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Department for Culture, Media & Sport  
2-4 Cockspur Street  
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20<sup>th</sup> December 2011

DCMS Consultation: Relaxing the Restrictions on the Deployment of Overhead Telecommunications Lines, November 2011.

Dear Mr McDougall,

I set out here my response to the above consultation.

**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?

*I assume that the first part of this question is oriented towards Communications Providers. Regarding the second part of the question, about costs and benefits, I can best quote from the Impact Assessment, page 12, where it is stated that "this is a relatively high level IA to accompany a consultation on amending regulations. It contains many estimates which may not be entirely robust."*

**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?

*Yes, to both parts of this question.*

**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?

*No. Consistent with the principle of localism it is essential that the local community (i.e via the Parish Council /Neighbourhood Forum) has the power to veto to prevent a Communications Provider (CP) installing overhead lines. There should not be regime whereby CPs can overrule the views of local communities after a perfunctory consultation has taken place. I consider this issue further below (as regards both the Impact Assessment and the Consultation Document).*

*The Impact Assessment (IA) seems ambiguous as to whether local communities will have a power of veto. Within the IA there are a number of references to this aspect. Page 1 of the IA refers to "discussion", page 7 to both "making a choice" and "consent". Page 9 refers to "consultation", page 10 to "amendment", while page 12*

refers to both "having a direct say" and "opposition". Bearing in mind these varying terms it appears unclear as to where the balance of power lies, between the CP and the local community, when it comes to the issue of installing overhead lines.

*The Consultation Document uses a range of terms. Paragraph 3.4 (of the Executive Summary) mentions "consultation", paragraph 3.6 (of the ES) refers to "protection". Paragraph 2.8 (of the main document) mentions "safeguards". Paragraph 3.7 refers to "have an input into the decision" and "discussing the proposals in detail with the communications provider". The crucial part of paragraph 3.8 states*

*"Following the consultation period, we would expect communications providers to demonstrate they have listened to any concerns proposed and justify any decisions made in the light of consultation feedback, including those in relation to green belt".*

*This seems to indicate that the CP is the decision maker. It appears that the CP will evaluate the various factors, and then itself adjudicate on its own proposal! This does not seem to fit in very well with the rules of natural justice. It is reasonable for the CP to try and persuade the local community, but it not reasonable for the CP to run roughshod over the views of that community. An effective safeguard for local communities would be to allow those local communities to have a veto to prevent CP's installing overhead lines.*

**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?

No

**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.

No further comments.

Yours sincerely

Graham M Phillips