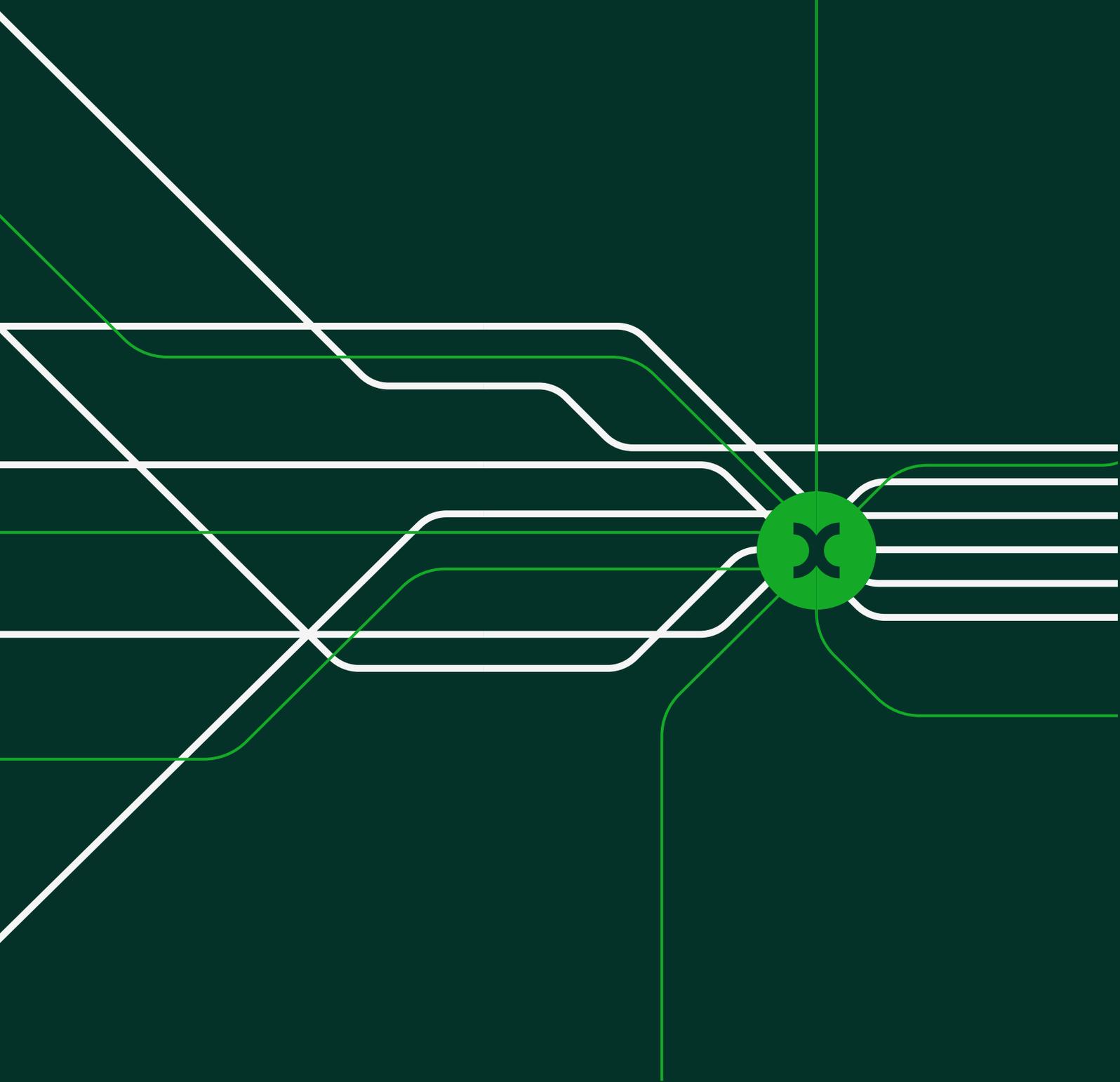


Economic assessment of Wholesale  
Notification 2025-021: Decision Report

Prepared for Commission for  
Communications Regulation

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# 1 Introduction and summary

## 1.1 Background and context

- 1.1 In Decision D05/24, ComReg introduced rules that prohibit eircom Limited (hereafter 'eircom') from applying Promotions or Discounts to its FTTH-based VUA services unless ComReg grants it with express prior approval to do so on a case-by-case basis.<sup>1</sup> eircom must notify ComReg of any Promotion or Discount that it proposes to introduce at least three months in advance of the proposed scheme's publication date.<sup>2</sup> ComReg will then assess the proposed scheme against the four criteria set out in the regulatory framework, and will not approve any such scheme unless all four criteria are cumulatively satisfied.<sup>3</sup>
- 1.2 On 8 August 2025, eircom submitted a proposed FTTH discount scheme, referred to as Wholesale Notification 2025-021 (hereafter 'WN2025-021'), for ComReg's approval.
- 1.3 On 19 December 2025, ComReg published a Consultation and Draft Decision that presented its assessment of WN2025-021.<sup>4</sup> Based on the information available to it at the time, and subject to considering submissions to the consultation, ComReg proposed not to approve the proposed scheme.
- 1.4 To support its assessment, ComReg engaged Oxera to conduct an independent economic assessment of WN2025-021, in line with the regulatory framework set out in Decision D05/24. The findings of our assessment were presented in a report (hereafter the 'Oxera Consultation Report'<sup>5</sup>), which was published as an annex to ComReg's consultation document.

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<sup>1</sup> ComReg (2024), 'Market Reviews; Wholesale Local Access (WLA) provided at a fixed location; Wholesale Central Access (WCA) provided at a fixed location for mass-market products; ComReg 24/07; Decision D05/24', 18 January, para. 9.557 (hereafter 'Decision D05/24'). For the avoidance of doubt, these rules apply to open eir's wholesale virtual unbundled access ('VUA') services based on its fibre-to-the-home ('FTTH') network architecture.

Hereafter, we use the term 'open eir' where we intend to refer specifically to eircom's wholesale arm, and 'eir retail' where we intend to refer specifically to eircom's retail arm.

<sup>2</sup> Decision D05/24, Decision Instrument: Section 14.11.

<sup>3</sup> Decision D05/24, Decision Instrument: Section 14.10.1–14.10.4.

<sup>4</sup> ComReg (2025), 'Consultation: Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg Decision D05/24; ComReg 25/93', 19 December (hereafter 'ComReg 25/93').

