

House of Lords

Select Committee on Communications

Will superfast broadband meet the needs of our “bandwidth hungry” nation?

Response by FCS- March 2012

Introduction

1 The Federation of Communication Services, FCS, is the trade association for the communication services industry supporting 325 members that deliver products and services via copper, fibre and wireless to UK customers. For a list of our members please visit www.fcs.org.uk

Broadband policy

2 We welcome the opportunity to respond to this timely inquiry into the Government’s superfast broadband strategy. Broadband is the basic building block of the digital economy that is fast becoming the staple mechanism for doing business and for social life in the UK. Government policy should therefore be to ensure that appropriate broadband technologies are available for the longer term, a timeframe of at least up to 20 years. Broadband is now an essential utility - rather than an optional service delivering communications in competition with pen and paper of yesteryear. We believe that broadband policy should now be substantially reviewed to recognise the utility nature of communications infrastructure, with competition residing at the retail level.

3 As in other markets, infrastructure provision should be regulated as a utility platform - separated from competing retail services that access the infrastructure on equivalent and fair terms. The role of infrastructure providers should also be clearly separated from that of retail service providers.

4 A policy of competing infrastructure appears to be inefficient. Duplicating infrastructure investment passes extra costs down to the consumer. Commercial network providers cannot justify delivering services to markets where there is not a density of population to satisfy their commercial objectives, leaving wide swathes of the population without access. Since all UK citizens need access to the same level of broadband and increasingly superfast broadband, a different supply regime is required and, crucially, regulatory intervention will be needed to support this outcome.

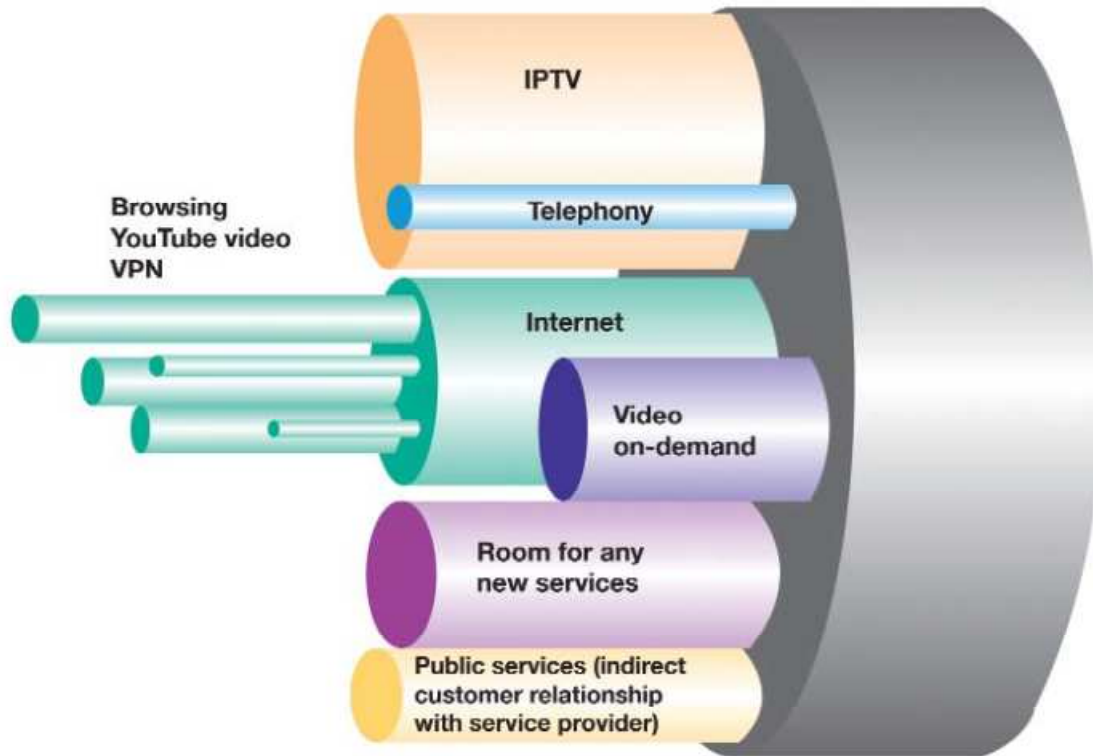
5 FCS recommends that infrastructure is in the form of a single “fat pipe” with wholesale access - enabling both universal services, such as smart meters and telemedicine, and competitive services, such as video on demand and voice, to plug into the pipe.

