

Direction under section 106 of the Communications Act 2003, made pursuant to section 115(4) of the Act (the “Direction”), revoking a direction applying the electronic communications code in the case of Zayo Infrastructure (UK) Limited (formerly Viatel Infrastructure (UK) Limited), whose company number is 05836930 (“the Applicant”).

Background

1. The telecommunications code set out in Schedule 2 to the Telecommunications Act 1984 applied to the Applicant immediately before the coming into force of section 106 of the Act. Therefore, by virtue of the transitional provisions in paragraph 17(2) of Schedule 18 of the Act, the Applicant is treated as a person in whose case the Code applies by virtue of a direction given by Ofcom.
2. The Applicant has since applied to Ofcom for a further direction revoking the direction referred to in paragraph 1 above, in accordance with section 115(2) of the Act.
3. Prior to making a direction under section 106 of the Act to revoke the direction referred to in paragraph 1 above, Ofcom must publish a notification of its proposal to give that direction and consider any representations about that proposal that are made to Ofcom within the period specified in the notification.
4. On 11 January 2022, Ofcom published, in accordance with sections 107(6) of the Act, a notification of its proposal to give a further direction revoking the direction referred to in paragraph 1 above for the reasons set out in the consultation document accompanying that notification. That notification invited representations to Ofcom by no later than 5pm on 11 February 2022.
5. Ofcom received one response, commenting on the proposal. The respondent emphasised that it was important that revocation of Code powers from the companies listed in the consultation should not adversely affect their customers, in particular by relieving the companies of their contractual obligations to their customers. As explained in the consultation document accompanying the notification, we consider that the revocation of the directions would have minimal impact, if any, as each of the companies we are removing Code powers from is either already no longer in business, or has informed us that it no longer requires Code powers (typically because the network has been taken over by another provider.) For the reasons set out in the consultation document accompanying the above mentioned notification, Ofcom has considered and acted in accordance with its general duties in section 3 of the Act and the six requirements in section 4 of the Act.

Decision

6. Ofcom hereby directs, in accordance with section 106 of the Act, that the direction applying the Code in the case of the Applicant under section 106(3) of the Act shall be revoked.
7. This Direction shall take effect on the day it is published.

Interpretation

8. In this Direction—
 - (a) “**Act**” means the Communications Act 2003;
 - (b) “**Code**” means the electronic communications code set out in Schedule 3A to the Communications Act 2003;
 - (c) “**Ofcom**” means the Office of Communications.

9. For the purpose of interpreting this Direction—

- (a) headings and titles shall be disregarded;
- (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

Signed

A handwritten signature in black ink, appearing to read 'Brian Potterill', is written over a vertical line.

Brian Potterill

Director of Mobile Network Strategy

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

29 April 2022