

Securing long-term benefits for broadband customers

Embedding infrastructure competition in the UK





INCA is the industry association that brings the Altnets and their supply chain partners together for mutual benefit.

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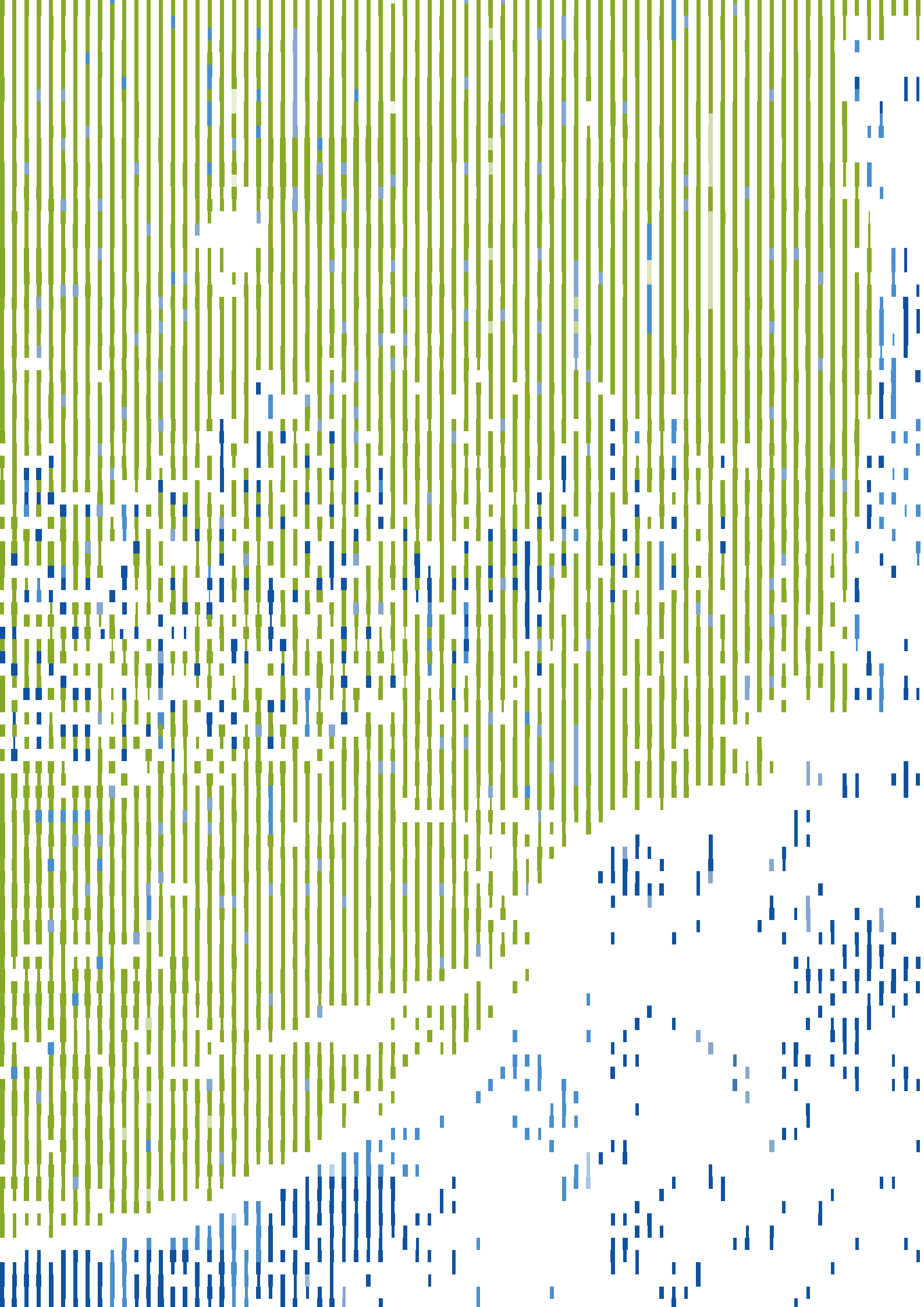


FDM is a leading market and performance insight agency specialising in telecoms. FDM was commissioned by INCA to generate and analyse relevant data in support of this report.

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Foreword



Only hungry new market entrants, with no existing customer base and no old assets to sweat, would commit to the level and pace of fibre build experienced across the UK today – and motivate the incumbent to do the same.

The fact that consumers and businesses in 17m^a UK premises can access fibre broadband today, is a direct result of government opting to encourage infrastructure competition. Without Altnets, and the resulting competitive pressure on BT Openreach, the UK would still languish near the bottom of international fibre league tables,^b and consumers and businesses would suffer the consequences with the inevitable impact on UK productivity and efficiency.

But wouldn't BT be building anyway I hear you ask? And the answer is a resounding No! The responsibility of the board and management team of a company is to maximise return for shareholders and, absent competition, it would always be in BT's interest to sweat its old copper assets for as long as possible.

Only hungry new market entrants, with no existing customer base and no old assets to sweat, would commit to the level and pace of fibre build experienced across the UK today – and motivate the incumbent to do the same.

8m premises are today served by Altnet fibre and 10m^c by BT fibre.¹ BT fibre is there only due to the presence and competitive threat of the Altnets.

No regulatory intervention can replicate the impact of real competition, and this has been proven in recent years in UK telecoms. The government adopted the right policy and the market responded with enthusiasm. INCA's research in this report shows that consumers are already benefiting from lower prices where competition exists. I'm also delighted to see many agile Altnets now offer innovative services, including 'social tariffs', to help consumers facing cost of living challenges.

Ofcom, on the other hand, has not embraced the market entry by more than 100 new infrastructure builders. On the contrary, Ofcom references only the very largest Altnets when assessing whether Openreach pricing has an anticompetitive effect.²

In this report, we call on government to hold Ofcom to account to implement government policy in full, rather than Ofcom's own modified version. The material differences between government policy statements and Ofcom interventions put at risk the dynamic benefits competition brings to consumers and businesses. A significant slow-down in Altnet fibre build would almost inevitably result in a corresponding slow-down by BT.

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- 1 The 1m premises difference between a total of 17m premises covered, and Altnets and Openreach between them having deployed to 18m premises, is due to a 1m premises overbuild between Altnets and Openreach.
 - 2 Examples of this are Ofcom's assessment of the two Openreach discount offers Equinox 1 and Equinox 2.


Government can ensure the continuation of the Altnet success story by enforcing its existing policy and taking action to correct market failures remaining in the broadband market. Consumers across cities, towns, villages and rural parts of the UK deserve gigabit-capable broadband as soon as possible and only effective competition will deliver that.

We also call on government to address market failures in the UK broadband market. These cause the market not to function in the interests of the consumer, and could prevent Altnets from attracting enough customers to their networks to make them economically viable in the long term. This is despite Altnet customer satisfaction levels far exceeding the levels of the more established retail broadband providers.

Altnets are not asking for the market to be tilted in their favour, just that the current bias against them is removed. Consumers will suffer if Altnets fail, that is a fact.³ **Households and businesses that do not yet have fast connections will get them much later, if ever.** Customer Service quality will slump back to the levels that are reflected in the incumbent providers' Trustpilot scores.

Not only have Altnets already delivered for consumers and the UK economy, but they will continue to do so, both directly and indirectly by motivating BT to invest as well.

Government can ensure the continuation of the Altnet success story by enforcing its existing policy and taking action to correct market failures remaining in the broadband market. Consumers across cities, towns, villages and rural parts of the UK deserve gigabit-capable broadband as soon as possible and only effective competition will deliver that.



Tim Stranack, INCA Chair and Co-founder, Community Fibre

3 INCA's research on pricing as show in Section 2 of this report confirms this and the more than doubling in Openreach FTTP deployment commitments as the competitive pressure from Altnets increased also confirms the direct benefits to consumers from Altnet competition in the UK broadband infrastructure market.

1. Executive summary

Government policy to encourage broadband infrastructure competition has transformed the UK from full fibre laggard into having the fastest full fibre network growth in the world. With over £20bn due to be invested into UK Alternative Network infrastructure, the Altnets are a critical part of this picture.

Research commissioned by INCA shows that consumers are already benefiting from the new competition, not just through lower prices from Altnets, but because incumbent ISPs are also lowering their prices in areas where infrastructure competition now exists.

INCA found that BT discounts broadband prices by up to 30% where infrastructure competition exists.

Many locally focused Altnets have been finding innovative ways, including 'social tariffs' to help their communities through the current cost of living crisis.

Although government has made it clear that Ofcom should regulate the market in a way that supports infrastructure competition, this has not been reflected in the assumptions and decisions made by Ofcom. The resulting regulatory uncertainty risks the UK's reputation as a destination for inward private infrastructure investment. It also slows down the build of full fibre networks and reduces benefits to consumers, especially into rural properties. This report sets out in detail where Ofcom has departed from government policy and instructions.

Consumer demand for Altnet networks is also being constrained because the large ISPs, who currently control nearly 90% of the retail broadband market, are reticent to switch their customers from the Openreach network to the higher quality Altnet networks, where they exist. Through a combination of wholesale discounts, market-power and 'loyalty penalties' consumers face significant barriers to switching to a higher quality Altnet network when it arrives in their city, town or village. Openreach works hard to tie the large ISPs into using its vertically integrated network.

Worse still, Openreach can use its 'anchor' relationships with the large ISPs, including BT itself, to inefficiently overbuild an Altnet's network, even in rural areas where two networks are difficult to sustain. This ultimately slows down full fibre build in rural areas.

INCA's recommendations

To address the regulatory failings identified above, INCA recommends that:

1	Government should ensure that Ofcom prioritises telecoms and broadband as a key organisational responsibility	We are concerned that Ofcom is distracted by its large portfolio of responsibilities, many of which are the subject of significant press and political attention. To prioritise telecoms and broadband it may be necessary to consider organisational or structural changes to Ofcom itself.
2	Government should mandate that all Ofcom telecoms decisions expressly show that they are compliant with Government policy	Ofcom should explain how each of its telecoms-related decisions further the implementation of the government's policies in each Ofcom telecoms consultation and decision document and in an annual report.
3	Government should mandate that Ofcom increases the transparency of its underlying analyses	Government should ensure that Ofcom provides full transparency in enabling stakeholders to understand the different options considered, the parameters applied in assessing those options, and how proposals and decisions are reached. This must include substantive sharing of underlying data, at an aggregated level where necessary.

