



House of Commons  
Environment, Food and Rural  
Affairs Committee

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# Rural Broadband: Government Reply to the Committee's Report

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**Twelfth Special Report**

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### Contacts

All correspondence should be addressed to the Clerk of the Environment, Food and Rural Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 3262; the Committee's e-mail address is: [efracom@parliament.uk](mailto:efracom@parliament.uk).

# TWELFTH SPECIAL REPORT

The Environment, Food and Rural Affairs Committee reported to the House on *Rural Broadband* in its Report of Session 2002–03, published on 15 July 2003 as HC 587. The Government's Reply to the Report was received on 15 September 2003.

## Government response

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### Introduction

1. This response has been agreed by the Department for Environment, Food and Rural Affairs (Defra) and Department of Trade and Industry (DTI).
2. The Government welcomes this report and is pleased that the Committee recognises the continuing development of Defra's role as the advocate of the needs of rural areas. Although much progress has already been made in taking steps to improve the availability of broadband in rural areas, the Government endorses the Committee's view that more can be done. Following the setting up of the Rural Broadband Team in DTI in early May 2003, bringing together officials from DTI and Defra, a strategy for rural broadband is being developed which will set the framework for action. This is being developed with stakeholder engagement and will be delivered in partnership with others. In particular, the Unit is working with Rural and Information and Communications Technology (ICT) teams in the Regional Development Agencies.
3. The Committee has rightly identified specific areas for action and the report will be extremely helpful in taking this process forward.
4. Where appropriate, related recommendations have been considered together.

### Recommendation 1

5. **We agree with the Countryside Land and Business Association that setting trigger levels for all exchanges, no matter how high they might be, would help rural communities to gauge their prospects of accessing broadband via ADSL. We therefore strongly urge BT to set trigger levels on all exchanges. (paragraph 23)**
6. This approach was advocated by Ministers at meetings with BT to discuss the rural broadband issue last year. Having encouraged BT to be more transparent in providing information on trigger levels and likely enablement of rural exchanges, the Government has welcomed BT's pre-registration scheme and in particular the setting of trigger levels which has led to 900 exchanges meeting their demand trigger of which more than 500 are already live for broadband and the rest are in the process

of being upgraded. Ministers will write to BT to put forward the view that it is in their interests as a company as well as in the local public interest, for them to be open and transparent about trigger levels, but this must be a commercial decision for the company .

### **Recommendation 2**

7. **We recommend that Oftel and BT meet to clarify whatever confusion persists about the degree to which BT is able to cross-subsidise the enablement of exchanges with money made in profitable areas. (paragraph 24)**
8. This is an issue for Oftel and BT, but the Government is pleased that Oftel has met BT to clarify the degree to which BT is able to cross-subsidise the enablement of exchanges. The Government understands that there is no regulatory rule which requires BT to recover the costs of upgrading an exchange from revenue generated in the area served by that exchange. However, in setting the prices of its broadband products (which it sets on a national basis), BT must comply with competition law and its regulatory obligations. This means, for example, that the products must not be priced below cost with a view to excluding competitors.

### **Recommendation 3**

9. **By offering good quality services online the Government can make a vital contribution to stimulating demand for broadband services, which will in turn encourage investment in such services. We recommend that the Government move quickly to offering all of its own services online, including those services particularly directed at rural communities. We also recommend that the Government encourage other public sector bodies to make services available online as quickly as possible. Encouraging demand should not stop once broadband has been made accessible: take-up of the service is also important. (paragraph 25)**
10. The Government accepts this recommendation. Government is committed to ensuring that central government services are made available electronically by 2005 and that key services achieve high levels of use. The latest Electronic Service Delivery survey shows that 63% of services were e-enabled at the end of 2002 and departments have forecast that they are on track for getting all government services on line by 2005 target.
11. The Government's strategy includes the creation of a mixed economy for the supply of public services, where consumers (citizens and businesses) will be able to access e-government services via intermediaries in the public, private or voluntary sector. The Office of the e-Envoy published a consultation document on the framework for intermediaries on 29 May 2003 that aims to ensure that all departments involve intermediaries. This means people will be able to access services in a way which suits

them best and through organisations they know and trust. Benefits to rural areas would stem from intermediaries' wider yet focused reach, helping to mitigate issues of social and economic exclusion, IT literacy and poor rural infrastructure. There has already been some success. For example the British Cattle Movement Service (BCMS) allows intermediaries to supply cattle movement data from agents directly into the BCMS validation system.

