

## **SCHEDULE**

### **Direction under section 106(3) of the Communications Act 2003 applying the electronic communications code**

#### **Background**

1. The Applicant has applied to Ofcom for a direction applying the Code to the Applicant.
2. The date on which Ofcom received a completed application that meets the statutory requirements with respect to the content of an application for a direction applying the Code and the manner in which such an application is to be made was 03 April 2014.
3. By virtue of regulation 3 of the Electronic Communications and Wireless Telegraphy Regulations 2011 (SI 2011 No. 1210), except in cases of expropriation, Ofcom must make its decision within 6 months of receiving the completed application.
4. Prior to giving a decision under section 106(3) of the Act to apply the Code to the Applicant, Ofcom must publish a notification of its proposal to give the direction and consider any representations about that proposal that are made to Ofcom within the period specified in the notification.
5. On 25 April 2014, Ofcom published, in accordance with section 107(6) of the Act, a notification of its proposal to give a direction applying the Code to the Applicant for the reasons set out in the consultation document accompanying that notification. That notification invited representations to Ofcom by no later than 5pm on 27 May 2014.
6. Ofcom has considered every representation about the proposal received and duly made to it. For the reasons set out in the explanatory statement accompanying this proposed Direction, Ofcom has had regard, in particular, to each of the matters set out in section 107(4) of the Act. Furthermore, Ofcom has considered and acted in accordance with its general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.

#### **Decision**

7. Ofcom hereby directs, in accordance with section 106 of the Act, as follows—
  - (a) the Code shall apply to the Applicant for the purposes of the provision by the Applicant of an electronic communications network which the Applicant is making available, or proposing to make available, for use by providers of electronic communications networks for the purposes of the provision by them of their networks;
  - (b) that application of the Code shall have effect throughout the United Kingdom.
8. In this proposed Direction, unless the context otherwise requires and subject to paragraph 9 below, words and expressions used in this proposed Direction shall have the same meaning as they have been ascribed in the Act.
9. In this Notification—
  - (a) “Act” means the Communications Act 2003;

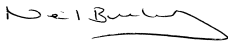
- (b) “Applicant” means MS3 Networks Limited, whose registered company number is 8190151
- (c) “Code” means the electronic communications code;
- (d) “Ofcom” means the Office of Communications.

**10.** For the purpose of interpreting this Notification—

- (a) headings and titles shall be disregarded;
- (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament;
- (c) expressions cognate with those referred to in this Direction shall be construed accordingly.

**9.** This Direction shall take effect on the day it is published.

**Signed**



**Neil Buckley**  
**Director of Investigations**

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

02 June 2014