

Chinyelu Onwurah
Ofcom
Floor 2
Strategy and Market Developments
Riverside House
2A Southwark Bridge Road
London SE1 9HA

18th June 2008

Dear Ms Onwurah,

**Next Generation New Build
Response from England's Regional Development Agencies**

This response is from SEEDA on behalf of the nine English Regional Development Agencies and reflects the areas where RDAs have unanimity of views. Individual RDAs may additionally respond separately where they have region specific comments.

Affordable high-bandwidth broadband is now a critical business requirement for many companies to enable them to develop and deliver their products competitively with indications that this requirement and others, including access to public sector services, will only grow. RDAs believe that for these reasons the deployment of NGA is vital to maintain the economic and social well-being of the UK. The opportunity to provide NGA in new build should be encouraged and bought to a practical reality as quickly as possible.

We note the contrast where the UK is currently only planning fibre trials and our international competitors are deploying fibre rapidly. A recent OECD reports notes that Japan leads the world with 9.7 million subscribers and Korea with 4.5 million. It goes on to observe that Verizon in the United States is upgrading users to fibre connections with plans to pass 9 million homes with fibre by the end of 2008 and 18-20 million homes by 2010. They note that Luxembourg, the smallest country in the OECD, has already reached an 80% penetration rate for fibre to the building/curb. Notwithstanding industry arguments about current demand, everyone accepts that we will need more bandwidth in the future.

Our responses to the questions raised in the consultation document are as follows:-

Question 1:

What can Ofcom do to encourage timely standards development for new build NGA wholesale access products and interfaces? Which industry body is best placed to undertake the standardisation of these products and interfaces?

- 1.1 We agree that a common standard for the interfaces between service providers and network operators is important, but cannot comment on the development of the standards, or who should oversee it, as we do not have the necessary technical expertise.
- 1.2 However, we believe that Ofcom should not devolve this technically complex task to an appropriate industry body without first setting out the ground rules, as the technical aspects of the standard should not takeover from the regulatory objectives.

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

- 1.3 Ofcom should take no action apart from ensuring that anti-competitive motives do not delay or distort the standards. If a standard fails to emerge at the Active Line Access (ALA) level, alternatives exist that will be used if there is an economic case.

Question 2:

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

- 2.1 We support Ofcom in ensuring competition and consumer choice, and we believe an active line access approach is one way to achieve this. It will enable service providers to connect their products to a single delivery network thus encouraging competition between the service providers, which is the real requirement of the consumer. We do not believe that this approach will encourage competition between network operators, but in any case, for other reasons outlined below, do not see any advantages to consumers, service providers or network owners in the duplication of passive infrastructure.
- 2.2 We are aware of the ongoing debate within the UK industry over the Ethernet ALA product and are concerned that this process could take an excessively long time. At this late stage, the appointment of an appropriate industry body to oversee the development of the standard will pro-long the activity. We note that many networks outside the UK with access at the IP layer seem to have been highly successful in providing competition and choice with less of the technical difficulties at the interface. Indeed, these systems seem to offer more choice of services to consumers than is the case now in the UK or will be the case in the future if the products currently in place are simply replicated to be compatible with the new network (see 3.1 below).

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? What are the implications of replicating existing products on fibre?*
- 3.1 We would prefer to see new products developed rather than existing ones replicated. Depending on the technologies deployed, replicating existing products could lead to inefficient use of bandwidth, which in turn could constrain price reductions. The perpetuation of outmoded business models could also deter innovation.
- (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?*
- 3.2 We agree that it should **not** be necessary to roll out copper in parallel with fibre solely to enable LLU.
- (c) *Do you agree with Ofcom's approach in relation to WBA and new build areas?*
- 3.3 We agree with the principle of removing regulation of WBA where there is sufficient competition and therefore consumer choice of service provider. Where this is not the case, regulation should continue which may be the case if FTTH networks do not attract enough competing service providers. Services that are new and only capable of delivery by a FTTH network may require a future review even if they are in a deregulated geographical area, especially as in the future FTTH networks will not necessarily map to existing telephone exchanges. In our view, WBA regulation should encourage separation of services, including symmetrical services, and not constrain consumers to accept all services from a single provider.
- (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?*
- (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?*
- (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?*
- 3.4 There does not seem to be any technical reason why the right ALA product could not replace the existing WLR, CPS and IA products.
- (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?*

- 3.5 We agree but note that it is still important for consumers to be aware that if they use a cordless phone this may not operate during a power failure even if a battery back-up to the consumer's terminal equipment is provided. This applies now with copper access networks backed-up by the telephone exchange emergency power supply. We therefore suggest giving consideration to advising customers to either retain at least one permanently connected telephone and/or a mobile phone charged and in credit for emergencies regardless of the access technology. (We note that at the end of the year there were 69.7 million active UK mobile subscriptions – source: Ofcom, The Communications Market 2007, Chp4 Telecommunications, Aug 2007).

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? If so, what types of commercial and operational models could successfully support such access arrangements in the UK?

- 4.1 We believe that there should be competition in supply and choice to consumers so far as the services offered by an NGA network are concerned. Therefore, we support Ofcom with remedies that encourage service delivery over a common infrastructure facilitated by Active Level Access (ALA) and / or any passive level access. It is difficult to see how duplication of the network infrastructure will provide additional choice of services to consumers. Given the costs of deploying additional network infrastructure, we are unsure as to whether this remedy would ever be economically attractive. In our view, with the right access products and agreed standards, there should be no need to regulate in this way. Furthermore, with regulated access to ducts we are concerned that investors would perceive higher risk, sufficient perhaps to deter any investment in the first place. Perhaps this area needs considering in the light of regulations applying to other non-duplicated utility services such as water, gas and electricity. The high bandwidth of an NGA connection provides a way to avoid duplications of the past (e.g. separate connections for more than one telephone).

We hope that you find these comments constructive and we look forward to seeing the outcome in due course. We would be pleased to discuss further with Ofcom any of the issues we have raised in this consultation response.

Yours sincerely,

Jeff Alexander
Executive Director,
Global Competitiveness,
SEEDA

On behalf of the English RDAs