

# To the next half century: business connectivity in the IP age - CMA Anniversary Dinner

## Introduction

Good evening. I was delighted and flattered when Carolyn Kimber invited me to speak to you at this CMA Gala Dinner.

The CMA was born 50 years ago when the General Post Office- then in charge of the nation's communications- was spending the princely sum of £35 million in 1958 to modernise our network. This was accompanied by a major marketing push to encourage people to make more use of the phone than the average of two calls a day that each British adult then made.

How different now: today, the average Briton spends 5 hours a month making fixed calls, an increasing proportion of them via Skype or other VOIP products, plus over 100 minutes a month making mobile calls, plus 50 texts and digital photos, let alone all the emails and downloads via fixed or, increasingly, mobile broadband. It seems we cannot get enough of chatting, snapping, texting, blogging or surfing.

And compare that £35 million spend then by the General Post Office with the 13 thousand million pounds CMA members spent on communications services last year. It is little wonder that the CMA has the salience to Ofcom that it does: you are major consumers of communications services and one of the twin pillars of Ofcom's raison d'être is to serve the consumer interest. But also what you do and how able you are to do it in partnership with the industry and the regulator is a critical underpinning to the success and global competitiveness of the British economy as a whole. So you really are important to us. Your views matter.

In terms of substance, Carolyn suggested that I should touch on next generation networks and access and on Europe; and I will. But Ofcom is also coming to a key junction point in its review of a vitally important input to your activities- what we call business connectivity; or in plain English, leased lines and the stuff around them.

## Business Connectivity

Earlier this year we conducted research into business connectivity to help inform the formal market review we are currently conducting and on which we will publish our conclusions very shortly. I will show a bit of ankle on those this evening.

What you told us in our research was that most companies had already made the transition from analogue to digital leased lines. You also told us that, despite the progress that has been made in recent years, there is still not enough competition in enough products and areas and, as a result, there are still too many products for which prices are too high.

We are listening. I know you appreciate the importance of this work. Because it is complex and difficult to understand it will get little or no press coverage. But this body of work on the market review and charge controls will have been at the centre of our work programme for over a year and consumed the efforts of 20 of our best people for more than 17,000 man hours; because for us it is really important. It lies at the heart of improving competition, price and quality of service for business customers across the UK.

Where competition has developed- and the markets in very high bandwidth Ethernet circuits and high bandwidth SDH (Synchronous Digital Hierarchy) circuits appear to have become more competitive- we propose to deregulate. This is not from dogma or laziness. It is from a genuinely held belief, borne out by empirical evidence that markets- competing suppliers and informed and demanding consumers- can produce better outcomes if the regulator is out of the way and is not like some bad football referee constantly interfering in the run of play.

Equally, however, we accept that there are products and geographic areas where there is insufficient competition today and too uncertain a prospect of competition tomorrow for us to step back. Hence our market review and the new charge controls on BT that will come into force in October when the old ones expire. Indeed, in some areas we are proposing to extend price regulation to safeguard business consumers where competition will not do the job for them.

Today there are charge controls only on the access segments of leased lines - Partial Private Circuit tails. We see a strong case for extending those controls to the trunk segments and to Ethernet circuits. Ofcom is always evidence based. And the evidence is that, looking at the overall profitability of some services, it is high, sometimes very high. That is a signal that competition is ineffective to protect the consumer. That is where we will be minded to impose charge controls.

As to the overall levels of charge control we will group together baskets of products that are at essentially the same competitive state. That gives BT some freedom to tariff flexibly to meet customer needs without being able to gain undue competitive advantage. We are looking at the returns for each of these baskets of products. Where these are reasonable, fine. But where on any objective basis the returns are excessively high then you could expect to see charge controls that would bring prices down significantly.

To be clear, we do not in any way wish to discourage BT from investing in their next generation- 21 CN – network. We warmly welcome it because it will bring new services for consumers and greater business efficiencies. The purpose of any charge controls on Ethernet circuits would simply be to ensure that the benefits of those efficiency gains, particularly in backhaul, are shared fairly between BT and its business consumers.

