

# **Proposal to apply Code Powers to Cambridge Fibre Networks Ltd**

Statutory notification under section 107(6) of the Communications Act 2003

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**CONSULTATION:**

Publication Date: 24 November 2017

Closing Date for Responses: 29 December 2017

# About this document

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The grant of Code powers is intended to assist persons that provide an electronic communications network and/or system of conduits. In particular, persons with Code powers may:

- construct and maintain infrastructure on public land (streets) without needing to obtain a specific street works licence to do so;
- benefit from certain immunities from the Town and Country Planning legislation; and
- apply to the Court in order to obtain rights to execute works on private land in the event that agreement cannot be reached with the owner of that land.

Ofcom considers applications for the grant of Code powers from providers of electronic communications networks and providers of conduit systems (or both) with reference to the matters set out in section 107(4) of the Communications Act 2003 (the “Act”).

As such, Ofcom has reviewed an application for Code powers submitted by Cambridge Fibre Networks Ltd and this document sets out a summary of the contents of that application, as well as Ofcom’s proposal to grant Code powers in favour of Cambridge Fibre Networks Ltd.

Ofcom will consider any responses to this consultation before deciding whether or not to make a direction, under section 106(3) of the Act, applying the Code to Cambridge Fibre Networks Ltd.

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# 1. Summary

## Proposed application and terms

- 1.1 We are proposing to apply the electronic communications code set out in Schedule 2 to the Telecommunications Act 1984 as amended (the “Code”) on terms proposed in this consultation to Cambridge Fibre Networks Ltd, whose registered company number is 10542520 (the “Applicant”). Further background about the Code (including the procedure that applies in this context) is set out in Section 2 of this document.
- 1.2 The reasons for our proposal are set out in Section 3 of this document and our draft direction applying the Code to the Applicant is set out in Annex 4 to this document.
- 1.3 The closing date for responses is 29 December 2017 and stakeholders wishing to respond are directed to Annex 1 for information on how to respond to this consultation.

## Proposed application and terms

- 1.4 The only purpose for which the Code may be applied in a person’s case are:
  - 1.4.1 the purposes of the provision of an electronic communications network; or
  - 1.4.2 the purposes of the provision of a system of conduits which he 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.
- 1.5 The Applicant has explained they are currently recognised as a fully fledged ISP that offers its customers various internet type services. Their plan is now to construct an electronic communications network, that will allow them to provide electronic communication and next generation type services to both wholesale and retail customers.
- 1.6 The Fibre network will consist of conduits, fibre optic cable, switches and routers as well as the need to install some equipment at the customers premises. The Applicant will also take advantage where available of using other operator’s networks, including using Openreach’s Physical Infrastructure Access (PIA) product which will help to extend its network to less well connected areas.
- 1.7 Having considered the Applicant’s application for Code powers, we propose that the Code should have effect in its case for the provision by the Applicant of its electronic communications network and secondly, the provision by the Applicant of a system of conduits which the Applicant is making available, or proposing to make available, for use by providers of electronic communications in the United Kingdom.
- 1.8 We consider that this proposal is appropriate having regard to the matters set out in section 107(4) of the Communications Act 2003 (the “Act”). We consider that the performance of our statutory duties in sections 3 and 4 of that Act would be secured and furthered in relation to this proposal.

- 1.9 We will consider any responses we may receive by the closing date before making our decision as to whether we should give a direction applying the Code to the Applicant.

