

Broadband Delivery UK State aid consultation: Market Testing Pilot Intervention Areas (Third wave)

Version control

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Distribution list

	Title	Organisation	
Supplier community			

1 Introduction

1.1 Document purpose

This document is published by BDUK to meet the specific requirement of the National Broadband Scheme¹ to publically consult on the proposal to provide subsidy (State aid) to promote the deployment of broadband infrastructure and coverage to the areas identified within this document. It provides background information on the nature of the projects including their detailed location (postcode) and mapping information to enable all stakeholders (including broadband Infrastructure providers, ISP's, businesses and residents) to identify whether the proposed pilot activity is at risk of over-building areas where there is current availability of comparable services or where there are firm plans, within the next three years, to offer such services.

This document consults on one of the eight pilot intervention areas that BDUK has commissioned; consultations will be held on the remaining pilot areas when projects are nearing deployment.

1.2 Background to BDUK Superfast Rollout Programme

The current expected commercial roll-out of superfast broadband extends over several suppliers' existing infrastructures to reach approximately 75% of UK premises. The Government, through DCMS and via Broadband Delivery UK (BDUK), is currently delivering an intervention programme to extend this commercial coverage.

BDUK has already made significant progress in this respect through its existing delivery programmes, which include:

- Superfast Broadband Rollout (Phases One and Two): a £790m, local authority match-funded project that will install superfast broadband infrastructure to reach 95% of UK premises by 2017; and
- Super Connected Cities: a £150m project aiming to improve broadband connections for SMEs in dense urban locations through a demand-led voucher scheme.

Phase 3 of the Superfast Broadband Rollout programme is currently exploring options for extending superfast coverage beyond 95% of the UK. We're doing this through a series of Market Test pilots, and other activities, to inform our understanding of the technologies, operating models and capacity in the market place to deliver in the areas that will remain unserved under the current interventions.

1.3 Objectives of the Market Testing Pilot (MTP) initiative

DCMS's market engagement in September 2013 showed that new solutions would be required in order to extend coverage beyond 95%. £10million funding was announced in the National Infrastructure Plan in December 2013 and suppliers were encouraged to come forward with innovative ideas to get superfast broadband to Britain's hardest-to-reach communities.

Following an open procurement DCMS commissioned eight pilot projects in June 2014 to develop technical, commercial and operational solutions which have the potential to provide coverage to a significant proportion of the remaining 5% of unserved areas in the UK with superfast broadband.

The selected suppliers are:

AB Internet, Airwave, Avanti, Call Flow, Cybermoor, MLL, Satellite Internet and Quickline

¹ http://ec.europa.eu/competition/state_aid/cases/243212/243212_1387832_172_1.pdf

Further details of this Market Testing Pilot project can be found by referring to the DCMS press announcement for the OJEU launch² and the respective OJEU notice³.

1.4 Role of local bodies and fit with current procurements

The Market Testing Pilot projects are being conducted with the support of a hosting Local Authority or Devolved Administration. In all cases the hosting body has undertaken procurement under Phase 1 of the Superfast Broadband Rollout Programme. These contracts have been awarded and work is underway to build the infrastructure; procurement for Phase 2 of the Superfast Broadband Rollout Programme is also getting underway with the intention of reaching 95% coverage by 2017. Local bodies hosting pilots are at differing stages in this second phase procurement; this is illustrated in the table below (as of August 2014).

Status: second phase procurement					
	Open market review	Consultation declaring proposed intervention area	Tender(s) issued	Contract(s) awarded	
Northern Ireland	Completed	Underway	No	No	
Scotland	Not yet started	Not started	No	No	
Wales	Completed	Closed	No	No	
North Yorkshire	Completed	Closed	n/a – Change control only	No	
Hampshire	Completed	Closed	Yes	No	
Devon and Somerset	Not started	Not started	No	No	
Kent	Completed	Closed	No	No	

This consultation is in addition to the separate activity that local bodies have underway for their Phase 2 procurements but we are using the most recent market information available either based upon the latest open market review information provided by the relevant Local Body or (if this is not available) the network records held by BDUK (supplemented by any additional information that a Local Body may have).

