

# **Broadband Open Market Review**

## **Department for the Economy**

### **Project Stratum**

#### **State Aid Public Review**

**1 July – 15 August 2022**

#### **Extending Broadband across Northern Ireland.**

## **1. INTRODUCTION**

Project Stratum is a broadband intervention scheme managed by the Department for the Economy (DfE), developed to improve connectivity for premises unable to access broadband services of at least 30 Megabits per second (Mbps). £197m of public funding has been allocated to the project to deliver gigabit-capable (i.e. capable of speeds of 1,000 Mbps) broadband to 85,000 eligible premises in predominantly rural areas of Northern Ireland, increasing from 76,000 premises in scope at contract award. £150m of the funding for Project Stratum was secured under the 2017 Confidence and Supply Agreement, with additional funding subsequently allocated by DfE, DAERA and the UK Government's Department for Digital, Culture, Media & Sport (DCMS). The contract to deliver Project Stratum was awarded to Fibrus Networks Ltd. in November 2020. Total network build costs, including the contractor's investment of £48m, totals more than £245m.

When Project Stratum deployment concludes in early 2025, it is expected that all previously identified eligible premises will be able to access Next Generation Access (NGA) broadband (capable of delivering download speeds of at least 30 Mbps), except for those particularly difficult to reach as they are surrounded by bodies of water. In addition, a number of premises were not identified as eligible due to claims made by infrastructure providers about NGA coverage that has either changed or which have not been substantiated sufficiently. Further premises were not identified as eligible due to there being insufficient data held by the Department regarding them. In total, there are a further 13,123 premises that the Department believe may be eligible for Project Stratum, unless evidence of an NGA service is provided.

The Department is reviewing a number of sources of information to improve the quality of datasets held. This has allowed the Department to identify additional eligible premises (resulting in the expansion of the project in January 2022). The review has also identified premises that are included in Project Stratum but for which there is little benefit in providing an NGA service, such as derelict premises. £197m has already been allocated to Project Stratum and headroom

funding in the contract would allow for up to £200m to be allocated. There is no indication at this juncture that further funding will be allocated to Project Stratum.

The Department wishes to identify eligible premises at this stage to ensure that any cost savings that may arise through Project Stratum, such as removing derelict premises or other sources, can be used to connect eligible premises that will benefit from an NGA broadband connection.

In addition to supporting the above intervention area update, the Department is also supporting the UK Government's ambition to deliver nationwide gigabit-capable broadband as soon as possible. The UK Government has committed £5bn for the hardest to reach parts of the country, ensuring that all areas of the UK can benefit. This will be spent through a package of coordinated and mutually supportive interventions, collectively known as Project Gigabit. To achieve this, the Department and Building Digital UK (BDUK) intend to procure further coverage to target Gigabit 'White' areas across Northern Ireland.

The UK Government received approval on 26 May 2016 from the European Commission on its National Broadband Scheme for the United Kingdom (referred to hereafter as the 2016 NBS). DfE will remain compliant with this scheme with any changes to the Project Stratum target intervention area. The UK's current subsidy control regime will apply to any interventions that are not part of Project Stratum [and outside the scope of this re-consultation].

## **2. MARKET ENGAGEMENT AND ANALYSIS OF EXISTING COVERAGE**

The area identified for potential intervention was identified following a previous Open Market Review and Public Consultation ([DfE website- Project Stratum consultation](#)).

DfE conducted an Open Market Review (OMR) between 19 June 2018 and 27 July 2018 to establish existing and planned (within the next three years) coverage of broadband infrastructure across Northern Ireland.

DfE contacted all known broadband infrastructure operators within the Programme Area and other providers known to have (or potentially have) plans to deploy new networks across the UK with a formal request for information. The OMR was also publicised through a notification on its Citizen Space Consultation Hub. Operators were requested to provide information on their existing and planned NGA broadband infrastructure, and to provide details of their coverage at a premise level so as to enable greater granularity of mapping.

This was followed by a Public Review between 3 December 2018 and 14 January 2019, during which further information was received. This information, together with DfE's own data sources, was used to define the intervention area for Project Stratum.

This further Public Review sets out an area that was identified as eligible or was placed Under Review following the previous public consultation. DfE recognises that, in line with 2016 NBS, a significant amount of time has passed since the

original public consultation and there may have been significant changes to providers' plans. The proposed additional intervention area is set out in the annexes, to enable interested stakeholders (including the public, businesses, internet service providers and broadband infrastructure operators) to comment on the proposals. In particular, this provides an opportunity for broadband infrastructure operators to review DfE's mapping to ensure that they have no further information relevant to determining whether an area is eligible.

All responses to the Public Review will be considered and, where necessary, incorporated into the final map of the intervention area. The final intervention area maps and a summary report confirming details of the changes made to the proposed intervention area will be published on the DfE's website after the close of this consultation period. Where responses to the consultation are received, DfE will publish a report on the outcomes of the consultation and provide an explanation of how the information submitted has been treated. The finalised intervention area will then be submitted to BDUK's National Competence Centre (NCC) for approval against the State aid framework.