## 2. Background

### The Code

- 2.1 The Code is designed to facilitate the installation and maintenance of electronic communications networks.<sup>1</sup> It confers rights on providers of such networks and on providers of systems of conduits which are made available for use by providers of electronic communications networks for the purposes of the provision of those networks, to install and maintain apparatus in, over and under land and results in considerably simplified planning procedures.
- 2.2 Where the Code is applied in any person's case, it may be subject to restrictions and conditions set out in other legislation from time to time.<sup>2</sup>

### The application of the Code

- 2.3 The Code only has effect in the case of a person to whom it is applied by a direction given by Ofcom (or, in the case of the Secretary of State or any Northern Ireland department, where the Secretary of State or that department is providing or proposing to provide an electronic communications network).<sup>3</sup>
- 2.4 The only purposes for which the Code may be applied in a person's case by a direction are:
- 2.4.1 the purposes of the provision of an electronic communications network; or
  - 2.4.2 the purposes of the provision of a system of conduits which he 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.<sup>4</sup>
- 2.5 A direction applying the Code to a person may take effect:
- 2.5.1 in relation only to such places or localities as may be specified or described in the direction;
  - 2.5.2 for the purposes only of the provision of such electronic communications network, or part of an electronic communications network, as may be so specified or described; or

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<sup>1</sup> "Electronic communications network" for the purposes of the Code has the same meaning as in the Act: see Telecommunications Act 1984, Schedule 2, paragraph 1(1) and section 32 of the Act.

<sup>2</sup> Section 109 of the Act – see, at present, the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 (SI 2003 No. 2553), as amended by the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2009 (SI 2009 No. 584) and the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013 (SI 2013 No. 1403).

<sup>3</sup> Section 106(3) of the Act.

<sup>4</sup> Section 106(4) of the Act.

- 2.5.3 for the purposes only of the provision of such conduit<sup>5</sup> system, or part of a conduit system, as may be so specified or described.<sup>6</sup>

## Application process for applying the Code

- 2.6 Ofcom must not give a direction applying the Code in any person's case except on an application made for the purpose by that person.<sup>7</sup>
- 2.7 Any such application must be made in accordance with the requirements for the time being in force 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.<sup>8</sup>

## Time limit for making a decision on application

- 2.8 Regulation 3(2) of the Electronic Communications and Wireless Telegraphy Regulations 2011<sup>9</sup> provides that, except in cases of expropriation, Ofcom must make its decision within 6 months of receiving the completed application. In other words, that time limit applies from the moment Ofcom receives an application that fully complies with the requirements described above.

## Statutory consultation process on proposal

- 2.9 Before giving a direction applying the Code to the applicant in question, 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.<sup>10</sup>
- 2.10 Such a notification must contain the following<sup>11</sup>:
- 2.10.1 a statement of Ofcom's proposal;<sup>12</sup>
  - 2.10.2 a statement of Ofcom's reasons for that proposal;
  - 2.10.3 a statement of the period within which representations may be made to Ofcom about the proposal (which period must end no less than one month after the day of the publication of the notification<sup>13</sup>).

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<sup>5</sup> "Conduit" includes a tunnel, subway, tube or pipe.

<sup>6</sup> Section 106(5) of the Act.

<sup>7</sup> Section 107(1) of the Act.

<sup>8</sup> Section 107(2) of the Act. For the current requirements, see the Notification under section 107(2) of the Communications Act 2003, dated 6 October 2003, at Annex B to the statement entitled '*The Granting of the Electronic Communications Code by the Director General of Telecommunications – A Statement issued by the Director General of Telecommunications*', published on 10 October 2003

<sup>9</sup> SI 2011 No. 1210.

<sup>10</sup> Section 107(6) of the Act.

<sup>11</sup> Section 107(7) of the Act.

<sup>12</sup> Subject to sections 113(7) and 115(5) of the Act, the statement of Ofcom's proposal must contain a statement that Ofcom proposes to apply the code in the case of the person in question and set out any proposals of Ofcom to impose terms under section 106(5): see section 107(8) of the Act.

<sup>13</sup> Section 107(9) of the Act.

- 2.11 Ofcom must publish a notification in such manner as Ofcom considers appropriate for bringing the notification to the attention of the persons who, in Ofcom’s opinion, are likely to be affected by it.<sup>14</sup>
- 2.12 The notification published at Annex 4 to this document is a notification for such purposes, which notification should be read in conjunction with the entirety of this document, including the reasons set out in Section 3.

