

**Confirmation Decision in respect to a Contravention of
General Condition 17.5 of the General Conditions of Entitlement
issued under section 96C of the
Communications Act 2003**

**Confirmation Decision issued by the Office of Communications (“Ofcom”) to
Danemere Street Creative Limited (“Danemere”), a company registered in the UK
whose registered company number is 03506479**

1. Under section 96C of the Communications Act 2003 (the “Act”), Ofcom may issue a decision (a “Confirmation Decision”) confirming the imposition of requirements on a person where: that person has been given a Notification under section 96A of the Act; Ofcom have allowed that person an opportunity to make representations about the matters notified; and the period allowed for the making of representations has expired. Ofcom may give a Confirmation Decision to a person if, having considered any representations, we are satisfied that the person has, in one or more of the respects notified, been in contravention of a condition specified in the Notification under section 96A.
2. Section 45(1) of the Act gives Ofcom power to set conditions, including general conditions which are binding on the person to whom they are applied. A general condition is a condition which contains the provisions authorised or required by (amongst others) section 58 of the Act.
3. The Schedule to a Notification issued by the Director General of Telecommunications on 22 July 2003 under section 48(1) of the Act, which took effect from 25 July 2003, sets out the General Conditions of Entitlement (the “General Conditions” or “GCs”) which apply to all Communications Providers (“CPs”) defined in each GC. The GCs have, from time to time, been amended¹.
4. GC 17.5 is a general condition which has been set by Ofcom under section 58 of the Act. GC 17.5 relates to the adoption and effective and efficient use of telephone numbers which Ofcom has allocated to a CP. It states that:

“Where Telephone Numbers have been Allocated² to the Communications Provider, that provider shall secure that such Telephone Numbers³ are Adopted or otherwise used effectively and efficiently.”

5. For the purpose of GC 17.5, “Adoption” means:

¹ A consolidated version of the General Conditions as at 28 May 2015 is located on the Ofcom website at <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/general-conditions/>.

² “Allocated”, as defined in Part 1 of the Schedule to the Notification issued by the Director General of Telecommunications on 22 July 2003, means “in relation to a Telephone Number [the] allocation by Ofcom”.

³ “Telephone Number”, as defined in Part 1 of Schedule to the Notification issued by the Director General of Telecommunications on 22 July 2003, means, “subject to any order of the Secretary of State pursuant to section 56(7) of the Act, any number, including data of any description, that is used (whether or not in connection with telephony) for any one or more of the purposes listed in section 56(5) of the Act.”

“...doing any of the following by a Communications Provider in relation to an Allocated Telephone Number (whether or not such Allocation is to that Communications Provider) -

- (a) assigning or transferring that number to a particular Customer or piece of Apparatus;
 - (b) using that Telephone Number for identifying a service or route used by that Communications Provider or by any of his Customers;
 - (c) using that Telephone Number for identifying a communication as one to be transmitted by that Communications Provider;
 - (d) designating that Telephone Number for use in selecting a service or the required elements or characteristics of a service; or
 - (e) authorising the use of that Telephone Number by others for any of the following purposes:
 - (i) identifying the destination for, or recipient of, an Electronic Communication⁴;
 - (ii) identifying the origin, or sender, of an Electronic Communication;
 - (iii) identifying the route for an Electronic Communication;
 - (iv) identifying the source from which an Electronic Communication or Electronic Communications Service⁵ may be obtained or accessed;
 - (v) selecting the service that is to be obtained or accessed, or required elements or characteristics of that service; or
 - (vi) identifying the Communications Provider by means of whose network or service an Electronic Communication is to be transmitted, or treated as transmitted.”
6. Between 11 February 2003 and 24 July 2009, Ofcom allocated 14,224,006 Telephone Numbers to Danemere in Danemere’s capacity as a Communications Provider. These Telephone Numbers are grouped into blocks (“Number Blocks”)⁶. Each Telephone Number within that Number Block will start with the same combination of digits (“Block Code”), with each Block Code usually containing 6 or 7 digits. A schedule of the Number Blocks which have been allocated to Danemere is attached at Confirmation Decision Annex 1.

