Thank you for your letter of 5 July in response to mine of 25 June about state aid. I am sorry for the delay in responding.

As I indicated at the evidence session on 13 June and in my letter of 25 June, I believe there is an important role for government to play in supporting the rollout of superfast broadband across the country. Ensuring the benefits of this vital service are equally and widely shared is a legitimate and vital function of government. As you know, we are spending significant funds on broadband to this end.

Industry is itself investing heavily in broadband across the country. There will always, however, be areas which are not economically viable for commercial suppliers. In order to address this market failure, government needs to intervene. We are doing so through a variety of programmes, including £1.7bn in the Superfast Broadband Programme, £200m in the Local Full Fibre Network Programme, £67m in the Gigabit Broadband Voucher Scheme, and £75m in Defra’s Rural Broadband Infrastructure Scheme.

All of these are bringing significant benefits as evidenced through the recent DCMS evaluation of the superfast broadband programme, published on 20 August and available on GOV.UK.

However, we are not as free to allocate broadband funding as we would wish. One of the factors restricting us are state aid rules. In my evidence I stated that “state aid is an explicit subsidy to private industry, which, under European Union rules, you are not allowed to allocate.” By this I meant that under European Union rules, it is illegal for EU countries to give financial help to some companies and not others in a way which would distort fair competition unless provided under an exemption or notified by the European Commission.

I did not mean to imply that European state aid rules were preventing the spending of public money to improve broadband connectivity - simply that they attach conditions to the way in which aid is granted.
The Commission's state aid rules restrict government support to areas where the market is failing to provide the required connectivity. Notification of state aid needs to be approved by the Commission and its subsequent deployment must follow the terms of that approval. Sections 3.2-3.3 of the state aid Broadband Guidelines set out criteria for the targeting of state aid. This section defines areas as "white", "black" or grey" depending on the level of existing broadband provision. It currently allows augmentation of basic broadband with Next Generation Access (NGA) broadband - essentially superfast broadband. We would also need to consider how to deliver the government’s ambitious plans for fibre connectivity, described in the Future Telecoms Infrastructure Review in a state aid compliant way, given that the broadband rules limit support to areas where there is no existing NGA access. The guidelines also require any state-supported intervention to be technologically neutral, which means that any technology that is capable of delivering the required connectivity should be eligible for support, and this has the effect of shaping government approaches.

Ofcom and government have an important role in promoting the right conditions for competition to deliver the best possible services to the public, which markets will often do better than government. As I said in my letter of 25 June, the Government’s Future Telecoms Infrastructure Review is exploring ways to encourage greater investment in digital infrastructure and this includes encouraging greater competition.

Ofcom and government also have an important role in intervening where markets fail or cannot serve consumers as they should. This is why Ofcom undertakes regular market reviews and took steps to ensure a more independent Openreach though its separation from BT.

I trust this clarifies the position.

With every good wish,

Michael Gove