

Connecting Cumbria – Phase 2

New Procurement to further
extend coverage of Superfast
Broadband across Cumbria

State Aid Public Consultation



**SUPERFAST
BRITAIN**



Produced: 28 November 2014

1. Introduction

The Connecting Cumbria Phase 2 Project is aiming to extend the availability of Superfast Broadband (at least 24Mb/s) across Cumbria with an additional 2%, approximately 5000 homes and/or businesses, by the end of 2017.

Cumbria County Council conducted its first market engagement process on Broadband in February 2011. At the time, the planned commercial coverage of Superfast Broadband (within a 3 years' timeframe) was expected to be concentrated in the areas of Barrow-in-Furness, Carlisle, Kendal, Penrith, Ravensdale, Whitehaven and Workington leaving the remaining rural Cumbria and the central Lake District towns without access (or planned access) to Superfast Broadband. Cumbria County Council ("the County Council") subsequently selected British Telecommunications (BT) in November 2012 to deliver Superfast Broadband. The County Council is making good progress with the deployment of this contract, with over 50,000 premises passed by November 2014 and the contract is on track to reach more than 100,000 premises passed by the end of 2015. When combined with commercial plans, this means that about 93% of premises in Cumbria should have access to Superfast Broadband by the end of 2015.

In the 2013 Spending Review, the Government announced a further allocation of funding for broadband under the BDUK Superfast Phase 2 Programme, with the aim of increasing coverage across the UK to 95% by 2017. The County Council would need to initiate a new procurement process to award a second contract to deliver extended coverage through this funding. The funding is comprised £2.86M of BDUK funding to be matched with a further £2.86M to give a total funding package of £5.72M.

In preparation for a new procurement process, the County Council has conducted an Open Market Review (OMR) in September and October 2014 to establish current and planned (next 3 years) commercial coverage of broadband services in Cumbria by existing, and any prospective, broadband infrastructure providers. The information gathered through this Open Market Review has been used to define the scope of the prospective Intervention.

2. What are we consulting you on

The purpose of this public consultation document is to set-out the County Council's interpretation of the potential Intervention Areas for superfast and basic broadband. This is to enable the public and service providers to comment on the Intervention Area proposals and in particular to provide:

- i. an opportunity for broadband infrastructure providers to review the County Council's representation of their commercial plans provided through the OMR and ensure these are correct; and
- ii. an opportunity for the general public to register opinions regarding the proposed state aid measure and the targeted areas.

A final Intervention Area proposal is then submitted to the BDUK National Competence Centre for clearance, taking on board the outcome of the public consultation. The State Aid Framework requirements which guide the determination of an Intervention Area for the purpose of public sector intervention in the delivery of broadband infrastructure are provided in section 4 below.

3. Timeline

This State Aid public consultation will be open until Friday 9th January 2015.

Once the State Aid public consultation is complete and the Intervention Area has been formalised, the County Council may initiate a new procurement process by issuing an Invitation to Tender (ITT). This would lead to the awarding of a new contract by June 2015. The contract would be to extend the availability of Superfast Broadband planning to deliver broadband infrastructure in the latter part of 2015 until 2017.

4. State Aid Framework

This section provides a brief introduction to the State Aid Framework for the purpose of informing responses to this State Aid public consultation.

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

The State Aid rules require public interventions to be targeted so as to limit the risk of crowding-out or disincentivising existing and/or credible planned private sector investments that would otherwise meet the desired policy objectives. In the context of broadband, State Aid rules require using public funding only to enhance broadband coverage in geographic areas where there is clearly market failure (i.e. where there is no current or planned in the next three years provision of Superfast Broadband), often a result of a lack of economic incentive for commercial operators to invest.

Guidelines for State Aid can be found at:
www.gov.uk/state-aid.

The 'EU Guidelines for the application of State Aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01)' can be found at:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>

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

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

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

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

NGA networks rely wholly or partly on optical elements (optical fibre) and are capable of delivering an enhanced broadband capability compared to existing Basic Broadband networks. The EC Guidelines sets out that at the current stage of market and technological development NGA networks are considered to be fibre based networks (FTTX), advanced upgraded cable networks and certain advanced wireless networks capable of delivering reliable high speeds per subscriber.

Further guidance on NGA technologies is available from the BDUK NCC at:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technology_Guidelines_300813.pdf

The EC decision on the National Broadband Scheme for the UK requires that public funding granted under the scheme shall ensure a 'step change' in broadband capability, and 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, capacity and speeds (on average across the Intervention Area, doubling existing speeds);
- The subsidised network should be pro-competition, i.e. allow for effective access at different levels of the infrastructure.

The EC Guidelines also distinguish between geographic areas on the basis of current or planned (next 3 years) broadband infrastructures thus:

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

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

Public intervention to provide NGA networks is generally permitted in NGA White areas only.

We plan to define our Basic Broadband and NGA Intervention Areas to target NGA 'White' areas.

5. Open Market Review

The County Council issued an 'Open Market Review – Request for Information' on 10th September 2014 to gather information on existing and planned (next 3 years) broadband deployments. This information has helped us to define our proposed Intervention Areas in which additional public funding could be invested to further extend Superfast Broadband coverage across Cumbria.

