

## **Department of Communications, Climate Action and Environment**

## **Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs**

## **Mobile Phone and Broadband Taskforce**

### **eir Submission**

**29 September 2016**

#### **1. Introduction**

eir welcomes the opportunity to assist in the consideration of measures to encourage the speedier rollout of high-speed broadband services and to improve the coverage and quality of mobile services.

However, we would caution that expectations of significant short-term improvements in the policies and practices may be misplaced. The telecommunication sector is highly complex and governed by a multiple of administrative and regulatory policies and processes that are very difficult to unpack. The practices in place today are largely the result of dialogue and consultation between a range of public and private stakeholders that have taken a long-time to agree and therefore cannot be changed easily.

For that reason we would urge the Working Groups to take a realistic view as to what is achievable and to identify improvement measures that are reasonable, easy to implement quickly and have a practical positive operational impact.

We would also recommend that conclusions of the Task Force are also measured for unintended consequences in particular that new short-term measures should not create obstacles to or compromise the prospects for the success of longer term strategic initiatives.

eir, collectively with industry, has engaged on much of the WGs' agendas including in particular with the Department of Transport, Tourism and Sport on Infrastructure issue including access, licences and way-leaves. It is imperative that the outcome of this engagement should be included in the deliberations of the Taskforce to deliver a joined-up outcome.

Finally, this eir submission should be considered alongside the submission from IBEC TIF which represents the aggregate concerns of the wider industry.

## 2. Barriers to Network Rollout

eir is Ireland's biggest investor in fixed network infrastructure. We are currently at a key point in the transformation of the national copper network to fibre and intend to have fibre services – either directly or to a local node – serving 1.9M premises by 2020. In addition we intend to compete for the National Broadband Plan with an offer of fibre services to all residual premises in the State when the tender is finalised later this year.

The delivery of high-speed broadband services both in the commercial market and in the NBP intervention area will necessitate the removal of all unreasonable barriers to network investment.

In the normal course of its network maintenance and development business, eir interfaces with all local authorities on a very regular basis. The issues are myriad but are mainly concerned with Planning applications, Permits (Planned and Emergency) and Exemptions. The following are particular measures that we would ask the Task Force to consider for review and improvement.

### *Planning Issues*

- Ensure that there is consistency on road opening and planning procedures across all local authorities and ensure that approvals are accelerated to an agreed national deadline for approving strategic telecommunications infrastructure

(A practical illustration of the current problem is the different approaches to licensing for the erection of road-side cabinets for broadband in the rollout programme for Fibre to the Cabinet (FTTC) services. While the majority of the FTTC program is now complete, a material number of cabinets need to be erected to ensure that all remaining FTTC target areas are covered)

- Ensure that industry's recommendations regarding specifications and timelines are included in the updated *revised* **Guidelines for the Opening, Backfilling and Reinstatement of Trenches in Public Roads** (commonly known as the revised Purple Book) in order to facilitate speedy rollout of high speed broadband. A specific concern is that independent analysis of the current draft proposals concludes that overall costs to network operators will be c.50% higher than in the UK.
- Remove alternative specifications for telecommunications infrastructure on TII managed roads and streamline the process for TII managed roads.

A disadvantage in the current approval process is the focus on approval of specific tasks rather than viewing infrastructure roll-out as a programme. This will be particularly important for the NBP which is in practical terms the building of a new telecommunications network covering a substantial part of the State. An approvals process that is more comprehensive in its scope should be considered. For example, at minimum, approvals should be aligned with the concept of “Deployment Areas” which eir understands will underpin the NBP approach. Then, as issues are encountered, e.g. dig downs etc that run contrary to the original design, a notification process and retrospective approval within the original overall approval would be a more efficient method to allow progress to continue. “Dig down” is a key issue. All utilities accessing **existing** infrastructure should be able to quickly dig down on this infrastructure without going through a complicated and time-consuming process designed as if the infrastructure is being newly deployed. An important factor in the efficient rollout of the NBP is likely to be the incidence of blocked ducts preventing access for all operators (infrastructure sharing is an obligation on all bidders). The absence of an efficient approach to resolving this could be a significant delay factor

A major cost for utilities is the difficulty in completing work in one visit. A streamlining of the planning approach which would allow work to be completed in one set of joined-up tasks would be a very significant improvement.

In addition, proposed rigorous conditions on wide trenches/full bay reinstatement will add significant costs in particular in urban and suburban areas.

- Establish a dedicated local point of contact in each council with responsibility for telecommunications infrastructure development who will act as liaison with operators on coverage and roll out issues
- Development contributions should be waived if a telecoms mast is to address rural mobile coverage<sup>1</sup>

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<sup>1</sup> Under existing guidance to local authorities masts erected for the purposes of the National Broadband Scheme are exempt from development contributions

- Create an exemption from planning and development contributions for the upgrade of masts with additional equipment to permit enhanced services (e.g. 3G, 4G and 5G upgrades)

The rollout of improved mobile telecommunications infrastructure has been slowed by the fact that the relevant planning exemptions have not been updated since 2001. TIF has provided the Department of the Environment with proposed amendments to the current regulations. For example, under the current regulations an operator does not require planning permission to put an antenna on an existing mast provided it is not more than 1.5m long. The standard quad band antenna now deployed in rural areas is 2.7m in length (for all technologies including 2G/3G/4G). The current exemptions should be amended to include the new larger antenna will allow for the prompter deployment of this antenna across the network, saving valuable time not only for the operators seeking to achieve rapid rollout but also for local authority planning departments.