6 Demand for superfast broadband is evident and the infrastructure to supply this growing need must be adequate to respond to demand. FCS research among CPs and resellers who take bandwidth from wholesalers and package services for SME business customers’ shows higher capacity broadband is needed for

- higher data capacity and broadband conferencing
- growing E- business processes
- Distributed working with multi-site and remote working for business efficiency and employee support
- Growth of cloud computing - a need for greater uplink and downlink capacity to share databases, business files

7 The “fat pipe” model that FCS and others propose would entail the grey fat pipe to the right of the diagram below being owned and operated by the infrastructure provider, who has no retail offering to compete with its customers. Services such as IPTV and internet access would be delivered by competing suppliers - each having fair and equivalent wholesale access to the pipe. Customers would then purchase one or more services from CPs and, should they wish to move supplier, they could do

so within an efficient universal customer switching process. For this model, “net neutrality” would be less of a problem since the pipe operator would not have a commercial interest in managing traffic for one wholesale customer in preference to another. Additionally, differential levels of traffic management could be applied to different services in a transparent manner. Crucially, if the internet end user were to transgress the Digital Economy Act, internet services could be cut off without compromising the public / universal services for smart metering or telemedicine to an individual household or premises.



8 The entity that owns the “fat pipe” is already becoming apparent. Openreach is rolling out its broadband and superfast broadband widely across the nation and, significantly, it is also winning many of the local authority tenders under the BDUK scheme. This is not surprising as there is inherent skill, experience and attention to maintenance, security and resilience in this organisation.

9 As with the consolidation of the regional railways in the last century, communications infrastructure needs to be considered as a single logical national entity, although there might be a few different ownerships. The current EU Framework enables the regulator to impose functional separation on major entities

10 In the UK, 6 years of experience of functional separation has illustrated its limitations. While functional separation of Openreach within BT has been valid for the current regulated copper technology, there are no clear equal access rules for retail providers of fixed telephony and broadband services in the new fibre world. Consequently, competing providers would have to rely on competition appeals to prevent market dominance and walled gardens appearing. The regulatory solution to the questions posed in the Inquiry would be for full structural separation of Openreach from BT, following the examples in New Zealand and Australia.

11 We believe that Government should review its infrastructure policy to assess the impact of this trend, consider whether infrastructure competition is still required and propose how a single national infrastructure provider should be regulated. Other infrastructure sectors of the economy could provide examples of the regulatory framework needed. At the same time Ofcom might like to review the Undertakings agreed with BT in 2005. We believe that there is an opportunity to implement change with plans for a new Communications Act.

12 In response to the questions posed in the Inquiry

Q1 While current Government policy and BDUK implementation is aiming to plug the gap, we think that there is need for more substantial regulatory change, as described above, to resolve the national need for superfast broadband.

Q2 We are unsure about the efficiency of the programme to stimulate private investment.

New infrastructures such as those being developed locally should be able to "plug in" to national infrastructure so their end users can get access to the general level of content and services available in other parts of the country. This will require software development, logically sourced from the £530 million set aside for broadband development to support the "final third". Management of these co-ordination arrangements would be by means of a national governance body for change management.

Q3 While the funds may be delivered to local authorities in time, the potential for delivering nationally comparable services to all customers is not yet demonstrated.

Q4 and 9 As we have described above, now is the time for the Government to review and implement a communications infrastructure policy regulating the utility infrastructure provider(s) as separate entities from the competing retail market. This would involve structural separation and a fair wholesale access regime.

Q10 FCS members do not believe that there is a properly competitive market in wholesale fibre connectivity. Many members deliver Wholesale Line Rental, WLR, over copper pairs to customer premises.

While fibre roll out is essentially merely a technology change, a new regime for communications delivery has been introduced alongside. For fibre, access to the next generation access network is no longer at the WLR level, but much deeper into the infrastructure - akin to LLU. An immediate change is that only a select few providers have the financial resource and capacity to trade with Openreach to deliver fibre services either from the street cabinets or directly into premises. FCS has identified a real problem in supply of services to small business customers. The worst case scenario is that existing services delivered over WLR may cease at some time in the future, particularly as Openreach is already planning trials of fibre only exchanges. New broadband services are being delivered only by larger well resourced LLU type operators. No part of BT is offering voice over next generation access as a seamless and price regulated service for CPs and resellers to offer to their existing customers as a replacement for WLR. Ofcom is not placing obligations on BT in this area.

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