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ENA response to Ofcom consultation on Next Generation New Build.

<http://www.ofcom.org.uk/consult/condocs/newbuild/condoc.pdf>

Energy Networks Association (ENA) is the industry body that represents licensed electricity and gas transmission and electricity distribution companies in the United Kingdom.

ENA welcomes the opportunity to respond to Ofcom's consultation on Next Generation New Build.

The main concerns of the energy industry, regarding the replacement of deterministic services (20CN) with non-deterministic services (21CN), are already well documented in previous ENA responses to Ofcom.

- Ofcom's Annual Plan, April 2004 - March 2005
- Letter from ENA Chief Executive to Ofcom Chief Executive August 05
- Phase 1 consultation on the Telecoms Review
- Next Generation Networks – Future arrangements for access and interconnection.
- Letter from ENA Chief Executive to Ofcom Chief Executive October 06.
- Response to Draft Annual Plan 2008-09.
- Ofcom's 2008 Business Connectivity Market Review.

Since 2004 ENA has engaged with BT, Thus, C&W, Ofcom, Ofgem and other relevant Government bodies to highlight the energy industry's concerns about the risk of service failure likely to be introduced through the migration of private wire services from the existing legacy platform (20CN) to NGN (21CN).

This active engagement between ENA and CP's has led to significant attention being given to the issues the energy industry has raised, and it is comforting to note that this consultation has now taken on board the need for battery back up.

The potential impact on the Energy Industry's ability to support the critical national infrastructure must be considered and monitored by Ofcom, as ongoing dialogue and developments take place.

Conclusion

An Ofcom supported strategy of encouragement to CPs to develop fibre solutions in Next Generation New Build must be supported by all. We must however monitor and understand the potential impact to the end user.

Question 1:

- **What can Ofcom do to encourage timely standards development for new build NGA wholesale access products and interfaces?**

Ofcom should attempt to understand what the Consumer needs, and regulate accordingly.

A better understanding of what the "Consumer" (Domestic, Industry and Commerce) is willing or able to fund, is an essential requirement for the long-term success of NGA.

- **Which industry body is best placed to undertake the standardisation of these products and interfaces?**

BERR.

- **What action should Ofcom take if these standards fail to materialise?**

Refer the problem back to BERR for direction.

Question 2:

- **Do you agree with Ofcom's approach to promoting competition and consumer choice in new build fibre access deployments?**

I applaud Ofcom's strategy of encouraging fibre solutions, and the revised approach for the inclusion of communications services in new build fibre access deployments. I do, however, have some concerns regarding Statutory Instrument 2003 No. 2553 and how the developers comply with "code operator" requirements.

The proposed competition to which you allude will no doubt result in the provisioning of a fibre asset by a developer for the potential use by a number of CPS. I am a little confused as to who will be considered the "code operator" and how compliance / asset ownership will be managed.

Will the developer require to be registered as a "code operator"?

Question 3:

(a):

- **Do you believe that the existing obligations must be met by replicating the existing copper products, or that an alternative approach could be satisfactory?**

I have no doubts that every effort will be made to replicate existing copper products where it is commercially and technically possible. However, unless Ofcom change their present policy, it is very unlikely that regulatory intervention will result in the existing obligations being met by suitable replication of existing copper products. If NGA is to be a technical and commercial success, any constraints associated with the retention of copper to the premises will require to be removed. The Energy Industry would wish to have contracted assurance that the services and characteristics enjoyed at present on 20CN will be available for at least a further 15 years. The reality is that this is unlikely to be secured under the present regulatory regime.

- **What are the implications of replicating existing products on fibre?**

More and better customer options, with a long term improvement to speed, quality and availability of service.

(b):

- **Do you agree that SMP holders rolling out fibre do not need to roll out a copper network in parallel solely to meet their LLU obligation?**

Many of the present leased line circuits, providing the communications services for the Critical National Infrastructure, are based on 20CN copper network solutions. Although not specified, the 20CN platform provides critical characteristics that have been enjoyed by the Energy Industry and are required for safe and effective operation of the High Voltage Electricity Network. If suitable cost effective fibre alternatives are offered on NGA, the Energy Industry will be willing to consider the fibre only option.

(c):

- **Do you agree with Ofcom's approach in relation to WBA and new build areas?**

Not applicable to ENA.

(d):

- **Do you believe that the WLR obligation must be met by replicating the existing copper product, or that an alternative approach based on an ALA-type product would be satisfactory?**

Not applicable to ENA.

(e):

- **Do you believe that the CPS obligation must be met by replicating the existing copper product or that an alternative approach based on an ALA type product would be satisfactory?**

Not applicable to ENA.

(f):

- **Do you believe that the IA obligation must be met by replicating the existing copper product or that an alternative approach based on an ALA type product would be satisfactory?**

Not applicable to ENA.

(g):

- **Do you agree with our proposal to interpret GC 3.1 (c) as being met through the provision and use of a battery backup facility to maintain uninterrupted access to emergency services in new build developments?**

No – not as stated at present. Your consultation is very vague and does not clearly state who will be responsible for the initial provisioning of the battery backup facility, the standby time, and who will be responsible for its ongoing maintenance, support and replacement.

Question 4:

- **Do you think access to the duct network, including non telecoms duct, is a potentially feasible means of promoting competition in new build?**
Provided it is regulated properly and has a clearly defined goal of securing a solution for the betterment of the consumer, access to the duct network including non telecoms duct may prove to be a feasible means of promoting and facilitating competition in new build.
UK plc will suffer, if the resulting technology solutions are constrained by the commercial greed of SMP operators to the exclusion of consumer interests. Infrastructure capable of routing NGA type fibre solutions to the consumer can be delivered by other methods, and this should not be discounted when open access to the duct network is being considered.

- **If so what types of commercial and operational models could successfully support such access arrangements in the UK?**
Ofcom may wish to consider similar models to those already used for Radio Frequency Spectrum Management.