



19 April 2018

## **Connecting Devon and Somerset STATE AID PUBLIC CONSULTATION**

### **• Introduction**

The Connecting Devon and Somerset Programme (CDS) is aiming to extend the availability of Superfast Broadband across Devon and Somerset. Currently, CDS has a number of 'live' contracts with suppliers for the delivery of wholesale broadband infrastructure across the partnership area. These include:-

- An initial contract with British Telecom plc (BT) let in January 2013 to provide coverage across the whole of the CDS area with approved public funding of £53m approved under the National Broadband Scheme 2012 (NBS 2012).
- A contract with Airband CIC let in June 2015 known as the Moors contract to provide coverage to specific areas of Dartmoor and Exmoor with approved public funding of £4.7m approved under the National Broadband Scheme 2012 (NBS 2012).
- Contracts with Gigaclear plc and Airband CIC to provide coverage in 6 separate geographic areas let between January and June 2017 with approved public funding of £54.5m approved under the National Broadband Scheme 2016 (NBS 2016).

### **CDS Proposal**

This proposal solely relates to the contract with BT let in 2013 that included provisions to ensure that the full amount of the public funding is deployed, and that in the event that take-up of superfast broadband services exceeds forecasts in the contracts, then the amount of public subsidy required would subsequently be reduced to reflect this. Any funds released are then available to be reinvested into further coverage of Superfast Broadband under the terms of the contracts.

In August 2015, BT announced that take-up across the UK was likely to exceed the forecast level of 20% included in their Phase 1 contracts. To date, BT has made available up to £129m across the UK to meet the contractual obligations outlined above. CDS has received a confirmed allocation of £4.8m and is seeking to reinvest a sum up to this amount in further coverage as part of the current contract Phase 1

contract, subject to achievement of coverage and value for money criteria.

The purpose of this public consultation is to confirm the areas which do not have Next Generation Access (NGA) broadband infrastructure delivering at least 30Mbps, or where there are no plans to provide such infrastructure over the next three years. These are described as “white NGA areas”. This is to enable all interested stakeholders - the public, businesses and telecommunications providers - to comment on the proposed white NGA areas before further coverage is committed.

CDS will then submit its final proposals for the NGA white area, taking account of the outcome of the public consultation, to BDUK’s National Competence Centre for clearance.

- **Timescales**

This State Aid public consultation will be open and run for one calendar month until 30 April 2018.

Once the State aid public consultation is complete and the white NGA areas have been finalised by CDS, CDS will seek to agree a change with BT to deliver the extended Superfast Broadband; subject to the £4.8m-£6.8m budget and achievement of coverage and value for money criteria.

## **NGA mapping**

This section provides a brief overview of NGA mapping for the purpose of informing responses to this State Aid public consultation. NGA maps for CDS can be found at Annex A of this document.

The European Union State Aid rules are designed to ensure that any use of public funding (‘State Aid’) is targeted at areas of market failure and produces positive market outcomes while minimising any distortion to competition.

The State Aid rules require public interventions to be targeted so as to limit the risk of crowding-out or dis-incentivising existing and/or concrete planned private sector investments that would otherwise meet the desired policy objectives. In the context of broadband, the 2012 State Aid Decision permits the use of public funding only to extend broadband coverage in geographic areas where there is no provision of Superfast Broadband and it is unlikely to be developed in the near future (within the next three years).

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>. The objective of the further investment is to provide access to NGA infrastructure which is capable of delivering access line speeds of at least 30Mbps in areas in the existing Intervention Area and unaffected by the changed definition, i.e. the ‘no build areas’ of that contract.

As set out above, the objective of this intervention is to target the reinvestment funding at the residual areas without NGA coverage, that were designated as white NGA areas through the public consultation for the contract with BT (carried out by CDS in May 2012). However, the target white NGA areas also take account of the outcome of the public consultation carried out in April – June 2016 and the additional coverage of broadband committed via all the existing contracts between CDS and Gigaclear PLC, Airband CIC and BT (including amendments). These areas are identified as white on the map at Annex A to this document

CDS has changed its definition of NGA white areas from that used in its consultation for the BT contract of 3<sup>rd</sup> April 2012.