To help break down the barriers that are currently preventing ISPs from using Altnet infrastructure and delaying the point at which consumers can benefit from full fibre services, INCA recommends that:

4	Ofcom must urgently conclude its work to reduce consumer confusion around the use of the term 'fibre'	Ofcom should only allow its use when marketing full fibre infrastructure.
5	Government should mandate that BT group be structurally separated from the physical infrastructure business.	BT's duct and pole company should be sold off into a separate organisation without common ownership with BT. ⁴
6	Government should issue a statement to confirm that its policy of infrastructure competition means that there will almost certainly be locations in the UK where Openreach will not be present in the future	Ofcom must design its regulatory framework to accommodate that market structure.
7	Barriers to ISP use of Altnet networks must be removed	Government, Ofcom and industry must work together to ensure the right incentives are in place for large ISPs to use the optical fibre networks built by Altnets.

Adopting these recommendations will provide a critical boost to investor confidence and should lead to more than 85% of UK properties having access to full fibre broadband by the end of 2025, in line with government's coverage ambitions.

⁴ Please note that this is not the separation of all of Openreach from BT group, but just the infrastructure section of Openreach.

2. Amazing progress from a standing start

Seven years ago, INCA published its report **Building Gigabit Britain**,^d because the UK was languishing at the bottom of all international fibre coverage league tables. Whilst UK Altnets^e were already leading the charge in early fibre rollout, offering full fibre connections to twice as many premises as BT in 2016, there was a void of policy and regulatory incentives to improve full fibre coverage in the UK, and UK consumers were suffering as a result.

INCA's report called on the government to ensure that the majority of the UK had access to Fibre to the Premise (FTTP) by 2026 and near universal coverage by 2030. To achieve this, the report set out specific recommendations, including calling on Ofcom to place competition and investment in FTTP networks front and centre of all its work.

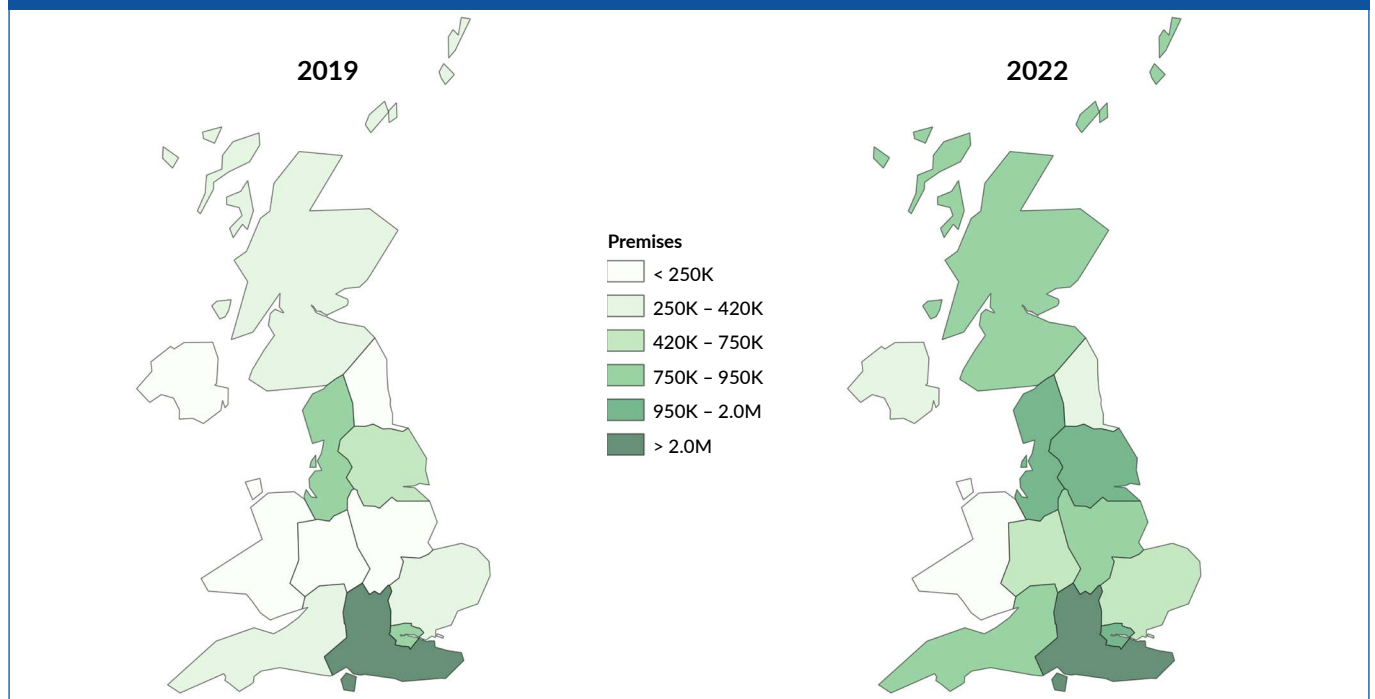
Many of the actions called for by INCA, featured in subsequent government policy:

- Then Digital Minister, Matt Hancock MP, called for full fibre in a speech in October 2016^e with full fibre commitments then being referenced in the 2017 Conservative Party manifesto.^f

- Significant policy focus was then placed on full fibre through the wide-ranging and in-depth Future Telecommunications Infrastructure Review (FTIR)^g published in July 2018, setting out the objective of providing “world-class digital connectivity that is gigabit-capable, reliable, long-lasting and widely available across the UK – and to do so at pace.”
- Alongside the FTIR, Ofcom published its statement on supporting further investment in full-fibre broadband,^h including a focus on “incentivising companies to build networks by opening up infrastructure to competing operators.”

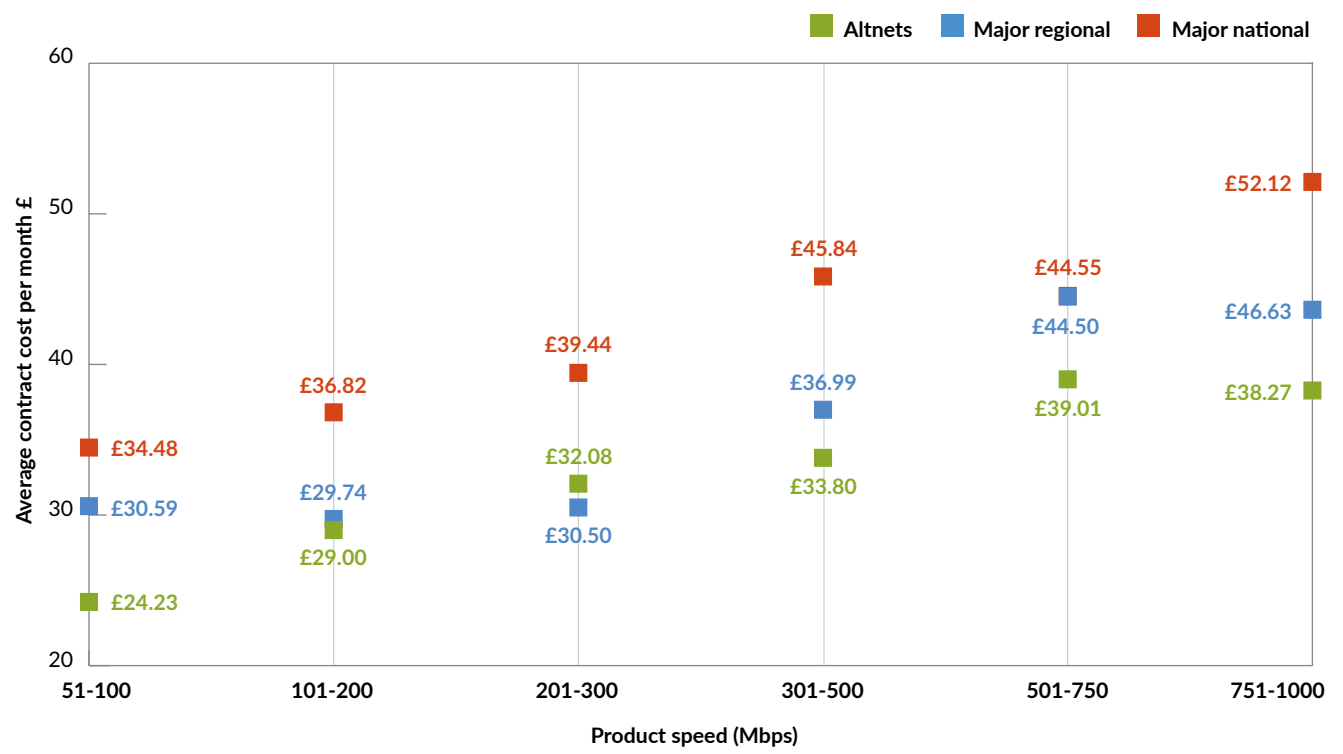
The government's Statement of Strategic Priorities (SSP)ⁱ of October 2019 formalised this direction of government policy and set out the issues Ofcom must have regard to in exercising its regulatory functions. The SSP made clear that “stable and long-term regulation that incentivises network investment and ensures fair and effective competition between new and existing network operators” was an essential foundation for government policy.

Figure 1: Altnets and premises passed Q4 2019 and Q4 2022



5 Altnets are investors in and builders of networks in competition to the incumbent, BT/Openreach.

Figure 2: Altnets provide better value for customers



Source: **FDM** Regional pricing data – average contract cost.

Note: Comparisons only include major ISPs who have both national and regional offers to ensure like for like comparison, and only includes offers where contract length is longer than 1 month.