### **Relevant considerations in making a decision (four factors)**

- 2.13 In considering whether to apply the Code in any person’s case, Ofcom must have regard, in particular, to each of the following matters<sup>15</sup>:
- 2.13.1 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;
  - 2.13.2 the practicability of the provision of that network or system without the application of the Code;
  - 2.13.3 the need to encourage the sharing of the use of electronic communications apparatus;
  - 2.13.4 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.
- 2.14 For the purposes of this process, those four factors rank equally with Ofcom’s statutory duties under sections 3 and 4 of the Act.<sup>16</sup> Where appropriate, outside of those statutory considerations, we will also have regard to any additional factors that, in our opinion, are relevant to the particular application.

### **Statutory duties**

#### **General duties**

- 2.15 In carrying out its functions under the Act (which includes giving a direction to apply the Code), Ofcom’s principal duty as set out in section 3 of the Act is to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 2.16 In so doing, we are required to secure a number of specific objectives and to have regard to a number of matters set out in section 3. As to the prescribed specific statutory objectives in section 3(2), we consider that the objective of securing the availability throughout the UK of

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<sup>14</sup> Section 107(10) of the Act.

<sup>15</sup> Section 107(4) of the Act.

<sup>16</sup> Section 107(5) of the Act.

a wide range of electronic communications services is particularly relevant to this consultation.

- 2.17 In performing its duties, Ofcom is also required to have regard to a range of other considerations, which appear to us to be relevant in the circumstances. In this context, we consider that a number of such considerations are relevant, particularly:
- 2.17.1 the desirability of promoting competition in relevant markets;
  - 2.17.2 the desirability of encouraging investment and innovation in relevant markets; and
  - 2.17.3 the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom.
- 2.18 We have also had 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 the interest of consumers in respect of choice, price, quality of service and value for money.
- 2.19 Ofcom has a wide measure of discretion in balancing its statutory duties and objectives. In so doing, we will take account of all relevant considerations, including any responses received during this consultation process, in reaching our conclusions.

### **Specific duties for fulfilling Community obligations**

- 2.20 The function of giving a direction to apply the Code would involve us exercising functions falling under the EU regulatory framework. As such, section 4 of the Act requires us to act in accordance with the six European Community requirements for regulation.
- 2.21 In summary, these six requirements are:
- 2.21.1 to promote competition in the provision of electronic communications networks and services, associated facilities and the supply of directories;
  - 2.21.2 to contribute to the development of the European internal market;
  - 2.21.3 to promote the interests of all persons who are citizens of the European Union;
  - 2.21.4 to take account of the desirability of Ofcom's carrying out of its functions in a manner which, so far as practicable, does not favour one form of or means of providing electronic communications networks, services or associated facilities over another, i.e. to be technologically neutral;
  - 2.21.5 to encourage, to such extent as Ofcom considers appropriate for certain prescribed purposes, the provision of network access and service interoperability, namely securing efficient and sustainable competition, efficient investment and innovation and the maximum benefit for customers of communications providers;
  - 2.21.6 to encourage compliance with certain standards in order to facilitate service interoperability and secure freedom of choice for the customers of communications providers.

- 2.22 We consider that the first and fifth of those requirements are of particular relevance to our proposal in this consultation and that no conflict arises in this regard with the specific objectives in section 3 we have identified above as particularly relevant in this context.

### **Impact assessment and equality impact assessment**

- 2.23 The analysis presented in the entirety of this consultation represents an impact assessment, as defined in section 7 of the Act.

- 2.24 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally Ofcom has to carry out impact assessments where its proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of its policy decisions. For further information about Ofcom's approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on the Ofcom website: [http://www.ofcom.org.uk/consult/policy\\_making/guidelines.pdf](http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf)

- 2.25 Specifically, pursuant to section 7, an impact assessment must set out how, in our opinion, the performance of our general duties (within the meaning of section 3 of the Act) is secured or furthered by or in relation to what we propose.