In Annex A, areas with speeds below 30Mbps are identified as “NGA white areas”, whereas they had previously only been identified as NGA white areas where they had speeds below 24Mbps. Nevertheless, the area that is the target of this intervention is identified as NGA white under both approaches.

Nevertheless, the intention of CDS in this intervention to target white NGA areas with the greatest need for improvement, i.e. only where no NGA infrastructure is available, or otherwise an NGA infrastructure is available, but where speeds are less than 15Mbps. In addition, the proposed intervention area includes a number of “under review” areas (identified in 'blue' on the map). These are areas where we are aware of plans for the provision of NGA broadband, but there remains some uncertainty and risk of these not being completed. These areas will be subject to continued monitoring and verification of supplier plans by CDS and in the event that these commercial plans fall away these premises will be mapped as white NGA and form part of the proposed intervention area and eligible for intervention via this aid measure<sup>1</sup>.

Please note that CDS have not provided a map of Basic Broadband coverage due to the fact that the area now has ubiquitous coverage with Basic Broadband via satellite broadband and various demand led measures such as the CDS Voucher Scheme. As the proposed investment is to provide areas with an uplift with NGA infrastructure and download speeds of greater than 30 Mbps, we will assess the value for money and extent of speed uplift (step change) with reference to the information we hold from our 2016 Public Consultation and publicly held information in relation to broadband availability e.g Ofcom.

#### ● **Responding to this State Aid Public Consultation**

The information requested is specified in the following section (Section 5). When responding to this request, CDS would be grateful if you could provide the following:

- Your organisation’s name
- Your organisation’s address
- Your name
- Position

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<sup>1</sup> See paragraph 65 of the Commission’s Broadband guidelines.

- Contact telephone number
- Email address

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

**Please send your response to arrive no later than 17:00, 30 April 2018:**

**Via the CDS website:** A specific 'Contact Us' page has been created for you to submit your response or if you are an Operator, flag your intention to make a technical response. Please ensure your full contact details are entered. Or you can respond by post to:

Doug John  
Connecting Devon and Somerset.  
Gainshare Public Consultation Response  
AB2, Lucombe House,

Topsham Road,  
Exeter. EX2 4QD.

**For the avoidance of doubt, if you are content with our proposed State Aid Intervention Area for the targeting of Gainshare investment, no further response is required.**

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. CDS 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. However, the published maps will show the aggregated White/Grey/Black NGA, not the data provided on a per-operator basis.

If you have any questions about this State Aid public consultation process, please contact the CDS Team by email at: [broadband@devon.gov.uk](mailto:broadband@devon.gov.uk)

#### ● **Information Requested**

If you are a telecommunications provider, this section specifies the information you are requested to provide in response to this State Aid public consultation. However, your organisation need not respond if your plans remain unchanged as notified to CDS during the 2016 Open Market Review.

CDS is requesting information on, and supporting evidence for, any current broadband

infrastructure or planned investment (within the next 3 years) in broadband infrastructure in the Devon, Somerset, Plymouth, Torbay, administrative areas, where these may not already be included within the proposed NGA Intervention Area map attached. Where plans are submitted are the same as those recently completed for the CDS OMR review, providers are not required to re-submit. We do require an email response confirming there are no changes.

**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 NGA Broadband coverage not included within the proposed State Aid Intervention Areas shown on the attached map, CDS is requesting information on the premises covered (or planned to be covered) by your broadband infrastructure investment. By 'covered' (or 'passed') the CDS Programme 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. Where an operator is responding with current or planned coverage for NGA, it must respond to confirm those premises that it is able to provide a broadband service with an access line speed (or equivalent) of at least 30Mbps. Operators should also provide details of their solution to demonstrate that it meets requirements of an NGA Qualifying technology and must demonstrate that it meets the standards set out in the BDUK Technology Guidelines and suppliers may need to evidence this via submission of a NGA technical assessment in line with BDUK requirements<sup>2</sup>.

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

- Detailed maps for NGA showing the existing coverage, and separately maps detailing the planned investment in NGA Broadband for at least the next 3 years.
- Details of the actual premises covered or passed (within postcodes (at 7-digit postcode level), and confirmation that fixed network infrastructure is 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. A list of the proposed postcodes is appended on the CDS website (Excel file).

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 NGA Technology Guidelines (see above).

