
Electronic Communications Code

Template Notices resulting from Product Security and
Telecommunications Infrastructure Act 2022
amendments to the Code

Statement:

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1. Overview and introduction

Overview

The Electronic Communications Code (the Code) confers certain rights on operators to whom it has been applied (Code Operators) to install and maintain electronic communications apparatus on, under and over land and results in considerably simplified planning procedures.

The Product Security and Telecommunications Infrastructure Act 2022 (*PSTIA*), which received Royal Assent on 6 December 2022,¹ makes various amendments to the Code. These include a right for certain operators to upgrade or share apparatus installed below ground.

Where an operator seeks to exercise the new right, various conditions must be met, including a requirement to attach a notice to a conspicuous object on the relevant land in advance of a specified period prior to upgrading or sharing the apparatus. Ofcom is required to prescribe the form of the notice to be given and must consult operators and such other persons as appropriate before doing so.

In January 2023 we published a Consultation (the January Consultation) that sought views from operators and all other interested parties, on the form of two new draft template notices required following amendments to the Electronic Communications Code made by the PSTIA.

What we have decided

Having carefully considered stakeholder responses to the January Consultation, we have decided to make a small amendment to the notice required under paragraph 17, as modified by paragraph 5A of Schedule 2 to the Digital Economy Act 2017 to remove the requirement to include the name of the site provider. We consider that this is not required as a result of the Code amendments made by the PSTIA and as noted by respondents, could potentially identify an individual where the site provider is not a company.

Aside from this change, we have decided to publish the final notices in the same format on which we consulted in the January Consultation. We explain our decision in more detail in Section 2 of this Statement and append the final template notices to this Statement.

Introduction

- 1.1 The Electronic Communications Code² (*the Code*) only has effect in the case of a person to whom it is applied by a direction given by Ofcom (or, in the case of the Secretary of State or any Northern Ireland department, where the Secretary of State or that department is providing or proposing to provide an electronic communications network).

¹ [Product Security and Telecommunications Infrastructure Act 2022](#)

² <https://www.legislation.gov.uk/uksi/2003/2553/made>

- 1.2 The exercise of Code rights is subject to conditions and restrictions imposed under regulations made by the Secretary of State.³ Ofcom has an enforcement role over compliance with any requirement imposed under the regulations.
- 1.3 The Code was subject to changes in 2017 by the Digital Economy Act 2017 (“the DEA”), to speed up the roll out of communications apparatus. Amongst other things, the DEA included provisions to remove the previous Code set out in Schedule 2 of the Telecommunications Act 1984 (“the Old Code”) and replace it with a new Code set out in Schedule 3A to the Communications Act 2003. The new Code introduced a range of measures to make it easier for Code Operators to roll out electronic communications apparatus. For example, significant changes were made to the way land is valued and an automatic right for Code Operators to upgrade and share their telecommunications apparatus was introduced.
- 1.4 As a result of the changes made in 2017, the Code now includes obligations on Ofcom to publish:
- a) a Code of Practice to accompany the Code which was intended, among other things, to regulate the process for negotiations between Code Operators and landowners;⁴
 - b) a number of template notices which may, or must (depending on the circumstances) be used by Code Operators and landowners/occupiers;⁵ and
 - c) standard terms which may (but need not) be used by Code Operators and landowners/occupiers when negotiating agreements to confer Code rights⁶.
- 1.5 Ofcom published a final version of these documents in December 2017, following a consultation exercise.⁷ We intend to undertake a review of aspects of the Code of Practice as a result of representations from a range of stakeholders and in line with our commitment to undertake such a periodic review⁸. As part of this review, we intend to consider potential further changes to the existing templates in general. We plan to consult on this review during 2023.
- 1.6 The Product Security and Telecommunications Infrastructure Act 2022 (*PSTIA*), which received Royal Assent on 6 December 2022,⁹ makes various amendments to the Code. These include a right for certain operators to upgrade or share apparatus installed below ground.
- 1.7 The right applies in relation to two categories of operator: Code Operators who are a party to a ‘subsisting agreement’ made under the Old Code, and operators who have apparatus

³ [The Electronic Communications Code \(Conditions and Restrictions\) Regulations 2003 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2003/2413/contents/make)

⁴ The Code of Practice deals with matters such as what information Code Operators should provide to property owners negotiations should be conducted and how Code Operators should manage the various stages of the process.

