



BT Compliance Committee Bulletin

Issue 1

November 2018



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Introduction

Welcome to our first BT Compliance Committee Bulletin.

We know it is important for our customers, industry and stakeholders that BT lives up to its Commitments. We want to be transparent. We want to show how we're doing. So we'll be publishing regular updates on our work.

About us.

The BT Compliance Committee (BTCC) is a sub-committee of the BT Group plc Board Audit Risk Committee, and is responsible for monitoring BT's compliance with the Commitments and Governance Protocol. The BTCC is supported by the dedicated team in the Commitments Assurance Office (CAO).

What's the Bulletin for?

This is a short report on what the BTCC has been doing. Our first report is a bit longer as it covers most of 2018. In future, our Bulletins will come after each meeting.

In this first Bulletin we:

- tell you how the BTCC started
- update you on how BT is implementing the Commitments
- introduce you to the BTCC and the CAO
- tell you more about the BTCC's activities, and
- report on what the BTCC has been doing at each meeting.

We hope you find this useful. Please do get in touch if there are matters you would like to raise with us. You can contact us on cao@bt.com.



George Ritchie
Director, Commitments Assurance Office

1 November 2018

1 A bit of background

In March 2017, in the course of Ofcom's Digital Communications Review, BT notified Ofcom of its intention to implement new governance arrangements that give Openreach greater strategic and operational independence.

As part of the new governance framework, BT also committed to a set of new compliance monitoring arrangements:

- the [BT Compliance Committee \(BTCC\)](#) to monitor compliance issues relating to BT Group around the Commitments and Governance Protocol, and
- The [Openreach Board Audit, Risk and Compliance Committee \(OBARCC\)](#) to monitor Commitments and Governance Protocol compliance issues primarily relating to Openreach.

In April 2018, these committees took on the remaining Undertakings monitoring responsibilities from the Equality of Access Board (EAB).

2 Our progress so far

There's been a lot of change in BT and Openreach in the past 18 months.

Back in March 2017, BT notified Ofcom of its intention to implement the new governance arrangements giving Openreach greater strategic and operational independence.

In December 2017, BT set up Openreach Limited.

In April 2018, BT and Openreach adopted the Commitments and Governance Protocol, and agreed to treat these as being in force from that date, apart from any aspects that could trigger the TUPE transfer of BT plc employees working for Openreach.

Between July and September 2018, BT ran the legally required consultation on the proposed TUPE transfer of Openreach employees from BT plc to Openreach Limited.

Finally, on 1 October 2018, the Commitments and Governance Protocol became fully effective. This was a major milestone, which saw several key events take place:

- Openreach Limited started to trade as Openreach on behalf of BT plc
- People working for Openreach transferred from BT plc to Openreach Limited as their employer
- Responsibility for BT Northern Ireland Networks moved from Enterprise (formerly Business and Public Sector) to Openreach. BT Northern Ireland Networks will remain a virtually separate organisation and has been rebranded Openreach Northern Ireland, and
- BT wrote to Ofcom to ask for a formal release from the Undertakings.

This means that the new governance framework BT committed to is now in place. Openreach is now operating with greater independence. And the BTCC and OBARCC are now monitoring the new arrangements to make sure people in BT and Openreach are living by the spirit as well as the letter of the Commitments.

Finally, on 31 October 2018, Ofcom released BT from the Undertakings.

3 About us: the BT Compliance Committee and the Commitments Assurance Office

3.1 The BT Compliance Committee

The BTCC is a sub-committee of BT Group plc's Board Audit and Risk Committee. Its responsibilities are set out in its [terms of reference](#). In short, they are to review:

- BT's [compliance with the Commitments](#) and the [Governance Protocol](#),
- whether the [culture in BT and the behaviours of BT people](#) in relation to the Commitments and Governance Protocol are conducive to BT's compliance with them and to delivery of the Digital Communications Review (DCR) objectives, and
- the extent to which [metrics published by Ofcom](#) in relation to the DCR are being achieved and the [objectives identified by Ofcom](#) in the DCR Final Statement are being met.

Since April 2018, the BTCC has also monitored BT's compliance with its 2005 Undertakings (from which BT has now been released).

The BTCC had its first meeting in February 2018. Since then it has met every two months, with meetings in March, May, July and September 2018. You'll find more information about these meetings in Section 5. The BTCC's next meeting is on 20 November 2018.

The BTCC is chaired by Isabel Hudson, the former chair of the EAB. The other independent members are BT Group plc non-executive directors Jasmine Whitbread and Mike Inglis. The executive members are Cathryn Ross, BT Group Director, Regulatory Affairs, and Professor Tim Whitley, former BT senior manager on the EAB. Tim will stand down after the November 2018 meeting, following BT's release from the Undertakings by Ofcom. You can go to [the BTCC](#) for more information on the members.

Jan du Plessis, Chairman of BT Group, has also attended every BTCC meeting. BT's Group General Counsel, now Sabine Chalmers, attends regularly.

