

## **Business & Enterprise Committee to inquire into Broadband Speed**

**9<sup>th</sup> September 2009**

### **Introduction**

The UK Competitive Telecommunications Association (**UKCTA**) welcomes the opportunity to engage with the Select Committee's inquiry and hopes that the following comments will be of assistance to the Committee.

UKCTA's overall aim is to foster a more competitive fixed telecommunications market in the UK, based on a regulatory framework that treats all competitors in this field equally and fairly. Our mission is to advocate industry regulation that is pro-competition and does not favour the nation's largest monopoly fixed-line incumbent. UKCTA's membership is made up of the vast majority of the UK's alternative fixed-line network operators.

Should the Committee wish to explore any of the issues raised in this submission, UKCTA would be happy to discuss these with the Committee.

### **Executive Summary**

- The universal service commitment is bold, but we caution against an undue focus on headline speeds alone
- Any funds raised by a levy or other method should not simply be channelled to BT as a default, it should be open to all providers to bid for such funding
- If the Government's NGA plans are to work, more needs to be done to safeguard existing and promote further competition
- Ofcom has recently published research on the actual broadband speeds being experienced by consumers
- There is a continued mismatch between economic aspirations for broadband and a neglect of the needs of business customers

### **The Committee's Questions**

#### **1. Whether the target for universal access to broadband at a speed of 2Mb/s by 2012 is ambitious enough?**

While the target speed may be regarded by some as low in the context of speeds already widely available in the UK, it should be recognised that the proposal is for a minimum universally available speed. We do not believe any other country has committed to a Broadband USO so the move is bold and innovative (compare against the current USO which mandates the provision of "functional internet access" at a speed of 28.8kbit/s).

However we would caution against an undue focus on headline speeds alone. This can be very misleading. The customer experience is influenced to a significant degree not only by the headline speed of the local connection but also by the throughput and usability which are both harder to quantify in absolute terms. Issues such as contention in the network and

demand on the web site being viewed can seriously degrade experience notwithstanding the headline speed of connection. Such issues might be blamed (wrongly) on the connection speed by customers.

As a base level for the harder to reach areas of the UK it is probably ambitious enough given that the bulk of population will have better speeds available.

## **2. Is the Government right to propose a levy on copper lines to fund next generation access?**

It is difficult for UKCTA, as an association representing communications providers, to reach a view on a taxation matter. We do question whether telephone users are the right target for such a levy since the beneficiaries of an extension of broadband availability will be the content providers. Many telephone users will see no benefit at all since they will either (a) be perfectly happy with the services they currently receive or (b) have no interest in or need for broadband. We are also concerned that the funds might simply be diverted to BT and result in a distortion of the competitive market. Our experience of incumbents throughout Europe is that they are currently lobbying hard to argue that they and they alone can invest the sums required to deliver faster broadband, but public subsidies will be required for those areas that are not commercially viable. They also argue that in return for investing their own money, the regulatory constraints which typify the telecoms industry ought to be relaxed. We believe that if such calls are granted in the UK then consumers will suffer as competition is damaged. The Committee will know that Virgin Media has invested (and continues to invest) in high speed broadband without any state funding or special favours from the regulator, and many UKCTA members have invested in the business market. We believe it is vital that the competitive market which has served the UK so well over the last twenty years is not distorted by any well intentioned proposals to ensure that NGA investment takes place.

## **3. Will the Government's plans for next generation access work?**

The success of NGA is entirely contingent on a vibrant competitive landscape and, as such, it is vital that any government intervention and regulatory initiatives allow communications providers to continue to compete at the right point in the value chain. What this means in practice is that the successful roll out and adoption of NGA-based services will require improved supply conditions for fibre-to-the-premise (as opposed to the Fibre-to-the-cabinet) and viable wholesale products to be made available to allow competing service provision (whether so called active or passive remedies).

Furthermore, the allocation of any public funding can and should be devoted to supporting infrastructure which maximises customer benefit and competitive benefits. Consequently, tenders for funding should take into account not just the short term installation cost, but also the service provided, openness of the network to competition (eg point to point fibre) and future implications such as ease of upgrading the infrastructure and expected lifespan of the investment. The principle of 'best economic offers' should be not be interpreted so as to support incumbents who may benefit from legacy assets and favourable financing conditions and thereby exclude competitors from being able to bid effectively.

Additionally, much more could be done to encourage fibre rollout for example by reducing the tax burden which BT's rivals face when they light fibre optic cables. The Government promised to investigate and reform this area as long ago as 2003, yet despite Ministerial promises, nothing has been done. Operators other than BT face regulatory uncertainty as to the tax treatment of any NGA investment since the way in which business rates will be assessed will be decided only after the investments are made. BT of course is rated in an entirely different way and is therefore able to make investment decisions, secure in the knowledge that they will not impact in any way on their total rates bill. This anomaly is bound to have an impact on the ability of BT's rivals to compete in the NGA market.

