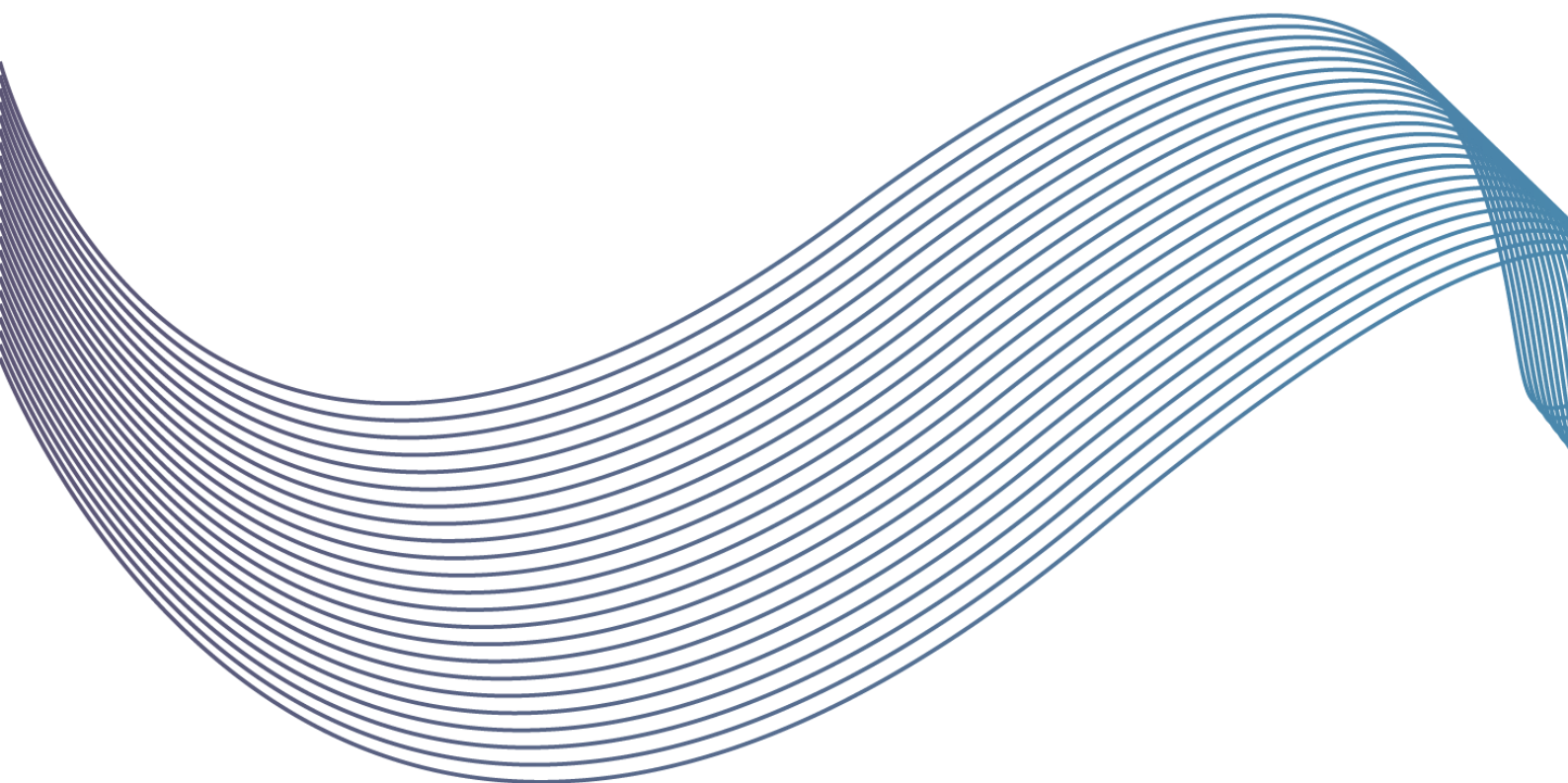


# Response to Consultation on Delivering gigabit-capable connections to new build developments

Version 1.0



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## Hyperoptic Introduction

Hyperoptic is a Code Power operator founded in 2011 by Dana Tobak and Boris Ivanovic. Hyperoptic is the largest provider of 1 Gb residential broadband in the UK and currently use a Fibre to the Building infrastructure operating across 28 cities with ambition to service significantly more. We have installed or are in the process of installing to over 400k residential homes and over 10k business units.

