



**Proposals to implement the new
European Electronic
Communications Code**

Response to Ofcom's consultation

March 2020

Contents

Executive summary	2
1. It is not proportionate for Ofcom to expect operators to have commenced practical implementation of the proposals in the Consultation before publication of its final statement	4
2. Practical implementation will require 12 months from publication of Ofcom's final statement	9
3. Ofcom must delay implementation of the EECC	13
4. Ofcom has failed to conduct appropriate impact assessments for the proposed changes	18
5. Sky's comments on Ofcom's proposed amendments to the General Conditions	20
6. Annex 1 – Sky's responses to Ofcom's questions on the Consultation	27

Executive summary

Ofcom believes that implementation on 21 December 2020 (i.e. 7-9 months from publication of its final statement) will allow providers “sufficient time” to implement the myriad of changes to key business processes required by the European Electronic Communication Code (“**EECC**”).¹ However, as explained in this response, Sky is certain that Ofcom’s unsubstantiated 7-9 month timeline (which in practice would be 7 or 8 months at best given Ofcom’s need to consider responses) is not sufficient time for it to implement the measures and a rushed implementation is likely to have serious adverse effects on UK consumers.

Instead, Ofcom should advise the UK Government that implementation of the EECC on the timescales required by the EU is not possible and Ofcom should consider which of the consumer protection measures in the EECC would be in the interests of UK consumers to implement in a more reasonable timescale. The majority of these measures could be implemented under Ofcom’s existing powers to make General Conditions.

Sky sets out below the reasoning which underpins this conclusion.

Firstly, it would not be legally sound, reasonable or proportionate for Ofcom to expect operators to have commenced practical implementation of the EECC before publication of its final statement given that:

- As a result of the political context regarding Brexit, there has been considerable uncertainty as to whether and how the EECC would be implemented in the UK and when these changes would take effect;
- Such an expectation would be contrary to the requirements of administrative law and a proper consultation process for implementation of the EECC; and
- Operators have already been dedicating significant time and resource to implement other important regulatory obligations, most notably the new requirements for end of contract notifications and annual best tariff information. Premature work on EECC implementation would have put these implementations at risk.

Secondly, based on Sky’s experience and assessments as to what would be required were Ofcom’s proposals to be confirmed following the Consultation, Sky estimates that practical implementation will require 12 months from publication of Ofcom’s final statement.

This estimate cannot, of course, take into account the time required for the introduction of obligations to enable cross-platform switching. As Ofcom is already aware, there are a range of possible solutions under consideration and the time required for practical implementation by Sky may be highly variable and will be dependent upon whichever solution is ultimately adopted.

¹ Paragraph 1.3 of the Consultation.

It is also looking increasingly likely that the Covid-19 outbreak will impact Sky's estimated timeline for practical implementation. The Covid-19 outbreak has already placed an unwelcome strain on Sky's resources, and this is likely to continue for the foreseeable future as we take necessary measures to ensure service continuity for the benefit of our customers.

Therefore, even assuming no material impact on the same human and technical resources required for implementation of the new General Conditions from cross-platform switching work and from Covid-19, Sky believes Ofcom must delay implementation for 12 months from publication of its final statement to allow Sky and other providers sufficient time to implement the necessary changes. In practice, this means that Ofcom must not publish the updated General Conditions or the new guidance until 12 months from publication of its final statement and this estimate will need to be reviewed once the impact of Covid-19 and cross-platform switching are better known.

Sky recognises that, strictly speaking and as a matter of EU law, EECC implementation is required before 21 December 2020. To resolve the tension between this obligation on the one hand and the requirements of UK administrative law and Ofcom's UK statutory duties on the other, instead of pressing on blindly with an unrealistically short implementation period, Sky believes Ofcom should use the information provided by all stakeholders in response to this Consultation to understand how long practical implementation of its proposed changes will actually take.

Ofcom should then advise the UK Government on when implementation of the new General Conditions will be possible and work with the UK Government to ensure that a realistic implementation date is set. This would allow Ofcom the discretion to consider which consumer protection measures in the EECC are desirable even if this would result in the UK Government being in technical breach of EU law for the space of 11 days, namely the period between the formal EECC implementation date and the UK leaving the European Union.

As a fall back, Ofcom should make a clear statement that it will not take enforcement action until a date 12 months from publication of its final statement. Ofcom could publish its updated General Conditions and the new guidance from 21 December 2020, provided that Ofcom makes clear in its final statement that, as it has done in other cases, it will not take enforcement action until a date 12 months from publication of its final statement.

As an absolute last resort, Ofcom should make a clear statement that enforcement action will not be an administrative priority for 12 months from publication of its final statement. In practice, this means that it could publish its updated General Conditions and the new guidance from 21 December 2020, provided that Ofcom makes clear in its final statement that, as it has done in other cases, enforcement will not be an administrative priority prior to a date 12 months from publication of its final statement.

Finally, as Ofcom is aware, Sky does not consider its pay TV service to be an ECS and therefore it is not within scope of the proposed GCs (except insofar as such a service is bundled with an ECS). This response therefore only contemplates compliance in respect of Sky's broadband, mobile and talk services.

1. It is not proportionate for Ofcom to expect operators to have commenced practical implementation of the proposals in the Consultation before publication of its final statement

It would not be legally sound, reasonable or proportionate for Ofcom to expect operators to have commenced practical implementation of the EECC before publication of its final statement given that:

- As a result of the political context regarding Brexit, there has been considerable uncertainty as to whether and how the EECC would be implemented in the UK and when these changes would take effect;
- Such an expectation would be contrary to the requirements of administrative law and a proper consultation process for implementation of the EECC; and
- Operators have already been dedicating significant time and resource to implement other important regulatory obligations, most notably the new requirements for end of contract notifications and annual best tariff information. Premature work on EECC implementation would have put these implementations at risk.

This section considers each of these points in further detail.

There has been significant uncertainty over EECC implementation to date

Since publication of the EECC there has been considerable uncertainty for providers as to whether and how the EECC would be implemented in the UK, and when these changes would take effect.

The EECC was published in the Official Journal of the European Union on 17 December 2018, with Member States required to implement the provisions into domestic law by 21 December 2020. As a Member State of the European Union the UK was therefore subject to this legal obligation.

