



Commission for
Communications Regulation

National Broadband Plan

Call for Input on Regulatory Implications

Submissions to Call for Input Document No. 14/126

Reference: ComReg 14/126s

Date: 12/03/2015

An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

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1 AIRWAVE INTERNET SUBMISSION



RESPONSE TO CALL FOR INPUT ON REGULATORY IMPLICATIONS OF NATIONAL BROADBAND PLAN

Airwave Internet is an ISP operating in the Cork area currently using fixed wireless access technology to deliver service to a mixture of rural and semi-rural business and residential customers.

The recently announced NBS scheme promises a bright future for the customer but causes confusion in the medium term as existing companies work to provide for an ever increasing demand in the marketplace.

Taking the proposals at face value, makes a compelling case for existing operators *not* to invest in their network or make any improvements.

On the contrary, if the implementation of the NBP is managed well, it would encourage existing operators, of all technologies, to continue to upgrade their services and meet increasing customer demands which could be integrated into a final solution when that is available.

Ref	Topic	Request for Clarification
1	Availability of spectrum	FWA networks perform very well but scalability is a key concern as subscriber numbers grow. In order to continue to grow, FWA needs additional spectrum. Will this be made available ? Bands of interest are 3.6ghz and 2.6ghz but also lower frequencies like 700mhz which would allow

delivery of service to locations without good LOS

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|---|---------------------------------|---|
| 2 | Timing of any new allocations | In light of the NBS, the timing of the allocation of new spectrum is crucial. Will frequencies be allocated in time to allow FWA operators build this into their plans to be incorporated into NBP |
| 3 | Costs of frequency allocations | New spectrum which would encourage ISP's currently using unlicensed spectrum to move to delivering high grade services on a licensed band must be priced at an economical level. Equipment costs are higher and new bands entail a new network build for the operator, so every incentive must be given for the ISP to do this. |
| 4 | Cost of point to point licenses | <p>As FWA networks mature and the level of traffic grows (25%-30% year on year), ISP's need to constantly upgrade their backhaul networks. In reality, their sites serve tens or a hundred customers rather than several thousand (in case of mobile operators).</p> <p>As more and more of the ISP's network is being moved to licensed links, the costs associated with these links are a very significant part of their site costs and are a disincentive to investing in the carrier grade equipment. This issue needs to be looked at against the challenge of the upgrade of an entire network to provide NBP type service.</p> |

2 APTUS LIMITED SUBMISSION



Commission for Communications
Regulation
Abbey Court Irish Life Centre

Lower Abbey Street

Dublin 1

30th January 2015

Ref 14/126 National Broadband Plan Call for Input on Regulatory Implications

Please find below Aptus reply to Call for Input.

Reference Number	Topic	Request for Clarification
1	3.6Ghz Spectrum	<p>Aptus operate a WISP in the Southeast of Ireland and specialise in the delivery of Broadband and Telephone services to rural areas.</p> <p>The National Broadband Plan proposed by the DECNR</p> <p>is looking for state intervention in area “noted as “AMBER” on the NBP Map. The Amber Area is identified by the DCENR as an area where the commercial sector is unwilling to invest in</p> <p>Infrastructure to deliver High Speed Broadband before 2016.</p> <p>As an Wireless Operator Aptus is willing to invest its money in its own infrastructure to deliver High Speed Broadband without any state intervention in the areas the south east where it currently offers Broadband Services These areas are currently all in the “AMBER” area.</p> <p>If Aptus is to invest this money in its infrastructure it will reduce the size of the “AMBER” area on the NBP Map and increase the Size of the “BLUE” area on the NBP Map.</p> <p>In order for Aptus to invest its money in the Wireless</p> <p>Component of its Infrastructure which is used to</p>

	<p>deliver the “Last Mile” component of its service, Aptus will need to have access to Radio Spectrum.</p> <p>The 3.6Ghz Spectrum is the preferred spectrum for the delivery of this last mile component of the Aptus High Speed Broadband service.</p> <p>Currently the 3.6Ghz Spectrum licensing terminates in 2017 and no decision has been made by comreg in relation to the availability of this spectrum after 2017.</p> <p>Aptus would like to ask will the 3.6Ghz Spectrum be available for Wireless Internet Service Providers (WISP’s) to utilize for the delivery of High Speed Broadband past 2107.</p> <p>Aptus will like to ask can a decision be made on the</p> <p>3.6Ghz Spectrum before the deadline for the National Broadband Plan submission closing date later this year to allow Aptus to make a decision on its investment in High Speed Broadband Infrastructure and to make a submission to the National Broadband Plan. Aptus would like to ask if the 3.6GHz Spectrum is made available to Wireless Broadband Operators will the licenses be made available on a regional basis to allow regional broadband operators avail of the spectrum for their region only</p>
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3 BBNET SUBMISSION

BBNET SUBMISSION

REFERENCE NUMBER	TOPIC	Request for Clarifications
1	Wholesale Access	How will Comreg ensure open access, is made available, to all authorised operators to state funded infrastructure as required under state aid guidelines ?
2	Licensed Spectrum	Are Comreg still intending to auction off 3.6ghz licences in mid 2017 in advance of the NBP being finalised ? Or is there an extension planned ?
3	Licensed Spectrum	How will Comreg ensure that under the NBP, sufficient licensed spectrum is made available to fixed wireless providers, at reasonable cost, that is capable of meeting the 30Mb minimum speed requirements ?
4	Fibre Access	How will Comreg ensure fair and open access to all operators on any state funded fibre as required under state aid guidelines ?

4 BSKYB SUBMISSION

Reference No.	Topic	Request for Clarification
1	<p>Non-discrimination</p> <p>Wholesale Access/SLAs/Cost orientation</p>	<p>Given that Government awards under the NBP will be granted via an open bidding process, it is likely that operators will ex ante have the incentive to reveal their best capabilities in terms of service provision (SLAs) and cost performance compared to when the SMP operator is being asked ex post to meet certain obligations in this regard. In the latter scenario, the</p> <p>SMP operator has the incentive to understate/underestimate to the regulator and OAOs its actual achievable operational and cost efficiencies in the hope of maximising their profits through a less onerous penalty threshold on performance and to higher wholesale prices. In an open bidding process, such incentives are likely to be significantly diluted, as over extending one's position in this regard could risk the loss of the tender. Sky considers that the NBP offers ComReg a unique opportunity to compare SMP operators' self-stated capabilities with the representations it has made in previous consultation submissions and various industry fora.</p> <p>Accordingly, can ComReg explain how it proposes to apply non-discrimination obligations, in a situation where the SMP operator is successful in the tender process and where, as part of that process it has offered terms that are more advantageous (e.g. SLAs/wholesale pricing) than either currently mandated by ComReg or has previously been negotiated by OAOs with the SMP operator?</p>

		<p>Similarly, can ComReg explain what its approach would be where a non-SMP operator is the successful NBP tenderer and offers a superior suite of SLAs to what is available to OAOs under the current SMP regime?</p>
2	Past operator performance - SLAs	<p>As ComReg is aware, eircom in its capacity as the universal service provider (“USP”) has regularly failed to achieve legally binding performance targets with respect to provisioning, fault repair and fault occurrence since ComReg first introduced these performance metrics in 2008.</p> <p><input type="checkbox"/> Will ComReg have a role in bringing the USP’s previous performance to the attention of the Department in order to assist it with having full information available to it enabling it to assess the credibility of USP’s claims about future</p>

		<p>performance, or the degree to which incentives to ensure performance might be enhanced to achieve the objective of compliance?</p> <p><input type="checkbox"/> If yes, does ComReg have preliminary views on whether more demanding performance metrics should be required of the successful NBP tenderer than is currently mandated under USP obligations?</p>
3	Pricing	<p>The State Aid Broadband Guidelines¹ provide (at paragraph 78 (h)) that “...wholesale access price, should be based on the pricing principles set by the NRA and on benchmarks...” and that National Regulatory Authorities are to have “a mandate and the necessary staffing to....advise aid granting authorities on such matters.”</p> <p><input type="checkbox"/> How does ComReg interpret its role give what the State Aid Broadband Guidelines envisage?</p>
4	Access Reference Offer	<p><input type="checkbox"/> Is it ComReg’s view that the successful tenderer should be required to publish a reference offer and what in ComReg’s view should it at a minimum contain?</p>

1 Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01).

5	Universal service funding	<p>Does ComReg foresee any impacts on eircom's historical and future claims for universal service funding as a result of the NBP given that the successful tenderer will be subsidised by the State to serve uneconomical areas of the country?</p> <p>Does ComReg have a view on whether this could potentially mean a reduction in the uneconomical costs of universal service provision to eircom (regardless of whether the successful NBP tenderer is eircom or a OAO)?</p> <p>Does ComReg's current methodological framework for assessing eircom's universal service funding applications contemplate this situation and would it allow ComReg to take any impacts of the NBP into account?</p> <p>Would the successful tenderer be required to contribute to a universal service fund if it were ever established? Are there any circumstances under which it might be exempt from such a requirement?</p>
6	Obligation to negotiate access and interconnection	<p><input type="checkbox"/></p> <p>In relation to rights and obligations to negotiate access and interconnection, can ComReg confirm that the successful NBP tenderer will be subject to Regulation 5 (of the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 and that ComReg has jurisdiction to monitor and enforce these obligations?</p>

7	Disputes	<input type="checkbox"/> <p>Can ComReg confirm that it will continue to have jurisdiction in relation to inter-operator disputes concerning any obligations that the successful tenderer has under the telecoms regulatory package, as transposed into domestic legislation and that the ability to raise a dispute is without prejudice to and will not be affected by any dispute resolution arrangements that may be contemplated by the NBP?</p>
8	Consumer / retail obligations	<input type="checkbox"/> <p>What consumer related obligations that are overseen by ComReg will the successful tenderer be subject to?</p>
9	Obligations generally	<input type="checkbox"/> <p>Leaving aside the question of SMP obligations, does ComReg foresee the possibility of the successful NBP tenderer being exempt from or having a 'regulatory holiday' in respect of any obligations under the telecoms regulatory package as transposed into domestic legislation?</p> <input type="checkbox"/> <p>In providing input and advice (both ex ante and ex post the tendering process) to the Department on any aspect of the NBP can ComReg outline how it proposes to keep industry fully apprised as appropriate, of those communications in accordance with its transparency obligation?</p>

5 BT SUBMISSION

Reference 14/126

BT Response to ComReg's Consultation:

National Broadband Plan – Call for Input on Regulatory Implications

Introduction

We appreciate the opportunity to comment on ComReg's role and the regulatory implications for NBP. We would like to make the following key points:

We agree ComReg has the specialist skills and experience in competition and sectorial regulation to assist the DCENR for NBP. State Aid Decisions from the European Commission address many of the same concerns as sectorial regulation and ComReg's expertise could assist the DCENR ensuring fair and sustainable competition in NBP areas. We consider the involvement of ComReg in the ECAS DCENR project has worked well.

