

Openreach Board Audit Risk & Compliance Committee (OBARCC) bulletin February 2019

The OBARCC is the Openreach Board committee responsible for monitoring Openreach's regulatory compliance. This is our third bulletin, reporting on our meeting in January 2019.

The Commitments Monitoring Office (CMO) supports the OBARCC. Communications Providers (CPs) who have queries or concerns about the Commitments are welcome to raise them with the CMO – either informally or as formal complaints. Details of how to contact the CMO, including guidelines for raising formal complaints, are available on the OBARCC [page](#) on the CP portal.

Headlines:

Since the OBARCC's last report in November 2018:

- Virtual1's David Simpson provided our second CP presentation;
- our terms of reference have been updated to include compliance monitoring in Openreach Northern Ireland;
- information sharing processes continue to be reviewed;
- a behavioural survey has reported positively on culture change across BT and Openreach since the implementation of the Commitments;
- OBARCC decided that one serious breach - involving sharing of Openreach Commercial Information - had occurred.

Report on the January 2019 OBARCC meeting

Presentation by Virtual1

At the January 2019 OBARCC meeting, we welcomed David Simpson, Chief Operating Officer of Virtual1, who provided the second CP presentation to the OBARCC.

David gave us a valuable insight into the interactions with Openreach of a specialist business CP such as Virtual1, and we aim to hear directly from CPs at each of our quarterly meetings. CPs who would be interested in presenting or who have any questions or concerns about the Commitments, should contact the CMO.

At our October 2018 meeting, TalkTalk requested greater clarity on Openreach's interactions with BT. We provide an update on this in the 'Commitments compliance' section of the bulletin.

Terms of Reference

We noted that our terms of reference had been formally revised by the Openreach Board to include our new responsibility to monitor compliance in Openreach Northern Ireland. The Openreach Board has already been briefed on the compliance requirements in Northern Ireland, and we asked for a detailed paper for the OBARCC at its next meeting.

Information sharing

In its most recent report on the implementation of the Commitments, Ofcom's Openreach Monitoring Unit (OMU) highlighted information sharing as an area where more work was needed. The Commitments set out restrictions on the sharing of Openreach Commercial Information and Customer Confidential Information between Openreach and BT, which is allowable only to the extent necessary to enable the proper functioning of BT and Openreach Limited, and for BT to fulfil its parent company responsibilities. They require BT to maintain a 'disclosure record' of significant information of this nature which has been shared and to report this to the OBARCC quarterly. Openreach and BT have agreed – and shared

with Ofcom - a number of Information Sharing Agreements (ISAs), to cover regularly shared information of this nature, and processes to capture such information shared outside these agreements.

At each of our quarterly meetings, we review an information disclosure report compiled by BT. This sets out the information which has been logged since the last report as being shared by Openreach employees with BT outside the ISAs, and Openreach information onward-shared by BT employees outside the ISAs.

We recorded in our last bulletin that we thought that the ISAs worked well for standard information sharing, but that more work was needed to ensure information sharing on key sensitive projects was captured for our review in the disclosure report, even where such projects were covered by an ISA. We heard at this meeting that work to review the information sharing processes remained ongoing.

We noted that progress was being made in agreeing processes for interaction between Openreach and BT Group; a final version of the guidance note for the management of the Annual Operating Plan/Medium Term Plan (AOP/MTP) was approved by the Openreach board in December 2018 and a process for managing strategic planning across the Group was coming to the Openreach board in January 2019. It was our view that the value of the disclosure report was in capturing information shared outside these agreed processes; if information was shared in the way set out in processes which had been reviewed with Ofcom, such as the AOP/MTP guidance note, there should be no need to include that information in the disclosure report.

Behaviours

We recognise the importance of cultural change, and the impact of behaviours. At our January 2019 meeting, we received a presentation from external consultants who had been employed to conduct a behavioural survey across the BT Group. We welcomed their assessment that the culture across the Group, including Openreach, had evolved in response to the introduction of the Commitments and that it was ahead of where the consultants had expected it might be.

We agreed with their view that strong leadership would continue to be important for the Commitments to become fully institutionalised and noted the areas they had identified as risks to continuing progress: employees' confidence to make decisions at an appropriate level and processes which were not cumbersome. We will continue to review regularly Openreach's internal behavioural measures.