However, implementation of the EECC into UK law was not a certainty. At the time of publication of the EECC the UK had already voted to leave the European Union in a referendum on 23 June 2016 and formally triggered Article 50 (and a two-year deadline for leaving) on 29 March 2017. The UK was therefore expected to leave the European Union before the deadline to implement the EECC into UK law. It was therefore a possibility that the UK could choose not to implement the EECC into UK law. As a result, the Brexit process created material uncertainty as to whether the UK would implement the EECC.

Despite this uncertainty, the UK Government did not provide a firm view on how Brexit would impact implementation of the EECC. In guidance published on 13 September 2018,² the UK Government said:

*“With regard to the EECC, and in the event of no-deal, the Government **would be minded** to implement, **where appropriate**, its substantive provisions in UK law, on the basis that it would support the UK’s domestic policy objectives. We would intend to implement these provisions according to **a similar timetable to the EU**, subject to UK Parliamentary business.”* (emphasis added)

The political context regarding Brexit changed numerous times. Alongside a change in Prime Minister in July 2019 and a general election in December 2019, there were also three agreements to extend Article 50 in order to delay the UK’s exit date due to difficulties in negotiating and approving the withdrawal agreement. In fact, a firm date for leaving the EU had still not been established by 17 December 2019 when Ofcom published the Consultation on the proposed changes. Paragraph 1.3 of the Consultation acknowledged the ongoing uncertainty:

*“There remains some **uncertainty** over the UK’s future relationship with the European Union. Ofcom takes no view on the means or merits of Brexit. However, we need to consult now on our proposals to introduce the new protections in the EECC. This will enable us to change our rules before the deadline for transposition of the EECC of 21 December 2020 and still allow UK providers sufficient time to implement those changes by then, **should the requirement to transpose Directives still apply to the UK at that time**. If, however, the UK is no longer under an obligation to transpose the EECC, there may nonetheless be aspects of this consultation that we would still pursue.”* (emphasis added)

Furthermore, the Department for Digital, Culture, Media & Sport (“**DCMS**”) published its consultation on the Government’s proposed approach to implementation of the EECC on 16 July 2019³. Although the consultation closed on 10 September 2019, DCMS is **yet to publish** the response and confirm how the relevant elements of the EECC will be transposed into UK law.

It is therefore evident that since publication of the EECC there has been considerable uncertainty for providers as to whether and how the EECC would be implemented in the UK, and when these changes would take effect. In fact, providers are still waiting for certainty given that the DCMS response is outstanding and Ofcom’s final statement is not expected until April-June 2020.

It is not realistic for providers to commence practical implementation for such a project in the midst of uncertainty. Practical implementation requires providers to crystalize requirements and it is simply not sufficient to have a proposed idea of what might be required. Seemingly minor differences in outcomes may require significant development work if they are inconsistent with the underlying architecture of the systems.

² Department for Digital, Culture, Media and Sport, “Guidance: How telecoms businesses will be impacted by the UK leaving the EU”, 13 September 2018.

³ DCMS, “Implementing the European Electronic Communications Code: Consultation”, July 2019.

Ofcom must conduct a valid consultation process

The purpose of the Consultation is for Ofcom to set out some of the main changes that it is proposing to make to its General Conditions and to gather stakeholder comments on these proposals such that it can ensure that its regulation is consistent with its regulatory duties. In accordance with well-established principles of administrative law as well as Ofcom's consultation principles,⁴ it is only after the consultation that Ofcom can make a final determination as to how it should change its General Conditions. Stakeholders are therefore entitled to await Ofcom's decision before considering how to implement changes to their products and services. For the reasons set out below, Ofcom's proposed approach risks invalidating its consultation process.

Ofcom is under an obligation to consider "every representation"

When exercising its powers to set General Conditions under section 45 of the Act, Ofcom must comply with the procedure for setting, modifying and revoking conditions as set out in section 48 of the Act. In particular, section 48A of the Act sets out the requirement for a domestic consultation for section 45 conditions.

Section 48A(3) of the Act states that Ofcom must publish a notification:

- stating that it is proposing to set, modify or revoke the conditions that are specified in the notification;
- setting out the effect of those conditions, modifications or revocations;
- giving reasons for making the proposal; and
- specifying the period within which representations may be made about the proposal.

There is also a specific requirement under section 48A(6)(a) that Ofcom must "**consider every representation** about the proposal made to them during the period specified in the notification".

Therefore, it is not open to Ofcom to proceed upon an implicit or explicit basis that the changes proposed in the December 2019 consultation were final, as it must first consider representations from operators, including on when implementation is possible.

⁴ Ofcom's consultation principles, 09 July 2010. Principle 7 states "We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions."

Administrative law requires that Ofcom not prejudge its consultation

Ofcom's statutory duty to consult under section 48A of the Act is reinforced by general principles of administrative law, including "the *Gunning* principles",⁵ on what constitutes a fair and adequate process. The *Gunning* principles provide that:

- The consultation must be made at a time when proposals are at a formative stage;
- Sufficient reasons for the proposal must be given to allow intelligent consideration and response;
- Adequate time must be given for response; and
- The product of the consultation must be conscientiously taken into account in finalising proposals.

The crux of the first principle is that the decision-maker cannot consult on a decision that it has already made. If the outcome has been pre-determined (and therefore sufficiently certain for providers to begin work on implementation), then the consultation is not only unfair but also pointless.

It is open to Ofcom to consult on a "*preferred option*"⁶ or even a "*decision in principle*", provided that Ofcom is approaching the consultation with an open mind and is willing to reconsider its proposals in light of the consultation process.⁷

If Ofcom proceeds upon an implicit or explicit basis that the changes proposed in the consultation are final, and not subject to further change, regardless of representations, then the consultation would clearly not have been at a time when the proposals were at a 'formative stage' as the outcome would have been pre-determined. The consultation process would therefore be manifestly unfair and invalid.

Conclusion

It would completely undermine the consultation process, contradict Ofcom's consultation principles and make its decision legally unsound if Ofcom proceeded upon an implicit or explicit basis that the changes proposed in the consultation were final, and not subject to change in the light of stakeholder feedback, and Ofcom had expected operators to proceed on the basis that the changes were sufficiently settled at the time of its consultation.

⁵ As put forward by Stephen Sedley QC in argument which were adopted by Hodgson J in *R v Brent London Borough Council, ex parte Gunning* (1985) 84 LGR 168, and endorsed by the Supreme Court in *R (Moseley) v London Borough of Haringey* [2014] UKSC 56.

