

# Confirmation Decision issued under section 139A of the Communications Act 2003 to Virgin Media Limited relating to contravention of information requirements

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**Non-confidential version – redactions are indicated with [X]**

## Subject of this Confirmation Decision

- 1.1 This Confirmation Decision is addressed to Virgin Media Limited (“VM”), whose registered company number is 02591237. VM’s registered office is Media House, Bartley Wood Business Park, Hook, Hampshire, RG27 9UP.

## Summary

- 1.2 Ofcom has statutory powers, contained in section 135 of the Communications Act 2003 (“the Act”), to require the provision of information which it considers necessary for the purpose of carrying out its functions. A person required to provide information under that provision has a statutory duty to provide it to Ofcom in the manner and within such reasonable period as Ofcom may specify.<sup>1</sup>
- 1.3 These statutory powers are fundamental to Ofcom’s ability to carry out its statutory functions in relation to communications matters, such as conducting market reviews, imposing regulatory obligations, resolving disputes and taking enforcement action, in line with its principal duty of furthering the interests of citizens and consumers. They enable Ofcom to gather the information which it considers necessary to carry out its functions in a timely and effective manner, and are therefore key to the integrity of the regulation of the communications sector.
- 1.4 Ofcom has found that VM has breached the requirements imposed under section 135 of the Act by failing to provide information by the deadline set by Ofcom. Ofcom required the provision of the information for the purposes of its Business Connectivity Market Review 2019 (“BCMR 2019”).
- 1.5 Given the importance of information requested under our statutory powers to our work, a late response is likely to be a serious matter. A late response (without explaining to Ofcom why a deadline cannot be met and seeking an extension in advance) indicates a degree of carelessness and the absence of effective systems in place to respond to

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<sup>1</sup> See section 135(4) of the Act.

information requests in a timely manner in accordance with the requirements in section 135 of the Act.

- 1.6 This Confirmation Decision sets out Ofcom’s decision to impose a penalty of £25,000 on VM in respect of the contravention we have identified. We consider that this is appropriate and proportionate, taking into account the length of the delay, VM’s size and Ofcom’s central objective of deterring future contraventions.

## Relevant legislation

- 1.7 Section 135(1) of the Act states that:

*“Ofcom may require a person falling within subsection (2) to provide them with all such information as they consider necessary for the purpose of carrying out their functions under this Chapter”.*

- 1.8 Section 135(2) of the Act states that communications providers (“CPs”) fall within the scope of this provision. The expression “communications provider” is defined at section 405(1) of the Act. It means *“a person who provides....an electronic communications network or an electronic communications service.”*

- 1.9 Section 135(3) of the Act confirms that the information that may be required by Ofcom under section 135 of the Act includes information that they require for, amongst other things:

*“(g) identifying markets and carrying out market analyses in accordance with, or for the purposes of, any provision of this Chapter”*

- 1.10 Section 135(4) of the Act states that a person required to provide information under section 135 must provide it in such manner and within such reasonable period as may be specified by Ofcom.

- 1.11 Section 135(5) of the Act provides that the powers in section 135 are subject to the limitations in section 137.

- 1.12 Section 137(3) provides that Ofcom cannot require the provision of information under section 135 except:

- i) by a demand for the information that describes the required information and sets out Ofcom's reasons for requiring it; and
- ii) where the making of a demand for the information is proportionate to the use to which the information is to be put in the carrying out of Ofcom's functions.

- 1.13 Sections 138 to 144 of the Act specify the enforcement powers that Ofcom has in relation to contravention of information requirements.

- 1.14 Section 138 of the Act provides that Ofcom can issue a CP a notification *“where Ofcom determine that there are reasonable grounds for believing that a person is contravening, or has contravened, a requirement imposed under section 135”*. Section 138(2) of the Act

provides that the notification can specify a penalty Ofcom is minded to impose and requires Ofcom to allow a CP the opportunity to provide representations in response.

- 1.15 Following the expiry of the period allowed for making representations, section 139A of the Act provides that Ofcom can issue a “*confirmation decision*” if it is satisfied that the CP has, in one or more of the respects notified, been in contravention of a requirement notified under section 138, and may require the person to pay the penalty specified in the section 138 notification or such lesser penalty that Ofcom considers to be appropriate in light of representations made or steps taken by the CP.
- 1.16 Section 139(5) of the Act provides that the amount of any penalty Ofcom may impose has to be appropriate and proportionate and cannot exceed £2,000,000.