We agree with ComReg's process concerning communications in relation to the NBP –

i.e. subject to established confidentiality guidelines material correspondence and queries will be published on ComReg's web site. If at all possible we would ask ComReg to include a tab on their website where the documents could be presented together – similar to the subject tabs where documents are collated from the general publications.

It is helpful that ComReg is addressing the situation for confidential material; however we do have a concern that the proposed approach could cause ComReg to become 'gagged' from providing information that should be made available to industry.

Requests for clarification – The NBP project will raise a number of issues as it progresses and our assumption from this Call for Inputs consultation is that we will be able to request clarifications as necessary rather than trying to pre-empt as yet unknown issues in this response.

Below is our first request for clarification.

Request for Clarification

Reference No.	Topic	Request for Clarification
1	Confidentiality	We are seeking to understand how ComReg will deal with information that is presented to it confidentially that other parties would reasonably have a right to know.

6 CARNSORE BROADBAND SUBMISSION

Carnsore
Broadband

Number	Topic	Request for Clarification
1	3.6 GHz Band	<p>We need to know what's going to happen in the 3.6 GHz band after July 31 2017 so we are in a position to make plans to develop NGA networks in accordance with the NBP. It is important that this clarification happens as soon as possible so we can provide information to DCENR about our future network strategy.</p>

7 EIRCOM SUBMISSION

Comreg 14/126

National Broadband Plan – Call for Input on Regulatory Implications

Eircom Response

30 January 2015

Overview

This is a timely ComReg call-for-input given the recent publication by the Minister for Communications, Energy and Natural Resources of the results of the NBP mapping exercise and the publication of the key milestones in the delivery of the intervention programme.

In parallel with this ComReg call-for-input the DCENR has recently issued a further consultation on key elements of the NBP. Given that the ComReg call-for-input is non-specific, there are areas of overlap between both consultations. One example of several is that the DCENR seeks views on affordability which to date has been a key regulatory construct and in the context of the NBP, it is expected that wholesale prices will be benchmarked against price levels in the regulated competitive market. Therefore eircom's response to this call for input should be read in conjunction with its response to the DCENR consultation which will be submitted to the DCENR in mid-February.

While the NBP is clear in its aim of delivering universal high speed broadband, the regulatory rules associated with its delivery and implementation remain unclear. Moreover, the interaction between regulatory obligations arising from the EU Framework for the Regulation of Electronic Communications and those arising under EU guidelines on State Aid has introduced further uncertainty. At this point in the implementation of the NBP, elimination of this uncertainty is imperative so that all potential bidders can make well-informed decisions regarding technology choices, costing and pricing models, establishment of consortia, use of 3rd party infrastructure etc.

The following high-level public policy and regulatory issues illustrate the requirement for clarity of interpretation of the rules that will govern the project.

Maintaining the integrity of the national fixed telecommunications network during the Implementation stage of the NBP

- The NBP will result in a de-facto subsidy for universal provision of high speed broadband i.e. a funded delivery of broadband underpinned by contractual delivery and performance targets. In the intervention area(s) with the development of broadband centric platform(s), voice will be increasingly provided as an OTT service. In that scenario, it is clear that the utilisation and sustainability of a separate voice network will quickly erode and the unremunerated cost of maintaining a PSTN network with falling utilisation will quickly escalate. A key issue is how ComReg intends to ensure that eircom as the currently designated USP (or any other operator designated as USP in the intervening period) will be in a position to maintain delivery of PSTN services in the transition period as the NBP is rolled out. This challenge will be greater in particular if all or part of the NBP is awarded to a platform other than eircom's national fixed network.
- Under the existing Regulatory Framework, a funding mechanism exists which so far ComReg has deemed not be relevant as the current provision of USO is deemed by ComReg not to be an unfair burden. However, it is difficult to envisage this position being sustained in the context outlined above and this rapidly increasing USO burden would be identified in an annual USO assessment.

Dual operation of copper and fibre platforms

- An emerging hypothesis is that all or a majority of the services delivered under the NBP intervention will be based on fibre access technology. To ensure maximum value for the Government intervention, the provision of a future-proof solution will need to be provided as cost-effectively as possible. The current obligation on eircom as the USP is to not withdraw any service on its technology platform for a period of time approved by ComReg. If a long transition period is determined by ComReg the USO costs of maintaining a parallel network will extend over a longer period. Consequently it is in the interests of all stakeholders such as other operators who would have to contribute to the USO costs, and ultimately to end user customers who would fund these costs through their payments for service, that the parallel operation of both a copper and fibre network should be for as limited a period as practicable.

- A related issue concerns the asymmetry that may arise in the bidding process if eircom as the current national fixed network provider is obliged to include in its bid the costs of operating a dual platform whereas a bidder with an existing utility access network would begin from green-field starting point without such a cost burden.

Regulation of Access to Infrastructure in the bidding process and in the operation of the NBP

- The ex-ante regulatory framework for telecommunications requires the designation of Significant Market Power (SMP) where effective competition does not exist in defined markets and the imposition of asymmetrical obligations on the designated SMP operator to ensure the development of a competitive market. As the proposed NBP intervention is based on a finding of market failure given that no operator provides NGA access or its equivalent in the NBP footprint or intends to do so within the defined 3-year period, no operator can be designated as having SMP in that market. Therefore, it is assumed that the services to be delivered in the NBS footprint are outside the direct scope of the existing ex-ante regulatory framework.
- A working assumption is that, under State Aid and Public Procurement rules, all bidders will be treated exactly the same in terms of tendering requirements and on-going regulatory obligations. DCENR have also set out its view, based on EU State Aid Guidelines, that a full set of wholesale remedies must be provided.
- Eircom's expectation is that the intervention is compliant with State Aid rules in that it is focussed on proven market failure. There is a concern that the concept of market failure needs to be defined to ensure that the intervention does not overlap into areas where the perception of market failure is not valid. In that case, Government funding could displace private investment in areas where the commercial market already provides services, or is in a position to provide these services in the future. Examples include Ethernet Services, leased line networks, backhaul for mobile networks etc. Absence of a service in some areas does not prove market failure. It may simply reflect a lack of current demand for certain business or backhaul services in low density rural areas that could be met by the competing commercial providers once a demand arises in those areas.
- The EU State Aid Guidelines are clear in that all potential tendering operators are obliged to identify and offer infrastructure access to competing bidders. This will require symmetrical obligations to be applied in the area of infrastructure access for the purpose of bid preparation in response to any tender. In addition, the Guidelines require that the

successful bidder for the NBP will offer full access - active and passive – to its infrastructure to all downstream arms on a non-discriminatory basis.

- In addition, EU Directive 2014/61/EC imposes mandatory access obligations for passive infrastructure on all utility companies for the purpose of facilitating the roll-out of high speed broadband. This will be transposed in Ireland by 1 January 2016 i.e. in advance of the implementation phase of the NBP and will explicitly clarify the access obligations on all operators of utility networks in Ireland - whether or not they respond to the tender.
- In line with EU NGA guidelines, DCENR are expected to impose a full set of requirements for Non-Discrimination and Transparency. These will include obligations for functional separation, accounting separation, and a rigorous cost based model that will be used to monitor the business and economic performance of the NBP entity to determine if a claw-back of subsidy is required. It is also expected that wholesale prices will be benchmarked against urban areas.

Approach to Costing and Pricing in the NBP intervention area

- The NBP intervention will highlight tensions between regulatory approaches by Government to the Telecommunications market and the Electricity markets. As far as eircom is aware, the Irish Government NBP intervention is the first time in the EU that these tensions require to be addressed. Failure to do so could prejudice the tender process and present a significant advantage to one potential bidding party over another.
- Specifically, differences exist between the Telecommunications and Electricity regulatory approaches to capital investment recovery and to associated connection and subscription charges pricing. For example, pricing principles for connection to the electricity network set out by CER ensure that much of the excess capital investment cost of distribution connections above an urban cost, are recovered through connection charges. This means that the capex burden on ESB is essentially an urban one with higher costs of providing connections in rural areas being funded up front by customers. In addition, unlike the rigorous ex-ante approach to regulating eircom's wholesale and by extension, eircom's retail prices, it appears to be necessary that ComReg will regulate the transfer prices that ESB networks may charge to its downstream bidding arm as it competes for Government funding to offer telecommunications services in the intervention area.

- It is expected that DCENR will set wholesale NBP prices by benchmarking against similar wholesale prices in urban areas. Nondiscrimination obligations will also be fully imposed ensuring that retail competition can flourish at a retail level. In addition, it is expected that DCENR will require NBP wholesale operators to act a retail service provider of last resort. These mechanisms will ensure that retail prices will be available on a ubiquitous basis and so no additional affordability requirements should be necessary.

These are examples of regulatory issues including regulatory uncertainties that impact on the planned industry response to the NBP tender. Other areas that would benefit from further discussion would be related public policy areas including Town and Country Planning rules and spectrum allocation which may be important influencers in the successful completion of the NBP.

The following sets out these issues in more detail in the manner prescribed in the call-for-input document.

Ref No	Topic	Request for Clarification
1	Universal Service	Will the strategic review by ComReg of USO be completed in time to establish certainty on longer-term implementation of Irelands USO obligation before the NBP tendering process begins?

