



SELEP Team  
c/o Essex County Council  
County Hall  
Chelmsford  
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8<sup>th</sup> October 2015

Dear Sir/Madam

**Strategic Review of Digital Communications: Discussion Document**

I would like to take this opportunity to provide an input from the South East LEP (SELEP) into the consultation you are running around the nature of your upcoming strategic assessment of the telecommunications sector.

For your ease of use, the views of SELEP board members and partners are included below in bullet point form as part one of the annex to this letter. Where the comment relates directly to one of the specific consultation questions, this is made clear in the third part of the annex.

The SELEP team would be very happy to assist you if you wanted to follow up on any of the points raised.  
Yours sincerely

George Kieffer  
**Interim Chairman, South East LEP**

## 1. General remarks

- SELEP welcomes any review which seeks to encourage investment and innovation whilst ensuring the **widespread availability of digital communications services**. We believe the focus of any review should be on ensuring competition and choice in order to deliver the best price to the consumer.
- Our shared plan for economic growth relies on **improved business infrastructure**. Fast broadband is a key requirement of business to enable competitiveness on a national and international scale. It is also key to our inward investment strategies without which opportunities for employment, productivity and economic growth will be severely diminished.
- It is critical to ensure that the review pays close attention to ensuring **competition, choice and affordability** within the sector. Presently, consumers and businesses are often unable to take advantage of the benefits of competition as a result of provider monopoly, largely in rural areas.
- We therefore believe that **more ambitious plans to future-proof public policy intervention** and regulation are required in order to avoid a persistent digital divide as new technologies are adopted. While we accept that minimal regulation of technologies in their infancy is central to optimising private sector investment, equality of access should nevertheless be secured at a much earlier stage.
- We propose that Ofcom should:
  - regularly define minimum accessibility requirements for key groups (eg the vulnerable, SMEs, business) at a frequency that meets the pace of technological change;
  - work with providers to ensure minimum access, using regulation if voluntary agreements cannot be established within a defined timeframe;
  - make recommendations for amendments to planning regulations to ensure that all new building developments have 'enhanced' accessibility. Ensuring that digital communications connectivity in new builds are future proofed; and
  - quickly regulate to avoid partnerships between digital communication providers and building developers which reduce competition and/or obstruct optimal accessibility.
- **Lack of fast broadband** access amongst vulnerable groups will result in lost opportunities in terms of tackling isolation, improving quality of life and reducing cost of public services. It **reduces incentives to develop innovative support mechanisms** supported by new digital communication technologies and/or will result in further inequality as such support services would not be universally available.

## 2. Addressing Ofcom's four core strategies:

### On Investment and Innovation

- All of the main mobile telephony providers need to continue to invest in their network and their back haul systems. This should include measuring the coverage by geographical location rather than by population. This will help to ensure any KPI figures include areas that have poor coverage coupled with a low return to the provider.
- Planning law needs to be relaxed to enable providers to install masts quicker, to enable enhancement of coverage – particularly important given that transmission equipment can now be deployed to existing structures such as telegraph poles.

### On Sustainable Competition –

- Competition is important but the introduction of smaller providers should not be at the expense of any real and meaningful investment in research and development. The existing mix of main stream mobile providers including O2, EE and Vodafone promotes healthy competition whilst giving a clear definition on quality.

### On Empowering Consumers –

- Consumers would benefit from a 'Go Compare' or 'Compare the market' approach to gauge what package they require compared to the one being offered by the provider. There might also be a utility type Government-backed and Government-run comparison website to verify any telecoms package.

### On Targeted (de)regulation where necessary –

- Regulation needs to be very clear and serve to provide end users with a transparent but detailed crib sheet of what is on offer – particularly when it comes to customer service for domestic mobile network users.

### 3. Responses to Questions

**Q1. Do stakeholders agree that promoting effective and sustainable competition remains an appropriate strategy to deliver efficient investment and widespread availability of services for the majority of consumers, whilst noting the need for complementary public policy action for harder to reach areas across the UK?**

Yes, although more ambitious plans to future-proof public policy intervention and regulation are required in order to avoid a persistent digital divide as new technologies are adopted.