- 2.26 There are two main options for this consultation:

- 2.26.1 give a direction to apply the Code to the Applicant; or
- 2.26.2 not to give such a direction.

- 2.27 In carrying out our functions (again, something which includes giving a direction to apply the Code), we are also under a general duty under the Equality Act 2010 to have due regard to the need to:

- 2.27.1 eliminate unlawful discrimination, harassment and victimisation;
- 2.27.2 advance equality of opportunity between different groups; and
- 2.27.3 foster good relations between different groups,

in relation to the following protected characteristics: age; disability; gender re-assignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

- 2.28 Such equality impact assessments ("EIAs") also assist us in making sure that we are meeting our principal duty under section 3 of the Act.

- 2.29 We have therefore considered what (if any) impact the proposal in this consultation may have on equality. We do not, however, consider the impact of the proposal in this consultation to be to the detriment of any group within society. We have therefore not carried out separate EIAs in relation to race or gender equality, or equality schemes under the Northern Ireland and Disability Equality Schemes.

## Section 3

# Reasons for proposal

## Introduction

3.1 This Section contains our reasons for proposing to apply the Code to the Applicant.

## Factual matters

### Receipt of a completed application

3.2 On 26 October 2017, we received a fully completed application from the Applicant.

3.3 Accordingly, we consider that the Applicant's completed application meeting the requirements referred to in Section 2 of this document was received on 26 October 2017.

### The person seeking Code powers

3.4 According to the application, the person seeking Code powers is:

3.4.1 Company name: Cambridge Fibre Networks Ltd

3.4.2 Registered company number: 10542520

3.4.3 Registered office: 21 Signet Court, Cambridge, CB5 8LA

### Description and location of the network or conduit system for Code powers

3.5 As mentioned above as well as being recognised as an ISP, the Applicant also plans to construct an electronic communications network in order to supply electronic communication and next generation services to both wholesale and retail customers. The network which is currently in place consists of conduits, chambers and fibre, and will also allow them to provide dark fibre and Ethernet services to its customers.

3.6 The full fibre network will enable the Applicant to deliver both Hyperfast and Gigabit broadband and leased lines. Broadband speeds range from 1Gbps to 10Gbps, whilst leased line speeds will range from 100Mbps to 100Gbps. Their Hyperfast broadband service at speeds from 1G to 10G are served via Passive Optical Network (PON). In addition, the applicant will be deploying GPON (Gigabit PON), and XGS-PON (10 Gigabit PON) technologies. It's also likely in the next few years as technology develops they will also be introducing the newest generation of PON equipment, which is capable of speeds up to 40Gbps. The 10Gbps broadband services which the Applicant will be offering both to residential and business users, is currently not on the market from any large-scale providers in the UK.

3.7 The Applicant has also confirmed they intend to use infrastructure where available from other partner networks, including Openreach's Physical Infrastructure Access (PIA) product, to extend the network to less well-connected areas. The Applicant has confirmed they will build their own duct-based infrastructure where needed, and plan to interconnect with

other third party infrastructure. This will enable them to bring Fibre To The Premise (FTTP) infrastructure to several business parks and a Fibre To The Home (FTTH) passing 1,400 potential customers in early 2018.

- 3.8 The existing network consists of three London-based network nodes for internet access, with a diverse backhaul to a network node in Cambridge. The initial target territory for the network is the Cambridge technology cluster and the East Anglia region. This will also be extended to the other regions such as the East Midlands and London. The first build will focus primarily on Cambridge West and East areas that are currently underserved, and subsequently to surrounding villages/towns where no alternative fibre operators are available. Although it is the intention to focus on the local region in the short to medium term, there is the intention to build similar networks in other towns and cities across the UK in the longer term.

