

23 September 2008

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## **Discussion Paper: Citizens, Communications and Convergence**

Thank you for the opportunity to respond to the interesting and important discussion paper, *Citizens, Communications and Convergence*. As you know Friends of the Lake District (FLD) is a landscape charity, covering the Lake District and Cumbria, and a company limited by guarantee. We have approximately 7000 members, represent the CPRE in Cumbria and are members of the Campaign for National Parks. Issues relating to the telecommunications industry have featured throughout our organisations' history and work.

FLD very much support the argument developed in this paper, which we thought to be useful and essentially sound. We appreciate the effort to draw a distinction between 'consumers' and 'citizens' and the recognition that, on certain key issues, it is important for Ofcom to give due regard to the broader public interest rather than simply facilitate the effective demand of consumers, acting in their individual, economic interests. This recognition of citizens also gives clearer weight to the interests of future generations, something which we very much support.

Our main comment concerns the spheres of Ofcom's activities, and those of the wider telecommunications industry, to which these arguments should apply. As written, this discussion paper confines itself to Ofcom's duties derived from the Communications Act 2003, and to the services delivered by the telecommunications industry and the availability of services to different sections of the public. These are important issues in their own right and we appreciate the interest in securing equal access to the benefits of modern communication for remote rural communities (para 2.32).

However, apart from references to increasing and upgrading network capacity, there is little mention of the physical infrastructure through which fixed line telecommunications services are delivered, the environmental impact of this infrastructure, and the important consequences for the interests of citizens. Such facilities – overhead wires, poles, etc – can impose significant environmental costs on the landscapes that they traverse. Balancing these costs against the benefits such networks confer is a sphere in which the distinction between consumers and citizens is highly relevant, and to which the arguments presented in this paper could, usefully, be extended.

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Ofcom is subject to a range of environmental duties in carrying out their activities, as outlined in the Defra guidance 'Duties'<sup>1</sup> on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads' published in 2005. These are duties forged by the public acting as citizens i.e. acting collectively to conserve what we as a society believe to be valuable. The discussion paper does not refer to these duties at all; an omission that FLD believes should be corrected. For Ofcom, the way in which it regulates BT Openreach will have implications for the way in which it can discharge its duties to protected landscapes, and thereby to citizens, through the resources it is able to put into amenity and landscape work. Ofcom is in a position to judge how far, in acting on the interests of citizens, any additional costs of environmental conservation work should be passed on to consumers.

It has been a significant concern to us that BT Openreach has not been enabled to give adequate regard to these duties towards protected landscapes, and the values that underpin them. BT Openreach has been unwilling to participate meaningfully in any programme involving the phased undergrounding of intrusive overhead phone wires in protected landscape areas – in contrast to industry practice when in public ownership (and in the early days of privatisation), and in increasingly marked contrast to the position taken by Ofgem and electricity companies. As a result, resources invested in the undergrounding of electricity lines for the collective benefit of visual amenity are having their impact reduced (particularly so for village and conservation area schemes) by the non-participation of BT Openreach, resulting in phone lines being left overhead even after electricity lines, often on the same poles, have been removed.

We are not sure that this contrast between the sectors, and the different way in which the interests of consumers and citizens have been addressed, is defensible. Ofgem is recognising the interests of citizens in allowing the costs of a phased programme of undergrounding – within certain bounds – to be passed on to consumers. The electricity industry is responding to the interests of citizens - as embodied in the environmental duties of the relevant Acts (and amenity clause of the 1989 Electricity Act) – by carrying out undergrounding schemes, and acting on behalf of citizens to improve the nation's most valued landscapes. Ofgem judges this to be justifiable by referring to its environmental duties<sup>2</sup>, and to outweigh the very slight increase

<sup>1</sup> Section 11A of the National Parks and Access to the Countryside Act 1949 as amended by Section 62 of the Environment Act 1995, Section 17A of the Norfolk and Suffolk Broads Act 1988 and Section 85 of the Countryside and Rights of Way Act 2000.

<sup>2</sup> Undergrounding in AONBs for DPCR5, slides, Ofgem, Designated Bodies workshop, Birmingham, 26 June 2008, slide 3.

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in electricity bills that this causes. There is a further and, for the most part, very effective citizenship dimension to the electricity undergrounding programme in that the lines prioritised for undergrounding are determined by dialogue between electricity companies and local AONBs, National Parks and Friendly Societies such as FLD.

The failure of BT Openreach to participate in undergrounding programmes – in effect, to give no weight to the interests of citizens in the way that it maintains its existing network – is, we believe, indefensible. In justifying its inaction, BT Openreach has referred *inter alia* to the lack of guidance coming from Ofcom.

We would welcome Ofcom's response to our thoughts on this issue, and the development of actions that would extend serious consideration of the interests of citizens to the environmental impacts of telecommunications infrastructure. As per our previous discussions with Ofcom, we believe that a forthcoming review of BT's network charge control might offer a suitable opportunity to address this issue.

Yours sincerely,

***Penny Ozanne***

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