HM TREASURY

HM Revenue & Customs

BIS
Department for Business Innovation & Skills

Implementing a landline duty:

consultation on draft legislation and impacts

December 2009

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Subject of this consultation	The implementation of the new Landline Duty to help fund the roll-out of Next Generation Access to 90 per cent of Britain by 2017.
Scope of this consultation	This consultation concerns the practicalities of the draft legislation (Annex B) and the predicted impacts of the new Landline Duty.
Impact Assessment	A consultation stage Impact Assessment is attached as Annex C.
Who should read this	Communications network owners, wholesalers and retailers, trade bodies and other stakeholders who have an interest in the taxation of landlines.
Duration	The consultation will run for 9 weeks. The closing date for responses is 12 February 2010.
Enquiries	For general enquiries regarding this consultation please contact Chris Southworth at HM Treasury on 020 7270 4922. Enquires regarding the technical nature of tax administration and compliance should contact Michael Lyttle in HM Revenue and Customs on 020 7147 2792
How to respond	Responses to this consultation should be sent either by email to: LandlineDuty@hmtreasury.gsi.gov.uk or by post to: Landline Duty: Consultation, Excise and Commercial Property Tax Team, Budget Tax and Welfare Directorate, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ
Additional ways to become involved	Please contact Chris Southworth (contact details above) if you would like to discuss your response
After the consultation	Considering the responses to this consultation, the Government will take a decision on whether any amendments to the draft legislation or impact assessment are required before Budget 2010 and subsequently Finance Bill 2010.
Getting to this stage	This consultation document reflects joint work carried out by HM Treasury, Department for Business, Innovation and Skills and HM Revenue & Customs.
Getting to this stage	Informal consultation with industry has led to the development of the approach outlined in this document.

Contents

Foreword

The Digital Britain White Paper published in June outlined the Government's approach to maximising the benefits for the UK of the dramatic developments in digital technology. One of the key policy announcements of the report was the creation of a Next Generation Fund to help the roll-out of Next Generation Access – superfast broadband – to 90 per cent of the country by 2017.

As the world economy recovers from the most severe downturn for over 60 years, a world class digital infrastructure available nationally will be vital. It can play a key role in maximising the potential of growth in the digital sector, where the UK has world leading strengths. Next Generation Access will contribute to increased productivity and economic growth. The opportunities presented include new enterprise formation, reduced barriers to entering the labour market and new ways of working.

The implementation of the Landline Duty is the first step to delivering this important infrastructure. This consultation presents an opportunity for the industry to work with Government to ensure that this duty can be delivered, and can help realise the benefits to businesses and individuals that Next Generation Access offers. I hope that you will be able to respond fully to this consultation, to help ensure Britain's successful digital future.

Stephen C. Timms

Rt. Hon. Stephen Timms MP

Financial Secretary to HM Treasury

December 2009

1 The consultation process

How to Respond

1.1 All responses are valued, but a number of key questions aimed at guiding respondents to the central issues, have been set out in Chapter 5. Respondents are also encouraged to add any additional information about the practicalities of the draft legislation and the assessment of the impacts of the new duty.

1.2 To help the Government evaluate responses, it would be helpful if respondents could explain their interest in the consultation and also make clear if their response is being made on behalf of a group or representative body. In the case of representative bodies, please provide information on the number and nature of people you represent.

1.3 This consultation is being run in accordance with the Government's Code of Practice although it has been necessary for it to run for 9 weeks. The Code of Practice acknowledges that shortened consultation periods will at times be necessary to allow for a proper consideration of all consultation responses. In order to more effectively manage and consider the responses to all the consultation documents announced in the Pre-Budget Report the Government has slightly shortened some response times. To ensure that people are able to contribute as fully as possible to this consultation, Government will be holding meetings with industry groups and individual companies.

1.4 Responses to this consultation should be sent to HM Treasury by 12 February 2010, when the consultation closes. These responses should be clearly marked and addressed to:

Landline Duty: Consultation

Excise and Commercial Property Tax Team

Budget, Tax and Welfare Directorate

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

1.5 Alternatively you can email your responses to LandlineDuty@hmtreasury.gsi.gov.uk. Any other queries or questions surrounding the consultation should be directed to Chris Southworth at HM Treasury or Michael Lyttle at HM Revenue & Customs (HMRC):

Chris Southworth (HM Treasury)

chris.southworth@hmtreasury.gsi.gov.uk

Michael Lyttle (HMRC)

michael.lyttle@hmrc.gsi.gov.uk

1.6 All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations. If you are willing and able to provide data on the impact of the duty on your business then please do so.

1.7 The consultation period will run from 11 December 2009 to 12 February 2010. A summary of responses will be published at Budget.

Confidentiality

1.8 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

1.9 If you want the information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury or HM Revenue & Customs (HMRC).

1.10 HM Treasury and HMRC will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties

The Government's Consultation Code of Practice

1.11 This consultation is being conducted in accordance with the Government's Code of Practice on Consultation. A copy of the Code of Practice can be found on the Business Innovation and Skills (the Department formerly known as Business Enterprise and Regulatory Reform) website: http://www.berr.gov.uk/files/file47158.pdf. More information can be found in Annex A.

2 Introduction

Background

2.1 At the 2009 Pre-Budget Report the Chancellor announced the Government's intention to consult on the draft legislation and impacts of the new Landline Duty. This follows a commitment made in the Digital Britain White Paper[1] to introduce a small supplement from 2010 to help fund the roll-out of high speed broadband – Next Generation Access (NGA).

2.2 The roll-out of NGA will form an essential part of the UK's digital infrastructure, which itself drives the UK's productivity and international competitiveness. It will help provide new ways of working to reduce barriers to entering the labour market and improve access to markets. NGA could also offer wider social benefits through improved access to healthcare and education services.

2.3 The package of interventions required to help deliver the roll-out of NGA will need to be notified to the European Commission under State Aid guidelines. Government will make a formal submission consistent with a timetable to allow it to achieve rolling out NGA to 90 per cent of the country by 2017.

Scope of this consultation

2.4 This consultation considers the legislation required for, and the impacts of, the introduction of the Landline Duty. The new duty is being raised to fund the roll-out of NGA but this consultation does not consider the mechanism to deliver this. The procurement approach for delivering roll-out to 90 per cent of the country is the subject of a separate and forthcoming Department for Business, Innovation and Skills (BIS) consultation.

2.5 This document primarily seeks views on the draft legislation for the Landline Duty as currently drafted at Annex B. The Government welcomes views on whether the legislation as drafted will have the impacts anticipated and if the industry feels it can be implemented.

2.6 A consultation stage impact assessment is also attached at Annex C. This represents the best current understanding of the impacts of introducing the new duty. Although this assessment already takes account of informal consultation with the industry, the Government would welcome comments on this assessment.

[1] Available from the DCMS website: http://www.culture.gov.uk/images/publications/digitalbritain-finalreport-jun09.pdf

3 Design of the new duty

Introduction

3.1 This section describes the proposals and rationale for the scope of the duty, exemptions from the duty, and liability for the duty. It also outlines the expected impacts of the introduction of the new duty.

Administration of the Landline Duty

3.2 HM Revenue & Customs (HMRC) will be responsible for the administration of the new duty. HMRC are responsible for designing, collecting and ensuring compliance for taxation in the UK. HMRC also have established tax relationships with the telecommunications industry making them best placed to administer the tax.

Scope of the Landline Duty

3.3 The duty is payable on local loops. These are lines that connect an end-user's premises to the wider communications network.

3.4 The duty will be payable on all local loops that are *made available* for use by an owner whether or not the lines are actually used. It will also be payable on all local loops regardless of whether the loop consists of a copper pair, a co-axial cable or a fibre connection.

