

## **Notification under Section 107(6) of the Communications Act 2003**

### **Proposal to revoke a number of directions applying the Electronic Communications Code to the companies listed in the Addendum to this Notification**

1. By virtue of paragraph 17 of Schedule 18 to the Communications Act 2003 (the 'Act') each of the companies listed in the Addendum to this Notification are treated after 25 July 2003 as persons in whose case the Electronic Communications Code (the 'Code') applies by virtue of a direction (the 'Deemed Direction') under section 106(3) of the Act.
2. In accordance with section 115(2) of the Act, the Office of Communications ('Ofcom') propose to revoke each Deemed Direction by way of a further direction (the 'Draft Direction') under section 106 of the Act, following an application for such revocation by Virgin Media Limited on behalf of each of the companies listed in the Addendum to this Notification.
3. Each company listed in the Addendum to this Notification is part of the Virgin Media Limited group of companies.
4. Hard copies of the Draft Direction and the explanatory statement will be made available on request. For hard copies, please contact Michael Galvin on 020 7783 4158 or by sending an email to [michael.galvin@ofcom.org.uk](mailto:michael.galvin@ofcom.org.uk).
5. Representations on the Draft Direction may be made to: Michael Galvin, Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA by not later than 5pm on **22 November 2010**.
6. All confidential information should be clearly marked as such and separated out into a confidential annex. All representations received will be published, unless it is clearly marked that the response is confidential, and made available in Ofcom's Knowledge Centre. Please contact Jan Kacperek ([jan.kacperek@ofcom.org.uk](mailto:jan.kacperek@ofcom.org.uk)) for further information with respect to public inspection or, for responses to the draft Direction, visit Ofcom's website ([www.ofcom.org.uk](http://www.ofcom.org.uk)).
7. In this Notification, unless the contrary intention appears, words and phrases shall have the same meaning as in the Act.

**Gareth Davies**  
**Competition Policy Director**

**A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002**

**20 October 2010**

## Addendum

<b>Company</b>	<b>Company Number</b>	<b>Licence number or Direction and date issued</b>
Barnsley Cable Communications Limited	2466594	3/729/1/133 14.11.90
Birmingham Cable Limited	2244565	3/450/1/143 02.11.89
Bradford Cable Communications Limited	2664803	3/1003/1/167 15.07.93
Cable Camden Limited	1795642	3/438/1/140 07.08.89
Cable Enfield Limited	2466511	3/748/1/133 25.11.90
Cable Hackney and Islington Limited	1795641	3/706/1/133 29.10.90
Cable Haringey Limited	1808589	3/527/1/139 04.04.90
Doncaster Cable Communications Limited	2407940	3/708/1/135 01.11.90
Eurobell (Holdings) Limited	2904215	3/13116/1/123 28.07.97
Eurobell (South West) Limited	1796131	3/606/1/135 17.07.90
Eurobell (Sussex) Limited	2272340	3/593/1/141 09.07.90
Eurobell (West Kent) Limited	2886001	3/1201/1/119 28.07.97
Halifax Cable Communications Limited	2459173	3/790/1/134 07.01.91
Middlesex Cable Limited	2460325	3/816/1/133 15.02.91
ntl National Networks Limited	5174655	Direction 27.01.05
Sheffield Cable Communications Limited	2465953	3/775/1/133 19.12.90
Telewest Carrier Services Limited	2475098	3/1001/2/169 25.09.93
Telewest Limited (formerly General Telecommunications Limited)	3291383	3/1315/1/123 28.07.97
Telewest Communications (Liverpool) Limited	1615567	3/7581/133 30.11.90
Telewest Communications (Central Lancashire) Limited	1737862	3/448/1/138 14.10.89
Telewest Communications (Cotswold) Limited	1743081	3/303/1/143 26.08.88
Telewest Communications (Glenrothes) Limited	SC119523	3/836/1/136 18.04.91
Telewest Communications (Dumbarton) Limited	SC121700	3/478/1/140 18.01.90
Telewest Communications (Cumbernauld) Limited	SC121614	3/480/1/140 18.01.90

