Product Security and Telecoms Infrastructure Bill: Public Bill Committee

Submission from BT Group

1. We welcome the opportunity to provide written evidence to the Public Bill Committee on the Product Security and Telecommunications Infrastructure Bill. We support the overall aims of the Bill, both those related to product security set out in Part 1 and those related to telecommunications infrastructure in Part 2.

Product Security

2. As the online economy and the UK's reliance on digital products and services grows, ensuring we can all access the internet safely and securely is increasingly important. We therefore support the intent of Part 1, which seeks to improve the security of internet-enabled consumer devices.

3. For current BT-manufactured products (such as our internet routers or digital phones), we already comply with the requirements in the Bill (with respect to the banning of default passwords and providing a public contact point to report bugs) or plan to do so (in line with the need to update customers about security software updates).

4. However, it will be important that sufficient time is permitted for manufacturers to adjust their supply chains and customer communications in response to these new requirements. **We would encourage Government to take a risk-based approach to enforcement and to consult fully and in a timely fashion on draft secondary legislation which will provide more detail on how the new regulatory framework including enforcement will work in practice.**

Telecommunications Infrastructure

5. Our principal focus is Part 2 of the Bill. The swift roll-out and upgrading of digital infrastructure (i.e. fixed and mobile telecoms networks) is also critical to the UK's success and ensuring that everyone can benefit from the digital economy, wherever they live. Excellent progress is already being made on full fibre roll-out, with over 6m premises already passed by Openreach, on improving 4G in rural areas and on 5G availability (EE population coverage is already above 40%). But there remains much more to do.

2017 Reforms to the Electronic Communications Code

6. The Bill, in Part 2, provides for important reforms to the rights of network operators to deploy mobile masts and fibre cables on land (collectively known as the Electronic Communications Code, ECC or "the Code"). It builds on the significant and welcome changes to the Code brought in by the Digital Economy Act 2017 and seeks to address remaining bottlenecks and barriers which are slowing down household and business access to full fibre, 4G and 5G services across the UK.

7. In particular, **we welcome the Government's clear decision not to fundamentally change the Code nor to revise the approach, established by the 2017 Act, to the valuation of land for the purposes of hosting telecoms infrastructure.** The current regime has rightly brought telecoms

more closely (but far from entirely) into line with rents paid by utility providers such as water and energy.

8. It has supported the Government's objective for swifter and more economic mobile coverage improvements, ensuring that more rural locations become commercially viable. Since its introduction, EE has built over 600 new masts across the countryside, delivering vital 4G mobile coverage to hundreds of communities for the first time and we have upgraded over 1,000 existing 4G sites to 5G since May 2019. An effective Code will be critical in delivering the objectives of the Shared Rural Network programme. Our deployment will also support the delivery of essential life-saving projects such as the Emergency Services Network (ESN) which will carry all emergency service mobile communications from 2025 onwards.

9. We understand the challenges that these changes have created for some of our existing landlords who have historically received high rents. We have put in place a number of measures to mitigate this, including phasing rent reductions and providing upfront lump-sum payments. We work hard to reach consensual agreements in order to avoid going through the courts to determine Code-based rents, as evidenced by the fact that very few of the cases we are involved in actually result in tribunal hearings. We are working closely with landlord representatives to improve communications across the sector, for example via our engagement through the Country Land and Business Association's Rural Connectivity Forum and others. Finally, we use Ofcom's ECC Code of Practice for our guiding principles when engaging with landlords and are active participants in the cross-stakeholder DCMS Working Groups which reviews this to ensure it remains fit for purpose.

Proposed Reforms

10. **It is right that changes are made to address the areas where the new Code is not working as intended – to support swifter 5G roll-out and improve rural mobile coverage, including through the Shared Rural Network initiative.** The Code is working increasingly effectively in the deployment of new 'greenfield' mobile sites where there is not a pre-existing landlord agreement. But where operators seek to renew leases, upgrade (adding equipment to improve coverage or add 5G) or share their sites with other operators, there are a number of concerns with the Code that this Bill seeks to address.

11. The Government is seeking to introduce important reforms that aim to:
    - Remove – through the introduction of interim arrangements for renewal negotiations – some of the incentives for landowners and their agents to delay negotiating new agreements.
    - Address problems in agreeing new Code terms for leases where land has previously been occupied under different legislation, the Landlord and Tenant Act 1954 and the Business Tenancies Order (Northern Ireland) 1996.
    - Enable terms to be reached more quickly where land is occupied under an expired "old" Code agreement (i.e. pre-2017).
    - Ensure that upgrades to equipment e.g. to deploy 5G on an existing 4G site can be made more easily.

12. There are a number of clauses where the drafting requires amendment to ensure the intent is actually delivered and we support the submission to the Committee by Speed Up Britain which sets out proposals for how these could be resolved. However, we welcome the Government's intent to address these issues which are slowing down the timely upgrade and extension of the UK's telecoms networks across thousands of locations.

13. **The Bill should also be further strengthened to support full fibre connectivity, in particular, to the millions of people who live in blocks of flats and in rural areas.**

14. Openreach have set out ambitious plans to deliver full fibre to 25 million homes and businesses – but will need to negotiate new wayleave agreements in order to upgrade flats from the existing copper network. Without more ambitious reform, Openreach risks not being able to access up to 1.5 million flats, even in cases where residents want full fibre. It will also create greater challenges for rural roll-out and the Government's Project Gigabit.

15. The Bill does amend the Code to retrospectively add automatic upgrade rights to existing agreements, but limits these only to apparatus which is installed underground (i.e. in underground ducts), and where there is no burden on the landowner. These conditions are more restrictive than the existing provisions for upgrade rights within the Code which would apply to new agreements.

16. The Bill, as it stands, will do nothing further therefore to support improved connectivity to flats, nor to rural areas where most of the network is built above ground (using telegraphy poles).

17. We therefore believe that the Bill should be amended to bring the conditions on retrospectively applying automatic upgrade rights to existing agreements in line with those which already exist in the Code (as set out in clause 59). We are aware that Openreach is providing a separate submission to the Committee with proposed amendments that could address if implemented and we support their proposals.

Please contact the BT Policy and Public Affairs team for further information or to discuss in more detail at femi.ogunbiyi@bt.com.