

Geo Networks Limited (Geo)

A Communications Review for the Digital Age

Geo welcomes the Government's commitment to review the Communications Act 2003 (the Act) and would like to comment specifically on the Electronic Communications Code (the Code) which urgently requires reform in order to meet the demands of superfast broadband in the UK.

The Code is set out in Schedule 2 to the Telecommunications Act 1984 as amended by Schedule 3 to the Act. The Code contains the vital provisions that enable Communication Providers (CPs) to install and maintain network infrastructure so as to ensure that no person should unreasonably be denied access to an electronic communications network. With the current focus on superfast broadband, it is a widely held view that the Code is deficient and unable to support CPs', and their customers', requirements for Next Generation Access network deployment.

Unlike other utilities such as gas and electricity companies that are governed by clear statutory instruments, the Code prescribes a slow, uncertain and in parts unworkable process for network installation and maintenance. Further, as it stands, the Code does not have a process or express rights for new aerial installations which will be crucial for networks in rural areas and the final third.

The poor processes under the Code has lead to long and protracted negotiations between CPs and landowners, ransom scenarios, project delays and sometimes project failures. The dispute resolution processes are unsuitable, costly and lengthy. CPs are often forced to install networks under unsuitable terms, at high cost, with uncertain infrastructure rights and with significant risk for both CP and customer.

The inadequacies of the Code have been expressed by the Courts where in a recent case that went to the Court of Appeal, the Hon Mr Justice Lewison for the High Court stated: *"In my view it must rank as one of the least coherent and thought-through pieces of legislation in the statute book"*. We have continued to lobby the Government on the failures of the Code including briefing notes and meetings with Jeanne Gray at BIS. A number of representations from various bodies highlighting all the above were made in 2001 and 2002 in response to consultations on the Communications Bill. We now strongly believe it is more critical than ever that Government overhaul the Code to facilitate the efficient deployment of superfast broadband in Britain.

In our view, the processes for access to private and public land under the Code need to be clarified and simplified so that they are workable for CPs and customers. The Code should be amended to introduce the following process steps to alleviate the difficulties in applying the current approach to negotiating access agreements between CPs and landlords:

- Template agreements to be used as precedents;
- A valuation manual to reduce uncertainty in valuation;
- A defined timetable for each stage of the process, enabling rights to be acquired within 12 weeks, the same time as major construction notices under the Traffic Management Act;
- A process to enable new aerial cable deployments, both on existing and new pole systems.

We would welcome the opportunity to speak to you about our experience using the Code and our comments set out above. Please do not hesitate to contact us if you would like to discuss this in more detail.