2	Dual Access Platform	<p>Will the USO take into account the impending NBP in assessing the load on the existing PSTN network and the expected collapse of revenues to support that network in particular during the transition from the legacy network to a Broadband –centric network?</p> <p>Will the strategic review by ComReg address the definition of USO specifically the requirement to meet all reasonable requests for voice telephony service at a fixed location? Will the USO definition of functional internet access be changed to reflect the higher bandwidth services which are now the most common form of internet access?</p> <p>One or more operators will be selected to deploy the NBP on a national or regional basis. It is likely that such deployments will be based on FTTH, and even if based on other technologies the infrastructure to be deployed will be specified to be capable of delivering services in conformance with the EU NGA State Aid Guidelines, and capable of supporting voice services. Clearly broadband and voice services will quickly migrate to the new high capability network and the utilisation of the existing PSTN network will collapse thereby creating a substantial USO cost that would become increasingly unsustainable and unreasonable. What policy approach does ComReg envisage to minimise the transition period and the USO costs that would have to be borne by industry and end user customers?</p>
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		<p>What measures would ComReg envisage as necessary to protect the interests of all retail and business customers who currently avail of legacy copper services either directly from eircom or indirectly through eircom wholesale?</p> <p>In circumstances where obligations imposed on eircom in terms of a transition regime from copper to fibre impose extra costs on eircom that would disadvantage its tender response against any other access network provider, what regulatory measures will be taken to offset this disadvantage and to re-establish a level playing field for all potential bidders?</p>
3	Pricing of the NBP network solution	<p>How does ComReg intend to intervene in the process whereby potential tenderers for the NBP will seek regulated access products from eircom in order to construct a tender response?</p> <p>In such a scenario, does ComReg accept that the nature of the NBP is such that a turnkey response is required and therefore the overall pricing approach to the RAPs should reflect the scale of the network involved that was not contemplated in the economic models that underpinned currently mandated prices, rather than being based on published prices?</p> <p>If ComReg intervention is to ensure that all RAP component are offered to external bidders and to eircom's own bid on the same published terms and conditions, what regulatory measures will be introduced to avoid compromising eircom's bidding approach and to allow eircom to compete on a fair and equal basis with other bidders who will have visibility of eircom's internal network transfer prices?</p>

Does ComReg accept that in the absence of such equalisation measures, eircom will be in a position of such disadvantage that its prospects of submitting a successful bid are significantly diminished?

What measures will ComReg implement to address the regulatory anomalies between the regulation of the national electricity access network and the eircom access network where in the context of the NBP bid, these anomalies incur specific advantage on the State owned entity with an exclusive franchise in a national electricity access network?

Specifically will ComReg ensure that the regulatory pricing model applied to the transfer pricing arrangements of ESB networks with its downstream JV or any other entity is similar to that applied to eircom in the context of ensuring a fair and equal bidding process?

In that context, will ComReg ensure that transfer pricing arrangements address and equalise differences in how the capital costs of connections are recovered?

In line with EU NGA guidelines, DCENR are expected to impose a full set of requirements for Non-Discrimination, Transparency. These will include obligations for functional separation, accounting separation, and a rigorous cost based model that will be used to monitor the business and economic performance of the NBIP entity to determine if a claw-back of subsidy is required. It is also expected that wholesale prices will be benchmarked against urban areas. In that context can ComReg confirm that the development of separate costing models by ComReg for the NBIP will not be required?

On the basis that a rigorous cost-based model will be required to underpin the network investment to deliver the NBP service, can ComReg confirm that other additional and substitutional regulatory controls in particular replicability and margin squeeze tests will not be applied?

	Affordability of Pricing	<p>It is expected that DCENR will set wholesale NBIP prices by benchmarking against similar wholesale prices in urban areas. Non-discrimination obligations will also be fully imposed ensuring that retail competition can flourish at a retail level. In addition, it is expected that DCENR will require NBP wholesale operators to act a retail service provider of last resort. These mechanisms will ensure that retail prices will be available on a ubiquitous basis and so no additional affordability requirements should be necessary. Can ComReg confirm that no further affordability measures will be required?</p>
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8 ENET SUBMISSION

Reference No.	Topic	Request for Clarification
1	Wholesale access	Will an SMP operator bidding for the NBP be obliged to construct its proposed NBP tender offering using the same wholesale products provided by its upstream arm at the same wholesale prices as it offers on a nondiscriminatory basis to other parties submitting tenders?
2	Reference Offer	Will an SMP operator bidding for the NBP be obliged to publish a Reference Offer for all relevant wholesale products, in particular passive network elements, provided by its upstream arm which it intends to use in constructing its proposed NBP tender offering? If so, how far in advance of the formal tender process will such a Reference Offer be made available to other bidders?
3	Equivalence	Will an SMP operator bidding for the NBP be obliged to provide access to relevant wholesale inputs on an Equivalence of Input (EoI) basis to other tenderers? If so, what measures will ComReg take to ensure that this happens in practice?
4	Compliance	How does ComReg propose to ensure to the satisfaction of other tenderers that any NBP bid submitted by an SMP operator is fully in accordance with its existing regulatory obligations?
5	Transparency	How does ComReg propose to ensure to the satisfaction of other tenderers that an SMP operator has constructed its bid using the same wholesale inputs (provided by its upstream arm) at the same wholesale prices as have been supplied to third-party bidders?
6	Accounting separation	In what way does ComReg propose to ensure to the satisfaction of other tenderers that an SMP operator bidding for the NBP will be obliged to account separately for its use of upstream wholesale inputs in constructing its proposed NBP tender offering?

7	Universal service	What process will be used by ComReg to review the existing universal service designation after the NBP award takes place? Is it reasonable to assume that no changes will be made to existing USO provisions until after the NBP award process has been completed?
8	Alignment of regulation and NBP contract	To what extent will regulatory obligations pertaining to the terms for wholesale access provided by an SMP operator bidding for the NBP be aligned with contract terms put in place by DCENR with the chosen NBP provider?
9	Enforcement	Does ComReg envisage having an enforcement role in relation to the operation of the NBP subsequent to contract award?
10	Access to other regulated assets	Will ComReg liaise with other sectoral regulators and/or public authorities if other regulated assets (e.g. the electricity network) form part of any bidders' proposed NBP network configuration? If so, will ComReg ensure third party bidder access to such assets?

9 ESB / VODAFONE JOINT VENTURE SUBMISSION

Re: Response to ComReg's Call for Input on Regulatory Implications, National Broadband Plan. Comreg14/126.

From: ESB/Vodafone Joint Venture FTTB Co

Date: 30th January 2015

We welcome the opportunity to respond to ComReg's Call for Input on "Regulatory Implications National Broadband Plan" and ComReg's proactive approach to NBP regulatory environment.

Our response is attached in the format requested in the attached Appendix : ESB/Vodafone Joint Venture FTTB Co Response to ComReg's 14/126 CFI.

We look forward to participating in next stage of the process.

Reference No	Topic	Request for Clarification
1	Wholesale	Will the wholesale service provided by an operator winning NBP funding be subject to wholesale price regulation by Comreg and/or contract terms agreed with DCENR?
2	Wholesale	If conditions are attached to wholesale services as part of an NBP contract could these conditions be varied later by a Comreg regulatory process
3	Wholesale	What role will Comreg play in the relationship between wholesale and retail service providers in the NBP?
4	Wholesale	Will Comreg make all aspects of their role in managing and/or regulating the relationships clear before the tender stage of the NBP?
5	Wholesale	Will the terms of an NBP contract have precedence over Comreg regulation?
6	Wholesale	Within the NBP, will a radio network, a copper based network and an FTTH network (or similar) be subject to the same regulation?
7	Wholesale	Will the use of spectrum of some bands be confined to the NBP?

Reference No	Topic	Request for Clarification
8	Wholesale	Will the timing of spectrum release be coordinated with the NBP process?
9 10 11	Wholesale	<p>Will wholesale product (such as leased lines) that support NBP be subject to the same leased line regulation as other leased lines or will a separate regulatory regime be in place?</p> <p>For retail operators in NBP areas the Leased Line costs will be a key input into the cost of backhaul from interconnect points. How will these leased lines be regulated during the period of the NBP?</p> <p>Will the commercial terms of leased lines used to support NBP be governed by contract with DCENR or by regulation?</p>
12	Wholesale	Will any regulatory regime covering NBP be separate from the regime covering non-NBP parts of the country?
13 14	Uniformity of Pricing	<p>If a Service Provider providing wholesale access in both commercial and NBP areas is there an obligation to charge the same prices for products & services supplied to retailers in both types of area?</p> <p>If not what difference between the two would Comreg consider reasonable while still maintaining its role as customer advocate and how would this be validated on an ongoing basis over the period of the intervention?</p>

Reference No	Topic	Request for Clarification
15	Technology Neutrality	<p>We note with concern the trend for regulation to consider technology neutrality to be the de facto correct solution.</p> <p>In the EU, the fixed infrastructure market is characterised by market failure in all 28 markets. The result of this has been the need to regulate the dominant operator in those markets – preventing them from choosing prices or limiting access. In other words, if we hope for dominant providers to deliver all that is needed then history tells us this is unlikely to hold true in the future.</p> <p>This means the onus is firmly on regulation to look after today and, in particular, think about tomorrow.</p> <p>The key problem is that for today, you can make almost any technology choice and achieve the speeds that European policy makers are looking for – particularly if you fail to define that these speeds should be delivered consistently during the busy hour.</p> <p>This matters because some choices made today would have significant impacts in a few year’s time.</p> <p>Technology neutrality is a great concept, but as DCENR has clearly stated (see text box) we must also consider the requirements of the future. This means emphasising a technology neutral approach that is compatible with an upgrade path into the future – meaning such investments in broadband are not wasted in a few years time. Extract from High Speed Broadband Map 2016 Consultation, page 30:</p> <ul style="list-style-type: none"> • <i>One submission noted that any State-led intervention should lay the foundations for requirements for the next 20-40 years and not just facilitate the upgrade from one generation of access equipment to the next.</i> <p>The Department has made it clear from the outset that any State-led intervention should be designed in such a way as to be a long term and sustainable solution that provides for the requirements of the future. The above submission, which will be considered as part of the development of the Intervention Strategy, appears to align with the Department’s stated approach.</p> <p>QUESTION: We request Comreg clarify how it expects to apply Technology Neutrality in the context of DCENR’s stated aim for a long term and sustainable solution</p>