3.2 The Commitments Assurance Office

The BTCC is supported by the Commitments Assurance Office (CAO). This is headed by George Ritchie, and currently has three members: George, Russell Hunter and Megan McDonald. It also has board secretariat support from Kathryn Zielinski and legal support from Debby Maguire. Take a look at their [team page](#).

You can reach the CAO at cao@bt.com. We want to hear from stakeholders across industry, so please get in touch. We have also published our [complaints handling process](#) setting out how we will review complaints.

4 What the BTCC does

The BTCC currently meets every two months. We're keen to hear perspectives from different stakeholders. So, to help do this, at previous meetings the Committee has met with:

- [Gaucho Rasmussen](#), Ofcom's Director of Enforcement and Investigations,
- [Mike McTighe](#), the Chairman of Openreach Limited,
- Representatives from the [Office of the Telecommunications Adjudicator \(OTA\)](#), who provided an industry perspective,
- [Edward Astle](#), the Chairman of the OBARCC, who attended to discuss Project Seesaw (more details on this later in this section), and
- [Simon Lowth](#), BT Group Chief Financial Officer.

If you would like to engage with the BTCC, contact the CAO directly on cao@bt.com.

As well as the routine monitoring activities, the BTCC has focussed on three key areas which we set out in more detail below.

4.1 BT's financial planning processes

Ofcom's June 2018 implementation report flagged concerns about BT's involvement in the development of Openreach's strategic plans, with BT being significantly involved in the planning process. BT and Openreach agreed to review how these processes work.

The BTCC has been reviewing this work and assessing the interactions between BT and Openreach. It has been looking to see that they establish and agree an operating model that makes sure Openreach has sufficient independence in setting its strategy, while also ensuring that BT can keep appropriate parent company economic control and oversight. This new model should also make the financial planning process more transparent and open to audit, so stakeholders can be assured that everything has worked as intended.

With oversight from the BTCC, BT has now set out how its financial planning processes operate, and Openreach has identified how it will engage with the Group process. This has enabled BT and Openreach to identify design principles and a set of key controls that will

- determine the nature of engagement that BT can have while Openreach is building its plans,
- make sure the Openreach Board can be fully engaged at each key stage of the process, and
- provide escalation rights if Openreach is dissatisfied with BT executive actions.

The BTCC is also reviewing the extent to which Openreach can operate differently (i.e. with greater independence) to BT's other Customer Facing Units.

BT has shared the latest proposals with Ofcom. BT and Openreach intend to have them ready in time for the forthcoming annual planning cycle. The CAO will then be able to start its assurance activity, keeping the operation of the process under review.

4.2 New information sharing controls

BT committed to enhance the Undertakings information sharing controls in two ways. First, Openreach Commercial Information (CI) or Customer Confidential Information (CCI) is shared only to the extent necessary to make BT and Openreach Limited operate properly, or to help BT to fulfil its parent company responsibilities. Second, BT will maintain a record of individuals who receive significant CI or CCI, and provide a summary (the Disclosure Record) to the OBARCC every quarter.

The BTCC been reviewing the operation of the information sharing controls. At an update in September 2018, the BTCC welcomed the fact that the number of people who can see Openreach CI and CCI in a parent company capacity is considerably lower than was the case under the Undertakings (that's the number of people who had Annex 2 Part A accreditation – although that isn't an exact like-for-like comparison).

After the first Disclosure Record prepared by Group Regulatory Compliance, the BTCC noted that, while the processes are generally working as intended, there is room for further improvement to provide greater transparency. The Committee will review the next Disclosure Record at the November 2018 meeting.

4.3 Cultures and behaviours

The BTCC is reviewing the culture and behaviour within BT and Openreach around the Commitments. The Committee wants to understand if it is evolving in a manner consistent with Openreach having greater strategic and operational independence.

At the July 2018 meeting, the BTCC endorsed “Project Seesaw”, a joint proposal to the BTCC and OBARCC to review interactions between Openreach and those BT people performing a parent company or supplier role, looking at a range of functional areas in recognition that the balance could be different in different areas. There were three clear elements to the proposal:

- is there an agreed way of working between Openreach and BT which is understood on both sides?
- if yes, is this way of working documented?
- and has an appropriate balance been struck between greater Openreach independence and BT parent company oversight?

The BTCC asked for a gap analysis if this exercise reveals that there are areas that would benefit from further support and assistance in order to achieve the right outcomes.

The BTCC got a preliminary update on progress at the September 2018 meeting, and it will get a fuller update after the review has been completed during November 2018. Initial findings suggest that things are working well in most areas, but that further clarity around roles and responsibilities would help in others. In some other areas, processes are working at the moment but would benefit from better documentation.

The BTCC also noted that Openreach is already exhibiting greater independence in relation to how its portfolio is evolving, as evidenced by the development of Openreach's fibre discount offer launched in August 2018.

In November 2018, the BTCC will also review the findings of BT's hearts and minds initiative. BT engaged external culture experts to independently assess the attitudes of people in BT and Openreach towards the Commitments, recognising that attitudes influence behaviour and are key to the sustainable success of the Commitments. BT commissioned the research to proactively pinpoint areas for attention as part of their determination to follow both the letter and the spirit of the Commitments.