<sup>5</sup> Oxera (2025), 'Economic assessment of Wholesale Notification 2025-021: Consultation Report', 16 December.

1.5 In this report, which acts as an addendum to the assessment presented in the Oxera Consultation Report, we respond to the comments raised by stakeholders that relate to the economic assessment of the proposed scheme and present the further analysis that we have undertaken. We maintain the conclusions set out in the Oxera Consultation Report: the proposed scheme does not cumulatively satisfy the four criteria specified in the regulatory framework as criterion 4 is not satisfied.

## 1.2 Key findings in the Oxera Consultation Report

1.6 Below, we summarise the key findings presented in the Oxera Consultation Report on each of the four criteria specified in ComReg's regulatory framework.

1.7 We concluded that criterion 1 is satisfied on the basis that, under the proposed scheme, the price of the cheapest eligible FTTH VUA wholesale product that is eligible for the discount, including the maximum discount, would remain above the Price Floor for FTTH VUA products.<sup>6</sup>

1.8 We concluded that criterion 2 is satisfied for the following reasons.<sup>7</sup> First, we considered that the proposed scheme would be available to the full range of Access Seekers on the basis that the growth targets are defined in percentage (rather than absolute) terms, and that the discount would be available across essentially all FTTH profiles (for VUA and Bitstream).<sup>8</sup>

1.9 Second, we did not identify any conditions or features of the proposed scheme that give rise to concerns that eir retail would be favoured in either form or effect. In reaching this view, we observed that there were no restrictions related to migrations from copper and fibre-to-the-cabinet ('FTTC') to FTTH, meaning that eir retail would not gain an advantage from the larger scale of its copper and FTTC base relative to other Access Seekers.<sup>9</sup> We also observed that both new FTTH connections and FTTH-to-FTTH conversions contribute towards the growth target, which would mean that Access Seekers that are at a more advanced stage of migrating their copper/FTTC base would still be able to

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<sup>6</sup> For more detail see Oxera Consultation Report, section 3.

<sup>7</sup> For more detail see Oxera Consultation Report, section 4.

<sup>8</sup> Oxera Consultation Report, paras 4.2–4.5.

<sup>9</sup> Oxera Consultation Report, paras 4.7–4.10.

avail themselves of the discount if they meet the growth targets.<sup>10</sup>

- 1.10 We concluded that criterion 3 is satisfied on the basis that the proposed scheme does not contain any conditions or provision that would be expected to give rise to the application of the discount being targeted at a specific geographic area and, thus, that there is no reason to expect that the proposed scheme itself would lead to geographically differentiated prices.<sup>11</sup>
- 1.11 We were unable to conclude that criterion 4 is satisfied, as we identified risks that the proposed scheme could have loyalty-enhancing or competition-foreclosing effects. The reasons for this are as follows.<sup>12</sup>
- 1.12 First, we found that, given the estimated number of lines that would be required for non-eircom Access Seekers to meet the growth target relative to the overall number of households covered by open eir and at least one rival wholesale network operator, the proposed scheme would not, in principle, create an exclusivity requirement or impose a restriction on the growth of alternative wholesale network operators.<sup>13</sup> However, we explained that this finding depends on whether Access Seekers face constraints on the number of new FTTH customers that can reasonably be achieved operationally or commercially within the period.<sup>14</sup>
- 1.13 We expressed concern that if there were constraints that meant achieving the growth target was close to (or exceeds) what is feasible in practice, the scheme could have the effect of driving Access Seekers to favour open eir over alternative wholesale network operators to increase the chances of meeting the targets and obtaining the discount. This could result in a near-exclusive, or exclusive, reliance on open eir's FTTH network during the eligibility window.<sup>15</sup> In this regard, we also noted the evidence that FTTH growth rates are slowing down and

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<sup>10</sup> Oxera Consultation Report, para. 4.11.

<sup>11</sup> Oxera Consultation Report, para. 5.2.

<sup>12</sup> For more detail see Oxera Consultation Report, section 6.

<sup>13</sup> Oxera Consultation Report, paras 6.15–6.31 and 6.66.

<sup>14</sup> Oxera Consultation Report, paras 6.33 and 6.66.

<sup>15</sup> Oxera Consultation Report, paras 6.33–6.35.

explained that this added to the risk that Access Seekers may face challenges in achieving or exceeding the growth targets.<sup>16</sup>

- 1.14 Second, we found that the 'cliff-edge' nature of the volume-based thresholds means that the scheme has retroactive features and could create loyalty-enhancing or competition-foreclosing effects.<sup>17</sup> The structure of such an offer could undermine competition at the wholesale level during the eligibility window.
- 1.15 We further explained that this feature of the scheme could give rise to scenarios in which alternative wholesale network operators would be required to offer a discount below open eir's discount price to remain attractive, and noted that where this price would be below the Price Floor, this raises concerns.<sup>18</sup> This outcome would arise where the alternative wholesale network operator's FTTH footprint covers only a sub-set of the specific lines that Access Seekers may target during the eligibility window to meet the growth target. In this case, to attract the Access Seeker, the alternative wholesale network operator would need to offer a deeper discount to 'compensate' the Access Seeker for the value of the discount 'foregone' on the lines that it cannot serve and thus would still need to be taken with open eir (but which would not obtain the open eir discount).
- 1.16 We explained that, because the location of the specific lines affected by the scheme could not be determined ex ante, we could not rule out the possibility that the retroactive features of the discount scheme would lead non-eircom Access Seekers to favour open eir over alternative wholesale network operators.<sup>19</sup>
- 1.17 We acknowledged that there were some factors that suggested that the number of lines needed to satisfy the growth target is small relatively to all lines over which competition could take place.<sup>20</sup> However, we explained that while this may reduce the concern that network investment by alternative operators may be adversely affected, there remained a risk that adverse outcomes for alternative wholesale network operators may

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<sup>16</sup> Oxera Consultation Report, paras 6.34–6.35 and 6.67.

<sup>17</sup> Oxera Consultation Report, section 6.1.4.

<sup>18</sup> Oxera Consultation Report, section 6.1.4 and para. 6.69.

<sup>19</sup> Oxera Consultation Report, paras 6.53–6.54 and 6.70–6.71.

<sup>20</sup> Oxera Consultation Report, section 6.2.

materialise.<sup>21</sup> The features of the proposed scheme, as set out above, mean that the offer could undermine competition at the wholesale level, and thereby criterion 4 is not satisfied.

