

Written evidence submitted by ISPA

About ISPA

ISPA is the trade association for providers of internet services in the UK. ISPA has approximately 150 members, 90% of which are SMEs, as well as large multinational companies. We are proud to be an organisation which covers the whole Internet value chain, including companies that provide access, hosting, and other online services. We represent the full ecosystem including communications providers that serves consumers and businesses, those that build their own networks and those that resell services via the fixed and wireless networks.

Background

- Government set target of 85% gigabit capable coverage by 2025 and it is currently over 50%. There is near-universal coverage of fibre to the cabinet with fibre to the property rapidly growing.
- Access to land and property is the number one barrier to the extent and timing of the planned rollout of gigabit capable broadband often creating delays of up to a year and necessitating significant additional financial investment, which may not be viable.
- The process for obtaining a wayleave is governed by the Electronic Communications Code, with reforms promised in July 2021 through the Product Security and Telecommunications Infrastructure Bill, but no actual timetable for the parliamentary process or final changes.
- The private sector has committed more than £30 billion to the rollout with Government pledging an additional £5 billion of public investment. However, this investment is too often diverted to tackle the barriers to broadband which add unnecessary delays and costs to the rollout.
- Local Authorities play a significant role in the rollout, but too often they create unnecessary delays or demand significant financial compensation for the work to take place that may impact viability.
- Currently there are no regulations requiring new builds to be equipped with gigabit capable broadband which leaves new homeowners with poorer quality connectivity, even when the market will offer fibre to the property (FTTP) for very low prices. In addition, it is easier and cheaper to install the gigabit connectivity prior to the site being completed.
- Business rates are an ongoing concern for the industry as the current system does not promote investment in new fibre rather it adds uncertainty and cost to the investment case and is counter-intuitive to tax productivity by raising investment.

Introduction

Following the Government's 2019 manifesto commitment for full gigabit capable broadband coverage by 2025, which was later reduced (in 2020) to 85% coverage by 2025, the UK broadband sector has been working hard to connect as many homes and businesses in the UK as possible to either match or beat the target. The rollout has now reached over 50% coverage and is set to hit 60% coverage by the end of 2021. Currently, the sector is managing to meet their target despite a number of persistent barriers still being in place. However, industry will struggle to reach 85% coverage by 2025, with

premises in hard-to-reach areas likely to be particularly impacted by the delays and higher costs of the current barriers. Therefore, the support and backing of Government, including through vital reform to the Electronic Communications Code is key to the delivery of the targets.

The rollout is being hampered by several barriers which are causing unnecessary delays to the rollout mainly access to land and property, which is currently ranked by providers as the number one barrier to rollout. This is an ongoing concern that industry has continued to raise with the Department of Digital, Culture, Media and Sports. Government have promised reform of the Electronic Communications code to help access land, however, industry is still waiting for details of what this reform will look like and when it will be introduced. ISPA members would like to see reform brought in as soon as possible to support the ambition to reach 85% by 2025.

Without reform of the Electronic Communications Code, social inclusion will be impacted in both urban and rural areas, and there is a risk it will negatively affect the Government's levelling up agenda and Project Gigabit. The Electronic Communications Code needs reform and rebalancing in favour of connectivity as without reform, we risk accidentally creating a digital divide between those reliant on outdated, slow broadband technology.

In addition, Local authority engagement is often hit or miss as to whether they will support the rollout of broadband or hamper it, there is no requirement for new builds to be equipped with gigabit capable broadband and concerns with business rates all impact the ongoing rollout and its ability to hit 85% coverage by 2025.

Access to land remains the number one barrier to the rollout

The barriers to broadband rollout can cause significant delays to the rollout and increase costs to connect premises where these barriers are present diverting key funding away from the rollout or impacting the commercial viability of the build in these areas.

The main barrier to accelerating the network rollout is securing access to land through the extra costs and timescales necessary to secure such access. Broadband providers require access to private land and properties to build the national fibre network, which is done through a wayleave.

The current regime, under the ECC, does not appropriately balance the public interest, the interest of broadband providers and the interests of landowners. While ISPA members prefer to negotiate long-term access arrangements, too often, landowners do not engage or are advised to make unreasonable demands. ISPA members often face landowners who request their legal fees are covered in full (which can cost up to £5,000) as well as a per-premise consideration fee of up to £100-£200 per premises. A significant per premise cost burden which can impact the commercial viability of fibre build to those premises.

