

# Exemption

## WHEREAS:

- (a) Further to BT plc's Notification to Ofcom pursuant to Section 89C Communications Act 2003, BT plc and Openreach Limited have adopted the Commitments;
- (b) The Commitments provide that BT plc and Openreach Limited may from time to time agree exemptions, subject to BT plc informing Ofcom of the exemption 1 month in advance of it coming into effect;
- (c) BT plc and Openreach Limited agree that it would be appropriate for there to be an exemption from the application of paragraphs 5.1 and 5.4 (equal treatment provisions) to paragraph 3.6 where BT plc has decided to retain provision of such non-SMP Products within the Openreach Division, and the market review referenced is the Business Connectivity Market Review 2019 (BCMR);

## NOW THEREFORE:

BT plc and Openreach Limited hereby agree:

### 1. Exemption

As per paragraph 3.6 of the Commitments, in the event that Ofcom concludes, pursuant to the Business Connectivity Market Review 2019 (BCMR), that BT no longer has Significant Market Power (SMP) in a particular market, then except in the event that BT determines at its sole discretion that it is impractical to do so, such products within that market (which were formerly SMP Products but which have become non-SMP Products) shall be provided by, and the related assets shall be managed by, a division of BT other than the Openreach Division.

In circumstances where BT plc has decided to retain provision of such non-SMP Products within the Openreach Division, BT plc shall notify Ofcom of its reasons, and paragraphs 5.1 and 5.4 of the Commitments shall not apply to:

- Contemporary Interface (CI) Inter-Exchange Connectivity (IEC) services along competitive IEC routes, i.e. routes between BT+2 Exchanges<sup>1</sup> as listed in Schedule 8 of the BCMR Legal Instrument,<sup>2</sup>
- All connections to data centres used as points of aggregation,<sup>3</sup> including:
  - BT Exchange to data centre;
  - Communications Provider (CP) node to data centre; and
  - Data centre to data centre.

### 2. Definitions and interpretation

Words or expressions in this Agreement have the same meaning as in the Commitments.

References in this Agreement to paragraph numbers are references to paragraph numbers in the Commitments.

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<sup>1</sup> [2019 PIMR & BCMR Statement 2019 Vol 2](#), paras 8.137 – 8.140.

<sup>2</sup> [Annex 26, Schedule 8, 'List of exchanges for BCMR'](#), as published and updated on the [Ofcom consultation web page](#), or elsewhere on the Ofcom website [www.ofcom.org.uk](http://www.ofcom.org.uk)

<sup>3</sup> Including BT owned data centres. [2019 PIMR & BCMR Statement Vol 2](#) paras 7.34, 7.38, 7.40 – connections to data centres used as points of aggregation are not considered part of the CI market and are deemed competitive.

### 3. Effect

The provisions of this Agreement shall take effect on 15 January 2021.

Signed for and on behalf of British Telecommunications plc



Signature

Name:

**Cathryn Ross**

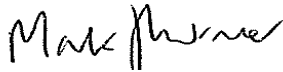
Position

Group Regulatory Affairs Director

Date:

15 December 2020

Signed for and on behalf of Openreach Limited



Signature

Name:

**Mark Shurmer**

Position:

Managing Director Regulation Openreach

Date:

15 December 2020