## **Analysis of the four factors**

### **The benefit to the public of the electronic communications network by reference to which the Code is to be applied to the Applicant**

- 3.9 The Applicant has explained that it intends to use Code powers in order to provide a full fibre network to the home and business which will create more bandwidth and faster speeds, up to and including 10 gigabits per second. This type of network delivery will help address the current limitations which is associated with existing copper networks. The Applicant has also confirmed their backhaul network will be built from the outset to handle all the traffic that consumers of Hyperfast next generation services will demand, which means their customers will not have to experience severe speed restrictions during peak hours due to congestion.
- 3.10 The standard Fibre To The Home (FTTH) product will mean that mainly residential customers can access Hyperfast gigabit broadband with a download speed of 1Gbps. This product delivers gigabit speeds with unlimited internet access at market competitive rates. Their services intends to supply homes with high definition TV streams, on-line gamers will benefit from low latency and faster near instantaneous downloads, and home workers can access video conferencing and cloud based products.
- 3.11 The Applicants next generation access connectivity, has enough upload bandwidth to facilitate backing up personal data rapidly without interfering with other applications that share the connection. To boost performance even further, they plan on offering subscribers a cloud backup service that is hosted on storage servers at their datacentre, using existing market-leading software. The performance of both the data backup and restore will be much faster than standard internet hosted solutions. The network will also allow for a VoIP service to be provided, which is enhanced due to the amount of bandwidth available with no issues of network congestion which means they can supply a reliable and quality service.
- 3.12 The Applicants FTTP product will allow them to serve businesses that need to monitor sites using CCTV. The FTTP product can produce an enhanced high quality definition due to the amount of bandwidth which is available. Other high definition video conferencing services

will also be included that can serve multiple sites, with remote access, and can support high speed data backup and restoration.

- 3.13 As we mention above, the Applicant plans on supplying services in the Cambridge area and are currently in discussions with several colleges about providing Hyperfast broadband or fibre, to student accommodation sites that are not currently covered by the main university network. There may also be other schools in this region which may also suffer from insufficient bandwidth, therefore, it's the Applicants intention to offer every school within the vicinity of their network, an affordable gigabit broadband service. Furthermore, as part of their social corporate responsibility, they will also offer reduced charges to any community oriented organisations, such as schools, nurseries, churches, community centres and non-profit organisations, avoiding disruption to the public.
- 3.14 For the reasons above, Ofcom considers that granting the Applicant Code powers would benefit the public.

### **The practicability of the provision of the network without the application of the Code**

- 3.15 The Applicant has explained that it considers Code powers essential for it to become a sustainable business, and that without the application of the Code powers the growth of its network would be hampered.
- 3.16 In particular, the Applicant has explained that:
- 3.16.1 Although other alternatives have been explored, such as working with Local Authorities and applying for Individual Street Works licenses pursuant of section 50 of the New Roads and Street Works Act 1991, the conclusion was, this could not be deemed a viable solution. For example: Cambridgeshire County Council currently charge £480 for planning permission for short sections of up to 200m; any works on sections above 200m incur additional fees. Due to the prospect of making many individual planning applications for street works licences, this would prove to be too costly. Beside the financial burdens, they also factored in the amount of additional effort required to make individual licence requests, this would mean an inefficient use of time and resource, that would only create undue pressure on both the Local Authorities and the Applicant, especially as the network deployment increases.
- 3.16.2 In addition to the above, without the use of Code powers would mean the cost of the process would eventually result in a higher service price to its customers. The expectant cost would become so high that it would no longer commercially viable to deploy network in dense populated areas. The biggest concern would be the overall planning resources required will be prohibitive to build the final access and lateral network.
- 3.16.3 It would be beneficial from the enhanced permitted development rights under the Town and Country Planning (General Permitted Development) Order which come with Code Operator status. In some cases, private landowners may unreasonably delay or even refuse to grant consent to access the private land. There is also the potential for some Landowners to become unrealistic with their expectant financial

remuneration fees by employing ransom type rates. Without the use of Code Powers would result in a significant weaker position to persuade the court to allow access to install the communication apparatus on private land.