**4. Are companies providing the speed of access which they promise to consumers?**

The regulator has only recently introduced a broadband speed code of practice so too soon to judge whether it has had an impact. In July Ofcom published further research into this area which highlighted the difficulties in forecasting a customer's connection speed. Rather than attempt a detailed explanation ourselves, we would refer the Committee to that research.<sup>1</sup>

**5. The extent to which current regulation strikes the right balance between ensuring fair competition and encouraging investment in next generation networks?**

UKCTA is concerned that any moves to relax regulation in order to encourage investment should not be at the expense of the conditions which have led to the development of the competitive market which currently exists in the UK. Linked to this, it is important that any funding is accessible to all (i.e. all providers can bid for public funding) and that the provision of any public funding is examined carefully to ensure that the Government does not inadvertently crowd out viable private investment and that there are no external distortions such as the regulatory uncertainty created by the business rates regime in relation to all operators other than BT. Any use of public funding must also be fully compliant with state aid rules in order to ensure that the potential for competition is maximised.

**6. Any other views stakeholders think the Committee should be aware of.**

UKCTA is concerned that the current debate and the recent Digital Britain paper focus unduly on consumer broadband and the needs of British businesses are rarely taken into account. UK businesses will be critical in delivering the hoped-for economic benefits - they will not be delivered solely by consumers using home broadband no matter how fast it is. By failing to consider the distinct needs of businesses, there is a risk that the Government's initiatives neglected those needs in favour of delivering IPTV and a universal 2 Mb service to consumers.

A number of recent studies have emphasised the need for a separate consideration of business needs to drive the right network build infrastructure: UKCTA<sup>i</sup>, INTUG<sup>ii</sup> and CMA<sup>iii</sup>

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<sup>1</sup> [http://www.ofcom.org.uk/research/telecoms/reports/broadband\\_speeds/broadband\\_speeds/](http://www.ofcom.org.uk/research/telecoms/reports/broadband_speeds/broadband_speeds/)

The telecoms requirements of business users are different - guaranteed bandwidth, higher upstream speeds, geographically dispersed sites, better SLAs. Multi-site requirements in particular drive the need for consistent services nationwide. Medium to large enterprises already depend on fibre based products rather than copper. The demand for higher speed business services from SMEs is pushing the case for new lower cost Fibre-To-The-Premise (FTTP) infrastructure to be deployed.

The implications for competition are serious: the current “NGA” initiatives in the press are focussed primarily on next generation consumer Broadband and are in the majority of cases based around Fibre-To-The-Cabinet (FTTC). The discussion on how to fund the FTTP requirement for UK businesses hasn't even begun.

Current dissatisfaction with consumer Broadband products centring on issues such as true link speeds, high contention ratios, bandwidth capping and application blocking are all perfect examples of why even the next generation of copper based Consumer products should not be seen as fit for purpose for 21<sup>st</sup> Century UK businesses.

This is much more than a missed opportunity, there is already clear evidence that the Government believes that Digital Britain is the definitive industrial policy for the telecoms sector and will deliver great economic benefits to the UK. The industry fears that the policy reforms needed to meet the telecoms needs of UK businesses will not now happen as the Digital Britain “roadmap” focuses almost exclusively on next generation consumer products.

Rather than grabbing headlines, the government and regulator should focus attention on where the problems are - in the network areas where competition will not solve the problem, where BT's significant market power remains at its strongest. It is competition that drives network investment, not regulatory holidays.

Government should ensure that it is directed at Openreach rather than the wider BT group since Openreach will be involved in delivering service to circa 90% (est) of business customers at some stage regardless of who provides their service. Openreach, as the custodian of the vast majority of the nation's fibre and copper assets will be a key player in the delivery of Digital Britain initiatives and must allow the benefits to be shared among all CPs and their customers rather than being confined to BT customers.

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<sup>i</sup> Communications - Life-blood of Enterprise, UKCTA (the UK Competitive Telecoms Association). Paper highlighted the problems that a lack of business focus gives rise too. It made 9 key recommendations, none of which, a year later, have been addressed. The only gesture Ofcom has so far made to considering business needs in distinction from consumer ones is a commitment to undertaking a survey as part of this year's Annual Plan. This is thoroughly inadequate.

<sup>ii</sup> <http://www.intug.org/download/algemeen/Barrett%20Final.pdf>. provides further clear evidence of the importance of developing networks and services fit for the business community to country economies. It shows how the current European bias towards a focus on consumer needs fails to result in the right design, regulation and implementation of networks for electronic communications

<sup>iii</sup> Improving business communications in the UK - 27 March 2008. The lack of business focus was picked up recently in a paper compiled by the CMA<sup>iii</sup>. The document presents a clear vision as to how the government should be working to improve people's economic and social well-being by addressing the needs of enterprise customers to help generate growth, provide jobs and provide wealth creation. The paper points out how the UK's electronic communications sector contributes around 2.3% of GDP with an industry turnover of £38.8 billion in 2007. The contribution of multi-national enterprises and their supply chains which rely on these facilities approximates to 35% of GDP. *"About two-thirds of the revenues received by the telecoms industry come from public and private enterprise. The disparity in contribution is in inverse ratio to the political and regulatory focus which embraces protection of the "citizen-consumer" rather than supporting, or even recognising the needs of the business user"*