

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Working Party No. 2 on Competition and Regulation**

**FINANCING OF THE ROLL-OUT OF BROADBAND NETWORKS**

-- Note by the United Kingdom --

16 June 2014

*This document reproduces a written contribution from the United Kingdom submitted for Session IV of the 57th meeting of the Working Party No. 2 on Competition and Regulation on 16 June 2014.*

*More documents related to this discussion can be found at:  
<http://www.oecd.org/daf/competition/>*

Please contact Ms. Cristiana Vitale if you have any questions regarding this document [E-mail: [cristiana.vitale@oecd.org](mailto:cristiana.vitale@oecd.org)].

**JT03358961**

Complete document available on OLIS in its original format

*This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.*



## SUPERFAST BROADBAND DELIVERY IN THE UK

### 1. Background

1. The most recent data from Ofcom shows that superfast broadband is available to 73% of UK premises – up from 45% in 2010<sup>1</sup>. Average broadband speed in the UK is up almost three times since 2010 from 5.2Mbps in May 2010 to 14.7Mbps in May 2013<sup>2</sup>.

2. However, the roll-out of superfast broadband by the commercial sector and the remaining premises will not get superfast coverage without some form of public intervention. To tackle this, the government is taking forward a superfast broadband programme to make superfast coverage available to 95% of premises by 2017, and to provide standard coverage (speeds of at least 2Mbps) to all premises. This is achieved through providing public subsidy to support further delivery by the private sector.

### 2. Superfast Broadband Delivery

3. Delivery of this programme is being implemented through local broadband projects which have central government funding and a combination of local and European funding. There are currently 44 projects in delivery, managed by Local Authorities in England and the Devolved Administrations in Scotland, Wales and Northern Ireland ('Local Bodies'). These projects have approximately £1.2 billion in public funding. The government announced indicative allocations of a further £250m of funding in February 2014, which it is seeking to have matched locally to give a total of £500m further public subsidy. Management at the national level is provided by Broadband Delivery UK (BDUK), part of the Department for Culture, Media and Sport.

4. To help the Local Bodies take forward their local broadband projects, BDUK has put in place a Broadband Delivery Framework contract. This gives standard terms and conditions and allows Local Bodies to undertake a streamlined procurement process using mini-competitions to establish local call-off contracts. Two suppliers qualified to go onto the Framework, BT and Fujitsu. The Framework was established using the OJEU Competitive Dialogue process.

5. Of the current 44 projects, 11 followed their own independent procurement processes and the remaining 33 projects used the Broadband Delivery Framework. In practice the 11 projects which undertook their own procurements have largely put in place similar terms to those in the Framework contract.

6. Some of the key features of the contracts include the following:

- They are based on a gap funding model, where the public sector provides sufficient subsidy to make the necessary investment viable to the private sector
- The private sector supplier bears the full risk of take-up not reaching a target of 20%; if take-up goes above this level, a risk-sharing mechanism allows a proportion of the additional revenues to be clawed back and reinvested in further roll-out
- The supplier is only paid for qualifying capital expenditure. The supplier takes the risk that costs are higher than in their bids, while if costs turn out to be lower, the remaining funding is invested in further infrastructure delivery

---

<sup>1</sup> Ofcom Communications Infrastructure Report – October 2013, 1.10

<sup>2</sup> Ofcom Research – August 2013

7. The UK's National Audit Office concluded in July 2013 that BDUK's procurement approach has reduced cost and transferred risk to the private sector<sup>3</sup>. The NAO also concluded that the in-life mechanisms for managing costs appear robust.

8. It will be more challenging to ensure superfast coverage for the final 5% of premises in the UK. To explore options for delivery to these premises, BDUK has launched a £10 million competitive fund to market test innovative solutions to deliver superfast broadband services to the most difficult to reach remaining areas of the UK. The expectation is that projects supported under this fund will cover a range of innovative technologies and commercial models for superfast broadband delivery.

