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Peter McDougall
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Your reference: DCMS Consultation • Our reference: PO3 Connecting Cumbria

Dear Sir

Consultation: Relaxing the restrictions on the deployment of overhead telecommunication lines

Cumbria County Council welcomes the Department of Culture, Media and Sport's publication of the above consultation and the opportunity to provide comment on the revisions to Regulation 4 of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003.

The council acknowledges that there are references within the regulations to planning issues. It is understood that the proposed revisions themselves do not alter planning law albeit there may be consequences for the planning regime.

The council is supportive of the government's ambition to improve the UK's communication infrastructure and for the UK to have the best superfast broadband network in Europe by 2015.

The council is a partner in the 'Connecting Cumbria through Superfast Broadband' project. This project involves recruiting a commercial organisation to work with us to upgrade infrastructure so that more areas can benefit from superfast broadband. The project is intended to be delivered by 2015 and will focus investment on areas the commercial market does not currently supply. This will make it possible for communities, often in rural areas, which would not be reached by the market itself to access superfast broadband. Delivery will be supported by funding and resources provided by BDUK, Cumbria County Council, the private sector, and others.

The issues raised in the consultation will therefore have implications for the delivery of the project and thus require careful consideration.

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

The rollout method for the Connecting Cumbria Project is still to be agreed and therefore the final design solution has not been defined. The project and delivery will develop over time as technology changes and different solutions are found. Currently it is envisaged that the project will be delivered by a combination of the three methods described below:

- Replacement of existing copper line with fibre optic cable from exchange to cabinet and then along existing telephone lines into premises
- New fibre optic cable from the exchange direct into premises
- In places which cannot connect to the exchange, alternative solutions will be considered i.e. wireless – this could require additional antenna and masts.

It had been anticipated that the majority of the new cabling would be underground. As the final design has not been agreed it is not possible to indicate how much of the network would be built by deploying overhead cables. It is therefore not possible to estimate the cost savings.

Whilst it is acknowledged that overhead distribution on new poles is likely to be cheaper than installing new duct, the consequence is likely to be a significant increase in the total number of overhead lines. We are concerned that this could have a significant visual impact, particularly in rural areas.

The council is supportive that the relaxed restrictions on the deployment of overhead cables will not affect designated areas listed under Article 1 (5) of the GDPO, as the overhead cables would still require planning permission.

Cumbria has some of the finest landscapes in England. Many of these are afforded protection by statutory designations. However there are still a number of areas outside of the Lake District National Park, AONBs, conservation areas, SSSIs and Hadrian's Wall World Heritage Site, which are valued nationally and locally for their landscape value and sense of place.

It is therefore suggested that the revised regulations should specifically ensure that when overhead deployment is proposed, conditions (at section (1A)), are put in place on the code operators to evidence that they have considered and assessed the landscape and visual impact of their proposed installation.

Question 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?

It is considered essential that existing infrastructure should be used, where possible, before new overhead deployment is the agreed solution. Therefore, it is important that the revised regulations ensure that code operators demonstrate that the possibility of sharing infrastructure has been fully examined. However, it should be noted that a significant amount of the area potentially affected by the relaxation of the restrictions, will be in rural areas, where it is likely that there will be a limited number of existing structures in place.

In relation to paragraph 3.5 and the legislative option set out in Article 12 (1) of the Framework Directive, the council is supportive of extending Ofcom's infrastructure sharing powers to also apply to the communications networks of distribution network operators. It is the view of the council that the definition of 'existing infrastructure' should also include non-telecommunications infrastructure, such as other utility infrastructure.

In relation to section (1A) of the revised regulations, which sets out the conditions for code operators to adhere to when considering whether to deploy overhead cables as opposed to

underground, in that 'it is either not reasonably practicable or not commercially viable' or 'reasonable efforts have been made to share conduits'. Further clarity is required on how the assessment of these conditions will be considered and whether the communities/ individuals affected will have an opportunity to comment on the information provided. It is suggested that further guidance is required to clearly explain the procedure by which representations will be considered and what weight they will be given in the decision making process. Clarity is required as to whether there would be an opportunity to appeal against any decisions made.

In addition to the above conditions it is considered that a suitably worded condition is inserted which requests that the code operators consider the landscape and visual impact of the deployment of overhead cables.

In respect of works in the highway, Cumbria County Council as highway authority would request that the proper coordination of works within the highway is sought when considering whether to deploy overhead or underground cables. This is to ensure health and safety requirements and appropriate standards of construction are met thus ensuring that parts of the highway infrastructure are not damaged.

In Cumbria there are a number of major new infrastructure developments (Nuclear New Build, upgrade of the National Grid, renewable energy schemes) which are in the initial feasibility and planning stage. During the construction and operation phase of these developments it will be important to keep certain highway routes free in order to accommodate abnormal loads. The deployment of any new overhead cables will need to respect potential transportation routes.

Question 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 is considered that the revised regulations should go further to ensure that affected communities/individuals are sufficiently engaged. It is considered that there should be a degree of flexibility to allow for the most suitable engagement method. Clarity is required as to who the other persons are which the code operator considers appropriate to consult. It is considered that those persons directly affected, or in proximity to proposed deployment of overhead cables should be directly consulted.

It is appreciated that the Parish Council and Neighbourhood Forum's are ideally positioned to be the focal point of the engagement. However, the council has concern that there is not sufficient capacity within Parish Councils and Neighbourhood Forums to effectively deal with the engagement. Within Cumbria the level of resource that Parish or Town Council's have is variable; there are also large areas in Cumbria where there is not a Parish or Town Council. The council is concerned that this approach could lead to an inconsistent approach being applied across the County, which would result in some communities benefitting to a greater extent than others.

Question 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?

Early and constructive engagement with affect communities/ individuals is essential to ensure that effective solutions are found which minimise impact and disturbance. It should be noted that the

cost savings sought from deploying overhead cables could offset the cost of notification and consultation.

Question 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.


It is considered that solutions to some of the potential issues, particularly in relation to landscape and visual issues can be found by the code operator ensuring they are fully informed of local circumstances. This can be done by the code operators utilising existing evidence and research. An example of this in Cumbria would be to utilise the 'Cumbria Landscape Character Guidance and Toolkit', which provides a baseline of information which can be used by land owners, managers, developers, communities and planning authorities to assess the landscape and visual impact of new development.

As part of the 'Connecting Cumbria' project, 'Hub Co-coordinators' advise on local perspectives on broadband. Each coordinator works with a number of 'Broadband Champions', who have been nominated by their parish council to help develop volunteers who help develop the project locally. It is considered that utilising this local knowledge and existing evidence and research will allow for the most appropriate design solution for the deployment of cable.

In conclusion, whilst Cumbria County Council are supportive of processes which would speed up the deployment of broadband infrastructure, it is considered that preference should be given to underground cabling to reduce the proliferation of structures, particularly in rural areas wherever possible and feasible. There should also be effective notification and consultation with affected committees and individuals.

I hope you find these comments constructive and that they can be considered as amendments/additions to the revised regulations. However should you have any further queries regarding the response please do not hesitate to contact Leanne Beverley, Project Manager, details provided above.

Yours faithfully



Jim Savege
Corporate Director – Organisational Development