

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

February 2012

### Introduction

BSG welcomes the government's proposals on relaxing the restrictions placed on deployment of overhead lines. The limits on overhead deployment have long been identified as a barrier to investment in new broadband networks, as overhead deployment can be significantly cheaper than alternative, underground methods: it was one of the issues highlighted as requiring action by the BSG in its 2007 report *Pipe Dreams?* It is important that government does all that it can to reduce the costs of deployment of NGA networks, particularly as it seeks to meet its target of having the best broadband in Europe by 2015.

### Enabling deployment of overhead lines

With subsidies available for deploying NGA networks in the final third, the challenge now is for government to ensure that the available funding goes as far as possible, and ensures that as many homes as possible are connected to NGA networks. In order that overhead can play a role in achieving this, however, the option to deploy overhead lines should be one of a number of options open to operators, rather than set out as a method of last resort, which is how the proposals currently appear. The new regulations must be fit-for-purpose, in that they must allow operators to deploy overhead lines in such a way that it is a cheaper deployment approach than the alternatives available. Industry is uncertain as to whether the regulations as currently set out achieve this.

Paragraphs 3.2 and 3.3 in the consultation make it clear that where existing infrastructure is available, operators should make use of this before deploying new overhead. This is supported by the view in paragraph 3.6 that for operators, the most attractive option would be to re-use existing infrastructure, and plays through to the draft regulations (1A)(a) and (b), which state that an operator can only deploy overhead if infrastructure sharing with BT and other utility infrastructure owners is not reasonably practicable and commercially viable.

At this stage, however, the presumption in favour of infrastructure sharing is difficult to justify conclusively. While in the immediate, capex sense this would most likely be cheaper, the reality is more complicated given the ongoing costs of renting capacity on the infrastructure of others and the uncertainty surrounding available capacity and the required make-ready work to enable infrastructure sharing through Openreach's Physical Infrastructure Access product.

Other factors may also make infrastructure sharing less attractive. For operators who secure BDUK funds, for example, the capex investment must go in to assets that retain a residual value; network deployed on the infrastructure of others has none, and so cannot be covered by capex grants. Additionally, planned network architectures may be significantly different from those available on existing infrastructure – while using the latter may be viable, utilising overhead to achieve a

more rational architecture may be cheaper and allow for a wider deployment of the network.

Given that we do not know at this stage what deployment approaches will be the most appropriate in any given situation, if government wishes to do all that it can to bring down the costs of deployment, and achieve greater coverage for the subsidy that is available, it should provide a greater freedom to operators to deploy overhead than is currently envisaged by the proposals. Ensuring that overhead is a genuine option, rather than a path of last resort once all other avenues have been exhausted, would mean that these new regulations have the desired effect, and help to bring superfast broadband to as many households as possible.

### **Revisions/amendments to the conditions**

If the conditions must remain as they are, a second order issue is the level of information required from operators proposing to deploy overhead lines to demonstrate that it is the only viable option, and that network sharing would not work. Currently, the proposals are unclear as to what would be required of an operator; should the requirements be too onerous, they may make overhead deployment less advantageous or too costly to pursue.

For example, if an operator had to undertake surveys of existing infrastructure and price up the likely costs of utilising existing infrastructure before being permitted to deploy overhead, the cost of undertaking this work may make overhead less attractive than continuing with the infrastructure sharing arrangements, as this initial stage work can be costly to undertake. An operator could go to many levels of detail in order to demonstrate that infrastructure sharing would not be viable; government should ensure that the cost of this requirement is kept to a minimum.

A further issue is the need for operators to have attempted infrastructure sharing with utility infrastructure owners as well as other telecoms operators. Government's discussions with utility infrastructure owners concerning infrastructure sharing continue, and have yet to produce any outcome. It is perhaps premature, therefore, to require operators to have attempted to share infrastructure with utility owners ahead of a successful outcome to those discussions. Should those discussions not yield an outcome that encourages infrastructure sharing with utilities, it should be the case that operators seeking to deploy networks should not be required to first pursue sharing arrangements with utilities, which would most likely be fruitless, prior to considering overhead deployment.

### **Community redress**

A final issue arising is the nature of the notifications and consultations industry must offer. The proposed regulations suggest that the operator run the consultation with local stakeholders, and then take a final decision when all views have been considered. However, it is unlikely that the objections of local stakeholders will change the fundamental cost dynamics of deployment in the local area, and so the operator may still wish to build out its lines overhead.

What may be more appropriate would be for the local authority to be the arbiter responsible for consultation and taking a final decision. As a body that will need to balance the views of local stakeholders with the economic and social benefits of widespread deployment of superfast broadband, and the costs of that deployment to

which they are most likely contributing, they would be well placed to form a balanced view as to whether to permit the operator to deploy lines overhead.

A second order issue, if the current proposals remain, would be to outline the routes available for local stakeholders to seek redress should an operator build out a local network overhead against their wishes. In this instance it will be important for the operator to have some certainty about the processes and timescales involved should opposition be raised in this way, as any delay would have a cost impact that would need to be factored in by the operator when considering whether to proceed with an overhead deployment.

**About the Broadband Stakeholder Group (BSG)**

The BSG is the UK government's advisory group on broadband. It provides a neutral forum for organisations across the converging broadband value-chain to discuss and resolve key policy, regulatory and commercial issues, with the ultimate aim of helping to create a strong and competitive UK knowledge economy. Further information about the BSG can be found at: <http://www.broadbanduk.org/>