Reference No	Topic	Request for Clarification
16	Prediction and Planning	<p>The stated ambition of DCENR to design the NBP for the long term means agreeing what that long term might mean.</p> <p>We request Comreg work with DCENR and industry to agree a range of parameters for the speeds likely to be required in future years and to use these in selecting appropriate technology options for the NBP intervention. By appropriate we mean ones that can deliver the speeds required in the market beyond the next few years (noting that DCENR is thinking of evaluating tenders over a 20 to 40 year period) without the need for significant additional investment.</p>
17	Spectrum	Will spectrum be reserved for the winner of an NBP contract? If so which bands will they be offering?
18	Spectrum	Will license conditions attached to the spectrum be specifically aligned with the contract conditions of the NBP?
19	Significant Market Power	Will the act of being awarded an NBP contract mean that the winner will be considered to have Significant Market Power in that area?
20		If so, what would the implications be for the winning bidder?
21	USO	What is the new regime for USO that will apply for NBP contract winners?
22	USO	Will there be any differences in how USO will be applied if the winner of an NBP contract is not Eircom?
23	USO	We note from Comreg's Information Notice 14/120R that a review of USO (at fixed locations) is planned for the first half of 2015 and would urge Comreg to commence this and to make their provisional views known at the earliest opportunity.
24	Regulatory Model	Is it expected that the NBP operator(s) will be subject to the fullest regulation possible from day 1 or will some type of phasing in or the regulatory regime be considered?
25		If the regulatory regime is going to be phased in or asymmetric regulation considered, please describe in detail?

END

10 ESB TELECOMS SUBMISSION

ComReg
Abbey Court,
Irish Life Centre,
Lower Abbey Street,

Dublin 1.

30th January 2105

Reference: ComReg 14/126 CFI National
Broadband Plan

Dear Sir/ Madam,

ESB Telecoms Ltd welcomes the opportunity to respond to ComReg's Call for Input on "Regulatory Implications National Broadband Plan" and ComReg's proactive approach to NBP regulatory environment.

Our response is attached in the format requested in the attached Appendix : ESB Telecoms Response to ComReg's 14/126 CFI.

We look forward to participating in next stage of the process.

Enclosed: Appendix: ESB Telecoms Ltd Response to ComReg's 14/126 CFI.

Reference No	Topic	Request for Clarification
1	Universal Service Obligation (USO)	We note from Comreg's Information Notice 14/120R that a review of USO (at fixed locations) is planned for the first half of 2015 and would urge Comreg to commence this and to make their provisional views known at the earliest opportunity.
2	USO	What is the new regime for USO that will apply for NBP contract winners?
3	USO	Will there be any differences in how USO will be applied if the winner of an NBP contract is not Eircom?
4	Regulatory Model	Is it expected that the NBP operator(s) will be subject to the fullest regulation possible from day 1 or will some type of phasing in or the regulatory regime be considered?
5		If the regulatory regime is going to be phased in or asymmetric regulation considered, please describe in detail?
6	Significant Market Power	Will the act of being awarded an NBP contract mean that the winner will be considered to have Significant Market Power in that area?
7		If so, what would the implications be for the winning bidder?
8	Prediction and Planning	The stated ambition of DCENR to design the NBP for the long term means agreeing what that long term might mean. We request Comreg work with DCENR and industry to agree a range of parameters for the speeds likely to be required in future years and to use these in selecting appropriate technology options for the NBP intervention. By appropriate we mean ones that can deliver the speeds required in the market beyond the next few years (noting that DCENR is thinking of evaluating tenders over a 20 to 40 year period) without the need for significant additional investment.
8	Spectrum	Will spectrum be reserved for the winner of an NBP contract? If so which bands will they be offering?

Reference No	Topic	Request for Clarification
9	Technology Neutrality	<p>We note with concern the trend for regulation to consider technology neutrality to be the de facto correct solution.</p> <p>In the EU, the fixed infrastructure market is characterised by market failure in all 28 markets. The result of this has been the need to regulate the dominant operator in those markets – preventing them from choosing prices or limiting access.</p> <p>In other words, if we hope for dominant providers to deliver all that is needed then history tells us this is unlikely to hold true in the future. This means the onus is firmly on regulation to look after today and, in particular, think about tomorrow.</p> <p>The key problem is that for today, you can make almost any technology choice and achieve the speeds that European policy makers are looking for – particularly if you fail to define that these speeds should be delivered consistently during the busy hour. This matters because some choices made today would have significant impacts in a few year's time.</p> <p>Technology neutrality is a great concept, but as DCENR has clearly stated (see text box) we must also consider the requirements of the future. This means emphasising a technology neutral approach that is compatible with an upgrade path into the future – meaning such investments in broadband are not wasted in a few years time.</p> <p>Extract from High Speed Broadband Map 2016 Consultation, page 30:</p> <ul style="list-style-type: none"> • <i>One submission noted that any State-led intervention should lay the foundations for requirements for the next 20-40 years and not just facilitate the upgrade from one generation of access equipment to the next.</i> <p>The Department has made it clear from the outset that any State-led intervention should be designed in such a way as to be a long term and sustainable solution that provides for the requirements of the future. The above submission, which will be considered as part of the development of the Intervention Strategy, appears to align with the Department's stated approach.</p> <p>QUESTION: We request Comreg clarify how it expects to apply Technology Neutrality in the context of DCENR's stated aim for a long term and sustainable solution</p>

11 IMAGINE SUBMISSION

Imagine

Comments on ComReg CFI:-

National Broadband Plan

Call for Input on Regulatory Implications

30th January, 2015

Introduction

Imagine Communications welcomes the opportunity to submit this response to ComReg's Call for Input regarding the Regulatory Implications on the National Broadband Plan (see ComReg 14/126, published on December 4th 2014).

The call for input requests that the responses are in a specific format to ease ComReg's ability to identify and deal with submissions appropriately. Imagine's responses in this format are in section 2 of this document.

Imagine's request for clarification in response to the call for input (ComReg 14/126)

Reference	Topic	Comments	Request for clarification
1	NBP	<p>We Note :</p> <p>That the focus of the NBP is a "long term, future proofed infrastructure build with fibre as a key component underpinning whatever technology delivers the service (fixed or wireless)".</p> <p>As noted in the DCENR call for input:</p> <p>The NBP has two key strands:</p> <p>encourage and facilitate investment in next generation broadband by commercial operators; and</p> <p>taking action in those areas where it is evident that the commercial sector will not invest without an incentive from Government.</p>	<p>Cognisant of the key strands of the NBP, in its role as regulator, how does ComReg intend to ensure that in its spectrum award proposals and decisions, it acts to:</p> <ul style="list-style-type: none">- facilitate the NBP objectives to- "encourage and facilitate investment in next generation broadband by commercial operators "- and reduce the need for

			<p>State Intervention?</p> <p>In particular with regard to wireless services:</p> <p>The timing of decisions relating to the current spectrum consultation could unnecessarily delay investment and given the proposed timeframe outlined in the NBP undermine the impact on the areas that could be covered by commercial operators and the proposed tender process.</p> <p>Providing clarity on the availability, cost and duration of suitable and sufficient spectrum licences that can be used to deliver NGA Broadband services to facilitate investment is a critical requirement. How does ComReg intend to ensure that the current proposed timing of the current spectrum consultation does not cut off the opportunity for FWA investment in the near term?</p>
2	The Role of FWA in the NBP	<p>As noted by the DCENR</p> <p>“Fixed wireless operators have also played an important role in addressing basic broadband deficits, particularly in rural areas over the last number of years and there is no reason to believe they will not continue to be an important stakeholder.”</p> <p>We note that DCENR have recognised that FWA based on LTE-A can deliver NGA services as specified under EU guidelines and meet the</p>	<p>Given the challenge to deliver NGA services to regional and rural areas under the NBP and the important contribution that existing FWA operators using TD LTE A in the 3.6 GHz frequency band can make:</p> <p>How does ComReg intend</p>