Telewest Communications (South East) Limited	2270764	3/711/1/135 30.11.90
Telewest Communications (South Thames Estuary) Limited	2270763	3/756/1/136 30.11.90
Telewest Communications (London South) Limited	1697437	3/546/1/141 08.05.90
Telewest Communications (Telford) Limited	2389377	3/847/1/133 12.04.91
Telewest Communications (Flyde & Wyre) Limited	2935056	3/1256/1/117 19.12.96
Telewest Communications (Southport) Limited	3085912	3/1257/1/117 19.12.96
Telewest Communications (Dundee & Perth) Limited	SC96816	3/792/1/135 and 3/794/1/135 17.01.91
Telewest Communications (Midlands) Limited	1882074	3/806/1/134 25.01.91
Telewest Communications (South West) Limited (formerly West County Cable Ltd)	2271287	3/464/1/141 05.12.89
Telewest Communications (Falkirk) Limited (formerly Cable North (Forth District))	SC122481	3/728/1/134 11.11.90
Telewest Communications (Motherwell) Limited	SC121617	3/479/1/140 18.01.90
Telewest Communications (North East) Limited	2378214	3/8401/137 26.04.91
Telewest Communications (Wigan) Limited	2451112	3/730/1/133 14.11.90
Telewest Communications (Scotland) Limited	SC80891	3/788/1/138 20.12.90
Telewest Communications (St Helens & Knowsley) Limited	2466599	3/768/1/133 08.12.90
Wakefield Cable Communications Limited	2400909	3/807/1/133 07.02.91
Windsor Television Limited	1745542	3/835/1/130 11.04.91

**[Draft] Direction under Section 106(3) of the Communications Act 2003  
revoking a number of directions applying the Electronic Communications Code  
in the case of the companies listed in the Addendum to this Direction**

**[A Notification of this proposal was published on 20 October 2010]**

Whereas:

- A. The Secretary of State granted a licence under section 7 of the Telecommunications Act 1984 (the '1984 Act') to each of the companies listed in the Addendum to this Direction authorising each company to run a telecommunications system (as defined in the 1984 Act) and applying the telecommunications code (as set out in Schedule 2 to the 1984 Act) to each of them;
- B. By virtue of section 106 of the Communications Act 2003 (the 'Act'), which came into force on 25 July 2003, the telecommunications code is now known as the electronic communications code (the 'Code'), which is set out in Schedule 2 to the 1984 Act as amended by Schedule 3 to the Act;
- C. By virtue of paragraph 17 of Schedule 18 to the Act, each company is treated after 25 July 2003 as a person in whose case the Code applies by virtue of a direction (the 'Deemed Directions') under section 106(3) of the Act;
- D. The Office of Communications ('Ofcom') have received an application from Virgin Media Limited dated 1 October 2010, on behalf of each of the companies listed in the Addendum to this Direction, for the revocation of each of the Deemed Directions in accordance with section 115(2) of the Act;
- E. Each company listed in the Addendum to this Direction is part of the Virgin Media Limited group of companies.
- F. On 20 October 2010, Ofcom published a notification of their proposal to revoke each of the Deemed Directions by way of a further Direction under section 106 in accordance with sections 107 and 115 of the Act;
- G. Ofcom have considered every representation made to them about the proposed Direction;
- H. For the reasons set out in the explanatory statement accompanying this Direction, Ofcom are satisfied that in making this Direction they have acted in accordance with their relevant duties set out in sections 3 and 4 of the Act;

**NOW, therefore, pursuant to section 106 of the Act, Ofcom make the following Direction-**

- 1. Each Direction applying the electronic communications code to each company listed in the Addendum to this Direction under section 106(3) of the Act by virtue of paragraph 17 of Schedule 18 to the Act shall be revoked.
- 2. Except in so far as the context otherwise requires, words and phrases shall have the same meaning as in the Act, headings and titles shall be disregarded and expressions cognate with those referred to in this Direction shall be construed accordingly.

3. The Interpretation Act 1978 shall apply as if this Direction were an Act of Parliament.
4. This Direction shall take effect on the day it is published.

**Gareth Davies**  
**Director of Competition Policy**

**A person authorised by Ofcom under paragraph 18 of the Schedule to  
the Office of Communications Act 2002**

**[Date]**

## Addendum

<b>Company</b>	<b>Company Number</b>	<b>Licence number or Direction and date issued</b>
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# Explanatory Statement

1.1 The Secretary of State granted each of the companies listed in the Addendum to the draft Direction a licence under section 7 of the Telecommunications Act 1984 (the '1984 Act') authorising each company to run a telecommunications system (as defined in the 1984 Act) and applying the telecommunications code (as set out in Schedule 2 to the 1984 Act) to each of them.

1.2 Following a change in the regime for electronic communications after 25 July 2003, the telecommunications code is now known as the electronic communications code (the 'Code'), which is set out in Schedule 2 to the 1984 Act as amended by Schedule 3 to the Communications Act 2003 (the 'Act').

1.3 The Code applied to each of the companies listed in the Addendum to the draft Direction post 25 July 2003 by virtue of paragraph 17 of Schedule 18 to the Act, under which each company is treated after 25 July 2003 as a person in whose case the Code applies by virtue of the directions (the 'Deemed Directions') under section 106(3) of the Act.