Hyperoptic was founded to bring the UK's broadband infrastructure to the next level creating a new full fibre infrastructure, offering 1 Gb services and raising the level of expectations on the role of connectivity in British households and businesses. Customers get the wired speeds they expect, and we have over 95 percent customer satisfaction rating consistently on our quarterly surveys.

To date, we have been expanding our network 100 percent year on year, and having recently secured 100m in debt funding. Our plans are to reach 2m homes passed by 2022 and 5m homes passed by 2025.

Currently, 50 percent of our footprint would, without Hyperoptic, be fibre-free with its residents only able to use ADSL often below 10Mbps – we are a key deliverer to whitespace areas and often target these areas having been neglected by other operators and network builders.

## Response summary

Hyperoptic welcomes the opportunity to respond to the DCMS consultation on delivering gigabit-capable connections to new build developments (“NBDs”)

The ambition of Government, as set out in the FTIR, to roll out full fibre to 15m premises by 2025 and nationwide by 2033, will require considerable, and accelerated infrastructure build. Hyperoptic is keen to encourage this ambitious attitude, and any attempts from Government to facilitate this process.

Of the two current consultations dealing with fibre roll-out related issues, we believe that this one will ultimately have a more positive impact in helping to reach the targets set out by the government. This is due in part to the fact that it works in tandem with the governments equally ambitious plans for new homes built as well as the fact that we believe the number of instances where a warrant for entry to a mutli-dwelling unit will fall far short of the numbers that had previously been presented to government by Industry prior to the consultation. It will also serve to meet the expectations of telecoms consumers moving into new build properties who will expect a modern and future proof telecoms service in keeping with a brand-new home. As the consultation points out, it is also important that the deployment of gigabit capable networks takes place when civils works are undertaken and before the development

is complete. Failure to do so, will result in disruption to residents whilst networks are deployed (e.g. street works), although planning requirements do not make deployment on a just completed development a simple thing to do, thus increasing costs, complexity and delay in provision of services to residents.

The proposal appears to be split into two elements, the first dealing with notifying operators of an NBD and requesting quotes – leading hopefully to a commercial agreement. The second, operating as a regulatory backstop, dealing with the steps that need to be followed in the event that commercial agreement cannot be reached. We believe that if the first element is implemented correctly, the scope for requiring the ‘duty to connect’ will be limited in scope, and it is therefore important to ensure that the commercial element is fully developed.

We also consider that the ‘duty to connect’ has potential crossover with other government activities in this space, and therefore that further thought is required to ensure that the interplay between them operates in the correct way.

## Notification of intention to develop

Hyperoptic is active in the NBD space. We strongly support the proposal to require developers to engage proactively with network operators as part of their engagement process with local authorities. Further details need to be considered in respect of how this obligation will operate in practice and what sanction there will be for failing to meet the obligation by a developer.

These include whether nine months in advance of site build will be sufficient time to facilitate commercial engagement with at least two developers and also permit the back stop of invoking a ‘duty to connect’ should commercial negotiations fail. The imperative element here is that whichever element of the process is followed, there must be enough time for the operator who will actually deploy network to firm up build plans and have these joined up with other civils work taking place. This must be completed prior to commencement of site build. This would also mean that telecommunication infrastructure build could be better planned into the overall build process, including joining up with local authorities to include ducts under new roads connecting any new development sites.

The policy could also be developed further such that agreement could be a condition of planning permission, to ensure that there would be incentive on the developer to negotiate in a timely fashion. A positive way to encourage developers to ensure them to engage with this policy could be to link to work currently ongoing to add digital connectivity to the requirements needed on a CML certificate. Currently this only includes gas, water and electricity.