### 1.3 Final conclusions

1.18 Having assessed the stakeholder responses, and undertaken further analysis, our final conclusions are as follows.

- We maintain our position that criteria 1 is satisfied for the same core reasons set out in the Oxera Consultation Report.<sup>22</sup>
- We maintain our position that criterion 2 is satisfied for the same reasons set out in the Oxera Consultation Report, despite arguments presented by Virgin Media Ireland ('VMI') and Sky. In particular, under the proposed scheme, Access Seekers can acquire the same level of discount for copper and FTTC migrations to FTTH, irrespective of whether they are migrating their own copper/FTTC customers or those acquired from rival Access Seekers.
- We maintain our position that criteria 3 is satisfied for the same reasons set out in the Oxera Consultation Report.
- We conclude that criterion 4 is not satisfied for the same core reasons that we set out in the Oxera Consultation Report. We summarise the reasons why we conclude that criterion 4 is not satisfied below.

#### Reasons why criterion 4 is not satisfied

1.19 First, we maintain that the cliff-edge nature and retroactive features of the proposed scheme give rise to concerns that the proposed scheme could lead to loyalty-enhancing or competition-foreclosing effects. The structure of the offer, therefore, could have the effect of incentivising Access Seekers to prioritise open eir over alternative wholesale network operators and, therefore, undermine competition at the wholesale level during the eligibility window.

1.20 Second, our analysis suggests that the proposed scheme could have the effect of an implicit exclusivity requirement. The incentives for Access Seekers to prioritise connecting and migrating new FTTH lines on open eir's network over alternative

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<sup>21</sup> Oxera Consultation Report, para. 6.72.

<sup>22</sup> Furthermore, we note that [§<§<]. The price of the cheapest eligible FTTH VUA wholesale product discount, including the maximum available discount, of €21.00 would remain above the Price Floor [§<§<]. Therefore, criterion 1 would still be satisfied. See [§<§<].

wholesale network operators, in order to meet the growth targets, may be particularly strong given the evidence on the degree to which FTTH growth is slowing.

- 1.21 In particular, the additional analysis that we have undertaken on FTTH growth, and the stakeholder responses on this issue, suggest that Access Seekers are likely to face a material challenge in achieving or exceeding the growth target without prioritising lines to the open eir network. In this way, the nature of the targets could drive Access Seekers to a near exclusive, or exclusive, reliance on open eir's FTTH network during the eligibility window. In addition, this reinforces the concern that the number of residual lines over which alternative wholesale network operators could compete may be limited.<sup>23</sup> Thus the proposed scheme could have the effect of undermining competition for wholesale FTTH lines during the eligibility window.
- 1.22 Furthermore, where an alternative wholesale network operator's FTTH footprint does not fully overlap with open eir's FTTH footprint, such that it covers only a sub-set of the **specific lines** that Access Seekers target during the eligibility window to meet the growth target, the alternative wholesale network operator would be unable to effectively compete with open eir even if it matched the level of the discount (unless it offers an even deeper discount, potentially below the Price Floor). We continue to be of the view that it is not possible to determine ex ante the extent to which the networks of alternative wholesale network operators would overlap with the **specific lines** that Access Seekers may target during the eligibility window. However, for the reasons outlined above, there is a risk that the proposed scheme would undermine wholesale competition.
- 1.23 Our concerns that the structure of the proposed scheme could generate loyalty-enhancing or competition-foreclosing effects, and have the effect of an implicit exclusivity requirement, during the eligibility window are not eliminated by the relatively small scale of the proposed scheme in terms of the number of lines directly affected during this period. The proposed scheme could have a deleterious effect on the ability of alternative wholesale

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<sup>23</sup> In the Oxera Consultation Report, we used the term 'residual lines' to refer to the number of lines that would be open to competition from alternative wholesale network providers after the open eir growth targets are met.

network operators to compete effectively with open eir at the wholesale level during the eligibility window and thus could undermine competition, in contradiction with the test set out in criterion 4.

- 1.24 In section 2 of this report, we present our assessment of the comments raised by open eir and other stakeholders in response to ComReg's consultation and present the reasoning for reaching our final conclusions.

## 2 Assessment of stakeholder responses to ComReg's consultation

2.1 In this section, we present our assessment of the comments provided by stakeholders in response to ComReg's consultation that relate to the economic assessment of the proposed scheme. We first assess the comments raised by open eir (section 2.1), and then assess the comments raised by other stakeholders (section 2.2). We present our final conclusions in section 2.3.

### 2.1 Assessment of comments raised by open eir

2.2 The comments provided by open eir that are relevant to our economic assessment are focused on criterion 4. We respond to the comments raised by open eir that relate to the following issues that are relevant to our economic assessment:

- the number of residual lines and the feasibility of achieving the growth targets (section 2.1.1);
- the impact of the proposed scheme in the 'overlapped areas' (section 2.1.2);
- the relative scale of the lines needed to meet the growth target (section 2.1.3).

#### 2.1.1 The number of residual lines and the feasibility of achieving the growth targets

2.3 At various points in its response, open eir suggested that the amount of 'headroom' that would be available above the growth target—i.e. lines for which alternative wholesale network operators could compete after the growth target had been met—meant that the scheme would not adversely affect alternative network operators' incentives to invest or ability to compete.<sup>24</sup> In several parts of its response, open eir explicitly cites our analysis on the number of residual lines as being supportive of its argument that alternative wholesale network operators have significant scope to compete and, therefore, that criterion 4 is satisfied.<sup>25</sup>

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<sup>24</sup> open eir (2026), 'Response to ComReg Consultation and Draft Decision: ComReg's assessment of a Wholesale FTTH discount scheme', 30 January, paras 33–35, 55–58, 63–66 and 77 (hereafter 'open eir Consultation Response').

<sup>25</sup> open eir Consultation Response, paras 7, 21, 57 and 67.

