Shared works, shared facilities and revenue sharing

Mobile Operators Association response to Ofcom's call for inputs from Joint Regulators Group

Introduction

- In a country of around 60 million people, there are over 82 million mobile phone connections; over 92% of the population use a mobile phone[1]. Mobile connectivity is a crucial driver for economic growth and brings benefits to individuals, communities and businesses across the country.
- The mobile telecommunications network is thus a crucial piece of national infrastructure in both economic and social terms. Increasing demand for data, especially in the light of developments in technology, such as 4G, is putting demands on mobile operators from customers for improved connectivity. In addition, Government has ambitious aspirations for improving connectivity and coverage, especially in rural areas. Both of these factors result in the need to upgrade and improve mobile networks.
- It is both Government policy and good business sense for operators to share their infrastructure and to utilise existing sites wherever possible.
- Operators have been streamlining their networks and working in groups to significantly reduce the amount of infrastructure they need to use.
- However there are currently regulatory disincentives to infrastructure sharing which we will outline in more detail below.
- In addition, there are opportunities for more co-operation with other industries in order to support the efficient rollout of technology and infrastructure to keep pace with Government expectations and customer demand.

1. The planning system

Action: *proposals on reforms to planning regulations have been submitted to DCMS/DCLG*

- The mobile telecommunications network is a crucial piece of national infrastructure but it is built and delivered locally.
- The Government's ambitions for digital connectivity and customers' demands for service mean the need to build or upgrade infrastructure to tight timescales. In order to achieve this, and to reflect the pressure on local authorities' resources, the MOA is calling for the planning regulations to be simplified. Our proposals include measures to bring the system into the 21st century and also some simple smoothing out of existing anomalies and inconsistencies.

[1] Ofcom Communications Market Report 2012

- For example, at the moment you can install a rooftop antenna no bigger than a TV aerial without planning permission but if you want to hide the antenna in a look-a-like chimney pot so that it blends in with the surroundings that requires full planning permission.

- Likewise, even minor upgrades to sites in protected areas need full planning permission, even though these upgrades may have little or no impact and would be improving services, often in rural areas which badly need them.

- We also support the recent announcement by the Secretary of State that Government has committed to work with mobile operators, local government and others to consider ways that the planning system can be streamlined to speed up the deployment of mobile infrastructure. We have given our views on necessary changes to Government.

- We are proposing specific changes to current regulations (Part 24 of the Town and Country Planning (General Permitted Development)(Amendment)(England) Order 2001). These changes will aid the timely delivery of connectivity and coverage for local communities and provide a regulatory environment for mobile networks that approaches parity with other telecommunications providers.

- The changes will also incentivise use of existing sites or sharing of sites between operators.

- We are proposing that a number of types of development be moved from requiring Full Planning Permission to Permitted Development (with or in some cases without Prior Approval) in order to provide greater certainty to operators of timescales of outcomes and decisions and therefore allow them ability to plan the roll out of their networks more effectively. Currently, operators experience an average timescale of 80-100 days from the submission of an application to a decision for Full Planning Permission. Applications under GPDO have a time limit of 56 days and are determined on grounds of siting and appearance.

- Planning applications for mobile infrastructure are far more likely to be refused by local planning authorities than other types of planning application. Our success rate is only 60-70% against a national average of 83%. At the same time, the success rate for telecoms applications at appeal is around twice the national average for all types of appeals 67%, against 33%). The statistics suggest that telecoms applications are regularly being rejected in circumstances where they should be approved, often against officer advice. The delay in the system is also a delay for improved services for customers.

- In particular, with regard to sharing infrastructure:

What?	**Why?**
We are asking for Permitted Development (Prior Approval) to be extended from 15m to 20m for new masts in non-designated areas and to 15m in designated Article 1(5) land (e.g. AONBs, National Parks). In non-designated areas, masts up to 15m should be classed as Permitted Development (without Prior Approval).	This will help operators to roll out 4G quickly, to deliver faster and better coverage and to concentrate their installations in fewer locations (because such structures provide better coverage and are better suited to hosting the equipment of more than one operator).

We are asking for minor upgrades in mast dimensions to be classed as Permitted Development (without Prior Approval).	This will help operators strengthen existing towers to support increased sharing of masts and new antennas for 4G services.
We are asking for an increase in the permitted height to which apparatus on buildings can be built to support mobile network equipment under Permitted Development (without Prior Approval) from 4m to 6m.	The increase in height will enable operators to use a wider range of existing buildings and should allow operators to site their infrastructure nearer to the centre of buildings, decreasing visual impact without losing coverage.
We are asking for an increase in the number of antenna systems allowed on buildings from the current limit of 2 (on buildings under 15m) and 3 (on taller buildings) to 5 antenna systems on any building.	This will increase operators' ability to use existing buildings for their infrastructure rather than needing extra sites.
We are asking that wall-mounted antennas be classed as Permitted Development (without Prior Approval) in line with identical (and arguably more visually intrusive) roof-mounted structures.	This will increase the use of buildings and potentially decrease visual impact. It will also create more consistency in the regulations by removing the current anomaly.
We are asking for an increase in the permitted aggregate dish diameter on buildings to 10m.	This change will increase the use of existing buildings and better reflect current use of technology. These dishes are used to provide "backhaul" to the telecommunications network by way of point-to-point microwave links. The current definition covers all dishes (telecommunications or otherwise) and a large number of dishes are installed by a range of service providers. If there was a separate limit for telecommunications providers, we might need a smaller increase.