- 3.16.4 They would like to take advantage of Openreach's PIA product as part of its network expansion, which Openreach specifies is only available to operators with Code powers.
- 3.16.5 Their final point was to explain they would be placed at a competitive disadvantage if they are not granted Code powers, as they would be unable to benefit from the same advantages available to its competitors. Furthermore, in order to be in a position to apply for invitation to tender for government support programmes Code Powers are likely to form part of the process.
- 3.17 We consider therefore that the grant of Code powers is necessary for the practical provision of the Applicant's electronic communications network.

### **The need to encourage the sharing of the use of electronic communications apparatus**

- 3.18 The Applicant confirmed they are in discussion with a number of national telecom operators and local network/IT services companies that are interested in acquiring wholesale access to the network. They are intending on implementing a plan which will assist to migrate existing customer from older high-speed services to new Hyperfast FTTP and FTTH connections.
- 3.19 Following on, the Applicant will operate a service known as the Cambridge Fabric®, which provides a carrier neutral network exchange platform for Cloud Access (e.g. Amazon, Google and Microsoft cloud services), peering to internet exchanges (e.g. LINX). To connect customers from the Cambridge Fabric, Communication Providers are offered access ports at speeds from 1G to 100G that can be connected with leased line ethernet and dark fibre (where available). Other operators can make use of the access the network either directly through the Applicant or by using their own dark fibre, leased line Ethernet, and asymmetric Ethernet products.
- 3.20 It is envisaged that the wholesale market with other operators and ISPs will be is connected via the Cambridge Fabric as an open platform to reciprocally buy and sell network services. The Applicant will use the same platform to provide access to connect residential and SME/enterprise end-users, and where requested, other operators can provide a dedicated Network-to-Network Interconnect. All new construction will consist of two ducts where this is operationally and commercially viable. Where spare duct capacity is readily available they would be willing to enter in commercial agreements with other network operators.
- 3.19 We consider that sharing of the use of apparatus would be encouraged by granting the Applicant Code powers as a result of those stated intentions.

## **Whether the Applicant will be able to meet liabilities as a consequence of (i) the application of the Code; and (ii) any conduct in relation to the application of the Code**

- 3.20 The Applicant has considered its duties and responsibilities with regard to compliance with Regulation 16 (Funds for Liabilities).<sup>17</sup>
- 3.21 The Applicant has assessed its asset base and future network deployment and has confirmed that it will make arrangements to put the requisite funds in place in the event that Code powers are granted by Ofcom. In particular, it has provided Ofcom with a signed letter from its directors certifying that the Applicant will put sufficient funds for liabilities in place, by way of a performance bond, before exercising Code powers.

### **Overall assessment**

- 3.22 In addition to our consideration of the four factors discussed above in paragraph 2.13, we consider that our proposal would secure or further the performance of our statutory duties under sections 3 and 4 of the Act.
- 3.23 In particular, we consider that, if the Applicant's intended infrastructure plans through the use of Code powers are realised, it may contribute to the availability throughout the United Kingdom of a wider range of electronic communications services. We also believe that our proposal will encourage competition in the provision of electronic communications networks and services and associated facilities as well as encouraging investment and innovation.
- 3.24 The impact of implementing the proposal is likely to be low. Any costs to those affected by the Applicant's use of Code powers are likely to be outweighed by the benefits. On the other hand, the detrimental effect on the Applicant of a refusal to grant such powers (including to the practicability of its network roll-out) is likely to be significant. As noted in Section 2, we are also of the view that the impact of our proposal is not likely to be to the detriment of any protected group within society.

### **Proposal**

- 3.25 For these reasons we propose that Ofcom should give a direction applying the Code to the Applicant.

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<sup>17</sup> Electronic Communications Code (Conditions and Restrictions) Regulations 2003 (SI 2003 No. 2553) (as amended).

## A1. Responding to this consultation

### How to respond

Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 29 December 2017.