	<p>requirements of the NBP.</p> <p>Imagine have submitted detailed technical specifications and demonstrated a NGA solution that meets the EU guidelines, to the DCENR, based on TD LTE A using 2x20 MHz Channels in their existing licenced 3.6Ghz spectrum.</p> <p>The technical and economic characteristics of TD LTE A have significant timing, cost and reach advantages over other NGA technologies and can economically deliver NGA services over a wide area in less densely populated areas.</p> <p>The deficit of areas in the current maps not planned to be covered by FTTX and Cable operators for economic reasons, clearly illustrates the important contribution that FWA can make to the NBP is well illustrated in the current maps and noted in the DCENR “Call for input”</p> <p>“Ireland’s widely dispersed population and topography presents a very specific challenge in delivering universal quality high speed broadband. The average rural population density in Ireland is 26 people per km² compared to an EU average¹¹ of 116 per km². Accordingly, there are many areas where it is simply not viable for the commercial sector to provide such services, even where adequate backhaul exists.</p> <p>These challenges are not unique to Ireland, but are particularly pronounced owing to our dispersed population patterns. As commercial investments accelerate in towns across Ireland, rural areas with only basic broadband services will be increasingly marginalised. The proposed State-led intervention aims to ensure that every citizen and business, regardless of where they are located has access to a minimum of 30Mbps connectivity.</p> <p>There are over 700,000 premises (600,000 homes and 100,000 businesses) which do not form part of any current industry investment plans. These represent 32% of all the premises in Ireland. These premises will be the focus of</p>	<p>to ensure that the important role of FWA in the NBP is reflected in its spectrum award proposals, particularly with regard to which spectrum, and what quantum thereof, is appropriate to include in the award?</p> <p>Given the timing of the NBP process and the impact on investment in FWA that can deliver NGA services can Comreg provide clarity on the timing of a decision not to include - or the basis on which 3.6GHz is to be included - in a consultation and spectrum award?</p> <p>How will existing operators be given assurances required to facilitate investment within the timeframe set out in the NBP and participate in the tender process?</p> <p>How will ComReg respond to the unintended consequence of the current consultation process which jeopardises the significant planned investment by Imagine and possibly other FWA operators into key target NBP areas not planned to be covered commercially by other fixed operators?</p>
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		<p>the proposed Government intervention;</p> <p>Only 17% of the premises in the target intervention areas are located within a kilometre from the centre of a village. The remainder of these premises are in rural ribbon development and one-off houses;</p> <p>While only representing 32% of the premises in Ireland, the premises in the target intervention area are spread over a very large geographical area, on nearly 100,000 kilometres of road;</p> <p>The Map demonstrates clearly the scale of the challenge in reaching all of these premises.”</p>	
3	Fixed and Mobile Markets	Given the EU Guidelines on the qualification of certain Wireless technologies as capable of delivering NGA and that the NBP requires the provision of services to premises which include guaranteed minimum performance criteria including 30Mbps Downlink at all times.	Does Comreg consider that the market for broadband services such as those to be provided by the NBP is a different market to that for Mobile Broadband services?
4	Recent Consultation on the release of the 2.6Ghz Spectrum and the possible inclusion of 3.6Ghz currently in use.	<p>Comreg have recently launched a consultation on the release of the 2.6 GHz Spectrum and possible additional spectrum in other frequencies including 3.6 GHz. While Comreg has noted various distinguishing factors in relation to this spectrum including that this spectrum is “brownfield” and used by existing operators, the potential outcomes of the consultation creates investment uncertainty. This is of particular relevance in the context of the NBP process and the infrastructure investment required under the NBP.</p> <p>The launch of such a broad consultation process involving large quantities of and different spectrum frequencies has the potential to take a significant amount of time to conclude. As an unintended consequence of this process, the uncertainty created by the current process has sterilised investment in the market in the areas covered by existing FWA operators and investment in infrastructure to deliver NGA services. These operators, and Imagine in</p>	Given the unintended consequence of the consultation and the impact on current operators and planned competitive infrastructure investment which will benefit the NBP, consumers and the competitive market, what can Comreg do to prioritise its consideration of the 3.6 GHz spectrum within the consultation process?

		<p>particular, have a special and unique focus on delivering much needed NGA infrastructure into areas that have no NGA service either currently or planned. This is directly relevant to the NBP. It is clear that NGA infrastructure in these areas is a marginal investment and there is no demonstrated demand by commercial operators to serve these markets. FWA operators and Imagine in particular, have a clear focus on serving these areas and in the continuation of their existing businesses.</p>	
5	<p>Timing of spectrum award relative to NBP timescales:</p> <p>The implications of the parallel process of the Consultation on 3.6 GHz spectrum and the NBP and tender process</p>	<p>We note that the DCENR intends to enter into contracts for subsidised networks under the NBP in 2016, that the NBP requires a minimum of 30Mbps to all premises well ahead of the EU DA 2020 target, and that 3.6GHz – the only spectrum suitable and sufficiently available to deliver NGA services using TD-LTE FWA - is under consideration in ComReg's multiband award proposals.</p> <p>The NBP process involves an evolving a process including clear and demonstrable plans for the commercial deployment of NGA Services to be included in the Mapping process to establish where state intervention is required and where required how it is to be provided. This culminates in the tender process.</p> <p>As set out in the DCENR call for input</p> <p>“In the Call for Input on key aspects of the State-Led Intervention’. The document stated that “inputs are required prior to finalising the detailed Mapping Exercise and the proposed end-to-end strategy for the State-led intervention ...in the telecommunications market”.</p> <p>A mapping exercise is being conducted by the DCENR, “to identify those areas that require a State intervention” and which would likely form the basis of the tender process</p> <p>The DCENR’s website notes that “In tandem</p>	<p>How does ComReg seek to provide access to sufficient spectrum in a timely manner, and with sufficient certainty, to allow FWA operators to engage fully in the process as set out under the NBP and tender process?</p> <p>How will ComReg provide the clarity required sufficiently early to permit operators to secure the financing necessary to participate in the NBP and tender process?</p> <p>The retention of sufficient spectrum to deliver NGA services using TD LTE A is fundamental to any credible business plan to secure the required investment and to be considered for the purpose of the mapping exercise where a company can commit to a commercial deployment and in a formal tender under the NBIP.</p> <p>Participants in the process are required inter alia to</p>

	<p>with the completion of the mapping exercise, intensive design and planning work is ongoing in the Department with a view to producing a detailed implementation strategy for the State led intervention. A full public consultation will be conducted on the outcome of the mapping process and the proposed intervention strategy.”</p> <p>“The publication of the Map is important therefore, as it shows clearly the areas where the commercial sector has indicated it intends to provide high speed services. In so doing, it assists Government in identifying the area for a State-led intervention”. “On this basis the Department is now publishing a map (the “Map”) showing where,</p> <p>access to high speed broadband services provided on a commercial basis is expected to be in place by the end of 2016; and</p> <p>where the Government may take action to enable access to high speed broadband.</p> <p>The Department will continue to engage with operators on a regular basis to ensure that an accurate picture of the actual and planned roll-out of commercial high speed networks is updated on the Map as the Department’s NBP programme progresses to the procurement phase in late 2015.</p> <p>In tandem with the mapping activities, intensive design and planning work is underway in the Department to produce a detailed strategy to identify how the NBP will be delivered to these premises (the “Intervention Strategy”). The strategy will address a range of issues in relation to the intervention, including the optimum procurement model, ownership, governance and likely market impacts.</p> <p>A full public consultation on the proposed Intervention Strategy will commence by the middle of next year. The Intervention Strategy will then be notified to the EU Commission to obtain State Aid clearance. Following this, the Department will implement the procurement process in late 2015. Contract negotiation with</p>	<p>provide detailed deployment plans, business plans and proof of funding.</p> <p>In the absence of and pending clarity on the Spectrum underpinning planned infrastructure investment, FWA operators using 3.6Ghz spectrum are effectively prevented from deploying NGA network in advance of the conclusion of the mapping exercise and committing to deploying further network. This will have a direct and significant impact on the areas requiring - and the cost of - State Intervention.</p> <p>As stated in the Call for Input:</p> <p>“It may be desirable that ComReg would, insofar as is possible, provide whatever regulatory clarity that it can to all stakeholders in a transparent manner so as to facilitate an efficient and effective NBP tender process.”</p> <p>In view of the above, the matters outlined in this submission and the criticality of the timing, what can Comreg do to provide the regulatory clarity required as quickly as possible?</p>
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the preferred bidder(s) should be finalised by mid-2016 to enable the roll-out of high speed broadband to NBP Intervention Areas as soon as possible thereafter.

A request for tender for the purposes of selecting the operator(s) responsible for roll-out of the State-subsidised network(s) will be issued towards the end of 2015 with a view to entering contract or contracts with preferred bidder(s) in 2016.

The table below sets out a high level timeline for the major components of the programme. It should be noted that these timelines are indicative only.

Title	Date	
<i>Public consultation on preliminary outcome of the Mapping Exercise (NBP Intervention Areas)</i>	<i>Q4, 2014</i>	
<i>Publication of Submissions on the Mapping Consultation</i>	<i>Q1, 2015</i>	
<i>Public Consultation on Draft Intervention Strategy</i>	<i>July, 2015</i>	
<i>EU State aid notification</i>	<i>November, 2015</i>	
<i>Commence RFT process</i>	<i>December, 2015</i>	
<i>Evaluation of tenders and selection of successful bidder(s)</i>	<i>2016</i>	
<i>Contract negotiation and finalisation</i>	<i>2016</i>	

6	Regulatory Objectives	<p>Regulation 16(2) states that:</p> <p>“In pursuit of its objectives [under paragraph (1) and under section 12 of the Act of 2002], the Regulator shall apply objective, transparent, non-discriminatory and proportionate regulatory</p>	<p>Uncertainty in relation to current services and future NGA investment by existing FWA operators using 3.6GHz spectrum has unfortunately arisen as a consequence of the</p>
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		<p>principles by, among other things—</p> <p>promoting regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods,</p> <p>ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services,</p> <p>safeguarding competition to the benefit of consumers and promoting, where appropriate, infrastructure based competition,”</p>	<p>recent consultation in the context of the parallel NBP process.</p> <p>There is a clear infrastructure deficit in the areas targeted by NBP and, as far as we know, Imagine is the only operator with a current opportunity to commit significant investment into these areas if ComReg can swiftly provide sufficient regulatory clarity that sufficient spectrum will be available to support NGA grade LTE-A deployment in NBP areas.</p> <p>In the context of the foregoing can ComReg respond to these exceptional circumstances and provide early regulatory guidance so that this essential and scarce investment is not lost to the country.?</p> <p>In pursuit of ComReg’s primary objectives under the act is it not also appropriate for Comreg to provide clarity on the 3.6 GHz Spectrum currently used by FWA operators as quickly as possible?</p>
7	Regulatory Precedent certainty and critical timescale	<p>We note that in the UK, Ofcom has given a FWA operator in the 3.6GHz certainty over the future continuity of its licence as part of its 3.6GHz licence award process.</p> <p>In reaching its decision Ofcom distinguished the services provided and to be provided to be different from Mobile Broadband and to the services offered by other fixed operators and</p>	<p>Recognising the benefit to the market under the NBP and effective infrastructure competition in the NGA fixed broadband market, can ComReg give clarity over the timescale and conditions for renewal of the existing FWA licences</p>

		which would provide benefit to the market.	in order to minimise uncertainty and to facilitate investment in FWA to meet the NBP?
8	Sufficient Spectrum to Support NBP	The Department has made it clear that any State-led intervention should be designed in such a way as to be a long term and sustainable solution that provides for the requirements of the future.	What does ComReg consider to be sufficient spectrum to support the NBIP objectives and given the rapid development and roadmaps for wireless technologies how will the possible requirement for additional spectrum to deliver these advanced services be considered?
9	Promoting regulatory predictability	ComReg notes that it will provide a response in early 2015 to its CFI on regulatory implications for the NBP:	Given that, without more certainty regarding spectrum allocations, FWA investment in support of the NBP may not now go ahead, can ComReg reduce uncertainty by accelerating its decisions in respect of the 3.6 GHz band or by giving intermediate guidance to the market that sufficient spectrum will be made available to support fixed NGA services?
10	Continuity of access near end of licence term		Can ComReg detail any reasons why it should not take a similar approach to the allocation of 3.6GHz spectrum as did Ofcom in the UK, notably in deciding that UK Broadband's spectrum licences should be extended indefinitely and not subject to re-auction, given ComReg's role in respect of the NBP and objectives to secure efficient use of spectrum

