



Vodafone response to Ofcom's
Consultation: Implementing the new
European Electronic Communications
Code. Revised proposals for annual best
tariff information and business customer
definitions.

September 2020



1. Ofcom is seeking views on two separate areas of the European Electronics Communication Code; the application of Annual Best Tariff Notifications to Pay as you go customers and a series of business definitions. Vodafone strongly supports this additional consultation and welcomes Ofcom's willingness to revisit its previous positions and areas of imperfect European guidance.

Annual Best Tariff Notifications

2. Vodafone strongly agrees with Ofcom's proposed changes to the General Conditions and its Guidance on General Condition C1, which now apply a purposive interpretation of Article 105(3).
3. Vodafone notes that Ofcom's revised approach to apply Annual Best Tariff Notifications only where a minimum contractual period has previously expired both reflects the requirements of Article 105(3) and the correspondence between Vodafone and the European Commission, which was shared with Ofcom.

Definitions for microenterprise, small enterprise and not for profit organisations

4. Vodafone also strongly supports Ofcom's proposals regarding the definitions of microenterprise, small enterprise customers and not for profit organisations. Vodafone welcomes Ofcom's decision to use its discretion to apply a more pragmatic and meaningful set of definitions than those set out in the EU Recommendation.
5. The removal of the financial threshold from the definition of micro- and small-enterprises, a seemingly arbitrary, amount set at 2 and 50 million Euros and then adjusted according to exchange rate, is particularly welcome. This differentiation has no bearing on customer segmentation within the industry and as a bureaucratic exercise offers no additional protection or benefit to customers.
6. Vodafone supports the EECC position that businesses should be captured by regulation where the bargaining position of those businesses is comparable to that of a residential consumer. To this end Vodafone strongly supports Option 2 to reduce the headcount threshold to 10 staff members or below and to consolidate the small enterprise and microenterprise definitions into a single definition.

Revised proposed definition of a not for profit organisation

7. Vodafone previously raised concerns about the unintended consequences of the original EECC definition of a not for profit organisation which captured large charities and Public Sector organisations with significant buying power.
8. Vodafone welcomes Ofcom's decision to engage with this issue and to re-align the definition with the approach for micro- and small-enterprise customers.
9. Vodafone notes the guidance Ofcom provides regarding where organisations do not hold detailed employee numbers for an organisation, then a suitable proxy such as the number of customer connections can be used as a proxy. This is consistent with the EECC guidance that seeks to capture



where businesses have the same buying power as residential consumers rather than being reduced to a mechanistic count of headcount and is a welcome addition. Vodafone welcomes the flexibility to interpret the requirements based on the bargaining power of the customer in its business relationship rather than solely employee numbers.

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