This clear policy focus, underpinned by continual political commitment, such as the manifesto commitment of the Conservative Party for the December 2019 election^l to deliver “full fibre and gigabit capable broadband to every home and business across the UK by 2025”, has incentivised progress, literally, in the ground.

INCA and Point Topic’s 2023 report, Metrics for the UK independent network sector,^k shows that over 8m premises, approximately 25% of UK premises, now have access to full fibre broadband through an Altnet, with take-up of Altnet fibre reaching 1.5m live connections at the end of 2022. This rivals the reach of Openreach’s 10m full fibre footprint.

Since the government issued its SSP in Autumn 2019, Altnet full fibre coverage has increased from 1.2m premises at the end of 2019 to 8.2m premises at the end of 2022.

This strong pattern of growth clearly demonstrates the success of a government policy that has provided certainty and incentives for entrepreneurs and

investors who have committed to and executed the deployment of Altnet coverage.

The widespread entry of Altnets into the UK broadband market has already produced dividends for UK plc. Not only have Altnets contributed to the government’s full fibre targets and connected consumers with full fibre, who may have otherwise been waiting years for this level of connectivity, the presence of Altnets in the market has injected a level of vibrancy that would not have otherwise occurred, causing BT Openreach and VMO2 to design ambitious full fibre deployment plans.

With planned investment by Altnets set to top £20bn by the end of this decade, this figure has dwarfed both commitments made by the incumbent BT Openreach, as well as VMO2, bringing much needed capital into this key component of UK infrastructure **which is the primary and secondary growth engine for sectors across the UK economy.**

In addition, these new, entrepreneurial companies have demonstrated their ability to deliver nimbly, often going into hard to reach areas much earlier

Figure 3: BT's fastest broadband packages are more expensive where there is no competition

	BT Full Fibre 100	BT Full Fibre 500	BT Full Fibre 900
Maximum price found in postcodes where there is no infrastructure competition	£44.24	£54.24	£64.24
Minimum price found in postcodes where there is infrastructure competition	£34.99	£38.41	£46.41

Source: FDM Regional pricing data (data collected 8 July 2023).

Note: The table shows the monthly price over the life of the standard contract period, factoring in initial set-up/installation fees.

than the incumbent. For example, during June 2023, Altnets enabled 109,122 rural properties (or Area 3 to use Ofcom's terminology), compared to 58,831 by Openreach and KCOM.¹ This capability is reflected in BDUK Project Gigabit awards which to date have all gone to Altnets. So far BT has declined to bid for any projects.

Moreover, where vibrant full fibre competition exists, we can see this translating to consumers having more choice between high speed and highly innovative connectivity products, with infrastructure competition leading to increasingly competitive prices.

In July 2023, INCA commissioned FDM to undertake analysis of over 50 postcodes with a varying mixture of network coverage from BT Openreach and VMO2, as well as from a selection of Altnets, to better understand what was on offer to consumers in different parts of the country and whether this was impacted by differing levels of infrastructure competition.

This snapshot of UK postcodes revealed that in areas where there is infrastructure competition, the majority of major ISPs,⁶ offered a 'regional' price discount offer, that differed from the standard national pricing headlined by the provider. Our analysis shows that consumers purchasing broadband packages within the 101-200Mbps speed range could save an average of 27% vs national pricing, equivalent to more than £200 saved over the duration of their contract.

As Figure 2 illustrates, consumers not only benefit significantly from this regional discount from major ISPs, driven by the competitive pressure of infrastructure competition, but in the postcodes

surveyed, offerings from Altnets included in the sample generally provided even better value for consumers.

Moreover, this analysis also showed that of all the major ISPs, BT offered the largest variation in pricing across sampled postcodes and that this variation was highest in respect of its full fibre offers.

As Figure 3 illustrates, costs for BT's fastest broadband packages are lowest in areas where there is competition between BT Openreach and at least one other infrastructure provider. Consumers who don't live in areas with infrastructure competition are paying upwards of £15 per month more for exactly the same product.

It's not just about lower prices for higher speed broadband. Many Altnets have introduced 'social tariffs' to help their communities with the cost of living. Hundreds of Community Centres have been provided with free connections so that people have somewhere local to get online even if they don't have good access at home. Many Altnets also deliver digital skills training into the communities they serve to help their customers make the best use of their services.

In summary, what we see in UK full fibre today, is a vibrant, growing infrastructure market, spearheaded by Altnets, whose successful entry into the UK market has been made possible through a supportive policy environment. The continued success of this market and its ability to continue to offer tangible benefits to consumers, will depend on the consistent and supportive regulatory implementation by Ofcom of government policy and a vibrant and competitive market for retail and wholesale consumption of these new networks.

⁶ As per the Ofcom definition, a major ISP is defined as one with over 1m customers and as such includes BT, Virgin Media, TalkTalk, Sky and Vodafone. This analysis showed that all major ISPs, with the exception of Sky, offered regional pricing offers within the postcodes sampled.

3. A disconnect between policy ambition and regulatory implementation

This picture of full fibre coverage in the UK is encouraging. Looking at the headline figures, one could readily conclude that policy commitments have incentivised investment, which in turn has led to the rollout of new infrastructure and allowed consumer access to competitively priced full fibre broadband with an increasing choice of providers.

However, what we see beneath this overall picture is a worrying disconnect between policy ambition and regulatory interventions. That disconnect now puts at risk continued Altnet deployment – particularly in rural areas – and therefore also the benefits UK consumers would otherwise gain.

As discussed in the previous section, one of the pillars for success to deliver full fibre connectivity to the UK is “*stable and long-term regulation that incentivises competitive network infrastructure*”. This was identified in the Future Telecoms Infrastructure Review (FTIR) and reiterated in the government’s Statement of Strategic Priorities (SSP).

However, in practice, regulatory decisions and interventions are not properly aligned with this priority. This undermines government policy, damages economic growth prospects for the UK, jeopardises the quality of the UK’s future digital infrastructure and puts at risk the UK’s reputation as a destination for significant private infrastructure investment.

Although regulatory decisions and interventions are couched in the appropriate language of encouraging infrastructure competition and investment by Openreach and others, the actual detailed decisions and interventions do not follow-through on that language. Instead, Ofcom is implementing a version of infrastructure competition to fit the following parameters:

- Regulatory support for infrastructure competition in urban locations, where premises density makes the economics of multiple networks most attractive, but explicitly stating that Ofcom expects BT/Openreach to be the provider in rural areas;^m

- Regulatory support designed to favour larger competitors to Openreach, but not smaller investors that have recently entered the market;ⁿ
- An assumption that, where only one network may be economically viable, Openreach is that single network provider. Therefore, there is no regulatory support for non-Openreach investment in such areas, even if that means that consumers would get fibre connectivity years earlier than would be the case if provided by BT/Openreach;^o
- Implicit assumption that Openreach will deliver on all its network build announcements – this despite Openreach’s public statements on build targets that are always caveated as dependent on a favourable regulatory environment and other factors;
- Assumptions that network build announcements by most Altnets (except the very largest) are too uncertain to be reliable. Although some Altnets will fail and some may build less than they currently plan, that does not justify outright dismissal of Altnet build plans. The evidence of the validity of Altnet plans is plain for everyone to see today; approximately 25% of all UK rural properties currently have access to an Altnet fibre connection, mostly in places where no BT/Openreach fibre network is available.

The parameters listed above differ distinctly from government policy to actively encourage market entry of (by definition) small new market entrants to build new full fibre networks across the UK in both urban and rural setting.

Ofcom’s approach is illustrated by the following examples:⁷

⁷ These are by no means exhaustive.

Example 1 Addressing consumer confusion

Investment in fibre networks only delivers benefits to the UK if those networks are used by businesses and consumers. Additionally, early customer adoption is critical to the viability of fibre network investment. In some countries adoption has been swift, and it has generally been found to depend on two factors:

1. **The quality of the legacy broadband infrastructure, and**
2. **The ability of consumers to understand the fibre proposition and its benefits.**

In the UK, adoption is relatively slow, which is consistent with the fact that the legacy superfast broadband network is, in many cases, still sufficient to meet the current needs of many consumers.

However, adoption is also hindered because it is difficult to sell the benefits of 'fibre' when superfast services are marketed as 'fibre' despite it using inferior copper connections to customer premises. **Many consumers, therefore, believe that they already have 'fibre' broadband when in fact they do not.**

There are clear and strong benefits to consumers from using a full fibre broadband connection compared to a copper-based connection. Those benefits include higher reliability, higher speeds and often symmetrical speeds to both send and receive data. This facilitates economic and social participation, empowerment and economic growth.

But, if consumers think they already have fibre, then they are much less likely to engage with full fibre providers and the take-up of fibre will be significantly slower. This delays benefits to consumers at the same time as making the economics of full fibre deployment much more challenging for Altnets.⁸

Other countries, including France⁹ and Ireland,⁹ have introduced clear rules about how different types of broadband can be marketed, with the explicit purpose of reducing consumer confusion.

Altnets have called on Ofcom to introduce such rules in the UK since around 2016, but only in the last two years has Ofcom agreed to become involved in this important issue, and tangible action that will benefit consumers is still not forthcoming.

Ofcom's timing is tantamount to locking the stable door after the horse has bolted, as Altnets have had to communicate the benefits of fibre to consumers for around 10 years within a backdrop of misleading marketing from an incumbent that was not engaged in full fibre deployment. Now that the incumbent also wants to sell fibre, Ofcom appears more likely to take action, although at the time of writing, what steps Ofcom will take, and when, remains uncertain.

This lack of action from the regulator has occurred despite the SSP specifically requiring Ofcom to: *"consider whether the information available to consumers about the characteristics of different types of broadband services, and in particular full fibre broadband, is helping consumers make informed choices."*

Consumer confusion around the benefits of full fibre slows consumer switching to Altnet networks which slows the pace at which Altnets can build their networks and puts at risk continued full fibre investment and build by Altnets.

Consumer take-up of full fibre services from Altnets is further hampered by the absence of an effective cross-network switching platform. This was again a task given to Ofcom in the SSP and one on which Ofcom has yet to deliver.