12. Government agrees that take up of services is important. As part of the Spending Review 2002, the Government recognised the need to look beyond simply getting services online to making sure they bring about a real improvement in the quality of services and that people want to use them. To push this forward the Government's target of getting all e-Government services online by 2005 has been enhanced to include a commitment "with key services achieving high levels of use". In order to achieve this, the Office of the e-Envoy is currently developing a methodology, definitions and targets for each of the key services.

#### **Recommendation 4**

13. **We recommend that the Government, in conjunction with regional and local authorities and local Business Link services, work to encourage and support local groups and businesses campaigning for broadband provision in rural communities. Such support should include advice and small grants to facilitate their activities. (paragraph 26)**
14. Government agrees that supporting local campaign groups is an important way of facilitating more extensive broadband rollout and this has been encouraged by Ministers.
15. The Rural Broadband Team set up at the beginning of May within DTI will focus on the problems and issues of broadband for rural areas including supporting local campaign groups. Working closely with Defra, a strategy is being developed that will concentrate primarily on demand stimulation. One of the DTI Rural Broadband Team's first actions will be to develop a publication that identifies engagement options for rural businesses and communities. The publication and associated resources will aid understanding of the issues surrounding access to broadband in the rural environment. Defra and the DTI's Rural Broadband Team will explore with partners the possibility of small grants to facilitate campaigning activities.
16. Activity currently exists on supporting groups. The Committee's report identifies one of the most successful examples: the East of England Development Agency's Broadband Brokerage established in June 2002. A website allows companies, public sector organisations, communities and individuals to register their interest in using broadband. Once a cluster of demand has been identified, possible suppliers are approached and given the opportunity to provide a service. There have been over 14,000 registrations to date. The first two clusters (Diss in Norfolk and Felaw

Maltings in Ipswich) were announced for commercial bidding to 40+ suppliers in February 2003. The supply is underway and the next top 10 clusters of unfulfilled demand have been identified and are being issued to potential suppliers over the next three months.

17. Coupled with the EEDA brokerage is the Connecting Communities Competition. 21 winning communities announced on 23<sup>rd</sup> July 2003 are obtaining a substantial contribution to the provision of broadband services. Over 200 expressions of interest were received by the initial closing date, which was more than expected. Entries ranged from small villages to entire districts and even whole counties that were unlikely to be commercially viable to connect. Consultancy was offered to the most promising entries, and 87 detailed business cases made it to the final judging. In addition to the winners, a further 25 entries overlapped with some of the areas in the winning entries, which are being encouraged to subsume these within their broadband network plans. Several other communities have had trigger levels set by BT and EEDA will be supporting them where possible.
18. Government also supports those groups that go further than campaigning, to actual service provision within their communities. An example is the Alston Cybermoor Social Enterprise Model which is supported by the UK Broadband Fund.

#### **Recommendation 5**

19. **We recommend that the Government continue to work to make more frequency bands available for use by providers of wireless broadband services. We further recommend that the Radiocommunications Agency be formally directed to set the price of radio spectrum licences at a level that actively encourages the development of wireless broadband. (paragraph 27)**
20. The Government has allocated a number of bands for the full range of broadband services and will continue to make more available. Fixed Wireless Access (FWA) licences, in the 3.4 GHz band, were auctioned this June and all 15 were sold. At 5 GHz, licence exempt (no fee) Bands A and B were opened for Wireless LANs (Local Area Networks) and FWA in February, and Band C will be opened for light licensing (low fee) as soon as other users of the band can be accommodated by alternative arrangements.
21. Government agrees that work should be done to make more frequency bands available where relevant. Officials in the Radiocommunications Agency (RA) are working with the Broadband Stakeholders Group to explore the case for the release of further spectrum.
22. The price of radio spectrum must be determined by reference to the matters set out in the Wireless Telegraphy Act 1998. These include the availability of and demand for spectrum and desirability of promoting its efficient use, the economic benefits

arising from the use of wireless, the development of innovative services and the competition in the provision of telecommunications services. Within this framework, the RA sets fees that Government feels reflect the need to deliver broadband services effectively.

