

Melanie Everitt
Floor 4
Competition Group
Ofcom
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4 October 2016

Dear Melanie,

EE Limited Response to Ofcom's Consultation on the Proposed Guidance under the Communications (Access to Infrastructure) Regulations 2016

EE Limited welcomes the opportunity to respond to this consultation on Ofcom's proposed guidance under the Communications (Access to Infrastructure) Regulations 2016.

We have three comments in connection with the draft guidelines as follows.

Firstly, in connection with the issue of verifying the credentials of a network provider making a request, we propose that, as a minimum, the requester must demonstrate that it benefits from a direction from Ofcom pursuant to section 106 of the Communications Act 2003. The requester should additionally provide a reasonable justification for and explanation of the request including high-level plans, time-frames, confirmation and evidence that necessary consents or approvals have been applied for or are in the process of being applied for and details of any other requests which have been or will be made.

Secondly, with regard to the fixing by Ofcom of terms as to price for access (regulation 16), we consider that providers of telecoms infrastructure should be compensated fairly for the investment made in telecoms infrastructure and for any services provided e.g. maintenance, upkeep etc and any "fair and reasonable" price should reflect that investment and those additional services.

Finally, in connection with the costs and process for on-site surveys, we note that site agreements will often provide that physical site access for third-party survey purposes requires the consent of various third parties, including the owner of the land on which the infrastructure is located. The survey must be subject to such requirements. There may be also specific access charges set out in the site agreement (or a methodology for calculating them), including additional costs where the landlord requires that access is supervised. These should be charged to the requester on a pass-through basis. It is also likely that the infrastructure owner will, for obvious reasons, wish to supervise the survey which will create extra cost. Again, this should be paid by the requester on a pass-through basis.



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We would be happy to discuss these comments in more detail if necessary.

Yours sincerely.

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