The Market Testing Pilots will progress to deployment, subject to completion of a successful Feasibility stage and their satisfying the NBS State aid conditions. BDUK will consult on all geographic areas where it is proposed that piloting activity will take place. However, due to the nature of carrying out innovative projects and pilots, it is possible that one or more of the planned pilot activities may not go ahead or may not be completed to a successful outcome. For this reason, the areas have been identified as intended intervention areas. BDUK has no intention of duplicating any coverage that may be provided through any of the Local Body or devolved administration projects and the areas of the Market Testing Pilots will not form part of the Phase 1 or Phase 2 projects. If for some reason the intervention is not completed these areas will revert back to their pre-intervention status and alternative intervention may be considered at that time.

Some of the proposed BDUK pilot projects are proposing to deliver superfast broadband by utilising technology solutions recognised by the European Commission's Broadband Guidelines⁴ as Next Generation Access (NGA) networks. Other pilot projects are investigating how superfast broadband can be deployed

² https://www.gov.uk/government/news/10-million-superfast-broadband-fund-opens-for-bids

³ http://ted.europa.eu/udl?uri=TED:NOTICE:101544-2014:TEXT:EN:HTML

⁴ http://europa.eu/rapid/press-release_IP-12-1424_en.htm

by using advanced technology solutions currently recognised by the European Commission's Broadband Guidelines as Basic Broadband Networks. The mapping below makes this clear for each project area.

2 Details of the Pilot Areas - Second Wave

2.1 Project summaries

This section provides an overview of the project scope, funding levels and project timescales proposed for the geographic area.

Project area 7	Northumberland		
Supplier	Cybermoor		
Specific location information	South Tyne Valley		
Project overview	Developing a financing solution to leverage social investment to provide a		
	rural network through fibre to the premise and fixed wireless access.		
Size of intervention	Up to 300 premises		
NGA or Basic Intervention	NGA		
Funding levels	£449,997		
Provisional timescales	Consultation: 16 th January 2015 to 22 nd February 2015		
	Deployment: From February2015		
Local consultation	Northumberland has recently consulted for the provision of broadband		
	state aid. Details can be found at:		
	http://www.inorthumberland.org.uk/2013/10/state-aid-consultation/		
Basis of maps	These maps have been produced by Northumberland County Council using		
	data maintained as part of the Northumberland State Aid Public		
	Consultation		
Consultation map reference	Appendix A, map 7		
Additional notes			

2.2 Postcode data files and maps

The attached excel spreadsheet contains the postcode lists for the additional proposed intervention area.

This data is also shown in the maps included as Appendix A.

These maps have been developed, where applicable, in conjunction with the supporting local bodies using the following methodology.

2.2.1 Data mapping methodology

There are a number of different mapping methodologies in use which are explained here. The proposed Intervention Areas are based upon Open Market Reviews where commercial providers were able to provide supporting evidence to substantiate existing and/or planned qualifying coverage.

The following criteria have been used by BDUK to determine the classification of areas into Basic Broadband and NGA white/grey/black areas respectively.

For Basic Broadband, each postcode is turned Grey if:

- BT estimate that all premises in the postcode can receive (or are planned to receive) a broadband speed >2Mbps;
- OR, if Virgin Media serve 90% of premises within the postcode;
- OR, if it is an area served by an alternative fixed infrastructure provider with Access Line Speeds
 >2Mbps;
- OR, if a wireless service or other qualifying technology is available at >2Mbps to all premises in the
 postcode;

Each postcode is shown as black for Basic Broadband if it satisfies at least two of these conditions. All other postcodes remain white.

For NGA, each postcode is turned grey if:

- BT has upgraded the network infrastructure serving the area AND ALL premises within the postcode have an estimated (VDSL2 for FTTC) Access Line Speed of >15Mbps;
- OR, if Virgin Media serve 90% of premises within a postcode;
- OR, if it is in an area that is served by an alternative fibre-based, NGA fixed wireless or other qualifying technology that meets the requirements of the BDUK NGA Technology Guidelines

Each postcode is shown as black for NGA if it satisfies at least two of these conditions. All other postcodes remain white.

Where 2 operators have declared partial coverage of premises within a postcode, a complete overlap of coverage is assumed, e.g. if a postcode contains 30 premises and operator A serves 10 premises and operator B serves 15 premises with Superfast Broadband, BDUK considers 15 premises to be NGA white. This assumption aligns with observations from sample testing of suppliers' online availability checkers and aims to ensure that no premise is omitted from the stated intervention area.

