

18th December 2018

New Build Development connectivity consultation
Digital Infrastructure Directorate
The Department for Digital, Culture, Media and Sport
100 Parliament Street
London
SW1A 2BQ

By email only to: newbuildconnectivity2018@culture.gov.uk

Dear Sir/Madam

Response to DDCMS consultation: New build developments: Delivering gigabit-capable connections. (redacted version)

We provide this letter in response to the Department for Digital, Culture, Media and Sport's (DDCMS) consultation of the 29th October 2018, "New build developments: Delivering gigabit-capable connections. BUUK owns both a fibre infrastructure provider (Open Fibre Network Ltd. OFNL) and a fibre only retail service provider business, Independent Fibre Retail Limited, trading as "seethelight". This response is a consolidated response on behalf of both of these companies. Our responses to the questions posed by DDCMS are provided in the Annex to this letter.

BUUK has been operating as a "last mile" fibre network provider for more than 10 years and also has extensive experience of working in comparable markets in the Water, Energy and Heat infrastructure sectors. BUUK infrastructure is the largest independent distribution business, owning and operating "last mile" systems in 6 utilities (gas, electricity, water, wastewater, fibre and district heating/cooling. [REDACTED]

[REDACTED] All of these connections have been won through the competitive process of providing last mile connections to new housing developments. BUUK has a strong focus on customers and the reliability of our services, with over 1400 direct employees and very few contractors. To ensure customers on our gigabit capable fibre networks have the ability to choose their CP, all of our networks are open access and have circa 60 CPs currently connected and providing services.

We welcome and agree with the DDCMS's overall objective to ensure the timely and efficient delivery of gigabit fibre connections to all new developments, where commercially viable. We agree with the overall high-level back stop requirements of making developers engage proactively with network operators, for developers to, where necessary, make a contribution towards the infrastructure on site and to the overall cost, above commercial costs, upto a cost cap threshold being applied to developers. However, we are proposing a small number of detailed changes and clarifications to the consultation which we believe will improve the effectiveness of the proposals whilst ensuring that innovation and competition is not unnecessarily inhibited.

We note that in recent years there has been significant changes to the new build fibre provision market, and now in the vast majority of cases, gigabit capable fibre connections are provided to most new housing developments. However, we agree that there is a potential that gigabit capable fibre is not always installed where the installation costs are higher than the level to provide a commercial return. We also recognise that the industry has a significant backlog of historic sites that are yet to be connected but are already contractually bound to a telecoms provider through a copper solution. Where the telecoms infrastructure is yet to be installed it would appear sensible to give customers the option to use the new legislation to apply for a gigabit ready connection.

BUUK already provides next generation gigabit-capable fibre to the premises (FTTP) connections for all new housing developments it is appointed to as the telecoms provider. The infrastructure is operated on an Open Access basis to allow wholesale and retail CPs to connect to provide end-user services to their customers at cost effective market level pricing. These new connection projects are often won through a competitive tendering process run by the housing developers and land owners where the client normally is not required to make any contribution to the onsite works. This business model also works well for new home owner customers as it ensures an end to end fibre solution on site meaning that typically a voice and/or Internet connection is available on moving into their new house. We therefore believe that the proposed changes would be unlikely to apply to a BUUK new fibre connection.

We recognise that the current proposal acts only as a back-stop but would request that this is further clarified. Where a gigabit service has already been contracted the additional requirements would just become an additional administrative cost, red tape, delays, and potential unnecessary local authority interventions with no tangible outcome. This will ensure that, where notification is given to the local authority that a gigabit capable fibre connection is to be provided, there is no need to apply any of the further stages of the process. We believe this will also reduce some of the potential increase in clerical administration required to implement the proposal whilst ensuring that the legislation doesn't un-intentionally require telecoms infrastructure providers to conform to one particularly type of business model.

We would be happy to provide any further clarification to our responses if that would be helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. Hutton', with a long horizontal flourish extending to the right.

Keith Hutton
Regulation Director

Annex 1 Response to Consultation Questions

Question 1: Do you have any further evidence on the state of New build Development activity in the UK?

We believe that the telecoms new connections market for new developments has moved on considerably in recent years and the problem DCMS is looking to resolve is now constrained to very small-scale housing developments that are unlikely to be economic even at the proposed increased cost boundaries. A proactive approach would be to ensure that there is wholesale Open Access available to all Networks and there is a duty to connect to existing infrastructure.

Competition has already increased the choice of gigabit capable networks and housebuilders are already aware of this and most housebuilders are now installing gigabit capable fibre as standard. We also recognise the issue that needs addressing where telecoms infrastructure operators have contracted developments, often large, but not yet built but still using copper as part or all of the solution. Where the telecoms infrastructure is yet to be installed it would appear sensible to give customers the option to use the new legislation to re-apply for a gigabit ready connection.

Question 2: Do you have any information or evidence to suggest that the costs developers would incur under the proposed policy would prevent homes being built?