8 Although also challenging for BT/Openreach, it is more so for Altnets as Altnets do not have the existing copper broadband revenues to sustain them.

Example 2

Ofcom's assessment of Openreach discount offers

During the development of the last Wholesale Fixed Telecoms Market Review (WFTMR), Altnets expressed grave concerns to Ofcom, that Openreach had in place discount schemes that appeared designed to lock in ISPs (such as Sky and TalkTalk) to the Openreach network and that this risked foreclosing the market for infrastructure competition.

The UK retail broadband market is highly concentrated and dominated by a small number of large ISPs. On the Openreach network these are BT (and its sub brands EE and Plusnet), Sky and TalkTalk. The only other very large ISP is VMO2, which is a vertically integrated provider. If the large ISPs use the Openreach network only, then Altnets building competing fibre networks, in line with the government's policy objectives, will struggle to attract sufficient take-up to make their networks economically viable in the longer term.

Altnets presented these concerns to Ofcom in the WFTMR process and Ofcom included provisions to prevent BT/Openreach from introducing discount offers that could constitute a deterrent to ISPs using Altnet networks. However, when BT/Openreach launched exactly such an offer shortly after those new provisions took effect, reacting to the threat Altnets present to its business model, Ofcom interpreted its own provisions in a manner that gave BT/Openreach maximum pricing freedom and required that Altnets meet extremely high evidential standards to prove that harm would likely result from the discount offer proposed.

Thus, a rule that was thought to be a safeguard against potentially anticompetitive effects, where the burden of proof should lie with BT/Openreach to demonstrate that such effects would not result, became a rule where the burden of proof was on Altnets to prove that harm would happen. This is not in line with expectations for how the new provisions would work, nor is it in line with the tone and spirit of the WFTMR where the provisions are set out.

Subsequently, BT/Openreach has issued a second discount offer and Ofcom applied the same approach as for the first. INCA believes that the Ofcom decision presents a consistent bias against the probability of harm resulting from the discount offers and that Ofcom refuses to engage with substantive issues raised by Altnets. **Unfortunately, it is not possible to appeal Ofcom's decision on its merits, only on process through a prohibitively costly judicial review.**⁹

The two BT/Openreach discount offers affect all Altnets but are felt particularly acutely by smaller providers and those building and operating in rural locations. Once again, Ofcom appears to be implementing its own version of government policy, favouring the large established providers and competition in urban locations only. Despite the fact that many Altnets are building strong local and regional brands, the impact of not having the big ISP brands using Altnet networks is that Altnets will not build to some more rural properties that they otherwise would have covered. The result will be some rural communities having to wait much longer for better broadband services, denying those communities access to the related social and economic benefits.

For consumers, the BT/Openreach discounts are a lose-lose scenario. Not only are they less likely to benefit from infrastructure competition but, unless infrastructure competition is present, the large ISPs are increasing their prices, often in excess of the level of inflation, rather than passing price reductions on to their loyal customers. Ofcom is therefore neither acting in the interests of consumers in the short-term by ensuring they get reduced prices, nor in the long-term by encouraging sustainable infrastructure competition. The main beneficiary of Ofcom's approach is BT Openreach.

⁹ INCA has provided detailed input to the Department for Business and Trade's economic regulation policy review, setting out suggestions on how the appeals process may be improved.

Example 3

Access to Openreach ducts and poles

To deliver the benefits of infrastructure competition to consumers, without unduly increasing the overall costs of the sector, and therefore consumer pricing, it is important that as much of the 'dumb' infrastructure, such as ducts and poles, as possible, is shared between the competing infrastructure builders and operators.

The SSP expressly refers to access to Openreach ducts and poles as a "key enabler" of infrastructure competition and calls on Ofcom to ensure to undertake "close and rigorous monitoring" of Openreach's activities in this area. The SSP specifically refers to a requirement on Openreach to "provide physical infrastructure access to all communications providers on equivalent terms, unless Openreach can demonstrate that a difference is justified in any particular case".

"Equivalence" means that any competitor to BT/Openreach can access and use the physical infrastructure in the same manner and can use the same systems and processes as BT/Openreach itself. (Meaning that Openreach itself should consume the duct and pole access products and not use 'internal' processes).

Equivalence is important because:

- despite progress on the functionality of the duct and pole access product, the processes are cumbersome and require significant administrative resource;
- they slow down the pace at which Altnets can bring their full fibre network to consumers and increase the costs of doing so;
- Openreach is not subject to those hurdles and, therefore, has a significant advantage in how it can roll out its new fibre infrastructure.

In its 2021 WFTMR determination of how to regulate BT/Openreach for the five-year period 2021-2026,¹

Ofcom stated that any new systems or processes should be equivalent, unless BT/Openreach could justify otherwise.

In reality however, Ofcom has not implemented its own equivalence obligation.

No attempt to introduce a single example of equivalence exists, and Ofcom does not appear to test with BT/Openreach whether its new systems and processes could be made equivalence compliant. This means that the inherent advantages to Openreach remain baked-into the regulatory regime and are consistently reinforced rather than gradually eroded.

This is contrary to government policy as explicitly stated in the SSP. Lack of equivalence actively prevents the creation of a level playing field between the dominant incumbent and its new market entry competitors.

Why this disconnect between policy ambition and regulatory implementation?

The above examples have a direct impact on the speed of fibre deployment across the country, and the benefits delivered from that deployment in the form of economic growth and empowerment, in particular in small towns, villages and rural areas.

INCA's analysis of the clear and consistent disconnect between government policy and interventions introduced by Ofcom has found that they likely relate to two areas:

1. Ofcom's scope and focus.
2. Ofcom's accountability to government and stakeholders.

Ofcom's scope and focus

Since its creation in 2003,¹⁰ Ofcom's remit has expanded significantly from telecoms and limited broadcasting duties to add powers and responsibilities under the Broadcasting Code in 2005, Internet and online content in 2010, Net Neutrality in 2011, Postal services in 2011, regulation of the BBC in 2017, Online Harm in 2019 and Online safety in 2021.

Our analysis of Ofcom's published board agendas shows that matters relating to fixed telecoms competition were only included in Ofcom's board agenda once in the 24 months till March 2023. This lack of board engagement and oversight has left a leadership vacuum for the implementation of government telecoms policy, including the complexities of actively supporting the development of infrastructure competition across the country.

Ofcom's other areas of responsibility, such as online safety, online literacy and media regulation, are the subjects of high-profile public and political attention and it may therefore be unsurprising that the Ofcom board devotes most of its attention in those areas. Especially if the Ofcom board considers that fixed telecoms is 'done' and just needs the steady hand of trusted staff to keep it on track.

However, this lack of oversight and direction on telecoms competition is likely to contribute to a level of

regulatory capture where the over-familiarity of Ofcom staff with BT/Openreach counterparts may result in unconscious bias in favour of the regulated party and against any disruptive elements such as the Altnets.

Ofcom's accountability

Ofcom should be held accountable to consumers via government and to industry stakeholders.

Through the SSP, government articulated a set of priorities for Ofcom. However, as demonstrated clearly above, Ofcom is departing materially from government policy. Furthermore, there are other examples of where Ofcom's actions are inconsistent with the requirements of the SSP. An analysis of Ofcom's actions in relation to SSP elements, that are particularly relevant to Altnets, is included in the [Annex](#).

At present, INCA is not aware that Ofcom is held accountable against its obligations under the SSP. The SSP requires that Ofcom issue an annual report to demonstrate how it has implemented its content, but to date no such report has been issued by Ofcom. Instead, Ofcom tends to include a brief, almost boilerplate, section in its decisions as to how/why they are SSP compliant. These are not meaningful.

Ofcom's accountability to industry stakeholders is focused in two areas:

- its public consultations and decisions, and
- through the Competition Appeal Tribunal (CAT).

Both these means of holding Ofcom accountable depend on Ofcom being transparent in its analysis to reach decisions, and that transparency is, to a significant extent, driven by the legal tests and standards to which Ofcom's decisions would be subjected by the CAT in an appeal situation.

In 2017, the legal tests applicable to Ofcom decisions were changed from both merit-based and judicial review-based appeals to judicial review-based appeals only.

INCA has analysed Ofcom documentation (consultation and decision documents) pre- and post the change to the appeal standard and found a significant reduction in transparency on substance and analysis (as opposed

¹⁰ Before 2003 telecommunications was regulated by Oftel, an economic regulator with a sole focus on introducing competition into the telecommunications market.

to process). There appears to be a strong causal link between the matters on which Ofcom can be legally challenged and Ofcom’s level of transparency and stakeholder engagement on those matters.

The reduction in scope of appeal, introduced for good reasons at the time, has had the unintended consequence of leading to a significant reduction in the level of transparency exercised by Ofcom. This in turn makes it much harder for stakeholders to understand Ofcom’s decisions, including whether they

are reasonable and consistent with Ofcom’s powers and duties as well as with government policy. The result is regulatory risk and uncertainty, which are strong enemies of long-term infrastructure investment.

Urgent course-correction is necessary

To deliver on its policy and not endanger the large commercial investments made and pledged to Altnet infrastructure, government needs to take urgent action. INCA makes the following recommendations:

INCA’s recommendations	
1	Government should ensure that Ofcom prioritises telecoms and broadband as a key organisational responsibility
2	Government should mandate that all Ofcom telecoms decisions expressly show that they are compliant with Government policy
3	Government should mandate that Ofcom increases the transparency of its underlying analyses

We are concerned that Ofcom is distracted by its large portfolio of responsibilities, many of which are the subject of significant press and political attention. To prioritise telecoms and broadband it may be necessary to consider organisational or structural changes to Ofcom itself.

Ofcom should explain how each of its telecoms-related decisions further the implementation of the government’s policies in each Ofcom telecoms consultation and decision document and in an annual report.

Government should ensure that Ofcom provides full transparency in enabling stakeholders to understand the different options considered, the parameters applied in assessing those options, and how proposals and decisions are reached. This must include substantive sharing of underlying data, at an aggregated level where necessary.