23. Management of the radio spectrum and the level of spectrum license fees will, under the new Communications Bill, be a matter for Ofcom. Ofcom will be independent of Government. The Secretary of State will reserve power to direct Ofcom on spectrum matters but, with limited exceptions, only with the express approval of both Houses of Parliament.
24. Although allocation and pricing of spectrum will in future be for Ofcom, the spirit of the Committee's recommendation has been met by the inclusion within the Bill of duties on Ofcom to have high regard to the desirability of encouraging the availability and use of high speed data transfer services throughout the UK, and to the different interests of the people living in rural and in urban areas. Moreover, in setting licence fees, Ofcom will be required to balance various considerations including the desirability of promoting innovative services and competition, both of which are relevant here.
25. In carrying out their spectrum functions, Ofcom will need to have regard to, and to balance a number of factors. That is not to say that the needs of rural areas for broadband can necessarily always be paramount where there is a conflict with other objectives. Ofcom however will be operating within a statutory framework that duly acknowledges and reflects the need in general terms of extending broadband to rural areas.

### **Recommendation 6**

26. **Given the particular importance of demand aggregation in the provision of broadband in small towns and villages, we urge the Government to ensure that Defra is strongly represented on the aggregation project team. (paragraph 29)**
27. Defra is represented on both the Ministerial Steering Group by Alun Michael MP, Minister of State (Rural Affairs and Local Environmental Quality), and on the Project Board itself. The Ministerial Steering Group provides the policy direction to the Broadband Aggregation Project. Defra is therefore in a position to ensure that its views are fully taken into account in this key project which seeks to lever the Government's expenditure on broadband connectivity for its own purposes to secure more broadband availability for rural communities. These two groups will continue to operate.
28. The Rural Broadband Team as part of DTI will have a strong influence in the governance of the Regional Aggregation Bodies whose responsibility it will be to deliver the project.

## Recommendations 7 and 8

### Recommendation 7

29. We recommend that the Government work closely with regional and local authorities and broadband suppliers, as well as with consumers, to develop imaginative means by which private sector consumers can ‘piggy-back’ on public sector infrastructure. (paragraph 30)

### Recommendation 8

30. Nevertheless we recommend that the Government strike a balance between ensuring that educational and healthcare facilities are connected rapidly to broadband and allowing individuals and small and medium-sized businesses to benefit from aggregation and ‘piggy-backing’. In principle we believe that public sector investment should have a secondary aim of making broadband more accessible to the wider community as well as to schools and hospitals. (paragraph 31)
31. Government accepts these recommendations.
32. A fundamental aim of the Broadband Aggregation Project is to lever public sector broadband expenditure to secure wider broadband availability for the citizen and Small and Medium Sized Enterprises, especially in rural areas. The faster that broadband is extended to meet the needs of educational and healthcare facilities, the faster the beneficial effects for communities will be felt.
33. The Regional Aggregation Bodies being set up as part of the DTI’s Aggregation project will work closely with Regional Development Agencies and other partners and will seek to let contracts for public sector connectivity in a way that increases wider community access to broadband technology. Government will encourage this through the National Aggregation Body.

