



## **Digital Rutland Broadband Programme:**

### **OPEN MARKET REVIEW – REQUEST FOR INFORMATION**

**1<sup>st</sup> August 2014**

#### **1. Introduction**

Rutland County Council through the Digital Rutland project is working to improve and extend better coverage of superfast fibre broadband throughout Rutland, beyond the reach of commercially-funded deployments.

Rutland County Council originally signed a contract with British Telecommunications plc (BT) in May 2012 to deliver superfast fibre broadband to at least 90% of Rutland premises. This was in addition to a Universal Service Commitment (USC) to ensure all premises were able to achieve download speeds of at least 2Mbps. We are making excellent progress with the deployment of this contract, and have to date reached nearly 8200 premises (82%) with speeds in excess of 24Mbps.

Rutland County Council has recently secured additional public funding to further extend better broadband across Rutland with the aim of increasing superfast fibre broadband coverage to over 95% by 2017.

In order to utilise this additional funding, Rutland County Council is undertaking an Open Market Review (OMR) to establish existing and planned (next 3 years) commercial coverage of broadband services in Rutland by all existing, and any prospective, broadband infrastructure providers. Rutland County Council will use the information gathered as part of the OMR process to define revised intervention areas which will be eligible for future intervention using public funding.

Once Rutland County Council has defined these intervention areas from the OMR, we will be conducting a minimum one calendar month State Aid public consultation on our proposed intervention areas. Following this consultation; Rutland County Council will seek approval from the National Competence Centre (part of the Department for Culture Media and Sport) which oversees the UK National Broadband Scheme to allow these areas to be eligible for future intervention using public funding.

The purpose of this document is to set-out our Request for Information as part of the OMR process.

## 2. Geographical Scope

The Geographical Scope of the project is the whole of the county area of Rutland. For reference Appendix 1 – Map of Rutland shows the county boundaries.

## 3. State Aid Framework

Please note: this section provides a brief introduction to the State Aid Framework for the purpose of informing responses to this Request for Information. Parties may wish to obtain their own professional/legal advice on the application of the State Aid Framework to this proposal.

The European Union State Aid rules are designed to ensure that any use of public funding ('State Aid') is targeted at market failures and ensuring positive market outcomes (more/faster broadband coverage, reducing the 'digital divide'), while minimising any distortions of competition.

The State Aid rules require public interventions to be targeted so as to limit the risk of crowding-out or disincentivising existing and/or credible planned private sector investments that would otherwise meet the desired policy objectives. In the context of broadband, State Aid rules require using public funding only to extend broadband coverage in geographic areas where there is no economic incentive for commercial operators to invest to the extent required to achieve rapid deployment of high-speed broadband services that are capable of meeting current and future demands.

The 'EU Guidelines for the application of State Aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01)' can be found at:  
[http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009XC0930\(02\):EN:NOT](http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009XC0930(02):EN:NOT)

Planned public interventions can seek clearance under the State Aid rules directly from the European Commission (EC), or (as is the case with this proposal) seek clearance under a national scheme pre-approved by the EC. The EC's State Aid decision on the 'National Broadband Scheme for the UK (C (2012) 8223' can be found at:  
[http://ec.europa.eu/competition/state\\_aid/cases/243212/243212\\_1387832\\_172\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/243212/243212_1387832_172_1.pdf)

The responsibility of the National Competence Centre (NCC), part of Broadband Delivery UK (BDUK) within the Department for Culture, Media and Sport (DCMS) is detailed in the above link.

The EC State Aid Guidelines distinguish between two types of broadband networks: Basic Broadband, and Next Generation Access (NGA) networks.

Basic Broadband networks are generally those based on currently widely-deployed technologies such as fixed wired telephony networks (using ADSL/ADSL2+ technologies), non-enhanced cable TV networks (e.g. DOCSIS 2.0), mobile networks (2G/3G (UMTS)), fixed wireless access (FWA) networks, and satellite networks.

NGA networks rely wholly or partly on optical elements (optical fibre) and are capable of

delivering an enhanced broadband capability compared to existing Basic Broadband networks.

The EC Guidelines allow for the possibility that advanced wireless technologies (e.g. LTE-Advanced) can be considered as an appropriate NGA qualifying technology. Further guidance on NGA technologies is available from the BDUK NCC at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236341/NGA\\_Technology\\_Guidelines\\_300813.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technology_Guidelines_300813.pdf)

The EC Decision on the National Broadband Scheme for the UK requires that public funding granted under the scheme shall ensure a 'step change' in broadband capability (typically providing at least a doubling of average access speeds). The EC Guidelines also distinguish between geographic areas on the basis of current or planned (next 3 years) broadband infrastructures thus:

- 'White' areas are those in which there is no broadband infrastructure and none is likely to be developed in the near future;
- 'Grey' areas are those where one network operator is present and another network is unlikely to be developed in the near future; and
- 'Black' areas are those where there are, or there will be in the near future, at least two network operators.