Despite the government’s overwhelming success in attracting investment to build fibre networks across the UK, Ofcom’s interventions increase the investment risk and, unless rectified, will likely result in reduced and delayed fibre coverage – in particular in small towns, villages and rural areas. With a government focus on economic growth, and fibre networks being a critical component of the UK “*growth engine*”, Ofcom’s actions are directly limiting the rate and scale of that growth.

Not only will Ofcom’s approach result in reduced and slower fibre deployment for consumers, along with the

loss of all the associated benefits,¹¹ it will also harm the UK’s reputation as a safe and predictable investment destination.

Also, more fundamentally, if this current direction of travel is not course corrected, Ofcom’s approach risks the UK returning to an infrastructure monopoly or duopoly model. The very model that UK policy moved away from in 2016 because its lack of competitive drive was failing the UK.

11 By BT Openreach as well as by Altnets.

Monopolies do not serve the interests of consumers, but instead allow the generation of supra-normal profits by the monopolist¹² and the creation of economic deadweight losses – all to the detriment of consumers and the economy.

At best, Ofcom's approach could result in an infrastructure duopoly in urban parts of the country, but it is well established that duopolies also do not serve consumer interests well.¹³

One example of the benefit of infrastructure competition is the more than doubling of the BT Openreach FTTP deployment commitment as the threat of losing market share to Altnets has increased over time.

Openreach has stated openly that it would not be deploying at its current pace, if it was not under competitive pressure from Altnets. It would be safe to assume that its deployment would slow down if Altnet competition were to reduce.

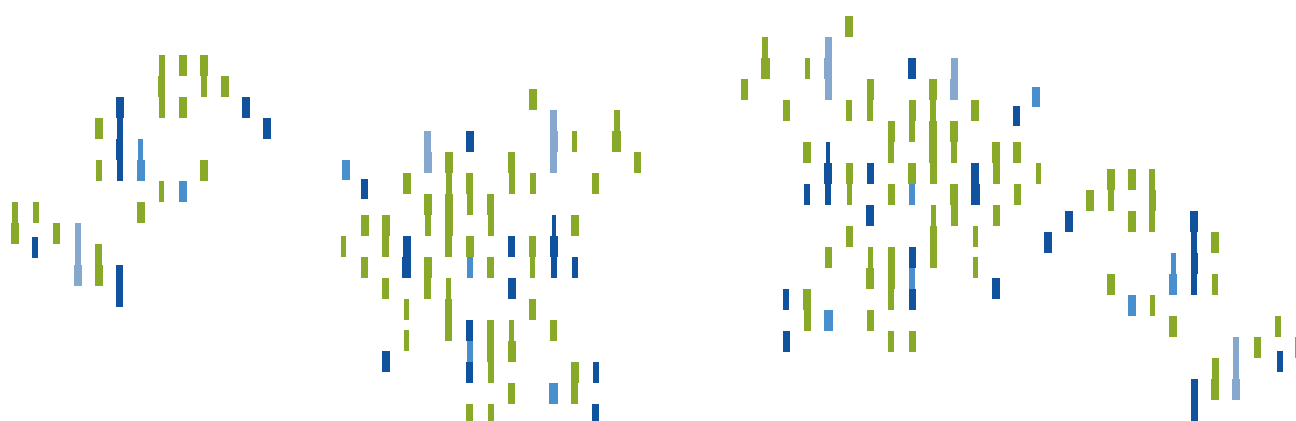
The long-term contribution of Altnets

There has been a significant amount of discussion, notably driven by BT Openreach, about the long-term viability of Altnets. The Altnet sector has grown very fast and, inevitably, not all Altnets will succeed. That is a natural part of the sector maturing and it is expected that those Altnets that run into difficulties, will be acquired and merged into other operators.

This is because Altnets build valuable assets. Some Altnet investors entered the market with a view to exit at the market consolidation stage. This is a direct consequence of what Ofcom refers to as *"the race to invest"*.⁵

Should a small number of (likely extremely small) Altnets cease trading and not be acquired, this could result in some customers losing continuity of service. We believe such instances will be few and far between and INCA will work with government and Ofcom to explore options to mitigate the impact and keep those instances to a minimum.

However, the overwhelming benefits to consumers of infrastructure competition by far outweigh the potential temporary reversal of broadband connectivity from fibre to copper for a small number of consumers. This is why it is so important that government acts to remove the risk posed by Ofcom's approach to its otherwise successful policy.



12 Unless regulated in perpetuity, but regulation cannot incentivise the monopolist to become efficient, nor be innovative and agile, so consumers lose even when regulation is introduced.

13 In some instances, duopolies deliver worse outcomes for consumers than monopolies, because both companies typically profit-maximise and consumers end up paying for inefficient duplication of infrastructures.

4. Making competitive fibre networks work for the UK and consumers

The resounding success of the government's policy in telecoms to encourage fibre investment and infrastructure competition comes with responsibilities.

More than £20bn in estimated private sector investment into new competitive Altnet fibre networks is addressing the supply-side of the equation, but those investments can only deliver the economic and social benefits sought, and will only be viable in the long-term, if the demand-side is addressed as well.

Good-faith commercial investments in Altnets now present more than 8m UK premises with fibre connectivity, many in locations where the old network is not fit-for-purpose and mostly in locations where no other fibre connectivity exists. In short, private sector entrepreneurs and their investors have answered the call of government and are delivering in the communities they serve.

However, on the demand-side Altnets face two significant challenges:

- 1. At the retail level** – Short-term consumer needs and market confusion
 - a) Existing superfast (Fibre to the cabinet – FTTC) broadband services currently meet the short-term needs of many consumers, and
 - b) FTTC has been sold as 'fibre', making it very hard to explain and sell the benefits of actual fibre, because most consumers think they already have it.
- 2. At the wholesale level** – Large ISPs are not engaging with Altnets to sell broadband services on Altnet networks. As the large ISPs represent nearly 90% of the retail broadband market,¹⁴ some Altnets will struggle to achieve sustainable market share if these ISPs continue to source connectivity almost exclusively from Openreach.

Building fibre networks requires substantial up-front capital investments and, once made, those investments are 'sunk'.¹⁵ That significantly increases the risk of the investment. It is therefore critical that government addresses the entire eco-system within which those investments sit.

Having attracted the critical investment to secure the supply-side, government now must address the slow take-up of fibre and the underlying causes of that.

As described above, Ofcom has been slow and ineffective in addressing the consumer confusion and barriers to switching issues in broadband, with FTTC services mis-sold as 'fibre'. Government needs to renew its call for urgent action in this area and hold Ofcom accountable for genuinely 'improving broadband information for customers'.[†]

But, even if consumer confusion is addressed, and take-up of fibre services is increased as a result, more economic benefits can be delivered to consumers and the UK economy in the long-term if well-known ISP brands use Altnet networks.

The UK broadband market is dominated by a handful of large ISPs, currently serving nearly 90% of the retail market nationally.[‡] No Altnets have been able to enter into wholesale arrangements with the largest of those (BT,¹⁶ Sky¹⁷ and VMO2¹⁸) and only very few have wholesale arrangements with the two smallest (TalkTalk and Vodafone). Consequently, nearly 90% of broadband customers are served from the Openreach network.

This highly concentrated retail market is a critical component upon which the ultimate success of government policy relies. Government needs to engage urgently with Altnets and ISPs to overcome the barriers that are currently preventing ISPs from using Altnet networks.

Below we have identified challenges that Altnets are asking government to engage with to ensure that

¹⁴ In locations where Altnets have deployed full fibre, they often achieve 20-30% take-up relatively quickly, but if they are subsequently overbuilt by BT/Openreach with the large ISP brands attached, that level of market share is difficult to sustain.

¹⁵ Meaning that they cannot be redeployed elsewhere for another purpose.

¹⁶ Although functionally and legally separated from Openreach, BT's retail businesses use only Openreach.

¹⁷ Despite significant efforts from the Altnet community, SKY uses only Openreach access.

¹⁸ VMO2 is vertically integrated and presently does not use any 3rd party network access.

consumers can benefit from the new Altnet fibre networks and Altnet businesses can remain viable with reasonable take-up and return on investment to investors.

Challenges in the retail broadband market

Most Altnets have to create new retail brands to attract as many customers to their networks as possible. This is because they have to reach a certain scale before even the smaller established ISPs are willing to use their network and because early revenues from operating at the retail level can support the Altnet’s business case.

A majority of Altnets, however, plan to become wholesale access providers to ISPs over time and some Altnets have decided to only offer wholesale services to ISPs.