⁶ See *Nichol v Gateshead Metropolitan Council* (1988) 87 LGR 435.

⁷ See *Royal Brompton & Harefield NHS Foundation Trust v Joint Committee of Primary Care Trusts* [2011] EWHC 2986 (Admin).



It would be unreasonable for Ofcom to expect providers to have begun implementation already due to the resource impact of other important regulatory obligations

Since publication of the EECC, Sky has been involved in other projects that have required significant time and resource in order to implement, most notably the new requirements for end of contract notifications and annual best tariff information.

Ofcom should therefore appreciate that Sky has not had the luxury of spare resource that it could apply towards practical implementation of the proposals in the Consultation. Sky would have had to unnecessarily divert resource away from projects such as end of contract notifications and annual best tariff information as well as non-regulatory but customer-benefiting projects in order to get a 'head start' on practical implementation of the proposals in the Consultation. For example, in 2019 Sky implemented a revised Voluntary Code of Practice on Broadband Speeds and a Voluntary Code of Practice on Automatic Compensation.

For completeness, Sky notes that it is not just regulatory obligations that put a strain on its resources. For example, Sky is currently dedicating resources to ensure service continuity for the benefit of our customers in response to the Covid-19 outbreak. This national crisis could not have been anticipated and is likely to place an unwelcome strain on Sky's resources for the foreseeable future.

Therefore, applying limited resources to as-yet unconfirmed regulatory requirements is clearly an unreasonable expectation and would not have been an appropriate approach for Sky to take.

Conclusion

Ofcom's final statement will be the key milestone that will provide the certainty that providers require in order to commence practical implementation. For the reasons above, it would not be legally sound, reasonable or proportionate for Ofcom to expect operators to have commenced practical implementation of the proposals in the Consultation before publication of its final statement



2. Practical implementation will require 12 months from publication of Ofcom’s final statement

Based on Sky’s experience and assessments as to what would be required were Ofcom’s proposals to be confirmed following the Consultation, Sky estimates that practical implementation will require 12 months from publication of Ofcom’s final statement.

This estimate cannot, of course, take into account the time required for the introduction of obligations to enable cross-platform switching. As Ofcom is already aware, there are a range of possible solutions under consideration and the time required for practical implementation by Sky may be highly variable and will be dependent upon whichever solution is ultimately adopted.

It is also looking increasingly likely that the Covid-19 outbreak will impact Sky’s estimated timeline for practical implementation. The Covid-19 outbreak has already placed an unwelcome strain on Sky’s resources, and this is likely to continue for the foreseeable future as we take necessary measures to ensure service continuity for the benefit of our customers.

Time allowed for practical implementation

The following table sets out how long Ofcom has allowed operators for practical implementation in previous instances of imposing new requirements on operators:

Requirement	Time allowed for practical implementation (i.e. between publication of Ofcom’s final statement and the implementation date)
Voluntary Code of Practice on Automatic Compensation (10 November 2017)	15 months
Voluntary Code of Practice on Broadband Speeds (1 March 2018)	12 months
End of contract notifications and annual best tariff information (15 May 2019)	9 months
Proposals set out in Ofcom’s Consultation	7-9 months (proposed)

As can be seen from this table, Ofcom’s is proposing to allow operators less time for practical implementation of the changes proposed in the Consultation than these other three examples.

This is highly surprising given that Ofcom is not just proposing one or two changes but several substantial changes that providers must implement in parallel and which

will need to be carefully designed and implemented in order to ensure that each change does not impact the other.



■ [Redacted]

■ [Redacted]



With important points such as the precise level of personalisation required in Contract Summaries, clearer definitions needed to distinguish impacted and non-impacted business customers and uncertainty over the treatment of *de minimis* links between products or changes to contracts discussed below, the need to complete the consultation process before the build phase can start is clear.

In particular, Ofcom must understand that seemingly minor differences in required outcomes may require very different technical architectures and significant development work if they are inconsistent with the underlying architecture of current systems.

How Sky implements changes

To help Ofcom understand why Sky estimates that practical implementation will require 12 months, this section provides an explanation of the two key phases in the timeline for practical implementation of new requirements.

Scoping and shaping phase

The first step in practical implementation of new requirements is the scoping and shaping phase. This phase involves:

- Considering and interpreting the new requirements from a legal and compliance perspective;



- Discussing these new requirements with the business and developing a set of high-level expectations; and
- Using these high-level expectations to gather a detailed set of requirements. For example, preparing comparisons of current processes against anticipated future processes.

Implementation phase

Once the detailed set of requirements has been finalised during the scoping and shaping phase, the implementation phase can commence. The implementation phase involves a number of sets, depending on the complexity requirements. For example:

- Conducting impact assessments in relation to our: (i) technology solutions; (ii) systems; (iii) digital journeys; and (iv) estate (including call centres) in order to understand what changes are required;
- The physical IT build, which involves developing new functionality and adapting existing functionality to meet the new regulatory requirements;
- Updating our customer communications;
- Updating our internal reporting;
- Conducting operational training (e.g. ensuring our customer advisors have received the necessary learning, development and support in relation to the new requirements); and
- Testing to ensure that everything identified during the scoping and shaping stage has been correctly built and implemented.

It is important to appreciate that the cost and level of complexity required for a change can increase significantly for a large operator such as Sky. For example, when considering implementation of the pre-contract information requirement, whereas some operators may only have to consider the impact on one or two channels for prospects and existing customers (e.g. online only), a large operator such as Sky has as many as nine channels to consider.

[Redacted text block]

[Redacted text block]

[Redacted text block]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

Meeting with Ofcom

This section has provided a very brief introduction to the steps involved in practical implementation. Sky has a number of technical experts with a wealth of experience in implementing substantial changes throughout Sky's business in response to regulatory requirements. Sky would welcome the opportunity to meet with Ofcom, together with these technical experts, in order to provide a more detailed explanation of the steps involved during practical implementation and the particular challenges that Sky will undoubtedly encounter when implementing Ofcom's proposed changes in the Consultation. Sky believes that such a discussion, with the opportunity for our technical experts to present and for Ofcom to ask questions, will be enlightening and will provide Ofcom with a stronger foundation for determining what is a realistic implementation date.