1.4 On 1 October 2010, Virgin Media Limited made an application for the revocation of the Code powers that applied to each of the companies listed in the Addendum to the draft Direction under section 115(2) of the Act and Ofcom is now proposing to revoke the Deemed Directions in each case. Each company listed in the Addendum to the draft Direction is part of the Virgin Media Limited group of companies.

1.5 In its application for the revocation of the Code in the case of each company listed in the Addendum to the draft Direction, Virgin Media Limited explained that since the merger of 'ntl' and 'Telewest' in 2006 all road work activities in the Virgin Media group have been undertaken by either Virgin Media Limited or Virgin Media Wholesale Limited both of which have Code powers. Virgin Media Limited does not now, therefore, require Code powers for each company listed in the Addendum to the draft Direction and considers that it should have the Code powers revoked in each company's case.

1.6 In considering Virgin Media Limited's application, Ofcom considers that it has acted in accordance with its relevant duties set out in sections 3 and 4 of the Act in particular its duty to further the interests of citizens in relation to communications matters and to promote the interests of all persons who are citizens of the European Union. Ofcom does not consider that the revocation of Code powers in this case is contrary to its duties set out in the Act and will not prove to be detrimental to the interests of citizens in relation to communications matters. Virgin Media Limited retains Code powers and therefore the revocation of the powers of each company listed in the Addendum to the draft Direction is unlikely to have little if any effect.

1.7 For these reasons, Ofcom believes that it is now appropriate to revoke each of the Deemed Directions as requested by Virgin Media Limited. Thereafter, amongst other things, none of the companies listed in the Addendum to the draft Direction would be permitted to benefit from certain exemptions under Town and Country Planning legislation<sup>1</sup> and nor would they be able to carry out works carry out works in

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<sup>1</sup> See Part 24 of the Town and Country Planning, England and Wales (General Permitted Development) Order 1995. SI 1995/418 as amended. Planning (General Development) (Amendment) Order (Northern Ireland) 2003 SR No. 98. Town and Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 2001 SSI 2001/266.



connection with the installation of apparatus in the streets without the need to obtain a street works licence under the New Roads and Street Works Act 1991.

## How to respond

1.8 Ofcom invites written views and comments on the issues raised in this document, to be made by 5pm on **22 November 2010**.

1.9 Ofcom strongly prefers to receive responses using the on-line web form at <http://stakeholders.ofcom.org.uk/consultations/Virgin-Media-Limited/>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (Annex 2), to indicate whether or not there are confidentiality issues. This response cover sheet is incorporated into the online web form questionnaire.

1.10 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Michael Galvin  
Competition and Markets  
4<sup>th</sup> Floor  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA  
Tel: 020 7783 4158  
Fax: 020 7783 4109

## Confidentiality

1.11 We believe that it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are market confidential, in order to meet legal obligations.

1.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Our approach on intellectual property rights is explained further on our website at: [http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm)

## Next steps

1.14 Following the end of the consultation period, and subject to responses, we intend to publish the final direction and explanatory statement revoking the Code in so far as it applies to the companies listed in the Addendum to the draft Direction.

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## Ofcom's consultation processes

1.15 We seek to ensure that responding to a consultation is as easy as possible. For more information please see our consultation principles at Annex 1.

1.16 This consultation is shorter than Ofcom's standard 10 week period because we consider that the matters discussed herein are unlikely to be of interest to a wide audience and the issue at hand is straightforward.

1.17 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

1.18 If you would like to discuss these issues or Ofcom's consultation processes more generally, you can alternatively contact Vicki Nash, Director Scotland, who is Ofcom's 'Consultation Champion':

Vicki Nash  
Ofcom  
Sutherland House  
149 St Vincent Street  
GLASGOW  
G2 5NW  
Tel: 0141 229 7401  
Fax: 0141 229 7433  
Email: [vicki.nash @ofcom.org.uk](mailto:vicki.nash@ofcom.org.uk)

## Annex 1

# Ofcom's consultation principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

### Before the consultation

1 Where possible we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### During the consultation

2 We will be clear about who we are consulting, why, on what questions and for how long.

3 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

4 We will consult for up to 10 weeks depending on the potential impact of our proposals.

5 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

6 If we are not able to follow one of these principles, we will explain why.

### After the consultation

7 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

## Annex 2

# Consultation response cover sheet

2.1 In the interests of transparency, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, unless we are asked not to.

2.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.

2.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to confirm on the response cover sheet that Ofcom can publish their responses upon receipt.

2.4 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.

2.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/  
job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

No

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and all intellectual property rights in the response vest with Ofcom. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Ofcom can publish my response: on receipt  once the consultation ends

Name

Signed (if hard copy)

