



EE CONSULTATION RESPONSE:

DCMS/DCLG'S MOBILE CONNECTIVITY
IN ENGLAND: TECHNICAL
CONSULTATION

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[Non-confidential version]

About EE

- Everything Everywhere Limited (“EE”) is the UK’s leading digital communications company and we serve more than 26 million customers through the EE, Orange and T-Mobile brands. Our vision is to provide the best network and the best service so that our customers trust us with their digital lives.
- We carry over a third of all mobile calls, texts and data in the UK, with billions of voice minutes, messages and megabytes delivered through our network every year. Since last autumn we have been rolling out the UK’s first superfast 4G services, bringing world class connectivity to the nation. 4G is typically five times faster than 3G and has numerous consumer, business and economic benefits.
- Since 2000 we have spent over £15 billion investing 2G and 3G services for our customers. We are now investing a further £2 billion in network infrastructure and spectrum to bring 4G to the UK. Just six months after launch we have already reached 55% of the population and we are aiming to reach 98% of the population by the end of 2014.

Executive Summary

- EE fully endorses and supports the response submitted by the Mobile Operators Association (“MOA”) to this consultation.
- The MOA’s response demonstrates the benefits which the implementation of the proposals, in the manner recommended by the MOA, will bring to the UK population and assist in helping the Government ensure the UK has the best superfast broadband network in Europe by 2015 and to achieve its ambitious aspirations for improving connectivity and coverage, especially in rural areas.
- Mobile connectivity is a crucial driver for economic growth and is now essential in private life and in business, having been transformed from a luxury in the hands of a wealthy few to a near-ubiquitous and highly valued technology.
- Mobile use is now about having access to a huge range of services via mobile broadband as opposed to just making calls and sending text messages. This increased demand for data, especially in the light of forthcoming developments in technology, is putting demands on operators from customers for improved connectivity
- The operators’ permitted development rights must reflect this change in the way people communicate. In order to facilitate the efficient upgrades and improvements needed to meet customer demand and Government aims the current proposals, although a move in the right direction, must go further to:
 - move more applications away from full planning to permitted development without prior approval, especially in respect of upgrades;
 - ease the current restrictions in protected areas which will help deliver rural connectivity;
 - increase the timescale for emergency works to 12 months to reflect the actual time-frames for acquiring permanent replacement sites; and

- extend permitted development rights for the construction of new sites.
- It is important that this review is not seen in isolation from other areas of law and regulation that affect operators' ability to develop their networks and in particular the Electronic Communications Code ("ECC") which is currently under review.
- Greater permitted development rights must go hand in hand with clear rights to upgrade and mast-share in the revised ECC.
- EE appreciates the importance of working collaboratively with planning authorities and is a signatory to the current Code of Best Practice on Mobile Phone Network Development. We remain fully engaged in the current review of that Code of Best Practice.

Commentary on Current Proposals

We agree with the MOA that the UK needs a planning system that is focussed on *where*, not *whether* mobile network infrastructure should be built. The UK public's demand for data services is increasing exponentially and demand for traditional voice and text services is as strong as ever. This demand, along with the Government's own objectives in respect of mobile coverage, broadband and bridging the digital divide, will only be met if the regulatory barriers faced by the industry within the planning system are addressed.

We broadly support those proposals in the consultation paper concerning clarification and interpretation of the existing regulations but disagree with the assumption in the paper at paragraph 88 that permitted development with prior approval is a significantly simpler and less expensive route than full planning. In our experience, the documentation required for both is identical. For this reason, we stress below the importance of moving to permitted development without prior approval where appropriate.

We also believe that there should be further easing of current restrictions in protected areas. This will be important in delivering rural connectivity and we suggest that there should be additional permitted development rights for new masts.

The extension of operators' permitted development rights in the manner proposed by the MOA will help the operators support the modern telecoms landscape thereby realising significant benefits for the UK economy and communities generally such as:

- the ability for operators to expeditiously upgrade and enhance electronic communications networks to provide new technologies which benefit the UK through economic growth and investment and the creation of jobs;
- the means to achieve the Government's target of creating the best superfast broadband network in Europe by 2015, making the UK communications and media markets more competitive globally, and improving mobile coverage across the UK with the aim of extending it to areas of the UK where existing mobile coverage is poor or non-existent (the Mobile Infrastructure Project launched in October 2011); and
- helping provide a clear framework to enable operators to embrace the deployment of new technologies more rapidly to improve network performance and reliability and reduce congestion, ultimately improving the customer experience and potentially realising costs savings for the customer.

The proposals regarding upgrades to existing sites are a move in the right direction, but must go further. In particular, it is vital that upgrade rights move applications from full planning to permitted development without prior approval.

Support for this proposal is demonstrated by looking at data from EE's own 4G rollout. Over the past 12 months EE made 348 applications for either full planning permission or for prior approval under permitted development. Of those applications only 4 (which represents 1.1% of all applications by EE) were rejected. Accordingly, nearly 99% of the upgrades were unnecessarily delayed and made more costly by the existing planning rules.

The proposals put forward by the MOA will help provide an adequate framework for operators to continue to implement corporate consolidation and sharing arrangements which is the future of the industry.