This geographic mapping of White/Grey/Black areas is to be carried-out separately in relation to Basic Broadband and NGA networks.

Public interventions to provide NGA is generally permitted in NGA White areas, only permitted in NGA Grey areas under limited special circumstances, and generally not permitted in NGA Black areas. Similarly, public interventions to provide Basic Broadband is generally permitted in Basic Broadband White areas, only permitted in Basic Broadband Grey areas under limited special circumstances, and generally not permitted in Basic Broadband Black areas.

Rutland County Council plan to define our Basic Broadband and NGA intervention areas to target Basic Broadband 'White' areas and NGA 'White' areas, respectively.

#### **4. Request for Information**

This Request for Information is part of our OMR process, which is intended to gather information on existing and planned (next 3 years) broadband deployments to help us to define our intervention areas in which we would plan to deploy the additional public funding we have secured to further extend broadband coverage across Rutland.

The OMR is a precursor to the formal State Aid public consultation on our proposed intervention areas. The OMR process is not a specific requirement of the EC Guidelines, but is regarded as good practise to help to inform the definition of the intervention areas prior to

a State Aid public consultation (which is a requirement of the EC Guidelines).

This Request for Information is being sent to all known broadband infrastructure providers in Rutland (including those providers that currently operate broadband infrastructure, and any providers who have previously registered a potential interest in investing in broadband infrastructure, in the county). We have also published the OMR Request for Information on our website at: <http://www.rutland.gov.uk/digitalrutland>

The OMR process will also take account of the actual and planned extension of broadband coverage being delivered under the current Digital Rutland project contract with BT.

## **5. Responding to this Request for Information**

The information we are requesting is specified in the following section (Section 6). A spreadsheet template is attached in Appendix 2 - Rutland OMR Postcode Template. The spreadsheet is our preferred format for receiving your responses. However, if you prefer to submit your response in an alternative format, and/or if you wish to provide supplementary information in another format, we would be pleased to receive it.

When responding to this request, we would be grateful if you could confirm your organisation's name and address, as well as the name, position and contact details of the person responding on behalf of the consultation. We also request confirmation from an authorised signatory that the information provided is suitably accurate and up-to-date.

### **We require responses to this Request for Information no later than 15<sup>th</sup> September 2014.**

Please send your responses to: Robert Rowan, Rutland County Council, Catmose House, Catmos Street, Oakham, Rutland LE15 6HP via email to: [rowan@rutland.gov.uk](mailto:rowan@rutland.gov.uk)

Please note that any information you provide in your response will be treated as commercially confidential to your organisation. However, it may be necessary to share some or all of your response with our professional advisors and/or DCMS/BDUK, Ofcom, the BIS State Aid Branch, and the European Commission, in the course of seeking State Aid approval. We are also subject to certain legal obligations to disclose information in certain other limited circumstances.

It should also be noted that it is a State Aid requirement to utilise the information provided to produce State Aid maps to define White/Grey/Black areas for Basic Broadband and NGA. These maps will be used to define our Intervention Areas and the maps will be published as part of our State Aid public consultation. However, the published maps will show the aggregated White/Grey/Black Basic Broadband and NGA areas, not the data provided on per-operator basis.

If you have any questions about this OMR Request for Information process, please

contact Robert Rowan on 01572 758396 or email: [rrowan@rutland.gov.uk](mailto:rrowan@rutland.gov.uk)

## 6. Information Requested

This section specifies the information you are requested to provide in response to this Request for Information.

Appendix 2 - Rutland OMR Postcode Template provides a format for providing the requested information. Instructions on how to use the template are included in the 'Instructions' tab of the spreadsheet.

We are requesting information on, and supporting evidence for, any current or planned (next 3 years) investment in broadband infrastructure in the county of Rutland. We have pre-loaded the 'Operator OMR Response' tab of Appendix 2 – Rutland OMR Postcode Template with the postcodes, and the number of commercial and residential premises per postcode. In Rutland we have used Local Land and Property Gazetteer (LLPG) data (June 2014) as the source of the pre-loaded postcode and premises data.

We are requesting information on the postcodes, and the number of premises within each postcode, covered (or planned to be covered) by your broadband infrastructure investment. We are asking for information on coverage of Basic Broadband and NGA coverage separately (to enable us to map the Basic Broadband and NGA White/Grey/Black maps required for State Aid purposes). By 'covered' (or 'passed') we mean that fixed network infrastructure is available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna.