Sky would also encourage Ofcom to engage in similar meetings with other operators to ensure that Ofcom has a clearer picture of the challenges facing the industry. This will then allow Ofcom to accurately advise the UK Government on when implementation of the EECC (or similar domestic rules) will be possible and work with the UK Government to ensure that a realistic implementation date is set.

Conclusion

Sky's current estimate is that assuming they are adopted in the current form, the proposed changes will take 12 months from publication of Ofcom's final statement to implement. This estimate does not take into account the time required for the introduction of obligations to enable cross-platform switching and also assumes no material impact from Covid-19 on the same human and technical resources required for implementation of the new General Conditions.

3. Ofcom must delay implementation of the EECC

Ofcom's proposed implementation date only allows operators 7-9 months for practical implementation

The Consultation suggests that the final statement will not be published until April-June 2020. Ofcom will only be allowing providers 7-9 months (which in practice would be 7 or 8 months at best given Ofcom's need to consider responses) from publication of the final statement to design, plan and implement the necessary changes. Despite failing to conduct proper impact assessments for the proposed changes (as explained below), Ofcom nevertheless believes that providers will have "sufficient time" to implement the necessary changes by 21 December 2020.¹⁰

Sky is certain that 7-9 months from publication of Ofcom's final statement would not be sufficient time for it to implement the measures. As explained above, Sky's current estimate is that the proposed changes (excluding the introduction of obligations to enable cross-platform switching) will take 12 months from publication of Ofcom's final statement to implement.

Ofcom's role in advising the UK Government on the implementation date

The EECC imposes a requirement on Member States to implement its provisions into domestic law. In the UK, it is the Department for Digital, Culture, Media & Sport that has been tasked with reaching a decision on how the UK will transpose the EECC into UK law. Ofcom has been tasked with making the necessary changes to its rules in order to implement elements of the EECC.

In the DCMS consultation on implementation of the EECC,¹¹ it noted that many of the proposed rules could be introduced under Ofcom's existing powers to introduce General Conditions:

"Ofcom's existing power to set general conditions are sufficient to enable it to implement a large part of new provisions set out in the EECC's end-user rights articles, including articles 98, 101-106 108, 109, 111, 112 and 115 (a significant proportion of the provisions set out in the end-user rights elements are already reflected in Ofcom's general conditions)."

This means that these parts of the EECC can be implemented without requiring EECC transposition into UK law prior to 21 December.

Therefore, Ofcom, as the UK's communications regulator, should be proactively engaging with the businesses that it regulates to understand how long practical implementation of its proposed changes will take. Ofcom should then advise the UK Government on when implementation of the new General Conditions will realistically be possible and work with the UK Government to ensure that a realistic implementation date is set. This would allow Ofcom discretion to consider which consumer protection measures in the EECC are desirable, even if this would result in

¹⁰ Paragraph 1.3 of the Consultation.

¹¹ DCMS, "Implementing the European Electronic Communications Code: Consultation", July 2019, at page 23.

the UK Government being in technical breach for the period of 11 days, namely the period between EECC implementation and the UK leaving the European Union. It is highly unlikely that the EC would take infraction proceedings against a non-member states in such circumstances, particularly where implementation is merely delayed, and for genuine and legitimate practical reasons. In any event, this should, and would be a decision for the UK Government, not Ofcom.

Given the specific circumstances described above and faced with evidence from operators that 7-9 months is insufficient to implement the proposed changes, legally Ofcom cannot simply accept the implementation deadline set out in the EECC.

Ofcom must consider the potential for consumer harm if providers are not given sufficient time for practical implementation

Sky is certain that 7-9 months from publication of Ofcom's final statement is not sufficient to implement the changes in a manner that guarantees a successful outcome for its customers. Ofcom's proposed implementation date would therefore force providers to try and implement the changes without sufficient time, which would risk material consumer harm as a result of:

- compromised implementation; and
- loss of other pro-consumer initiatives.

Each of these is discussed in further detail below.

Compromised implementation

If providers are permitted sufficient time to implement the changes, then they will be able to adequately plan and implement the best overall solutions. However, if this is not the case, providers will have to focus exclusively on solutions that allow them to meet the implementation deadline and avoid the adverse consequences of enforcement action, rather than focusing on the best overall solution.

For example, providers will:

- Have inadequate time during the scoping and shaping phase – meaning that good options could be missed. Furthermore, they may need to choose between options based on what is possible within the time available meaning that the best overall solution may not be adopted; and
- Have inadequate time during the implementation phase – meaning that there could be issues with the solution which could result in consumer harm until the issues are remedied.

Loss or delay of other pro-consumer initiatives

Sky uses development roadmaps to plan ahead for projects (such as the practical implementation of the proposals set out in the Consultation) and ensure that its resources are used in an efficient manner. Significant work goes into planning and finalising these development roadmaps and the it is very difficult to make last

minute additions to these development roadmaps. Such action would necessitate removing or delaying existing projects in order to free up resources.

Requiring Sky to implement the proposals in too short a period would disrupt Sky's development roadmaps, resulting in the removal or delay of other projects that would have benefited consumers.

Ofcom's risks breaching its statutory duties if it proceeds with its proposed implementation date

Ofcom would breach its statutory duties if it proceeds with its proposed implementation date on the basis that:

- Ofcom's consultation is due to conclude only 7-9 months from the EECC implementation date;
- Sky is certain that 7-9 months from publication of Ofcom's final statement would not be sufficient time for it to implement the measures;
- Sky estimates that it will require 12 months from publication of Ofcom's final statement to make the necessary changes (excluding the introduction of obligations to enable cross-platform switching); and
- As explained above, it is not proportionate for Ofcom to expect operators to have commenced practical implementation of the proposals in the Consultation prior to publication of its final statement.

Section 3(1) of the Act states that it shall be Ofcom's principal duty, in carrying out its functions:

- to further the interests of citizens in relation to communication matters; and
- to further the interests of consumers in relevant markets, where appropriate by promoting competition.

In performing its duties under section 3(1) of the Act, Ofcom is required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, as well as any other principles appearing to Ofcom to represent best regulatory practice (section 3(3) of the Act).

In light of everything above, it would clearly not be proportionate nor represent best regulatory practice for Ofcom to ignore these factors and proceed with introduction of the new General Conditions by 21 December 2020.