3.5 The duty will apply regardless of the service that is being provided over the local loop. Services may include traditional voice services or other data services namely broadband – Government does not intend to capture television services.

3.6 Where more than one local loop is provided in order for an end-user to receive two distinct services, the duty is payable on both lines. When an end-user receives services from two different providers but over the same local loop, the duty is only payable once.

3.7 There are some difficulties with this general approach due to how some retailers provide services to their customers. Virgin Media provide broadband services over a co-axial cable but standard voice services over a separate copper line where other providers would just use a single copper line for both voice and broadband services. BT will also face similar issues where fibre is overlaid on copper wires. Government's intention is to ensure that there is no double liability under these circumstances.

Rationale for the scope

3.8 The principle reason for applying the duty applying to each local loop is one of simplicity. If the duty regime becomes more complex it would become more difficult and expensive for industry and HMRC to deliver and administer.

3.9 A system that required wholesalers or retailers to demonstrate that a line was or was not in use would have created significant extra burdens for both industry and HMRC. These burdens would be disproportionate to the level of duty receipts that would be affected.

3.10 The inclusion of fibre connections is important for simplicity and fairness and to ensure that a reasonable level of funds is raised. Excluding Fibre to the Cabinet (FTTC) from the tax would mean excluding the Virgin Media network as well as an increasing proportion of the Openreach network and greatly reduce the funds available for investment.

3.11 Government also considered whether fibre to the premises (FTTP) should be excluded from the new duty but decided that it should be included predominantly for reasons of fairness. Individuals who are fortunate enough to benefit from early NGA deployment should also contribute to the wider deployment of the technology. There are currently very few locations where FTTP (also known as fibre to the home – FTTH) is available for domestic use. The inclusion of FTTP in the duty also ensures that businesses who stand to gain from better access to markets and new ways of working will contribute to the provision of NGA.

3.12 The duty will be payable on both broadband and telephony services for a number of reasons:

- for simplicity as the owners of local loops do not necessarily know which services are being provided to the end-users by retailers when they make a local loop available for use;
- limiting the duty to lines being used for a voice service could distort the market by encouraging people to switch from traditional telephony to voice-over-internet-protocol (VOIP) services such as Skype; and
- for fairness as those individuals who stand to gain the most from the roll-out of NGA are those who access the internet.

3.13 The structure of the duty for circumstances where multiple services are being received is important for simplicity and fairness. It would be complex and administratively costly to establish where two local loops were being provided to the same premises especially if these are provided by different providers. This administrative burden would likely be disproportionate to the duty payable.

Liability for the duty

3.14 Government has decided that the liability for the Landline Duty is on the owners of the physical assets – the owners of the local loops. This approach is consistent with other excise duties where liability lies high up the supply chain.

3.15 There are a number of reasons why Government believes that this approach is the most attractive:

- identifying and registering a small number of network owners is much more straightforward and less costly than registering 600 retailers or 30 million local loops;
- it will prevent the same local loop, and ultimately consumers, being charged duty more than once where two retailers provide services over the same line;
- informal discussion with retailers suggested that this approach could limit any disproportional impact on small firms.

3.16 The decision on how or whether to pass the tax on to wholesalers or retailers will be a commercial decision for local loop owners. Government's view, as explained in the impact assessment, is that the duty will be passed to retailers and subsequently to end customers.

3.17 The Government intends to implement the new duty on 1 October 2010. This implementation date will provide sufficient time after this consultation and Budget 2010 for both HMRC and industry to develop the systems required to deliver the tax.

Exemptions

3.18 In designing the scope and administration of the new duty, Government's aim has been to create a simple structure. This structure can mean it is not straightforward to apply exemptions. Exemptions from taxes are often based upon the characteristics of the user of a product. However, local loop owners who are liable for the duty have little, if any, information on how their infrastructure is finally used and by whom.

3.19 The Digital Britain White Paper stated that the only exemption from the duty would be lines that are used to provide a social telephony service. This is a low cost tariff that universal service providers are required to provide by legislation.

3.20 BT basic – a social telephony service – is available to low income groups. Those who qualify for the tariff are individuals who also qualify for Income Support, Income-based Jobseeker's Allowance, Pension Credit (Guaranteed Credit), Employment and Support Allowance (income related). There are currently around 850,000 households using these types of service.

3.21 This exemption is comparatively simple to apply as it is a discrete service only currently operated by two providers, BT and KCOM. KCOM are both owners of the local loop and end retailers, minimising the costs associated with providing information about the number of customers on social telephony schemes. BT Retail and Openreach (the local loop owner) are also part of the same group and this should allow information about customers to be shared inexpensively.

3.22 The draft legislation allows for amendment by statutory instrument should any other operator choose to offer a social telephony scheme. This avoids any potential for preferential treatment of the universal service providers.

Mobile networks

3.23 The Landline Duty proposals apply only to fixed line services. The proposals do not apply to mobile, satellite, or other wireless communications.

3.24 The development of fixed and mobile networks has occurred under very different circumstances. The majority of investment in the fixed telephone network was during a period of monopoly. This is in contrast to mobile networks which have been developed in a competitive environment.

3.25 Mobile networks operators require licences to use radio spectrum in various frequency bands. The terms of their 3G licences require 80% population coverage. In a separate consultation, the Government is proposing that new licences for next generation mobile services should have further coverage obligations to ensure very widespread network coverage. This means that mobile network operators and subsequently their customers are already contributing to the widespread availability of data services, and will in future do the same for next generation, high-speed data services.

3.26 The mobile network has also been excluded for reasons of simplicity. It would be difficult to apply a monthly duty to pay-as-you-go users in practical terms and to exclude them from the duty, if it was applied to other mobile users, would be unfair as well as distort competition.

4 Administration of the duty

Introduction

4.1 This section outlines how the new duty will be administered by HMRC. It outlines the requirements on network owners and the basis for calculating the amount of tax due.

Registration

4.2 The duty will be accounted for and paid by line owners. Line owners will be expected to register with HMRC either before the introduction of the tax in October 2010 or when they start supplying "local loops".

Basis of calculation

4.3 The duty will be charged as a specific rate per local loop made available for use. By "made available for use" we mean that the line is either provided to an end user or leased to a retailer.

4.4 The duty will be charged at the rate of 50 pence per month or each part of a month- even if a local loop is available for use on just one day there will be a charge. The 50 pence per month charge is to be known as a unit of duty and line owners will be asked to calculate how many units of duty are due in an annual return. Line owners will also be asked to state how many units of duty are exempted from the duty. The duty will be accounted for and paid annually and will be due and collected in arrears.

Chargeable event

4.5 As explained above the chargeable event will occur when a local loop is made available for use and will be charged on every month or part of a month for which that loop is made available for use.

Billing and invoices

4.6 We expect that the duty will be passed down the supply chain by the line owners and subsequently by retailers to customers. There will be no requirement on owners or retailers to show the duty separately on their billing to end users. This is to prevent costly systems changes for line owners that might arise from having to account for the tax on individual invoices. If line owners recoup the duty from individual users, whether through a separate item on the bill or by including it in line rental charges, this is further consideration for the service being supplied and is therefore subject to the standard rate of VAT.

Returns and payments

4.7 For simplicity we propose to use an annual accounting period. Under this arrangement returns will have to be rendered and any duty paid no later than one month after the end of the accounting period.

4.8 The duty will be payable annually and in arrears from 1 October 2010. The tax period will run from the 1 April to 31 March each year so that the tax will be first due on 1 April 2011 and owners will have one month to render a return and make payment to HMRC.

Question 1: The first tax return will cover the period from 1 October 2010 to 31 March 2011. Does this cause line owners any problems?

