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Monday, 10 November 2008

The Freedom of Information Officer  
Department of Communications, Enterprise and Natural Resources  
29-31 Adelaide Rd  
Dublin 2

Dear Sir/Ms.

I wish to make an application under the Freedom of Information Act for the following documents:

All documents concerning broadband coverage throughout Ireland; all documents related to the inquires and/or assessments of the reasons for the slow expansion of broadband coverage; representations made to Eircom and other communications companies in connection with that issue: responses from Eircom and other communications companies in relation to broadband.

I enclose a cheque for €15 in this connection.

If you have any queries concerning this please contact me at the phone numbers above or at the email address cited above.

Yours sincerely,

*Vincent Browne*



FOI 2008/57b

*December*  
10 November 2008

Mr Vincent Browne

Dear Mr Browne

I refer to the request you have made under the Freedom of Information Acts, 1997 and 2003, for access to records held by this Department as detailed beneath.

'All documents concerning broadband coverage throughout Ireland; all documents related to the inquiries and/or assessments of the reasons for the slow expansion of broadband coverage; representations made to Eircom and other communications companies in connection with that issue; responses from Eircom and other communications companies in relation to broadband'

The request as made is extremely broad in its scope and in this regard I had a discussion with you on 1 December about the records sought. The goal of this discussion was to clarify the scope of your request and help to identify what specific records are of interest to you.

In accordance with Section 7 (1) (b) of the FOI Act the requester must provide sufficient particulars to enable this body to identify which of the records are of specific interest. In this connection you indicated that you wished to consider revising the wording of the request. However, at this juncture I have not received any communication from you in this regard therefore in the absence of any modification to the wording of the request I propose to address the request on hand.

Prior to addressing your request, it may be of assistance if I set out the position regarding the provision of telecommunications services including broadband. This is in the first instance a matter for the private sector companies operating in a fully liberalized market, regulated where appropriate by the Independent Commission for Communications Regulation (ComReg). It is important to note that in addition to fixed landline broadband, otherwise known as Digital Subscriber Lines (DSL) or broadband over telephone lines, broadband services are available from competing service providers over multiple platforms including cable, satellite, fixed wireless and increasingly mobile. There are currently over 20 large to medium sized companies and many smaller companies providing broadband services to the consumer using these platforms.

The role of Government is to formulate regulatory and infrastructure policies to facilitate the provision of high quality telecommunications services by competing private sector service providers.

The widespread provision of broadband services continues to be a priority for the Government. In that regard the Department has helped to stimulate competition by developing

- the regional Broadband Metropolitan Area Networks ('MAN');
- the County and Group Broadband Scheme (GBS); and
- The National Broadband Scheme (NBS) which is designed to deliver broadband to areas where the market has failed to provide the service.

**Metropolitan Area Networks (MAN)**

Phase 1 of the MANs programme completed delivery of open access, high speed broadband networks to 27 towns and cities throughout the country. Construction of Phase 1 MANs commenced in 2002 and all 27 MANs were completed by 2005. They were successfully handed over to E/Net, whose role is to maintain, market and operate the MANs on behalf of the State.

Construction of Phase 2 of the MANs programme commenced in 2005 and 64 towns are now complete with construction underway in 2 further towns. Projects in 28 towns originally selected under Phase 2 have been suspended pending the outcome of a Value for Money Review of Phase 1 of the MANs Programme which was published on 4 July 2008. In addition the Department published a consultation paper on Next Generation Broadband networks for public consultation on 3 July 2008.

The consultation period on the paper has now concluded and Department officials are evaluating the submissions received. It is intended that the final policy paper will be published shortly.

Future investment decisions, including any investment in any new MANs will be guided by the final policy paper on Next Generation Broadband, the recommendations of the Value for Money and Policy Review of Phase 1 of the MANs Programme, available resources and any other analyses as appropriate.

**Group Broadband Scheme**

The Group Broadband Scheme offered smaller communities the opportunity to come together with service providers and obtain broadband connectivity for their areas. The Government provided funding of up to 55%. These were a total of 162 projects approved under the two phases of the Scheme. When the Scheme concluded at the end of 2006, there were 127 broadband projects operational.

