



14 March 2024

To all fixed-line operators,

Fixed-line broadband infrastructure sharing in England

I am writing to you about the use of telegraph poles for fixed-line broadband deployment, which is generating public concern in some parts of the country.

A number of MPs have brought to my attention the frustrations of communities they represent over the duplication of overhead fibre networks. They have advised that their constituents feel they have no control over how infrastructure is deployed in their local area, and this can negatively affect the overall perception of full fibre deployment.

While these concerns are most prominent in a small number of areas in England, I have seen complaints from residents across the country.

Incumbents with Significant Market Power

As you will no doubt be aware, Openreach and KCOM are two of the main telecommunications operators in England, and their position means that Ofcom previously found that Openreach and KCOM have significant market power (SMP) in their respective markets.

Ofcom found that Openreach has significant market power in the passive infrastructure market. This led to the implementation of a Duct and Poles Access remedy, which requires Openreach to share its ducts and poles with any other operators, subject to a regulated fee structure.

Government regards the introduction of a Duct and Poles Access remedy as a significant success. It has allowed for many new entrants to the telecoms market to start up and scale up, which has led to significant and growing levels of infrastructure competition, including in rural and remote areas of the UK. In turn, that competition has led to rapidly expanding coverage of gigabit-capable broadband in the UK, even as consumer prices have stayed relatively low.

As you will know, the conditions are different in the Hull area, where Ofcom found that KCOM holds significant market power.

The approach taken by Ofcom in the Hull area is to facilitate new entrants' use of KCOM's network by improving existing wholesale local access arrangements and by requiring KCOM to make reasonable physical adjustments to its network to facilitate access. It also continues to ensure that access is on fair and reasonable terms, including with regards to charges.

Ofcom also recognises that other operators may seek space in KCOM's network of underground ducts and chambers to deploy a fixed access network in the Hull Area to compete with KCOM in the market. Similarly, other operators may request space on KCOM's telegraph poles. Ofcom states that it considers that such requests could be reasonable under the condition it is imposing. In such cases, KCOM would effectively be required to provide the relevant form of physical infrastructure access as soon as reasonably practicable and on fair and reasonable terms, conditions and charges for the deployment of fixed network technologies to fixed locations in the Hull area.

Infrastructure sharing and maintaining broad support for the digital connectivity agenda.

This Government is committed to ensuring there is a competitive broadband market so that everyone can receive the connectivity they need at an affordable price. We have also committed to delivering gigabit-capable connections to 85% of UK premises by 2025 with 99% of premises connected by 2030. The work operators across the UK undertake is crucial in achieving these ambitious goals.

I also recognise the important part telegraph poles can play in delivering efficient and cost-effective coverage and connectivity to communities. They enable infrastructure deployment without costly and disruptive roadworks, or where existing infrastructure cannot be used, leading to greater choice for consumers.

However, we want to make sure that while deployment happens efficiently, it also takes into account the impact these installations can have on communities and the environment. For this reason, the Government places great importance on the sharing of existing infrastructure.

Indeed, the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 place requirements on operators to share apparatus where practicable; and new measures introduced by the Product Security and Telecommunications Infrastructure Act 2022 make it easier for operators to upgrade and share the use of existing underground ducts and telegraph poles.

I am sure you will also be aware of the existence of the Cabinet Siting and Pole Siting Code of Practice 2016, which provides guidance on ways operators can ensure that telegraph pole and cabinet installations are placed appropriately, and that local authorities and communities are engaged with regarding proposed installations.

In addition to the measures set out above, the Communications (Access to Infrastructure) Regulations 2016 give you the right to access infrastructure operators' physical infrastructure, such as electricity poles, to deploy networks, subject to certain exemptions.

All of the above measures have been put in place to allow fast and efficient network deployment, whilst minimising the impact on communities.

In light of increasing public concern, **it is more important than ever for you to ensure that you are doing everything possible to explore the possibility of sharing existing infrastructure and underground network deployment before making the decision to use telegraph poles.** New telegraph poles should only be in cases where installing lines underground is not reasonably practicable, and only after ensuring that appropriate community engagement has taken place and that the siting of new infrastructure will not cause obstructions to traffic or unduly impact the visual amenity of the local area.

I firmly believe that by sharing existing infrastructure where possible, through proactive local engagement and considerate placement of any necessary new installations, we can achieve Government's connectivity goals and bring people fast, reliable connectivity across the UK, whilst maintaining widespread public support.

For this reason, I have asked my officials to consider what steps my Department can take to revise the existing Cabinet Siting and Pole Siting Code of Practice.

The intention behind revising this Code of Practice is to develop a refreshed set of guidelines which makes sure that communities feel engaged in the deployment of new broadband infrastructure, whilst still allowing operators to continue deploying their networks, bringing faster connectivity and greater choice to consumers.

Ultimately, the intention is that the new guidelines, once published, will fall under the scope of regulation 17 of the Electronic Communications Code (Conditions and Restrictions)

Regulations 2003. My officials will be in touch with you directly in due course regarding this work and I hope you will participate where possible.

I wanted to express once again my gratitude for the work you are doing in helping deliver our connectivity ambitions. I believe that the sharing of existing physical infrastructure where possible will be key in ensuring that this work can progress at the necessary pace and with the strong backing of communities.

Yours sincerely,

A handwritten signature in black ink that reads "Julia". The signature is written in a cursive style with a large, looping initial 'J'.

Julia Lopez MP
Minister for Data and Digital Infrastructure