- 2.4 The analysis presented in the Oxera Consultation Report showed that, in principle, there would be a significant number of residual lines remaining after the growth target was met.<sup>26</sup> In that case, alternative wholesale network operators would be able to compete for these lines without impeding an Access Seeker's ability to meet the growth target. However, this finding was conditional on the extent to which Access Seekers would be able to feasibly meet (and exceed) the growth targets during the ability window.<sup>27</sup> This is an important caveat since, if Access Seekers faced constraints that meant they may be unable to add significantly more lines than needed to meet the growth target during the eligibility window, there would be no—or only limited—residual lines over which alternative wholesale network operators could compete without affecting an Access Seeker's ability to meet the growth target. When referring to our analysis, open eir does not acknowledge this caveat and thus mischaracterises our analysis as being unconditionally supportive of its position.
- 2.5 The weight we place on the findings on the residual number of lines is dependent on the feasibility of the growth targets being met and exceeded. For the reasons we set out below, we consider that there is unlikely to be significant headroom above the growth targets in practice, and that, therefore, the proposed scheme could have the effect of an implicit exclusivity requirement and thereby undermine competition at the wholesale level during the eligibility window.<sup>28</sup>
- 2.6 open eir made submissions related to the level and achievability of the growth targets specified in the proposed scheme. While open eir recognised that the rate of growth in the FTTH market had slowed in 2025 compared with previous years, it argued that the mechanics of the proposed scheme takes account of this slow down.<sup>29</sup> open eir presented updated data on its total FTTH growth in 2025 (for non-eircom Access Seekers), which it

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<sup>26</sup> Oxera Consultation Report, paras 6.25–6.30 and Annex A1.

<sup>27</sup> Oxera Consultation Report, paras 6.32–6.35.

<sup>28</sup> We note that, as set out in ComReg's market review, in which the regulations on promotions and discounts were introduced, and in our supporting economic report, it was highlighted that exclusivity discounts may be of particular concern (see: Decision D05/24, paras 9.520, 9.539 and 9.557(b); Oxera (2022), 'WCA/WLA market review: Oxera report: Part 1', 16 December, para. 5.31).

<sup>29</sup> open eir Consultation Response, para. 41.

argued demonstrates that the volume of lines needed to meet the growth target are lower than previously estimated.<sup>30</sup>

- 2.7 open eir argued that since the growth targets are applied to open eir's relative low share of FTTH growth, there was not a risk of crowding out volumes from other wholesale providers.<sup>31</sup> open eir said that the proposed scheme is intended to stimulate the slowing FTTH market,<sup>32</sup> and that the growth targets needed to be 'stretching but attainable' and not 'trivially easy' in order to have the effect of incentivising FTTH growth.<sup>33</sup>
- 2.8 In the Oxera Consultation Report, we expressed concern that if Access Seekers faced operational or commercial constraints such that they would face challenges in meeting or exceeding the growth targets, this could lead Access Seekers to prioritise open eir over alternative wholesale network operators, to maximise the chances of obtaining the discount.<sup>34</sup> We explained that if this was the case it could have the effect of an implicit exclusivity requirement.<sup>35</sup>
- 2.9 In the response to consultation, Vodafone, VMI and SIRO observed that the FTTH growth rate in the Irish market was slowing.<sup>36</sup> Each stakeholder commented that, in this context, achieving the growth target would be challenging.
- Vodafone said that it considers that 'the growth thresholds underpinning the proposed discount scheme are commercially unrealistic in current market conditions' and 'reflect a level of acceleration that is not achievable in practice'.<sup>37</sup>
  - VMI argued that in a rapidly growing market the growth targets would not be of particular concern, but that in the current

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<sup>30</sup> open eir Consultation Response, paras 42–43 and Table 1.

<sup>31</sup> open eir Consultation Response, para. 46.

<sup>32</sup> open eir Consultation Response, para. 71.

<sup>33</sup> open eir Consultation Response, para. 76.

<sup>34</sup> Oxera Consultation Report, paras 6.32–6.35.

<sup>35</sup> Oxera Consultation Report, paras 6.33 and 6.66.

<sup>36</sup> Vodafone (2026), 'Vodafone Response to Consultation: Consultation and Draft Decision on an Assessment of a wholesale FTTH discount scheme notified by Eircom under ComReg Decision D05/24: Non-confidential', 30 January, pp. 2–3 (hereafter 'Vodafone Consultation Response'); Virgin Media Ireland (2026), 'Virgin Media response to: ComReg's Consultation on a Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg Decision D05/24 (Reference: ComReg 25/93): Non-confidential version', 30 January, pp. 4–6 (hereafter 'VMI Consultation Response'); SIRO (2026), 'SIRO Response to ComReg Consultation ComReg 25/93 (WN2025-021) Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg Decision D05/24', 26 January, section 5.2 (hereafter 'SIRO Consultation Response').

<sup>37</sup> Vodafone Consultation Response, p. 2.

market conditions, the scheme provided strong incentives for Access Seekers to place all their orders with open eir.<sup>38</sup>

- SIRO argued that as the FTTH market had grown by a 'steady amount for many quarters', this meant that an increase in growth on open eir's network would come at the expense of growth on alternative networks.<sup>39</sup>

2.10 Sky also commented on the feasibility of achieving the target, arguing that for retail operators to 'have a chance of meeting the target' they would need to make active decisions and choose open eir's network over alternative networks and noted that retail operators would likely need to invest in 'advertising and FOTS (feet on the street) to get close to the targets'.<sup>40</sup> In contrast, Pure Telecom considered that the growth targets are 'challenging but commercially achievable'.<sup>41</sup>

2.11 We have also undertaken additional analysis of ComReg's QKDR data to examine the trends in FTTH growth rate.

2.12 In Figure 2.1 below, we present the six-month growth rate in FTTH Active Subscriber Lines in total (excluding NBI) and on open eir's network.<sup>42</sup> Consistent with the Oxera Consultation Report,<sup>43</sup> and the stakeholder responses, we find that FTTH growth is slowing. In particular, Figure 2.1 shows that the six-month FTTH growth rate has, in recent quarters, declined, both when considering the total number of FTTH Active Subscriber Lines (excluding NBI) and specifically on the open eir network.

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<sup>38</sup> VMI Consultation Response, pp. 5–6.

<sup>39</sup> SIRO Consultation Response, section 5.1.

