



23 June 2022

Ms Sarah Cremin  
Committee Secretariat  
Committee of Public Accounts  
Leinster House  
Dublin 2  
D02 A272

**Department of the Environment, Climate and Communications (Vote 29)**

**Ref: S0887 PAC33**

Dear Ms Cremin

I refer to your letter of 8 June 2022 regarding information required following the PAC meeting on 12 May 2022 at which the Department's correspondence concerning the Updated Interim Remedial Plan in respect of the National Broadband Plan was considered. The information requested by the Committee is set out below.

**1. CLARIFICATION IF SANCTIONS WILL APPLY IN RESPECT OF THE THREE AND A HALF MONTHS THAT THE DEPARTMENT HAS NOT ACCEPTED AS BEING ATTRIBUTABLE TO REASONS BEYOND NATIONAL BROADBAND IRELAND'S CONTROL**

As confirmed in the Department's letter of 29 April 2022, an assessment of the Updated Interim Remedial Plan and associated claim for Relief concluded that the NBP Programme is some 12 months behind schedule, with 8.5 months being accepted by the Department as being attributable to reasons beyond NBI's control and in respect of which Relief has been granted. Any additional Delay outside of the period to which Relief applies will be liable for sanctions under the Contract. Sanctions are, and will continue to be, applied as appropriate in accordance with the provisions of the Contract. Sanctions linked to the late delivery and achievement of certain build Milestones come into effect from the third contract year, which is 1 February 2022. Where Relief has been granted against a specific delivery Milestone, a 'Relief End Date' has been contractualised. This has the effect of extending the date and therefore obligations on NBI to deliver the Milestone to take into account the Relief granted. If the Milestone is achieved on or before the agreed Relief End Date, no sanctions will apply. If, however, the achievement of a Milestone occurs after the Relief End Date, sanctions will apply.

**2. IF SANCTIONS WILL APPLY, THE NATURE OF THE PENALTIES, WHETHER FINANCIAL OR OTHERWISE, AND DETAILS OF SAME**

Sanctions arise in the following two circumstances:


1. those related to the non-achievement of network build activities and their associated Milestones within the timeline determined in the contract. The "Delay Payment" arising can only be calculated once the respective Milestone is complete.
2. the non-achievement of performance targets for operating and maintaining the network.

In both circumstances financial sanctions will be imposed by way of a reduction in future subsidy payments due to NBI.

The Department only pays subsidy due once the network is built and premises certified as passed for any given Deployment Area. There is a strong commercial incentive, therefore, for National Broadband Ireland (NBI) to design, deploy, connect and operate the network according to the time and quality performance requirements of the NBP Contract in order to maximise the revenues.

Should you require any clarification or additional information, please do not hesitate to contact Ms. Louise Carrigan in my Department, by email at [louise.carrigan@DECC.gov.ie](mailto:louise.carrigan@DECC.gov.ie) or by phone at 087 094 9532.

Yours sincerely



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**Mark Griffin**

**Secretary General**