Finally, in light of the Brexit process and the fact that the UK will leave the EU within days of the proposed implementation date, Ofcom must consider whether its proposals would involve the imposition of burdens which are unnecessary, in breach of Section 6(1)(a) of the Act.

Ofcom must delay implementation of the EECC

Assuming no material impact on the same human and technical resources required for implementation of the new General Conditions from cross-platform switching work and from Covid-19, Ofcom must delay implementation for 12 months from publication of its final statement to allow Sky and other providers sufficient time to implement the necessary changes.

In practice, this means that Ofcom must not publish the updated General Conditions or the new guidance until 12 months from publication of its final statement and this estimate will need to be reviewed once the impact of Covid-19 and cross-platform switching are better known.

Sky recognises that, strictly speaking and as a matter of EU law, EECC implementation is required by 21 December 2020. To resolve the tension between this obligation on the one hand and the requirements of UK administrative law and Ofcom's UK statutory duties on the other, instead of pressing on blindly with an unrealistically short implementation period, Sky believes Ofcom should use the information provided by all stakeholders in response to this Consultation to understand how long practical implementation of its proposed changes will actually take. Ofcom should then advise the UK Government on when implementation of the new General Conditions will be possible and work with the UK Government to ensure that a realistic implementation date is set. This would allow Ofcom discretion to consider which consumer protection measures in the EECC are desirable, even if this would result in the UK Government being in technical breach of EU law for the space of 11 days, namely the period between the formal EECC implementation date and the UK leaving the European Union.

If Ofcom does not allow providers sufficient time then Ofcom risks breaching its statutory duties under sections 3(1) and 6(1)(a) of the Act.

Fall back

As a fall back, Ofcom should make a clear statement that it will not take enforcement action until a date 12 months from publication of its final statement.

In practice, this means that Ofcom could publish its updated General Conditions and the new guidance from 21 December 2020, provided that Ofcom makes clear in its final statement that Ofcom will not take enforcement action until a date 12 months from publication of its final statement.

This would give providers comfort that, despite the unachievable implementation date, they nevertheless have sufficient time to properly implement the changes. Ofcom must recognise that where a provider is making reasonable efforts to implement the relevant proposals within a reasonable timeframe, but beyond the implementation date, there would be no benefit to consumers in Ofcom taking enforcement action against such a provider.

Last resort

As an absolute last resort, Ofcom should make a clear statement that enforcement action will not be an administrative priority for 12 months from publication of its final statement.

In practice, this means that could publish its updated General Conditions and the new guidance from 21 December 2020, provided that Ofcom makes clear in its final statement that enforcement will not be an administrative priority prior to a date 12 months from publication of its final statement.

There is precedent for Ofcom confirming that enforcement of a General Condition would not be an administrative priority. For example, in relation to General Condition A1.3 (previously General Condition 1.2) Ofcom has previously written:

*“Insofar as it does apply to reactive save activity generally, **we do not plan to make the enforcement of General Condition 1.2 an administrative priority.** This reflects our priorities in light of the evidence referred to above and the way our proposed options for switching reform would operate to balance the interests of different consumers and providers.”¹² (emphasis added)*

It should therefore be open to Ofcom to take a similar approach for enforcement of the new General Conditions.

This approach would not give providers as much certainty as delaying implementation, but it would still give providers some comfort and lower the risk of material consumer harm from rushed implementation.

¹² Ofcom, “Making switching easier and more reliable for consumers: Proposals to reform landline, broadband and pay TV switching between different platforms”, 29 July 2016, at paragraph 4.44.

4. Ofcom has failed to conduct appropriate impact assessments for the proposed changes

Ofcom's duties and guidance

Ofcom has a duty under section 7 of the Act to carry out impact assessments for "important" proposals. The proposals in the Consultation are undoubtedly "important" given that implementation will have a "significant impact" (section 7(2)(a)) on Sky's and other providers' businesses. Operationally, the proposed changes will impact the contracting process for all customers and the exit rights for all customers. Strategically, the proposed changes will require significant cost and resource to implement and will impact Sky's existing development roadmaps.

Ofcom's guidance on Better Policy Making¹³ states that:

- an impact assessment should be "a core part of the policymaking process, not a bureaucratic add-on" (1.6); and
- "a decision which is likely to have a wide-ranging impact and/or impose substantial costs on stakeholders will have a more comprehensive Impact Assessment than a decision which will have a less significant impact" (paragraph 1.7).

Section 7(5) of the Act provides that an impact assessment may take such form and relate to such matters as Ofcom considers appropriate. Ofcom's Better Policy Making guidance states more specifically that an impact assessment will generally:

- identify the impacts of each option on the interests of particular groups of stakeholders;
- identify any impacts which each option would have on competition;
- identify and, where possible, quantify the costs and benefits flowing from the impacts which each option would have; and
- assess the key risks associated with each option (paragraph 2.1).

Ofcom has failed to comply with its duties

Although the Consultation briefly considers the impact of each proposal, these assessments are not sufficient to satisfy Ofcom's statutory duty under section 7 of the Act. In fact, Ofcom's assessments are shockingly brief for such substantial proposals and at odds with paragraph 1.7 of its guidance on Better Policy Making which states that "a decision which is likely to have a wide-ranging impact and/or impose substantial costs on stakeholders will have **a more comprehensive Impact Assessment**" (emphasis added).

¹³ Ofcom, "Better policy making: Ofcom's approach to Impact Assessments", 21 July 2005.

Ofcom has not quantified the costs of each proposal and instead has made vague assumptions. For example:

- In the section on “Helping customers manage their use of communications services” Ofcom simply states that: “[w]e do not expect the changes we are proposing here to have a significant impact on providers” (paragraph 4.77) and “[w]e do not expect the inclusion of information on charges in the notification to significantly increase costs for providers” (paragraph 4.78); and
- In the section on “Extending contract duration when adding a service or equipment” Ofcom states that: “We expect the impact on providers to be small. In particular, we would expect providers to already be taking all necessary steps to ensure that their customers are making informed decisions, which would include expressly agreeing to any extension of their contractual period. To the extent that they do not already do so, then any additional safeguards that may be required will be an important protection for consumers and we expect providers to be able to incorporate them into their existing processes at a low cost” (paragraph 6.45).

The only proposal where Ofcom has attempted to quantify costs is the proposal to ban mobile providers from selling “locked devices”.

