

National Infrastructure Commission. Cm 9182

A submission from the Federation of Communication Services.

The Federation of Communication Services represents companies who provide professional communications solutions to professional users. Our members deliver telecommunications services via mobile and fixed line telephony networks, broadband, satellite, wi-fi and business radio. Our members' customers range from SMEs, home-workers and micro-businesses up to the very largest national and international private enterprises and public sector users. FCS is the largest trade organisation in the professional communications arena, representing the interests of nearly 400 businesses with a combined annual turnover in excess of £45 billion.

In the context of this consultation, FCS members are specifically concerned to ensure the nation enjoys ubiquitous and cost-effective access to business-grade broadband connectivity. Without high quality, affordable and ubiquitous connectivity – preferably available from a choice of more than one supplier -- it is impossible to deliver the hosted databases, value-added call-handling and recording functionality and cloud-based software solutions which empower business growth and efficiency in the present age.

FCS is therefore pleased to see that Digital Communications has been specifically included within the purview of the National Infrastructure Commission. For too long, vital overarching policy guidance has been missing from this sector. Whole areas of the country have been left at the whim of a single incumbent network provider, and it has been impossible for businesses to plan and invest with confidence in their digital future. Digital Communications in this context should be defined to include both 'active' infrastructure (fibre backhaul and the copper network) and 'passive' infrastructure (radio and telephone mast sites, ducts and poles).

It has long been FCS's view that the regulation of the UK markets for broadband and for both fixed and mobile telephony passive infrastructure need to be scrutinised from first-principles, both by the Regulator and by Parliament. We welcome the creation of a National Infrastructure Commission as a vital and independent resource to facilitate this process.

Main concerns:

1. Setting a 10-30 year strategic window is a herculean task. Especially in an industry like telecommunications, where the technologies which our infrastructure delivers are developing at such a fast pace. See, for example, the strategic 'what-if' scenarios in DCMS's 2014 UK Digital Communications Infrastructure Strategy consultation. In the light of recent industry developments (for example, the growth of voice-over-wi-fi mobile calling or the acquisition of Everything Everywhere by British Telecom, or of Airwave by Motorola), some of these scenarios already appear irrelevant or out of date.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346054/DCIS_consultation_final.pdf
2. The word 'consumer' appears consistently and without definition or qualification in the consultation document. Within regulated industries, the word 'consumer' often has a very specific meaning. For the avoidance of doubt, FCS urges that infrastructure exists to facilitate a profitable, efficient and flexible business environment which will contribute to national prosperity, create sustainable employment and this deliver economic growth. So in this context, the first presumption of any infrastructure plan must be to meet the present and future needs of the broadest range of business consumers (including the tourism and hospitality industry).
3. FCS's overall concern is to ensure a National Infrastructure Commission has the necessary freedom to focus firstly on developing a clear, first-principles vision for the nation's infrastructure needs. Only with this clear vision in place can we begin the mundane task of developing projections for the growth or replacement of the existing incumbent networks.
4. The policies of successive governments towards the digital communications sector have concentrated on what we might call the art of the possible. Inducements and commitments have been entered into with the incumbent provider which have worked to successfully deliver short-term political objectives. In the process, existing legacy technologies have not been replaced, and new entrants have been restricted from entering the market place. It is important a National Infrastructure Commission has the necessary terms of reference to articulate and a clear vision, and to agree long-term objectives with Government. What is missing, in comms and in other areas of UK infrastructure, is the clear long-term objective, against which inward investors and incumbent industry participants can plan a strategic future path.
5. In this context, FCS believes the most useful role a National Infrastructure Commission can play is that of a well-resourced and independent think-tank. Garnering intelligence from multiple sources and seeking to create a 'best guess' scenario for the nation's future infrastructure requirements. For the commission to provide this role, it should be freed as far as possible from

artificial requirements to limit its vision to what may or may not be affordable within such and such a budgetary cycle. Only once a clear vision is in place for the nation's infrastructure needs can we usefully begin discussion about how much is affordable, by what processes, and under what constraints.

6. The above is not a plea for hedonistic and unaccountable free-thinking. It is a recognition that there is no value in creating a commission simply to duplicate the short-term thinking of the past. In every market from pumped concrete to telecommunications, technologies and working practices are constantly developing and adapting. What drives adaptation and change is challenge. Articulating a challenge purely in the language and terms of reference of existing technology is not a recipe to growth and future-proofing.

Question 1: Do you agree that the National Infrastructure Commission should be established as a non-departmental public body via primary legislation?

