

Edward Mountain MSP, Chair of the Rural Economy and Connectivity Committee
Scottish Parliament
The Royal Mile
Edinburgh
EH99 1SP

20th November 2018

Dear Mr. Mountain,

Rural Economy and Connectivity Committee – Transport Scotland Bill – Road works

Firstly, I would like to thank you on behalf of Openreach for the opportunity to provide evidence to the committee. I would also like to reinforce our commitment to safe and high quality road works in Scotland and provide some follow up information for the committee to consider.

Road authority inspections

All statutory undertakers are required to pay for what is called 'sample inspections' of their works. This enables roads authorities to inspect 30% of all our works, funded by ourselves on a quarterly basis. Quality tests (like reinstatement coring) and third party reports are in addition to this 30%.

Commissioner inspections

We feel that the right to enter premises in the Bill goes too far and is unnecessary for inspection of road works. We request that a period of notice is required to enter premises, in line with similar powers of this nature, e.g. the Competition Act. Additionally anyone entering premises should be authorised to do so, as per the definition in the Bill.

Contractor quality

We understand that accountability for road works sits with statutory undertakers and absolutely agree with this. On reflection of the committee's comments on quality of sub-contractors, we wonder whether

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Head of compliance and regulation for streetworks

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there would be scope to consider licence endorsements for individuals committing serious road works offences. Such a system could provide statutory undertakers with more upfront transparency of the quality of operators and supervisors on the ground. Our thinking in this area is embryonic, prompted by the committee, but we feel this could warrant further investigation with industry and perhaps prove a useful tool for all.

Security of apparatus data

The Bill as currently drafted requires utilities to put a great deal of faith into the Scottish Road Works Commissioner's office to keep our apparatus data safe. When dealing with Critical National Infrastructure 'faith' is insufficient and there must be obligations on the Commissioner's office to meet a specific and defined set of data and cyber security requirements before statutory undertakers are required to relinquish control of their apparatus data. To have sufficient weight there must also be commensurate right of recourse if the office fail to meet these important obligations. We recognise that such security can be expensive, particularly to keep it up to date, and so we propose instead of handing over our data, a better solution would be to link into existing systems owned by statutory undertakers. Our system enables access to maps 24/7/365 and is used to service 1.9m requests a year.

Penalties

Openreach believes penalties should be a last resort, with a focus on great up front planning and behaviour change first. We believe that the role of the Commissioner, with the introduction of quality plans, will do this. English authorities typically have more penalties at their disposal and issue more penalties than Scottish authorities, however the Commissioner described how performance in Scotland is better. Any new penalties should be proportionate, avoid duplication across authorities and the Commissioner's inspection function and have a fair right of appeal.

Openreach is proud to have built faster, fibre-enabled broadband services to over 2.5 million premises in Scotland, many of which are in rural parts of the country. We hope this Bill incentivises improvement within the existing, largely successful, framework and avoids the introduction of unnecessary costs for statutory undertakers. We continue to invest in a digital Scotland and look forward to continuing our deployment to help realise Scotland's ambition as a leading digital nation.

Yours sincerely,

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