## Background to Business Connectivity Market Review 2019

- 1.17 Pursuant to section 84 of the Act, Ofcom is required to periodically review the markets it has identified for the purpose of reviewing market power determinations made on the basis of earlier analysis. The process of reviewing these markets includes identifying the relevant products and services and the appropriate geographic areas to define the relevant markets, and then to review whether any undertakings hold significant market power in the markets identified. In addition, where significant market power is found, the review will assess the appropriateness of any regulatory remedies to address our competition concerns.
- 1.18 Due to the asymmetry of information that exists (for example, in relation to the size of a market), Ofcom will issue information requests to CPs under section 135 of the Act in order to inform its thinking on a particular market and determine the regulatory interventions that would be appropriate to promote competition, in the interests of the CPs in the market, their customers and ultimately consumers.
- 1.19 In order for Ofcom to complete its market review within the statutory timeframe, it is important that CPs provide complete and accurate responses to statutory information requests by the deadlines set by Ofcom, in accordance with the requirements of section 135 of the Act.
- 1.20 In March 2016, Ofcom published the conclusions of its review of competition in the provision of leased lines<sup>2</sup> in the UK – the Business Connectivity Market Review 2016.<sup>3</sup> Ofcom is now carrying out its next review of competition in the provision of leased lines in the UK, the BCMR 2019, in accordance with the statutory timeframe for this review.

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<sup>2</sup> Leased lines are components of some important services that business customers buy, including managed ICT services, connections between customer sites and connections for the provision of internet access.

<sup>3</sup> See: <http://stakeholders.ofcom.org.uk/consultations/business-connectivity-mr/final-statement/>

## Contravention of section 135 of the Act

### Information request – the April Notice

- 1.21 As part of the BCMR 2019, VM was issued with four information requests under section 135 of the Act. This Confirmation Decision concerns the fourth of these requests, which was sent to VM on 13 April 2018 and required the provision of specified information by noon on 27 April 2018 (the “April Notice”).
- 1.22 The April Notice included two questions. One question required VM to provide information relating to end-user business customer sites and mobile base stations for which VM has a fibre connection. The other question requested details of the name and position of the person within VM who would be signing off the response.
- 1.23 The April Notice was resent by Ofcom to VM on 16 April 2018 with a drafting change to the text in paragraph 2 of Question A1.<sup>4</sup> The 27 April 2018 deadline remained the same.
- 1.24 VM did not respond with the requested information by the 27 April 2018 deadline or notify Ofcom in advance that it could not meet that deadline and seek an extension. On 29 May 2018, Ofcom telephoned VM to confirm if the April Notice had been received. VM confirmed that the request had been received and said that it would look into its response. By 6 June 2018, Ofcom had still not received VM’s response and Ofcom emailed VM to ask about the status of VM’s response.<sup>5</sup>
- 1.25 VM subsequently submitted its response to Ofcom on 15 June 2018, 33 working days after the deadline set out in the April Notice.<sup>6</sup>
- 1.26 Prior to submitting its response, VM offered no explanation for the delay. When VM submitted its response on 15 June 2018, VM said that its response “*required a re-run of information*” by an individual “*now engaged on another project*”.<sup>7</sup>

### VM’s Representations

- 1.27 In VM’s representations provided in response to the notification issued by Ofcom under section 138 of the Act (the “Representations”), VM disputes that it contravened section 135 of the Act by responding after the deadline.<sup>8</sup> VM has argued that its response to the April Notice was contingent on its response to an earlier information request (the “January Notice”) which it had not finalised until after the deadline in the April Notice; its

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<sup>4</sup> The notice dated 13 April 2018 requested a list of “*business customer sites for which you have a fibre connection, where you own the fibre assets (i.e. excluding third-party fibre assets)*” and noted that “*business customer sites*” included “*mobile base stations*”. The notice dated 16 April 2018 was rephrased to include “*mobile base stations*” upfront in the question and requested a list of “*business customer sites or mobile base station sites for which you have a fibre connection, where you own the fibre assets (i.e. excluding third-party fibre assets)*”.

<sup>5</sup> Email from Ofcom’s [redacted] to Virgin Media’s [redacted], dated 6 June 2018.

<sup>6</sup> Email from Virgin Media’s [redacted] to Ofcom’s [redacted], dated 15 June 2018.