### 3. Minimising distortions to competition

9. BDUK recognises the importance of minimising distortions to competition. The European Commission gave its agreement to the UK's approach through its decision on the National Broadband Scheme (NBS) for the UK, given in November 2012<sup>4</sup>. This establishes an umbrella support scheme for white Next Generation Access ("NGA") interventions in the 'final third' of the UK.<sup>5</sup> The NBS was designed to ensure more effective, better targeted and less distortive public interventions with wholesale remedies designed to directly address the identified market failure (superfast broadband) and limit the distortion to adjacent markets. Specifically, the scheme:

- places wholesale network access conditions on the subsidised supplier that promotes downstream competition in NGA based broadband services to deliver service-based competition and to support the development of an efficient level of broadband infrastructure-based competition,<sup>6</sup>
- places a requirement on suppliers with existing passive infrastructure to offer access to it on an NGA 'open access' basis where the primary purpose of obtaining that access is to deploy a competing superfast capability. Where the alternative provider is seeking to offer superfast services but the business case requires supplementing revenues from business connectivity services then passive infrastructure access can be used for the complementary supply of those services. (This condition increases the potential for infrastructure competition but avoids the possibility of 'cherry picking' business connectivity services (leased lines) in the intervention area);
- places universal 'open access' obligations on suppliers deploying new duct and pole infrastructure (i.e. public funds are used to deploy infrastructure where no infrastructure was previously present) meaning that infrastructure can be used for any purpose (e.g. supplying NGA connectivity, business connectivity etc.); and
- provides a clear route for alternative providers to obtain (by formal request) any other form of wholesale network access.

<sup>3</sup> [http://www.nao.org.uk/wp-content/uploads/2013/07/10177-001-Rural-Broadband\\_HC-535.pdf](http://www.nao.org.uk/wp-content/uploads/2013/07/10177-001-Rural-Broadband_HC-535.pdf)

<sup>4</sup> State aid SA.33671 (2012/N) – United Kingdom, European Commission 20 November 2012

<sup>5</sup> The 'final third' white NGA areas in the UK comprise the hardest to reach areas making them the least commercially/economically attractive.

<sup>6</sup> "Service-based competition, that is, without entrants having their complete own infrastructure and thus leasing some facilities and services from incumbent operators, has been seen as an intermediate step towards infrastructure competition. For areas that may not attract investment by multiple operators, e.g. scarcely populated or remote areas, service-based competition may also be an efficient long-term market structure." OECD (2013), *Broadband Networks and Open Access*, OECD Digital Economy Papers, No. 218, OECD Publishing, at: <http://dx.doi.org/10.1787/5k49qgz7crmr-en>

10. In its conclusion to approve the UK's scheme, the Commission stated (paragraph 85):

*'On balance, the Commission concludes that the overall effect of the measure is deemed to be positive. The measure is in line with the objectives of Article 107(3)(c) TFEU [Treaty on the Functioning of the European Union] as it supports the achievement of the DAE [Digital Agenda for Europe] objectives. The intervention is designed in a way that does not distort competition or adversely affect trading conditions to an extent contrary to the common interest.'*

#### **4. Super-Connected Cities Programme**

11. The European Commission's decision on the NBS excludes urban broadband development programmes. Separately from its superfast broadband programme, the UK has also taken forward a Super-Connected Cities Programme, focused on (i) widespread public wireless; (ii) a connection voucher scheme to help SMEs improve their broadband connectivity and (iii) other capital projects which support growth in broadband capability and business innovation.

12. This programme has £150m of funding which has been allocated to 22 cities: Aberdeen, Belfast, Birmingham, Bradford, Brighton & Hove, Bristol, Cambridge, Cardiff, Coventry, Derby, Derry/Londonderry, Edinburgh, Leeds, London, Manchester, Newcastle, Newport, Oxford, Perth, Portsmouth, Salford and York.

#### **5. Other European Commission documents**

13. The European Commission has published a range of documents to assist EU Member States, including the following:

- EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01) January 2013: [http://ec.europa.eu/competition/state\\_aid/legislation/specific\\_rules.html](http://ec.europa.eu/competition/state_aid/legislation/specific_rules.html)
- A handbook on EU broadband state aid 8 May 2014: <http://ec.europa.eu/digital-agenda/en/news/handbook-eu-broadband-state-aid>
- Guide to broadband investment, December 2011, DG Information Society