Finally, although welcome and helpful in partially facilitating the expeditious roll-out of new technologies and the preservation of network performance, broader permitted development rights do not go far enough in isolation. Accordingly, it is imperative, in order for the objectives of this proposal to be realised, that Government takes a joined-up approach to telecoms upgrade and roll-out rights i.e. in the revised ECC.

We consider that the areas of the ECC review which are most relevant to draw out are:

- **Mast Sharing:** a revised ECC must ensure that operators can site-share without making disproportionate payments to landowners. Promoting site-sharing and infrastructure sharing is a priority for the government and Ofcom and it has obvious environmental and visual benefits.

Ofcom has estimated that infrastructure sharing has reduced the number of partial not-spots (areas only served by one provider) by 75%. These planning changes will support further mast sharing and thus the Government's coverage ambitions. DCMS should ensure that a new ECC does not undermine these moves by allowing landowners to demand disproportionate payments from mobile operators to securing sharing rights.

- **Upgrading of Sites:** we want DCMS to ensure that the ability for operators to upgrade sites is strengthened. Currently site upgrades are often frustrated by archaic and unnecessary restrictions in site agreements. The Law Commission has proposed that upgrades be permitted as long as there is no visual impact on the site notwithstanding that this is adequately dealt with under existing planning rules.

The planning reforms and the above changes to the ECC will improve the speed and efficiency of 4G rollout, bringing superfast mobile broadband to not only urban but also rural areas. As well as supporting investment and growth these changes will help deliver superfast broadband to the final 10% where no other service is available.

For example, EE has already confirmed its first rural deployment in the Northern Fells, Cumbria - an area which is poorly served by fixed broadband. Historically, residents and businesses have struggled to achieve the Government's target speed of 2Mbps, but with 4G they receive on average 8-12Mbps and higher speeds in practice. Many will use EE's 4G network to replace their home broadband service, helping to deliver both access and speeds in the final 10%.

Answers to Specific Proposals in the Consultation Paper

EE supports the answers and commentary in the MOA official response and provide a summary of that position below.

- We support an increase from 4 metres to up to 6 metres in Part 24 of Schedule 2 to the 1995 Order (Q1i).
- We believe that permitted development should apply without prior approval for face mounted antennas. (Q1ii).
- We believe that up to five antenna systems should be permitted on buildings regardless of the height of the building. We believe that this should apply both in non-protected and in protected areas (Q2).
- We agree that the *Electronic Communications Code Regulations 2003* should be amended to include the definition of antenna systems, but suggest that there should be no limit on the number of operators utilising an antenna system (Q3).
- We agree with the proposal that a definition for ‘antenna’ is added to paragraph A.4 in Part 24 of Schedule 2 to the 1995 Order, and that the definition should also include mountings etc (Q4).
- Small cell designs are of very limited visual impact and should be permitted development without prior approval, both in non-protected and protected areas. There should be no limit on the number of such cells per building (Q5).
- We agree with the proposal for an increase in the thresholds for aggregate dish sizes. The permitted aggregate size of dishes on buildings should be increased to 10 metres, irrespective of the height of the building. There should also be a consideration, within certain thresholds, for permitted development for dish antennas on buildings within protected land. (Q6)
- We agree that Part 24 of Schedule 2 to the 1995 Order be amended to clarify that permitted development rights for radio housing cabinets for mobile communication equipment of up to 2.5 cubic metres is not cumulative (Q7).
- We would welcome clarification of the proposal concerning the definition of ancillary equipment. We believe all such ancillary development should be classed as permitted development (not requiring prior approval) irrespective of whether or not it is sited within a protected or non-protected area (Q8).
- We support the proposal to allow additional point-to-point microwave transmission dishes on existing sites. However, three additional antennas, rather than two, should be permitted, and they should be permitted development without prior approval. The right should relate to both existing sites and to new sites that receive planning permission after publication of this consultation (Q9).
- We agree with the proposal that Part 24 of Schedule 2 to the 1995 Order is clarified so that changes agreed between a mobile operator and the local planning authority to an existing approved application is not treated as needing to go through a prior approval process or a new planning application (Q10).

- The proposal to allow increases in size of existing masts should relate both to the extension of an existing mast, or to a replacement mast, within a certain distance of the original. In non-protected areas, permitted development for these changes should not require prior approval. In protected areas, existing masts up to 15m high could be extended or replaced by up to 2 metres to 17 metres and in width by a tenth, as permitted development without prior approval (Q11).

Suggested Additional Proposals Not Contained in the Consultation

We support the MOA's recommendation that the following additional proposals be implemented as part of the review of permitted development rights to help facilitate the expeditious rollout of new technologies.

- **Emergency Works:** the timescale for emergency works should be extended from 6 months to 12 months. This increase would reduce the likelihood that customers suffer from a lack of coverage when operators are forced to vacate one site and acquire a replacement.
- **Prior Approval for Masts up to 20 Metres in Non Protected Areas:** the maximum height for permitted development (subject to prior approval) for new masts in non-designated areas should be increased to 20 metres (from 15 metres). Larger sites help promote infrastructure sharing which ultimately leads to fewer sites. Planning authorities would retain control over siting and design.
- **Prior Approval for Masts up to 15 Metres in Protected Areas:** permitted development (with prior approval) should extend to masts up to 15m in protected areas. This would have the effect of increasing the opportunities for rollout by operators in these areas.