⁵ <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/electronic-comm-code/notices>

⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0026/108791/ECC-Standard-Terms.pdf

⁷ <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/electronic-comm-code/private-land-access-code-of-practice>

⁸ See sections 1.5 and 2.33 at https://www.ofcom.org.uk/data/assets/pdf_file/0027/108792/ECC-Statement.pdf

⁹ [Product Security and Telecommunications Infrastructure Act 2022](https://www.legislation.gov.uk/ukpga/2022/24/contents/make)

that was installed before 29 December 2003 and are not party to any Code agreement. For transitional purposes, the statutory framework treats subsisting agreements as if they were agreements that had been made under the current Code, but subject to certain modifications that apply.

- 1.8 Where either category of operator seeks to exercise the new right, various conditions must be met, including a requirement to attach a notice to a conspicuous object on the relevant land in advance of a specified period prior to upgrading or sharing the apparatus.
- 1.9 Ofcom is required to prescribe the form of the notice to be given and must consult operators and such other persons as appropriate before doing so.

2. Stakeholder's comments on the draft template notices and Ofcom's response

Introduction

- 2.1 In the January Consultation we asked for comments on the drafting of the two new template notices. Below, we discuss the points raised by stakeholders, and provide our responses. The final template notices are published alongside at the end of this document but also on the Template Notice section of the Ofcom website.¹⁰
- 2.2 We received a total of 7 responses from stakeholders, ranging from suggestions on who can serve the notices to detailed comments on the notice templates. In considering stakeholders' comments, we have, in particular, assessed whether the drafting of the respective notices substantively meets the requirements of the relevant Code provisions under which they are required to be given and the respective rights and obligations are clearly set out for both parties. Where we have decided this is the case, we have, in general, refrained from incorporating alternative or additional drafting proposed by stakeholders unless we considered that further clarity was required.
- 2.3 We have structured this section around the themes that were raised on both notice templates included in the January Consultation. This has been done to reflect the fact that respondents tended to provide views that related to both draft templates notices at the same time, rather than provide separate views on each of respective notices. Where respondents have made comments on specific notices, we make this clear.

Stakeholder comments on the draft template notices, and Ofcom's response

Comments on the rights of the sharing operator to post the notice on behalf of the main operator

- 2.4 A confidential respondent,¹¹ CityFibre,¹² VMO2,¹³ and a joint submission from AllPointsFibre, CityFibre, Glide, Hyperoptic, VMO2 and Vodafone¹⁴ all raised concerns that the proposed notices require the main operator to issue the notice and any complaints or contact by the public be directed to the main operator. Respondents were concerned that,

¹⁰ <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/electronic-comm-code/notices>

¹¹ Confidential response to the January 2023 Consultation.

¹² Paragraph 5, CityFibre response to the January 2023 Consultation.

¹³ Page 2, VMO2 response to the January 2023 Consultation.

¹⁴ Pages 2 – 3, Joint submission from AllPointsFibre, CityFibre, Glide, Hyperoptic, Virgin Media O2 and Vodafone to the January 2023 Consultation.

particularly in the case of PIA, such an approach would lead to an administrative burden on the main operator, and would undermine the potential benefits of the PSTIA.