While we accept that minimal regulation of technologies in their infancy is key to ensuring private sector investment, equality of access should be secured at a much earlier stage.

Strategic assessments of the digital communications sector can only be fit for purpose if the frequency of review matches the speed of widespread adoption of technological innovation within the digital communication sector.

In **rural** areas digital communications are more about actual availability and minimum levels of actual utility than about competition. BT has been the only successful bidder in the BDUK local authority projects. In terms of network provision, there is effectively very little competition. BT and Virgin Media control the two main networks, with Virgin Media almost exclusively covering the major urban and suburban areas. This leaves BT as the only option elsewhere. In isolated rural communities Ofcom should find ways to make the market sector more attractive, possibly with a focus on local SME providers.

The issues caused by market failure, typified by persistently poor or absent service for either broadband and/or mobile coverage / signal in rural areas are a significant hindrance to local economic growth and regeneration. Ofcom must be energetically proactive in addressing these issues, not just 'note the need'. This approach is supported by the *Rural broadband and digital-only services* report of the House of Commons Environment, Food and Rural Affairs Committee (3 February 2015.)

As stated, ensuring universal access to existing technology before worrying too much about the next steps is an important principle. As the current market still presents real failures, consideration of why and how to resolve them should be a critical part of its ongoing development.

**Q2. Would alternative models deliver better outcomes for consumers in terms of investment, availability and price?**

We propose that Ofcom should

- Regularly define minimum accessibility requirements for key groups (eg the vulnerable, SMEs, business) at a frequency that meets the pace of technological change
- Work with providers to ensure minimum access, using regulation if voluntary agreements cannot be established within a defined timeframe
- Make recommendations for amendments to planning regulations to ensure that all new building developments have 'enhanced' accessibility. Ensuring that digital communications connectivity in new builds are future proofed (not requiring intervention as described above in the short – medium term)

- Swiftly regulate to avoid partnerships between digital communication providers and building developers which reduce competition and/or obstruct optimal accessibility

The separation of infrastructure and service provision, with a certain amount of public service obligation is used in the rail sector and it is a small step to envisage a similar approach for digital communications infrastructure and service providers. This approach might also allow a more even spread of masts and transmitters across the country, though the locus of power to grant planning permission for these might need to be reconsidered.

Similarly, in terms of helping to minimise market distortion through widely varying service provision costs, it would be a small but helpful step to introduce some small element of price balancing to help contribute to a more even distribution of service provision across all parts of the country.

**Q3. We are interested in stakeholders' views on the likely future challenges for fixed and mobile service availability. Can a 'good' level of availability be defined? What options are there for policy makers to do more to extend availability to areas that may otherwise not be commercially viable or take longer to cover?**

#### **Definition of service levels**

A 'good' level of availability for particular services should be defined in terms of a minimum specification required to achieve stated objectives, rather than a minimum speed or signal level, that is, defined in terms of what you can do. This would give the definition more relevance across a widely varying picture of provision and hopefully more longevity in a fast moving and exponentially developing sector.

Digital communications infrastructure and services will be vital to enabling the potential for smart cities to aid economic growth, and to support the health agenda in the implementation of change in the way health services are delivered or accessed.

**Q4. Do different types of convergence and their effect on overall market structures suggest the need for changes in overarching regulatory strategy or specific policies? Are there new competition or wider policy challenges that will emerge as a result? What evidence is available today on such challenges?**

#### **Need for sea-change in approach to digital access**

Digital access should be considered alongside other essential utilities as a universal service obligation for all new development, residential or commercial just like water or electricity.

Legislation should be used to compel all new residential and commercial development, including development not requiring planning consent, to have the necessary digital infrastructure in place or to prove it is already available. If necessary this could be limited geographically to rural areas where provision is poor.

