[GB] Referral of Sky bid on media plurality grounds

IRIS 2017-5:1/20

Julian Wilkins
Wordley Partnership

Openreach, the infrastructure division of the BT Group (BTG), will become a distinct company with its own staff, management, purpose, and strategy, thus addressing competition concerns held by Ofcom. BT has voluntarily agreed to implement these changes and as a consequence it averts Ofcom's requirement to introduce regulations to effect the change (see IRIS 2017-2/18 and IRIS 2016-4/16).

Openreach Limited was incorporated at UK Companies House on the 24 March 2017. As a distinct company Openreach will have its own directors who will be legally required to make decisions in the interests of customers and not BT. The majority of directors will be independent of BT, with Openreach setting its own strategy and annual operating plans albeit within a budget set by BTG. The Chief Executive will be appointed by Openreach's board and accountable to them; although the appointment can be vetoed by BTG, such veto has to be notified to Ofcom.

The Chief Executive will be responsible for other executive appointments and will report to Openreach's Chair. However, there will be a secondary accountability to BTG's Chief Executive limited to legal, fiduciary, and regulatory obligations. The 32,000 staff employed by Openreach will be transferred from BTG to the new company. However, the existing Crown Guarantee would need to be maintained for Openreach staff, who are members of the BTG pension scheme. The Crown Guarantee is a piece of legislation that ensures the UK government underwrites BTG's obligations to the BT Pension Scheme. Only the government can change the operation of the Guarantee, and legislation will be required to change the existing legislation so as to encompass staff being transferred to Openreach.

BT will retain ownership of assets such as the physical access network, but Openreach will control the building and maintenance of these assets. Branding will be distinct and BTG will not be reflected in Openreach's promotion of its own brand. There will be an obligation to consult with customers such as Talk Talk, Sky, and Vodafone on large scale investments; such consultations will be confidential without details being disclosed to their competitor BTG. It is not clear if there will be a separate and confidential consultation phase between Openreach and BTG.

© European Audiovisual Observatory (Council of Europe) 2026

The reforms follow concerns that BT had retained control of Openreach's decisions, whilst other telecoms companies had not been consulted sufficiently on investments that affect them. This gave rise to Ofcom being concerned about there being fair competition in the marketplace. Openreach do not operate in Northern Ireland, but BTG will extend the benefits of the changes to BT Northern Ireland, including greater independence, confidentiality, and independent branding to take account of specific local opportunities and circumstances. Once all BTG's proposals are implemented, they will be released from their undertakings to Ofcom who will announce how they will monitor and enforce the new structure for Openreach.

Ofcom, BT agrees to legal separation of Openreach, 19 March 2017

https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2017/bt-agrees-to-legal-separation-of-openreach

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026