Ofcom’s failure to quantify the costs in the Consultation is at odds with paragraph 2.1 of its guidance on Better Policy Making which states that an impact assessment will generally: “identify and, where possible, quantify the costs and benefits flowing from the impacts which each option would have”. Ofcom is in breach of its duty under section 7 of the Act to carry out an impact assessment for the proposals.

The fact that Ofcom has not conducted a proper impact assessment likely explains why Ofcom has proposed an implementation date that Sky, and likely other providers, cannot meet. This is because without a proper impact assessment Ofcom will not have been aware of how difficult it will be for providers to implement the proposed changes in 7-9 months. In light of this, it would be wholly unreasonable, and a breach of Ofcom’s duties under the Act, to implement the proposals and/or take enforcement action until providers have had sufficient time to implement the proposed changes.

5. Sky's comments on Ofcom's proposed amendments to the General Conditions

As Sky has consistently argued in previous submissions to Ofcom,¹⁴ Sky's pay TV service is not an ECS as: (i) it is a content service; and/or (ii) it does not have as its "principal feature" nor does it consist "wholly or mainly" in the conveyance of signals, as required under UK and EU legislation. Accordingly, Sky's pay TV service is not within scope of the proposed General Conditions (except insofar as it is bundled with an ECS). This response therefore only contemplates compliance in respect of Sky's broadband, mobile and talk services.

Provision of information to customers about their services

Section 4 of the Consultation outlines Ofcom's proposals for implementing the requirements in Article 102 of the EECC.

Timing

To implement Article 102(1) of the EECC, Ofcom is proposing to add a requirement for specified contract information to be provided before the customer is bound by the contract, on a durable medium and at a time that reasonably allows the customer to make an informed decision about entering into the contract.

Sky welcomes the fact that Ofcom appears to acknowledge that the requirement to provide contract information can be met by providing the customer with contract information in durable form **during** a sales call, via an online account or by email, and can then offer the customer the opportunity to confirm that they wish to proceed on the call or to do so later.

However, the requirement to provide the contract information before the customer is bound by the contract means that customers buying voice services may be required to engage with their provider a second time in order to confirm their agreement rather than being able to conclude the purchase in a single call. This is unnecessary given that customers are already protected by extensive cooling-off rights if they subsequently decide not to proceed, including after having received further information during the sales process. All customers, including those who cannot receive information in a durable form during the call, should therefore be given the opportunity to confirm they wish to proceed on the call without an additional step being imposed on them that obliges the customer to re-contact the provider to confirm they wish to proceed.

Information overload

Sky understands that Ofcom is looking at ways to increase consumer engagement and has previously acknowledged that "*information overload*" may occur if

¹⁴ For example, Sky's responses to Ofcom's consultations on end of contract and best tariff information notifications, dated July and December 2018 and Ofcom's consultation on "Making switching easier and more reliable for consumers", dated July 2016.

customers have too much information to make an effective decision.¹⁵ The contract information which providers would be required to give customers under Ofcom's proposals is contrary to this "*consumer engagement*" objective. Giving customers additional, and lengthier, communications is unlikely to result in greater consumer engagement. It is more likely to have the opposite effect. Much of this information will be irrelevant to customers' transactional decisions (as explained below) and/or will duplicate the information already (or about to be) given to them by providers during the customer journey. Lengthy, irrelevant and repetitious information will likely result in frustration and disengagement, as well as risking the customer not completing the purchase journey and acquiring the services they want.

Ofcom has sought to extend the volume of information which providers are expected to provide to their customers through its guidance. For example, the guidance includes the requirement that customers should be told what the expected core subscription price might be at the end of the minimum term. This information is unlikely to be relevant or accurate at the time of the actual expiry of the minimum term (which could be as much as two years later and subject to several intervening price changes) and is much more likely to confuse customers or discourage them from engaging with the information. Given the ability to switch after the minimum term, it is not a relevant factor in customer decision-making at the time of purchase.

For providers who use inflation measures for price increases, Ofcom's guidance requires providers to explain and give examples of the effect of inflation on future prices. This will likely result in many customers choosing not to engage with the information.

Ofcom's guidance requires providers to explain the effect of non-coterminous linked contracts, including what happens if the customer cancels one contract but not the other. This may result in copious information being given to customers to deal with what could be minor differences in contract end dates stemming from the date of activation of each product within a bundle.

Ofcom's proposal would require providers to provide the following types of incidental information which are unlikely to be of interest to customers at the point of purchase:

- information on the type of actions that might be taken by their provider in response to security incidents, threats or vulnerabilities; and
- information about complaints handling, dispute resolution and rights to refunds for prepaid services in the event of switching.

The provision of such information should not be mandated by Ofcom.

Overall, Sky believes that Ofcom's proposal to require the provision of both a contract summary *and* contract information before the customer is bound by the contract increases the likelihood of 'information overload' and is unlikely to benefit to customers. Many customers will find this amount of information and level of

¹⁵ Ofcom, "Online market failures and harms: An economic perspective on the challenges and opportunities in regulating online services", 28 October 2019, at paragraph 3.13.

detail to be a distraction from the most important information and may result in many deciding not to engage with this information at all. Providers know how best to communicate with their customers in a way which will drive engagement and providers should therefore be given the flexibility to decide how to do this in accordance with current consumer protection laws such as the Consumer Contract (Information, Cancellation and Additional Charges) Regulations 2013, rather than being required to use a generic template.

Ofcom requires the contract information to be provided in a durable medium. In A6.8 of Annex 6 Ofcom gives a personalised downloadable pdf as an example of a durable medium. However, in A6.9 Ofcom refers to a provider making the contract information available via a downloadable document and gives the example of “a non-personalised pdf”. It would be helpful to understand how Ofcom envisages a non-personalised pdf as being capable of meeting the requirements for personalised information.

Consent to changes to contractual information

The requirement that changes to the contract information and contract summary must be expressly agreed by the customer will impose additional steps in the purchase journey which will add to issues of ‘information overload’, produce a worse customer experience and could, in some cases, result in services not being provided until changes have been agreed.

For example, the service activation date may not be available at the time when the contractual information must be provided to the customer and may not be confirmed until Openreach has confirmed the date. If express agreement to the start date is needed before the service can be provided, unless the provider is prepared to supply the service without the customer being bound, the customer would be required to engage again with the provider and confirm their agreement to the date. This means that a customer who does not respond or overlooks the request (something reasonably foreseeable given the plethora of information being provided to the customer) may find themselves in limbo waiting for supply because they wrongly believe that no further action is needed by them.

