

FCS Response to Ofcom's Consultation on Implementing the EECC

Introduction

The Federation of Communication Services represents companies which provide professional communications solutions to (primarily) business users. Our members deliver telecommunications services via mobile and fixed line telephony networks, broadband, satellite, wi-fi and business radio. Most FCS members operating in the fixed services space are customers of Openreach which is a critical provider to this sector.

Our members' customers range from SMEs, home-workers and micro-businesses up to the very largest national and international private enterprises and public-sector users. FCS is the largest trade organisation in the professional communications arena in the UK, representing the interests of around 300 businesses who supply B2B services nationwide.

FCS Response

We welcome the opportunity to respond to Ofcom's consultation on Implementing the new European Electronic Communications Code and specifically its revised proposals for business customer definitions.

Our response focuses mainly on the new proposed business customer definitions as we have no comment on the proposal to exclude pre-pay mobile customers from the scope of the best tariff notifications requirements. However, we have also taken this opportunity to comment on some other aspects of the original proposals for implementation of the EECC, which are still a cause for concern.

We are very pleased that Ofcom has understood the problems associated with the original proposed definitions for business customers and not for profit organisations and we believe that the new proposals will work much better.

However, we note that the defined terms of Small Business Customer (and where appropriate, prefixed with "Domestic and"), Microenterprise and Small Enterprise will effectively be the same. To ensure ease of comprehension, it may be preferable to use the same term throughout the General Conditions of Entitlement. However, we also recognise Government policy on the approach to transposition, the transposition deadline as well as the different term used in the Communications Act 2003. We would wish to avoid any further consultation on this specific matter and this may, therefore, be better left to a future simplification or revision of the GCs. We are content that the term Not for Profit customer is retained.

As noted above, we have comments on three further aspects of the proposals set out in the original EECC consultation.

Contract Changes and Right to Exit - the proposed new regulation would allow all customers (including businesses of any size) to exit their contract without penalty in the event of any change - unless that change exclusively benefits the customer. The new regulation will also

mean that the right to exit applies to changes to any element of the contract (rather than, as now, to the terms of the core service).

We feel very strongly that, due to the complexity of business contracts and the changing needs of business customers, this will be a major problem for both CPs and business customers - and is simply not practical or proportionate. We hope that Ofcom will recognise that application of the new regulation to business customers is problematic. Our preferred outcome would be that business customers will be excluded in the General Condition itself. However, at the very least, we hope that Ofcom's guidance in this area will provide some flexibility with regard to business contracts. We would welcome sight of any draft guidance in this area prior to finalisation via the forthcoming statement.

Non-coterminous Contracts - the original proposed new regulation is that the operation of "non-coterminous contracts" (i.e. contracts which are linked but have different end dates) would be outlawed for Micro Enterprise, Small Enterprise and Not For Profit Customer. This, on the basis that Ofcom consider that such an arrangement would be a disincentive to switch provider (under GC C1.8).

We believe that the ability to add, remove and expand service elements on demand is very common and highly beneficial to business customers. Again, our preference would be that this regulation applies to consumers only in the General Condition itself. However, we understand that there may be an element of discretion available to CPs, depending on whether the arrangements are "beneficial" to the customer or not. Again, we would welcome sight of any draft guidance in this area prior to finalisation via the forthcoming statement

Prices to be quoted inclusive of VAT - this requirement appears in the guidance in the draft Annex 1 to General Condition C1 (Contracts). We understand that Ofcom does not intend this to apply to business customers (and we trust that the guidance will be amended accordingly).

Consultation Questions

Q1: Do you agree with our proposed changes to the GCs and our Guidance on General Condition C1 in relation to annual best tariff information.

We agree with Ofcom's revised proposed definitions for business customers and not for profit organisations.

However, as noted above, the defined terms of Small Business Customer (and where appropriate, prefixed with "Domestic and"), Microenterprise and Small Enterprise will effectively be the same. To ensure ease of comprehension, it may be preferable to use the same term throughout the General Conditions of Entitlement. However, we also recognise Government policy on the approach to transposition, the transposition deadline as well as the different term used in the Communications Act 2003. We would wish to avoid any further consultation on this specific matter and this may, therefore, be better left to a future simplification or revision of the GCs. We are content that the term Not for Profit customer is retained

FCS hopes that this brief response is helpful to Ofcom in its considerations and we would be happy to discuss further.