The Open Market Review was a precursor to the formal State Aid public consultation on the proposed Intervention Areas. The Open Market Review process is not a specific requirement of the EC Guidelines, but is regarded as good practice to help to inform the definition of the Intervention Areas prior to a State Aid public consultation (which is a requirement of the EC Guidelines).

This Request for Information was sent to all known broadband infrastructure providers in Cumbria and those serving areas in the UK with an interest in Cumbria.

The Open Market Review process has also taken account the actual and planned extension of broadband coverage being delivered through the County Council's contract with BT (November 2012).

The Open Market Review process has now been concluded and the scope of the proposed Intervention Areas, where additional public funding could be invested, has been defined for State Aid public consultation. The proposed Intervention Areas are based upon responses received from broadband infrastructure providers indicating existing and/or planned qualifying coverage.

This section details the step-by step instruction that has been followed to develop the State aid mapping for the public consultation exercise. All steps use the EC and BDUK definition of basic black, basic grey and basic white (BGW) premises as follows:

- **Basic black:** An area where two or more basic broadband networks already exist or plan to deliver affordable basic broadband by December 2017
- **Basic grey:** An area is mapped as 'basic grey' where one basic broadband network delivering affordable basic broadband services already exists or is planned and there are no private sector plans to roll out a second similar infrastructure by December 2017
- **Basic white:** will be areas where basic broadband services at a minimum download speed of 2Mbps are not available at affordable prices and there are no private sector plans to deliver such services in the next three years. By virtue of this definition, a basic white area also includes an area where there is no basic broadband infrastructure, nor any investment plans by a private sector network operator to deliver such infrastructure by December 2017
- **Basic conditional white:** An area where there are plans to have a presence of basic broadband coverage by December 2017 from one or more operators whose plans are unconfirmed at this stage

The analysis also uses the EC and BDUK definition of NGA black, grey and white (BGW) premises, as follows:

- **NGA black:** premises in areas where two or more NGA operators exist now, or are planned to exist by December 2017
- **NGA grey:** premises in areas where one NGA operator exists now, or is planned to exist by December 2017
- **NGA white:** premises in areas where no NGA operator exists now, or is planned to exist by December 2017
- **NGA conditional white:** An area where there are plans to have a presence of NGA broadband coverage by December 2017 from one or more operators whose plans are unconfirmed at this stage.

The speed threshold criterion used to determine an area as superfast remains 24Mbps or above. However, having due regard for the EC Guidelines and the DCMS policy objective of delivering superfast broadband (>24Mbps), we have set the above speed criteria for NGA broadband White to be less than 15Mbps. We have set the speed criteria at this level having regard to the requirement in the EC State Aid Decision that public funding granted under the scheme shall ensure a 'step change' in broadband capability (typically provides at least a doubling of average access speeds).

Our priority for targeting NGA interventions is to use the available public funding to provide a 'step change' in broadband capability for premises currently getting relatively slow broadband speeds (<15Mbps), rather than using the available funding to provide more marginal increases in broadband capability for premises already getting higher broadband speeds (>15Mbps).

The OMR requested premise data in several speed ranges so that CCC can determine which premises/postcodes above 15Mbps will be 'at risk' of not benefitting from access to superfast broadband speeds of above 24Mbps. These will be treated as credible coverage areas (i.e. coverage will included in intervention analysis).

The following table summarises the outcome of the Open Market Review in terms of Black, Grey, "Conditionally" White, and White postcodes and premises for NGA Broadband:

Status	No. of postcodes	No. of premises	% premises
Black	542	9,922	3.9%
Grey	14,517	217,597	85.1%
Conditional White	2,542	17,078	6.7%
White	1,549	11,200	4.4%
Total	19,150	255,797	100%

The Superfast Broadband Intervention Area would include 28,278 premises spread over 4,091 postcode areas.

The following table summarises the outcome of the Open Market Review in terms of Black, Grey, "Conditionally" White, and White postcodes and premises for Basic Broadband:

Status	No. of postcodes	No. of premises	% premises
Black	578	10,382	4.1%
Grey	17,165	237,140	92.7%
Conditional White	937	5,557	2.2%
White	470	2,718	1.0%
Total	19,150	255,797	100%

The Basic Broadband Intervention Area would include 8,275 premises spread over 1,407 postcode areas.

It is proposed that "Conditional White" areas will be eligible for public sector intervention to support the deployment of broadband infrastructure subject to monitoring and verification of supplier plans within the three year period by the Local Body that a Superfast Broadband service has not or will not be delivered during the period.

6. State Aid Public Consultation

The EU Guidelines (paragraph 78) and EC State Aid decision on the 'National Broadband Scheme for the UK' (paragraph 40) set-out the requirement 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 proposed NGA and Basic Broadband Intervention Areas are shown in the attached maps.

