

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

### **Background**

1. Giggle Fibre Limited, whose registered company number is 14221657, has applied to Ofcom for a direction applying the Code to it.
2. The date on which Ofcom received a completed application that meets the statutory requirements with respect to the content of an application for a direction applying the Code and the manner in which such an application is to be made was 7 December 2022.
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 Giggle Fibre Limited, Ofcom must publish a notification of its proposal to give the direction and consider any representations about that proposal that are made to Ofcom within the period specified in the notification.
5. On 6 February 2023, Ofcom published a notification in accordance with section 107(6) of the Act of its proposal to give a direction applying the Code to Giggle Fibre Limited. That notification invited representations to Ofcom by no later than 5pm on 6 February 2023.
6. Ofcom received one representation objecting to the proposal. The response included concerns about the potential impacts arising from electromagnetic fields (EMFs) that might be generated by communications equipment deployed. These included potentially negative impacts on human health and biodiversity. The response also included concerns relating to the existing regulatory and planning regime, national security, human rights, resource sustainability, and climate change.
7. Having considered the objection to the proposal, it is Ofcom's view that in this case, these issues concern Government policy. These include, but are not limited to, the Government's assessment of the safety of non-ionising radiation, and Government policy concerning the planning regime which facilitates the rollout of those networks. Ofcom has no power to alter these policies or the statutory framework that sets out the Code. It is therefore unable to include consideration of the issues raised by the respondent as part of its assessment of the application under the Code. Ofcom has published advice on its website, which explains the regulation of EMFs and identifies the organisations responsible for ensuring that communications providers comply with the relevant regulations.<sup>1</sup>
8. For the reasons set out in the explanatory statement accompanying Ofcom's consultation, Ofcom has had regard, in particular, to each of the matters set out in section 107(4) of the Act. Furthermore, Ofcom has considered and acted in accordance with its general duties in section 3 of the Act and the six requirements in section 4 of the Act.

### **Decision**

---

<sup>1</sup> See [Ofcom's rules on EMF exposure](#).

9. Ofcom hereby directs, in accordance with section 106 of the Act, as follows—

- (a) the Code shall apply to Giggle Fibre Limited, (whose registered company number is 14221657) for the purposes of the provision by it of an electronic communications network; and
- (b) that application of the Code shall have effect throughout the United Kingdom.

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

**Interpretation**

11. In this Direction—

- (a) “**Act**” means the Communications Act 2003;
- (b) “**Code**” means the electronic communications code set out in Schedule 3A to the Communications Act 2003;
- (c) “**Ofcom**” means the Office of Communications.

12. 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**

**Director of Mobile Network Strategy**

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

20 March 2023