



**Cabinet Office**

**Making Open Data Real**

Consultation response from BT

27<sup>th</sup> October 2011

## Introduction

1. The consultation is intended to be concerned with Transparency and Open Data in the public sector, with 'transparency' the goal and 'open data' the tool for achieving this.
2. Para 4.2 of the document defines what the document is intended to provide:-

*"For the public sector, Transparency and Open Data are about helping people find the right doctor for their needs, or the best teacher for their child, or helping a victim of crime track whether justice is done. It is about helping frontline professionals compare outcomes and improve them. It is about giving people access to their individual medical records so that they can manage their health better and make more informed decisions with their clinician. It is about giving people the data on local authority spending and delivery that they need to challenge the value of a service provided. Above all, it is about providing the data people need to make choices and to help improve public services."*

3. Para 4.4 provides a further good summary:

*"Open Data is central to putting power in the hands of individuals and local communities to enable people to choose what sort of service they want and find the best provider to meet their needs."*

4. BT understands and endorses this approach provided there is adequate protection from inappropriate disclosure of commercially confidential information.

## Comments

5. In this response we do not comment on each of the questions raised in the consultation. To do so would require detailed analysis not just of the consultation document, but also of a variety of separate policy documents referred to within the consultation. Given the stated aims of the Government's policy, as summarised above, we concentrate instead on some more general comments relating to issues of concern arising from our position as a supplier of services to the public sector.
6. BT has no issues with, and supports the principle of, Open Data to the extent that it is designed to provide the kind of information set out in para 4.2 of the consultation, as mentioned above. Our concerns are to do with the lack of precision in the document about what kinds of data might be covered by the new rules and, in particular, around the possibility that there might be knock-on effects which potentially could extend the current regime under the Freedom of Information Act (FOI) in ways which, presumably, are not intended.
7. As a contractor, BT, no doubt alongside many other organisations involved in the supply of services to public bodies, would be concerned if contractors were contractually or legislatively required to supply such public bodies with confidential information relating to their commercial and operational arrangements which extends beyond that

reasonably necessary for an FOI applicant under existing rules. Existing protections relating to commercially confidential information should be retained.

8. The consultation paper promotes self-service of access to information – thereby removing the obligation on a public body to first consult with suppliers of that information prior to its release. The current obligation, to check with suppliers first, provides important protection against the disclosure of commercially confidential information being publicly and irrevocably released.
9. Private sector suppliers might risk having public bodies demand a contractual right of access to a wide range of highly sensitive commercial information which may not be at all relevant for the performance of their public functions. Any requirement for Open Data should ensure that such risks are removed. If this is not the case then there would be even more uncertainty than at present, which in turn would increase the risk and costs associated with government contracting and might even discourage private bodies from tendering for government work.
10. BT, along with many other providers, uses sub-contracted third parties to provide some services to public bodies. It is not immediately apparent how such arrangements would fit within a new Open Data regime. There could be greater costs as a result of the requirement for Open Data.
11. The consultation is not clear on how the eventual Open Data regime will adequately balance the right to access to information with the right to privacy and confidentiality of commercially confidential and valuable information. The right of access to information should not be unlimited, and suppliers such as BT should be given the opportunity to review disclosures as appropriate, and to make submissions to the public body concerned before any information is disclosed publicly.

*British Telecommunications plc*  
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