⁴ “Electronic Communication”, as defined in Schedule to the Notification issued by the Director General of Telecommunications on 22 July 2003, means “a communication for transmission by means of an Electronic Communications Network” (where an Electronic Communications Network is, in turn, defined in section 32 of the Act).

⁵ As defined in section 32 of the Act.

⁶ Danemere holds a total of 1324 Number Blocks.

Notification given by Ofcom to Danemere under section 96A of the Act

7. On 7 October 2015, Ofcom issued a Notification under section 96A of the Act ("the Notification") to Danemere, stating that Ofcom had reasonable grounds for believing that Danemere had contravened, and continued to contravene, GC 17.5 in that it had failed to secure that the Telephone Numbers which had been allocated to it had been adopted or were otherwise being used effectively and efficiently in accordance with that GC.
8. The Notification set out the steps that Danemere should take in order to comply with the requirements of GC 17.5 and to remedy the consequences of the contravention. Those steps were:
 - a) in relation to the Telephone Numbers which Ofcom has allocated to Danemere but which Danemere has not adopted (either because the relevant Telephone Numbers have not been implemented in BT's network at any stage, or because those Telephone Numbers have ceased to be so implemented) Danemere should demonstrate to Ofcom forthwith, and in any event no later than 30 October 2015, that the relevant Telephone Numbers have been implemented in BT's network (or provide any other means of demonstrating that the Telephone Numbers are adopted); and
 - b) in relation to the Telephone Numbers which Ofcom has allocated to Danemere, Danemere should demonstrate to Ofcom forthwith, and in any event no later than 30 October 2015, that the relevant Telephone Numbers are being used effectively and efficiently by Danemere.
9. The Notification was served on Danemere on 7 October 2015 at its registered office, 7 Henrietta Street, London, WC2E 8PS. A copy of the Statement of Service, signed by James Wright, is attached at Confirmation Decision Annex 2.
10. Danemere was given until 21 October 2015 to make representations on the matters set out in the Notification. Danemere did not provide Ofcom with any written representations by that date, nor does it appear that Danemere has taken the steps set out above.
11. Danemere continues to retain the Telephone Numbers which have been allocated to it by Ofcom. As set out in the Notification however, to the extent that Danemere may, at any stage, have adopted those Telephone Numbers, Ofcom is satisfied that Danemere has ceased to secure, and is not securing, the adoption or otherwise effective and efficient use of those Telephone Numbers. On that basis, Ofcom is satisfied that Danemere has contravened, and is continuing to contravene, GC 17.5.

Confirmation Decision given by Ofcom to Danemere under section 96C of the Act

12. For the reasons set out above, Ofcom confirms the imposition of requirements on Danemere in accordance with the Notification. This means that, in order to comply with

the requirements of GC 17.5 and to remedy the consequences of the contravention, Danemere must:

- a) in relation to the Telephone Numbers which Ofcom has allocated to Danemere but which Danemere has not adopted (either because the relevant Telephone Numbers have not been implemented in BT's network at any stage, or because those Telephone Numbers have ceased to be so implemented) Danemere should demonstrate to Ofcom forthwith, and in any event no later than 30 October 2015, that the relevant Telephone Numbers have been implemented in BT's network (or provide any other means of demonstrating that the Telephone Numbers are adopted); and
 - b) in relation to the Telephone Numbers which Ofcom has allocated to Danemere, Danemere should demonstrate to Ofcom forthwith, and in any event no later than 30 October 2015, that the relevant Telephone Numbers are being used effectively and efficiently by Danemere.
13. Danemere should be aware that its continuing failure to comply with GC 17.5 may result in Ofcom considering whether or not to withdraw the Telephone Numbers which have been allocated to Danemere, in accordance with section 61(3) of the Act.

Next steps

14. Danemere has until **5.00pm on 30 October 2015** ("the Deadline") to comply with the requirements imposed by this Confirmation Decision.

Interpretation

15. Words or expressions used in this Notification have the same meaning as in the GCs or the Act, except as otherwise stated in this Notification.

Neil Buckley
Director of Investigations
23 October 2015

**Confirmation Decision
Annex 1**

Confirmation Decision
Annex 2