It is unlikely, proportional to the cost of building a new home, that the costs incurred through the proposed policy would prevent homes being built. However, clarification in the policy is required to highlight that if a house builder already has a gigabit capable telecoms solution available for its new site development and is able to confirm this to the local authority there will be no need to apply the tendering part of the policy. Confirmation of the final built network to the local authority would still need to be provided by the developer.

Question 3: We propose that developers would be obliged to provide a simple connectivity plan for their developments to LAs. This plan would demonstrate that developers had consulted with at least two network providers to provide gigabit-capable networks and inform LAs when a site is connected. Do you have any comments on this proposal for a connectivity plan?

It isn't clear from the original proposal that network providers will be required to offer next best (for speed) solutions up to the cost threshold. We recognise the wider objective to set up a duty to connect to existing infrastructure. Given that this solution is a backstop we think it would be sensible to clarify that developers will not have to follow this process in BAU and it would only to be used where no cost-effective solution can be found or the developers does not have the necessary knowledge or contacts.

Question 4: Do you agree (a) the assumption that deploying the necessary infrastructure to deliver gigabit-capable networks is best achieved when the site is being built? (b) What technical specifications should the physical infrastructure (ducts etc) have? (c) Do you agree that developers

should deploy, and pay for, the necessary infrastructure from the in-building connections to the boundary edge of the development?

We agree that the best point in time to deliver gigabit capable connections is when the site is being first developed and built. We do not believe that there should be prescriptive requirements in what the final physical infrastructure should be as this would further inhibit innovation in the provision of gigabit capable connections. All of the connections that BUUK infrastructure currently provide to developers are gigabit capable and are provided on an open access basis at competitive market level pricing to CPs. For all of the developments the onsite works are provided at no cost to developers and we would not want any prescriptive specifications from preventing this business model from continuing. It is our experience through an innovative multiutility solution that enables us to provide better and more cost effective solutions to developers introducing further prescription requirements on the physical infrastructure installed to support a gigabit solution could inhibit the delivery of this. We note that other infrastructure providers have different business models that this arrangement will challenge.

We recognise that there is a potential, through this proposal, to also introduce a requirement to overbuild multiple networks to the same site. We do not believe that this is cost effective, or environmentally friendly or even necessary where the mandate to provide open network access at the bitstream level is enforced. Our experience in other utilities is that a single open access network is the best solution for both developers and customers in terms of costs and levels of service.

Question 5: Do you agree (a) that developers should have to engage with at least two network operators who can provide gigabit-capable connections to the development? (b) What further measures could we consider promoting the availability of networks from multiple providers at an early stage to minimise costs and disruption?

Where competition has already secured a gigabit capable fibre solution on site we do not believe that there is any need for the proposed changes to apply. Where a solution isn't provided then it is sensible to ensure that developers have engaged with more than one network operator.

BUUK believe that each development site, should include an open access infrastructure to promote competition and customer choice. We do not believe that DDCMS should be prescriptive on how this should be achieved.

Question 6: Taking £3,000 as a suggested aggregated cost cap per premise, do you agree with what has been proposed and how should costs be divided between developer and operator?

We have little experience of new developments getting anywhere close to the proposed cost cap of £3000 per connection and most are significantly below the £1000 fibre provider threshold. All onsite connections are provided at no cost to developers. However, we note that as the number of plots reduces significantly the long term return on the assets installed becomes further challenged so that developers will be required to make an upfront contribution. It is unlikely that for even very small scale sites this threshold will be beached.

Question 7: What information and evidence can you provide to help refine the 'in scope sites' policy design choice - aggregated cost cap or number of premises?

Openreach's change to their rate card costs for the below 30 plot level will go most of the way to removing the perceived issue in this area. BUUK will also offer quotes below 40 units if requested and these will be on a commercial basis associated with serving these types of site. It would be better to therefore focus on a number of premises to drive this rather than a generic process for all connections.

Question 8: Do you agree (a) that developers should have the overall responsibility to ensure Gigabit connectivity for their developments (allowing for the fact that developers can oblige operators to connect using the 'duty to connect' provision). (b) How would this policy affect small housebuilders?

Yes, this is the most logical and sensible place to put the obligation. Sharing costs between developers and infrastructure providers is also sensible. We believe that there is a need to improve the clarity on the duty to connect provision and how this would actually work in practice. If this obligation is to be set on the nearest available network then there will be a need for further work to understand all network locations. We note that Ofcom already make this information available by postcode via the connected nations report.

Question 9: Do you have any comments on the proposed legislative approach? Do you have an alternative solution that would deliver gigabit-capable connections to NBDs?

We remain concerned that legislation could be extended to require multiple networks on site and we don't see the benefit of this. The current gigabit capable fibre networks that OFNL provide are already future proofed and are capable of providing gigabit capability. Any additional capacity will be managed offsite and equipment can be upgraded to support emerging technologies, future growth and additional requirements.

In all other utility networks there is only a need to install one fit for purpose network and ensure that competition in retail is open. This is the best environmental and economic solution. From a delivery perspective for the house builders a single network remains the best solution as there is increasing difficulty of installing multiple network infrastructure in footpaths.