- 2.5 A confidential respondent suggested allowing an option for the notices to include the contact details of the sharing operator, so that any contact by the public would be made directly to them, and not the main operator.¹⁵
- 2.6 CityFibre,¹⁶ VMO2,¹⁷ and a joint submission from AllPointsFibre, CityFibre, Glide, Hyperoptic, VMO2 and Vodafone¹⁸ suggested allowing for the sharing operators themselves to be able to post the notices, instead of relying on the main operator. This is in part due to the main operator having an incentive not to post the notices or to delaying their posting, but also to reduce the administrative burden that could potentially fall upon the main operator.
- 2.7 A joint submission from AllPointsFibre, CityFibre, Glide, Hyperoptic, VMO2, and Vodafone suggested that Ofcom amend the notice to include wording that outlines that the main operator is sharing the infrastructure in accordance with an Ofcom remedy, rather than on a discretionary basis. The joint respondent suggested that Ofcom should issue revised guidance as to what is required in order to constitute network access as mandated under the PIA remedy.¹⁹

Ofcom's response

- 2.8 The role of Ofcom is to consult on, and prescribe the form of the notices required to be given under the Code.
- 2.9 The new notice requirements introduced under sections 58 and 59 PSTIA are imposed on the main operator and make clear that it is the main operator who is responsible for posting the notice.²⁰ We do not consider it is within Ofcom's power, therefore, to make provision in the template notices for them to be posted by anyone other than the main operator.
- 2.10 In relation to the concerns that the main operator has an incentive not to post notices, to delay their posting, or to generally hinder the process, we consider that this sits beyond the scope of this Consultation insofar as the focus of this Consultation is on the form of the notices themselves.
- 2.11 With regards to the suggestion that the notices include the contact details of the sharing operator as well as the main operator, we note that it would be open to operators to include this additional information if they so wished. However, Ofcom does not consider it

¹⁵ [Confidential response](#) to the January 2023 Consultation.

¹⁶ Paragraph 5, [CityFibre response](#) to the January 2023 Consultation.

¹⁷ Page 2, [VMO2 response](#) to the January 2023 Consultation.

¹⁸ Pages 2 – 3, [Joint submission](#) from AllPointsFibre, CityFibre, Glide, Hyperoptic, Virgin Media O2 and Vodafone to the January 2023 Consultation.

¹⁹ Pages 2 – 3, [Joint submission](#) from AllPointsFibre, CityFibre, Glide, Hyperoptic, Virgin Media O2 and Vodafone to the January 2023 Consultation.

²⁰ <https://www.legislation.gov.uk/ukpga/2022/46/section/59/enacted>

appropriate to include this in the template notices as it would go beyond what the main operator is required to do under the Code to meet the relevant the Conditions.

- 2.12 We cannot prescribe that the notice must include reference to sharing of the infrastructure being due to a remedy imposed by Ofcom, further, this will not always be the case as sharing may also be done on a voluntary/ commercial basis. We also do not consider that the inclusion of such information is necessary for the purpose and function of the notices themselves i.e. to inform the public of the upgrading and/ or sharing of infrastructure.

General comments on the draft notices

- 2.13 Full Fibre Ltd raised concerns that the template notices were unclear and suggested that a summary paragraph be included that explains what equipment is to be upgraded and what benefit this upgrade will bring.²¹
- 2.14 RICS also raised concerns that the notices are too complicated and will not be understood by those without knowledge of the telecoms sector and suggested simplifying the notice.²² RICS suggested making the practical directions for installing the notice clearer and highlighted the importance of ensuring that the explanatory notes form part of the notice itself.²³
- 2.15 A confidential respondent raised concerns that by requiring the operator to include the name of the site provider and the date on which the agreement was reached, the notice in its proposed form would effectively require the operator to breach GDPR regulations. The confidential respondent stated that publishing this information as part of the notice would constitute publishing data for a purpose for which it was not collected.²⁴
- 2.16 A joint submission from AllPointsFibre, CityFibre, Glide, Hyperoptic, VMO2, and Vodafone also queried why the notices needed to include the landowner's details, given that this was not required by the PSTIA.²⁵
- 2.17 CityFibre²⁶ and a joint submission from AllPointsFibre, CityFibre, Glide, Hyperoptic, VMO2 and Vodafone²⁷ raised concerns that the proposal of two separate notices depending on when the duct was installed could be problematic as it would require the sharing operator to actually know when the duct was installed. Respondents said that it would need to contact the main operator to find out this information, which could create an administrative burden on the main operator and complicate the process. Respondents suggested only having a single notice that did not differentiate on the basis of when the duct was installed.

