

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

Background

1. Frogfoot Networks Limited, whose registered company number is 14062268, has applied to Ofcom for a direction applying the Code to it.
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 9 April 2024.
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 Frogfoot Networks Limited, 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 7 June 2024, Ofcom published a notification in accordance with section 107(6) of the Act of its proposal to give a direction applying the Code to Frogfoot Networks Limited. That notification invited representations to Ofcom by no later than 5 pm on 8 July 2024.
6. Ofcom received one representation objecting to the proposal set out in consultation. The response included concerns about the public interest and potential negative impacts on human health, environment, human rights, democracy and biodiversity.
7. Having considered the objection, Ofcom concluded that the response raised issues that go beyond Ofcom's remit. These issues were more generally about the statutory scheme underpinning the Code and Government policy relating to the rollout of advanced communications networks and the technology they employ, such as the Government's assessment of the safety of non-ionising radiation, and Government policy concerning the planning regime which facilitates the rollout of those networks. Ofcom has no power to alter these policies or the statutory framework that sets out the Code.
9. For the reasons set out in the explanatory statement accompanying Ofcom's consultation, 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 requirements in section 4 of the Act.

Decision

10. Ofcom hereby directs, in accordance with section 106 of the Act, as follows—
the Code shall apply to Frogfoot Networks Limited (whose registered company number is 14062268) for the purposes of the provision by it of an electronic communications network; and that application of the Code shall have effect throughout the United Kingdom.

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

Interpretation

12. 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.

13. 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

Policy Director, Networks & Communications

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

19 July 2024