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Dave Clarkson
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30 June 2014

Dear Dave

Withdrawal of 2010 KCOM Bundling Undertakings

As part of Ofcom's 2010 Retail Bundling in Hull consultation¹, KCOM gave undertakings to Ofcom detailing voluntary safeguards on retail bundling in the Hull area (the KCOM Bundling Undertakings).² We reached this agreement with Ofcom in order to provide assurances with respect to KCOM's obligation not to unduly discriminate when offering bundles of services to customers.

Publication of Ofcom's final statements for the 2013 Narrowband Market Review 26 September 2013³ and Fixed Access Market Reviews (FAMR) 26 June 2014⁴ has confirmed the removal of the no undue discrimination SMP obligations on KCOM relevant to the bundling of retail services.

In the FAMR final statement at paragraph 6.37, Ofcom said with reference to the undertakings KCOM:

KCOM sought in its response to the July 2013 FAMR Consultation clarification from Ofcom about the status of its voluntary undertakings following the removal of the SMP condition prohibiting undue discrimination. Since these undertakings were originally offered by KCOM in order to avoid it breaching this prohibition on undue discrimination (which we are now removing), we consider that KCOM can decide whether it wishes to withdraw them.

We consider the removal of the relevant retail ex ante no undue discrimination obligations means that we can continue to offer bundled propositions absent of the KCOM Bundling Undertakings, subject to compliance with ex post competition law.

¹ <http://stakeholders.ofcom.org.uk/consultations/retail-bundling-in-hull/>

² <http://stakeholders.ofcom.org.uk/binaries/consultations/retail-bundling-in-hull/annexes/annex4.pdf>

³ http://stakeholders.ofcom.org.uk/binaries/consultations/nmr-2013/statement/Final_Statement.pdf

⁴ <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/specific-conditions-entitlement/market-power/fixed-access-market-reviews-2014/statement/>

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Consistent with our view that regulation in the Hull area should be proportionate and only imposed where after a pragmatic assessment there are demonstrable benefits for consumers and/or competition, KCOM no longer feels it is necessary to keep the KCOM Bundling Undertakings in place.

Therefore in light of Ofcom's comments in the FAMR statement, we confirm KCOM is withdrawing the KCOM Bundling Undertakings as of 1 July 2014. KCOM will of course continue to monitor compliance of its retail offerings in the Hull area with respect to ex post competition law.

If you would like to discuss this matter any further, please let us know.

Yours sincerely



Richard Neudegg
Regulatory Advisor