

**DCMS Review – Access to Infrastructure (ATI)**

**Review of the Access to Infrastructure Regulations - call for evidence – June 2020**

**JRC's Response to Consultation Questions based on Member Feedback and in collaboration with the Energy Networks Association (ENA) – who will be also be sending in a separate ENA specific response.**

**Q 1: Have you previously used the ATI Regulations, have you previously attempted to use them, or are you planning on utilising them, to deploy high speed broadband networks?**

**JRC Observations / Response (Confidential? No)**

- Not Applicable / No Response

**Q 2: What type of infrastructure would you want to access using the ATI Regulations (e.g. other telecoms infrastructure, electricity infrastructure, sewers etc)? What are the difficulties of using these types of infrastructure to deploy broadband?**

**JRC Observations / Response (Confidential? No)**

- Not Applicable / No Response

**Q 3. How effective are the current ATI Regulations at encouraging infrastructure sharing to deploy gigabit capable networks, including sharing: a) other telecoms infrastructure and b) non-telecoms infrastructure?**

**JRC Observations / Response (Confidential? No)**

- Not Applicable / No Response

**Q4: Are there current legislative barriers to using the ATI regulations, and if so what are these? In particular, we would welcome comments relating to:**

**JRC Observations / Response (Confidential? No)**

- Not Applicable / No Response

**– the scope of the regulations whether any clarifications need to be made to the regulations**

**JRC's Members, the Energy Network Operators, advise that the following aspects are worthy of further consideration;**

- Ensuring physical security of Critical National Infrastructure and consequential costs in complying with the requirements of NIS regulations and other statutory instruments, needs to be taken into account for Energy Network infrastructure;

- Confirmation is requested that where permission has been granted to use Energy Network Infrastructure / Assets that this is subject to the sharer or whoever is carrying out the “operational development” (as defined by the Town and Country Planning Act 1990) complying with planning legislation by using any appropriate general permitted development rights or by applying for planning permission.
- Way leave Arrangements - Energy Networks Infrastructure / Assets located on private land where there is a way leave agreement in place with the landowner this is solely for the infrastructure to facilitate Energy supply. If a CSP wishes to deploy communications systems on this Energy Network infrastructure then it should be the responsibility of the CSP / Communications Infrastructure provider to gain a new way leave specifically for the installation and on-going maintenance of any equipment they wish to install and that a copy of this way leave agreement shall be provided to the Energy Infrastructure owner prior to any communications equipment being installed;
- Where an Energy Network Operator wishes to remove an asset that is used by a third party communications system operator they will be able to serve notice (3-6 months) without penalty, e.g. an overhead line is replaced by an underground overlay scheme.
- We welcome greater clarity on the definition of access, sharing requirements & revocation rights;
- Investigate the implementation of a compulsory “code of practice” between Energy Network Operators and Telecoms Network Operators;
- Explore the opportunity for greater involvement of the Energy regulator Ofgem in this area to enhance awareness on both sides of the potential impact of enhanced access rights.

#### – the value of standardised cost structures and standardised formats for information requests and responses

##### **JRC’s Members encourage DCMS to;**

- Consider instigating an agreed standardised bilateral table of charges to ensure a better understanding of Utility costs & cost sharing arrangements together with a better understanding of cost obligations/ overheads between parties
- Explore in more detail the issues around standardised cost structures necessitating non-telecoms operators such as energy companies establishing new teams and processes to manage sharing requests
- Address the unbudgeted costs that are outside of regulatory allowances provided under license price controls, incurred by this requirement
- Consider the complication of land rights where shared access is provided, and property is later divested;
- Provide a defined route to independent arbitration when disputes arise;
- Designate a government department / agency with responsibility for this process of arbitration (potentially an existing regulator); and
- Please provide a definition of reasonable and realistic timelines for installation, operation & decommissioning of assets associated with this initiative.

#### – the value of a single information point or central data portal

##### **JRC’s Members encourage DCMS to address the following;**

- It is anticipated that there will be significant integration costs associated with any proposal to consolidate on a single information portal and with the sourcing / administration of such a portal;

- Will such an entity be an Independently funded unit and how will the funding arrangements be established?
- What will be the agreed powers and remit be for this new entity?
- Will this entity use collaborative working groups to develop process and policy in this area?

**– any potential changes that could be made to existing wayleaves and land rights regimes to make the regulations work effectively**

**JRC's Members propose the follow actions;**

- To establish a code of practice to be implemented covering wayleaves and land rights
- JRC members are concerned at the impact on existing agreements, currently based on utility requirements only
- Any changes made will require corresponding legislative coordination to be effective

**– the effectiveness of Ofcom's powers to enforce the regulations**

- Not Applicable / No Response

**Q5: Are there current regulatory barriers to using the ATI regulations? If so, what are these and what improvements could be made?**

**JRC Observations / Response (Confidential? No)**

- JRC Members believe that the Involvement of Energy regulators in this process would enable more transparency and control.

**Q6: Are there any other non-legislative and regulatory barriers to infrastructure sharing?**

**JRC Observations / Response (Confidential? No)**

- JRC's Members are concerned of the impact on operational safety, the dilution of operational procedures and the loss of standardisation across all assets that may result if non-standard telecoms assets are attached to Energy Network Infrastructure (including ducts) without suitable consultation and approvals being sought.

**Q7: Do you have any other suggestions for the government, regulators or industry on what can be done to improve infrastructure sharing or the transparency of infrastructure data?**

**JRC Observations / Response (Confidential? No)**

- The establishment of a joint working party to develop processes, address and resolve conflicts associated with infrastructure sharing; and
- The creation of an Independent Authority & arbitrator for dispute resolution.