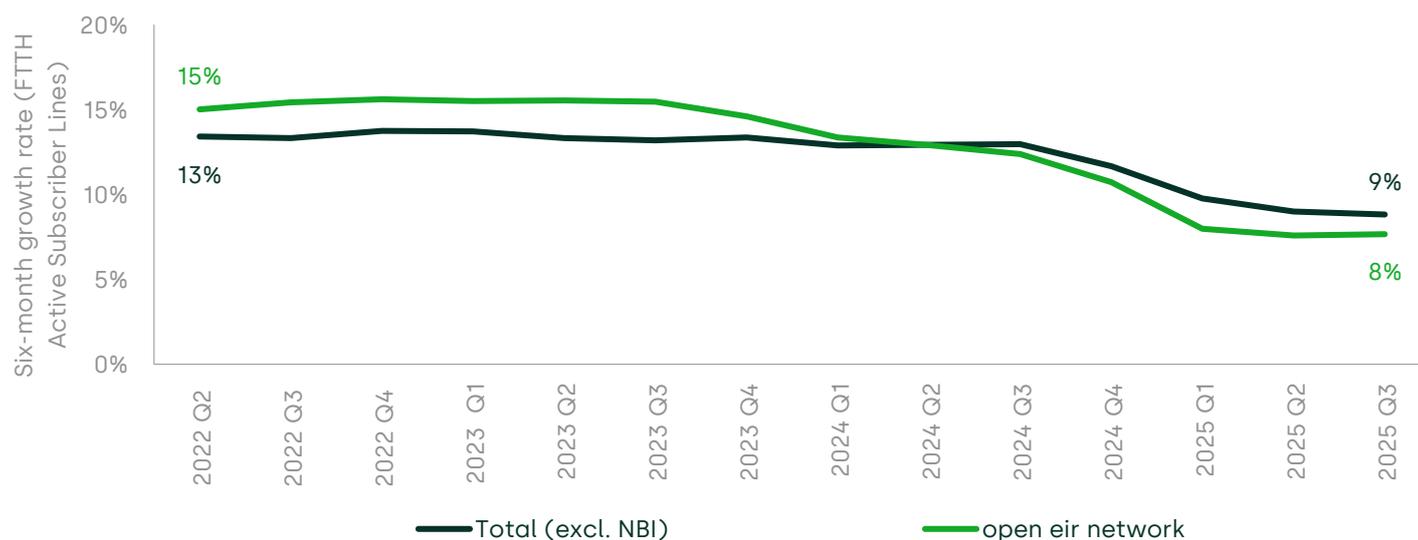
<sup>40</sup> Sky (2026), 'Sky response to ComReg Consultation on Assessment of FTTH Discount Scheme', 30 January, p. 1 (hereafter 'Sky Consultation Response').

<sup>41</sup> Pure Telecom (2026), 'Pure Telecom Submission', p. 1.

<sup>42</sup> We exclude lines on the National Broadband Ireland ('NBI') network as this network is being deployed under the state-funded National Broadband Plan and, therefore, will not (to a material degree) overlap with the commercial rollout by open eir and other alternative network operators.

<sup>43</sup> Oxera Consultation Report, para. 6.34.

Figure 2.1 Six-month growth rate (FTTH Active Subscriber Lines)



Note: We calculate the six-month growth rate as the change in the volume of FTTH lines over the past two quarters divided by the total volume of FTTH lines two quarters prior.

Source: Oxera analysis of ComReg (2025), '[Q3 2025 QKDR All Data: 5 - Broadband](#)', accessed 9 March 2026.

2.13 Importantly, the definition of the growth targets in the proposed scheme requires Access Seekers to *accelerate* the growth in the number of FTTH lines they supply. Generally speaking, in the broader market context of slowing (or, *decelerating*) growth in FTTH, achieving a growth target that requires Access Seekers to reverse this trend and accelerate growth may be challenging.

2.14 We acknowledge open eir's comment that the mechanics of the proposed scheme will reflect the slower rate of FTTH growth relative to previous years. We also recognise that the likely absolute number of lines needed to meet the growth target is lower than open eir (and we) previously estimated.

2.15 However, in light of the longer-term downward trajectory of FTTH growth (as shown in Figure 2.1 above), the proposed scheme would require an Access Seeker reverse this trend by a material amount to achieve the required growth targets (which will be based on 15–20% growth on a baseline taken from more than 12 months prior). We also note that, based on recent trends, growth may continue to slow between now and the start of the eligibility window (1 June 2026). If this were to occur, it would reinforce the challenge faced by Access Seekers.

2.16 In order to understand the potential materiality of the challenge that Access Seekers may face in meeting the targets, we have assessed the growth target requirements against historic data on the growth in FTTH lines. In particular, we consider an illustrative example in which we demonstrate the impact of setting the growth rates relative to a baseline from 12 months prior, in the broader context of slowing FTTH growth rates. As shown in Box 2.1 below, to illustrate this we use available QKDR data to apply the calculation of the growth targets to the 2024 baseline number of FTTH lines on open eir's network (in the same way the proposed offer would require), compare this against the outturn growth based on the latest six months of data in 2025 (2025 Q1–Q3), and illustrate the additional lines that would be required to meet the targets and obtain the discount.<sup>44</sup>



### Box 2.1 Assessment of the growth targets based on the observed trend in the number of FTTH lines

In 2024, the number of FTTH lines on the open eir network grew by approximately 100,000 lines.<sup>1</sup> Applying the calculation of the growth targets in the same way as defined in the proposed scheme, the baseline number of lines that would be used to determine the growth targets is the six-month average growth in FTTH lines in 2024, i.e. 50,000 lines.

The growth targets that Access Seekers (in aggregate) would then have needed to meet during the second half of 2025, would have been:

- 50,000 lines **plus an additional 7,500 lines** to meet the 15% growth target (i.e. 57,500 FTTH lines in total);
- 50,000 lines **plus an additional 10,000 lines** to meet the 20% growth target (i.e. 60,000 FTTH lines in total).

Given the slowing growth rate in FTTH lines, we observe that in the six months between 2025 Q1 and 2025 Q3 (the latest data available), the observed growth in the number of FTTH lines on

<sup>44</sup> In this illustrative example, for reasons of simplification, we use public data on the number of FTTH lines on the open eir network. We recognise that in reality each access seeker will have its own growth target.

the open eir network—taken as the ‘no offer’ counterfactual—was approximately 40,000 lines.<sup>2</sup>

In this case, even if Access Seekers had managed to achieve the increase in the number of FTTH lines required by the growth rates (i.e. the **7,500** and **10,000** lines for the 15% and 20% targets) in addition to the 40,000 lines actually achieved, the volume of FTTH lines supplied would be **around 10,000 lines below** the target.

Therefore, in order to achieve the discount, the Access Seekers would need to successfully provide a significantly larger number of new lines above the ‘no offer counterfactual’, than implied by the growth target number of lines set relative to the baseline from 12 months prior.

