

An Roinn Cumarsáide,  
Fuinnimh agus Acmhainní Náúúrtha  
Baile Átha Cliath 2.

Department of Communications,  
Energy and Natural Resources,  
Dublin 2.

Our Ref: FOI/31/2008

23 June 2008

Mr Stephen Minch  
Conranstown House  
Conranstown  
Castletown Geoghegan  
Mullingar  
County Westmeath

Dear Mr Minch

I refer to your appeal of 29 May 2008 under the Freedom of Information Acts 1997 and 2003 for a review of the earlier decision of this Department dated 26 May 2008 concerning the National Broadband Scheme (NBS) map.

I am a more senior member of the staff of this Department than the person who made the decision of 26 May 2008. This review decision is an entirely new and separate decision on your request, and is explained below.

#### **Section 10**

I have reviewed your information request. I am of the opinion that the extent of the information being sought by you is extremely voluminous to the point that it would be a major administrative job to even list all of the documentation sought by you with a decision made on the release or non-release of each individual document, and that such an exercise would be an inappropriate use of State resources. There are literally hundreds of documents/records held by this Department in relation to the NBS map. My review decision is that the information request is too voluminous and is refused under Section 10 (c) of the FOI Acts.

#### **Section 24**

My view is that certain of the information you have sought is of a nature that could potentially pose a security threat to the State. If all of this documentation was released it would meet the information request and disclose all details of the NBS mapping process. My view is that this would not be in the public interest as it could reasonably be expected to disclose information that could pose a security threat to the State. Accordingly, I am of the view that certain of the information being sought by you should not be released under Section 24.1 (a) of the FOI Acts 1997 and 2003.

#### **Section 27**

My view is that a substantial amount of the information you have sought was provided on a confidential basis, and that some of this information is commercially sensitive. If all of this documentation was released it would meet the information request and disclose all details of the NBS mapping process, but this would disclose certain business and technological competitive advantage information. My view is that this would not be in the public interest as it could reasonably be expected to demonstrate business and technological competitive information that could result in financial loss, could prejudice commercial positions, and that this would not be in the public interest. Accordingly, I am of the view that certain of the information being sought by you should not be released under Section 27 of the FOI Acts 1997 and 2003.

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#### **General**

29-31 Adelaide Road, Dublin 2  
29-31 Bóthar Adelaide

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## General

As you are aware details of the NBS are available on the Department's website [www.dcenr.gov.ie](http://www.dcenr.gov.ie) (follow the links for Communications Development/National Broadband Scheme). In an attempt to identify areas where there is broadband coverage, the Department and ComReg asked broadband operators to provide their coverage details for:

- Digital Subscriber Line (DSL) broadband coverage;
- Fixed wireless broadband coverage;
- Mobile broadband coverage.

Whilst satellite broadband coverage is universally available it was decided to exclude it from the mapping exercise on cost and technical grounds.

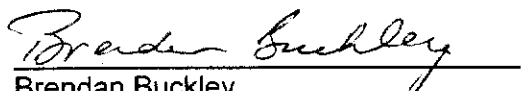
A map was compiled on the basis of the information provided by broadband operators and is available on the Department's NBS website. The first iteration of this map was published in May 2007.

Broadband operators have been requested to regularly update coverage details in order to keep the maps accurate and up to date. The latest iteration of the map was published in March 2008.

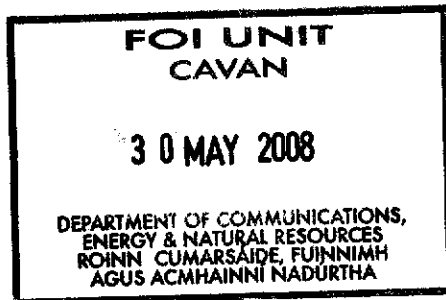
## Right of Appeal

You may appeal this decision by writing to the Information Commissioner at 18 Lower Leeson Street, Dublin 2. There is a fee of €150 for such appeals (or €50 if you are a medical card holder), other than appeals against a decision to impose a fee. If you wish to appeal, you must usually do so not later than 6 months from the date of this notification. Should you write to the Information Commissioner making an appeal, please refer to this letter.

Yours sincerely

  
Brendan Buckley  
Assistant Principal  
Communications Development Division





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Thursday, 29 May 2008

Mary Rabitte  
FOI Unit  
Department of Communications Energy and natural Resources  
Elm House  
Earlsvale Road  
Cavan  
Co. Cavan

Re: FOI request 2008/31 - Appeal

Dear Madam,

I wish to appeal the decision to refuse my request referenced above. I am appealing the grounds advanced by Mr Garry Purcell.

Reasons :

1. The sections of the act cited are not pertinent to the information being sought.
2. No document was supplied to support the claim of prior confidential agreement.
3. Institutional bias. The map is a creation of the department; any questioning of its assumptions, presentation or accuracy will be seen, whether intended or not, as implicitly questioning the department's credibility and competence. A refusal is therefore more likely.

As the full statutory period was used in consideration of the initial request, I would be grateful of a prompt reply to this appeal.

I enclose payment of €75

Yours sincerely,

Stephen Minch