Question 2: Are there any reasons why line owners will not be able to deliver a return and payment to HMRC on or before 30 April 2011?

Question 3: Are there any problems caused for line owners if the accounting period for the duty is annual? Would owners find it helpful to have any other accounting schemes available?

Records

4.9 A registered person will be required to keep records that can demonstrate to HMRC that the amount declared on the return is correct.

4.10 Anyone who makes local loops available for which they claim exemption from the duty will also have to be able to provide any records that show that the exemption is applicable.

Penalties and interest

4.11 HMRC propose to have a system of penalties and interest similar to those that apply to other taxes which they administer. Penalties and interest will apply to cases where there is a failure to account for or pay the duty due at the proper time, and for other errors or omissions that could lead to the loss of revenue. These penalties will cover not just registered persons but those who have not registered who are making local loops available.

4.12 The review and appeals system will also follow the generic model of other taxes collected by HMRC.

5 Summary of questions

5.1 This consultation is focused on the implementation of the tax. Government would welcome general views on the draft legislation provided:

- Are the definitions in the draft legislation clear and do they capture what Government intends?
- Are the requirements on local loop owners clear?

5.2 The consultation is also accompanied by a consultation stage impact assessment. This discusses the potential costs to industry from both one-off systems changes and ongoing administration costs. Specific comments on the estimates of the impacts would be welcomed as would any views on how the Landline Duty might be passed through the supply chain.

5.3 The consultation also proposes some specific questions:

Question 1: The first tax return will cover the period from 1 October 2010 to 31 March 2011. Does this cause line owners any problems?

Question 2: Are there any reasons why line owners will not be able to deliver a return and payment to HMRC on or before 30 April 2011?

Question 3: Are there any problems caused for line owners if the accounting period for the duty is annual? Would owners find it helpful to have any other accounting schemes available?

A The Government's Code of Practice on Consultation

About the consultation process

A.1 This consultation is being conducted in accordance with the Government's Code of Practice on Consultation. If you wish to access the full version of the Code, you can obtain it online at:

http://www.berr.gov.uk/files/file47158.pdf

The consultation criteria

1. When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2. Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3. Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4. Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5. The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6. Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7. Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

A.2 If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Richard Bowyer, Better Regulation Unit
020 7147 0062 or richard.bowyer@hmrc.gsi.gov.uk

B Draft Landline Duty Legislation

SCHEDULE

Section 1

LANDLINE DUTY

The duty

1 (1) A duty to be known as landline duty is charged in accordance with this Schedule.

(2) Landline duty is charged in respect of the making available for use of a local loop.

(3) Landline duty is payable by the owner of the local loop.

(4) Landline duty becomes due at the end of the accounting period in which the local loop is made available for use.

(5) A "local loop" is a physical circuit connecting a network termination point to the main distribution frame, or equivalent facility, in the public telephone network.

(6) "Physical circuit" means a circuit used for the provision of electronic communications services (whether it is copper, co-axial, fibre-optic or any combination of those).

(7) A "network termination point" is the point of entry to any premises at which an end-user is provided with access to the public telephone network.

(8) The "public telephone network" means the public electronic communications network provided wholly or mainly for the purpose of making telephone services available to members of the public.

(9) Landline duty is payable whether or not the local loop is actually used.

(10) In this paragraph—

"electronic communications service" has the same meaning as in the Communications Act 2003 (see section 32 of that Act), and

"end-user" and "public electronic communications network" have the same meaning as in Chapter 1 of Part 2 of that Act (see section 151(1) of that Act).

Rate of duty

2 Landline duty in respect of a local loop is charged at the rate of £0.50 for each month, or part of a month, for which the local loop is made available for use.

Exceptions for certain reduced tariffs

3 (1) Landline duty is not charged in respect of the making available for use of a local loop which, in accordance with an order made under section 65 of the Communications Act 2003 (obligations to be secured by universal service conditions), is made available to a subscriber who is on a low income or has

special social needs on a tariff, or as part of a package, that departs from those provided under normal commercial conditions.

(2) An order may make provision specifying other circumstances in which landline duty is not chargeable.

Administration

4 (1) Landline duty is a duty of excise.

(2) The Commissioners are responsible for the collection and management of landline duty.

Registration of owners of local loops

5 (1) The Commissioners must keep a register of owners of local loops.

(2) An owner of local loops becomes liable to be registered on making a local loop available for use.

(3) A person who has become liable to be registered ceases to be so liable if the Commissioners are satisfied at any time that the person no longer makes local loops available for use.

(4) A person who is not registered and has not given notice under this sub-paragraph must, on becoming liable to be registered at any time, give written notice of that fact to the Commissioners not later than the end of the prescribed period beginning with that time.

(5) The notice must—

(a) be in such form,

(b) be given in such manner, and

(c) contain such information,

as the Commissioners may direct.

(6) Regulations may make provision as to the information to be included in, and the correction of, the register.

(7) In particular, regulations may provide—

(a) for the inclusion in the register of persons who have not given notice but appear to the Commissioners to be liable to be registered,

(b) for persons who are liable to be registered not to be included in, or to be removed from, the register in prescribed circumstances,

(c) for the removal from the register of persons who have ceased to be liable to be registered, and

(d) for the time from which an entry in the register is to be effective (which may be earlier than the time when the entry is first made in the register).

Accounting for and payment of duty

6 (1) Regulations may require owners of local loops who are registered or liable to be registered to keep accounts for the purposes of landline duty in such form and manner as may be prescribed.

(2) Regulations may require owners of local loops who are registered or liable to be registered to make returns in respect of landline duty—

(a) by reference to such periods as may be prescribed or as may be allowed by the Commissioners, in relation to a particular owner of local loops, in accordance with regulations, and

(b) at such time, and in such manner and form, as may be prescribed or specified.

(3) Any person from whom landline duty is due must pay the duty at such time and in such manner as may be prescribed or specified.

Offence

7 (1) A person who is knowingly concerned—

(a) in the fraudulent evasion (by any person) of landline duty, or

(b) in taking steps with a view to such fraudulent evasion,

is guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) is liable—

(a) on summary conviction, to a fine not exceeding—

(i) the statutory maximum, or

(ii) if greater, 300% of the amount of the landline duty evaded or sought to be evaded, or

to imprisonment for a term not exceeding 12 months, or to both, or

(b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding 7 years, or to both.

(3) The reference to 12 months in sub-paragraph (2)(a) is to be read as a reference to 6 months—

(a) in relation to England and Wales, in the case of an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003, and

(b) in relation to Northern Ireland.

Penalties

8 (1) A failure by a person to comply with regulations under paragraph 6(1) attracts a penalty under section 9 of FA 1994.

(2) In the Table in paragraph 1 of Schedule 24 to FA 2007 (penalties for errors), after the entry relating to air passenger duty insert—

"Landline duty	Return under regulations under paragraph 6 of Schedule {j1020s} to FA 2010".

(3) In the Table in paragraph 1 of Schedule 41 to FA 2008 (failure to notify etc), after the entry relating to air passenger duty insert—

"Landline duty	Obligation under paragraph 5(4) of Schedule {j1020s} to FA 2010 (obligation to give notice of liability to register)".

(4) In paragraph 7(9) of that Schedule (potential lost revenue), for "or air passenger duty," substitute ", air passenger duty or landline duty,".

Application of CEMA 1979

9 CEMA 1979 (apart from section 116) has effect for the purposes of this Schedule in relation to any person who is or is liable to be registered as in relation to revenue traders.

Appeals

10 (1) In Schedule 5 to FA 1994 (decisions subject to review and appeal), after paragraph 9A insert—

"*The Finance Act 2010*

9B Any decision under regulations made by virtue of paragraph 5 of Schedule {j1020s} to the Finance Act 2010 (landline duty) to register, or not to register, any person in the register kept under that paragraph or to remove a person from that register."