²¹ [FullFibre Ltd response](#) to January 2023 Consultation.

²² Page 2, [RICS response](#) to January 2023 Consultation.

²³ Page 3, [RICS response](#) to January 2023 Consultation.

²⁴ [Confidential response](#) to January 2023 Consultation.

²⁵ Paragraph 13, [Joint submission](#) from AllPointsFibre, CityFibre, Glide, Hyperoptic, Virgin Media O2 and Vodafone to January 2023 Consultation.

²⁶ Paragraph 10, [CityFibre response](#) to January 2023 Consultation.

²⁷ Paragraph 15, [Joint submission](#) from AllPointsFibre, CityFibre, Glide, Hyperoptic, Virgin Media O2 and Vodafone to January 2023 Consultation.

- 2.18 CityFibre raised similar concerns with the requirement in the Paragraph 17 Notice to include details of the relevant wayleave (i.e. the date the wayleave was signed, and by whom), stating that the sharing operator would once again not have access to this information and would therefore need to contact the main operator. CityFibre raised concerns that the main operator themselves may not hold this information.²⁸

Ofcom's response

- 2.19 With regards to the comments by FullFibre Ltd and RICS suggesting that the draft notices are too complicated and unclear. We consider that the draft notices contain all of the information necessary to meet the new requirements introduced under sections 58 and 59 of the PSTIA and to inform members of the public of the nature of the work to be carried out on the site. Requiring additional information to be included in the notices would go beyond what the law requires and also add an extra burden on operators which we do not consider appropriate. Furthermore, it is incumbent on the relevant parties to ensure that they are appropriately advised and as such, they may wish to seek professional advice from a suitably qualified and experienced person.
- 2.20 The explanatory notes are provided to assist operators in understanding the statutory requirements. There is no requirement for these and they have no operative effect, so it would not be appropriate to include the explanatory note within the prescribed form of the template notices.
- 2.21 Having considered the suggestion by a confidential respondent and the joint submission from AllPointsFibre, CityFibre, Glide, Hyperoptic, VMO2 and Vodafone, we agree that the name of the landowner can be removed from the notice required under paragraph 17, as modified by paragraph 5A of Schedule 2 to the Digital Economy Act 2017 (the comments are not applicable to the paragraph 17A notice as it applies where there is no agreement in place under Part 2 of the Code). We acknowledge that including the name of the landowner or their representative is not part of the notice requirements and could have unintended consequences under GDPR. However, we do not accept that the date of the agreement and the address of the land in question should be removed. In relation to the date of the agreement, this is relevant because a subsisting agreement is an agreement that pre-dates 28 December 2017. Including the date of the agreement will help to ensure that this notice is being correctly used (i.e. that the operator has met the applicable notice condition). The address is important to ensure the notice clearly identifies the land it relates to. It will also avoid any confusion in the event the notice is incorrectly posted e.g. as a result of being placed on an object just outside the boundary of the land in question.
- 2.22 In relation to the suggestion that the two notices should be combined into a single notice which does not make a distinction of when the duct was installed, the PSTIA specifically introduces two separate notice requirements to deal with two separate situations. These differ according to whether the apparatus in question was installed pursuant to a subsisting agreement (i.e. one that pre-dates 28 December 2017, when the new Code in

²⁸ Paragraph 11, [CityFibre response](#) to January 2023 Consultation.

Schedule 3A to the Communications Act 2003 came into force), or before 29 December 2003. This is a statutory requirement and as such it is not open to Ofcom to prescribe a single notice that does not make this distinction.

- 2.23 Respondents suggested that the difficulty in having two separate notices is that the sharing operator would not necessarily know when the duct was installed and would need to consult with the main operator to find out this information. This suggestion is based on the premise that the sharing operator would be posting the notice, however, as outlined above, the main operator would be the one posting the notice and would be expected to have access to the relevant information on when the duct was installed.