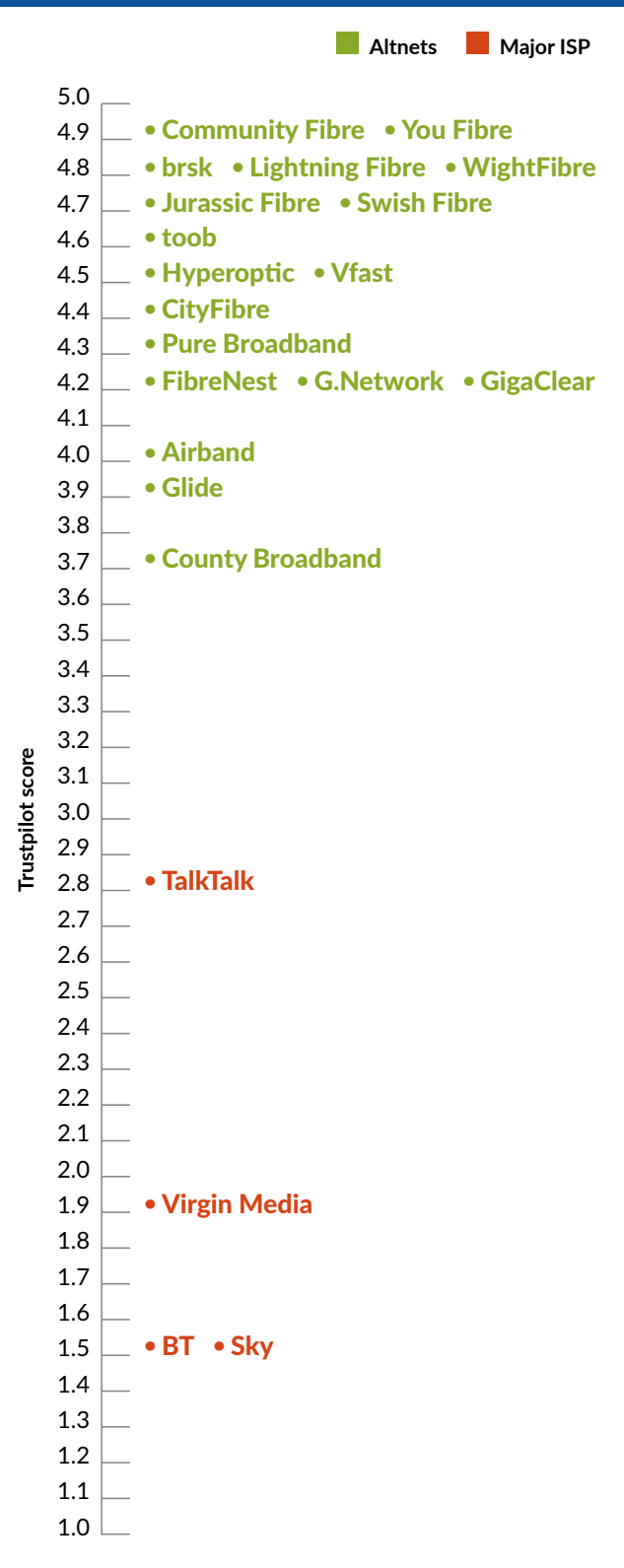
Altnet retail offerings receive consistently high customer scores on platforms such as Trustpilot. In Figure 4 we illustrate relative Trustpilot scores for Altnets and larger established broadband ISPs.

From that illustration one might deduce that Altnets would take very large market shares where they offer their services, but the market reality is one of inertia, with customers confused and concerned about switching suppliers, and sometimes ‘trapped’ by their existing service contracts.

Some of this inertia can be accounted for by Ofcom’s lack of action to prevent mis-selling of FTTC services as ‘fibre’ and lack of active commitment by Ofcom to implement a cross-network switching platform to support infrastructure competition by reducing barriers to switching between networks. However, INCA believes that a further significant contributor is the Openreach pricing and other loyalty-inducing offers to ISPs, as well as the considerable marketing strength and the multi-service offerings of the large ISPs.

Supported by Openreach, ISPs on the Openreach platform are creating offers using contractual commitments and high early termination charges to retain their customers on FTTC services, while waiting for Openreach to roll out fibre. They may offer special deals on bundled services such as TV to induce new 24-month tie-ins with high early termination charges. These then constitute significant barriers to switching. These contract tie-ins do not, however, prevent those ISPs from waiving the early termination fees if the customer converts from Openreach FTTC to

Figure 4: Altnets consistently outperform large retail ISPs



Note: Trustpilot scores for a range of Altnets and Major ISPs with more than 1000 reviews as at 24 July 2023.

Openreach full fibre (FFTP) service, when it eventually arrives, whilst staying with that same ISP. This practice prevents the customer ever becoming accessible to the Altnet's retail business, and the customer gets locked into a new 24-month contract for the ISP's fibre service over the Openreach network.

Originally the 24-month contract term was used to spread the high costs of the initial network installation, often requiring an engineer visit, over a long contract term to make it more affordable for the consumer. However, increasingly ISPs are also using this fixed term to enforce above inflation annual price increases on 'trapped' customers. The large ISPs all increased their prices for 'trapped' customers in April 2023 despite accepting deflationary wholesale discounts from Openreach. This practice has often been termed a 'loyalty penalty' because customers who remain loyal to an ISP brand end up paying more than those who shop around.

Those large ISPs that enforced above inflation price increases in April are also those that INCA research found to be offering regional discounts for new customers in areas where they compete against an Altnet.¹⁹

Whilst there is nothing illegal with the practices set out above, in the context of the government's industrial policy of infrastructure competition in the telecoms market, they represent barriers to the realisation of the policy and to the delivery of the economic and social benefits expected from that policy. It is INCA's view that the practices described arise from two sources:

- The lack of incentives for ISPs to use Altnets, and
- The vertical integration of BT Group and the power of Openreach to tie in ISPs.

INCA calls on government to work with industry to reduce barriers to, and design incentives for, ISPs to use Altnet networks when and where they are available on reasonable commercial terms and supported by quality processes and systems.

Inefficient overbuild by Openreach

A significant additional threat to the successful implementation of government's policy, however, is that, regardless of how successful Altnets are through their own retail offering, Openreach can overbuild

their networks in locations where only one network is economically viable, simply because they have the guaranteed business of the large ISPs.

Such overbuild by Openreach would be hugely inefficient as:

- Openreach would be duplicating a new state-of-the-art fibre network.
- There would be significant environmental impact from additional network construction with no additional value to consumers, as one network would ultimately be unused.
- Consumers would ultimately be forced to move network, from a service they value back to the incumbent (whether to a BT-related ISP or an ISP using the Openreach network), if the Altnet were to fail to attract sufficient customers.
- Significant private inward investment would be wasted.

INCA does not advocate against BT/Openreach being free to make commercial decisions of where and when to build fibre. INCA highlights that the only reason BT/Openreach could decide to overbuild an Altnet in a 'single network area' would be that it knows it can rely on its 'anchor' wholesale ISP relationships to guarantee the level of take-up to make that investment viable. This is a direct result of Openreach's dominance in the infrastructure market.

It is INCA's view that there are significant and enduring barriers to ISPs using Altnets in a manner that supports the government's infrastructure competition policy and INCA asks that government engage proactively in the identification and removal of those barriers as a matter of urgency. In particular we ask that all stakeholders consider options that will incentivise BT Retail to make use of an Altnet network where this is the quickest and most effective way of providing better broadband services to its customers, especially where the Altnet network build has been subsidised by Government.

In the current market conditions, Altnets are caught in a 'Catch 22' situation where:

1. They struggle to persuade the large ISPs to use their networks (even when Altnets offer acceptable pricing and quality operational interfaces, and

¹⁹ See Figures 2 and 3 in Section 2.

can achieve scale individually or via an aggregator platform) and,

2. Consumer awareness of their own new retail brands is insufficient to compete against the large ISPs, who continue to use the Openreach network.

Although the Altnets will deliver the substantial benefits of early fibre connectivity to consumers and businesses covered by their networks, especially in harder to reach rural areas, inefficient overbuild by Openreach risks these networks becoming stranded assets. This would be for no fault in network quality or commercial business practices by the Altnet, but due solely to the power of Openreach to retain the loyalty of the large ISPs and the apparent reluctance of the ISPs to engage positively with Altnets.

Addressing wholesale market issues

Altnets are creating and joining aggregation platforms to address ISP concerns about the costs and inefficiencies of onboarding multiple small wholesale access providers. They are also working on delivering service-level agreements (SLAs) for consistent product and quality delivery at a national level.

Altnets have natural incentives to overcome barriers to adoption for the ISPs, but it is not clear that the ISPs have sufficient incentives to actively engage with Altnets and start using their networks.

The importance of ISPs as anchor tenants cannot be overestimated:

- When Ofcom and government considered full structural separation of BT, BT argued strongly that it needed the anchor tenancy of its downstream retail business to underwrite its fibre investment programme.^v
- For Altnets, investing without the existing customers and revenue-base that Openreach has, the absence of large ISP wholesale customers represents a material risk.

- Openreach wholesale discount schemes (as discussed above) represent additional barriers to ISP use of Altnet wholesale access.

It should be noted that BT itself (with its sub brands) is the largest broadband ISP in the country.

BT's publicly stated policy of never using another network provider other than Openreach^w suggests that the legal and functional separation of Openreach from the rest of BT Group has not severed the very strong common interests across the group.

Openreach is therefore unlikely to be acting independently of the rest of the group.

INCA considers the continued integration of the physical infrastructure parts of Openreach with the remainder of Openreach, and with the remainder of BT Group, to be the underlying cause of many of the issues identified in this report. Enough time has been allowed for functional and legal separation to deliver and both have failed. It is therefore time for a full structural separation of the passive infrastructure components of Openreach from the remainder of the group.

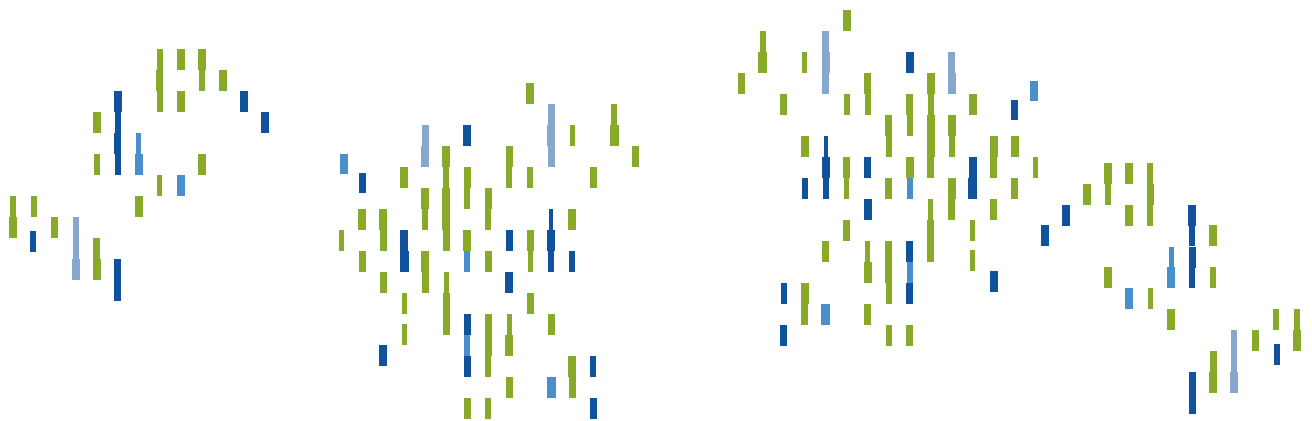
A fully separated passive infrastructure provider serving a competitive infrastructure market would see ISPs seeking to provide the best possible services to their customers as early as possible and on the best terms possible.