We believe that there is need to provide additional clarity about how operators will be notified of the tender at the nine-month prior stage, as well as how developers will know who they should notify. We believe that this level of detail is something that could be worked out in further discussions with industry to ensure that the process is fully transparent to all. Presumably the notification would only go to active operators who engage in network deployment rather than ISPs that offer consumer products via wholesale products purchased from others.

The obligation is couched as to request initial quotes from operators, but there is little detail on what this would constitute in practice. It is important that a set level of detail is provided by developers, preferably in an agreed format, as this will provide operators with the ability to respond with an initial quote that is meaningful.

We also believe that there is a need for further clarity around the obligation to notify at least two operators. It is not clear how this will work where operators have reached agreement with developers that cover multiple sites. Our assumption is that this obligation would not preclude such arrangements, but we also believe it would be inefficient for an operator to respond to a request for an initial quote that was not bona fide, given that commercial agreement was already in place.

We welcome the position stated that where commercial agreement is reached with an operator the policy will allow the operator to deploy the infrastructure required to enable gigabit-capable networks, as well as the fibre itself. As commercial agreements should always permit operators to follow their standard build practices.

## Duty to connect

As set out in the introduction, we are concerned that the ‘duty to connect’ has potential crossover with other government activities in this space such as the broadband USO and an outside-in approach to fibre roll out. We would welcome further discussion and details to ensure that the interplay between them operates in the correct way without overlapping.

Turning to the details of the proposal, we believe that there is need to provide additional clarity about how developers will ascertain who the closest two networks are, and therefore on whom they should place the ‘duty to connect’ process. The timing of when this needs to occur also needs to be clarified. As outlined above, if the commercial notice to operators starts nine months in advance of site build there needs to be a cut-off point by which time the requirement to invoke a ‘duty to connect’ becomes clear. This is to ensure that there is enough time for the operator deploying network to firm up build plans and have them completed prior during site build, for the reasons outlined in the previous section.

We suggest that further detailed work is undertaken with relevant stakeholders in respect of the technical specifications for the physical infrastructure. Each operator has their own standards operating processes and it will be necessary for any technical specifications to work for all. The most efficient way would likely be to have an agreed set of specifications, but there is a risk that these will not be the optimum for all operators and thus will not work as anticipated. One of the reasons that The Communications (Access to Infrastructure) Regulations 2016 have not had the predicted impact, aside from the commercial element, is because the physical infrastructure is not suitable for the requirements of telecommunications operators. Although the standards referred to above would be designed for telecoms, there is still the risk that they will not be suitable for all. The alternative is for the developer and operator to agree standards for each NBD, replicating what is done in a commercial environment. Hyperoptic would like to participate in these discussions.

In respect of the funding, these figures would appear to be reasonable although the cost per individual premise should be £500 rather than £1,000, but they should be tested against figures obtained nationally for building gigabit capable networks nationally to ensure that the data is sound.

We agree that ultimately primary legislation will be required to ensure that the policy has the maximum impact. However, as pointed out in the consultation, the proposal is designed to place the best practice we see today from the most proactive developers and operators on a statutory footing. This means that some of the work in respect of working through the processes in detail as well as the technical specification can begin in advance of legislation being in place.

## Conclusion

We believe that this policy proposal will ultimately have a very beneficial impact in helping to further the government targets for gigabit capable networks. It is key that the deployment of these networks takes place when civils works are undertaken and before the development is complete. For the reasons set out above we believe that the ‘duty to connect’ element of the policy needs further detailed consideration to ensure that it works correctly, and we are happy to support government in this work. We believe that the if the first element i.e. via commercial agreement, is implemented correctly, it will have a far greater impact over time than the ‘duty to connect’. This will increasingly be the case as developers aware of the extent of the premium that consumers may place on a fast, reliable internet connection. As the quote from Rob Perrins shows, if developers are not able to offer fibre, there is a real prospect of some people walking away from property sales. This is only likely to increase, hence property developers engaging proactively in seeking support from gigabit capable network operators.