Notes: <sup>1</sup> We compare the number of active FTTH lines on open eir’s network at the end of Q4 2024 (503,198 lines) against the number at the end of Q4 2023 (402,570 lines). <sup>2</sup> We do note that, in practice, these number of lines may also be larger than under a ‘no offer’ counterfactual, as this growth was achieved in the presence of a discount being applied by open eir to the FTTH VUA monthly price for eligible lines in three of the six months considered. Specifically, in April 2025, Wholesale Notification 2024-021 was active. This discount scheme provided a discount of €2 per month (for two years) on new connections and upgrades taking a 1Gbps FTTH VUA service between 1 November 2024 and 30 April 2025 (see: ComReg (2024), ‘Assessment of a wholesale FTTH promotion notified by Eircom Limited under ComReg Decision D05/24 (WN2024-021); ComReg 24/70’, 29 August, section 2). From August–September, Wholesale Notification 2025-010 was active. This discount scheme provides a €2 per month discount (for two years) on the FTTH VUA monthly price for lines that are upgraded from FTTC to FTTH between 1 August 2025 and 31 March 2026 (see: ComReg (2025), ‘Assessment of a wholesale FTTH promotion notified by Eircom Limited under ComReg Decision D05/24 (WN2025-002); ComReg 25/28’, 21 May, section 2). Source: Oxera analysis of ComReg (2025), [‘Q3 2025 QKDR All Data: 5 - Broadband’](#), accessed 9 March 2026.

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- 2.17 The example in Box 2.1 illustrates the potential materiality of the challenge that Access Seekers may face in meeting the growth targets in the proposed scheme in the context of the trend of declining FTTH growth. Notably, the FTTH growth has continued to decline despite open eir having discount schemes in place in 2025. While a degree of caution should be adopted in making inferences on the precise scale of the challenges Access Seekers would face based on historic data, the analysis above, and having had regard to the consultation responses provided, suggests that Access Seekers may face a material challenge in

achieving or exceeding the targets in the proposed scheme. We, therefore, disagree with open eir's suggestion that 'there is significant headroom available to Altnets in terms of available residual lines [above the growth targets]'.<sup>45</sup>

2.18 In light of this, we consider that the structure of the offer, and the way in which the growth targets are calculated, could have the effect of creating an implicit exclusivity requirement—i.e. that the targets drive Access Seekers to a near exclusive, or exclusive, reliance on open eir's FTTH network during the eligibility window. This is because Access Seekers may prioritise connecting and migrating new FTTH lines on open eir's network over alternative wholesale network operators in order to maximise the chances of meeting the growth targets and obtaining the discount, thus undermining competition in the wholesale market during the eligibility window.

### 2.1.2 The impact of the proposed scheme in the 'overlapped areas' and 'non-overlapped areas'

2.19 open eir suggests that in the overlapped areas, the proposed scheme 'could not "adversely affect" SIRO/VMI's business case, incentives, or ability to compete',<sup>46</sup> and that Access Seekers 'do not face any economic compulsion to deprioritise SIRO/VMI in overlap areas'.<sup>47</sup> In reaching this view, open eir explicitly cites the analysis presented in the Oxera Consultation Report and in Annex A1.<sup>48</sup> In particular, it references our finding that there are alternative wholesale network operators that can compete for residual lines ('[a]fter the modest open eir growth target is met (using the vast number of non-overlap lines), SIRO/VMO are free to compete for the residual lines as normal by matching the discounted price'),<sup>49</sup> and that the price remains above the Price Floor.<sup>50</sup>

2.20 However, open eir's argumentation, and references to the Oxera Consultation Report, are incomplete for the following reasons.

2.21 First, our concerns regarding the potential effects of the proposed scheme in the overlapping areas stem from the

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<sup>45</sup> open eir Consultation Response, para. 63.

<sup>46</sup> open eir Consultation Response, para. 35. See also open eir Consultation Response, para. 21.

<sup>47</sup> open eir Consultation Response, para. 34.

<sup>48</sup> open eir Consultation Response, paras 32–34.

<sup>49</sup> open eir Consultation Response, para. 34.

<sup>50</sup> open eir Consultation Response, para. 34.

structure of the proposed scheme, namely the growth targets. In particular, the structure of the growth targets, which are volume-based thresholds, acts as a 'cliff edge', and mean that the proposed scheme has retroactive features.<sup>51</sup> This gives rise to the risk that the proposed scheme could undermine competition at the wholesale level during the eligibility window.<sup>52</sup>

- 2.22 Second, any reference to the number of residual lines remaining after the growth targets have been met, must consider the caveats set out in the Oxera Consultation Report, and the analysis and conclusions presented in section 2.1.1 above. As we set out, in practice, to the extent that there are *any* residual lines, these may be very limited after Access Seekers prioritise taking lines on the open eir network to achieve the growth targets that will likely be very challenging in practice.
- 2.23 Third, open eir argued that the growth target could be met using what it refers to as 'non-overlap' lines.<sup>53</sup> We understand that open eir is in this case referring to lines that are outside the footprints of alternative wholesale network operators. We recognise that, to the extent that non-eircom Access Seekers would use such lines to contribute to the growth target, this would reduce the risk that open eir would be prioritised over alternative wholesale network operators. However, achieving the growth targets from the sub-set of lines in the non-overlapped areas would be even more challenging than outlined in section 2.1.1 above, particularly in the context of slowing growth. Critically, open eir does not establish a clear incentive for Access Seekers to selectively target their FTTH growth on open eir's network in this way. open eir's arguments, therefore, do not provide the reassurances that it claims.
- 2.24 Furthermore, the arguments presented by open eir distinguishing between 'overlap' and 'non-overlap' areas do not address a key concern set out in the Oxera Consultation Report.

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<sup>51</sup> Oxera Consultation Report, paras 6.9–6.10.

<sup>52</sup> We note that, as set out in ComReg's market review, in which the regulations on promotions and discounts were introduced, and in our supporting economic report, it was highlighted that volume-based discounts and retroactive rebates may be of particular concern (see: Decision D05/24, paras 9.519, 9.522 and 9.557(b); Oxera (2022), 'WCA/WLA market review: Oxera report: Part 1', 16 December, paras 5.29 and 5.34).

<sup>53</sup> open eir Consultation Response, paras 29 and 34.