2. The Electronic Communications Code

Action: *MOA response to the Law Commission's consultation has been submitted*

- The current Code is not fit for purpose in several respects, and we welcome the fact that Government has asked the Law Commission to review it.
- In particular, the Code is out of date and doesn't reflect the current telecommunications market and network development
- The Mobile Operators Association has inputted to the Commission's recent consultation on proposed revisions to the Code.
- The current Code is hindering mobile Operators from delivering services in the following ways:
    - Failure to provide for the quality and continuity of service demanded by customers and Government

- Failure to afford mobile Operators similar rights to access land and comparable protection from interference and disruption with infrastructure currently enjoyed by essential utility providers

- Failure to reflect modern business practice which demands that operators act quickly and efficiently and by not providing an adequate framework within which operators can implement sophisticated corporate consolidation and network sharing arrangements.

- The mobile operators understand the importance of working collaboratively with landowners and other interested parties, and, just as for planning, would be willing to explore a Code of Best Practice to foster better working relationships.

- In particular, with regard to sharing infrastructure and sites:

What?	**Why?**
There should be a statutory protection for operators, limiting or prohibiting the payment of significant sums to secure sharing rights. Assuming the basis for assessment of rent is to reflect the alternative value of land within the compulsory purchase regime, or if there is a modest uplift on the compulsory purchase basis, then the addition of a sharer should be assessed in similar fashion (i.e. by reference to the impact on the land). To the extent that there is little or no change in the footprint of a mast site resulting from the addition of sharers, a landowner or occupier's request for a rental uplift would be seen as ill-founded.	Site and mast sharing has many benefits, reducing environmental and planning impact of mobile networks and increasing the efficiency of land and infrastructure use. It is a general condition for the exercise of operators' Code rights, encouraged by public policy (including the National Planning Policy Framework), usually required by Local Planning Authorities and mandated in some situations (such as the Olympic Park). The mobile industry has responded to these circumstances by creating new sharing arrangements which lead it to request leases and licences in joint names (e.g. through Mobile Broadband Network Limited, a joint venture company owned by Hutchinson 3G UK Limited (Three) and Everything Everywhere Limited (EE) to establish and manage a consolidated network) or advanced sharing arrangements (e.g. through Cornerstone which is a strategic partnership between Vodafone Limited and Telefonica UK Limited (O2) by which the two companies share structures on which their equipment is sited). The industry has suffered a general change in stance by landowners and occupiers in relation to sharing arrangements. Landowners and occupiers have sought to impose restrictions on mobile operators in relation to sharing on a significant number of sites. Typically, these occur in situations where there are few or no alternative mast locations, or in situation where the operators have needed to negotiate the terms of an existing lease or licence (even if the sharing provisions are otherwise irrelevant to the negotiations). This appears to be a reaction to attempts by operators to reduce their sites through sharing arrangements which would otherwise reduce the amount payable to landowners or occupiers. This is particularly the case with landowners or occupiers who control multiple sites.

	Discussions with these bodies typically revolve around the fact that they make a very large profit margin from each operator on site and they expect their profit margin (and anticipated margin growth) to be protected through enhanced fee arrangements if two operators share a single set of infrastructure or equipment. Enabling site share rights would facilitate very significant environmental and land-use benefits for the nation, improve the ability of operators to provide enhanced coverage, support the Mobile Infrastructure Project, with minimal incremental impact on landowners or occupiers. The main impact would be to change landowner and occupier expectations that they should be entitled to significant additional revenue for no additional burden. The creation of accessible sharing rights would also facilitate the introduction of new entrants to the telecommunications market (in line with Ofcom's competition policy) by creating an affordable way for them to share existing infrastructure.
Operators should be empowered to require trees and other vegetation to be lopped wherever interference with microwave links takes place, whether on private or public land.	The current Code provides protection for fixed transmission lines but it does not reflect the use of microwave links which provide a similar facility, particularly in mobile networks. Mobile networks depend on a "line of sight" which can be obstructed by new buildings or the uncontrolled growth of trees or other vegetation.
The street works rights should remain drafted as per the existing Code in any revised Code. However, the street works bond should be dispensed with as it is time consuming, costly and an administrative burden. The bond is disproportionate to the actual risks to local authorities.	We propose that the requirement to provide funds for contingent liabilities is removed. It is costly, extremely time-consuming and, given our understanding that funds set aside under Regulation 16 have never been called upon, has no clear benefit other than for the institutions providing the bonds/guarantees. The likelihood is that one of the remaining mobile network operators will use the infrastructure. This is especially so given the corporate infrastructure consolidation partnerships within the industry and the prevalence of sites accommodating more than one operator.

