

SCHEDULE

Direction under section 106(3) of the Communications Act 2003 applying the electronic communications code

Background

1. The Applicant has applied to Ofcom for a direction applying the Code to the Applicant.
2. The date on which Ofcom received a completed application that meets the statutory requirements with respect to the content of an application for a direction applying the Code and the manner in which such an application is to be made was 28 August 2019.
3. By virtue of regulation 3 of the Electronic Communications and Wireless Telegraphy Regulations 2011 (SI 2011 No. 1210), except in cases of expropriation, Ofcom must make its decision within 6 months of receiving the completed application.
4. Prior to giving a decision under section 106(3) of the Act to apply the Code to the Applicant, Ofcom must publish a notification of its proposal to give the direction and consider any representations about that proposal that are made to Ofcom within the period specified in the notification.
5. On 17 December 2019, Ofcom published, in accordance with section 107(6) of the Act, a notification of its proposal to give a direction applying the Code to the Applicant for the reasons set out in the consultation document accompanying that notification. That notification invited representations to Ofcom by no later than 5pm on 17 January 2020.
6. Ofcom received one response objecting to the proposal. The respondent was mainly concerned about the general regime governing Code powers particularly the rights available to Code operators under the Act to deploy structures for electronic communications networks and the safeguards in place.
7. Having considered the objections to the proposal, Ofcom concluded that the response raised issues concerning Government policy relating to the rollout of advanced communications networks and the technology they employ. In particular, Government policy underpinning the statutory framework which establishes the Code and the rights available to Code operators. Ofcom has no power to alter these policies or the statutory framework that sets out the Code or planning regime. It is therefore unable to include consideration of the issues raised by the respondents as part of its assessment of the application.
8. On 20 January 2020, the Applicant informed Ofcom that on 13 December 2019 it had changed its name from Fidelity Broadband Ltd to Woosh Broadband Ltd.

Decision

9. Ofcom hereby directs, in accordance with section 106 of the Act, as follows—
 - (a) the Code shall apply to the Applicant for the purposes of the provision by the Applicant of an electronic communications network; and
 - (b) that application of the Code shall have effect throughout the United Kingdom.

10. This Direction shall take effect on the day it is published.

Interpretation

11. In this Direction—

- (a) “**Act**” means the Communications Act 2003;
- (b) “**Applicant**” means Woosh Broadband Ltd (formerly called Fidelity Broadband Ltd), whose registered company number is 11560420;
- (c) “**Code**” means the electronic communications code set out in Schedule 3A to the Communications Act 2003;
- (d) “**Ofcom**” means the Office of Communications.

12. 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', written in a cursive style.

Brian Potterill

Competition Policy Director

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

12 February 2020