

John O'Keefe
Ofcom
Riverside House
2A Southwark Bridge Road
London
SE1 9HA
Sent by email to: EECCenduserights@ofcom.org.uk

20th August 2020

Re: Business Carrier Coalition submission to Ofcom's consultation "Implementing the new European Electronic Communications Code - Revised proposals for annual best tariff information and business customer definitions"¹

Dear John,

This letter is on behalf of Verizon, AT&T, Orange Business Services, CenturyLink, and Colt (collectively "we" or "us" in this letter).

All of us exclusively provide services to large business customers in the UK as well as across Europe. None of our companies provide services to consumers, and so we face challenges when we come up against obligations that have been designed specifically to deal with consumer protection issues. We would therefore like to make representations with regard to Ofcom's consultation on revised definitions arising from the European Electronic Communications Code ("EECC").

Micro- and small-enterprise definition

We note that Ofcom sets out three options at paragraph 4.39 for the revision of the definitions of "micro-enterprise" and "small-enterprise". We strongly support Ofcom's preferred proposal (Option 2) to combine the two defined terms into one definition; and to revise that definition to be a threshold of up to 10 staff members with no financial criteria.²

As Ofcom notes, this will better align the level of bargaining power of such customers with the need for consumer protection provisions as envisaged by the EECC. It also has the added benefit of aligning with Ofcom's existing General Conditions customer type of "Domestic and Small Business Customers" which is already understood by the industry.

We do not see the need for a separate definition for "small-enterprise customer" between 10-49 staff. As Ofcom note, these larger organisations are more likely to require different types of

¹ Ofcom consultation, published 24 July 2020, https://www.ofcom.org.uk/data/assets/pdf_file/0033/198933/consultation-eecc-revised-proposals.pdf

² Paragraph 4.25 of the consultation.

services and contracts; and with larger staff numbers, are likely to have specialist staff or expertise to manage communications needs.³

In addition, these companies would have a larger spend and greater bargaining power, and therefore are not in the same position as a residential customer. Combined, business customers with 11+ staff members do not require the additional consumer protection in the EECC.

We therefore strongly encourage Ofcom to proceed with its preferred Option 2 as set out at paragraph 4.39 of the consultation.

Not-for-Profit definition

As noted in our response to Ofcom's previous consultation on the EECC,⁴ we were initially strongly concerned by the proposed definition of "not-for-profit customer" as it had the potential to bring a lot of large business customers into scope of a large number of consumer protection regulations unnecessarily.

We are therefore encouraged to see that Ofcom has taken on board our concerns and is proposing to revise the definition to include a threshold limit equal to that of the "micro- and small-enterprise" definition i.e. 10 staff members.

We agree with the reasoning that Ofcom sets out including that large, not-for-profit customers have different communications needs, stronger bargaining power, and therefore are less in need of additional consumer-focused protection.⁵ This also more closely aligns with the intention of the EECC to provide such protections for those customers who are in similar bargaining positions to consumers.⁶ In addition, the revised definition will further consolidate and align the definitions in the General Conditions and reduce complexity for industry.

We therefore strongly agree with this proposal and urge Ofcom to proceed with the revision as set out in paragraph 4.54 of the consultation.

Signed by:

- Verizon
- AT&T
- Orange Business Services
- CenturyLink
- Colt

³ Paragraphs 4.31 to 4.37 of the consultation.

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0033/195198/business-carrier-coalition.pdf

⁵ Paragraph 4.50 of the consultation.

⁶ Recital 259 of the EECC