

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?

Response

We agree that the use of overhead lines can significantly reduce the cost of broadband deployment and that there are significant benefits from the deployment of broadband. The greatest benefit will be achieved from the deployment of overhead lines in rural areas.

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?

Response

We agree that existing ducts and poles should be used before new poles are installed. Additionally we consider that there should be some independent means of verifying that sharing of the existing infrastructure is not feasible as currently it is proposed that this task should be carried out by the Code Operator which could produce biased results. However we are not convinced that this verification should be Ofcom's responsibility though we are unable to suggest a more appropriate body.

We note from the consultation document that there is a legislative option to extend Ofcom's powers to impose infrastructure sharing on all providers of Electronic Communication Networks. It is not clear how such sharing could be imposed and there may be a range of implications resulting from such action. These implications need to be clearly understood before any legislative action is taken to impose sharing. Additionally the proposed clause (1A) (a) appears to give the Code Operator the power to reject a request from Ofcom to share the conduits which is contrary to the principle of Ofcom having powers to impose sharing. We consider that clarification of this issue is required.

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?

Response

In view of the declining importance of local newspapers we consider that additional means of notification should be used. These could include local radio and television stations, mail shots and other appropriate means. With some of these media types it may be difficult to convey the details of the site drawing. Thus alternative means for achieving this will need to be developed. However we note that general planning proposals do not require publication of the plans though the plans are readily accessible to the interested public by a variety of means.

The proposed amendments to Code require 56 days notice to be given before the deployment of overhead lines (4 1A) (e)). However the Code amendments do

not state that the date should be the same when details of the proposed deployment is given to all relevant Councils as when the details are published in a local newspaper. Thus we consider that there may be some difficulties in determining the start date of the 56 day consultation period and it is important that this date should be clearly specified.

Additionally there appears to be some confusion over the interpretation of the 56 day period. The proposed Code amendments state that there must be at least 42 days (4 1C) (c) (ii)) for representations for to be made. This is less than the 56 days stated earlier. We consider that this means the Code Operator then has 14 days after the 42 period to make a decision based on the responses received though we believe that this timeline should be clarified.

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?

Response

We do not consider that the cost of notifying the local community is a significant amount in view of the resultant benefits and the cost savings resulting from this method of broadband deployment. However the amended Code appears to indicate that the operator could have 14 days or less to make a decision after the consultation period and meeting this timescale may place an onerous burden on the operator, particularly if a large number of responses are received. See our answer to question 3 above for further details of determining this 14 day period.

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.

Response

We consider that existing clause 4 (1) (e) may not be required in view of the addition of clause 4 (1) (f).

Further we consider that there may need to be an appeal process for cases where there is disagreement with the statements published in accordance with 4 (1E) (b) and (c) but particularly (c).

Additionally as noted above there may be some redrafting required to the proposed amendments to clarify the meaning of the provisions and prevent disputes arising. There may also be some consequential changes required to other sections of the 'Electronic Communications Code (Conditions and Restrictions) Regulations 2003' to reflect the amended section 4.