### **3. STATE AID FRAMEWORK AND RULES**

This section provides a brief introduction to the State aid Framework for the purpose of informing responses to the public consultation. Respondents may wish to obtain their own professional/legal advice on the application of the State aid framework, and rules that relate to this proposal.

The European Commission has published 'EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks' (2013/C 25/01)<sup>1</sup>. These guidelines summarise the principles of the Commission's policy in applying the State aid rules of the Treaty to measures that support the deployment of broadband networks and seek to ensure that State aid schemes for broadband are well-designed so that they target market failures and minimise negative effects on competition.

The guidelines require public interventions to be targeted in order to limit the risk of crowding out private investments, of altering commercial investment incentives and ultimately of distorting competition.

Planned public interventions can seek State aid approval directly from the Commission, or (as is the case with this proposal) seek clearance under a national scheme which has been pre-approved by the Commission.

Projects under the 2016 NBS will need to demonstrate their State aid compliance (in accordance with the terms of the scheme) in order to receive clearance from BDUK's National Competence Centre.

The Commission's guidelines distinguish between two types of broadband networks, namely basic broadband and NGA networks.

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<sup>1</sup> [EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks](#)

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

NGA networks rely wholly or partly on optical elements (optical fibre) and are capable of delivering an enhanced broadband capability compared to existing basic broadband networks. Current qualifying NGA technologies are fibre-based networks (FTTx), advanced upgraded cable networks (DOCSIS 3.0) and certain advanced wireless access networks capable of delivering reliable high speeds.

Guidance on the characteristics of qualifying NGA technologies is available from BDUK<sup>2</sup>.

The Commission's guidelines also require that public intervention should be able to ensure a 'step change' in broadband availability. This is demonstrated by:

- Significant new investments in the broadband network;
- The new infrastructure brings significant new capabilities to the market in terms of broadband service availability and capacity, speeds and competition<sup>3</sup>.

The 'step change' in broadband availability shall be compared to that of existing as well as concretely planned networks.

The Commission's guidelines also distinguish between geographic areas on the basis of their existing or planned broadband infrastructure:

- 'White' areas are those in which there is no qualifying broadband infrastructure and none is likely to be developed within three years;
- 'Grey' areas are those where only one network is present or is to be deployed within the coming three years; and
- 'Black' areas are those where at least two networks of different operators exist or will be deployed in the coming three years.

This geographic mapping of White/Grey/Black areas is carried out separately in relation to basic broadband and NGA networks. NGA networks are mapped on the basis that, amongst other things, they have substantially higher upload speeds (compared to basic broadband networks) and can deliver broadband services at an access (download) speed of more than 30Mbps.

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<sup>2</sup> [gov.uk website - 2016 NBS Tech Guidelines](#)

<sup>3</sup> See Footnote 66 of the Commission's Guidelines - this sets out that the subsidised network should be pro-competitive (i.e. allow for effective access at different levels of the infrastructure).

Public intervention can only take place in white NGA areas under the 2016 NBS. White NGA areas are those in which there are no NGA networks, and none is likely to be developed within the next three years.

#### 4. PROPOSED INTERVENTION

This consultation only considers areas classified as white or Under Review in the previous consultation. As noted in the previous consultation, all postcodes in Northern Ireland are considered to have basic broadband available, so this consultation relates only to the availability of NGA broadband.

	<b>Number of Postcodes</b>	<b>Number of Premises</b>
White	2,595	4,393
'Under Review'	1,403	8,730

*Table 1 - Summary of Premises Information*

While the consultation lists postcodes and asks for information and evidence regarding NGA structures serving premises within these postcodes, DfE will be providing our contractor with premises level data regarding premises identified as eligible.

It should be noted that Project Stratum is, so far, deploying gigabit-capable technology. Should any sub-gigabit solutions be proposed, these would be expected to result in at least a doubling of the available download speeds in white areas.

## 5. TIMESCALES

This consultation will be open until 15:00 on 15 August 2022.

Once the consultation is closed and DfE has finalised the intervention areas and the necessary approvals have been sought and agreed, premises identified as eligible will be added to the Speed and Coverage Template within the contract for Project Stratum. However, for any premises to be built to, a Change Impact Assessment will need to be performed and changes will need to be agreed between DfE and the contractor.

## 6. STATE AID PUBLIC CONSULTATION

The EU Guidelines (at paragraph 78) and the 2016 NBS set out the requirements to hold a public consultation in order to validate the intervention area mapping by allowing all interested stakeholders an opportunity to comment on the planned aid measure.

The purpose of this document is to fulfil those requirements by publishing a description of the proposed aid measure and seeking feedback from all interested stakeholders. The mapping for basic and NGA broadband are shown in the attached maps (**Annex B**).

