

## BCBAG Ltd

c/o BookCheck,  
The Midway,  
Chalford Hill,  
Stroud,  
GL6 8EN.

October 8, 2015

Dear Sir,

### **Re: Submission from BCBAG Ltd. To the OFCOM Strategic Review of Digital Communications - stakeholder engagement plans.**

BCBAG Ltd is a company established to raise money and contract BT Openworld (BTO) to upgrade two cabinets located in the Bussage & Chalford community in Gloucestershire. Our submission to your review, based on our experience of dealing with BT and BTO over the last two years, is that the current arrangement between BT (BTO) and their local government 'partners' is broken and their grip on the entire ground internet infrastructure is no longer in the public interest - retaining the current business model seems unlikely to provide the UK with the internet infrastructure that is clearly required to meet the challenges of the future.

BCBAG Ltd was formed in response to the refusal of both BT and their local government 'partner' (Fastershire) to upgrade our cabinets for high speed broadband without a funding contribution from the subscribers of the cabinets. BTO will not disclose why they refused to upgrade the cabinets without payment from the subscribers despite the fact that they have upgraded all the other cabinets in the community at their (BTO's) expense. Details of the background and current status of this project are set out in Attachment 1 to this letter (The Sad Tale Of Fibre Enabling Brimscombe Exchange Cabinets 9 & 17).

Our experience exposes a clear abuse of a dominant market position by BT/BTO which we believe is not in the long term interests of the UK. The key issues that have come to light as a result of our experience are:

1. BTO acts as a monopoly provider specifically determining which cabinets they will and will not upgrade for high speed broadband - refusing to explain any rationale for the selection of cabinets they deem to be 'not commercially viable' to upgrade and demanding that subscribers pay to upgrade these cabinets. A licence to print money.
2. BTO has no fail-safe system in place with their local authority 'partners' to ensure that where BTO claims grant assistance this is done in a consistent manner ensuring that there is a match of BT cabinets not upgraded with the local government funding for upgrades which is determined by 'locations' (postcodes) not BT by cabinets. No overall oversight - focus on BTO self-interest.
3. BTO refusing to incorporate and implement 'agreed' contract amendments with their local government 'partner' (Fastershire in our case) until they have secured future new business contracts on terms that are satisfactory to BTO. BT recklessly putting their long term monetary gains ahead of the immediate interests of the community and their potential customers. BT and their local government 'partners' are in fact adversaries with the supposed beneficiaries caught in the middle of long protracted arguments about costings. (after nearly two years of communication the following e mail exchanges were received during the last month i) [e mail from BT dated 15<sup>th</sup> September 2015 - \*We have been trying since 2014 to get you into the program while at the same time coming up with a solution \(like we have for 100 plus villages across the country.\) Which we have done and costed.\* E mail dated 7<sup>th</sup> October 2015 from the Director of Communications](#)

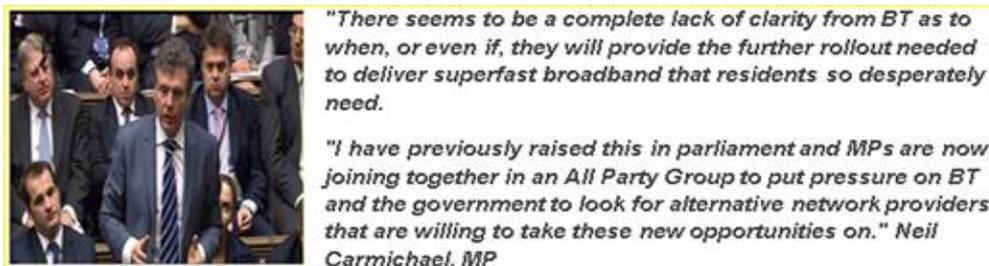
Gloucestershire County Council *'We continue to wait on a suitably detailed 'offer' of a contract extension from BT'* . Two years of each party blaming the other - a partnership that is broken.



We have spent the last two years fighting this inequitable system; however as its clear there is no alternative route open to us, we have now raised the appropriate funds from the local community and have contracted with BTO to upgrade our cabinets (Brimscombe Exchange cabinets 9 & 17). We should never have been put in this situation and its clear this is not an isolated incident. We continue to seek compensation but there is little hope of receiving any recompense under the current set up.

We trust your review will take into account what is actually happening in our community and many others; we are suffering as a result of the predatory actions of BTO notwithstanding the recent public relations exercise headed up by the CEO of BT suggesting otherwise - to quote their statement from the Sunday Times (4<sup>th</sup> October 2015) **'the current BTO model is proven and is delivering great outcomes for all customers'**. Illustrating that an organisation with a £3bn profit stream can develop a formidable public relations case to maintain the status quo but can easily lose touch with reality and what is happening on the ground.