<sup>7</sup> Ibid.

<sup>8</sup> Representations, paragraphs 1.2, 3.1 and 3.18.

response was “not seriously delayed when set in the context of all other communications and continual provision of information in respect of the BCMR 2019”<sup>9</sup>; Ofcom did not remind VM about the upcoming deadline in the April Notice; Ofcom was aware of VM’s challenges in responding to information requests; and Ofcom issued VM with a mix of formal and informal requests with varying and overlapping deadlines. VM contends that “the alleged contravention boils down to, at worst, an isolated error on the part of VM”.<sup>10</sup>

## Conclusions on contravention

- 1.28 VM’s arguments are not relevant to the question of whether VM contravened the requirements of section 135 of the Act by failing to respond to the April Notice by the deadline.<sup>11</sup> Section 135(4) of the Act requires VM to respond to a statutory information request within the period specified by Ofcom. VM does not dispute the fact it did not respond by the deadline set by Ofcom.
- 1.29 We therefore confirm our finding that VM contravened the requirements imposed under section 135 of the Act by failing to provide the information required by the April Notice by the deadline set by Ofcom.

## Penalty

- 1.30 Under section 138(2)(e) of the Act, Ofcom may impose a financial penalty on a CP that has, in one or more of the respects notified by Ofcom, been in contravention of requirements imposed under section 135 of the Act. Section 139(5) of the Act provides that the amount of any penalty Ofcom may impose for a contravention of the information requirements has to be appropriate and proportionate and cannot exceed £2,000,000.

## Grounds for imposing a penalty

- 1.31 We are satisfied that it is appropriate and proportionate to impose a penalty on VM because its contravention of requirements imposed under section 135 of the Act is a serious matter.
- 1.32 Ofcom’s power to require the provision of information for the purpose of carrying out market reviews such as the BCMR 2019 is fundamental to its ability to determine the regulatory interventions which would be appropriate to safeguard competition and protect the interests of customers in this market. In particular, Ofcom relies on information from CPs when completing its market reviews because of the asymmetry of information that exists: much of the information which it requires is held by the CPs that it regulates.

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<sup>9</sup> Representations, paragraph 1.4.

<sup>10</sup> Representations, paragraphs 1.9 and 3.3.

<sup>11</sup> We respond to VM’s arguments when discussing the seriousness of the contravention in paragraphs 1.38-1.45 below.

- 1.33 Further, section 84A of the Act requires Ofcom to review the business connectivity market every three years and the BCMR 2019 aims to have new regulatory conditions in place from May 2019. In order for Ofcom to complete its market review within this timeframe, it is important that CPs provide accurate and complete responses to statutory information requests by the deadline set by Ofcom, in accordance with the requirements of section 135 of the Act.
- 1.34 Accordingly, a failure to comply with the requirements in section 135 of the Act is serious because it may hinder the ability of Ofcom to exercise its functions in the interests of citizens and consumers.
- 1.35 In its Representations, VM submitted that a penalty was not required because the *“[r]eputational damage [of an adverse decision] to VM is a significant cost that will shape its incentives in respect of future issues ...”*.<sup>12</sup>
- 1.36 While we recognise that the contravention we have found reflects poorly on VM and the way in which it discharges its regulatory obligations, we do not accept that the finding alone, and any reputational impact flowing from such finding, is a sufficient deterrent for the reasons set out in more detail in paragraph 1.61 below.

## Penalty amount

- 1.37 In setting the penalty, we have considered all the circumstances of the case and have had regard to the Penalty Guidelines.<sup>13</sup>

## Seriousness of the contravention

- 1.38 As set out above, Ofcom will generally regard a breach of section 135 of the Act as serious because of the adverse consequences this can have on Ofcom’s ability to carry out its functions in the interests of citizens and consumers.
- 1.39 In its Representations, VM described the contravention as *“at worst, an isolated error on the part of VM”*<sup>14</sup> and has said that it must be considered in the wider context of VM and Ofcom’s relationship regarding the BCMR 2019.<sup>15</sup> In particular, it has said:
- It was unreasonable for Ofcom to expect a response to the April Notice until VM had finalised its response to the January Notice.<sup>16</sup>
  - Its response to the April Notice was *“not seriously delayed when set in the context of all other communications and continual provision of information in respect of the BCMR 2019”*<sup>17</sup>.