And we look to Openreach to make available new, fit-for-purpose products based on 21CN technology in a timely way; and particularly to commit to a firm timetable for the roll-out of wavestream-technology-based next generation Ethernet backhaul products.

We understand the concern that some CMA members have expressed, that the very high- over 1 GigaBit- Ethernet circuit market is still a young one; and that, as the market develops competitors will fall back and BT will gain an increasingly dominant position. We do not believe that that will happen. But we have sufficient respect for the capability of today's BT that one cannot discount that possibility.

Fortunately, the current European Framework under which we operate is a flexible one so let me reassure you if the problem arose we could and would deal with it.

Let me make two other quick points on the business connectivity review.

First, the apparently obscure but important point that the CMA (and AltNet competitors) have raised with us about so-called distance and bandwidth gradients. In plainer English, if getting a

Megabit costs £1, should getting a Gigabit cost £1,000 or £100 or £10; and a similar issue for distance where modern communications have been described as the 'death of distance' for charging purposes. Question, how true is this and will technology development falsify what we believe today?

I can tell you two things with certainty. First that Ofcom's economists are genuinely glowing with commitment and happiness to be engaging with these questions and they are doing so night and day; second that they probably ought to get out a bit more!

More seriously, BT needs to have the freedom to rebalance sensibly. But we need to ensure that at one end, schools, hospitals and small businesses are not seeing price hikes that force them out of being Ethernet consumers; and at the other that larger business consumers are not paying way over the odds in cost terms for what they get. Both of these are points the CMA has raised with us. I hope you will be with us when we try to join the dots.

Second, dark fibre. We asked whether it should be included in the Market review and how regulated access would improve competition and innovation. There were some fairly polarised responses on the question of regulated access. But few suggestions for where dark fibre on its own would offer scope for innovation and competitive differentiation. The main advantages seemed to be around speed and certainty of provisioning. An important issue but one that can be tackled in other ways.

We remain open-minded, but for now at least dark fibre seems an uncomfortable half-way house between active products such as Business Ethernet and true primary infrastructure competition through, for example, duct access. Which leads me neatly to the issue of Next Generation Access. Next Generation Broadband

Some have confused thoughtfulness for neutrality on Ofcom's part. Let me be very clear, we are anything but neutral. Next generation, super-fast broadband is critical to this Nation's future. Like the railways in the Nineteenth Century and electricity in the Twentieth Century, super-fast broadband networks will transform our infrastructure in this century. They will be crucial to the country's economy and central to the way we live our lives.

Making the transition successfully involves a collective effort to ensure timely and efficient investment alongside competition and choice for the future. This is an issue first and foremost for the market, for consumers, for operators and for investors. It is an issue for Government too. We warmly welcome their commitment to identify and remove obstacles to the deployment of next generation networks; and we are working closely with Francesco Caio in his Review.

And it is an issue of huge importance to Ofcom. We have a statutory duty to do what we can to make high speed broadband widely available and taken up. We are doing so with a real sense of urgency; but mindful of the need to avoid over-hasty, panicky responses that the UK's citizens and consumers might regret in years to come. We need to get the right balance of the needs of innovation, investment, competition and the consumer.

We have to build this framework not against a background of mass deployment –yet- but against a background of trials or single site deployments by various operators that are still in progress. So we have to make some planning assumptions.

The first is that, while Regional Development Agencies and other public bodies may invest to

create regional hubs or hot spots, we are unlikely to see public funding for mass deployment on the Asia Pacific model.

Secondly that simple-sounding, dirigiste solutions such as 'put a pound on everyone's phone line rental bill to pay for the investment' do not properly form part of the regulator's armoury. We have done the maths on that one and in fact it would be somewhere around £500 for every household. Decisions on any impost at that level is something for elected governments not unelected regulators. It would also be an avoidable impost: our recent research shows that in some British cities today the proportion of mobile-only homes is reaching towards one in three.

Thirdly, in first generation broadband and digital television it was competition that spurred innovation and roll-out. It is a reasonable planning assumption that it will be the same for deployment of super-fast broadband.

So that leads us to a twin track approach. First a long-term framework that assures BT that they will be able to secure and retain returns on investment in next generation access commensurate with the risks.

