

Ofcom
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

9th January 2017

Dear Sirs

GRANT OF CODE POWERS TO CTIL

Scottish Land & Estates is a membership organisation which represents Scottish land owners and rural businesses. One of our members drew this consultation to our attention raising concerns about the suitability of the applicant and the potential impact on site providers. We write in objection to OFCOM granting Electronic Communications Code powers to CTIL, the joint venture company established by Vodaphone Ltd and Telefonica Ltd.

Both Vodaphone and Telefonica operate mobile networks and have been granted Code powers. CTIL was developed to manage 'passive infrastructure' and ensure the JV has a stake in the shared sites. As CTIL does not operate an electronic communications network or provide a system of conduits we do not believe they should be granted Code powers as the limited purposes as set out in section 106 of the Communications Act 2003 are not met. We do not believe this will create any restrictions.

Below we consider the 'four factors' set out in section 107 of the Act which must be considered when making a decision to whether Code rights should be granted.

1. The benefit to the public of the electronic communications network or conduit system by reference to which the Code is to be applied to that person.

CTIL does not operate an electronic communications network or conduit system and therefore should not be granted Code powers. There is no public benefit in granting Code powers to CTIL as Vodaphone and Telefonica already have Code powers which can be used to protect their shared sites.

2. The practicability of the provision of that network or system without the application of the Code.

Network integrity would be retained as Vodaphone and Telefonica have Code powers.

3. The need to encourage the sharing of the use of electronic communications apparatus.

Vodafone and Telephonica already share sites so this factor is not relevant.

4. Whether the person in whose case it is proposed to apply the Code will be able to meet liabilities arising as a consequence of the application of the Code in that person's case and any conduct of that person in relation to the matters with which the Code deals.

Recent accounts show CTIL has significantly greater liabilities than assets. While we do not know detail of the financial position, we are concerned that CTIL may not be in a position to meet liabilities imposed by paragraph 22 of the Code or liabilities imposed by Ofcom.

As an organisation representing Scottish land owners upon whom the Code rights impact, we do not believe CTIL should be granted Code powers. In doing so would expose site providers to significant costs in challenging applications of code powers should they be exercised and in additional professional costs when serving notices.

We therefore urge Ofcom to reconsider.

Yours faithfully,

Katy Dickson

Senior Policy Officer
(Business, Property and Connectivity)