- 1.1 FCS is not convinced it is necessary to create another public body along the lines envisioned in Section 3 of the consultation document. Either Government is committed to creating, financing and listening to a National Infrastructure Commission or it is not.
- 1.2 There are solid arguments that the National Infrastructure Commission needs to have a legal status. A standing Royal Commission would enjoy the necessary security and privileges, but would be one step further removed from political influence. In the context of setting 30-year plans, the Commission should be removed as far as possible from the tactical influences of the 5-year Parliamentary cycle.
- 1.3 FCS is particularly concerned at the proposals regarding the appointment of chair and commissioners. It seems a missed opportunity not to clearly articulate at this stage that a majority of Commissioners shall be nominated by industry, in order to place the very finest minds at the nation's disposal. The balance of Commissioners and the Chair should be appointed by Parliament, via the Treasury Select Committee.

Question 2: Do you agree that the commission's National Infrastructure Assessments should be laid before Parliament and that the government must respond within a specific timeframe? What would an appropriate timeframe be?

- 6.1 Yes. It is vital for the spirit of transparency that Parliament has full scrutiny of the National Infrastructure Assessments. To allow time for informed debate, Government should respond within six months of the NIAs being laid before Parliament.

Question 3: Do you agree that it should not be mandatory for the government to lay the recommendations from specific studies before Parliament, but that the government should have discretion to do so where necessary?

- 3.1 No. We are talking here about the best-informed thinking about the nation's long-term needs. This is not something that can take place in secret. It is hard to envisage a scenario in which Parliament will not be the best place for transparent discussion.
- 3.2 If exceptional circumstances of national security dictate a public discussion is not appropriate, the default mechanism should be for recommendations to be placed before the appropriate Commons Select Committee, meeting in camera.

Question 4: Do you agree that economic regulators should 'have regard' to Endorsed Recommendations?

- 4.1 Yes. Absolutely they should. But see 1.3: Endorsed Recommendations should not come as a surprise to Economic Regulators – they should have been party to the process of creating them .

Question 5: Do you agree that government should legislate to oblige the commission to produce National Infrastructure Assessments once in every Parliament?

- 5.1 The proposed time scale seems entirely appropriate for work of this kind. Each Parliament should have the opportunity to avail itself of the latest thinking, and to fully debate its implications. A five-year time frame is long enough to be able to factor in demographic movements, but short enough to be able to revise previous assumptions in the light of any major trend changes or technological advancements.
- 5.2 To avoid undue political influence, FCS suggests the reporting cycle for National Infrastructure Assessments should be one and a half years out of phase with the electoral cycle. That is, the 2015 Parliament should expect to see a (first, indicative) NIA report in the fourth quarter of 2016; the 2020 Parliament in Q4 2021.
- 5.3 On this proposed time scale, a NIA placed before Parliament in Q4 2016 would draw a detailed Government response in Q2 2017. This allows the Government of the day a period of two and a half years to enact and implement policies in line with Endorsed Recommendations before being held to account by the electoral process.

Question 6: Do you agree that that the precise timing of reports and interim publications should be a matter for the commission in consultation with relevant departments?

- 6.1 In the interests of transparency and the long term reputation of the Commission, we would append the caveat: unless Parliamentary business dictates a more urgent timetable.

Question 7: Do you agree that a GDP envelope would provide the most effective fiscal remit for the commission?

- 7.1 FCS fundamentally challenges the basic assumptions stated in Para 5.2 of the consultation document. It is the role of consumers – acting firstly through markets and only secondly via Parliament and Economic Regulators to make decisions regarding the costs/benefits to consumers. This reasoning confutes deciding the optimal infrastructure to meet society’s future needs (the role of the Commission) with deciding who should pay for it (the role of markets, regulators and Parliament).
- 7.2 Section 5 of the consultation document starts from an underlying assumption that direct government investment is both the main and the preferred means by which infrastructure is delivered. If we start from this assumption, we hobble the ability of the Infrastructure Commission to undertake its basic remit by imposing, at the beginning, artificial tactical constraints which are most likely to result in sub-optimal results for consumers and state subsidies for incumbent providers.
- 7.3 The statement ‘Infrastructure is ultimately financed by taxpayers and consumers’ suggests both the unchallenged need for direct taxpayer subsidies and ongoing consumer rental or access payments for consumers. It is by no means clear that Government must always be the client, or that costs need be disbursed beyond the universe of individuals who actually make use of the infrastructure (witness, for example, the M6 Toll Road or the Channel Tunnel). FCS suggests the role of a NIC is primarily to determine what infrastructure the nation needs. Delivering that need is primarily the role of markets.
- 7.4 If we are proposing to embark upon a first-principles process of determining the nation’s infrastructure needs from the perspective of what the public purse will bear, transparency and accountability will be better served by simply tasking a Central Committee to produce a series of Five Year Plans.

Question 8: Do you agree that a transparency requirement should be placed on the commission with regard to its economic remit?