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<sup>12</sup> Representations, paragraph 4.6.

<sup>13</sup> [Ofcom Penalty Guidelines](#), 14 September 2017 (“Penalty Guidelines”).

<sup>14</sup> Representations, paragraphs 1.9 and 3.3.

<sup>15</sup> Representations, paragraph 3.6.

<sup>16</sup> Representations, paragraphs 3.16 and 3.18.

<sup>17</sup> Representations, paragraph 1.4.

- Ofcom did not remind VM about the upcoming deadline in the April Notice in other communications relating to outstanding responses to information requests and VM therefore thought it was complying with the requirements of all four of the information requests it received during the BCMR 2019.<sup>18</sup>
- Ofcom was aware of VM’s challenges in responding to information requests, including the nature of its legacy systems<sup>19</sup> and VM’s reliance on a contractor to collate the requested data and calibrate VM’s responses to Ofcom’s information requests.<sup>20</sup>
- Ofcom issued VM with a mix of formal and informal requests with varying and overlapping deadlines which led to some confusion within VM.<sup>21</sup>

1.40 We have reviewed the relevant requests in the January Notice and the April Notice in the light of VM’s Representations. Both related to VM’s active (i.e. in use) and inactive (i.e. not in use) fibre connections and, as VM has noted in its Representations, the two requests were linked in that the April Notice requested a subset of information requested in the January Notice. Because VM did not finalise its response to the January Notice until 18 May 2018, this may have impacted VM’s ability to provide a complete response to the April Notice by the deadline.<sup>22</sup> We have taken this into account when assessing the seriousness of the contravention.

1.41 However, the fact that it took VM a number of months to finalise its response to one statutory information request does not justify its failure to provide a response to a separate, albeit related, information request for more than a month after the specified deadline. Responding to the April Notice should have been a straightforward task, given that it had only one substantive question which largely requested a sub-set of information which VM was required to provide in response to the January Notice.

1.42 Consistent with the timeframe given to other CPs, VM was allowed 10 working days to respond to the April Notice and at no point during that period did VM raise concerns with Ofcom about the deadline for responding. Ofcom contacted VM on two occasions to check on the status of VM’s response (on 29 May 2018 and 6 June 2018) but it was not until 15 June 2018 that VM’s response was submitted (13 working days after Ofcom first chased VM’s response). As VM acknowledges, there was a regular dialogue between VM and Ofcom relating to the provision of information for the BCMR 2019. However, at no

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<sup>18</sup> Representations, paragraph 3.12.

<sup>19</sup> Representations, paragraph 3.20.

<sup>20</sup> Representations, paragraph 3.22.

<sup>21</sup> Representations, paragraphs 3.7 to 3.12.

<sup>22</sup> Notwithstanding, VM could have started work on the April Notice before it had finalised its response to the January Notice. Although VM did not finalise its response to the January Notice until 18 May 2018, the outstanding response concerned active circuits. In our view, data relating to inactive circuits requested in the April Notice was sufficiently independent that VM could have gathered it simultaneously.

point prior to submitting its response did VM offer any explanation for the delay or seek an extension. All our information requests provide the email address and telephone number of the relevant Ofcom contact so that it is straightforward for a CP to request an extension.

- 1.43 In relation to the issues that VM has raised about its systems for gathering data and the number of requests it received in the course of the BCMR 2019, we note that VM is one of the largest CPs in the UK, with millions of customers and turnover of almost £5 billion in 2017.<sup>23</sup> Its resources include a dedicated Regulatory Affairs team, responsible for regulatory compliance and handling correspondence with Ofcom, such as notices requiring the provision of information under section 135 of the Act. It also has an in-house legal team. It has extensive experience of responding to statutory information requests.
- 1.44 We would expect a CP of VM's size to ensure that its systems for responding to information requests are effective, with checks carried out to ensure such requests are logged, acted upon and monitored so that it responds to statutory information requests in a timely manner in accordance with its statutory obligations. Ofcom specified a deadline for response in the April Notice and VM was responsible for ensuring that it was met.
- 1.45 Having considered the contextual matters raised by VM in its Representations, we are satisfied that this was a serious contravention, which indicates a degree of carelessness by VM and the absence of effective systems to enable it to respond to statutory information requests in a timely manner and in accordance with its obligations under section 135 of the Act.