- A description of the services/products currently offered, and separately

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<sup>2</sup> <https://www.gov.uk/government/publications/2016-nbs-tech-guidelines>

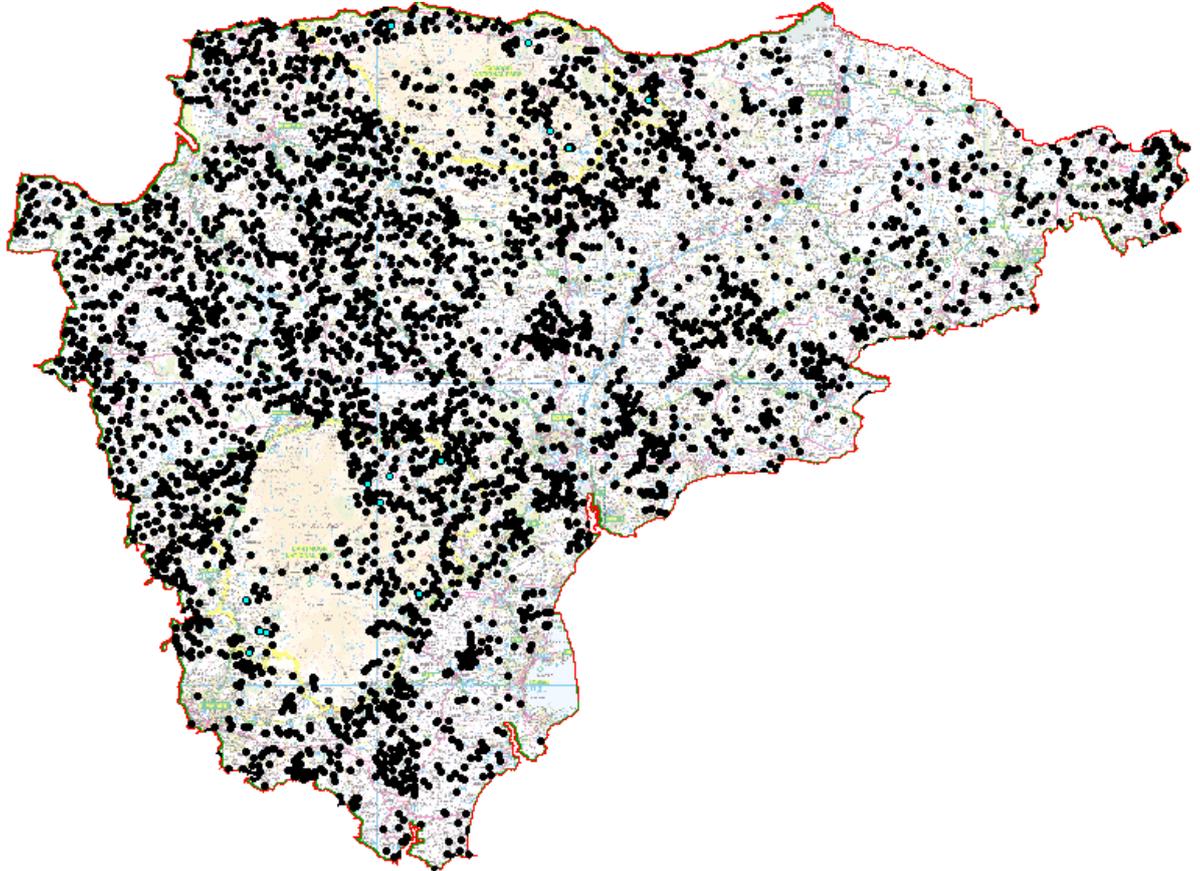
those services/products to be offered within the next 3 years.

- Installation, annual/monthly subscription, and additional volume or per-service tariffs for those services/products (identifying whether such tariffs 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 planned timing of roll-out of any future investments, including further investments required to cope with future increases in Take up and Demand.

Please supplement the required information above with any supporting evidence as you consider appropriate (e.g. links to public websites, etc).

## Annex A

Map showing NGA postcodes potentially in scope for Gainshare funding under BT contract within the CDS Area:



'Blue' dots indicate postcodes in CDS under consideration for Gainshare proposal but are currently classified as 'under review' pending the conclusion of a contract change control exercise.

'Black dots' indicate postcodes under consideration for Gainshare proposal.