- 2.25 Specifically, as long as the alternative wholesale network operator's FTTH footprint covers only a **sub-set** of the **specific** lines that Access Seekers may target during the eligibility window to meet the growth target, there is a risk that, due to the retroactive features of the proposed scheme, matching the discounted price would not be sufficient to effectively compete with open eir. We explained why this is the case in the Oxera Consultation Report.<sup>54</sup> In this case, to attract the Access Seeker, the alternative wholesale network operator would need to offer a deeper discount to 'compensate' the Access Seeker for the value of the discount 'foregone' on the lines that it cannot serve and thus would still need to be taken with open eir (but which would not obtain the open eir discount).
- 2.26 It is not possible to determine ex ante the extent to which the networks of alternative wholesale network operators would overlap with the **specific lines** that Access Seekers may target during the eligibility window. However, this risk remains, in addition to the other concerns set out above on why the structure of the offer will lead to an undermining of competition at the wholesale level during the eligibility window.
- 2.27 The stakeholder responses to the consultation did not provide any additional evidence on this issue. As such, we maintain our position that the structure of the retroactive features of the proposed scheme could lead to loyalty-enhancing or competition-foreclosing effects and, therefore, undermine competition at the wholesale level. For the reasons set out above, and in the Oxera Consultation Report,<sup>55</sup> we disagree with open eir's suggestion that the proposed scheme could not affect alternative wholesale network operators' ability to compete and would not lead to Access Seekers prioritising open eir, and our analysis demonstrates this. We clearly set out the circumstances in which the proposed scheme could lead to these effects,<sup>56</sup> and as discussed in section 2.1.1, the slowing of FTTH growth reinforces our concerns that Access Seekers may prioritise open eir.
- 2.28 open eir suggests that our assessment finds a lack of evidence that the proposed scheme could have material adverse effects

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<sup>54</sup> Oxera Consultation Report, paras 6.50–6.52.

<sup>55</sup> Oxera Consultation Report, sections 6.1.2 and 6.1.4.

<sup>56</sup> Oxera Consultation Report, section 6.1.4.

and that we identify 'only limited theoretical effects'.<sup>57</sup> We disagree with open eir's characterisation of our assessment. Our assessment above, and in the Oxera Consultation Report, sets out the reasons why we consider the proposed scheme could undermine competition, in contradiction with the test set out in criterion 4. While we cannot quantify the risk of the loyalty-enhancing or competition-foreclosing effects materialising, for the reasons set out in paragraph 2.25 above, we do not consider and have not stated that the risks are 'limited' or only 'theoretical'. In addition, for the reasons set out in section 2.1.1 above, we consider that there is a real risk that the proposed scheme could have implicit exclusivity effects during the eligibility window.

### 2.1.3 The relative scale of the lines needed to meet the growth target

2.29 In various places in its response, open eir emphasises the small scale of the proposed scheme (in terms of the number of lines that may be affected) relative to the total base of eligible lines and, in some cases, cites the Oxera Consultation Report in support of this.<sup>58</sup> Notably, open eir presents updated data which implies that the number of lines needed to meet the growth target is lower than it had previously estimated,<sup>59</sup> and which we had estimated in the Oxera Consultation Report.<sup>60</sup>

2.30 While we maintain our general position that the scale of the proposed scheme is small relative to the total number of existing FTTH customers and the likely number of copper and FTTC customers that would be eligible for upgrading onto the open eir FTTH network, this factor does not eliminate our concerns that the structure of the proposed scheme could generate loyalty-enhancing or competition-foreclosing effects, and have the effect of an implicit exclusivity requirement. Therefore, for the range of reasons outlined above, and in the Oxera Consultation Report, we maintain our view that the proposed scheme could undermine competition at the wholesale level during the eligibility window, in contradiction with the test set out in criterion 4.

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<sup>57</sup> open eir Consultation Response, para. 61. See also open eir Consultation Response, para. 9.

<sup>58</sup> open eir Consultation Response, paras 42–44, 55–56, 67 and 74(iii).

<sup>59</sup> open eir Consultation Response, para. 43 and Table 1.

<sup>60</sup> Oxera Consultation Report, paras 6.15–6.21.

## 2.2 Assessment of comments raised by other stakeholders

2.31 Below, we summarise and respond to comments raised by other stakeholders that relate to the economic assessment of the proposed scheme. We respond to the comments raised by other stakeholders that relate to the following issues that are relevant to our economic assessment:

- whether the proposed scheme potentially breaches criterion 2 (section 2.2.1);
- other comments raised by stakeholders (section 2.2.2).

### 2.2.1 Whether the proposed scheme potentially breaches criterion 2

2.32 Two stakeholders argued that the proposed scheme could potentially breach criterion 2—i.e. that it favours eir retail in either form or effect.

2.33 VMI argued that Access Seekers with a lower proportion of customers using FTTH have a proportionally larger pool of copper/FTTC customers to upgrade.<sup>61</sup> It provided data that indicates that eir retail has a larger pool of copper/FTTC customers than Vodafone and Sky.<sup>62</sup> VMI argued that, if it is assumed that copper/FTTC customers are more likely to upgrade to FTTH with their own provider, eir retail would be favoured over other Access Seekers.<sup>63</sup>

2.34 Similarly, Sky argued that as eir retail has the largest copper base it would have the biggest opportunity to benefit from both the growth (i.e. Part A) and the copper migration (i.e. Part B) of the proposed scheme.<sup>64</sup>

2.35 We maintain our view that the proposed scheme satisfies criterion 2 for broadly the same reasons set out in the Oxera Consultation Report.<sup>65</sup> Under the proposed scheme, an Access Seeker would receive the same level of discount for copper and FTTC migrations to FTTH, irrespective of whether it was migrating its own copper/FTTC customers or those that it acquired from rival Access Seekers (subject to it meeting the growth target).

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<sup>61</sup> VMI Consultation Response, pp. 8–9.

<sup>62</sup> VMI Consultation Response, Figure 2.

<sup>63</sup> VMI Consultation Response, pp. 8–10.

<sup>64</sup> Sky Consultation Response, p. 1.

<sup>65</sup> For more detail, see Oxera Consultation Report, section 4.

- 2.36 Therefore, Access Seekers would be able to engage in price competition for all copper/FTTC migrations on a level playing field. While an individual supplier may, in principle, have some advantages in relation to migrating its own customers, this advantage does not stem directly from the proposed discount scheme, and these advantages would also exist in the absence of any scheme. Therefore, we maintain our view that the proposed scheme satisfied criterion 2.
- 2.37 In relation to this point, we note that Virgin Media presents its own estimates (based on ComReg's QKDR data) of the number of lines eir retail, Vodafone and Sky would be required to achieve in order to meet the 15% and 20% growth target and expressed this as a share of each Access Seeker's remaining copper/FTTC customer base. We note that these calculations appear to use each Access Seeker's total retail subscriber volumes to estimate the growth targets, rather than those specifically on the open eir network. Since Vodafone and Sky do not rely exclusively on open eir, this means that the required number of lines they need to achieve the growth targets for Vodafone and Sky are overstated and, therefore, the comparison is invalid. In any case, even if correct, we do not consider that this demonstrates that criterion 2 is breached for the reasons set out above.