The rapid evolution in mobile technology requires a process which allows for planning exemptions to be reviewed on a regular basis. The process for making amendments to the planning regulations and provision for exemptions should be simplified in order to keep pace with consumer demand for new technology.

- The restrictive height limits and narrow class of building/structure allowed for the development of mobile sites need to be reviewed. In addition we have experience significant opposition to planning permission for masts at local level. In many cases those opposed planning, have subsequently raised the issue of mobile coverage. In general approximately 33% of applications are rejected at local authority level (in some counties, e.g. Kerry, the rejection rates are as high as 75%). The vast majority are subsequently granted on appeal by An Bord Pleanála driving home the point that such objections often constitute unnecessary delays.
- Development contributions should be waived if a telecoms mast is to address mobile coverage along the lines of the January 2013 DoECLG issued **Guidelines on Development Contributions** advising that development contributions should be waived for broadband infrastructure.

- Site retentions are also becoming an increasing challenge that impacts on mobile coverage because operators must seek planning retention for masts once the original approval expires.
- Review of the current arrangements around hedge and tree trimming. While eir fully supports conservation and ecology, the current window for this work is arguably too short and the NBP as a multi-year project may be disproportionately affected.
- Exemptions for incidental duct blockages in the rollout of high-speed broadband. The consent process can be very disproportionate where the network intervention is minor and unforeseen. At minimum in the absence of an exemption there should be a mandatory minimum period e.g.24 hours for approvals. (The draft Purple Book proposes three days which can be very disruptive to the time lines in a major project).
- Short-term improvement in approach to financial processes – bonds, guarantees etc. While the Department Tourism, Transport and Sport (DTTAS) have a medium term project to address this, a solution should include payments to be processed by the Maproad Roadworks Licensing system (MRL), with payments collected by the Road Management Office (RMO) to be distributed to the individual local authorities. Ideally there should be a single monthly bill from the RMO for all licenses for the previous month allowing just one electronic transfer of funds. Finally there should be one registered bond with the RMO against which all reinstatement defects can be drawn down
- Consistent schedule of charges across the country e.g. for reinstatement work While the current review of the Purple Book has focused on processes and specifications, the issue of consistent charging needs also to be addressed. Utility network operators cannot be viewed as a source of revenue; rather they should be charged for works on the basis of the costs of an efficient operator with those costing principles applied consistently across all local authorities.
- Consistent use of IT/On-line systems for planning and consents processes. Such on-line arrangements are in place in the Road management Office and in many local

authorities. However some large authorities (DCC and Cork) are surprisingly absent. AS well as facilitating a more efficient process, universal application makes the overall monitoring of progress on key projects much easier.

### **3. Access to Infrastructure including Roads and Ducts**

As a regulated operator under the EU Regulatory Framework for Electronic Communications, eir (through its wholesale arm open eir) offers a full portfolio of both passive and active access services to its infrastructure. This facilitates effective competition both at the network level and at retail level in the market in the supply of broadband services. Included in this portfolio are access services to eir poles and ducts. Full details of these services are available at [www.openeir.ie](http://www.openeir.ie).

At this stage, some 20 years following the liberalisation of the market, no similar access obligations have been imposed on any other fixed network platform even where that platform has ubiquitous bottle-neck controls specifically in the major urban areas. eir accepts that the Task Force cannot address this asymmetry and that this is a matter of regulatory process managed by ComReg. However, symmetrical access arrangements will not only level the playing field but will also incentivise further network investment and encourage competition in the retail market.

The Task Force can however address issues of infrastructure access where the network asset is either directly or indirectly owned by the State including in particular utility networks, Roads and other bottleneck access facilities.

- The EU Directive 2014/61/EU sets out the blueprint for accessing utility ducts for the purpose of accelerating broadband rollout. However the transposition of the Directive has missed the opportunity to create fair and reasonable conditions for infrastructure sharing and would seem to have created significant new barriers to reaching commercial agreement.
- The restrictions on telecommunication operators accessing private land for the purpose of building networks is a distinct disadvantage and in most cases results in higher costs as the core and distribution networks are obliged to follow the road network where direct crossing of private land would be more economical. (It also raises issues of fairness as utility companies enter the competitive telecommunications market at a cheaper cost). The

introduction of measures as in the UK where all telecommunications operators are able to avail themselves of the statutory Electronic Communications Code, which permits entry onto private land and contains a mechanism for setting the cost of that access, essentially meaning that all telecommunications operators are categorised as a utility would resolve this matter<sup>2</sup>.

#### **4. Mobile Network Issues – Repeaters**

- The proper use of mobile phone Repeaters by end-users to improve in-building coverage particularly in rural areas should be explored further by the Taskforce.
- Unlike in the UK, where the Government licences the use of smart repeaters, the current mobile equipment licensing regime does not facilitate the use of Repeaters. (The location of each Repeater would have to be detailed in each mobile operator's Wireless Telegraphy Act Licence). The use of illegally imported Repeaters by end-users often gives rise to instances of harmful interference on other wireless users because the devices are of sub-standard quality.
- The detection and removal of such interference consumes the resources of ComReg and the mobile operators. A proper licensing regime must be efficient to administer and robust in terms of the quality of Repeater equipment that may be deployed. Establishing such a regime will require a coherent framework to be drawn up by policy makers, the regulator and Industry to legalise their use whilst ensuring that harmful interference is not caused to other users of wireless services.
- The Taskforce should consider recommending a collaborative approach to resolving this issue and facilitating a resolution.

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<sup>2</sup> See: A new Electronic Communications Code – Department for Culture, Media and Sport. May 2016