Despite best efforts from our members, negotiations can take over a year to complete or, if the landlord is unresponsive, cannot be completed at all. The result of such demands is that resources must be diverted to negotiate and obtain wayleaves, costs to build increase the number of properties that can be reached during the rollout is reduced. This has a severe impact on:

- Rural areas: Rural areas are key both from a premise-level rollout perspective, but also for building and maintaining the backbone routes which serve to connect the networks around the UK. Rollout costs increase when plans have to be redrawn when big landowners do not engage. One of the most expensive parts of the rural rollout is the cost of the dig which will only increase should the route be diverted and extended. As a result, more premises become commercially unviable and fewer constituents can be connected as part of private and government-funded rollout efforts.
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- Urban areas: Blocks of flats, in particular, present specific problems with obtaining wayleaves that can be unresolvable e.g. due to unresponsive landlords, and thus risk being skipped in the rollout plans which will create digitally excluded pockets (often social housing or property owned by the local authority) in areas that are otherwise well connected. Business premises in urban areas and business parks too may miss out of proactive rollout or suffer long delays.

Failing to reform the ECC will continue to see investment diverted away from the rollout to negotiate and obtain wayleaves driving up the per premise cost. Ultimately this will result in fewer constituents and businesses being connected, both at a national level and within individual constituencies. Given the tight economics of broadband rollout, negotiation delays, the payment of higher charges or the need to avoid unresponsive properties have a direct impact on number of premises that can be connected.

There is a very serious risk that, if the Government does not urgently introduce ECC reform, a digital divide will be created between rural and urban areas and also within urban areas with providers forced to miss out properties that have been pushed out of reach by wayleave costs, bureaucracy, and red tape. Industry do not want to miss properties from the rollout, however where too many barriers have been put in their way, they may be forced to move on from an area, and once moved on it may be too expensive to return at a later date. Fundamentally, if the landowner is unresponsive at the start, there is not likelihood they will be more responsive down the line.

DCMS consulted on reform of the Electronic Communications Code earlier this year but have yet to announce what any reform may look like other than reform will come in under the new Product Security and Telecommunications Infrastructure Bill, as announced in the Queen's Speech. There must be a level of urgency in this reform being brought to the House if the Government's target is to be achieved.

Local Authority engagement

Another of the challenges faced by internet providers include the wide range of attitudes towards broadband rollout across local authorities. Some Local Authorities grant higher priority to managing temporary traffic disruptions and others seeking a greater level of compensation from wayleaves. During the early phase of lockdown, some Local Authorities asked operators to accelerate build plans while others initially banned all works. Government should work with Local Authorities and other Landlords to educate and improve their understanding of the importance of working with broadband providers.

DCMS must work more effectively with Local authorities to ensure they have the appropriate understanding the key role they have to play in the rollout of gigabit capable broadband. DCMS should place the onus on Local Authorities to work productively with providers to ensure the rollout has priority within each area.

Most Local Authorities have recently put in place a permitting scheme that charges providers for carrying out works. Yet, there is a wide variation on how Local Authorities operate these schemes and engage with providers. While these schemes should be revenue neutral, some authorities ask providers for additional funding for council staff or other support.

The Department of Transport recently consulted on Street Manager and permit scheme changes, which is seen as a positive intervention. The conclusions need to be published and implemented as

soon as possible to create a tangible difference to the rollout and ensure that industry can reach their targets.

Business Rates relief

Industry is currently investing significantly into a government priority which will boost the UK's productivity. However, the current Business rates system penalises that investment and places a significant burden on industry. Additionally, the frequent revaluations mean industry do not know what the longer-term liabilities will be which makes it harder to invest into the rollout. Government must support Industry as they progress through the rollout and find a business rates system, which is either lower or has no rating, that works across all suppliers that helps to reduce the burden for broadband suppliers.

New Build Legislation

Building regulations do not currently require new build properties to be equipped with gigabit capable broadband and implementation to require this has been delayed until 2022. FTTP is at no cost to developers where there are over 20 premises however, an issue occurs is the development is smaller and developers become unwilling to make a small contribution to equip their properties with FTTP. This requirement needs to be brought in as soon as possible to help with the rollout.

Conclusion

The Electronic Communications Code needs reform and rebalancing in favour of connectivity and the public interest. Failure to reform the process will risk accidentally creating a digital divide between those consumers and businesses with gigabit-capable speeds and those reliant on outdated, slow broadband technology.

Industry have been calling for this vital reform for several years and are still waiting for Government to make the key reform. While the rollout is currently progressing at speed, we are already seeing pockets of missed properties appear. Government must introduce reform urgently or a digital divide will be created that breaks the Government's commitments to Levelling Up.

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