Comments on the respective rights of parties impacted by the notices

- 2.24 Electricity North West Limited had concerns that the notices changed the rights of landowners. They stated that the largely one-sided notices removed a number of existing rights that would now put landlords/owners under pressure to agree to reduced controls on early access to land, and without the ability to object to requests for works for legitimate reasons or recoup costs incurred for supervising work carried out by Code Operators.²⁹
- 2.25 They stated that Code Operators should not be given rights to access a distribution network operator's (DNO)³⁰ operational property and assets and that access should be dependent on any health and safety concerns being resolved. Further, that any changes to the notices need to be considered in the context of further changes to the Telecoms Code in 2023.
- 2.26 They also noted that the notices will also apply to wayleaves and make to differentiation between the operational and non-operational land of DNOs.
- 2.27 Also, that the notices will apply inadvertently to non-licensed operators if they have arrangements to work with or for the Code Operator.

Ofcom's response

- 2.28 We consider these comments raise concerns about Government policy, as enacted by Parliament, and as such fall outside of the scope of Ofcom's powers which are limited to preparing and consulting on the detailed drafting of the template notices required under the Code.
- 2.29 We note that some of the stakeholder concerns detailed above are, to some extent, addressed within the existing Code of Practice published in 2017.³¹ The purpose of this Code of Practice, which was established under the Digital Economy Act 2017, is to set out expectations for the conduct of the parties to any agreement made under the Code. For

²⁹ [Electricity North West Limited response](#) to January 2023 Consultation.

³⁰ A distribution network operator (DNO) is the company that owns and operates the power lines and infrastructure that connect national grid to a property. Source: [National Grid](#).

³¹ [Electronic Communications Code: Code of Practice – 15 December 2017](#)

example, at paragraph 1.5, it requires that ‘Operators ought to be responsible for the behaviour and conduct of any contractors that they instruct to carry out work on their behalf’. Further at Schedule B, it sets out the key points for access arrangements between Code Operators and landowners. This includes the recovery of reasonable costs by the landowner (e.g. if a supervisor is necessary at sensitive locations).

Comments that refer to Code Operators’ obligations and the Code

2.30 Electricity North West Limited had concerns that operators could rely on the new process without any obligations on them to provide landlords with:

- plans on the full scope of works, any risk assessment, and method statement;
- details on how they would comply with enhanced health and safety requirements;
- evidence of having in place adequate insurance provision,
- plans to compensate for any additional costs that result from damages resulting from an operator accessing their land; or
- an accountable paper trail that would:
 - i) record damages or incidents at the property as a result of works; or
 - ii) verify that access to the property that was needed to conduct emergency works were based on bona fide reasons.³²

Ofcom response

2.31 In relation to some of the specific concerns raised by Electricity North West Limited we would note that regulation 14 of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 (as amended) places obligations on Code Operators to enter into agreements with electricity suppliers before installing equipment near to the latter’s existing apparatus. Under regulation 14 Code Operators are also required to respond to requests from electricity suppliers when they notify them of plans to install apparatus near Code Operators’ equipment.³³

2.32 As explained at X.XX some of the concerns expressed above are, to some extent, addressed within the existing Code of Practice published in 2017. For example, prior to deployment, the Code Operator should provide the landowner with drawings detailing the apparatus to be deployed with an accompanying written description of the works (paragraph 1.28). Annex B requires an undertaking from the Code Operator to make good any damage to the Landowner’s property. Further, that where possible, operators should contact the Landowner to explain when and why access is required for emergencies (paragraph 1.35).

³² Electricity North West Limited response to January 2023 Consultation.

³³ <https://www.legislation.gov.uk/uksi/2003/2553/regulation/14/made>

- 2.33 Code Operators are also likely to be subject to separate requirements under relevant Health and Safety legislation, however this is beyond the scope of Ofcom's powers and the remit of the Code.