The public support for the status quo by the Minister for the Digital Economy (as reported recently in FT) is at best inappropriate (pre judging the outcome of your review). Ed Vaizey should ask his colleagues in Parliament why they have found it necessary to form an all-party lobby to try and get a grip on the runaway BT monopoly and change the system; the perception is that BT is abusing their ownership of the national telecoms infrastructure.



Attachment 2 is a recent e mail exchange between BCBAG Ltd and three top executives of BT and BT Openworld (Bill Murphy the go-to man for the BT CEO Gavin Patterson copied in are the BT Openworld CEO and the BTO Director responsible for BDUK contracts). The e mail exchange is an ongoing dialog we are having with BT/BTO and illustrates some of the weaknesses in the current system. The 300 page documentation we have received as a result of our request to the Commissioner of Information sheds light on the BT relationship with their local government 'partner' and if you require copies of this documentation or any of the other documents referenced in Attachment 2 for your review please let us know. As BT says in their response to our e mail *'there's no hi jinks'* and of course there is no acknowledgement to our suggestion that there might be a need for some change to the current system other than **"Martha Lane Fox has never spent any time with me or colleagues in understanding this program"**. A response from an organisation increasingly coming to believe its own propaganda (it's always someone else's fault) and a focus on immediate profit for BT and their shareholders.

The internet infrastructure in the hands of such an organisation cannot be the best way forward for UK PLC. BCBAG Ltd is not qualified to make recommendations for the future broadband

requirements but by bitter experience is qualified to highlight to your review the fault lines in the current system which does not look like a template for the future. Fault lines in the system that requires a better code of practice to be introduced into whatever recommendations Ofcom make and amongst other considerations;

- stops BT cherry-picking which cabinets they will upgrade at their expense (the low hanging fruit) leaving isolated pockets which are not viable for any competition to enter (leaving the subscribers of cabinets that BT determines are not viable to upgrade either relying on grant funding or having to fund the cabinet upgrades themselves).
- stops BT being able to hide behind the 'confidentiality' blanket that currently ensures they do not have to disclose the reasons they declare a cabinet '*not commercially viable to upgrade*'. Introducing clear guidelines for declaring cabinets '*not commercially viable to upgrade*'.
- ensures that in an area where cabinets are to be upgraded BT are made responsible for ensuring that all cabinets in the designated area are upgraded (however funded) and stop the practice of BT and their local partners focusing on their own interests only and not upgrading cabinets as a result of administrative overlap - failure to ensure that the upgrade programme has aligned BT cabinets and local government locations (postcodes).
- stops BT or their local government partners putting the implementation of upgrade programmes at risk by using them as negotiating tools to extract better contract terms (from each other) for future business opportunities.
- where upgrade programmes are to be undertaken make BT responsible for communicating to rural communities, through a local committee elected by the community, a clear and comprehensive programme with details of how and where local upgrade programmes are to be implemented and the progress of implementation.
- establishes an independent arbitration body to which grievances can be addressed and give such a body the power to make BT and its partners remedy failures identified by the arbitration panel.

We hope that the points raised in this submission prove useful to your review and that the outcome of your review will be forward-looking and produce some realistic recommendations that are implemented (without political or BT interference).

Yours sincerely



Cliff Duke  
Director.  
BCBAG Ltd.

# Attachment 1

## The Sad Tale Of Fibre Enabling Brimscombe Exchange Cabinets 9 & 17

BT installed high speed broadband into the Brimscombe Exchange over a year ago as part of the national roll out of high speed broadband. BT did not upgrade two of the cabinets in the Brimscombe Exchange - cabinets #9 and #17 (both cabinets are located within 100 yds. of cabinets upgraded by BT at their expense).

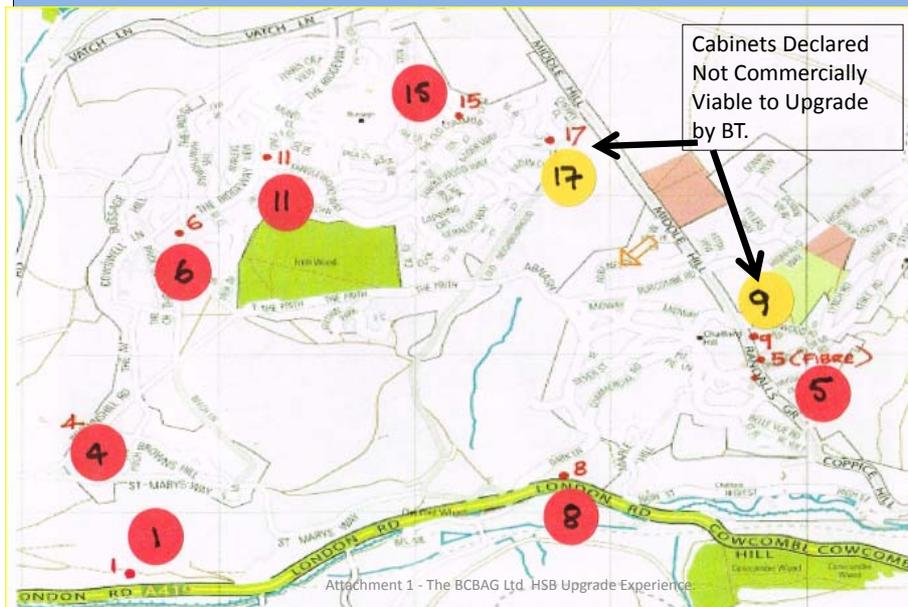
This has left 370 homes and a number of businesses in the community without access to High Speed Broadband. The map below illustrates the location of the cluster of BT cabinets in the Bussage and Chalford area that have and have not been upgraded.