**National Broadband Scheme**

The National Broadband Scheme (NBS) is designed to deliver broadband to areas where the market has failed to provide services. The purpose of the NBS is to tackle the digital divide by channeling support to compensate for market failure in the provision of broadband facilities. The NBS will therefore provide broadband services to the 10% of the population living in areas that the private sector has failed to provide infrastructure on a commercial basis.

Coverage details were provided to the Department by service providers on a confidential basis, and solely for the preparation of the NBS map in an aggregate format. The list of mapped service provider's is available on our website; however the release of individual service provider coverage maps is being withheld.

In order to get an indication of the services available in any particular area, you may wish to check the coverage on the [www.broadband.gov.ie](http://www.broadband.gov.ie) website run by DCENR, and contact relevant Service Provider's for further details.

On the 25<sup>th</sup> of November, 3, a Hutchison Whampoa company was selected as the preferred tenderer for the NBS following the conclusion of a comprehensive competitive procurement process. The NBS contract is expected to be signed with 3 by mid-December.

3 will be required to complete the roll out of services within 22 months of the contract award. All requests for a broadband service in the areas to be addressed by the NBS will be met.

As regards the FOI request on hand, I am of the view that the extent of the information being sought is voluminous to the point that it would be a major administrative task 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 consequently I am refusing the entire request under Section 10 (c) of the Act.

I have decided to refuse your request pertinent to the NBS mapping coverage under a number of exemptions namely 20(1), 21 and 27(1) of the Freedom of Information Act 1997 – 2003 on the basis that your request is exempted under these sections.

**(1) Findings, particulars and reasons for decisions to deny access to your request of all documents concerning broadband coverage throughout Ireland.**

I am withholding the documents relevant to the NBS mapping coverage under three provisions of the FOI Act which I detail hereunder.  
Exemptions explained.

- Section 20(1) (a) of the Act exempts records relating to the deliberative processes by the public body concerned.
- Section 21(1) (b) provides for the exemption of records from release which may have a significant adverse effect on the performance by a public body of any of its functions relating to management.
- Section 27(1) (b) exempts commercially sensitive information.
- Section 27(1) (c) exempts records relating to information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

Factors in favour of disclosure:

1. The right of the public to have access to information.
2. Openness and transparency of the decision making process.
3. There is a general interest in the disclosure of documents which relate to issues affecting the wider community.

Factors in favour of non disclosure:

1. Need for the Department to be able to conduct its deliberation process on matters of importance.
2. Release of the record would impair the integrity and viability of the decision making process without any corresponding benefit to the public.
3. Need to preserve confidentiality having regard to the subject matter.
4. Need for the Department as regulator of the telecommunications industry to secure sound advice in exercising this role and not to be impaired in the making of future decision by the release of the record.
5. Release of the record where the decision making process is incomplete would unfairly disadvantage the maker of the decision.

In my opinion of the balance of the public interest lies against the release of the data.

I attach for you information document on the National Broadband Scheme together with an indicative map of Wireless and DSL broadband coverage.

**(2) Findings, particulars and reasons for decisions to deny access to your request of all documents concerning all documents related to the inquiries and or assessments of the reasons for the slow expansion of broadband coverage.**

I believe the request in its entirety to be voluminous and as outlined above consider Sections 10 and 20 of the Act applies in this case.

**(3) Findings, particulars and reasons for decisions to deny access to your request of all documents concerning representations made to Eircom and other**

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**communications companies in connection with that issue; responses from Eircom and other communications companies in relation to broadband.**

Please refer to (1) and (2) above which I believe addresses this point.

### **Rights of appeal**

I wish to advise you that, if for any reason you are not satisfied with the outcome of your request you are entitled to appeal the decision. To appeal, you need to write to the Freedom of Information Unit, FOI Unit, Department of Communications, Energy & Natural Resources, Elm House, Earlsvale Road, Co. Cavan.

Please note that an application fee for an appeal is currently €75.00 and a reduced fee of €25.00 applies if you are covered by a Medical Card.

If claiming a reduced application fee, the request must also be accompanied by

- The Medical Card registration number
- The name of the issuing Health Board
- Your consent to the verification of these details with that Health Board.

Payment should be made by way of bank draft, money postal order, or personal cheque made payable to "Department of Communications, Energy and Natural Resources".

On receipt of the fee, you will be advised of when you can expect a decision on your appeal, and the contact details of the person handling the appeal.