Similarly, Ofcom cannot reasonably expect customers to welcome being asked to expressly agree to minor changes such as a change in the identity of the provider’s ADR provider and the concurrent risks that brings of what happens if the customer does not respond to the request for express agreement.

Sky would welcome Ofcom’s views as to how it envisages express agreement to changes to the contract information and contract summary working in practice so that providers are not put in an invidious position of having to supply on the basis of a customer contract which may not be fully enforceable or having to take intrusive measures to gain the customer’s engagement to consider and agree to the change.

Costs

The requirement to provide such a detailed level of personalised information (in some cases on a real time basis) is an immense undertaking for providers with costs which will ultimately be passed on to customers in one way or another. Ofcom has not adequately considered this in its impact assessment.

Publication of information and provision of data to third parties

Section 5 of the Consultation sets out Ofcom's proposals for implementing the requirements of Article 103 and Article 104 of the EECC.

In Sky's experience, the additional information which providers will be required to publish about their products and services is unlikely to provide a material benefit to customers. Sky also has concerns over the additional costs of maintaining such information. Ofcom should allow providers to provide this information on a website for those customers who wish to access it, rather than having to provide it directly to all customers and increasing the likelihood of information overload.

Ofcom's proposed General Condition C2.4 states that "*Regulated Providers shall, upon request, provide Ofcom with the information listed in Condition C2.3 ahead of publication*". Firstly, it is unclear how Ofcom would know that the information listed in Condition C2.3 is about to be published in order to request it "ahead of publication". Secondly, Condition C2.4 suggests that approval prior to publication might be required, which would be at odds with the permissive nature of the General Conditions regime. Ofcom should confirm that this is not the intention.

Contract duration and termination

Section 6 of the Consultation sets out Ofcom's proposals for implementing the requirements of Article 105 and Article 107 of the EECC.

Requirement to offer a contract with a 12 months term

Sky welcomes that Ofcom appears to be satisfied with how providers currently interpret the requirement to offer a 12 month contract including the wide divergence in the approach taken by providers.

Bundles

Ofcom is proposing a significant extension of regulation by applying a broader definition of a "bundle", which would apply regardless of whether the bundled product is an electronic communications service.

The definition of "linkage" means that some customers may be surprised to discover that they have subscribed to a bundle merely because of a minor and inconsequential linkage which may not have played any part in the customer's transactional decision. This will result in those customers receiving communications about bundles when they may have little or no idea that the products they have taken are deemed to be a bundle.

This also has an impact on end of contract notifications as it means that a customer who made two separate transactional decisions will receive best tariffs for a bundle even though it would be more useful for that customer to receive separate best tariffs to reflect their separate transactional decisions.

Ofcom should produce clearer guidance on what constitutes a bundle and introduce a materiality threshold to deal with minor linkages and connections between products. This is necessary to give customers and providers more

certainty about what constitutes a bundle. This is especially important given the significant practical consequences which flow from products being categorised as a “bundle”, such as inclusion in switching processes and cross-termination rights and the ensuing high risk of unintended adverse consequences for customers.

Right to exit following contractual changes or if a contract rolls over

It is regrettable that Ofcom is removing the current “material detriment” threshold for contractual changes. This threshold has worked well and struck the right balance between protecting customers’ rights and not over-burdening them with regular notifications of minor changes.

We note that Ofcom is proposing in General Condition C1.15 that customers should be allowed to terminate the contract which is changing “*and/or any contract(s) forming part of a Bundle*”. This appears to suggest that a customer could choose to keep an element of a bundle even if that element is not available separately to new customers. As a result, providers would be required to make significant systems and product changes to accommodate it. For example, if a provider only offers voice and broadband as a bundle but provides them under separate contracts, the provider should not be required to create a new broadband-only product in order to be able to allow a customer to cancel their voice service only. Ofcom should confirm that providers would not be required to create new products in this way.

General Condition C1.15 indicates that the exception to the requirement to notify a change requires all three elements to be satisfied: “[...] unless the proposed modification is exclusively to the benefit of that Relevant Customer, is of a purely administrative nature and has no negative effect on the Relevant Customer [...]”. If these elements were cumulative then the addition of a significant new benefit which is not purely administrative would trigger a right to exit. Ofcom should therefore confirm that these elements are not cumulative.

Ofcom proposes in General Conditions C1.15 and C1.22 that customers have “one month” in which to terminate their contract. However, “one month” can vary between 28 and 31 days and is therefore more complicated to implement from a systems-perspective than, for example, 31 days. Ofcom should therefore specify a 30 or 31 day period rather than “one month”.

Switching and porting

Section 7 of the Consultation sets out Ofcom’s proposals for implementing the requirements of Article 106 and Article 107 of the EECC.

Sky is unable to comment meaningfully on these proposals in the absence of clarity as to what the underlying switching process is. However, Sky notes that: (i) implementation by 21 December 2020 is unrealistic and; (ii) Ofcom should have conducted a thorough impact assessment to ensure that such a significant decision is the correct one having regard to the costs of implementation and the very real possibility that an unnecessary switching process risks making matters worse for customers.

Disincentives to switch: mobile device locking

Sky supports Option 1 which reflects Sky's own practice of not locking handsets. Option 1 also rightly acknowledges that concerns such as tackling fraud and bad debt can be addressed by other means.

Disincentives to switch: non-coterminous linked contracts

The Consultation suggests in paragraph 9.12 that its primary concern with non-coterminous contracts and when they could constitute a disincentive to switch is with mobile services and, in particular, different end dates for contracts for airtime and mobile handsets. Ofcom should either limit its guidance to measures which address its specific concerns about mobile contracts or provide more specific examples of its concerns in the guidance in order to avoid the risk of unintended consequences in other sectors.

Ofcom should clearly explain in the guidance why the benefits of non-coterminous contracts are merely "mitigating factors". In the absence of an explanation, a provider offering non-coterminous contracts which benefit customers should not have to accept that such benefits are only "mitigating factors" when at risk of breaching the provision against disincentives to switch.