BT owns all the telecommunications infrastructure (the cabinets) and has no obligation to upgrade any cabinets they consider not commercially viable to upgrade AND BT do not have to give an explanation on how they determined the 'not commercially viable' criteria.

In such situations BT's 'partner' Fastershire (Gloucestershire County Council) should step in with funding to support the upgrade of such cabinets with grant money that has been allocated by the Government as part of the national broadband roll out.

Attachment 1 - The BC BAG Ltd HSB Upgrade Experience.

### 7 cabinets upgraded for fibre broadband by BT in Chalford & Bussage BUT Cabinets 9 & 17 declared 'not commercially viable'



Attachment 1 - The BC BAG Ltd HSB Upgrade Experience.

### So What Was Done and What Went Wrong?

In 2013 extensive lobbying was initiated by the 370 subscribers to these two cabinets - the aim being to have the two cabinets upgraded (fibre enabled) to the same standard as the rest of the community.

It was assumed by BT that Fastershire had applied to have these two cabinets upgraded with funding support. It transpired that Fastershire allocate funds by location (postcodes) and there is no correlation between the BT cabinets not funded for upgrade by BT and the location (postcode) matrix that Fastershire use in applying for grant money. Result: cabinets 9 & 17 fell victim to this oversight and BT just upgrade all the cabinets in the Bussage/Chalford cluster except cabinets 9 & 17. No communication with the subscribers of cabinets 9 & 17.

BT position (as reported in a statement to Radio Gloucestershire 20 June 2015):

BT: "Upgrading these particular cabinets [9 & 17] isn't commercially viable, so we need cash from the community towards getting superfast internet into the homes and businesses."

Attachment 1 - The BCBAG Ltd HSB Upgrade Experience.

### How The Upgrade Of These Cabinets Was Resolved:

Following extensive lobbying of BT/Fastershire/MPs and others in December 2014 BT and Fastershire agreed to add the upgrade of these two cabinets to the current contract between Fastershire and BT.

Both BT and Fastershire then entered into a protracted contract dispute amongst themselves (concerning the cost of future upgrades) and almost a year later this stand-off continues (and Fastershire continue to try and find any supplier other than BT) and there is currently no prospect of a date when cabinets 9 & 17 will be upgraded unless the subscribers pay BT to upgrade the cabinets..

The 'cash' BT demanded for the upgrade of these two cabinets was initially some £55,000 this has subsequently (after the generation of over 2,000 e mails and a year of protracted negotiations) been reduced to £24,000 and in September 2015 a contract was signed between BCBAG Ltd (a company formed to represent the 370 subscribers) and BT Openworld to upgrade cabinets 9 & 17 - commissioning planned July 2016.

Attachment 1 - The BCBAG Ltd HSB Upgrade Experience.

## Attachment 2

Cliff Duke

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**Subject:** FW: BT CONTRACT?? Brimscombe PCP 9 and 17

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**From:** [bill.murphy@bt.com](mailto:bill.murphy@bt.com) [<mailto:bill.murphy@bt.com>]  
**Sent:** 05 October 2015 07:36  
**To:** [cliff.duke@atlasindustries.com](mailto:cliff.duke@atlasindustries.com); [matthew.lloyd@bt.com](mailto:matthew.lloyd@bt.com); [colin.p.brooks@openreach.co.uk](mailto:colin.p.brooks@openreach.co.uk)  
**Cc:** [roddy.thomson@openreach.co.uk](mailto:roddy.thomson@openreach.co.uk); [neil.driscoll@openreach.co.uk](mailto:neil.driscoll@openreach.co.uk)  
**Subject:** Re: BT CONTRACT?? Brimscombe PCP 9 and 17

There were no "hijinks"

Martha Lane Fox has never spent anytime with me or colleagues in understanding this program