You should make your appeal within 4 weeks from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. *A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays).* The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely



Marian Salmon  
Decision Maker

DEPARTMENT OF COMMUNICATIONS, ENERGY AND  
NATURAL RESOURCES

NATIONAL BROADBAND SCHEME (NBS)

APPROACH TO NBS BROADBAND MAPPING  
AND COVERAGE

January 2008

## 1. Introduction

On the 2 May 2007 the Department of Communications Energy and Natural Resources (DCENR) announced<sup>1</sup> the commencement of the procurement process for the National Broadband Scheme (NBS).

The objective of the NBS is to encourage and secure the provision of broadband services to certain target areas in Ireland in which broadband services are not currently available and are unlikely to be available in the near future. It is envisaged that the NBS will lead to a broadband product being available to fixed locations in these areas which is affordable, sustainable and scaleable. It is intended that the broadband service delivered under the NBS will be broadly comparable to the products enjoyed in the majority of currently served areas, now and in the future.

## 2. Broadband Coverage

In order to assess the extent of broadband coverage, the DCENR contacted known service providers and sought details as to their current and future purported broadband coverage. Based on information provided by such providers an indicative<sup>2</sup> broadband coverage map was published on the DCENR's website in early May. On foot of such publication, the DCENR was contacted by a number of additional service providers with their coverage details.

An updated indicative coverage map has been published on the DCENR's website at: [www.dcmnr.ie/communications](http://www.dcmnr.ie/communications) (and at Appendix A for reference only). Coverage maps have also been provided to individual service providers. The maps denote the following defined coverage areas:

- "red areas" are currently served by broadband service providers.
- "blue areas" are currently without broadband coverage, but service providers have indicated that they plan to provide broadband services in these regions in the future.
- "green areas" identify remaining areas where no service is currently provided and is unlikely to be provided in the future.

This map has also been produced having regard to the following:

- DSL enabled exchanges are taken to have a broadband service radius of 4.5 Km.
- wireless/mobile service providers providing broadband services through the use of licensed and licensed exempt spectrum are taken to have service areas related to the size of service providers' footprints (as appropriate) and having regard to the topographical effects on the wireless signal.

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<sup>1</sup> A copy of the OJEU Notice can be found [here](#).

<sup>2</sup> Please note that this map has been developed having regard to the information available to the DCMNR at the time of its issue and is expected to change and evolve as information becomes available.

At the current date of publication, details of broadband services provided by the following service providers have been captured on the map and are shown in Table 1 below:

<b>Table 1: Broadband Service Providers Represented on Indicative Broadband Map</b>	
3 Ireland	Fastcom Broadband Ltd
AHC	Freedom Broadband Ltd
AiBridges	High Speed Data Solutions Ltd
Airspeed Communications Ltd	HITEC Carrickmacross
Airwave Internet	Ice Broadband
Alpha Broadband Ltd	Inter Island Co-operative Ltd
Alphawave Communications	Kerry Broadband
Antenna Electronics	Irish Broadband
Amocom	Last Mile Ltd
Aptus Ltd	Leap Broadband for Magnet
Ardmore Technologies	Lighthouse Networks Ltd
Athenry-Craughwell Broadband Co-operative	Net1
Azotel Ocean	North West Clare Broadband
BBNet	NWE Wireless Networks
Brisknet Ltd	permaNET
Callidus Telecom	Premier Community Broadband Services Ltd
Cellcom Ireland Ltd	Quin On-Line
Clearwire Ireland Ltd	Rapid Broadband Ltd
Croagh Patrick Community Network Society Ltd	Reach Broadband
Digital Forge	Real Broadband Ltd
Digiweb Ltd	Regional Broadband Ireland Ltd
Digiwest Communications Ltd	Skytel Networks Ireland Ltd
Eircom	Titan Consultancy
Fast Wireless Internet Ltd	Westnet

### **3. National Broadband Scheme Coverage**

As indicated in section 2 above, the indicative broadband coverage map (at Appendix A) sets out a number of green, blue and red areas. The 'blue areas' are those areas where service providers have (either prior or subsequent to the announced launch of the NBS) indicated that they plan to provide a broadband service in these areas in the future.