			and the need to ensure continued competition in the fixed line market?
11	Certainty of access to spectrum		Given the obligations under the NBP, has Comreg considered what certainty of access to spectrum for the contract duration need to be given and can ComReg outline its views in this regard?
12	Wholesale		If an NBIP subsidy is provided for infrastructure that may also be shared or used by an operator with SMP to support regulated services, how will this be taken into account in ComReg's calculations for cost oriented price controls?
13	Certainty of access to spectrum	<p>Given the size of the Irish market, the quantum of Spectrum held by only three Mobile operators and the quantum of additional spectrum under consideration for release, we do not believe that there is any justifiable requirement and or need for 3.6GHz spectrum for MBB.</p> <p>Further, MBB and high speed broadband are distinct markets and should be treated as such in ComReg's consideration of this spectrum.</p>	If this is simply the case and considered to be the most likely outcome of a spectrum auction process, what reason is there to prolong the uncertainty in relation to the inclusion of 3.6GHz in the process.
14	Discrimination		How will ComReg ensure sufficient competition between FWA and Fixed Wireline providers, given that the auction structure for 3.6GHz risks unreasonably disadvantaging FWA operators' access to sufficient spectrum in order for them to deploy efficient

			NGA networks?
15	Safeguarding competition		<p>How does ComReg's auction structure seek to promote competition and/or avoid undermining competition in the fixed market for broadband and NGA - particularly in encouraging FWA to compete in areas poorly served by broadband access?</p> <p>Is it not necessary to ensure that there is sufficient competition in the market for fixed services that sufficient spectrum be allocated for use by fixed services exclusively?</p>
16	Efficiency and consumer welfare	Given the anticipated low demand for 3.6GHz for mobile applications (as noted by ComReg's consultants),	Should ComReg exclude 3.6GHz from the spectrum auction in order to provide certainty and continuity of access for the only feasible current use (i.e. FWA for NBP) and for the provision of what is considered an essential service under the NBP?
17	Spectrum Efficiency	<p>Given that existing licences for 3.6 GHz extend to 2017 and beyond the NBP process for determining state intervention, there is a real risk that if the benefit of FWA NGA infrastructure is not exploited to the benefit of the market and the State, that the benefit will be lost and the value of the Spectrum will be significantly diminished.</p> <p>Imagine with the benefit of its existing infrastructure and committed investment can deliver infrastructure competition quicker ensuring delivery of faster NGA high speed</p>	<p>Does this not fundamentally undermine the purpose and objectives of including 3.6GHz spectrum in a tender process?</p> <p>Should ComReg exclude 3.6GHz from the spectrum auction in order to provide certainty and continuity of access for the only feasible current use of this</p>

		<p>broadband services to areas not serviced by existing operators and derive market and consumer benefits today including lower prices for broadband; provision to under-served customers and additional end-to-end competition in the market for fixed broadband.</p> <p>A delay in providing clarity on the availability of spectrum required by Imagine to facilitate investment, risks these tangible benefits being lost completely. This very real risk must be compared and contrasted with a decision to continue to include the spectrum required by imagine in an auction process which cannot provide any certainty about whether the same level of competition, innovation or investment will be delivered by another spectrum user post 2017</p>	<p>spectrum and facilitate investment in NGA for the provision of what is considered an essential service under the NBP and which will derive the best economic benefit and value from this Spectrum?</p>
18	Regulating State intervention		<p>What are the regulatory implications and how will Comreg act to prevent market distortion if regulatory clarity on the 3.6GHz spectrum is not provided in a timely manner to facilitate participation by FWA operators in the NBP process and subsequently operators using TD LTE FWA deploy commercial NGA services in areas designated for State intervention,?</p>
19	Efficiency and spectrum availability for FWA	<p>Given:</p> <ul style="list-style-type: none"> - the many other bands and amount of spectrum already available and underutilised for MBB -the anticipated low demand for 3.6GHz for mobile applications (as noted by Comreg's consultants), -mobile broadband demand for the 3.6GHz band is intangible at present and uncertain in the 	<p>What realistic benefit could be derived in including 3.6GHz in a wider spectrum consultation, compared to the risk of precluding FWA operators from the NBP in the only suitable band for their network operation?</p>

		<p>future.</p> <p>-internationally that mobile operator interest in the band has been limited to backhaul, in the short to medium term, rather than providing mobile broadband capacity.</p> <p>- And the availability of other bands with better propagation, and the potential use of WiFi (supported by fixed broadband), made the future importance of 3.6 GHz for MBB doubly uncertain.</p>	
20	Compliance with Framework Regulations	<p>We do not believe that utilisation of the 3.6 GHz spectrum in the provision of NGA under the NBP was considered in the consultation. We note that ComReg noted (para 7.20) that other countries have considered national broadband plans when setting coverage obligations, while ComReg have not done so.</p>	<p>Given the absence of explicit consideration of the NBP within the recent spectrum award consultation and the unintended consequences and the impact on existing FWA operators, that and on the basis of Regulation 16 of the Framework Regulations, does ComReg consider that it is appropriate to reconsider the inclusion of 3.6 GHz Spectrum in the consultation and or in consideration of the specific benefit and use of the 3.6 GHz spectrum by existing operators under the NBP act to provide certainty in relation to the licences to facilitate investment?</p>
21	Market Distortion	<p>As noted in the DCENR Call for input:</p> <p>In implementing this project, it is critical that Government funding does not create competitive distortions by duplicating or crowding-out commercial investment in high speed broadband services. The publication of the Map is important therefore, as it shows clearly the areas where the commercial sector has indicated it intends to provide high speed</p>	<p>How does ComReg ensure that any intervention by the Government in the market as a result of the NBP does not distort competition and unfairly prejudice existing operators or investments and also specifically in circumstances where</p>

		services. In so doing, it assists Government in identifying the area for a State-led intervention.	investment by FWA operators has been prevented?
22	Technology Neutrality		<p>How will ComReg ensure that the approach to the deployment of subvention / intervention in the market by Government to deliver NPB objectives is technologically neutral and instead focused solely on meeting the service specifications required for customers?</p> <p>If investment in FWA is prevented due to the spectrum uncertainty can the requirement of technology neutrality under the SAG be sustained?</p> <p>Could this also create market distortion?</p>
23	EU Guidelines for the application of State aid rules	<p>“EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks”</p> <p>"To achieve the ambitious goals of the Digital Agenda in promoting very fast broadband connections throughout the EU, we need to achieve the right mix between public and private investment while building a pro-competitive environment. These new rules will allow for well-designed public interventions targeted at market failures and ensure open access to state funded infrastructure".</p> <p>It also states that EU State aid clearance will be required for the intervention once the strategy is finalised.</p>	While unanticipated, would the impact of the delay and or loss of investment in FWA derive regulatory consequences under the EU State Aid rules?
24	Monitoring Compliance	The SAG (EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks) states in footnote (71) that mobile broadband technology must also ensure the required quality of service	In ComReg’s role as NRA with the associated technical knowledge and expertise, do Comreg believe that this is capable

		level to users at a fixed location while serving any other nomadic subscribers in the area of interest.	of being implemented in a manner that can be adequately policed by Comreg on an ongoing basis to ensure the required quality of service level to users?
25	State Aid Rules	<p>The SAG (EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks) Paragraph (45) states that “Where an operator is subject to certain obligations to cover the target area (61), it may not be eligible for State aid, as the latter is unlikely to have an incentive effect.”</p> <p>In the associated footnote (61) it gives the examples of:-</p> <p>a mobile operator with coverage targets under their licence conditions in the target area</p> <p>an operator designated with an universal service obligation (USO) receives public service compensation, no additional State aid can be granted to finance the same network</p>	Do ComReg believe that these conditions apply to potential applicants to the NBP? Can Comreg provide a list of operators in the Irish Market to whom these conditions might apply?

12 IRELAND OFFLINE SUBMISSION

IRELAND OFFLINE SUBMISSION

Reference No	Topic	Request for clarification
1	Intervention Area	Is the intervention area (as depicted by the DCENR Map) accepted by ComReg as an area of market failure in the provision of NGA services.
2	Intervention Area	Is the intervention area (as depicted by the DCENR Map) accepted by ComReg as an area of regulatory failure in the provision of NGA services.
3	Ex-ante Regulation	What regulatory markets does ComReg consider appropriate to the Intervention or the Intervention area.
4	Ex-ante Regulation	Which, if any, of those markets will be subject to ex-ante regulation.
5	Price Controls	What cost/price model will ComReg apply to the Physical Infrastructure Provider (PIP) if designated as having Significant Market Power (SMP)
6	Price Controls	What cost/price model will ComReg apply to the Managed Service Entity (MSE) if designated as having Significant Market Power (SMP)
7	Price Controls	What cost/price model will ComReg apply to the Wholesale Network Provider(s) (WNPs) if designated as having Significant Market Power (SMP)
8	Price Controls	What cost/price model will ComReg apply to the Retail Service Provider(s) (RSPs) if designated as having Significant Market Power (SMP)
9	VDSL substitution	Does ComReg consider FTTB/P/H and (x)VDSL as substitutable services at a fixed location in the intervention area.
10	Mobile Wireless substitution	Does ComReg consider FTTB/P/H and Mobile Wireless Access as substitutable services at a fixed location in the intervention area.
11	Fixed Wireless substitution	Does ComReg consider FTTB/P/H and Fixed Wireless Access as substitutable services at a fixed location in the intervention area.
12	Coverage conditions	Will ComReg be introducing specific geographic coverage conditions to existing liberalised-use licences in the intervention area.
13	Retail Authorisation	What requirements will ComReg impose on intending RSPs.
14	Retail Authorisation	Will ComReg guarantee an authorisation timeline to new market entrants or NBP tenderers

