Business & Enterprise Select Committee Inquiry into Broadband Speed
Response of the Internet Services Providers' Association

ISPA

The Internet Services Providers' Association (ISPA) UK is the trade association for companies involved in the provision of Internet Services in the UK. ISPA was founded in 1995, and seeks to actively represent and promote the interests of businesses involved in all aspects of the UK Internet industry.

ISPA membership includes small, medium and large Internet service providers (ISPs), cable companies, web design and hosting companies and a variety of other organisations. ISPA currently has over 200 members, representing more than 95% of the UK Internet access market by volume.

ISPA was a founding member of EuroISPA, the European Internet Service Providers Association based in Brussels, which is the largest umbrella organisation of ISPs globally.

Introduction

ISPA welcomes the opportunity to respond to the Committee's inquiry into broadband speed. As outlined in the Digital Britain Report, the Internet is central to the UK economy and society and as more public services are being delivered online, the importance of broadband cannot be underestimated. ISPA is pleased that the Government recognises broadband as an essential utility and welcomes Parliament's continued interest in the area.

Is the target for universal access to broadband at a speed of 2Mb/s by 2012 ambitious enough?

ISPA believes that any Government action that encourages use of the Internet is a positive step. Whilst the majority of the UK has access to broadband with speeds above 2Mbps, as recognized in Digital Britain, more than one in ten households do not. Therefore, Government efforts to bridge the Digital Divide and increase the level of broadband use are welcomed. It is worth

highlighting that whilst Government action is welcome to address the minority who do not currently benefit, the UK enjoys high broadband penetration brought about by a highly competitive broadband market.

The specific target of 2Mbps by 2012 represents a good starting point but there should be a medium to long-term strategy in place to achieve higher speeds. Without this long-term goal networks will not be built to support these speeds and the digital divide will widen. The market is already delivering faster speeds to meet users' demands. Therefore, along with establishing and reviewing the Commitment, Government should also ensure regulatory certainty to encourage continued investment in faster networks so ultimately all can benefit.

There are questions over whether 2Mbps will be sufficient to handle certain applications that are available now and will become more popular in the future. ISPA would urge Government to ensure that quality measures relating to reliability and quality, such as ping times, packet loss and jitter, will be put in place. Whilst the target is a good start and a Universal Service Commitment of 2Mbps a useful one – particularly as 2Mbps is generally sufficient for most current applications - Government in the longer term must look at ensuring that speeds are in line with what users expect.

Is the Government right to propose a levy on copper lines to fund next generation access?

ISPA welcomes the use of direct public funding to support next generation access. However, we question whether the proposed levy is the most appropriate means of doing this.

In the Digital Britain Report, the Government argues that the "communication sector underpins everything we do as an economy and society" and countries that "push forward their digital communications sector will gain substantial and long-lasting competitive advantage"[1]. Taking into account these statements, which reinforce the importance of next generation access, ISPA would argue that general taxation would be a more appropriate means of funding to ensure the final third is able to enjoy the benefits of NGA. However, until the extent of the market reach is known, it is difficult to determine how justifiable a levy is or the extent to which it is needed.

If a levy were introduced, the level of funding would also need to be matched by a similar investment from Government if the goal of widespread coverage is to be achieved. Following

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[1] Digital Britain – Final Report, Page 47

this, individual projects should then be able to request funding up to their full requirements. Once this is complete, ISPA would also like to know what would happen to the fund post-universality.

It is important that Government provide clear leadership on its plans for current and next generation broadband. ISPA would welcome clarity on the uncertainty that has surrounded the Government's intention on NGA, including comments on whether the 50p levy will actually be introduced due to parliamentary procedure.

While the market reach of NGA is still being established, the Government should further focus its attention on removing supply side barriers to NGA. For instance, the Government should focus on the encouragement of competition, tax incentives, local NGA projects and infrastructure investment. The telecoms market is extremely competitive, as stated in the Digital Britain Report, reflected by the continuing trend in lower prices, along with a rise in broadband take up.

Will the Government's plans for next generation access work?

ISPA is pleased that the Government recognises NGA as crucial to the UK economy and society and welcomes the Government's aim to ensure that the whole of the UK is able to benefit.