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**From:** Cliff Duke [<mailto:cliff.duke@atlasindustries.com>]  
**Sent:** Sunday, October 04, 2015 11:14 PM  
**To:** Murphy,WC,Bill,CQ R  
**Cc:** Thomson,R,Roddy,BV R; Driscoll,NJ,Neil,BKA R  
**Subject:** BT CONTRACT?? Brimscombe PCP 9 and 17

Bill

Thank you for your e mail of 2nd October - taking this in conjunction with our e mail exchange of 15th September (copied below) I would make the following points:

1. Without your intervention we would not have made this much progress and at BCBAG Ltd we are all very grateful to you for that.
2. We now have two objectives; i) to have these two cabinets upgraded as quickly as possible and ii) continue to seek appropriate compensation for the community that has subscribed to fund the upgrades.
  - i) **the upgrade programme:** we need these cabinets upgraded as quickly as possible (as you know all the adjoining cabinets were upgraded two years ago). If you could look into what options there are to fast track the installations that would be much appreciated. We have the funds available to pay for completion this year - in line with this there is the opportunity to turn this into a local good-news story.
  - ii) **appropriate compensation:** BCBAG Ltd has allocated resources to build up our case and continue to seek appropriate compensation along the lines outlined in my e mail of the 15th. Current actions are as follows:

Last week we received from the Commissioner of Information the FoI documentation we requested in June regarding the relevant contracts and meeting minutes between BT and Fastershire. You will appreciate this will involve us now wading through some 300 pages of information (some of it heavily redacted). As with everything else in this process of trying to establish why we are having to pay to upgrade our cabinets when all the other cabinets in Chalford and Bussage have been upgraded at no cost, the documentation will no doubt raise more questions than answers either way it will take time to establish whether or not we have grounds for a claim and if so from whom.

In the meantime we have also prepared a submission for the Ofcom Strategic Review of Digital Communications which will be submitted later this week. If the process (saga) we have found ourselves involved in during the last two years represents business-as-usual for the roll out of high speed broadband in the UK then there's presumably room for improvement in the system. The Fol data we have received does illustrate what a byzantine process this all is and will form part of our submission to Ofcom - the detail needs to be worked through but the documentation does not paint a picture of BT and the local authority working in harmony as currently being promoted by amongst others Gavin Patterson and yourself. Bill, you have been very generous your time and are clearly committed to trying to fix the commercial relationships with your 'customers' and suppliers - let me share two incidents with you that suggest there is a danger that the fix is not just more propaganda but maybe recognising the current system is broken and needs some changes. Two examples; i) at the meeting on the 11th, the BT/ Fastershire relationship did not come across as a happy one and my impression was that in future Fastershire will do all in their power to avoid working with BT where they can - I am an observer and may well be wrong, as you say the relationship isn't broken down and you continue to try and work with Fastershire (your partners) to deliver, but often perception is reality. ii) I attended a talk by Martha Lane Fox on Saturday. Martha is regarded as a leading digital pioneer and a game-changer; she is not focused on immediate infrastructure irritations but the long term potential of the internet per se. During the question and answer session one member of the audience asked about rural broadband and the BT/BTO relationship and the reaction from the audience (and Martha) surprised me (and was not supportive of the BT/BTO programme) - I realised we (and the 100 villages you mention in your e mail) are not the only people exposed to these hijinks and there is something fundamentally wrong with the system notwithstanding the blizzard of publicity from BT/BTO telling everyone what a great job is being done - the statement in today's Sunday Times from BT that the current BTO model was '*proven and delivering great outcomes for all customers*' maybe a slight exaggeration don't you think?

Final point; apologies if my characterisation of 'the promise' made to us in December 2014 by BT/Fastershire was misleading. This point is covered in our e mail exchange of the 15th, it's clear a commitment was made at the December 2014 meeting to add our cabinets to the current Fastershire/BT contract and upgrade the cabinets at no expense - nobody refuted that in our meeting last month indeed Nigel Riglar apologised for the fact that we had been subsequently been caught in the cross fire between BT and Fastershire about the format of their future contract relationship which had allowed our 'commitment' to fall off the radar - it's either a broken promise or battle damage, either way it hurts and leads us to believe that the way we have been treated deserves appropriate recompense and I would appreciate it if you would look into this matter along the lines I have proposed. Bill, I have copied this e mail to your colleagues at BTO (Roddy Thompson and Neil Driscoll), we engaged them early on in this process and I think it appropriate they know where we are now - you are doing a great job but there is a need to address the fundamental flaws in the system.

As mentioned in my e mail of the 15th it may be appropriate that you and I try and see if there's a work around on these issues, who knows, maybe we can also make this part of a really good-news story!

Many Thanks

Cliff Duke  
Director  
BCBAG Ltd.