The challenges with the introduction of competition into a market where large ISPs are already established on the incumbent network must not be underestimated. Positive action needs to be taken to overcome the barriers to competition arising from that starting point.

Government needs to urgently address the lack of incentives for large ISPs to use Altnet networks. This can happen through a combination of direct government action and strong direction to Ofcom. INCA makes the following recommendations:

INCA's recommendations

4	Ofcom must urgently conclude its work to reduce consumer confusion around the use of the term 'fibre'	Ofcom should only allow its use when marketing full fibre infrastructure.
5	Government should mandate that BT group be structurally separated from the physical infrastructure business.	BT's duct and pole company should be sold off into a separate organisation without common ownership with BT. ²⁰
6	Government should issue a statement to confirm that its policy of infrastructure competition means that there will almost certainly be locations in the UK where Openreach will not be present in the future	Ofcom must design its regulatory framework to accommodate that market structure.
7	Barriers to ISP use of Altnet networks must be removed	Government, Ofcom and industry must work together to ensure the right incentives are in place for large ISPs to use the optical fibre networks built by Altnets.



²⁰ Please note that this is not the separation of all of Openreach from BT group, but just the infrastructure section of Openreach.

5. Conclusions and recommendations

The UK government policy for fibre investment is on the brink of success, but Ofcom’s approach to regulation and the inertia of ISPs to use Altnet infrastructure put this achievement at significant risk.

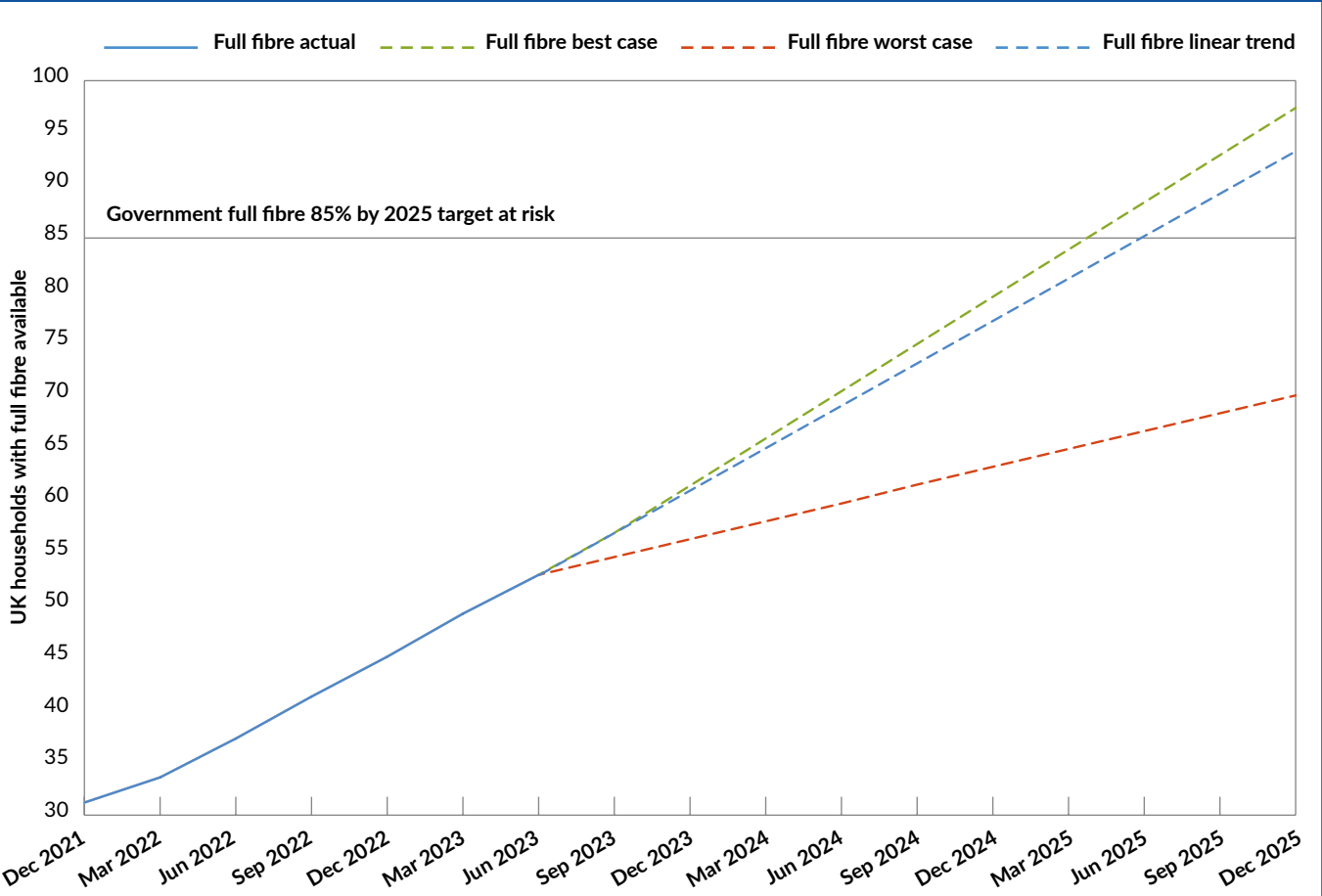
Altnets and their investors have stepped up to the challenge and can deliver the dynamically competitive infrastructure and retail broadband markets the UK consumers and businesses deserve. But government must address the evident non-compliance by Ofcom with government policy and the barriers that prevent ISPs from using Altnet infrastructure highlighted in this report.

Failure to address these issues puts the Government’s policy at risk and could lead to the full fibre build

slowing significantly. This will delay the point when UK households, especially those in rural areas, will gain access to full fibre broadband. The foundational platform for the Government’s growth agenda.

As shown in Figure 5, if fibre build continues on its present trajectory (blue line) we will see over 90% penetration by end 2025, easily exceeding the government’s target of 85% (black horizontal line). If the recommendations of this report are accepted and acted upon INCA believes that investor confidence could enable over 97% full fibre penetration (green line). If however, the issues and recommended solutions set out in this report are ignored, investors’ confidence will be knocked, which will delay deployment, resulting in the target being missed by as much as 15-20% (red line).

Figure 5: Full fibre actual and forecast growth scenarios



Source: Full fibre actual data: Think Broadband.

It should be noted that a significant reduction in Altnet deployment would almost certainly also result in a corresponding slow-down in Openreach deployment as the competitive threat from Altnets is reduced. This is confirmed by the more than doubling in Openreach

FTTP commitments as Altnet competition has increased over recent years.

This report calls for government to take decisive action and INCA makes the following recommendations:

INCA's recommendations		
1	Government should ensure that Ofcom prioritises telecoms and broadband as a key organisational responsibility	We are concerned that Ofcom is distracted by its large portfolio of responsibilities, many of which are the subject of significant press and political attention. To prioritise telecoms and broadband it may be necessary to consider organisational or structural changes to Ofcom itself.
2	Government should mandate that all Ofcom telecoms decisions expressly show that they are compliant with Government policy	Ofcom should explain how each of its telecoms-related decisions further the implementation of the government's policies in each Ofcom telecoms consultation and decision document and in an annual report.
3	Government should mandate that Ofcom increases the transparency of its underlying analyses	Government should ensure that Ofcom provides full transparency in enabling stakeholders to understand the different options considered, the parameters applied in assessing those options, and how proposals and decisions are reached. This must include substantive sharing of underlying data, at an aggregated level where necessary.
4	Ofcom must urgently conclude its work to reduce consumer confusion around the use of the term 'fibre'	Ofcom should only allow its use when marketing full fibre infrastructure.
5	Government should mandate that BT group be structurally separated from the physical infrastructure business.	BT's duct and pole company should be sold off into a separate organisation without common ownership with BT. ²¹
6	Government should issue a statement to confirm that its policy of infrastructure competition means that there will almost certainly be locations in the UK where Openreach will not be present in the future	Ofcom must design its regulatory framework to accommodate that market structure.
7	Barriers to ISP use of Altnet networks must be removed	Government, Ofcom and industry must work together to ensure the right incentives are in place for large ISPs to use the optical fibre networks built by Altnets.

21 Please note that this is not the separation of all of Openreach from BT group, but just the infrastructure section of Openreach.