**Q6. What do you think is the scope for sustainable end-to-end competition in the provision of fixed communications services? Do you think that the potential for competition to vary by geography will change? What might this imply in terms of available regulatory approaches to deliver effective and sustainable competition in future?**

In order to address the issues of digital communication infrastructure and service provision in rural areas, there is a need to ensure that the variation in geography, population density and their effects on competition is addressed. There are regulatory and legislative changes which could facilitate this. See particularly our responses to Q2 and Q4.

**Q9. In future, might new mobile competition issues arise that could affect consumer outcomes? If so, what are these concerns, and what might give rise to them?**

Many rural areas are still served only by unreliable 2G, or possibly 3G networks, while urban areas race to secure the infrastructure for 4G & 5G. The increasing drive to migrate 3G users to 4G (sometimes free of charge e.g. O2's current initiative in October 2015) and even 5G, also risks the emergence of a new digital divide. Such significant discrepancies in coverage and technology act as a catalyst to exacerbate issues around social inclusion and rural isolation.

**Q11. What might be the most appropriate regulatory approaches to the pricing of wholesale access to new and risky investments in enduring bottlenecks in future?**

**Need to minimise distortion in the market**

This could be achieved by providing some, possibly minimal, intervention funding, or requiring providers to cover a % of uncompetitive market offset by profits from highly lucrative, frequently urban, competitive markets.

**Q14. Are there wider concerns relating to good consumer outcomes that may suggest the need for a new regulatory approach to Openreach?**

**Need for open, transparent data at small local level geographies**

There is a need for full data transparency about actual service availability, coverage, speeds, signal strength etc., including not spots and cold spots at local level, including data in re-useable formats that can be aggregated at various small scale geographic, statistical and administrative boundary levels (e.g. parish, ward and district - not just maps, or individual post code searching).

The data clearly exists behind a plethora of postcode search facilities, but it should be made freely available for local authorities, parish councils, community groups, academics etc.

This lack of transparent data is due to issues around 'commercial in confidence' sensitivities, and a significant disadvantage of a commercial market approach to what is now essential infrastructure.

We are grateful that Ofcom does make some broadband service data available via its website which with some technical expertise can be used to give an indication of local coverage. However, it also has the interesting feature that postcode areas where broadband speed data is not available are shown as having no speed, rather than unknown speed. This may unhelpfully misrepresent the actual picture on the ground.

**Q17. What do stakeholders think are the greatest risks to continuing effective consumer engagement and empowerment?**

A lag between the roll out of new technologies and regulation/policy interventions that ensure accessibility for vulnerable groups and business is causing a persistent digital divide. In the commercial world, inequality of access will result in competitive disadvantage for businesses, stunting opportunities for employment, productivity and economic growth.

Lack of access amongst vulnerable groups will result in lost opportunities in terms of tackling isolation, improving quality of life and reducing the cost of public services. It would reduce incentives to develop innovative support mechanisms supported by new digital communication technologies and/or result in further inequality as such support services would not be universally available.

Notwithstanding the issues around lack of choice in service provision in some **rural** areas, there are also potential risks that a large number of service providers with multiple packages in competitive (frequently urban) markets may confuse consumers, who may then disengage. It is a question of balance, and we would encourage Ofcom to focus on how to stimulate more competition in rural areas, to counter the bigger risk of no competition or single supplier dominance as currently experienced.

**Q21. What further options, if any, should Ofcom consider to secure better quality of service in the digital communications sectors?**

Ofcom should work with DCMS, DCLG, BIS and DfT to co-design a joined up, coherent approach to matters of essential national infrastructure provision.

**Q23. Where might future network evolutions, including network retirement, offer opportunities for deregulation whilst still supporting good consumer outcomes?**

**Potential network evolutions - risks as well as opportunities**

In some SELEP districts we have a higher than average proportion of elderly and very elderly residents. Support services for these frail and vulnerable people such as Lifeline depend on relatively old digital infrastructure. It will take time and money – both of which are increasingly scarce in local government - to allow such services to evolve or be redeveloped to be able to take advantage of newer technologies.