3 Consultation process

3.1.1 State aid framework overview

This section provides a brief introduction to the State aid Framework for the purpose of informing responses to this consultation. The European Union State aid rules are designed to ensure that any use of qualifying public funding ("State aid") is targeted at areas of market failure and ensuring positive market outcomes while minimising any distortion to competition.

The State aid rules require public interventions to be targeted so as to limit the risk of crowding-out or disincentivising existing and/or credible near future planned private sector investments that would otherwise meet the desired policy objectives. In the context of broadband, the State aid rules require using qualifying public funding only to extend broadband coverage in geographic areas where there is no market provision of equivalent broadband services. This includes both current provision and demonstrable, credible plans to deploy services over the next three years.

The EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01) ("EC State aid Guidelines") can be found at:

http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF

Planned public interventions can seek clearance under the State aid rules directly from the European Commission (EC), or (as is the case with this proposal) seek clearance under the national scheme for the UK pre-approved by the EC. The EC's State aid decision on the 'National Broadband Scheme for the UK (C(2012) 8223' can be found at:

http://ec.europa.eu/competition/state aid/cases/243212/243212 1387832 172 1.pdf

The responsibility of the National Competence Centre (NCC) is described in the same document:

The EC State aid Guidelines distinguish between two types of broadband networks: Basic Broadband Networks, and Next Generation Access (NGA) networks.

Basic Broadband Networks are those based on currently widely-deployed technologies such as fixed wired telephony networks (using ADSL/ADSL2+ technologies), non-enhanced cable TV networks (eg DOCSIS 2.0), mobile networks (2G/3G (UMTS)), , and satellite systems.

NGA networks rely wholly or partly on optical elements (optical fibre) and are capable of delivering an enhanced broadband capability compared to existing Basic Broadband Networks.

The EC State aid Guidelines recognise that certain advanced wireless technologies (eg LTE-Advanced) can have similar characteristics to wired NGA technologies, where these have been designed and deployed in such a way so as to be capable of delivering reliable high speeds per customer.

Further guidance on the characteristics for qualifying NGA technologies is available from the BDUK National Competency Centre at:

 $\frac{\text{https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technolog}{\text{y_Guidelines_300813.pdf}}$

The EC Decision on the National Broadband Scheme for the UK requires that public funding granted under the scheme shall ensure a 'step change' in broadband capability, and this is demonstrated by:

- significant new investments in the broadband network;
- the new infrastructure brings significant new capabilities to the market in terms of broadband service availability, capacity and speeds (on average across the Intervention Area, doubling existing speeds);
- the subsidised network should be pro-competition, i.e. allow for effective access at different levels of the infrastructure.

The EC Guidelines also distinguish between geographic areas on the basis of current or planned (next 3 years) broadband infrastructures thus:

- 'White' areas are those in which there is no qualifying broadband infrastructure and none is likely to be developed in the near future (within 3 years);
- 'Grey' areas are those where one network operator has a qualifying presence and another qualifying network is unlikely to be developed in the near future; and
- 'Black' areas are those where there are, or there will be in the near future, at least two qualifying network operators.

The geographic mapping of white/grey/black areas is to be carried-out separately for both Basic Broadband and Superfast Broadband.

In accordance with the EC Decision on the National Broadband Scheme for the UK, BDUK has defined its proposed NGA and Basic Broadband Intervention Areas to target NGA 'white' areas and Basic Broadband 'white' areas, respectively.

3.1.2 Process

The EU Guidelines (paragraph 78) and EC State aid decision on the 'National Broadband Scheme for the UK' (paragraph 40) set-out the requirement to hold a consultation in order to validate the Intervention Area mapping by allowing all interested stakeholders an opportunity to comment on the planned aid measure.

The purpose of this document is to fulfil those requirements by publishing a description of the proposed aid measure, and seeking feedback from all interested stakeholders.

The proposed NGA and Basic Broadband Intervention Areas are shown in the attached maps.

The attached maps of the NGA and Basic Broadband Intervention Areas rely on the definitions of white, Grey and Black areas, as set-out in the EU Guidelines (and as summarised above).