(2) An appeal which relates to landline duty is not to be entertained under section 16 of FA 1994 at any time if any return for an accounting period to which the appeal relates which the appellant is required to make by regulations made by virtue of paragraph 6 has not at that time been made.

Regulations

11 (1) In this Schedule "regulations" means regulations made by the Commissioners and "order" means an order made by the Treasury.

(2) Regulations and orders may—

(a) make different provision for different cases, and

(b) include incidental, supplementary or transitional provisions or savings.

(3) Regulations and orders are to be made by statutory instrument.

(4) A statutory instrument containing regulations or an order is subject to annulment in pursuance of a resolution of the House of Commons.

Interpretation

12 In this Schedule—

"accounting period" means any period prescribed or allowed for the purposes of paragraph 6,

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs,

"prescribed" means prescribed by regulations, and

"specified" means specified in a notice published, and not withdrawn, by the Commissioners.

Commencement etc

13 This Schedule comes into force on 1 October 2010.

14 Where an agreement to make a local loop available for use has been entered into before 1 October 2010 any provision of the agreement requiring the making of any payment in respect of its being made available for use is to be adjusted so as to secure that the cost of discharging any liability to pay landline duty is borne by the person making the payment.

C Impact Assessment

Summary: Intervention & Options

Department /Agency:	Title:	
HM Treasury; BIS; HM Revenue and Customs	**Impact Assessment of the introduction of a "Landline Duty" to help fund the rollout of Next Generation Access (NGA)**	
Stage: Consultation	**Version:** 1	**Date:** 7 December 2009

Related Publications: Pre-Budget Report 2009; Digital Britain

Available to view or download at:

http://www.hm-treasury.gov.uk/

Contact for enquiries: Jennifer Gray **Telephone:** 020 7270 6120

What is the problem under consideration? Why is government intervention necessary?

The market is likely to fail to deliver next generation broadband to the *final third* of the UK population due to the higher costs of providing the service. Government intervention is justified on equity grounds: to ensure households and businesses in the final third can benefit from the same range of services as others; and for social inclusion ensuring better access to health and education services that can be provided by super-fast broadband.

What are the policy objectives and the intended effects?

This impact assessment considers the impacts of introducing a new duty to fund next generation broadband. The objective of the new duty is to raise revenue to help fund the roll-out of Next Generation Access (NGA) to 90 per cent of the population by 2017 whilst limiting the administrative costs to business and Government.

What policy options have been considered? Please justify any preferred option.

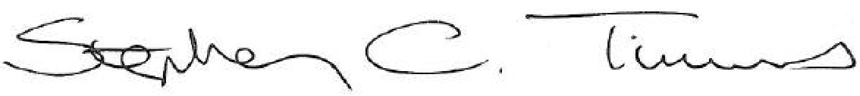
This impact assessment presents the preferred option to deliver the tax: Network owners will be liable to pay the duty on lines they provide for business or domestic use of phone or data services; lines provided for Social Telephony Schemes will be exempt from the duty. This approach creates the smallest burden for business and Government and removes the potential for the duty to create any competitive distortions.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Compliance costs associated with the policy will be reviewed within 3 years of implementation. Progress towards delivering the roll-out of NGA will be reviewed in line with the Digital Britain proposals.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 7 December 2009

Summary: Analysis & Evidence

Policy Option: 1	Description: Landline Duty: Network Owners liable to pay the duty; lines used under Social Telephony Schemes exempt

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	Network owners and retailers will face one-off costs to familiarise themselves with the new duty. They will also face annual costs associated with meeting HMRC obligations, e.g. provision of information to support their tax payment.
£ 160,000-240,000		
Average Annual Cost (excluding one-off)		
£ 2,500-7,500		**Total Cost** (PV) **£ 175,000-285,000**

Other **key non-monetised costs** by 'main affected groups' There will be further costs to network owners and to retailers to upgrade software and IT systems. These are not included in the above monetised analysis due to their uncertainty but depending on the approach taken could be as much as £30 million. HMRC will also face costs to administer the tax.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	No benefits have been monetised. The duty will generate additional revenue to the exchequer.
£		
Average Annual Benefit (excluding one-off)		
£		**Total Benefit** (PV) **£ Not quantified**

Other **key non-monetised benefits** by 'main affected groups' The benefits of the new duty are associated with helping to fund the rollout of next generation access. These benefits include increased productivity; opportunities for tele-working; enhanced delivering of health and education services; and other social and economic benefits.

Key Assumptions/Sensitivities/Risks Tax revenues are treated as a transfer and therefore do not score as either a cost or a benefit – the tax is estimated to raise around £175m per year of which around £150m is raised from the duty and £25m is raised from VAT on the duty. One-off costs are assumed to be split equally between 2009 and 2010.

Price Base Year 2009	Time Period Years 8	**Net Benefit Range** (NPV) **£ -175,000 to 285,000**	**NET BENEFIT** (NPV Best estimate) **£ -230,000**

What is the geographic coverage of the policy/option?			Great Britain	
On what date will the policy be implemented?			1 October 2010	
Which organisation(s) will enforce the policy?			HMRC	
What is the total annual cost of enforcement for these organisations?			£ negligible	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£	
What is the value of changes in greenhouse gas emissions?			£ reduction	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **N/A**	Small **N/A**	Medium £2,500-7,500	Large £2,500-7,500
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £2,275-6,800	Decrease of £	**Net Impact**	**£2,275-6,800**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

Introduction

1. Digital Britain announced the Government's intention to introduce a new duty on fixed telephone lines to help fund an improved communications network - Next Generation Access (NGA). The announcement suggested a consumer tax on "all fixed copper lines (that is, residential copper lines, the equivalent business analogue and ISDN2 lines and cable telephony lines)".

2. Since this announcement HM Treasury, the Department for Business, Innovation and Skills (BIS), and HM Revenue & Customs (HMRC) have been working closely to develop proposals in more detail. This impact assessment represents the best understanding of the impacts of these proposals.

Rationale for Government intervention

3. The market is likely to fail to deliver the Government objective of next generation broadband access for 90 per cent of the UK population by 2017. These areas will include rural and remote areas as well as some suburban areas.

4. In these areas, households and businesses will continue to receive broadband services that are relatively slower and less reliable than those in areas able to receive next generation broadband. Such a situation provides a rationale for government intervention on equity grounds:

   - horizontal equity – households (and businesses) in the final third of the population will not be able to benefit from the same range of broadband applications, services and opportunities;

   - social inclusion – households and businesses may be prevented from being able to take advantage of opportunities for greater interaction with the rest of society. For example, they may not be able to tele-work or access improved education and health care services that can be supported by next generation super-fast broadband.

5. Intervention will also support the Government's economic growth objectives, as the improved connectivity offered by NGA is expected to improve productivity for some businesses. This may be especially true for small and medium sized firms that would otherwise be unable to procure a bespoke connection on commercially viable terms. Increased roll-out of NGA should also improve the UK's international competitiveness, by making the UK a more attractive place to do business.

6. The introduction of this tax will help fund Government spending on the provision of next generation broadband where the market does not deliver. Therefore the new tax plays an important role in tackling these considerations.

