

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

### **Background**

1. Metro Technologies Ltd whose registered company number is 14886861, 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 25 August 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 Metro Technologies Ltd, 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 22 November 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 Metro Technologies Ltd. That notification invited representations to Ofcom by no later than 5pm on 23 December 2024.
6. Ofcom received one representation objecting to the proposal set out in the consultation. The response raised concerns about the ability of operators under the Code to install street infrastructure such as telegraph poles without consultation or planning permission.
7. Having considered the objection, Ofcom concluded that the response raised issues that were more generally about the rights that are available to operators under the statutory framework set by Parliament to facilitate the rollout of advanced communications networks. Ofcom has no power to alter the statutory framework. Ofcom can only consider applications in accordance with its statutory functions and the matters it is required to have regard to, in deciding whether to give a direction to apply Code powers.
8. 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**

9. Ofcom hereby directs, in accordance with section 106 of the Act, as follows—
  - (a) the Code shall apply to Metro Technologies Ltd (whose registered company number is 14886861) for the purposes of the provision by it of an electronic communications network and the provision of a system of infrastructure; and
  - (b) that application of the Code shall have effect throughout the United Kingdom.

10. 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, Network & Communications**

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

22 January 2025