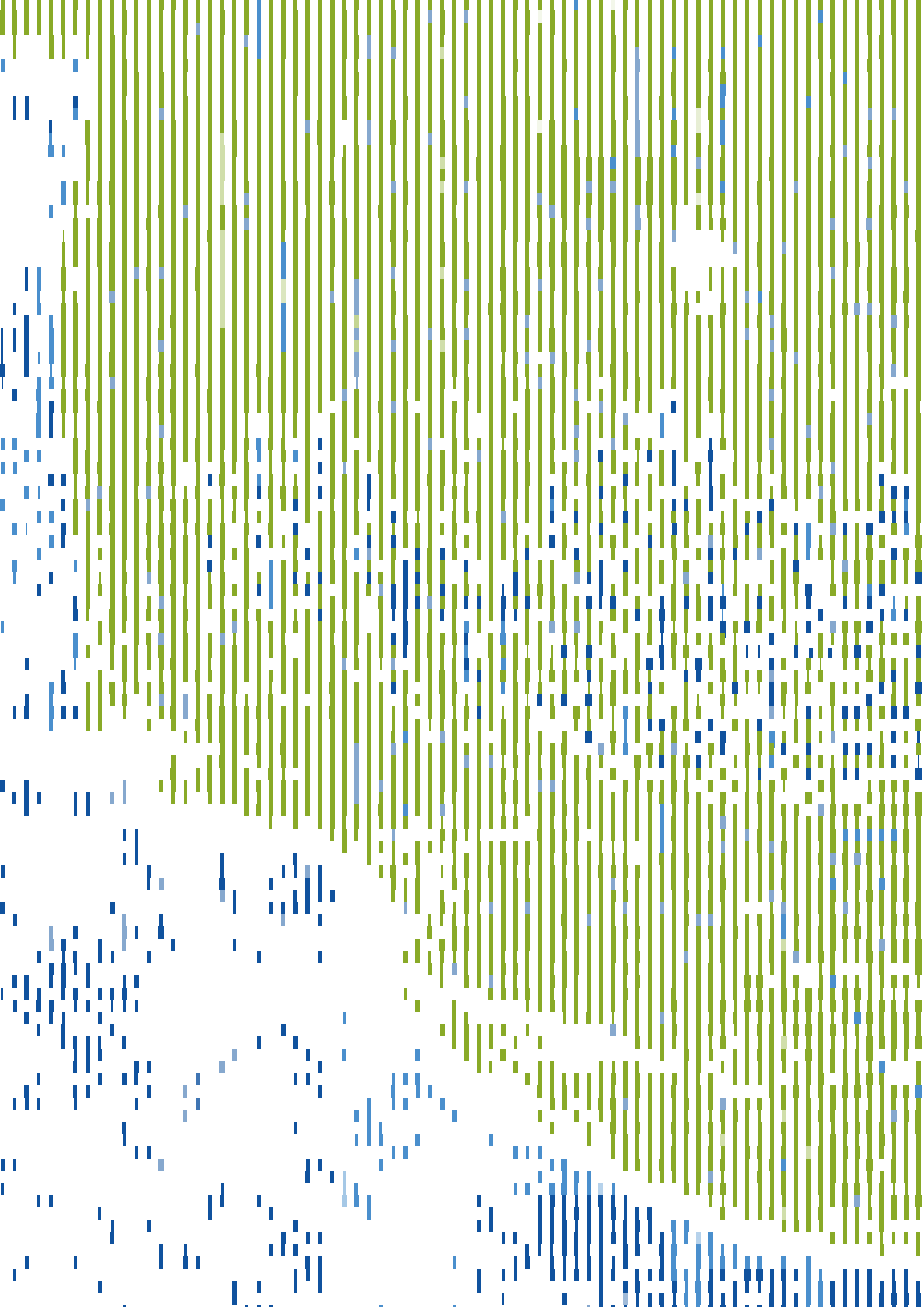
Annex: Analysis of Ofcom response to SSP obligations		
SSP element	Ofcom action	INCA comment
Effective and equivalent access to Openreach passive infrastructure. ^x	Removal of usage restrictions. Stronger framework around product set and pressure to make product usable at scale. No action on equivalence.	Ofcom has stopped short of full implementation of the SSP provisions and the explicit statements about equivalence for new systems and processes in its own WFTMR document. Altnets are faced with heavy administration and lengthy processes that Openreach itself is not subject to. This delays Altnet roll out to consumers.
Support market entry and expansion by alternative network operators. ^y	Explicitly not designing interventions that support market entry and recent market entrants, but focusing only on larger competitors.	Despite the SSP and WFTMR referring to supporting market entry, several Ofcom documents explicitly exclude impact assessment on small and rural operators.
To encourage investment and infrastructure competition in both rural and urban locations not assuming that Openreach is the default provider.	Expects Openreach to build everywhere, with competitors only building in locations where they can co-exist with Openreach, causing delay to deployment in many rural locations. Ofcom effectively assumes that Openreach has a monopoly in 'single network areas', and that overbuilding Altnet FTTP networks using the large ISP anchor relationships to guarantee viability, is acceptable.	In line with the SSP, Altnets are building in many rural and remote 'single network' areas several years ahead of any plans Openreach may have to for those locations. That delivers real and tangible benefits to consumers and the UK economy and helps empower residents and business in rural locations. Ofcom's approach suggests it prefers that those several million consumers and businesses should wait until Openreach decides to build and this is acceptable.
Stable and long-term regulation that incentivises investment and ensures fair and effective competition between new and existing networks. ^z Engaged and proactive approach by Ofcom to monitoring anticompetitive behaviour. ^{aa} Clarity over 'fair bet' regime [...] allows firms making large and risky investments to have confidence that any regulation will reflect a fair return on investment, commensurate to the level of risk incurred at the time of making the investment decision. ^{ab}	Introduced 5-year market reviews to increase regulatory stability, but application of regulatory remedies such as the access to ducts and poles and prevention of anticompetitive discounts show an inconsistent application of those remedies and a bias in favour of the incumbent and against market entry. Ofcom stated in WFTMR that the Openreach Monitoring Unit would have an expanded role for this monitoring. That role is yet to be specified, no additional monitoring has been introduced. Ofcom considers that 'fair bet' applies only to BT/Openreach.	Ofcom's interpretation of its own WFTMR framework is unpredictable and causes regulatory uncertainty, increasing investment risk and reducing/delaying fibre deployment to consumers. Repeated requests to Ofcom to increase monitoring in preparation for the next market review have so far been unsuccessful. Detailed submissions to Ofcom about the costs incurred by new market entrants building new fibre networks have been rejected by Ofcom in favour of using BT/Openreach data which is very different from Altnet data and results in understating Altnet costs. INCA believes that all investors in FTTP should benefit from the 'fair bet' principle in the broader sense that they should have a fair and reasonable opportunity to make a return on that investment and regulation should be designed to achieve that principle.

SSP element	Ofcom action	INCA comment
<p>A switch-over service to enable consumer migration to gigabit-capable services.^{ac}</p>	<p>A long drawn-out consultation process has resulted in a very late implementation of a new consumer switching platform.</p>	<p>The switching functionality is critical for Altnets to attract customers onto their networks.</p> <p>The significant delays to the specification and imposition of this platform increases the risks of investment in new fibre networks.</p>
<p>Consider whether the information available to consumers about the characteristics of different types of broadband services, and in particular full fibre broadband, is helping consumers make informed choices.^{ad}</p>	<p>Started to engage with industry to reach a voluntary code of practice. That failed and Ofcom is now consulting on imposition of terminology rules for broadband marketing.</p>	<p>The urgent need for this guidance has existed for at least 8 years. Ofcom refused to engage with the matter and only did so after the publication of the SSP, and after Openreach had started their fibre roll-out at scale, but then has failed to take timely and tangible action.</p>

References

- a [Think Broadband – Update on availability across the UK nations and regions, June 2023](#)
- b [European FTTH B Market Panorama 2023, page 25](#)
[IDATE European FTTH/B Panorama at September 2016, page 16](#)
- c [INCA Metrics Report 2023](#)
- d [Building Gigabit Britain](#)
- e [Matt Hancock MP speech, October 2016](#)
- f [2017 Conservative General Election Manifesto](#)
- g [Future Telecoms Infrastructure Review](#)
- h [Ofcom statement on supporting further investment in full fibre broadband](#)
- i [Statement of Strategic Priorities \(SSP\)](#)
- j [Conservative Party Manifesto 2019](#)
- k [INCA Metrics Report 2023](#)
- l [Think Broadband – Update on broadband coverages in Ofcom areas 2 & 3, June 2023](#)
- m For example, [WFTMR V2](#) paragraph 7.7, where Ofcom defines Area 3 as where there is likely to be no competition to BT, meaning that BT will always be present.
- n In the WFTMR, Ofcom defined two main geographical markets; Areas 2 and 3. Area 2 is where CityFibre and Virgin Media plan to deploy (according to their plans in 2020) and Area 3 is the remainder of the country where Ofcom considers there to be low probability of material and sustainable competition to Openreach. For Area 2, Ofcom actively encourages investment and competition by Altnets, but for Area 3, Ofcom’s policy is to encourage investment by Openreach only. The majority of smaller providers operate in Area 3 or in a combination of Areas 2 and 3 and are therefore not a focus of Ofcom’s policy to encourage investment and competition. [WFTMR V1](#) paragraph 2.47 and [Statement: Openreach proposed FTTP offer starting 1 April 2023](#) paragraphs 4.42 to 4.49
Additionally, Ofcom has on many occasions stated that it considers that there are too many small Altnets, and they need to consolidate.
- o [WFTMR V4, footnote 44](#)
- p [01.06.2016 – Nouvelles mentions imposées pour les publicités des opérateurs utilisant le mot « fibre » – ARPP](#)
- q [Advertising Authority Standard for Ireland \(ASAI\) Guidance Note Part 1 Mobile phone and broadband, Aug 2019, page 6](#)
- r [The Wholesale Fixed Telecoms Market Review \(WFTMR\)](#)
- s [Statement: Openreach proposed FTTP offer starting 1 April 2023](#) paragraph 3.110
- t [Ofcom: Improving Broadband Information for Customers](#)
- u See Reference n above.
- v [EWC0108 – Evidence on Establishing World-Class Connectivity Throughout the UK \(parliament.uk\)](#)
- w [Financial Times Interview, Feb 2023: BT chief warns Openreach fibre push will ‘end in tears’ for rivals \(paywall\)](#)
- x [UK Government Statement of Strategic Priorities for telecommunications, radio spectrum and postal services 2019 \(SSP\)](#)
para 11, page 6
- y [UK Government Statement of Strategic Priorities for telecommunications, radio spectrum and postal services 2019 \(SSP\)](#)
para 11, page 6
- z [UK Government Statement of Strategic Priorities for telecommunications, radio spectrum and postal services 2019 \(SSP\)](#)
para 11, page 6

- aa [UK Government Statement of Strategic Priorities for telecommunications, radio spectrum and postal services 2019 \(SSP\)](#)
para 15, page 7
- ab [UK Government Statement of Strategic Priorities for telecommunications, radio spectrum and postal services 2019 \(SSP\)](#)
para 20, page 9
- ac [UK Government Statement of Strategic Priorities for telecommunications, radio spectrum and postal services 2019 \(SSP\)](#)
para 11, page 6
- ad [UK Government Statement of Strategic Priorities for telecommunications, radio spectrum and postal services 2019 \(SSP\)](#)
para 56, page 18





INCA is the industry association that brings the Altnets and their supply chain partners together for mutual benefit.

For more information about our work visit our website at <https://www.inca.coop>

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