A1. Annex 1

STATUTORY NOTICE

REGARDING THE UPGRADING OR SHARING OF ELECTRONIC COMMUNICATIONS APPARATUS UNDER THE ELECTRONIC COMMUNICATIONS CODE AS IT APPLIES BY VIRTUE OF SCHEDULE 2 OF THE DIGITAL ECONOMY ACT 2017 (THE ELECTRONIC COMMUNICATIONS CODE: TRANSITIONAL PROVISION) IN RELATION TO A CODE OPERATOR WHO IS PARTY TO A SUBSISTING AGREEMENT

Paragraph 17 of Part 3 of Schedule 3A to the Communications Act 2003, as modified by paragraph 5A of Schedule 2 to the Digital Economy Act 2017

1. This is a statutory notice pursuant to paragraph 17(6) of the electronic communications code set out in Schedule 3A to the Communications Act 2003 (the “**Code**”), as modified by paragraph 5A of Schedule 2 to the Digital Economy Act 2017 in relation to a Code operator who is party to a subsisting agreement.³⁴
2. We, *[Insert name of Code operator]*, are a party to a subsisting agreement³⁵ *[dated***]* (the “**Agreement**”) pursuant to which we keep *[insert brief description of the electronic communications apparatus]* (the “**Apparatus**”) installed under the land at *[insert address of the land where the Apparatus is installed]* (the “**Land**”).
3. We are required to provide this notice because we intend to upgrade the Apparatus that is installed under the Land.

[OR - delete appropriate version of paragraph 3]

3. We are required to provide this notice because we intend to share the use of the Apparatus that is installed under the Land with *[insert name of relevant operator]*.
4. We intend to begin *[upgrading OR sharing]* *[delete as appropriate]* the Apparatus on *[insert date]*.

ADDRESS FOR CORRESPONDENCE ABOUT THIS NOTICE

5. We can be contacted about the *[upgrading OR sharing]* *[delete as appropriate]* of the Apparatus in writing to:

[insert appropriate UK postal address]

[Insert date of Notice]

³⁴ Paragraph 5A of the of Schedule 2 to the Digital Economy Act 2017 permits operators who have Code agreements pre-dating 28 December 2017 to upgrade and share apparatus under limited circumstances. Copies of the Communications Act 2003 and the Digital Economy Act 2017 can be found online at www.legislation.gov.uk.

³⁵ As defined in paragraph 1(4) of Schedule 2 to the Digital Economy Act 2017

NOTES FOR COMPLETING THIS NOTICE

Paragraph 5A of Schedule 2 to the Digital Economy Act 2017 modifies the automatic rights to upgrade and share apparatus as set out in paragraph 17 of the Code to allow Code operators who are a party to a 'subsisting agreement' to upgrade and share apparatus installed under land in limited circumstances.

What is a 'subsisting agreement'?

A subsisting agreement is an agreement that pre-dates 28 December 2017, when the new Code in Schedule 3A to the Communications Act 2003 came into force.

Paragraph 1(4) of Schedule 2 to the Digital Economy Act 2017, sets out that a subsisting agreement is an agreement for the purposes of paragraph 2 or 3 of the electronic communications code under Schedule 2 to the Telecommunications Act that remains in force, or an order under paragraph 5 of that code that remains in force, in each case at the time the new Code comes into force.

Paragraph 2 of the Schedule sets out that a subsisting agreement is to be treated as an agreement made under the new Code, but subject to the Code modifications that are set out in that Schedule.

Notice requirements

In order to have the power to upgrade or share apparatus, paragraph 17 of the Code (as modified by paragraph 5A of Schedule 2 to the Digital Economy Act 2017) requires you to give notice before you begin to upgrade the electronic communications apparatus or (as the case may be) share its use. This notice must be given before the beginning of the period of 21 days ending with the day on which you begin to upgrade the apparatus or to share its use.