3. Backhaul

Action: We would welcome Ofcom's consideration of these issues

- A crucial part of providing a functioning mobile network is 'backhaul' to the rest of the telecommunications network and obtaining power supply.
- Delays in obtaining either connection to the telecommunications network or energy supply can be costly and lead to and delay to the provision of services to customers.

- Currently we experience significant delays.
- We would welcome recognition by Ofcom that these services are purchased as an end-to-end managed service rather than as individual network elements. Mobile backhaul services should be considered as a whole and any remedies for market failures etc should be addressed as such.
- Specifically, with regard to infrastructure sharing:

What?	**Why?**
Tighter individual control should be placed on the charges BT make for backhaul connection	Current charges are disproportionate and disincentivise operator investment in network development. Ofcom's "basket" approach to price regulation in this area allows BT to apply price cuts in a way which favours fixed over mobile deployment.
Mobile operators should be allowed to develop their own fibre by having access to BT poles and ducts by removing the 'carve out' for leased lines which was included when BT were required to offer PIA	This would allow for the efficient use of existing ducts rather than necessitating new work to be done
Passive access to BT's dark fibre could be opened up	Again, this would allow the efficient use of existing infrastructure
Appropriate spectrum should be released to allow for backhaul via point-to-point microwave links	Spectrum is a finite resource and regulated by Government; in many cases the most efficient way of providing backhaul is via point-to-point microwave links

4. Energy supply

Action: We have begun discussion with DCMS and the Energy Networks Association on these issues

- All mobile base stations need a reliable power supply.
- Mobile operators face significant challenges in this area including the efficient delivery of power to new sites by energy providers and difficulties in negotiating with site providers and landowners on wayleave and installation issues

What?	**Why?**
Mobile operators should be allowed greater control over the Regional Electricity Company (REC) wayleave.	Urban installations are difficult. They require a lot more liaison between the REC, their contractors and the local authorities. These relationships have historically been prone to breakdown, often for unclear reasons.
Mobile operators should be allowed to undertake the	The Government's deregulation of the industry should have allowed for companies to carry out the contestable element of

contestable elements and connection to the electricity supply.	the works (i.e. the trenching and cable laying) but in practice this has been extremely challenging to do, leaving mobile operators at the behest of RECs and their contractors' timescales when mobile operators' contractors are as well placed to carry out works. In places, such as rural areas, where the economic case for investment is already weak, allowing Mobile operators to carry out the contestable element and the connection could make a significant difference.
The Regional Electricity Companies should allow the transfer of Meter Point Administration Numbers (MPAN)	Delays often relate to incomplete and inaccurate databases.. Another common issue is a situation in which the Mobile operator's contractors may do the acquisition, then the site is pooled to be built by another contractor. Rather than belonging to the Mobile operator, the MPAN belongs to the first contractor – transferring it to the second can mean beginning the process again. In fairness, some RECs will do it without issue but Government could help by encouraging them all to do so.

5. Use of others' land and infrastructure

Action: we are in discussion with Network Rail, the LGA and DCMS/DCLG on these issues

- In some cases, gaining access to the land and infrastructure of other authorities and bodies is a significant challenge
- Specifically:

What?	**Why?**
Mobile operators should be given access to Network Rail land and infrastructure under reasonable terms	Improving track-side coverage is a key component of delivering better mobile coverage on trains, something Government is keen to see
The above could be the case for other public land	Access to public land could free up suitable sites across the country and thus increasing the economic case for investment by operators and the shared use of existing facilities.

Local authorities should look to provide their own land for mobile infrastructure	Rent makes up a significant proportion of the cost of infrastructure. In places, such as rural areas, where the economic case for investment is already weak, removing rent from the equation could make a significant difference Troublingly, some local authorities will not allow mobile telecommunications infrastructure onto their land at all
Access to existing infrastructure	Operators are looking at ways of minimising the impact of their equipment and one way of doing this, mainly in the urban environment, is the provision of small cells on existing infrastructure such as streetlights, CCTV, signage, access to this existing infrastructure would offer a fast and efficient way of improving coverage

For further information, contact:

Graham Dunn, Policy and External Relations Manager
Mobile Operators Association
grahamdunn@ukmoa.org
+44(0)7714 241 924
www.mobilemastinfo.com
www.facebook.com/mobileoperatorsassociation
@ukmobileinfo