Secondly, to press forward with three routes at different layers of competition. Something which replicates the ladder of investment that has been successful for competition in current generation products. At the deepest infrastructure layer, seriously to explore duct access. The survey is underway. We expect the results in August. Elsewhere in Europe other regulators are already implementing duct access for various purposes- France, Spain, Portugal and Germany to name but a few. Duct access may also have a role in next generation backhaul; something we are testing.

At the next layer, sub-loop unbundling or fibre to the street cabinet, work has advanced to the point where meaningful trials are being undertaken, enabling the collective demand for SLU to be assessed and the necessary scale products and processes to support it to be assessed.

But these two routes could be expected to deliver high-speed broadband only to the minority of homes and businesses based in the main metropolitan areas. We understand the need for more widespread access for business, as companies increasingly have dispersed workforces and employees working from home. So at the top layer, we need with some urgency to develop a fit-for-purpose Ethernet active line access product; one that allows much greater scope for innovation and competitive differentiation than the current generation of wholesale bitstream access products and one which allows a greater geographic spread of high-speed broadband. With the operators, we are now agreed on what good would look like and the gap between that and the current offerings from Openreach and others. This is not just an Openreach or even just a United Kingdom issue. Absent a clear lead at European level, there is the real risk of balkanisation of the market with a whole range of separate proprietary electronics and wholesale products.

Europe

Which leads me, lastly, to Europe. The CMA and Ofcom agree about ends: we both want an effectively functioning single market that benefits business consumers- particularly the larger corporates who do business across a range of member states; and regulation that matches best practice. We differ on means. We do not believe that a Commission-led Euro-Agency or an unconstrained veto on remedies are the right answer.

Let me give you an example to show why. The Commission's Recommendation on next generation access is due out later this summer. From what we are seeing so far, there is some risk that the Commission may recommend that national regulators adopt only passive remedies- duct access and dark fibre- at least initially, in order to promote full, end-to-end infrastructure competition. They are certainly being lobbied heavily by Continental incumbents to do so.

But this could make it harder for companies like BT Global Services to compete on behalf of your larger corporate members, offering EU-wide services in the nearer term. Now imagine it is not a Recommendation but a remedy veto. That would mean no regulated Ethernet access product here either. An outcome unlikely to be in the best interests of business consumers.

Though we differ from the Commission on their institutional proposals, we support the vast majority of their other proposals. And we want to engage actively with them on genuinely pan-European issues where only EU-wide action can produce the necessary results.

Mobile roaming is one such. On voice roaming, a combination of the Commission and the European Regulators Group have produced a broadly sensible result. Expect to see similar action soon on SMS roaming. Packet data roaming is a relatively new service so some caution is needed to ensure that price regulation does not lock in price structures that market evolution would render inappropriate. But the mobile operators need to be on notice that the current charges cannot persist indefinitely. Roaming charges that are many multiples of home country charges for data are not obviously in the interests of business customers or the wider competitiveness of the EU. And they should know that they need to act now to ensure their customers do not unwittingly rack up huge data roaming charges when they are abroad. The operators could expect little sympathy if there was a spate of well-founded bill shock stories over the summer.

Secondly, in next generation access we will urge the Commission to mandate the European Standards body to produce EU-wide standards for active line access products. That will enable a Europe wide vendor market to develop for the electronics and the economies of scale that will ultimately benefit both business and residential consumers.

Thirdly we will press for a Europe-wide look at business connectivity. Large Europe wide corporates have to have many hundreds of separate telecommunications contracts. I am told Fiat has over 700. Some of that is through choice. But some is through fragmented regulation- for example markets where the regulator questions the need for business Ethernet products – all of which adds to transaction costs for business. So we will ask the European Regulators group as one of its key tasks next year to focus on greater alignment of regulation and harmonisation of remedies around business connectivity.

Ladies and Gentlemen, I hope that this rapid Cook's Tour of areas where your interests and regulation overlap has given you a good sense of the importance you have, not just to Ofcom but to the health and wellbeing of our economy as a whole. Congratulations to the CMA on your first half century. I hope that you and the communications industry continue to grow and flourish as well over the next 50 years. Thank you.