The notice must be attached, in a secure and durable manner, to a conspicuous object on the relevant land, ensuring it is in a position where it is reasonably legible. For these purposes, 'relevant land' means:

- (a) in a case where you have a right to enter the land under which the electronic communications apparatus is installed, that land;*
- (b) in any other case, the land on which works will be carried out to enable the upgrading or sharing to take place or, where there is more than one set of works, the land on which each set of works will be carried out.*

Paragraph 17 of the Code (as modified by virtue of paragraph 5A of Schedule 2 to the Digital Economy Act 2017) requires that the following conditions are also met:

- the upgrading and sharing of the apparatus must have no adverse impact on the land; and*
- it must not impose any burden on any person with an interest in the land (which includes anything that has an adverse effect on the enjoyment of the land or causes loss, damage or expense to the person).*

NOTES FOR COMPLETING THIS NOTICE

ADDITIONAL NOTES

Paragraph 17 of the Code (as modified by virtue of paragraph 5A of Schedule 2 to the Digital Economy Act 2017) does not confer any right to enter land for the purpose of upgrading or sharing the use of electronic communications apparatus.

Where the above notice requirements and conditions are met, paragraph 17(9) voids any agreement under Part 2 of the Code to the extent that it prevents or limits the upgrading or sharing of apparatus installed under land, or makes such upgrading or sharing subject to conditions that must be met by the operator (including a condition requiring the payment of money).

A2. Annex 2

STATUTORY NOTICE

REGARDING THE UPGRADING OR SHARING OF ELECTRONIC COMMUNICATIONS APPARATUS INSTALLED BEFORE 29 DECEMBER 2003 UNDER THE ELECTRONIC COMMUNICATIONS CODE

Paragraph 17A of Part 3 of Schedule 3A of the Communications Act 2003

4. This is a statutory notice pursuant to paragraph 17A(6) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”) in relation to apparatus installed before 29 December 2003.³⁶
5. We, [Insert name of operator], keep [Insert brief description of the electronic communications apparatus] (the “**Apparatus**”) installed under the land at [insert address of the land where the Apparatus is installed] (the “**Land**”), which Apparatus was installed before 29 December 2003.
6. We are required to provide this notice because we intend to upgrade the Apparatus that is installed under the Land.

[OR - delete appropriate version of paragraph 3]

6. We are required to provide this notice because we intend to share the use of the Apparatus that is installed under the Land with [insert name of relevant operator].
7. We intend to begin [upgrading OR sharing] [delete as appropriate] the Apparatus on [insert date].

ADDRESS FOR CORRESPONDENCE ABOUT THIS NOTICE

8. We can be contacted about the [upgrading OR sharing] [delete as appropriate] of the Apparatus in writing to:

[insert appropriate UK postal address]

[Insert date of Notice]

³⁶ Paragraph 17A of the Code allows operators who have apparatus installed before 29 December 2003 and who are not party to any Code agreement to have a right to upgrade and share that apparatus under limited circumstances. A copy of the Communications Act 2003 is available online at www.legislation.gov.uk.

NOTES FOR COMPLETING THIS NOTICE

Paragraph 17A of the Code allows operators who have apparatus installed under land before 29 December 2003 and are not party to any Code agreement to upgrade and share apparatus under limited circumstances.

In order to have the power to upgrade or share apparatus, paragraph 17A of the Code requires you to give notice before you begin to upgrade the electronic communications apparatus or (as the case may be) share its use. This notice must be given before the beginning of the period of 21 days ending with the day on which you begin to upgrade the apparatus or to share its use.

The notice must be attached, in a secure and durable manner, to a conspicuous object on the relevant land, ensuring it is in a position where it is reasonably legible. For these purposes, 'relevant land' means:

- (c) in a case where you have a right to enter the land under which the electronic communications apparatus is installed, that land;*
- (d) in any other case, the land on which works will be carried out to enable the upgrading or sharing to take place or, where there is more than one set of works, the land on which each set of works will be carried out.*

Paragraph 17A of the Code requires that the following conditions are also met:

- the upgrading and sharing of the apparatus must have no adverse impact on the land; and*
- it must not impose any burden on any person with an interest in the land (which includes anything that has an adverse effect on the enjoyment of the land or causes loss, damage or expense to the person).*

ADDITIONAL NOTES

Paragraph 17A of the Code does not confer any right to enter land for the purpose of upgrading or sharing the use of electronic communications apparatus.