

Written evidence submitted by Gigaclear

Introduction

Gigaclear is the UK's largest rural altnet. Established in 2010, our full fibre network serves historically underserved rural communities that would have otherwise been left on the wrong side of the digital divide. Our network currently passes over 250,000 premises across rural southern England, with a build plan that will see that footprint expand to 500,000 premises by 2023.

Background

At present, we believe that the UK's current fixed broadband rollout targets are unlikely to be achieved, unless the government delivers the policy changes it originally set out within the Future Telecoms Infrastructure Review (FTIR).¹

The UK Government has set the target of at least 85% of UK premises having access to gigabitcapable broadband by 2025.² Whilst rollout has now reached over 50% coverage and is set to hit 60% coverage by the end of 2021, this is largely driven by Virgin Media's DOCSIS 3.1 upgrade of their existing Hybrid Fibre Coax (HFC) lines, which enables 'gigabit capable' speeds across its largely urban network footprint. Once this is done, the pace of increasing coverage will slow. This is because the remaining, largely rural, properties to be connected will require significantly more civils resource to connect. There is then a material risk that the Government's rollout objectives will fail to serve the communities that need improved connectivity the most.

Recent analysis from the County Council's Network (CCN) stresses this concern. Their recent publication highlights that whilst gigabit capable coverage may soon reach 68% by the end of the year, just 21% of premises in rural 'county areas' currently have access to such services.³

To an extent, this asymmetry is unsurprising. Commercial investment will largely prioritise the most economically viable urban areas first. This is commercially rational. However, in the FTIR, DCMS acknowledge the risk of such asymmetry exacerbating the 'urban/rural' digital divide. To address this, it pointed to multiple policy areas where it would seek to reduce the barriers to rural rollout. We are concerned that there has been little material progress across these areas, the most significant of which we highlight below.

Land Access

Broadband providers require access to private land in order to extend their fibre network into new areas. This is done through the negotiation of a land access agreement; a process which is governed by the Electronic Communications Code (ECC).

At present, the negotiation process between landowners and network operators does not have a method to expedite negotiations, nor is there a clear obligation upon landowners to engage in the process at all.

This means that network operators face enormous uncertainty as to whether they will be able to secure the required land access agreements when planning and designing new network build. Even when landowners do respond, negotiations can often take over a year to complete.

These issues disproportionately impact rural areas, where land holdings are often larger than in urban areas, leaving fewer alternative viable routes if land access on a critical build path cannot be secured.

¹ [Future Telecoms Infrastructure Review \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

² <https://commonslibrary.parliament.uk/research-briefings/cbp-8392/>

³ [Levelling Up Digital Connectivity in Counties](#)

Yet it is also rural areas that continue to be most severely impacted by poor connectivity.⁴

Whilst DCMS has consulted on potential changes, industry still awaits any meaningful reform to the Code, despite identifying the barriers the current Code presents to rural rollout over 3 years ago in the FTIR.

Project Gigabit and Equinox

Another policy lever signalled in the FTIR is the use of state aid to subsidise gigabit capable network rollout in areas that would otherwise not be commercially viable to reach.

Yet the Government's new £5bn 'Project Gigabit', which aims to subsidise rollout for the final 20% of hardest to reach (predominantly rural) areas, is still in its contractual design phase. The first contracts are expected to be awarded in mid-2022, over 4 years after the FTIR identified the need for such a programme.

Further, recent Ofcom decisions have fundamentally altered the economics behind network operators bidding for state aid contracts. On 30th September 2021, Ofcom approved Openreach's proposed 'Equinox' discounts, which will result in Openreach's fibre pricing falling below the point at which exclusively rural fixed network operators could recover their cost of build.

Yet Ofcom does not consider the impact of this change on fixed network competition in rural areas, as it believes that these geographies are unlikely to sustain competition to Openreach. That places Ofcom's position in direct contradiction to Project Gigabit, which is seeking to encourage a competitive tender process for large state aid interventions in rural areas. This contradiction between the Government's ambitions and Ofcom's approval of the Equinox pricing places competitor networks to Openreach at a structural disadvantage when bidding for future state aid tenders. This is because they will require significantly more state aid than Openreach in order to compete against Openreach's Equinox pricing when delivering the contract.

This means that there is unlikely to be a meaningful competitive tender process in the Project Gigabit programme, which will in turn undermine value for money for the taxpayer and risk the programme being largely dependent on a single operator delivering the vast majority of the contracts. This is counterintuitive to the scale of private investment currently being secured by competitors to Openreach, yet it is a consequence of Ofcom's belief that there will not be sustainable competition to Openreach in rural areas.

Transparency and the 'Hold Up Problem'

DCMS's FTIR identified the danger of operators being hesitant to invest in hard-to-reach rural areas, due to a lack of clarity as to whether others would invest in the same area. It referred to this as the 'hold up problem'; where the higher cost of build and longer capital recovery periods means that even partial overbuild can be highly detrimental to the investment case.

Three years on from the FTIR identifying this problem, no progress has been made on addressing it.

Clarity as to where operators intend to build (particularly in rural areas), could inform a more efficient allocation of resource and investment in the areas most in need of improved connectivity. With that said, a voluntary solution may be unsuitable, as some operators may seek to game this process and deliberately 'over claim' areas in order to deter potential competition. A regulated process, overseen by Ofcom, may then be the most appropriate solution.

Should you have any further questions regarding the topics raised in this submission, please contact james.fredrickson@gigaclear.com

⁴ [Lack of ultrafast full-fibre broadband is holding back rural businesses | Gigaclear](#)

November 2021