The attached maps of the NGA and Basic Broadband Intervention Areas rely on the definitions of White, Grey and Black areas, as set-out in the EU Guidelines (and as summarised above). The NGA map also includes "Conditionally" White areas (colour yellow on the maps) identifying additional areas at risk of not having access to Superfast Broadband and which could potentially be added to the NGA Intervention Area.

The priority for the County Council will be to use the available public funding intervention to provide a 'step change' in broadband capability for premises currently getting relatively slow broadband speeds (< 15Mb/s). Therefore, in the first instance, the focus of the prospective procurement would be the NGA White areas identified in the attached State Aid Map.

However, the County Council reserves the right to consider extending intervention to the areas classified as "Conditionally" White in the event that the risks of these premises not achieving Superfast Broadband is verified.

This State Aid public consultation and the proposed NGA and Basic Broadband Intervention Area maps are available to all stakeholders on the Consultations page of the County Council's consultations www.haveyoursay.org.uk. They are also available on the Connecting Cumbria project website at www.connectingcumbria.org.uk

A link to this State Aid public consultation is also available on the BDUK website at: www.gov.uk/broadband-delivery-uk

7. Responding to this State Aid Public Consultation

The information requested is specified in the following section (Section 6).

When responding to this request, the County Council would be grateful if you are responding on behalf of an organisation could confirm the following information:

- Your organisation's name;
- Your organisations address;
- Your name;
- Position;
- Contact telephone number;
- Email address.

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

When responding to this request as an individual, the County Council would be grateful if you could confirm the following information:

- Your name;
- Your address;
- Your name;
- Contact telephone number;
- Email address.

Please send your response to arrive no later than close of business on 9 January 2015 to:

Via email to connecting.cumbria@cumbria.gov.uk (marked "Connecting Cumbria Public Consultation Response").

Or by post to:

**Connecting Cumbria Public Consultation
Response
Parkhouse Building
Barron Way
Kingmoor Park
Carlisle
CA6 4SJ**

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

It should also be noted that it is a State Aid requirement to utilise the information provided in response to this consultation to refine our State Aid maps to define White/Grey/Black areas for NGA and Basic 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 BDUK National Competence Centre.

If you have any questions about this State Aid public consultation process, please contact the Connecting Cumbria Project Team:

Via email to connecting.cumbria@cumbria.gov.uk

8. Information Requested

This section specifies the information you are requested to provide in response to this State Aid public consultation.

The County Council is requesting information on, and supporting evidence for, any current or planned (next 3 years) investment in broadband infrastructure in the county of Cumbria, where these may not already be included within the proposed NGA and Basic Broadband Intervention Area maps attached.

Note: for the avoidance of doubt, if you are content with our proposed State Aid Intervention Areas, no further response is required.

For any current or planned coverage not included within the proposed State Aid Intervention areas shown on the attached maps, the County Council is requesting information on the postcodes, and the number of premises within each postcode, covered (or planned to be covered) by your broadband infrastructure investment. The County Council is asking for information on coverage of Basic Broadband and Superfast Broadband coverage separately (to enable us to map the Basic Broadband and NGA White/Grey/Black maps required for State Aid purposes). By 'covered' (or 'passed') the County Council 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 (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna.



Any information provided in response to this State Aid public consultation should include, but need not be limited to:

- Detailed maps for basic broadband and NGA broadband showing the existing coverage and separately maps detailing the planned investment in the basic broadband and NGA infrastructure networks for at least the next three years;
- Exact detail of premises passed or covered, i.e. postcodes including information on the number of premises passed (in the case of a fixed network) or covered and able to receive services (in the case of a wireless/satellite network) potentially subject to the installation of a suitable antenna;
- A detailed description of the technology solution(s) deployed (or to be deployed) in your broadband infrastructure and where these claim to be NGA, demonstrate how they meet the minimum standards as set-out in the BDUK Technology Guidelines;
- A description of the technology solution(s) deployed (or to be deployed) to interconnect your broadband infrastructure with the Internet;
- Description of the services/ products currently offered and separately those to be offered within the next 3 years;
- Installation and rental tariffs for those services/ products clearly identifying whether they are inclusive or exclusive of VAT;
- Upload and download speeds typically experienced by end users, and how these may vary by factors such as distance, increased take-up or demand, contention, etc.;
- Appropriate indicators of the quality of services (e.g. contention ratios, bandwidth allocation per user, etc), including any characteristics (e.g. latency, jitter) that are required to support advanced services such as video conferencing or HD video streaming;
- Evidence to substantiate actual or planned coverage claims including business cases and evidence of available funding to enable plans to be fulfilled;
- Details and timing of roll-out for future investment including further investments required to cope with future increases in take-up and demand; and,
- Confirmation from an authorised signatory that all information provided is of suitable accuracy and up to date.

Please supplement with supporting evidence as you consider appropriate e.g. public websites.

9. Next Steps

Following any responses received to this State Aid public consultation by the closing date of 9th January 2015, the County Council plans to publish the final Intervention Area maps shortly after the close of the consultation period, and then may initiate a new procurement process by issuing an Invitation to Tender (ITT). This process would be concluded by June 2015.

Information about the Connecting Cumbria project can be found at www.connectingcumbria.org.uk