The attached map of the NGA broadband Intervention Areas relies on the definitions of white, grey and black areas, as set out in the EU Guidelines (and as summarised above). DfE will only target the areas identified as white on the map.

This State aid public consultation and the proposed NGA broadband Intervention Area maps are available to all stakeholders on the [DfE website](#).

## 7. RESPONDING TO THIS STATE AID PUBLIC CONSULTATION

DfE is requesting information and supporting evidence in relation to NGA broadband infrastructure within the project area, and wishes to hear from all relevant stakeholders (including residents and businesses as well as broadband infrastructure operators), particularly in relation to areas to be targeted as part of the NGA intervention area at **Annex A**.

For the avoidance of doubt, there is no need to respond to this public consultation if you have no comment to make.

### For Residents and Businesses

At **Annex C**, lists of postcodes have been provided in white or 'under review' classifications. We invite residents and businesses to review these postcodes.

For residents and businesses, where the ability to receive an NGA service is in doubt, information must be provided in response to this State aid public consultation and as a minimum include:

- Your name.
- The address of the property and postcode area to which the submission relates.
- Contact landline telephone number (if available).
- Email address (if available).

**Residents and businesses should not necessarily assume that premises have been correctly identified if the postcode has been listed.** If there is any doubt at all it is recommended a response as set out above is provided.

### For Groups and Organisations

If you are replying on behalf of a group or organisation and are not an infrastructure provider, we invite you to review the postcodes list and highlight any that should be reconsidered including:

- The address of the property and postcode area to which the submission relates.
- Contact landline telephone number (if available)
- Email address (if available).

Unless otherwise informed we will assume that permission has been given that these details can be passed onward in compliance with the GDPR regulation including:

- Your organisation's name (if applicable).
- Your organisation's address (if applicable).
- Your name.
- Position.
- Contact telephone number.
- Email address.

### For infrastructure providers

If the response is from an infrastructure provider and you wish to comment on the white or 'under review' classifications within the attached data (**Annex C**), or on the wholesale products to be offered via the subsidised network, then the submission should also include the specific information set out in Section 8.

For written submissions from infrastructure providers, DfE would be grateful if you would also include the following:

- Your organisation's name (if applicable).
- Your organisation's address (if applicable).
- Your name.
- Position.
- Contact telephone number.
- Email address.

DfE can arrange access to the Response Template (or subset thereof if you are reporting on a specific area) for infrastructure providers.

DfE also requests confirmation from an authorised signatory that the information provided is suitably accurate and up-to-date.

## **8. INFORMATION REQUESTED FROM INFRASTRUCTURE PROVIDERS**

This section specifies the information you are requested to provide in response to this State aid public consultation in relation to the presence of broadband infrastructure.

DfE is requesting information on, and supporting evidence for, any current or planned (within the next three years) investment in broadband infrastructure in Northern Ireland, where this may not be already included within the proposed NGA broadband intervention area map attached.

For any current or planned coverage not included within the proposed State aid intervention areas shown on the attached map, DfE is requesting information at premise level to show existing or planned coverage by your broadband infrastructure investment. By 'covered' (or 'passed'), DfE means that fixed network infrastructure is or will be available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface, potentially subject to the installation of a suitable antenna.

Any information provided in response to this State aid public consultation must follow the templates at [gov.uk website - 2016 NBS Tech Guidelines](#). Failure to demonstrate NGA coverage will lead to premises being considered eligible for Project Stratum and extensions to deadlines will only be considered in exceptional circumstances.

## **9. Next Steps**

Following any responses received to this State aid public consultation by the closing date of 15 August 2022, DfE plans to publish the final Intervention Area maps shortly after the close of the consultation period.



This is expected to be followed by dialogue with the contractor to explore whether these areas can be included as part of Project Stratum.

Information about the Project Stratum can be found at [DfE website - Project Stratum](#)

## **10. WHERE TO SEND YOUR RESPONSES AND DETAILS**

Please send your responses **no later than 15:00 on 15 August 2022** to:

e-mail: [stratum@economy-ni.gov.uk](mailto:stratum@economy-ni.gov.uk)

**or**

Telecoms Branch  
Department for the Economy  
Netherleigh  
Massey Avenue  
Belfast  
BT4 2JP

You can also leave a telephone message on **028 9052 9352**.

Please note that the data you provide in your response will be treated as confidential. However, it may be necessary to share/some all of your response data with our professional advisers and/or DCMS/BDUK, Ofcom, the National Competence Centre and the European Commission in the course of seeking State aid approval.

It should also be noted that it is a State aid requirement to use this information to produce State aid maps to define white, grey and black areas for basic and NGA broadband. However, the published maps will show the aggregated White/Grey/Black NGA and Basic Broadband areas, not the data provided on a per-operator basis. The final maps that will be used for procurement purposes will be published shortly after the conclusion of this State aid public consultation and once approved by the National Competence Centre.

If you have any questions about any of the above, please contact the Department for the Economy by email as above.