15	Retail Authorisation	Will ComReg apply any subjective conditions to authorisation. What will they be.
16	Community Access Authorisation	What authorisation will be required for one-off community funded access initiatives in the intervention area.
17	Retail Authorisation	Will ComReg require rights to apply speed measurement equipment to Retail connections.
18	Wholesale Authorisation	Will ComReg require rights to apply speed measurement equipment to Wholesale PoP(s).
19	Consumer Premises Equipment	Will ComReg regulate Customer Premises Equipment (CPE) in the intervention area.
20	USP	Will ComReg consider the Intervention area separately for the purposes of USP.
21	USO	What will be the requirements of the USO.
22	USO	What penalties will apply to the USP in default of its USO.
23	USO	What compensation will be available to customers in default of those USO(s).
24	Contracts and Arbitration	Will ComReg oversee contracts between the MSE and the Physical Infrastructure Provider(s) (PIPs)?
25	Contracts and Arbitration	Will ComReg oversee contracts between the Wholesale Network Provider(s) (WNP) and the MSE
26	Contracts and Arbitration	Will ComReg oversee contracts between the WNP(s) and the Retail Service Providers RSP(s)
27	Contracts and Arbitration	Will ComReg arbitrate disputes between the PIP and the MSE.
28	Contracts and Arbitration	Will ComReg arbitrate disputes between MSE and WNPs
29	Contracts and Arbitration	Will ComReg arbitrate disputes between WNPs and RSPs
30	Schedule	By what date will ComReg have finalised the regulatory framework of the intervention and the intervention area, and issued any necessary decision notices.

13 KERNET SUBMISSION

KERNET SUBMISSION

REFERENCE NUMBER	TOPIC	Request for Clarifications
1	Wholesale Access	How will Comreg ensure open access to all authorised operators to state funded infrastructure as required under state aid guidelines ?
2	Licensed Spectrum	Are Comreg still intending to auction off 3.6ghz licences in mid 2017 in advance of the NBP being finalised ? Or is there an extension planned ?
3	Licensed Spectrum	How will Comreg ensure that under the NBP, sufficient licensed spectrum is made available to fixed wireless providers, at reasonable cost, that is capable of meeting the 30Mb minimum speed requirements ?
4	Fibre Access	How will Comreg ensure fair and open access to all operators on any state funded fibre as required under state aid guidelines ?

14 LIGHTNET SUBMISSION



Reference Number	Topic	Request for Clarification
1	The availability of spectrum in the 3.6 GHz band.	<p>As the DCENR are calling for proposals and business plans from the Wireless operators with regards to the NBP we would ask that the issue of 3.6 GHz spectrum be considered in a timely manner so as we may submit details to the DCENR within their timeframe. Failure to secure spectrum within the department's timeline will force the wireless community out of the process unfairly.</p> <p>Will Comreg treat the availability of the 3.6 GHz spectrum as a single matter with reference to Comreg Doc 14/101 as its results have significant impact on the current process of providing details for the DCENR mapping?</p> <p>Does Comreg have a timeline on their response to Comreg Doc 14/101 with relation to the availability of the 3.6 GHz?</p>

15 MUNSTER WIRELESS

MUNSTER WIRELESS

1. Previous mistakes.

The Government subsidized scheme by Three with NBS scheme just finished. The State gave 79.8 million to Three Ltd. with no real improvement in infrastructure except Three have now free mobile phone masts and people have a dongle which works intermittently. The fee has doubled since the NBS finished for satellite users who now pay 40 euro per month instead of 20 euro per month. For dongle users they pulled the cap back from 40 GB to 15GB and are charging 50 euro per GB on top of the cap of 15 GB. This price increase by Three clearly shows the advantage given to Three for a number of years restricting the growing of local broadband providers. It would be very costly to repeat this exercise which is clearly in breach of TFEU right to establishment of a company when litigation is brought against the state as the State was clearly in breach of EU State Aid guidelines. Will previous mistakes be repeated? Will you be compensating the FWA broadband providers active at the time of this illegal state intervention?

2. Spectrum and breach of TFEU Right to Establishment of a company.

Licensed radio frequency should be made available at a small cost relative to income for FWA operators. If you sell the available spectrum to the highest bidder this would also be in breach of TFEU right to establishment of a company as broadband FWA operators could not compete with the large telecoms and could not buy available spectrum to continue the high quality broadband in rural areas which they currently provide. Have you read the TFEU and will you comply with the TFEU in relation to the

current proposals of spectrum allocation and state aid?

3. County Council charges for broadband infrastructural works.

Some County Councils see broadband providers as a shakedown charging commercial rates per antenna and thousands of euro for a road opening when they do no work whatsoever to assist in the road opening / crossing. An application fee alone is up to 1500 euro in Tipperary and 190 euro in Cork CoCo. Even if you repair the road perfectly the non refundable "long term damage fee" is 12.50 euro per square meter in Cork CoCo and 30 euro per square meter in Tipperary. Broadband providers should be free from commercial rates and all council charges for any broadband infrastructural necessity. Will this be the case?

4. Retrospective Funding and parallel projects.

When an area is identified as requiring intervention and funding, will a broadband provider be paid the funding allocated to an area if the work is completed before the tender has been allocated? As the current broadband providers will have to compete with state aid for higher bandwidth to keep our customers, broadband providers may be running fibre down one side of the street while state aid is running fibre down the other side. Do we share the funding in this case or do you give all the funding to the provider without any state aid?

16 NINETREEHILL BROADBAND LIMITED

NINETREEHILL BROADBAND LIMITED

Ninetreehill Broadband Limited Issues: General: 1. All Irish WISPS using solely unlicensed frequencies are disqualified from participating in the NBP and face being put out of business. 33 WISPs have formed an ISPAI wireless sub-group. Together these companies provide services in all 26 counties including some quite remote areas. Over 66,000 residences are serviced comprising 170,000 users as are 7,500 SMEs and larger enterprises, with an estimated 50,000 jobs being dependent on their telecoms infrastructures. The contribution to rural communities is significant. In ComRegs Strategy Document 2014-2016 ComReg declares under Key Challenges to Promoting Sustainable Competition: Enabling infrastructure-based competition using different generations of technology and that ComRegs Priorities in relation to this are to: Promote competition and investment and protect the interests of users in less densely populated areas.

Additionally, in relation to Facilitating Innovation, Investment and the Internal Market ComReg declares its Key Challenges and Priorities to be Enabling continued investment in high-speed broadband and Making spectrum available to meet the various needs of society together with Encouraging commercial NGA roll out to the greatest extent possible and Releasing additional spectrum for wireless broadband. Accordingly, what action, if any, does ComReg propose to take to enable these valuable home-grown Irish businesses providing their services to the said 170,000 customers to continue in business, especially given that as matters stand the current NBP proposals are acting as a severe and immediate chilling effect on further investment by and in these businesses?

Further, how does ComReg, by inaction and or slowness in decision-making and or delivery, justify this contradiction to the principles set out above which ComReg has committed to uphold? Specifically: 2. ComReg's timescale to make a decision WISPs need ComReg to allocate licensed spectrum to WISPs before the tender is awarded for the NBP. This means that WISPs who invest in NGA wireless networks can report to DCENR and get their current areas of coverage off the state subsidised programme. 3. When ComReg does make its decision it is important that the channel size is big enough. In this connection Comreg knows full well (or should know) that 10 Mhz channels are not adequate it must be 20 Mhz+ 4. Licence duration must be for 20 years to provide adequate certainty for investors to take a commercial risk. 8 and 10 years licences to companies are of no commercial use.

17 PERMANET SUBMISSION

PERMANET SUBMISSION

Reference No: 1

Topic: 3.6GHz spectrum availability post July 2017

Request for Clarification.

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As ComReg is aware.

1.1. permaNET Ltd. is one of a small number of WISPs operating exclusively under the current 3.6GHz FWALA licensing scheme, and has been providing services to thousands of rural broadband customers for 10 years using FWALA licenses.

1.2. ComReg announced the cancellation of the 3.6Ghz FWALA licensing scheme in 2010, and has to date provided no clarification regarding availability post July 2017 of 3.6Ghz spectrum for broadband access. One of the effects of this announcement and the lack of any decisions regarding licenses post July 2017 has been to stifle investment in this sector for several years.

1.3. permaNET collaborated on a joint submission along with a number of other WISPs to ComReg call for input on the Consultation Paper entitled "Spectrum award - 2.6 GHz band with possible inclusion of 700 MHz, 1.4, 2.3 and 3.6 GHz bands" in November 2014. permaNET also provided a separate direct submission. permaNET has made several unanswered requests for updates on ComReg's progress on the specific subject of the future of 3.6Ghz.

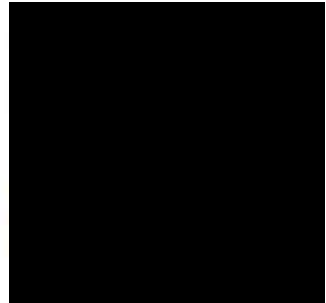
1.4. In order to be able to provide a response to the DCENR NBP calls for input and mapping exercises, permaNET requires clear, unambiguous answers on the availability, cost and technical requirements for 3.6Ghz spectrum licenses post July 2017. Absent this information permaNET is now placed at a distinct disadvantage in any tendering process for the NBP or other government tenders relating to broadband provision.

18 RIPPLECOM SUBMISSION

January 23rd, 2015



[REDACTED]
Commission for Communications Regulation
Irish Life Centre
Abbey Street
Freepost
Dublin 1
Ireland



Re Submissions to ComReg 14/126

Email: marketframeworkconsult@comreg.ie



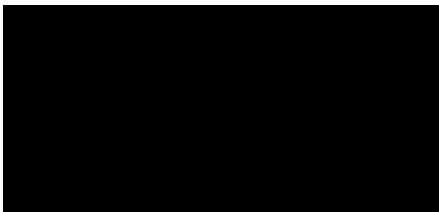
I refer to your Call for Input entitled National Broadband Plan – Call for Input on Regulatory Implications.