5 Compliance update

Since April 2018, the BTCC has been monitoring BT's compliance with the Commitments and the Governance Protocol. We set out below the specific matters considered by the BTCC at its recent meetings.

The Committee's review is not limited to breaches of the letter of the Commitments. The BTCC is also looking at situations where employees have failed to observe the spirit of the Commitments, for example by not following policies and processes. The BTCC is also keen to track instances of "near misses" as, over time, these may help to identify where proactive action can avoid breaches happening in the future.

5.1 The BTCC's May 2018 meeting

No matters were referred to the BTCC for consideration as potential breaches.

5.2 The BTCC's July 2018 meeting

The BTCC found that there had been two trivial breaches of the Commitments, both relating to the then new information sharing regime. In both cases Openreach CI was shared inappropriately by people in BT who were eligible to see it, with other people in BT who were not eligible. In both cases, the sender quickly realised their mistake and made sure it was recalled and deleted without the recipient reading it.

The BTCC was also told about one instance of a "near miss". One of BT's external professional advisors sent information that may have been Openreach CI to BT people who were not eligible to see the data. On investigation, the information was found not to be Openreach CI so there was no breach of the rules on information controls. However, had it been CI (or CCI), there would have been a breach. This case made BT realise that it needed to make sure it gives external advisors appropriate training. This has now been done.

The BTCC also agreed there had been two "process non-compliances". These were cases where sharing of Openreach CI or CCI took place (which was justified and appropriate), but the individuals had not completely followed the internal process they should have done before sharing the information. BT is keen to make sure that its people always do the right thing and follow the right processes. Again, the BTCC will keep such issues under review to see whether they reveal weaknesses in processes that would benefit from proactive action.

The BTCC also considered one Undertakings matter, and found that, in some exchanges, there had been a non-trivial breach of the requirement for BT people not to work on the Openreach network (Undertaking 5.12). This was a result of BT core metronode cables being directly linked to Ethernet Access Direct (EAD) circuits in these exchanges, rather than being linked by a Cablelink. BT is now ensuring Cablelinks are appropriately installed and will pay Openreach the sums that would have been paid had the Cablelinks been installed as required by the Undertakings.

Finally, the BTCC reviewed two informal complaints referred to the CAO for "quick checks". The CAO considered one to have been unfounded and shared its conclusions with Ofcom's [Openreach Monitoring Unit](#) (OMU). In the other complaint, the CAO found that there had been no breach, but the matter raised a question about the degree of reliance Openreach puts on BT as a supplier in one particular area. BT has since confirmed that Openreach has built its own capability in this regard and is no longer relying on BT to act as its supplier.

5.3 The BTCC's September 2018 meeting

The BTCC agreed with a recommendation from the CAO, to evolve the approach to the classification of Commitments and Governance Protocol breaches and non-compliances with processes.

The Committee decided to adopt the “4 box model” framework shown below:

<p>Trivial breach</p> <p>A breach of the letter of the Commitments, but not one that is likely to have caused any CP harm.</p> <p><i>e.g. Information sent by mistake to a person who isn't entitled to see it, and then recovered before it was seen.</i></p>	<p>Serious breach</p> <p>A breach of the letter of the Commitments that could well have caused harm.</p> <p><i>e.g. BT “interfering with/working on” the Openreach access or backhaul network.</i></p>
<p>Trivial non-conformance</p> <p>Not a breach of the letter of the Commitments, but individuals hasn't correctly followed processes, but no real harm done.</p> <p><i>e.g. An individual is entitled to see Openreach CI but forgets to turn on their supplier marker before receiving it.</i></p>	<p>Serious non-conformance</p> <p>Not a breach of the letter of the Commitments, but individuals have done something that is seriously wrong, where harm might be done, or where the actions are clearly not in the spirit of the Commitments.</p> <p><i>e.g. single individuals act contrary to guidance provided to them in the published Code of Practice.</i></p>

The BTCC agreed that while clearly all breaches and non-conformances matter (for example, repeated trivial breaches in any particular area may indicate broader concerns), this “four box” model helps us to clearly call out and focus on the cases that matter most – namely the serious issues on the right hand side. The model allow non-compliances to be seen as breaches of the spirit of the Commitments. BT hopes that this model will help send a clear signal to all its stakeholders, as well as our own people, of its commitment to delivering on both the letter and spirit of the Commitments.

Using the new model, the BTCC decided the following cases:

- There had been two trivial breaches of the information sharing regime. In each case documents containing Openreach CI were sent to individuals not entitled to see it. In both cases, the mistake was quickly realised by the sender and the information was recalled unread.
- There was one “near miss” where information was sent by an individual in Group Finance to finance people in the downstream customer facing units. On investigation, the information involved was not Openreach CI. Nevertheless BT has given guidance to the sender to avoid mistakes in the future.
- Finally, there was a non-conformance that was found to be serious. A BT individual had used inappropriate methods to try to contact people in Openreach to help get a problem with his home broadband resolved. This was contrary to the BT Code of Practice for BT employees. BT is taking action internally to address this.

Offices worldwide

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