



**Department for Culture, Media and Sport**

**Relaxing the restrictions on the deployment of overhead  
telecommunications lines**

Consultation response from BT

21<sup>st</sup> February 2012

## Introduction

1. BT welcomes the opportunity to respond to this further consultation from DCMS on the deployment of overhead telecommunications lines. We submitted views to the first consultation in 2009.

## Executive Summary

2. We welcome the fact that Government is looking at all possible options for reducing the costs to industry of deploying next generation access and endorse the Government's ambitions to have the best superfast broadband network in Europe by 2015.
3. It is important to note that the proportion of deployment costs represented by civil works ('civils') can be a lot less than the "up to 80%" cited in the consultation (Section 1, para 3.3), depending on network design. The costs of civils are dependent on a number of factors. If a network is built from scratch it may be the case that civils can make up the vast majority of costs, but with solutions based on such technologies as Fibre to the Cabinet ('FTTC') this is not the case. Existing copper infrastructure can be re-used as well as products such as Openreach's Physical Infrastructure Access ('PIA'). In these cases, other fixed costs of power, cabinets, backhaul, head ends can become more significant.
4. The consultation document refers to BT's infrastructure and our PIA product. We endorse the principle that where there are opportunities for Operators to share our infrastructure, this is the preferred option. However, we continue to believe that other infrastructure owners (e.g. Virgin Media) should also share their infrastructure in the same way that we do (on an open, wholesale basis).
5. On the question of whether Ofcom should have powers to mandate infrastructure sharing in relation to other utilities (Section 3 Part 3.1), we do not believe this is an issue in principle, but it clearly would need a joined up approach across the various regulators. If this were to be considered, the circumstances in which it could be mandated should be clear at the outset. We are disappointed that Ofcom has not yet done that in relation to telecoms since getting the new power to mandate infrastructure sharing when the latest EU Directives were transposed in May 2011.
6. Whilst in principle the requirement to consult with local communities on overhead deployment is understandable, the proposals in the consultation document require greater clarity for us to take a view on whether local consultation is workable in practice.
7. The erection of telegraph poles inevitably brings objections. It is important, therefore, to manage the expectations of both Operators and local residents by being explicit about the process and the terms of the consultation. The consultation fails to do this.
8. We are content with the proposal that it is the Operator's responsibility to determine whether they can share existing overhead infrastructure, and this is likely to be either with other telecommunications providers' poles or those of electricity suppliers.
9. Industry will need clarity on the prioritisation of this proposed amendment to the Conditions and Restrictions Regulations, and the effect of any subsequent objection made under the Electronic Communications Code ('the Code'). The right to object is enshrined in Paragraph 17 of the Code and a Court judgement can require the Operator to take down the apparatus, which is time consuming and costly.

10. The proposals may be beneficial but probably only in a limited number of cases. There are a number of uncertainties and it is likely that the Operator will only take advantage of the relaxed restrictions where they can be certain that the costs will in fact be cheaper, having:

- made sure that no alternative infrastructure sharing possibilities exist;
- taken into account the need to undertake a ‘full consultation with communities’; and
- considered the possibility that legal objections could be forthcoming as a result of other pieces of legislation and that these objections may be upheld following the investment made in the overhead infrastructure.

11. The proposals will also require the Operator to establish a *capacity* to consult widely with local communities, which in some circumstances will require the Operator to employ new skills and resources, further adding to the costs.

#### **Consultation Questions:**

**1. Approximately how much of network will be built using this relaxation, and are the cost and benefit estimates in the impact assessment accurate?**

- We have not been able to make an assessment of the cost and benefit estimates nor can we provide a meaningful analysis of how much network could be built utilising this relaxation.

**2. Do respondents agree that existing infrastructure should be used, if possible, before new overhead deployment can take place? Do respondents agree that communications providers should be required to demonstrate that sharing of existing infrastructure has been examined?**

- Yes, where there are opportunities for Operators to share infrastructure, those opportunities should be exploited, including consuming BT’s PIA offer.

**3. Do respondents believe that notification and consultation of planned works in local newspapers and through a qualifying body such as a Parish Councils or Neighbourhood Forums, where one exists, to be sufficient?**

- It will be difficult for Operators to embark on this sort of consultation, especially in the absence of any real clarity on the level of consensus needed amongst the local community for an overhead deployment project to be acceptable and to proceed.

**4. Do respondents believe this notification and consultation would place a significant and onerous burden on communications providers that may be planning these works? If so, what level of cost or burden is envisaged to the Communications Provider?**

- Yes, they will require additional activities to the current planning processes. We cannot assess the potential cost as demand for this type of work is unknown at present. However, we have no capacity nor any direct expertise in engaging in this sort of consultation and so these are new resources and skills that we might have to acquire.

**5. We are committed to amending the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 in order to relax the rules on new overhead deployment but would welcome feedback on any aspect of the proposals as to how this should be achieved outlined in the consultation.**

- A simpler way to achieve the objectives of this proposal would be to amend Reg 4 (1) of the existing legislation to include:

*“(f) if after consultation with owners of existing overhead infrastructure the sharing of the infrastructure for Fibre cabling is not acceptable.”*

- By adopting this paragraph the installation of overhead apparatus would be easier and quicker to manage while other vested interests would still have some form of protection, within the existing regulation.

*BT Group plc  
21<sup>st</sup> February 2012*