- 8.1 Certainly. We further believe a transparency requirement should be placed upon HM Treasury to report any proposed changes that HMT might be minded to impose upon that remit.

Question 9: Do you think that any additional constraints are necessary to deliver the commission's anticipated benefits to consumers?

- 9.1 Firstly, we believe those benefits to consumers should be clearly articulated in the broadest possible terms of strategic vision to deliver appropriate infrastructure to accommodate UK business growth and developments. And of setting goals, and then encouraging whatever combinations of technologies, funding models, inward investments or incumbent provision can most usefully deliver those results.
- 9.2 It should not be for the National Infrastructure Commission to dictate the delivery partners or migration pathway which will take the nation towards the goals it has set. This is the role of markets and of Parliament.
- 9.3 To safeguard the Commission's integrity, and to ensure continuity across Parliamentary cycles, FCS recommends the Commission's outputs should be subject to periodic review (at least twice in each Parliament) by the Public Accounts Committee.

Question 10: Do you agree that the remit should be set by a letter from the Chancellor, on behalf of the government?

- 10.1 The remit for the forthcoming Parliamentary cycle should be set by a letter from the Chancellor on behalf of the government. The Commission's strategic plans stretch beyond the Parliamentary cycle, and due care should be taken not to disturb existing work-in-progress.

Question 11: Do you agree that the commission's working assumption should be to only review those areas of infrastructure that are the responsibility of the UK government? - together with -

Question 12: Do you agree that the decision of whether to accept or reject the commission's recommendations should rest with the responsible government?

- 12.1 It is hard to imagine, in practice, how one could usefully attempt to pronounce upon the optimum long-term infrastructure for the UK on the basis that certain parts of it would stop dead at certain geographic boundaries. We cannot, for example, properly and holistically anticipate the expansion of Scottish ports without anticipating the expansion of communications and transport infrastructure which may impact England or Northern Ireland.
- 12.2 The Commission's working assumption should be to review infrastructure needs in the round. A dispassionate, scientifically-based investigation into the nation's needs. The decision whether, how, and at what pace to accept and implement the commission's recommendations should be taken by the responsible governments.

- 12.3 It may well be that different responsible governments will follow radically different approaches to funding and delivering the Commission's recommendations in the areas for which they have responsibility. This will create diversity in procurement, and possibly opportunities for empirical benchmarking of similar projects delivered under different political constraints. All of this will feed into the nation's corporate understanding of infrastructure best practice.

Question 13: Should departments be obliged to accede to the commission's requests for analysis?

- 13.1 The default position should be that Departments are obliged and expected to cooperate fully with the Commission. That is to say: permission should be assumed to have been given unless the individual department has a specific objection. Refusal to cooperate should be the exception. In which case, one would expect the Minister responsible for that department to rule in the first instance.

Question 14: Do you agree that the legislation used to create the commission should place obligations on the relevant regulators and public bodies to share information with the commission?

- 14.1 Unlike Government departments, which may occasionally have over-riding considerations of national security, it is hard to imagine the circumstances under which regulators and similar quasi-government bodies should be allowed a default position of refusing to share information in their possession.
- 14.2 Any such sharing should naturally take full account of commercially sensitive material, which may have been shared with the regulator or public body on a confidential basis.

Question 15: Should legislation also place obligations on the relevant regulators and public bodies to provide analysis for the commission?

- 15.1 Relevant regulators and public bodies will likely contain some of the best-informed and experienced individuals to undertake analysis. However, they each have their own work-plans, staffing issues and budgetary targets.
- 15.2 FCS proposes the Infrastructure Commission should be permitted to specify and buy in the best analysis from a variety of external and commercial sources. Regulators and public bodies should be encouraged to bid for such work on a commercial basis, and subject to the same contractual and quality measurements and constraints as other commercial bidders.

Question 16: Do you agree that the government should specify a timetable to review or replace a National Policy Statement when endorsing recommendations?

16.1 Yes. This seems the most logical approach.

Question 17: Do you agree that, while additional consultation may be necessary, consultation undertaken by the commission should not be repeated by the Secretary of State when preparing a National Policy Statement?

- 17.1 It is important this principle should be established from the very beginning. There is little point in one part of Government spending taxpayers' money re-inventing a wheel which another part has already invented.
- 17.2 It is important for transparency and accountability that the National Infrastructure Commission is set up on the clear understanding that Government expects not to routinely challenge or duplicate work which it has already undertaken.
- 17.3 In practice, it is hard to see how enshrining this principle in the terms of reference for the National Infrastructure Commission will serve to constrain the tendency of political appointees to tweak or challenge consultation results. Which is why we counsel the greatest possible Parliamentary scrutiny – including recourse to Select Committee oversight -- should be built into these terms of reference from the beginning.

SUBMISSION ENDS