Market structure

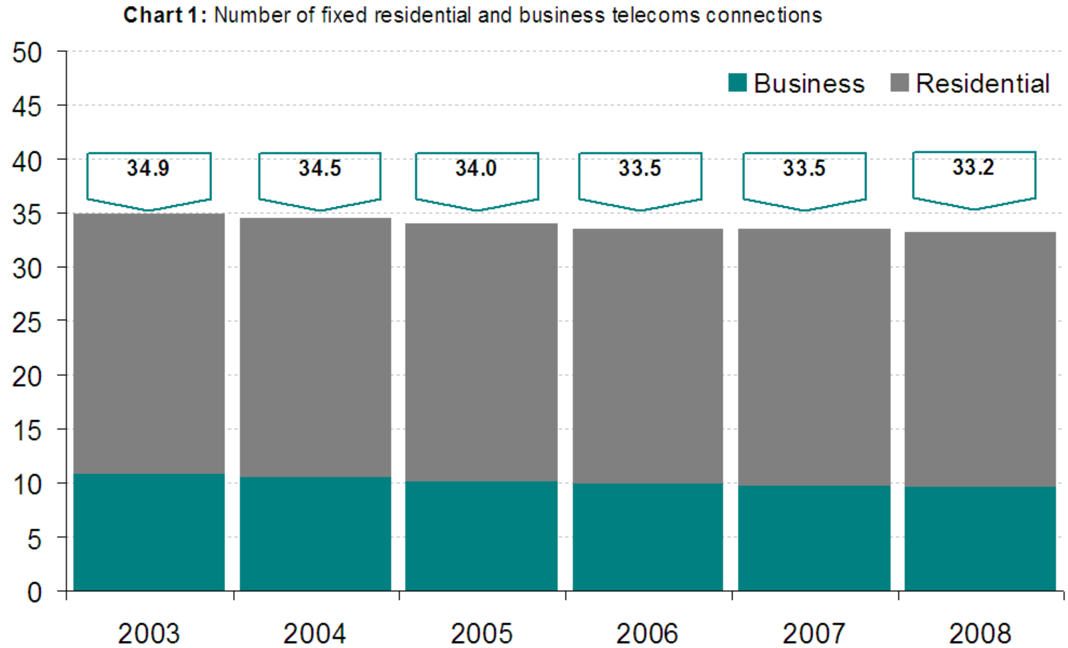
7. This impact assessment uses a simplified approach to describe the market using the terms 'network owners' and 'retailers'. Network owners are businesses that own all or part of a network such as Openreach or Virgin Media. Retailers are businesses that sell services to the end consumer such as BT Retail, Virgin Media, Sky or TalkTalk. In reality there are a number of

agents in the market that can act as intermediaries between a network owner and the final retailer.

8. There are important differences between some of the network owners. Openreach is a legacy network owner and is bound by the Universal Service Directive. Openreach sells access to its network to other retailers. This is in contrast to firms like Virgin Media who both own the network and provide consumer access.

Recent trends

9. There has been a very gradual decline in the number of fixed lines in use. This trend can be seen in Chart 1.



Source: Ofcom (The Communications Market 2009)

10. Ofcom figures[1] also show that the average bill has fallen by more than 50 pence per month over each of the three years. Since 2005, bills are now £7 per month cheaper on average and this amount exceeds the 50 pence a month level of the new Landline Duty.

Provision of Next Generation Access (NGA)

11. The duty does not provide any direct benefits because it represents a transfer to Government. The benefits are derived from how the tax revenue raised is spent. In this case Government has been clear that this new duty is being introduced to help fund the provision of NGA where the market does not. This section describes some of the potential benefits of NGA provision.

Productivity and economic growth

12. NGA will provide benefits similar in type to those that are provided by current generation broadband. These include higher productivity, increased innovation, improved access to new

[1] Ofcom's Communication Market report, page 242 available at: http://www.ofcom.org.uk/research/cm/cmr09/cmr09.pdf

markets and business opportunities created by the growth in e-commerce, greater consumer choice and access to time-saving e-government services[2]. These productivity improvements will help contribute to long run economic growth. Benefits will be assessed in more detail in the forthcoming BIS consultation on the procurement approach to delivering NGA roll-out.

Tele-working

13. NGA supported services such as two-way video-conferencing may encourage greater use of tele-working whereby some employees work from home where they can be more productive. This can deliver benefits both to the firm and the worker, as well as the wider economy, society and the environment:

    - Help reduce the barriers to entering the labour market for those groups which may be less mobile (e.g. disabled people and single parents with child-care responsibilities who wish to work part-time).
    - Potentially contribute to the reduction in traffic congestion as well as carbon emissions improving environmental quality.
    - Improve work/life balance (e.g. by reducing the amount of time travelling).

Delivery of health and education services

14. NGA can help improve the quality and delivery of education services to people in more rural and remote areas, helping them become more skilled, productive and earn a higher wage. Australia is an excellent illustrative example of where this is actually happening. According to the Australian Department of Communications, Information Technology and the Arts (DCITA)[3], higher speed broadband has led to the creation of virtual classrooms that help to deliver a better quality of service and enable teachers to engage with students as a group through video conferencing.

15. NGA can also play an important role in improving the quality and delivery of healthcare services. According to DCITA (2007) some health care services can be only be delivered using increasing levels of bandwidth. Therefore NGA could help improve access to medical services and significantly improve health care for people such as the elderly or those living in remote areas.

Social and environmental benefits

16. According to Plum (2008)[4], NGA supported services may help deliver further progress towards the achievement of social objectives such as increased democratic participation, cultural understanding and social inclusion. Furthermore, NGA supported services may make a more powerful contribution to environmental objectives such as carbon abatement and reduced energy consumption[5].

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[2] These benefits are discussed in greater detail in the impact assessment on the universal commitment for 2Mb/s broadband which formed part of the overall impact assessment for the Digital Britain Final Report published in June 2009. Available at: http://www.culture.gov.uk/images/publications/digitalbritain_impactassessment.pdf

[3] DCITA (2007) *The economic effects of broadband: an Australian perspective*. This paper can be accessed at: http://www.oecd.org/dataoecd/29/9/38698062.pdf

[4] A Framework for Evaluating the Value of Next Generation Broadband: A report for the Broadband Stakeholder Group by Plum Consulting, June 2008.

[5] Climate Risk Pty Ltd (2007) *Towards a high bandwidth, low-carbon future.* This report can be accessed at: http://www.climaterisk.com.au/Climate%20Risk%20Telstra_report.pdf

Scope of the tax

17. The new landline duty will be charged on lines that are used to provide telephone or broadband services to households and business.

18. Network owners will be liable for the tax and its payment to HMRC. HMRC estimates that there are around 10-15 network-owning businesses that will account for and pay the landline duty to HMRC.

19. We expect these businesses to reflect the duty in the charges they set retail-level service providers for accessing the telecommunications infrastructure. In turn, we then expect retailers to pass the duty through to business and household customers as part of the line rental charge. Around 600 retailers will need to be aware of these potential input price changes in order to reflect it in the line rental charges they set for their business and household customers.

20. The precise amount of duty pass through will ultimately be a commercial decision for network owners and retailers, but for the purposes of the analysis presented in this impact assessment we have assumed 100 per cent pass through to end customers of the £6 a year landline duty for each taxable line[6] (or local loop).

Tax revenues

21. This section covers revenue analysis. It does not make any estimate of deadweight costs[7] that may arise as a result of the duty changing consumers' behaviour to reduce the amount of tax they pay. Given the magnitude of the tax and the very limited amount of substitution expected, this deadweight loss is expected to be small.

22. Taking account of the limited and gradual year-on-year reduction in the number of fixed lines, and a £6 annual charge on all lines delivering voice and/or data services to end users, we estimate revenue from the landline duty will be around £90 million in 2010-11 (assuming the duty is implemented from 1 October 2010) and around £175 million a year thereafter, as set out in 2009 Pre-Budget Report.

23. The revenue projection is based upon the rate of duty plus the value of VAT paid on the duty and takes account of the social telephony exemption. This is consistent with the treatment of all excise taxes (including alcohol and fuel duties) where VAT is payable on the duty itself. The £175 million projection consists of around £150 million of duty collected and around £25 million of VAT.