### 2.2.2 Other comments raised

- 2.38 Some stakeholders were critical of the fact that Access Seekers would not necessarily know before the end of the eligibility window whether they would have achieved the growth targets and thus receive the discounts. As explained in more detail below, stakeholders argued that this would mean that Access Seekers would bear the commercial risk and face uncertainty over the potential upside.
- 2.39 Vodafone said that the design of the thresholds would mean that Access Seekers face significantly greater commercial risk with no offsetting reward (even if they fall narrowly short of the target).<sup>66</sup> It argued that eircom does not face the same commercial risk given that it is vertically-integrated and, thus, the impact is neutral at the group level.<sup>67</sup> Similarly, Sky said that the design of the thresholds would mean that Access Seekers would need to invest in marketing in order to meet the targets,

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<sup>66</sup> Vodafone Consultation Response, p. 3.

<sup>67</sup> Vodafone Consultation Response, p. 3.

but face the risk of missing out on the benefits if they come close to but do not meet the growth targets.<sup>68</sup>

2.40 Some stakeholders expressed doubts that the proposed scheme would lead to benefits for consumers. Vodafone argued that since Access Seekers do not know whether they will receive the discount during the eligibility window—i.e. the point at which they are making the sales that contribute to the target—this increases the uncertainty over meaningful pass-through to end consumers.<sup>69</sup> Similarly, SIRO agreed with ComReg's view that consumer pass-through is uncertain for the same reasons as Vodafone.<sup>70</sup>

2.41 Vodafone also argued that the proposed scheme may not lead to consumer benefits since it may encourage Access Seekers to choose their wholesale supplier purely to meet the target, rather than in response to customer needs or service quality.<sup>71</sup>

2.42 We generally agree with the stakeholder comments that Access Seekers will face commercial risk and uncertain upsides in terms of achieving the discount, and recognise that, in practice, this could have implications for the degree of pass-through of cost savings to consumers.

## 2.3 Final conclusions

2.43 Having assessed the stakeholder responses, and undertaken further analysis, our final conclusions are as follows.

- We maintain our position that criteria 1 is satisfied for the same core reasons set out in the Oxera Consultation Report.<sup>72</sup>
- We maintain our position that criterion 2 is satisfied for the same reasons set out in the Oxera Consultation Report, despite arguments presented by VMI and Sky. In particular, under the proposed scheme, Access Seekers can acquire the same level of discount for copper and FTTC migrations to FTTH, irrespective of whether they are migrating their own copper/FTTC customers or those acquired from rival Access Seekers.

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<sup>68</sup> Sky Consultation Response, p. 1.

<sup>69</sup> Vodafone Consultation Response, p. 3.

<sup>70</sup> SIRO Consultation Response, section 5.10.

<sup>71</sup> Vodafone Consultation Response, pp. 3–4.

<sup>72</sup> Furthermore, we note that [§<§<]. The price of the cheapest eligible FTTH VUA wholesale product discount, including the maximum available discount, of €21.00 would remain above the Price Floor [§<§<]. Therefore, criterion 1 would still be satisfied. See [§<§<].

- We maintain our position that criteria 3 is satisfied for the same reasons set out in the Oxera Consultation Report.
- We conclude that criterion 4 is not satisfied for the same core reasons that we set out in the Oxera Consultation Report. We summarise the reasons why we conclude that criterion 4 is not satisfied below.

### Reasons why criterion 4 is not satisfied

- 2.44 First, we maintain that the cliff-edge nature and retroactive features of the proposed scheme give rise to concerns that the proposed scheme could lead to loyalty-enhancing or competition-foreclosing effects. The structure of the offer, therefore, could have the effect of incentivising Access Seekers to prioritise open eir over alternative wholesale network operators and thus undermine competition at the wholesale level during the eligibility window.
- 2.45 Second, our analysis suggests that the proposed scheme could have the effect of an implicit exclusivity requirement. The incentives for Access Seekers to prioritise connecting and migrating new FTTH lines on open eir's network over alternative wholesale network operators, in order to meet the growth targets, may be particularly strong given the evidence on the degree to which FTTH growth is slowing.
- 2.46 In particular, the additional analysis that we have undertaken on FTTH growth, and the stakeholder responses on this issue, suggest that Access Seekers are likely to face a material challenge in achieving or exceeding the growth targets without prioritising lines to the open eir network. In this way, the nature of the targets could drive Access Seekers to a near exclusive, or exclusive, reliance on open eir's FTTH network during the eligibility window. In addition, this reinforces the concern that the number of residual lines over which alternative wholesale network operators could compete may be limited. Thus the proposed scheme could have the effect of undermining competition for wholesale FTTH lines during the eligibility window.
- 2.47 Furthermore, where an alternative wholesale network operator's FTTH footprint does not fully overlap with open eir's FTTH footprint, such that it covers only a sub-set of the **specific lines** that Access Seekers target during the eligibility window to meet the growth target, the alternative wholesale network operator

would be unable to effectively compete with open eir even if it matched the level of the discount (unless it offers an even deeper discount, potentially below the Price Floor). We continue to be of the view that it is not possible to determine ex ante the extent to which the networks of alternative wholesale network operators would overlap with the **specific lines** that Access Seekers may target during the eligibility window. However, for the reasons outlined above, there is a risk that the proposed scheme would undermine wholesale competition.

- 2.48 Our concerns that the structure of the proposed scheme could generate loyalty-enhancing or competition-foreclosing effects, and have the effect of an implicit exclusivity requirement, during the eligibility window are not eliminated by the relatively small scale of the proposed scheme in terms of the number of lines directly affected. The proposed scheme could have a deleterious effect on the ability of alternative wholesale network operators to compete effectively with open eir at the wholesale level during the eligibility window and thus could undermine competition, in contradiction with the test set out in criterion 4.



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A large, stylized "oxera" logo is visible through a window. The letters are white with a glowing effect, set against a background of green foliage. The logo is partially obscured by three modern, white, teardrop-shaped pendant lights hanging from the ceiling. The scene is captured from an interior perspective, looking out through the glass.