

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

Background

- 1.** Community Fibre Limited (whose registered company number is 07413288) was granted Code powers, under a direction given by Ofcom on 27 September 2016, for the purposes of the provision by it of an electronic communications network and system of infrastructure throughout inner and greater London within the M25.
- 2.** Community Fibre Limited has applied to Ofcom for the grant of Code powers to cover the rest of the United Kingdom and, for this purpose, has requested a modification of the terms on which the Code currently applies to it.
- 3.** 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 9 December 2021.
- 4.** 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.
- 5.** Prior to giving a decision under section 106(3) of the Act to apply the Code to Community Fibre Limited, including giving a further direction to modify the terms on which, by virtue of section 106(5) of the Act, the Code applies to it, 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.
- 6.** On 25 February 2022, Ofcom published a notification in accordance with section 107(6) of the Act of its proposal to give a further direction applying the Code to Community Fibre Limited on modified terms. That notification invited representations to Ofcom by no later than 5pm on 28 March 2022.
- 7.** For the reasons set out in the explanatory statement accompanying the above mentioned notification, 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 section 115(4A) of the Act, its general duties in section 3 of the Act and the six requirements in section 4 of the Act.

Decision

- 8.** Ofcom hereby directs, in accordance with section 106 of the Act, that the terms on which the Code applies to Community Fibre Limited by virtue of section 106(5) of the Act under its existing direction given by Ofcom on 27 September 2016, shall be modified as follows—
 - (a) the Code shall continue to apply to Community Fibre Limited (whose registered company number is 07413288) for the purposes of the provision by it of:
 - i. an electronic communications network; and
 - ii. a system of infrastructure which it 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) the restriction of the application of the Code on Community Fibre Limited to inner and greater London within the M25 shall be removed; and
- (c) the application of the Code to Community Fibre Limited shall now have effect throughout the United Kingdom.

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

Interpretation

10. In this Direction—

- (a) “**Act**” means the Communications Act 2003;
- (b) “**Code**” means the electronic communications code set out in Schedule 3A to the Communications Act 2003;
- (c) “**Ofcom**” means the Office of Communications.

11. For the purpose of interpreting this Direction—

- (a) headings and titles shall be disregarded;
- (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

Signed



Brian Potterill

Competition Policy Director

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

4 April 2022