### Recommendation 9

34. There is a proportion of the countryside – generally the most rural and remote areas – where the provision of broadband cannot reasonably be left to the marketplace. In order not to disadvantage such areas intervention is essential. We therefore recommend that the Government rapidly identify those areas in which its intervention is needed, develop policies, in conjunction with Regional Development Agencies and local authorities which ensure that broadband is made accessible in remote areas; and back those policies with adequate funds. It should, for example, make specific funds available under the England Rural Development Programme to subsidise the cost of broadband in the most remote areas. (paragraph 32)

35. The Rural Broadband Team set up at the beginning of May within DTI will focus on the problems and issues of delivering broadband into rural areas. The team is exploring the issues raised above, including where intervention may be required with a variety of partners including the Regional Development Agencies, local authorities and other intermediary bodies. This is feeding into a strategy for rural broadband which the Government hopes to be a position to announce later in the year.
36. Support is already potentially available under the England Rural Development Programme. Projects under the "basic services" measure of the Rural Enterprise Scheme could include investment in broadband access. However, the Government does not propose to make available specific, ring-fenced funds. That would limit the flexibility of regions in using the funding available to them to tackle regional and local needs. Further subdivision of the overall budget would also make budgetary management more difficult, and increase the risk of not maximising our use of EU funding. When regional targeting statements for the use of the Rural Enterprise Scheme and the other project-based schemes are next revised, however, we will consider whether Defra centrally should encourage regions to place particular emphasis on broadband services.

#### **Recommendation 10**

37. **We recommend that the Government clarify in its response to this report its understanding of European state aid rules as they relate to public sector support for broadband. We are keen to ensure that such rules, or current misunderstanding of them, do not affect public support for broadband provision in the most remote communities. (paragraph 33)**
38. The Government agrees that a proper appreciation of the EU State Aid rules is important for understanding the constraint on the public sector's involvement in broadband rollout.
39. The traditional way to provide support for broadband is through aid given under the regional aid rules. However, for large firms this is only an option in UK Assisted Areas. Small and Medium Sized Enterprises can be assisted in all areas as long as the aid complies with the terms of the Small and Medium Sized Enterprise Block Exemption (Commission Regulation (EC) 70/2001).
40. There is however potentially a further state aid compliant way to support business access in non-Assisted Areas. This is through funding of what are known as Services of General Economic Interest (SGEI). An SGEI is not defined in the Treaty and it is for individual Member States to determine what constitutes an SGEI, with the Commission only having a role in case of manifest error. In general an SGEI is a service that the market does not provide or does not provide to the extent or to the quality which the Government would like. An SGEI must also serve the generality of

economic interest and not the interest of one particular group. An SGEI can be set by any level of Government. Broadband in for example rural areas could be seen as an SGEI. There is a market failure in that the market will not quickly provide universal access to broadband.

41. The state aid status of funding for SGEI has been clarified recently. Under a recent Decision from the European Court of Justice (ECJ) ( C 280/00 Altmark) funding will not count as aid if it meets four strict conditions.
  - i. the undertaking must actually have been given a public service obligation (SGEI) to perform and this must have been clearly defined in advance;
  - ii. the parameters of the basis of which the compensation is calculated must be established in advance in an objective and transparent manner;
  - iii. the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a relevant profit;
  - iv. where the undertaking is not chosen in a public procurement procedure, the level of compensation must be determined by comparison with an analysis of the costs which a typical undertaking in the same sector would incur.
42. If these tests are satisfied then there has been no advantage in state aid terms to the company aided.
43. The Department of Trade and Industry will clarify this area of policy in October by guidance for local authorities. There are no plans to make broadband an SGEI on a national basis.

## **Recommendations 11 and 12**

### **Recommendation 11**

44. **We believe that Defra can play a vital role locally in providing advice to rural businesses and other members of rural communities, as well as to infrastructure providers and others, about broadband. The Department should also take on greater responsibility for co-ordinating those agencies charged with delivering broadband in rural areas. We strongly recommend that it makes arrangements to do so. (paragraph 35)**

### **Recommendation 12**

45. **At a time when the Government is attempting to encourage diversification in the rural economy, to persuade farmers and others in the rural economy to access**

**Government services electronically and to facilitate social inclusion for rural areas, it is counter-productive that it has allowed a ‘digital divide’ to open up between urban and rural areas in terms of access to broadband. It is precisely to stand up for the interests of rural communities in such policy areas that the Department for Environment, Food and Rural Affairs was created. Although we heard evidence that it has begun to act for rural areas in relation to broadband we strongly urge it to do more. (paragraph 36)**