24. The revenue projection also factors in a possible behavioural impact from the introduction of the duty on the demand for fixed-line telephony, although this effect is expected to be limited. Research by Ofcom[8] has found that, despite a reduction in the number of fixed lines over time, the use of fixed line voice services has remained relatively resilient in the face of rising mobile telephony take up. Other evidence indicates that fixed and mobile phones are not always

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[6] In practice, the actual, or economic, incidence of the landline duty could be borne by retailers in the form of lower profits, or network owners in the form of lower (pre tax) access charges, or business and household end users in the form of higher line rentals. The extent to which costs can be passed on will depend on the market situation of the different firms and the elasticities of demand and supply in each market.

[7] Also known as the 'excess burden' or distortionary cost of taxation. This is the economic loss that society bears as a result of a tax, over and above the amount of revenue it raises.

[8] *The Communications Market 2008,* Ofcom (page 295)

viewed as being good substitutes[9], suggesting that many households and businesses will rely on both fixed and mobile communications.

25. In 2009 Q1, 46% of UK households had purchased a bundled communication service such as phone, broadband and TV[10]. The extent to which consumers may decide to avoid the landline duty by switching away from fixed line telephony and broadband to mobile-only communications could also be limited by retailers offering discounts for bundled services, making it relatively more expensive to purchase services separately.

26. At 50 pence per month plus VAT, the duty represents a small increase in the average phone bill. In 2008 the average monthly revenue per fixed telephone line was just under £23[11] and the duty is equivalent to around 2½ per cent of this amount. When internet and/or TV services delivered over fixed lines are also considered, the percentage is even smaller.

Administration and compliance costs

27. Compliance costs are made up of a number of components:

- One-off costs to business arising from the introduction of the landline duty (e.g. time spent becoming familiar with the tax).

- Continuing costs of complying with the duty's obligations or the "administration burden". This includes providing information to HMRC to calculate or verify the amount of duty due, filing tax returns and record keeping requirements.

One-off costs

28. The one-off costs of the landline duty will include familiarisation with the new tax and systems development by network-owning businesses so that they can correctly account for and pay the duty to HMRC. The retailers may also require systems changes and incur re-pricing costs.

Familiarisation

29. Familiarisation refers to the time telecommunications businesses will need to spend to understand the new landline duty and how it affects them.

30. We have assumed an illustrative range of 20-30 hours familiarisation time for each network-owning business and 6-9 hours familiarisation time for each retailer. This reflects the idea that businesses liable for paying the duty to HMRC will need more familiarisation on average. Using an illustrative hourly wage rate of £25, the estimated cost for a network-owning business could therefore be around £500-750 while the typical cost for a retailer could be around £150-225. In total, familiarisation is estimated to cost around £160,000-£240,000 for all network owners and retailers.

31. There may be other related costs for business alongside general familiarisation with the duty. These could include consulting business advisers or communications and marketing costs (e.g. network owners explaining the duty and its operation to retailers, and retailers explaining the purpose of the duty to household and business customers in advertising or other published material).

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[9] Ofcom (2009) *Fixed Narrowband Retail Services Market: Consultation on the identification of markets and determination of market power* http://www.ofcom.org.uk/consult/condocs/retail_markets/fnrsm_condoc.pdf
[10] Ofcom research, 2009Q1
[11] *The Communications Market 2009*, Ofcom

Systems development and changes

32. Network owners will need to ensure that their IT systems can correctly account for the duty on each taxable line to allow them to file an annual return and pay the duty to HMRC. It is anticipated that this system development will build in large part upon existing IT infrastructure used to monitor the lines leased to retailers. A software upgrade to an existing system is likely to be all that is needed, but a higher bespoke system or 'bolt on' may be required. Based on discussions with network owners, we expect these costs to be around £20 million.

33. Retailers are also likely to need to make some changes to their systems to accommodate the landline duty. The main change will be the need to identify and report the number of exempt lines for audit purposes, and to ensure that these lines are not taxed. This burden will only fall on BT and KCOM, as they are the only current providers of social telephony schemes.

34. Some retailers may decide to include the duty as part of the line rental or overall package charge to customers, while others may choose to add it as a separate explicit item on the bill. This would likely incur some costs to change the format of the bills. However, it will not be mandatory to show the duty as a separate line on bills to end users and any decision by retailers to do so would be an entirely commercial one. We expect total costs for the sector to be around £10million.

35. HMRC would welcome views from businesses as to the likely magnitude of systems costs; in particular, how costs might vary between network owners and retailers, by size of telecommunications business and by whether network owners and retailers are part of the same business (or group) or separate entities.

Re-pricing

36. The duty may require the revision of business plans for network owners and retailers as they consider whether and how to pass the duty on and what changes any published material may be required. This would give rise to 'menu costs', the costs to business of changing prices (in this case to factor in the 50 pence monthly charge per line).

37. Telecommunications retailers change prices on a regular basis and we expect that in most cases the changes will be built into existing re-pricing rounds (and so will not represent an additional unplanned cost). The Digital Britain report announced the broad scope and rate of the duty with a commitment to introduce it in the 2010 financial year, giving telecommunications businesses time to plan for the changes. This implementation will take place in October 2010 to coincide with existing re-pricing schedules.

38. HMRC would welcome views from business on the likely magnitude of costs for any such changes.

On-going costs

39. For existing taxes, HMRC uses a model known as the 'Standard Cost Model' (SCM) to estimate the ongoing costs (administration burden) to business of complying with HMRC obligations.

40. The SCM considers which activities a business has to do to comply with an HMRC obligation, how many businesses have to comply, and how often they need to do so. The SCM considers the burdens applying to different sizes of business. It also estimates the costs of using agents,

the costs of undertaking work in-house and the costs of actually transmitting the information (e.g. sending in a tax return)[12].

41. The main administration burden of the duty will be the requirement for network owners to submit an annual return to HMRC detailing the number of taxable lines supplied in the previous year together with payment.

42. Using an illustrative range of 10-20 hours for the average time taken for each business to compile, check and file an annual duty return, together with the average wage rate above, gives an indicative estimate of the administration burden per network-owning business of around £250-500, and a total burden across all businesses of around £2,500-7,500.

43. There may also be a further administrative burden where retailers have collected and retained information about the number of social telephony scheme services they offer. The retailer will then have to pass this information to the network owner in order to ensure that these schemes are exempt. Our current understanding is that only BT and KCOM will face these costs, as they are the only current providers of these schemes.

HMRC costs

44. HMRC will need to develop its own systems to administer the landline duty, including registering taxpayers, issuing returns, receiving payments and undertaking compliance activities. There will also be staff training costs. However, given the customer relationship management model that HMRC uses in fostering a closer working relationship with taxpayers, additional costs here are expected to be minimal and will quickly form a routine part of HMRC's business activity.

45. Once the duty is up and running, ongoing costs are expected to be small, as HMRC will be interacting with a small number of taxpayers (i.e. network owners) who will already have dealings with HMRC. Providing advice and guidance on changes to the tax system is a routine part of HMRC's business and does not represent an additional cost.

Distributional analysis

Impacts on households

46. We expect the duty to be passed through to household and business customers in the form of higher line rental charges. As a fixed charge for each taxable line, the financial impact of the duty could be relatively greater for lower income households with landlines compared with higher income households, although this will depend on how retailers decide to pass on the charge across different customer groups.