#### Other factors

- 1.46 In addition to the above, we have also taken into account the following factors:
- a) we do not have any evidence that the contravention we have found occurred deliberately;
  - b) the contravention did not ultimately hinder the progress of the BCMR 2019 and therefore the risk that this particular contravention could have resulted in harm to citizens and consumers is low; and
  - c) Ofcom had made no previous finding that VM had contravened the requirements imposed under section 135 of the Act at the time the contravention identified in this Confirmation Decision occurred.<sup>24</sup>

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<sup>23</sup> VM's annual revenues for the year ending 31 December 2017 were £4,963 million. See: <https://www.libertyglobal.com/wp-content/uploads/2018/06/VMED-12-31-2017-Q4.pdf> (page 39).

<sup>24</sup> On 16 November 2018, Ofcom issued a Confirmation Decision to VM under section 139A of the Act in respect of a failure to provide complete information in response to a statutory information request issued by Ofcom in connection with a different, unrelated matter. We imposed a penalty of £25,000 on VM for this contravention. Since this Confirmation Decision was issued after the contravention in this case, we have not taken this into account for the purposes of assessing VM's compliance history.



## Precedents

- 1.47 Ofcom has issued the following decisions under section 139A of the Act since revising its Penalty Guidelines in 2015. Each of these confirmed Ofcom’s decision to impose a penalty in respect of the contraventions of information requirements identified.
- 1.48 Two of the decisions under section 139A of the Act were taken against GW Telecom Limited (CW/01201/07/17), as a result of a persistent failure to respond to statutory information requests issued under section 135. The information we had indicated that GW Telecom was a very small CP, with the most recent financial information available showing that its accounts were in the red.<sup>25</sup> In these cases, we imposed penalties of £10,200 and £4,950 respectively. In both cases, these amounts included ongoing daily penalties (due to involving continuing contraventions).
- 1.49 While these two cases also concern failures to respond by given deadlines, the contraventions by GW Telecom were serious because of its complete failure to respond to the information requests. In contrast, VM did eventually respond. However, we note that GW Telecom was a very small CP, in financial difficulties at the relevant time. VM, by contrast, is an established CP generating billions of turnover.
- 1.50 Two decisions were taken against BT, a CP with similar resources to VM. In the first decision, CW/01192/03/17, Ofcom imposed a penalty of £300,000. In the second, CW/01208/09/17, we imposed a penalty of £100,000 (reduced by 30% to £70,000 due to a voluntary settlement by BT).
- 1.51 These decisions against BT concerned the provision of incomplete information and, in relation to one breach, misleading information. Both decisions also involved more than one contravention. Accordingly, we consider that the facts were materially different to this case.
- 1.52 Regarding the GW Telecom cases, VM commented that “[l]ittle information can be gleaned from the amount of penalty imposed” and contends that because VM cooperated with Ofcom at all times, they provide no support for Ofcom imposing a penalty on VM in this case.<sup>26</sup>
- 1.53 We acknowledge and have taken into account the material differences between the GW Telecom cases and VM’s contravention (in terms of the facts giving rise to the contraventions and the financial position of Gateway compared to VM).
- 1.54 VM argued in its Representations that a comparison with the BT cases is “*simply not tenable on the basis of the facts of this case which rests solely on the provision of information late in response to one information request, whilst continually engaging with Ofcom on the process of providing and clarifying information in relation to the specific*

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<sup>25</sup> See paragraph 48 of case CW/01201/07/17.

<sup>26</sup> Representations, paragraphs 4.13 to 4.14.

*Market Review in question and which, by its own admission, had no bearing on Ofcom's ability to carry out its duties and progress the BCMR."*<sup>27</sup>