I attach overleaf in the tabular layout as required by ComReg the issues that Ripple Communications Limited is seeking clarification on.

Nothing in this document needs to be considered as restricted or confidential.

Please acknowledge receipt of this submission via email.

Yours sincerely,



www.ripplecom.net

Reference No	Topic	Request for Clarification
1	Spectrum	Ripplecom request that ComReg give clarity as to the release of spectrum for the following bands (3.6 GHz FWPMA and FWALA bands (3.400 - 3.800 GHz)). The clarity requested being that spectrum assignment beyond 31 July 2017 be clear well before the deadlines set by the NBP expire in order to allow ISPs to consider radio solutions within their responses.
2	Spectrum	Ripplecom request that ComReg give clarity as to the channel sizes that will be released such that the sizes given allow for the requirements of the NBP and that the assignment scheme will allow for the expansion of the channel sizes to allow for the predicted up-scaling of the minimum requirement after 2020.
3	Spectrum	Ripplecom request that ComReg give clarity that the licenses will continue to have emphasis on technology neutrality save for mode of operation FDD or TDD.
4	Spectrum	Ripplecom request that ComReg give clarity of the scheme of Geographical Service Area (GSA) that it proposes for the band.
5	Spectrum Policing	Ripplecom request that ComReg give clarity as to the policing scheme that would be employed to ensure that limited spectrum is used for the delivery of NGA.
6	Spectrum / Pricing	Ripplecom request that ComReg give clarity as to its proposed pricing of the licenses considering the end-user pricing proposed by the DCENR as part of the NBP NGA Call for Input.

**19 THREE IRELAND (HUTCHISON) LIMITED
RESPONSE**

Three Ireland (Hutchison) Limited



30th January 2015

Commission for Communications Regulation

Irish Life Centre

Lower Abbey Street

Dublin 1

Dear

National Broadband Plan – Document (14/126)

I refer to ComReg's call for input regarding the regulatory implications of the National Broadband Plan, and provide this brief response on behalf of Three. We welcome ComReg's proposal to publish questions and submissions with their responses where relevant.

It is to be expected that many questions and queries will be received by ComReg over the course of the process that will be run by the Department of Communications Energy and Natural Resources to award contract(s). At this stage however, it is too early for ComReg to close its process for providing clarifications – the decision by Government as to exactly how the National Broadband Plan will be structured and implemented is not known yet. We expect more requests for clarification will be received by ComReg as we get closer to the tendering process, and afterwards. ComReg should hold open its process for providing clarification throughout this time.

20 UPC SUBMISSION

Reference number	Topic	UPC Ireland Request for Clarification
1	Clarity and specific commitments around ComReg future NBP work programme	<p>The National Broadband plan is at a very early stage of implementation, as such there is limited information publicly available. The mapping exercise is still being refined by the Department of Communications Energy and Natural Resources (DCENR), with a second consultation issued on 24/11/2014 still ongoing. In addition, the tender documents (which will likely significantly increase operators' understanding of the NBP) have yet to be issued by the DCENR. UPC Ireland agrees with the view expressed by ComReg that "the NBP may have implications for regulation over time" particularly as the level of public information and operator understanding of the NBP increases. ComReg states "that it expects to deal with matters of this nature as part of its ongoing work programme over the next few years". UPC Ireland would also anticipate being better placed to raise NBP regulatory issues over the coming years as more information is made available. To this end, UPC Ireland believes that it would be beneficial and prudent if ComReg committed to further consultations and "Calls for input on Regulatory implications" at key stages in the NBP rollout process i.e. at issue of tender documents and again pre and post award of contract, specifically addressing the details of wholesale access terms in application of the EU Broadband State Aid Guidelines. This would ensure that any regulatory issues that arise can be dealt with in a timely manner as the NBP progresses.</p>
2	Clarity on likely regulatory obligations if Eircom wins NBP contract	<p>If Eircom emerges as the winning tenderer in the NBP, what regulatory obligations does ComReg envisage imposing to ensure that there is no cross subsidy or other undue advantage as a result of state aided activity? For example, further refinement of Eircom's existing accounting separation obligations or reinforced burden of proof on equivalence of input?</p>
3	Clarity on likely regulatory obligations if an operator other than Eircom wins NBP contract	<p>If an operator other than Eircom emerges as the winning tenderer in the NBP what regulatory obligations does ComReg envisage imposing and under what powers would ComReg envisage imposing such obligations?</p>
4	Clarity on regulatory actions to ensure a truly open access	<p>What regulatory actions will ComReg undertake to ensure delivery of a truly open access network under the NBP? Specifically what regulatory actions does ComReg intend to undertake to ensure that the state aided winner/s of the NBP contract provides civil infrastructure access (including Ducts and Poles) and Physical (unbundled) Access.</p>

	network under the NBP	
5	Clarity of NBP impact on existing regulations	What impact does ComReg envisage the NBP having on existing regulations and what plans does ComReg have to revisit obligations and decisions impacted?

**21 VODAFONE IRELAND LIMITED
SUBMISSION**

VODAFONE SUBMISSION

29 January 2015

ComReg,

Irish Life Centre, Lower Abbey Street, Dublin 1.

Re: National Broadband Plan

Call for Input on Regulatory Implication Comreg 14/126

Dear Sir/ Madam

Vodafone view the proposed state intervention as being of the utmost importance in achieving the aims of the National Broadband Plan and we welcome ComReg's proposals to clarify the regulatory framework that will apply.

Please find in Annex 1 below Vodafone's submission to the Comreg's Call for Input on regulatory Implication .

We are happy to provide further clarification on any of these points if required.

Annex 1. National Broadband Plan Call for Input on Regulatory Implications

Reference: ComReg 14/126

Table 1. Vodafone requests for clarification.

(NBP - refers to National Broadband Plan)

Reference No	Topic	Request for Clarification
1	Spectrum	Will spectrum be reserved for the winner of a NBP contract
2	Spectrum	Will licence conditions attached to the spectrum be specifically aligned with the contract conditions of the NBP
3	Spectrum	When will 3.5GHz spectrum be auctioned
4	Spectrum	Will operator's spectrum licences be split between NBP area and Non-NB areas?
5	Spectrum	Will a spectrum assignment process and cost of spectrum take account of the NB process?
6	Spectrum	Will the use of spectrum for some bands be confined to NBP ?
7	Spectrum	Will the timing of spectrum release be co-ordinated with the NBP process?
8	Wholesale	Will the wholesale service provided by an operator winning NB funding be subject to wholesale price regulation by Comreg or contract terms agreed with DCENR

Annex 1 Page 2 / 3

9	Wholesale	If conditions are attached to wholesale services as part of a NBP contract could these conditions be varied later by a Comreg regulatory process.
10	Wholesale	Will Comreg have a role in controlling the relationship between Wholesale and Retail SPs in the NBP ?

11	Wholesale	Will ComReg make this position clear before the Tender stage of the NBP ?
12	Wholesale	Will the terms of a NBP have president over ComReg regulation ?
13	Wholesale	Within the NBP will a radio network and a FTH network be subject to the same wholesale regulation ?
14	Leased Lines Regulation	<p>The availability of backhaul using leased lines will be a key driver in the business case for providing Access Connections to customers in the NBP areas. Whereas the market for the provision of leased lines may at some future time stage become competitive when judged on a nationwide basis it is likely that there will be only one supplier of leased lines in many rural areas. The risk of having an unregulated monopoly supplier of leased lines in these areas would strongly discourage investment in access.</p> <p>Will these leased line costs be deregulated during the period of the NBP?</p>
15	Leased Lines Regulation	Will leased lines used to support NBP be regulated separately to other leased lines ?
16	Leased Lines Regulation	Will wholesale products (such as leased lines) that support NBP be subject to the same leased line regulation as other leased lines or will a separate regulatory regime be in place.?

Annex 1 Page 3/ 3

17	Leased Lines Regulation	Will the commercial terms of leased lines used to support NBP be governed by contract with DCENR or by regulation ?
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18	Access regulation	Will any regulatory regime covering the provision of access products in NBP areas be separate from the regime covering non-NBP parts of the country?
19	Leased Line Regulation	Will any regulatory regime covering the provision of Leased Line products in NBP areas be separate from the regime covering non-NBP parts of the country?
20	USO	Will the current regime for USO (Universal Service Order) voice continue to apply when the National Broadband plan is put in place?
21	USO	Will a new USO be made covering voice and data by Comreg?
22	USO	Will USO orders be co-ordinated with the NBP?

22 AN INDIVIDUAL RESPONDENT'S SUBMISSION

The National Broadband Plan (NBP) being driven by the Department of Communications, Energy Natural Resources (DCENR) has a key goal of delivering Next Generation Access (NGA) connectivity (defined as a minimum of 30 Megabits per second (Mbps) to each residence in Ireland by 2020. The WISPs welcomes the aspirations of the National Broadband Plan and believes it is essential for the economic development of rural areas to have access to high speed broadband. This will nurture an environment which will sustain current rural businesses into the future and also attract new employment opportunities which can operate locally and compete globally. Fixed Wireless technology operating on Licensed Spectrum can deliver NGA broadband speeds in Regional and Rural areas. All allocations of such spectrum are administered by the Commission for Communications Regulation (ComReg). A recent Comreg Consultation on the future use of the 3.6 GHz frequencies currently used by WISPs has created investment uncertainty. Regrettably the absence of clarity on available spectrum and the promise of state-subsidised NGA roll out to rural areas in five years, will have undesired short and medium term effects by stifling investment that would allow WISPs to upgrade services. The Government needs to recognise the contribution made by WISPs to date, allocate appropriate spectrum at reasonable cost and create an environment whereby WISPs will invest in new radio technologies that can deliver at NGA speeds. As commercial providers, we look forward to working with the Minister, DCENR and ComReg to achieve the roll out of NGA networks over realistic time-frames and at least cost to the taxpayer

23 AN INDIVIDUAL RESPONDENT'S SUBMISSION

Consultation Response to: 14/126 - National Broadband Plan - Call for Input on Regulatory Implications

Rubbish.