

ISPA submission to the Telecommunications Infrastructure (Leasehold Property) Bill Committee

1 About ISPA

ISPA welcomes the opportunity to give evidence to the Telecommunications Infrastructure (Leasehold Property) Bill Committee. ISPA is the trade association for Internet Services Providers (ISPs) in the UK, with over 200 members, 90% of which are SMEs. Our members cover the whole spectrum of access provision in the UK using FTTP, FTTC, wireless and satellite connections at a wholesale and retail level. They play a critical role in delivering broadband and internet services across the UK to consumers and businesses.

2 Introduction

ISPA, and its members have been engaging with DCMS on this topic for a number of years and working closely with the department to bring forward these reforms. The industry welcomes this initial step to reduce barriers to roll out, however, given the scale of the engineering challenge ahead of us, would look to Parliament to go further in the provisions set out in the Bill.

ISPA's membership is broad, and reflective of the wide-ranging business models and focus areas across the industry. As such, the narrow nature of this Bill, focussed exclusively on urban Multi-Dwelling Unit (MDU) developments, where landlords are unresponsive, may fail to have the transformational impact the Government suggests.

ISPA sees several areas where amendments to this Bill could widen the scope to benefit millions of other users outside the specific urban MDU scenario currently targeted. These include:

- Definition of a "tenant request"
- Access to business parks
- Access to "third party land"
- The temporary nature of the access rights
- Further incentivising landlords to properly engage in negotiations
- Application in Scottish MDUs

2.1 Tenant request model

The current drafting of the Bill requires a tenant to request a service from a provider before the provider can use the provisions set out in the Bill. This does not allow for operators to gain access having proactively applied for a wayleave as part of their wider build plans. Given the scale of the infrastructure challenge posed by the 2025 target, and the pace at which providers will need to roll out networks across the country to achieve this, the requirement for a tenant request is a considerable roadblock. **ISPA would recommend an amendment to paragraph 27b to allow operators to use this mechanism where they are met with an unresponsive landlord regardless of a tenant request.** ISPA would further recommend that all landlords should be compelled to meaningfully engage with the Code regardless of a tenant request.

2.2 Business property access

Britain is a leading digital economy, and businesses, particularly those based in business parks around the UK, must be able to access high-quality connections. As gigabit-capable connections are installed throughout the country, these critical areas of local infrastructure should not be left behind. The current drafting of the Bill does not allow business providers encountering unresponsive

landlords to benefit from the provisions. **ISPA propose an amendment to incorporate commercial property, including multi-business units, into the Bill.**

2.3 Third party Land

The Bill as drafted would not provide support for the vast majority of rural roll out given the relatively small number of MDUs in these settings. The scenarios where operators are impeded by absentee freeholders in rural areas largely impact building the network rather than connecting a specific tenant.

When faced with choices, such as whether to cross a river, road or rail line or to route a network via a third-party property, the latter is often the most economical solution; however, this Bill would not provide any support as the wayleave would be required to cross the third-party property rather than directly connect a tenant. This delays rollouts, increases costs and leads to greater disruption for the local community as the network is rerouted. **ISPA would recommend amending the Bill to remove the necessity for the land to be held in common with the tenant requesting the service.** Thereby enabling operators to use the provisions in the Bill where third-party land needs to be crossed to connect a property in a nearby village.

2.4 Temporary nature of court-granted access

The temporary nature of access granted by the court process set out in the Bill, giving operators 18 months after which any infrastructure in a property could then be removed, is a concern for ISPA's members. There is no incentive placed on the landlord in this 18 months, or indeed in general, to engage in a meaningful way with operators. The risks involved in installing equipment that could then be removed reduces the use of the Bill, and more certainty around this is needed. **ISPA recommends amending the Bill to removing this period following court-granted access in which a commercial agreement must be made with a landlord, or at least extending it.**

2.5 Substantive response

The Bill as drafted would not require landlords to substantively and meaningfully engage with a request from a provider to grant a wayleave. Indeed, the requirements of the Bill to respond to a request could be met by setting up a sophisticated auto-response system that simply acknowledges the receipt of a request and references the provider and request in question. Moreover, even, if landlords did initially respond in a substantive way, there is no requirement for them to continue to engage and we have seen numerous cases, where rollout has been delayed by landlords in this way. We believe that the Bill provides an opportunity to facilitate a more meaningful engagement process between providers and landlords. **ISPA recommends removing clause 27b(4)(b) and amend clause 27b(4)(a) to include the requirement on the landlord to negotiate in good faith to confer or otherwise be bound by the code rights specified.**

2.6 Regional application

There is concern that the existing drafting of the Bill may have very limited application not just in rural areas, but particularly across Scotland. Given that in Scotland MDUs are most commonly owned on a freehold rather than long-term leasehold basis, the Bill does not allow for

Our members have highlighted that the majority of cases in Scotland therefore require a wayleave from each individual flat owner. As drafted, the Bill does not allow operators access in such a situation where there is an unresponsive freeholder, and industry is concerned that this could result in continued delays to installations in Scotland. **ISPA recommends that further consideration is given to how the objectives can be delivered across the UK and the various devolved authorities.**

3 Conclusion

The specific elements raised above indicate where ISPA feels the Bill itself can be improved to expand its use and impact on the roll out challenges faced by our members on a regular basis. Beyond this, we would also like to highlight that many of the issues around wayleaves, and negotiations with landlords are not directly addressed by this Bill and will continue to pose barriers to the deployment of gigabit capable infrastructure.

Whilst our members have good relationships with many landlords, and work closely with them to deliver excellent services, there is still an overwhelming number of cases where landlords are not technically “unresponsive” and respond to requests, but do not meaningfully engage in negotiations. This can delay rollout significantly, as well as negatively impact other market interventions such as state aid programmes administered by BDUK.

ISPA urges the Committee, and Government more generally to look at how landlords can be better incentivised to engage in these negotiations and understand the great benefits that gigabit connectivity can bring.