In ensuring the provision of broadband services for consumers and businesses through the NBS, the DCENR wishes, insofar as is possible, to minimise potential distortions in competition. The focus of the NBS is, therefore, on areas that are unlikely to have broadband services available within a reasonable timeframe.

The DCENR intends that 'green areas' will fall within the scope of the NBS. For 'blue areas' the position is less certain, given that there are currently no broadband

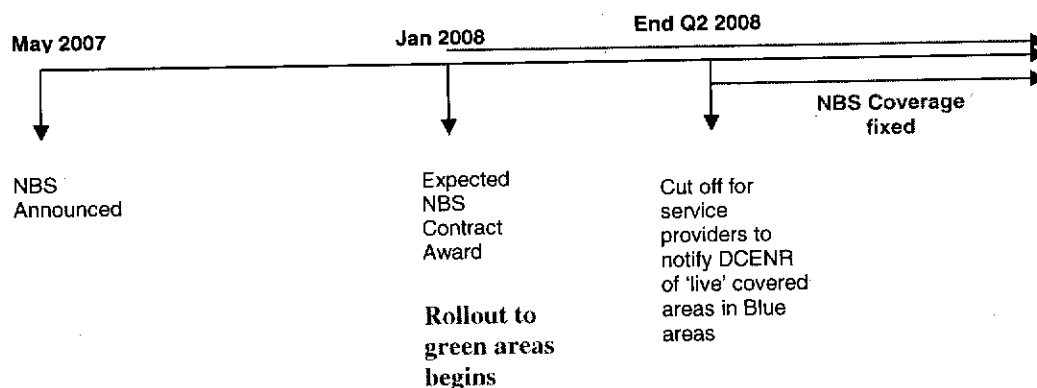
services there but service providers have indicated that they intend to provide broadband services in the future.

Consumers/businesses in the blue (and green) areas have, to date, been denied access to broadband services since they first became generally available approximately 5 years ago. The DCENR considers that it is no longer justifiable for this broadband deficit to continue, particularly from social inclusion and economic competitiveness perspectives. In deciding how to deal with these 'blue areas' in the context of the NBS the DCENR wishes to reasonably balance the needs of consumers/businesses on the one hand and service providers on the other. The DCENR considers that should it exclude blue areas from the scheme at this point in time. However, there is a risk that services providers' intended coverage may not materialise within a reasonable timeframe resulting in a continued broadband deficit which would not be capable of being addressed through the NBS.

The DCENR is now notifying consumers and the market of its approach for dealing with blue areas. It intends that services providers will be given a reasonable timeframe to roll out broadband services to these blue areas, after which any unserved areas at that time will be facilitated by the NBS.

The blue areas will, therefore, be included in the scope of the NBS from the outset and the NBS procurement process will seek to address these areas. However, the provision of broadband to the blue areas via the NBS contract will not take place until the beginning of Q3 2008. Up to the end of Q2 2008, where the DCENR is presented with clear evidence that a 'live service' is being provided to users in blue areas, the service provider's particular service footprint will be removed from the NBS coverage requirements. Details of the mechanism for notifying updated service footprints are set out in Appendix B and must be fully completed and accompanied by the signed declaration in order for the DCENR to consider them. An appropriate mechanism to give effect to this approach will also be built into the NBS procurement process/contract. The timelines presented above are illustrated below in Figure 1:

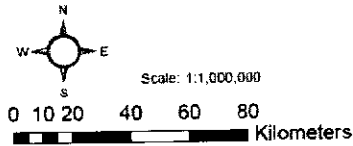
**Figure 1: Timelines for Blue Areas**






The DCENR considers this approach to be reasonable and proportionate and one that balances the needs of consumers against those of service providers. The DCENR also intends to notify the European Commission of its approach to dealing with blue areas as part of its State Aid notification.