3.1.3 Timescales for consultation and responses

The information requested is specified in the following section (Section 3.1.4). When responding to this request, the BDUK would be grateful if you could confirm the following information:

- Your organisation's name
- Your organisations Address
- Your name
- Position
- Contact telephone number
- Email Address

We also request confirmation from an authorised signatory that the information provided is accurate and up-to-date.

Please send any responses via email to markettestpilots@culture.gsi.gov.uk to arrive no later than 5pm, on the 22nd February 2015. Please include "State aid Consultation Response" and your company name in the subject title.

Please note that any information you provide in your response will be treated as commercially confidential to your organisation. However, it may be necessary to share some or all of your response with our professional advisors, Ofcom, and / or the European Commission, in the course of seeking State aid approval. DCMS is also subject to certain legal obligations to disclose information in certain other limited circumstances and would notify you in advance in the event that this is required.

It should also be noted that it is a State aid requirement to utilise the information provided in response to this consultation to refine our State aid maps to define white/grey/black areas for NGA and Basic Broadband. However, the published maps will show the aggregated white/grey/black areas for NGA and Basic Broadband, not the data provided on a per-operator basis. The final maps that will be used to identify the areas for intervention activity under the Market Testing Pilot initiative will be published shortly after the conclusion of this State aid consultation and once approved by the BDUK National Competence Centre.

If you have any questions about this State aid consultation process, please contact the BDUK Market testing Pilots project at:

markettestpilots@culture.gov.uk

3.1.4 Information Requested

This section specifies the information you are requested to provide in response to this State aid consultation.

BDUK is requesting information on, and supporting evidence for, any current or planned (next three years) investment in broadband infrastructure where these may not already be included within the proposed NGA and Basic Broadband Intervention Area maps attached.

Note: for the avoidance of doubt, if you are content with our proposed State aid Intervention Areas, no further response is required.

For any current or planned coverage not included within the proposed State aid Intervention areas shown on the attached maps, the BDUK is requesting information on the postcodes, and the number of premises

within each postcode, covered (or planned to be covered) by your broadband infrastructure investment. BDUK is asking for information on coverage of Basic Broadband and Superfast Broadband coverage separately (to enable us to map the Basic Broadband and NGA White/Grey/Black maps required for State aid purposes). By 'covered' (or 'passed') BDUK means that fixed network infrastructure is or will be available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna.

Any information provided in response to this State aid consultation should include, but need not be limited to:

- Detailed maps for NGA and Basic Broadband showing the existing coverage, and separately maps detailing the planned investment in NGA and Basic Broadband for at least the next three years.
- Details of premises covered or passed, i.e. postcodes (at 7-digit postcode level) and the number of
 premises by postcode, that fixed network infrastructure is available to the premises, potentially
 subject to a final drop connection, or that the premises are able to receive a suitable quality radio
 signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the
 installation of a suitable antenna.
- A detailed description of the technology solution(s) deployed (or to be deployed) in your broadband infrastructure, and where these claim to be NGA, demonstrate how they meet the minimum standards as set-out in the BDUK NGA Technology Guidelines.
- A description of the services/products currently offered, and separately those services/products to be offered within the next 3 years.
- Installation, annual/monthly subscription, and additional volume or per-service tariffs for those services/products (identifying whether such tariffs are inclusive or exclusive of VAT).
- Upload and download speeds typically experienced by end-users, and how these may vary by factors such as distance, increased take-up or demand, contention, etc.
- Appropriate indicators of the quality of services (eg contention ratios, bandwidth allocation per user, etc), including any characteristics (eg latency, jitter) that are required to support advanced services such as video conferencing or HD video streaming.
- Evidence to substantiate actual or planned coverage claims, including business cases and evidence of available funding to enable plans to be fulfilled.
- Details and planned timing of roll-out of any future investments, including further investments required to cope with future increases in take-up and demand.

Please supplement the required information above with any supporting evidence as you consider appropriate (e.g. links to public websites, etc.)

3.1.5 Next Steps

Consultation: 16th January 2015 to 22nd February 2015

State aid approval: Expected February 2015

Deployment: February 2015 onwards

BDUK plans to publish the final Intervention Area maps shortly after the close of the consultation period, following any adjustments made based on the responses to this State aid consultation.

Appendix 1

