution of low bandwidth leased lines with significantly lower retail prices. Yet LLU remains a product used to provision broadband (suitable for residential and SME users) and voice services. Why is this? Simply the SMP provider – who has SMP in the provision of leased lines and LLU does not want to cannibalise its revenues in leased lines by providing a fit for purpose LLU input for downstream business services. A new entrant that does not have its own established leased line legacy network and legacy revenues clearly has the motivation to attempt to win customers with new innovative solutions incorporating new access options. This then gives rise to the request for products / product enhancements to the basic access product beyond which the SMP operator provides itself. The ERG ought to be considering the motivations of a SMP operator when a refusal or indeed delay to supply such services arises. Such consideration ought to assist the

review of the proportionality of the imposition of a remedy requiring supply of services which they do not presently supply themselves. Cable&Wireless agrees entirely that we need to consider the manner in which remedies can be proportionately applied which at the same time “prevent the SMP players from having absolute control over the pace of downstream innovation and improve underlying conditions for competition”.

For new access technologies (in particular lower cost options) to become useful as business inputs Regulators need to focus on the service requirements of business users when these products are being designed. Surely mass market availability (for residential users) which seems to be the general goal can be achieved with an appropriate measure of consideration as to how the services could be augmented to make it a viable business input too.

Business specific requirements

Business users and their communications providers require the following services listed below in addition to the core access service in order to transform a basic service into a business service. Cable&Wireless recommends that the ERG in conducting its further work adds emphasis to discovering the availability; reasons for non availability of these features.

1. Installation options – out of hours and time defined

2. Repair options – business grade repair timescales for which a 5 hour fix time is regarded as the standard norm.
3. Upgrade options – within product bandwidths (and to other product sets if the access component could allow).
4. Migration / Transfer of service – to allow an alternative provider take over the service without service interruption or reinstallation (should the service configuration allow). In many cases it is desirable for an entire contract to be novated to a new provider, but installation to remain with the original provider in order to:
 - improve contract management,
 - obtain lower price due to new provider having better discount termsAlso in the situation that a new service installation has been agreed with the new provider a novation of the old service can be beneficial.
5. Live access to systems – in order to be able to view progress of an order and up date their own customers appropriately.
6. Diversity of installation – separate routes into a premise to ensure alternative communication services in the event the primary source is affected.