The Digital Britain Report has set the foundations for NGA. However, ISPA is keen to see more details of the Government's plans, particularly over the Network Design and Procurement Group (NDPG). As the report is minimal on detail, there are a number of aspects that still need to be defined. For instance, there is no definition of the final third, which is crucial to understanding the future requirement for state subsidy; there is little detail surrounding the NDPG, such as the cost of collecting and managing the fund; and clarification is required about the role of mobile operators who are not included in the fund as they already pay licenses, as do fixed operators. The Government could also afford to be more ambitious with its timescale for NGA of 90% coverage by 2017. ISPA is aware that the Government plans to publish a further consultation document on the final third in the autumn and looks forward to seeing more concrete plans in due course.

ISPA notes that Ofcom has already undertaken a number of consultations in this area and the Government itself published the Caio Review which looked at barriers to investment. It is important that the right regulatory framework is in place to encourage the private sector to develop next generation networks, with the Government filling in those areas not covered.

Are ISPs providing the speed of access which they promise to consumers?

ISPA is aware that this is an issue which generates a great deal of interest from consumers. In June 2008, Ofcom, with support from ISPA, launched a Code of Practice on broadband speeds. ISPA recommends that members sign up to the Code and we are pleased that the vast majority of consumer-facing ISPs have become signatories. The Code requires adherence to a number of principles, openness and transparency with consumers, such as providing point of sale information so that potential customers are informed of the likely speed they will receive prior to purchase.

Ofcom subsequently published research into broadband performance which found that consumers were overall happy with their broadband service. ISPA is committed to working with all stakeholders to ensure that users receive clear, transparent information about their broadband speeds.

One of the issues surrounds the advertising of 'up to' speeds. Advertisements in the UK fall under the self-regulatory body, the Advertising Standards Authority (ASA). The ASA has made a number of adjudications on the issue of advertising broadband speeds and its guidance state that claims such as up to should not "exaggerate" availability.

It is important to point out that a number of factors outside of an ISP's control can affect a users' speed. These include the distance from the telephone exchange, condition of the phone line, quality of wiring within the house, the type of modem or router being used and the speed of the computer which can be addressed independently of a users' provider. ISPA believes that transparency is key so that users are given as much information about the speeds they can expect to achieve and why.

To what extent does the current regulation strike the right balance between ensuring fair competition and encouraging investment in next generation networks?

The current regulations do not strike the right balance between ensuring fair competition and encouraging investment in next generation networks. The current framework penalises any organisation that builds a fibre-based network of the type that is needed (by discounting multiple strands of fibre) to deploy better coverage. The incumbent(s) have all the fibre and continue to hold onto that asset and not sell or lease it to third parties. One proposed solution could be to

remove current tax liabilities on lit fibre and require incumbents in areas to sell dark fibre as a regulated product.

ISPA notes that Government, as set out in the 2009 Budget, is to broaden Ofcom's statutory duties by amending the Communications Act to include the promotion of investment in communications infrastructure alongside its competition role. Whilst ISPA sympathises with the desire to encourage investment, which will be crucial in ensuring that the UK remains at the forefront of the global digital economy, altering Ofcom's powers must be conducted carefully. There is a danger that powers to promote infrastructure over competition could risk unbalancing the regulatory balance to the detriment of the consumer and other factors, such as content.

Additional points of interest

ISPA is committed to the principal of the end-to-end network where practical, and as such sees the increasing number of government-led initiatives into placing blockages and restrictions within the network as being counter productive. The Internet as a commercial enterprise can be traced back to the late 1980s when the first commercial ISPs were created.

Without the freedom to create new and innovative communications protocols, unhindered by networks requiring advance understanding of the new protocols, the internet today would be without email (POP3 added in 1996), websites (HTTP in 1992 and HTTP1.1 in 1999), video streaming (1998) and VoIP (1996), not to mention all the online gaming, p2p file sharing (both within and without copyright) and other things that people have developed to run over the open Internet.

Only taking a holistic look at the whole question of Digital Britain and the impact that access to the global resource has on the population can a question as simple as "Do we have the right broadband speed?" be answered.