- A1.1 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/code-powers-cambridge-fibre-networks>. You can return this by email or post to the address provided in the response form.
- A1.2 If your response is a large file, or has supporting charts, tables or other data, please email it to [numbering.information@ofcom.org.uk](mailto:numbering.information@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).
- A1.3 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- A1.4
- Numbering Team  
Ofcom  
4<sup>th</sup> Floor Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex X. It would also help if you

could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

- A1.10 If you want to discuss the issues and questions raised in this consultation, please contact Numbering Team on 0300 123 3000, or by email to [numbering.information@ofcom.org.uk](mailto:numbering.information@ofcom.org.uk)

## Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), as soon as we receive them.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

## Next steps

- A1.15 Following this consultation period, Ofcom plans to publish a statement in Winter 2017.
- A1.16 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

## Ofcom's consultation processes

- A1.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex x.
- A1.18 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A2. Ofcom's consultation principles

### **Ofcom has seven principles that it follows for every public written consultation:**

#### **Before the consultation**

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### **During the consultation**

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

#### **After the consultation**

- A2.7 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.

## A3. Consultation coversheet

### BASIC DETAILS

Consultation title: organisation realise

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## Annex 4

# Statutory notification

## Notification under section 107(6) of the Communications Act 2003

### Proposal to give a direction applying the electronic communications code

#### Proposal in this Notification

1. Ofcom hereby proposes, in accordance with section 107(6) of the Act, to give a direction under section 106(3) of the Act applying the Code to the Applicant.
2. The proposed direction applying the Code to the Applicant on the terms proposed is set out in the Schedule to this Notification.
3. Ofcom's reasons for giving the proposed direction are set out in the accompanying consultation document.

#### Ofcom's duties

4. In making this proposal, 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 Community requirements in section 4 of the Act.

#### Making representations

5. Representations on this proposal may be made to: Numbering Team, Ofcom, 4<sup>th</sup> floor, Riverside House, 2a Southwark Bridge Road, London SE1 9HA, by no later than 5pm on **29 December 2017**.

#### Interpretation

6. In this Notification—
  - (a) **“Act”** means the Communications Act 2003;
  - (b) **“Applicant”** means Cambridge Fibre Networks Limited, whose registered company number is 10542520;
  - (c) **“Code”** means the electronic communications code set out in Schedule 2 to the Telecommunications Act 1984 (as amended); and
  - (d) **“Ofcom”** means the Office of Communications.
7. For the purpose of interpreting this Notification—
  - (a) headings and titles shall be disregarded; and
  - (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

8. The attached Schedule forms part of this Notification.

Signed

A handwritten signature in black ink, appearing to read 'Brian Potterill', written in a cursive style.

**Brian Potterill**

**Competition Policy Director**

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

**24 November 2017**

## SCHEDULE

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

#### **Background**

1. The Applicant has applied to Ofcom for a direction applying the Code to the Applicant.
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 October 2017.
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 the Applicant, 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 24 November 2017, Ofcom published, in accordance with section 107(6) of the Act, a notification of its proposal to give a direction applying the Code to the Applicant for the reasons set out in the consultation document accompanying that notification. That notification invited representations to Ofcom by no later than 5pm on **29 December 2017**.
6. *[Ofcom has considered every representation about the proposal made to it/Ofcom did not receive any representations about the proposal]*. For the reasons set out in the explanatory statement accompanying this Direction, 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 Community requirements in section 4 of the Act.

#### **Decision**

7. Ofcom hereby directs, in accordance with section 106 of the Act, as follows—
  - (a) the Code shall apply to the Applicant for the purposes of the provision by the Applicant of an electronic communications network;
  - (b) the provision by the applicant of a system of conduits which the Applicant 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; and
  - (c) that application of the Code shall have effect throughout the United Kingdom.
8. This Direction shall take effect on the day it is published.

#### **Interpretation**

9. In this Direction—

- (a) **“Act”** means the Communications Act 2003;
- (b) **“Applicant”** means Cambridge Fibre Networks Limited, whose registered company number is 10542520;
- (c) **“Code”** means the electronic communications code set out in Schedule 2 to the Telecommunications Act 1984 (as amended);
- (d) **“Ofcom”** means the Office of Communications.

10. 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