Commitments compliance

We review a dashboard monitoring progress on compliance with the Commitments at each of our quarterly meetings. In October 2018, many items had become 'green' due to the progress towards full implementation of the Commitments and no red flags had arisen at the time of our January meeting.

We additionally review reports on the CMO's work over the quarter, and any concerns which have been raised by industry. Since our October 2018 meeting, the CMO had validated that the Optical Spectrum Access Filter Connect product was compliantly launched. It had received one informal complaint from industry, which it was in the process of reviewing through its 'Quick Check' process (which aims to provide an expedited review of issues which may not fit the criteria for formal complaints). The CMO had not received any formal complaints in the period. It had responded to 5 new information clarification requests from CPs, industry bodies and Ofcom.

The CMO's work to review Openreach's interaction with BT Group as a parent company continues. It has seen improvement across all areas, with all the improvements identified due to be in place by 31 March 2019, with the possible exception of the procurement area, where processes may take longer to finalise.

We reviewed an initial report from Openreach on areas where BT Group acts as a supplier to Openreach. We asked for an expanded version to come to our April 2019 meeting, with the intention that this could then be shared at the next OTA2 Executive meeting. We wanted this to include any examples of Openreach sourcing services outside BT Group and

the rationale for Openreach's use of BT Group's services. We were also interested in understanding any cases where there were differences between what BT Group supplies to other Customer Facing Units in the BT Group and Openreach.

Since our last bulletin, the CMO has been able to provide further clarification to industry on the following points :

- in response to concerns about employees moving between Openreach and other areas of BT Group, we confirmed that sensitive roles in Openreach will normally be advertised externally as well as in BT Group. The CMO Director updated the January 2019 OTA2 Executive meeting on how sensitive roles were defined and moves within these roles managed. There remains one, central website advertising jobs across the whole of the BT Group. The CMO has now been able to confirm that the number of Openreach employees who have moved to BT over the last year is limited: 64 managers, across a range of areas and seniority levels but the majority in junior roles, have moved into a variety of areas in the BT Group.
- in response to concerns about openreach.co.uk email addresses being interoperable with bt.com email addresses, we reported previously that external emails sent to the 'xxx@openreach.co.uk' address for someone who is now working in BT will no longer reach that person. Openreach has now identified an affordable technical solution to stop internal emails, and this is being reviewed to ensure there are no unintended consequences for information retention for legal and regulatory purposes before it is implemented.
- an overview of the AOP/MTP process was shared at the January 2019 OTA2 Executive meeting.

Breaches and complaints

One of our roles is to review potential breaches of the Commitments and Governance Protocol and - whilst these were in place - the Undertakings.

In line with the practice adopted by the BT Compliance Committee, we classify breaches as either 'serious' or 'trivial' and we also review non-conformances with policy, where there has been no breach of the letter of the Commitments but where nonetheless there is an area of concern.

We agreed at our January 2019 meeting that the one remaining Undertakings breach that was relevant to Openreach had been remedied. The breach had concerned BT employees having inappropriate access to information on Sub-Loop Unbundling orders; access to new orders was removed after the breach was identified, but in-flight orders remained visible. All the in-flight orders have now been completed and there is no further inappropriate access to these orders.

We noted that the BT Compliance Committee had agreed that one trivial breach of the Commitments and one trivial non-conformance had occurred since our last meeting. The BT Compliance Committee publishes details of its decisions in its [bulletin](#).

Openreach reported three trivial non-conformances with policy to our January meeting. All three cases concerned potentially inappropriate information sharing and - while investigation confirmed these were not breaches - Openreach has reviewed and tightened its processes as a result.

Openreach also reported one serious breach of the Commitments. This concerned a report which contained Openreach Commercial Information (CI) on complaints received by Openreach being inappropriately shared with a BT Group employee. The sharing was inadvertent and would have given little commercial benefit to BT but Openreach considered this to be a serious breach as it was not corrected when it was originally identified. We agreed with Openreach's assessment and noted that the incorrect email distribution list (which was the source of the breach) had now been corrected.

Next meeting

Our next quarterly meeting is planned for April 2019 and we will publish our annual review of Openreach's compliance with the Commitments and Governance Protocol in June 2019.