We propose to use the following criteria for determining coverage of Basic Broadband and NGA White/Grey/Black areas, respectively, and we are requesting that you classify the coverage of postcodes and premises of your current or planned (next 3 years) broadband infrastructure using the same criteria (where the criteria is applicable to your organisation's broadband infrastructure):

For Basic Broadband, each postcode is turned Grey if:

- BT estimate that all premises in the postcode can receive (or are planned to receive) a broadband speed >2Mbps;
- OR, if Virgin Media serve 90% of premises within the postcode;
- OR, it is an area served by an alternative fixed infrastructure provider with Access Line Speeds >2Mbps;
- OR, if a wireless service or other qualifying technology is available at >2Mbps to premises in the postcode.

Each postcode is turned Black if it satisfies two of these conditions. All other postcodes remain White.

For NGA, each postcode is turned Grey if:

- BT has upgraded the network infrastructure serving the area AND premises within the postcode have an estimated (VDSL for FTTC) Access Line Speed of >15Mbps;
- OR, if Virgin Media serve 90% of premises within the postcode;
- OR, if it is in an area that is served by an appropriate NGA qualifying technology that meets the requirements of the BDUK NGA Technology Guidelines with Access Line Speed of >15Mbps.

Each postcode (or partial postcode) is turned Black if it satisfies two of these conditions. All other postcodes (or partial postcodes) remain White.

Please note that if more than 10% of the premises within the postcode do not meet the minimum speed test (>2Mbps for Basic Broadband, >15Mbps for NGA), that postcode shall be turned (Basic Broadband or NGA, respectively) White.

The speed threshold criterion used to determine an area as superfast remains at 24Mbps or above. However, having due regard for the EC Guidelines (which would enable NGA areas getting less than 30Mbps to be classified as NGA White), and the DCMS policy objective of delivering Superfast Broadband (>24Mbps) (which would similarly enable NGA areas getting less than or equal to 24Mbps to be classified as NGA White), we have set the above speed criteria for NGA White to be less than or equal to 15Mbps. We have set the NGA White speed criteria at this level having regard to the requirement in the EC State Aid Decision that public funding granted under the scheme shall ensure a 'step change' in broadband capability (typically provides at least a doubling of average access speeds) – our priority for targeting NGA interventions is to use the available public funding to provide a 'step change' in broadband capability for premises currently getting relatively slow broadband speeds (<15Mbps), rather than using the available funding to provide more marginal increases in broadband capability for premises already getting higher broadband speeds (>15Mbps).

We have also had regard for the current position in the UK retail market, whereby all of the major retail providers are using a threshold of at least 15Mbps for customers ordering a higher speed broadband service designed to support a bundle of broadband, Pay TV and telephony products with a quality of service that ensures a fully satisfactory customer experience. However, we reserve our position in relation to any speed tests that might be used to define future intervention areas for public funding, which may seek to establish a higher level of minimum NGA speed to fully support current policy objectives (e.g. DCMS >24Mbps, EU >30Mbps) or future policy objectives.

Alongside completing Appendix 2 - Rutland OMR Postcode Template (or instead of the spreadsheet if you are not able to provide the information in the required template form), any information provided in response to this Request for Information should include, but

need not be limited to:

- Detailed maps for Basic Broadband and NGA showing the existing coverage, and separately maps detailing the planned investment in Basic Broadband and NGA for at least the next 3 years.
- Details of premises covered or passed, i.e. postcodes and the number of premises by postcode, that fixed network infrastructure is available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna.
- A detailed description of the technology solution(s) deployed (or to be deployed) in your broadband infrastructure.
- A description of the services/products currently offered, and separately those services/products to be offered within the next 3 years.
- Installation, annual/monthly subscription, and additional volume or per-service tariffs for those services/products (identifying whether such tariffs are inclusive or exclusive of VAT).
- Upload and download speeds typically experienced by end-users, and how these may vary by factors such as distance, increased take-up or demand, contention, etc.
- Appropriate indicators of the quality of services (e.g. contention ratios, bandwidth allocation per user, etc), including any characteristics (e.g. latency, jitter) that are required to support advanced services such as video conferencing or HD video streaming.
- Details and planned timing of roll-out of any future investments, including further investments required to cope with future increases in take-up and demand.

Please supplement the required information above with any supporting evidence as you consider appropriate (e.g. links to public websites, etc).

Please also note that further information may be required to substantiate actual or planned coverage claims, including business cases and evidence of available funding to enable plans to be fulfilled.

## **7. Next Steps**

Based upon the responses received as part of our OMR process, we plan to publish our proposed interventions areas for a one calendar month State Aid public consultation commencing during October 2014.