- 1.55 As stated above, the contravention we have identified indicates a degree of carelessness and an absence of appropriate systems within VM to ensure it responds to statutory information requests by the deadline set by Ofcom. The size of the penalty we have decided to impose on VM reflects the fact we consider VM's contravention to be less serious than BT's contraventions.
- 1.56 In its Representations, VM said that "*VM has far fewer resources than BT both in terms of it [sic] regulatory and legal support functions as well as its business personnel*".<sup>28</sup> Nonetheless, VM is an established CP with millions of customers and significant revenues. VM should therefore have the capability and resources to respond to statutory information requests by the deadline set by Ofcom.
- 1.57 On 29 November 2018, Ofcom imposed a penalty of £5,000, with daily penalties up to a maximum of £3,000, on Cloud M for contravening requirements imposed within three separate information requests, by (i) not providing information that fell within the scope of the request; and (ii) not providing the information by the deadline set by Ofcom (CW/01211/01/18). Our assessment of the penalty factors applicable to Cloud M's contraventions was materially different to this case, in that the contraventions were repeated and on-going, and Cloud M is a small CP with limited resources.
- 1.58 We have also taken into account for precedent purposes of the penalty of £25,000 imposed on VM on 16 November 2018 for its breach of requirements imposed under section 135 of the Act (CW/01198/06/17). In setting the penalty in that case, we took account of factors very similar to this case including VM's lack of attention to its regulatory responsibilities and absence of effective systems for responding to statutory information requests; the potential impact on Ofcom's substantive investigation; and our finding that these did not materialise so that the risk to citizens and consumers as a result of VM's breach was low.

## Deterrence

- 1.59 Ofcom's Penalty Guidelines explain that the central objective of imposing a penalty is deterrence. The level of the penalty must be sufficient to deter the business from contravening regulatory requirements, and to deter the wider industry from doing so, having regard to the seriousness of the infringement.
- 1.60 As a general matter, we are of the view that the need for deterrence in any penalty imposed for a contravention of information requirements is important as information requests are fundamental to Ofcom's ability to regulate electronic communications networks and services under the Act effectively and in a timely manner, and Ofcom needs to be able to rely on responses to them.

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<sup>27</sup> Representations, paragraph 4.16.

<sup>28</sup> Representations, paragraph 4.15.

- 1.61 VM is a very substantial CP with significant resources. As set out at paragraphs 1.44-1.45 above, we consider that it should have had the systems in place to ensure that it was able to respond to information requests in accordance with its statutory obligations. It is important that VM recognises this and is incentivised to ensure that it complies with all statutory information requests. We are not satisfied that an adverse finding alone would provide an effective deterrent, either for VM or the wider industry. We therefore consider that a proportionate penalty is required to deter further failings of this nature.
- 1.62 We consider that the penalty which we have decided to impose is sufficiently large to ensure that it is a deterrent, having regard to VM's size and turnover and to the seriousness of the proposed contravention in this case, and is at such a level which can change any potential non-compliant behaviour by VM, and by other providers.
- 1.63 In its Representations, VM contends that the financial penalty set out in the section 138 notification was high when compared to the maximum penalty of £50,000 Ofcom could impose under the previous statutory regime and "*not obviously one of those cases the Secretary of State had in mind when raising the fining limit in 2011*".<sup>29</sup> We disagree. The maximum penalty for a contravention of section 135 of the Act was increased to ensure it is high enough "*to act as a sufficient deterrent for the larger communications companies*" against failing to comply with statutory information requests.<sup>30</sup> As one of the UK's largest CPs, this would include VM.

## Conclusion on penalty amount

- 1.64 Considering all of the above factors in the round, we have decided to impose a penalty on VM of £25,000 in respect of its contravention of the requirements imposed under section 135 of the Act.
- 1.65 Ofcom's judgment is that this is an appropriate and proportionate penalty, given the importance of providing complete and accurate responses to statutory information requests by the deadline set by Ofcom and the seriousness of this contravention, in particular the failure of VM's internal systems to ensure that the request was responded to by the deadline or seek an extension in advance. The level of the penalty takes into account VM's size and turnover and in our judgement, is at such a level which can change any potential non-compliant behaviour by VM, and by other providers.
- 1.66 Accordingly, Ofcom now requires VM to pay a penalty of £25,000 in respect of its contravention of the requirements imposed under section 135 of the Act within one calendar month of the date of this Confirmation Decision.

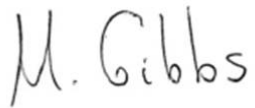
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<sup>29</sup> Representations, paragraph 4.10.

<sup>30</sup> Paragraph 3.1 of the Explanatory memorandum to the Communications Order 2003 (Maximum Penalty for Contravention of Information Requirements) Order 2011.

## Interpretation

- 1.67 Words or expressions used in this Confirmation Decision have the same meaning as in the Act except as otherwise stated in this Confirmation Decision.

A handwritten signature in black ink that reads "M. Gibbs". The letters are cursive and slightly slanted to the right.

**Marina Gibbs**

**Competition Policy Director**

**18 February 2019**