46. In the response to the Committee’s report into Delivery of Education in Rural Areas, Government explains that Defra’s role is to identify the particular interests of rural areas, and to represent and promote these interests to the relevant lead Department or Agency – in this case the Department of Trade and Industry – to ensure that delivery is as good as it can be in rural areas. From the outset, Defra Ministers have stressed that it would undermine rural delivery rather than strengthen it, were policy for rural broadband – or for education and skills or planning policy or housing or transport or health – to be divorced from the mainstream.
47. Defra is playing a key role in relation to broadband in rural areas. Defra officials work closely with the DTI policy team, and these contacts have been strengthened by the inclusion of a Defra official in the recently formed Rural Broadband Team in DTI. As part of this cooperative approach, Defra has agreed to fund key research into the impact of broadband availability on economic performance and productivity of rural areas, in order to develop and strengthen our understanding of the rationale for intervention promoting broadband in rural areas. The Rural Broadband Team will ensure as part of its strategy to support broadband rollout in rural areas, that both DTI and Defra resources are harmonised within the regions to ensure that relevant advice and funding issues are well co-ordinated. Defra also works with other government departments, public sector organisations and stakeholders. Government Offices have a key role to play in ensuring a joined up strategy at regional level. Both centrally and through the Government Office rural directors, Defra has close links with the Local Government Association, it has regular meetings with stakeholders and it has also met a number of local authority representatives, community groups and project managers.
48. In October 2002, Defra invited a number of representatives of stakeholder organisations to a “rural broadband brainstorming” session. The results of the brainstorming have been made available via the internet on a specially established discussion forum, hosted on behalf of Defra by UK Villages. The forum has been valuable in connecting rural broadband interest groups and has recently been extended to include the outputs from a Yorkshire Forward workshop organised by a Defra official on secondment to the Regional Development Agency to assist in developing a broadband strategy.
49. Whilst Defra is closely involved with all this work, a key principle of rural proofing is that the Government Departments themselves do it and deliver their policies in

rural areas with their own resources. An important part of Defra's central role is to represent and promote the interests of rural areas to the relevant lead Department or Agency and to make sure that Departments get delivery in rural areas right. As the joint evidence by Ministers to the Select Committee showed, this is a partnership approach reflecting the Government's belief that Departments can achieve more together than they can alone.

### **Recommendation 13**

**50. We recommend that the Government now reformulate its objectives in respect of broadband to reflect the need for broadband to be accessible in all areas of the country. We further recommend that the Government back its new objectives with practical policies which will ensure that broadband is accessible to all at affordable rates as soon as practicable. (paragraph 37)**

51. Defra and DTI Ministers confirmed in oral evidence to the Committee and in a press notice of 23<sup>rd</sup> May 2003 a joint aim that every community in the UK, irrespective of location should have the opportunity to access affordable broadband from a competitive market.

52. Government does not believe that there is a case for general subsidy. In the main part we believe that the competitive market which has brought about the current level of availability should be allowed and encouraged to rollout services where it believes this to be economically viable and to develop innovative approaches to doing so. The Government has some powerful levers where the market will not deliver. These include the £1 billion investment by Government on public sector connectivity through the Broadband Aggregation Project. Regional Development Agencies have £1.8 billion to spend next year on regional economic development. Where broadband is a significant barrier to development it would be legitimate for them to spend money on this. Regional Development Agencies have already been given £30 million for pilot broadband projects to learn what will work in extending availability (UK Broadband Fund) and European Structural Funds can be another source of funding where applicable.

53. The Rural Broadband Team will make sure that these levers have maximum impact in rural areas.

54. As part of the work to develop a rural broadband strategy, both departments will explore the scope for setting specific quantified targets for rural broadband provision if appropriate parameters sufficiently susceptible to Government influence can be identified.

**Recommendation 14**

**55. We hope that time will be found to debate the resolution [in the Annex to the report], and we invite the House to support it. (paragraph 38)**

56. Government notes this recommendation.

Department for Environment, Food and Rural Affairs  
September 2003