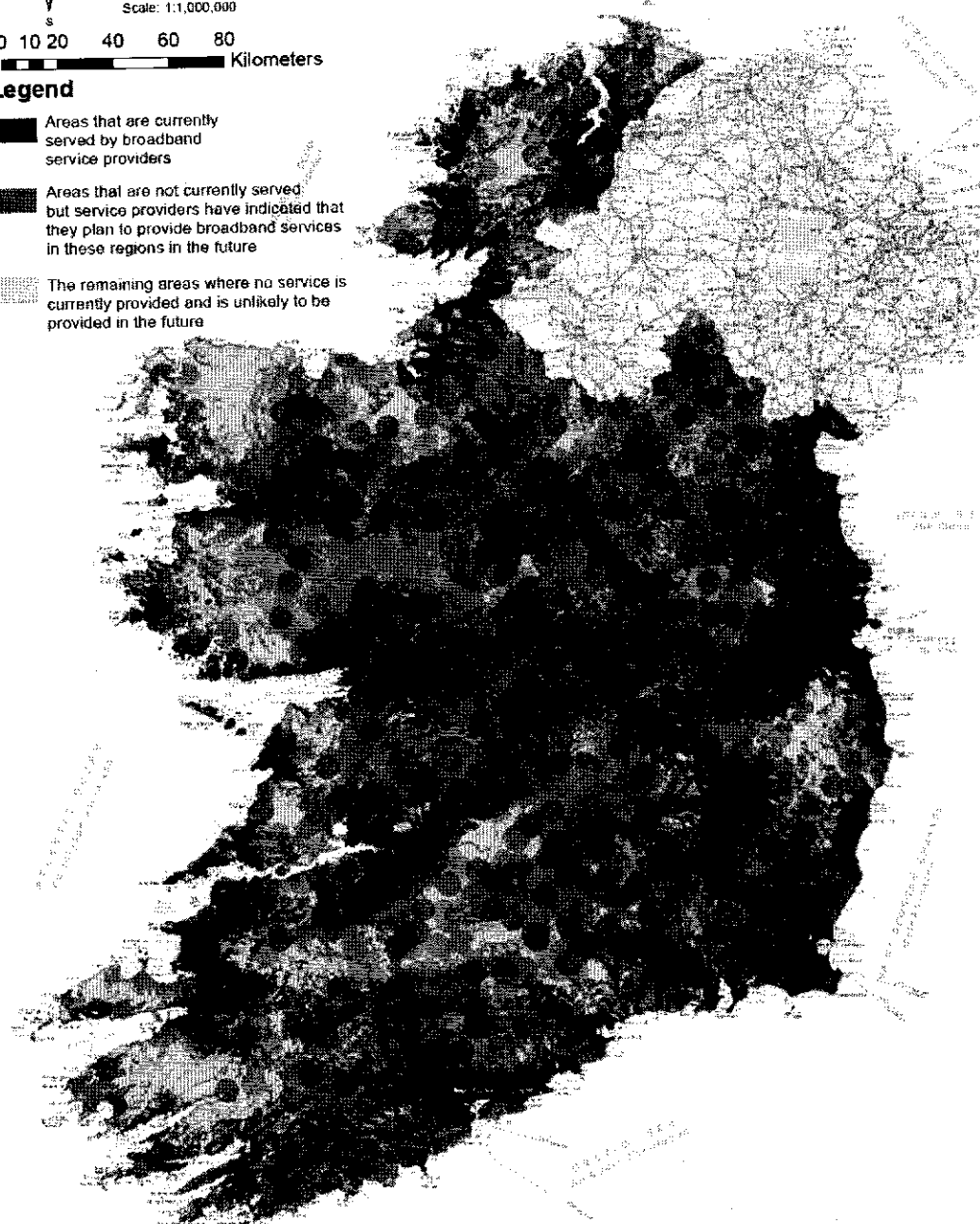
## Appendix A: Indicative Broadband Coverage Map

# Wireless and DSL Broadband Coverage



### Legend

-  Areas that are currently served by broadband service providers
-  Areas that are not currently served but service providers have indicated that they plan to provide broadband services in these regions in the future
-  The remaining areas where no service is currently provided and is unlikely to be provided in the future



This indicative map has been developed having regard to the information available to the DCENR (based on information received from Service Providers) at the time of issue of the Information Memorandum and is subject to change during the course of the procurement process. For additional information please see the supporting document on mapping.

Maps Prepared Based on Information Available to DCENR and data from Ordnance Survey Ireland License No. EN0047207.  
Data Compiled and Map Produced by ESRI Ireland 2007

Note: The data in this map is for reference only, urban and vegetation effects on signal have not been taken into consideration, transmission anomalies may also occur in certain areas and from transmission equipment