Cost of living

47. Chart 2 shows a simulation of the possible increase in the cost of living as a result of the landline duty by income decile. The simulation assumes one taxable landline per household and that all other household expenditure remains unchanged. It shows that the cost of living will

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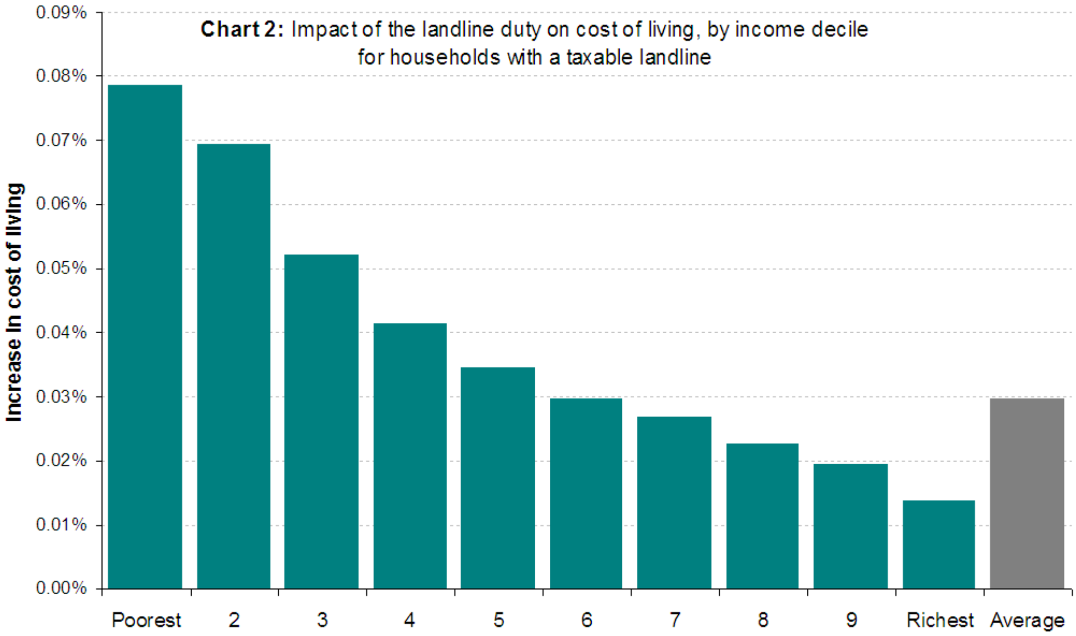
[12] The SCM does not consider one-off costs or transitional costs which are discussed above. Nor does it consider costs which a business would have incurred anyway had the relevant HMRC obligation not existed. It considers the costs which apply to a normally efficient and compliant business. The SCM does not consider wider compliance costs, such as business uncertainty, cash flow costs, or the costs of deciding whether or not to do something. SCM figures in impact assessments are presented in May 2005 prices, as admin burden reduction targets relate to a May 2005 baseline. The figures are also uplifted to current day prices.

tend to increase most for lower income households with a landline, but even here the increase is less than 0.1%.



Source: Calculations from 2007 Expenditure & Food Survey

Expenditure

48. Chart 3 shows average weekly household expenditure on landline and mobile telephone services by income decile.

49. Using this data, the duty represents just over 1 per cent of average total expenditure on telephone and telefax services across all households (internet spending is not included). The proportionate impact of the duty is lowest for higher income groups, at less than 1 per cent of spending on telephone and telefax services in the top income decile compared with 2½ per cent of spending in the bottom decile.

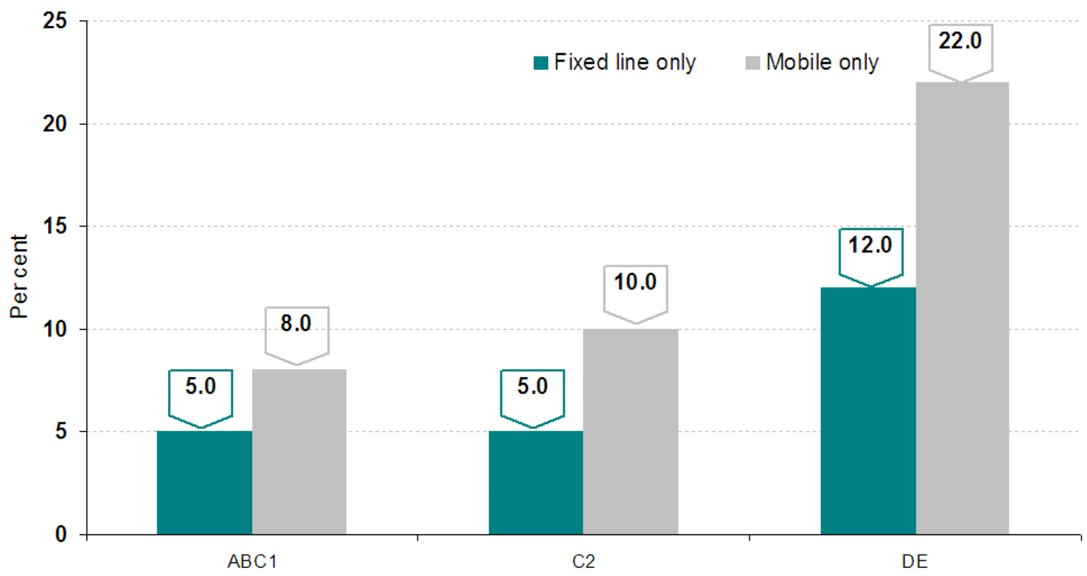
50. Alternative data based upon information from Ofcom, operators and the ONS suggests that in 2008 households spend £65.01 on average on telecommunication services per month. This alternative data includes internet and broadband spending but is broadly consistent with evidence from Family Spending. The alternative data suggests that as a proportion of expenditure the new duty is even lower than 1 per cent.

51. The impact of the duty on low income households will be mitigated:

- There is an exemption from the duty for households with social telephony tariffs that are available to those on certain means tested benefits including: Income Support; Income-based Jobseeker's allowance; Pension Credit (Guaranteed Credit); Employment and Support Allowance (income related). Approximately 850,000 households have a social telephony tariff and around a further 3-4 million are eligible for one.

- A greater proportion of low income households and those in socio economic groups C2, D and E do not have a landline and instead use mobile phones as their sole means of communication, as shown in Chart 4. These households will not be directly affected by the landline duty.