Ofcom should consider the effects of non-coterminous contracts and, in particular, the effects and unintended consequences which may result from its overly negative approach to them. For example, a provider should be permitted to allow a customer to choose to take product A with a 12 month contract and product B with an 18 month contract on the same day in full knowledge of the minor consequences of having different contracts (without the provider being in breach of the provision against disincentives to switch). Sky notes that this particular issue is a consequence of the definition of a bundle being too broad and catching minor linkages.

Given the need for providers to recover their costs, it is likely that any harmonising of contract end dates will result in an increase in the length of minimum terms.

End of contract notifications

The EECC is maximum harmonisation which means Ofcom cannot impose requirements which go further than the EECC. Ofcom has misinterpreted Article 105(3) on "automatic prolongation" and is proposing requirements which go significantly further than those in the EECC by requiring end of contract notifications to be sent when a minimum term ends and service continues to be provided under a rolling contract with a month's notice period rather than where a minimum term is automatically prolonged with a new minimum term as envisaged by the EECC.

Article 105(3) requires providers to send an end of contact notification if a contract for electronic communications services is automatically prolonged. Ofcom has interpreted this to mean if a provider continues to supply the service on a rolling basis after expiry of the minimum term. This is not the correct interpretation as end of contract notifications under Article 105(3) are clearly intended to apply only to

the automatic prolongation of a minimum term contract with a new minimum term and not the mere continuation of supply subject to a rolling month's minimum term.

In particular, Article 105(3) states that if a contract is automatically prolonged end-users must be "entitled to terminate the contract at any time with a maximum one-month notice period" which can only sensibly be interpreted to mean that automatic prolongation and a month's rolling notice period are two different things. It should also be noted that Article 105(3) begins with "*Where a contract or national law provides for automatic prolongation*" which suggests that not all member states would permit this. This would be a very odd way of describing a customer continuing to receive service after expiry of a minimum term on a rolling notice period which must be the most widespread and consumer-friendly way of dealing with the expiry of a contract compared with the alternative of service being stopped unless the customer takes a positive action. Article 105(3) is therefore clearly referring to the automatic prolongation of a minimum term contract with a new minimum term.

This means that Ofcom's current interpretation of General Condition C1.10 as reflected in its guidance is inconsistent with the EECC. Given that the EECC is a measure of maximum harmonisation, if the EECC rules are brought in via transposition into UK law before 21 December 2020, this General Condition will need to be narrowed and the guidance re-issued. This will result in additional work being needed by providers which Ofcom has not taken into account when considering the time needed for implementation.

Start date

The new rules should only apply to those products which a customer buys or enters into a new contract for after the implementation date.

This would enable providers to ensure that: (i) customers' expectations are managed so that customers know with a reasonable degree of certainty whether or not they have bought a bundle; and (ii) providers do not add to the complexity and information overload by having to explain to existing customers why some things are changing.

6. Annex 1 – Sky’s responses to Ofcom’s questions on the Consultation

Question 1: Do you agree with our proposed changes and additions to the defined terms used in the GCs in order to align with the EECC, as set out in Annex 11?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions”.

Question 2: Do you agree with our proposed changes to the GCs to implement Article 102, as set out at Annexes 11 and 16?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Provision of information to customers about their services”.

Question 3: Do you agree with our proposed guidance in Annex 6 on our expectations for how providers should comply with the provision of contract information and the contract summary?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Provision of information to customers about their services”.

Question 4: Do you agree with our proposed changes to the GCs to implement Article 103 and our proposed approach to implementing Article 104, as set out in Annex 11?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Publication of information and provision of data to third parties”.

Question 5: Do you agree with our proposed changes to the GCs to implement the requirements in Article 105, as set out in Annex 12?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Contract duration and termination”.

Question 6: Do you agree with our proposed changes to the existing guidance as summarised here and set out in Annex 7?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Contract duration and termination”.

Question 7: Do you support our proposals to introduce (a) new general switching requirements for all types of switches for residential and business customers and (b) specific switching requirements on information, consent, compensation and notice period charges for residential customers?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Switching and porting”.

Question 8: Do you support our proposed guidance in Annex 8 on compensation for residential customers?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Switching and porting”.

Question 9: Do you agree with our assessment that device locking can deter customers from switching and cause customer harm?

Sky has not responded to this question in this response.

Question 10: Do you agree with our assessment of the effectiveness in reducing the consumer harm that can result from device locking and the impact on providers of Options 1 and 2?

Sky has not responded to this question in this response.

Question 11: Do you agree with our proposal to prohibit the sale of locked mobile devices?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Disincentives to switch: mobile device locking”.

Question 12: Do you agree that we should protect customers by issuing guidance on our proposed approach when considering the case for enforcement action against non-coterminous linked contracts?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Disincentives to switch: non-coterminous linked contracts”.

Question 13: Do you agree with our proposed guidance in Annex 9 which sets out our proposed approach to assessing whether certain types of non-coterminous linked contracts are likely to act as a disincentive to switch?

See “5. Sky’s comments on Ofcom’s proposed amendments to the General Conditions” – “Disincentives to switch: non-coterminous linked contracts”.

Question 14: Do you agree with our proposal to mandate emergency video relay for emergency communications to be accessed by end-users who use BSL?

Sky has not responded to this question in this response.

Question 15: Do you agree with our proposal that the obligation to provide emergency video relay free to end-users should be imposed on regulated firms that provide internet access services or number-based interpersonal communications services?

Sky has not responded to this question in this response.

Question 16: Do you have any comments on our proposed approval criteria for emergency video relay services, or the proposed approval process?

Sky has not responded to this question in this response.

Question 17: Do you agree with our proposal to a) extend the current requirement to cover the other specified communications i.e. any communication (except marketing) that relates to a customer's communication service, and b) extend the GC so that any customer who cannot access communications due to their disability should also benefit from accessible formats? When answering please provide evidence of any benefits or costs.

Sky has not responded to this question in this response.

Question 18: Do you agree that implementation by December 2020 is reasonable?

See:

- "1. It is not proportionate for Ofcom to expect operators to have commenced practical implementation of the proposals in the Consultation before publication of its final statement";
- "2. Practical implementation will require 12 months from publication of Ofcom's final statement"; and
- "3. Ofcom must delay implementation of the EECC".



Question 19: Do you agree with our proposed changes for implementing the requirements in Article 108 and Article 109 to reflect the differences between these EEC provisions and their predecessors in the Universal Service Directive?

Sky has not responded to this question in this response.