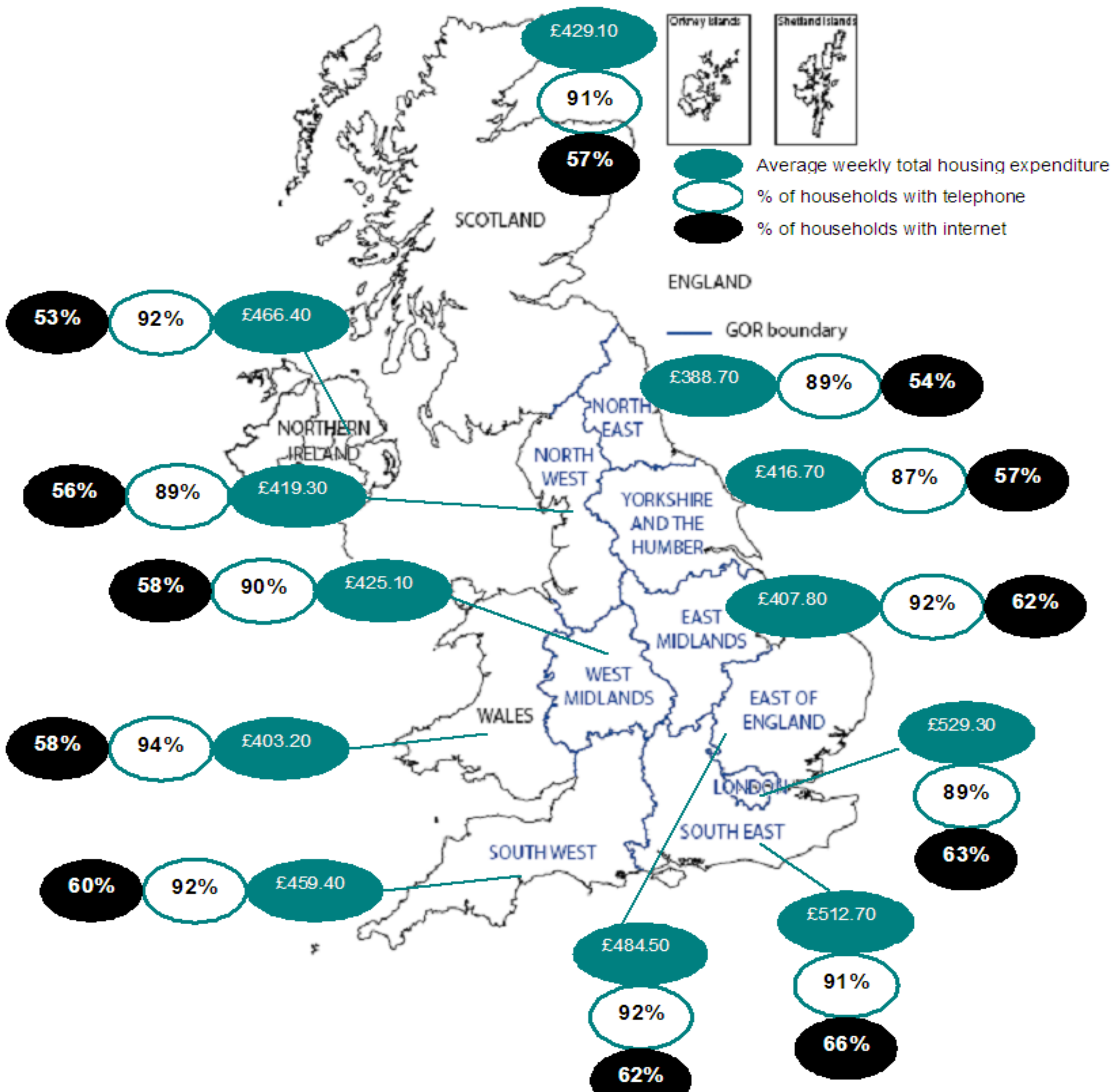
Chart 4: Type of household telcom connection by socio-economic group



Source: Ofcom Technonlogy Tracker, 2009 Q1

52. Chart 5 shows average weekly household expenditure by region and the proportion of households in each region who have telephone and internet access. In proportionate terms, the duty will tend to have the largest impact on the cost of living in regions where average household spending is lower (for those households with a taxable landline), but as discussed above, the overall effect is small.

Chart 5: Average total weekly household spending, percentage of households with telephone and internet



Source: ONS – Table A53, pg. 170, Annex A, Family Spending: 2008 Edition
Table A37, pg. 156, Annex A, Family Spending: 2008 Edition

Impacts on business

53. There is likely to be a positive but imperfect relationship between the amount of duty paid and the size of the business in terms of number of employees. We expect that in general larger firms will have a higher exposure to the new duty than smaller ones.

54. For the majority of firms, we would expect the financial impact of the duty to be fairly small in relative terms:

- Small firms with comparatively few employees may have a small number of copper lines but alternatively could have one or two fibre lines which would limit their potential exposure to £1 per month.
- Medium size firms could use a number of ISDN8 or ISDN30 lines at their offices or may have a bespoke solution negotiated directly with the retailer. Again it is unlikely that any office would have a substantial number of lines as it becomes more cost effective to have a bespoke solution than large multiples of ISDN lines.

- Large firms usually have bespoke telecommunication solutions. For example, large offices or call centres may only have a single high capacity fibre connection and therefore could pay as little as 50 pence per month. Some large companies may have a number of lines per location but this number will be tend to be small (less than 10) - extremely low compared to the number of staff employed.

Competition Assessment

55. The introduction of the new duty could have an impact on competition in the market. There are two main areas where the tax could have an impact on competition: competition between fixed line and mobile operators; and competition between different fixed line retailers.

Competition between mobile and fixed line operators

56. As explained in the tax revenue section above we do not believe that there will be a significant substitution effect between use of fixed and mobile communications. The evidence for this includes:
    - Ofcom research showing fixed line voice services have remained resilient to rising mobile take up;
    - the bundled nature of many services received by consumers meaning a fixed line forms part of a telephone, television and broadband package;
    - the limited scope for mobile broadband to deliver a comparable level of speed and service as fixed broadband in the time for which the tax is planned to be in force; and
    - the small level of the new duty compared with levels of household and business expenditure on communications.

Household consumers

57. Ofcom research[13] has shown that non-price factors can have considerable weight in consumer choice. There are a number of consumers who value the simple and consistent nature of fixed telecoms very highly and are unlikely to be influenced by price factors. This is particularly the case in areas where mobile coverage is more limited.

58. The importance of non-price factors is particularly relevant for broadband services. Broadband users, particularly heavy users, are likely to be dependent on a fixed service for the proposed duration of the tax to access high speed, high volume services. Mobile broadband is currently viewed in the industry as a complement to, rather than a substitute for, fixed broadband[14].

59. The duty has also been designed to include broadband services to address concerns that phone users may substitute to voice over internet protocol (VOIP) services such as Skype. This design means that users that choose not to take a phone service will still pay the duty. This removes a potential source of market distortion because the relative prices of fixed telephone and VOIP will remain as they currently stand.

60. Low-income users might be expected to be the most price sensitive but the new duty is unlikely to introduce a market distortion for these consumers. These users often choose to use mobile

[13] Ofcom (2009) *Fixed Narrowband Retail Services Markets: Consultation on the identification of markets and determination of market power* http://www.ofcom.org.uk/consult/condocs/retail_markets/fnrsm_condoc.pdf, para 4.30
[14] http://www.guardian.co.uk/business/2009/oct/08/dongles-wifi-broadband-smartphones

important measure to ensure that the incumbent provider of the telephone service does not have any advantage over their competitors.

66. The way telecommunication services are provided in bundles and that consumers choose based upon these bundles suggests that the impact of the duty will be minimal. Telephone and broadband services are often provided together from a single retailer; other services such as television packages are often included as well. The choice of bundle can often be driven by the availability of certain television packages suggesting the duty will have no impact on competition between providers.

67. There may be some differences in the level of administration costs faced. Openreach, as the largest network owner and with the highest number of retailers leasing lines, is likely to face the largest costs. However, Openreach is in a unique situation as the regulated legacy network owner and does not directly compete with other network owners in a number of areas. We are content that their costs are not disproportionate.

68. Different retailers are also likely to face different costs in amending their systems for billing purposes. Initial discussions with industry suggested that these costs could be minimised by the new duty being included in the fixed line rental part of billing and the tax being introduced at a point when firms would normally make billing changes. The tax has been designed to allow this to limit costs to retailers and therefore the potential for any distortion in the market.

Small firms impact test

69. The vast majority of firms are small firms employing fewer than 20 or fewer full time equivalent staff, most of which are sole proprietorships or partnerships with no employees. It can therefore be reasonably assumed that the financial impact of the proposed duty on these businesses is likely to be small given that they are unlikely to have very many fixed lines.

Other specific impact tests

70. Specific tests including the Small Firms Impact Test, Legal Aid, Sustainable Development, Carbon Assessment, Other Environment, Health Impact Assessment and Rural Proofing have been considered in this impact assessment. After initial screening, it has been deemed that no significant impact is anticipated in any case.

71. We have also considered the potential effects of these proposals on race, disability, gender equality and on human rights. Again, after initial screening it has been deemed that no significant impact is anticipated in any case.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

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This document can be found in full on our website at:
hm-treasury.gov.uk

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