



## **Verizon response to Consultation on the Electronic Communications Code proposed Code of Practice, Standard Terms of Agreement and Standard Notices**

### **Introduction**

Verizon Enterprise Solutions (“Verizon”) welcomes the opportunity to respond to Ofcom’s Consultation on the “Electronic Communications Code proposed Code of Practice, Standard Terms of Agreement and Standard Notices” (the “Consultation”).

Verizon is the global IT solutions partner to business and government. As part of Verizon Communications – a company with nearly \$131 billion in annual revenue – Verizon serves 98 per cent of the Fortune 500. Verizon caters to large and medium business and government agencies and is connecting systems, machines, ideas and people around the world for altogether better outcomes.

Please note the views expressed in this response are specific to the UK market environment and regulatory regime and should not be taken as expressing Verizon’s views in other jurisdictions where the regulatory and market environments could differ from that in the UK. We make some high level observations first, followed by some recommendations to improve the current process.

### **High level observations**

The issues raised in the Consultation go to the heart of the problems currently faced by UK providers when seeking to roll-out network and improve connectivity for customers. In the UK at the moment there is, quite rightly, a big push by government in particular to solve the connectivity puzzle and improve infrastructure roll-out across the country. Our view is that one of the biggest hurdles to be overcome in this regard is that of wayleaves. Until this issue is properly resolved then the UK will continue to suffer from delays and inefficiency, which in turn causes undue cost for providers and reduces incentives to roll out network. It is a major problem for Verizon and indeed for the whole industry, and noted as a concern by Government in its Digital Strategy paper, yet it remains one that has still not been fully and effectively addressed.

As a general proposition we support any initiative that makes it easier to install equipment and roll-out new infrastructure in the UK, particularly the installation of fibre and associated equipment. However it is very important that any such initiative is co-ordinated and does not reinvent the wheel. We are concerned that this may be the outcome of Ofcom’s proposals, unless all parties are bound in.

While there may be a need for separate approaches for each of fixed installations and mobile masts, there should be a singular approach taken for each rather than the current array of different templates depending on the parties involved. At least on the face of it, taking one consistent approach should be a relatively straightforward problem to tackle, with significant benefits to all concerned.

Wayleaves are particularly complex when multiple signatory parties are involved, such as multiple tenants, head-landlords, under-landlords, guarantors etc. We currently have a patchwork of different approaches taken by the various players who may need to interact with each other, and each party will typically want to use a different starting point. This is highly inefficient and acts as a persistent drag on such installation and rollout, ultimately leading to a poor end-user experience.

Indeed it can take from a few months to a year to conclude an agreement for a simple fibre connection and associated equipment to be connected from a fibre backbone network located in the street, routed into a building, i.e typically the ‘last mile’ connection.

Professional costs to negotiate a typical fixed wayleave can be up to £20,000 per agreement. Even for an average provider, costs associated with the wayleave process can therefore run into millions of pounds. Typically it is necessary to involve the time and expense of lawyers, surveyors, building managers and consultants. When more than one party is involved and needs to sign, each signing party will invariably have their own ‘team’ of professionals, each adding their own opinion, costs and delay. As wayleaves are finite in duration, these costs are ongoing and must either be absorbed by the provider or passed on in the form of higher prices.

As indicated above the current situation could be significantly improved with one standard fixed template which all parties must work from at least as a starting point, to reduce the inevitable debate and delay whenever a wayleave is needed. Currently, substantial agreements can take years to finalise as everyone has their own form and process, often entrenched over many years. Ofcom correctly notes at paragraph 3.9 the work already undertaken in this area by the City of London (“CoL”) to create a standardised template for fixed providers, which is supported and used to varying degrees. Our understanding is that, having successfully created a template for the fixed community, they are now doing the same for mobile. They have invested a lot of time and effort to bring stakeholders together, agree drafts and promote them across the community both in London and beyond. As a template to work from it is very useful and universal adoption would have the potential to significantly reduce costs and delays associated with the current system.

We are therefore concerned that Ofcom’s set of documents just leads to further dilution of the current regime, in that stakeholders will be presented with yet more templates for agreement which will lead to further delay. We want fewer options, not more and we cannot immediately see what incremental benefit Ofcom’s templates bring to the current regime.

There are many initiatives currently going on in the industry, government and at EU level – Digital Policy Alliance, government’s 5G strategy, EU Data Economy initiative, Electronic Communications Code, Ofcom’s own DCR etc etc – all pointing towards the needed to increase roll-out of network and remove barriers to doing so. One of the key barriers in the UK is the difficulty of getting access to land / buildings and the delays and costs caused by wayleave issues. We feel very strongly that the issue is not fixed, and that the “silver bullet” is a standard agreement that everyone must sign up to so we are not starting from a blank sheet of paper every

time. Unless and until we have this, we foresee ongoing problems for those seeking to improve the connectivity picture in the UK.

Agreeing wayleaves for fibre in the UK often requires the parties to follow a very protracted legal process for a relatively simple task, namely to gain consent to install fibre. We see this area of law as being very particular to the UK and with the increased demand for higher speed services and technologies, the extended period caused by such an involved legal processes to deliver high end services can have a detrimental effect on companies locating to the UK creating the impression that the UK is a hard place to locate and run a business reliant on technology compared to the rest of the world.

### **Key recommendations**

Our key recommendations to improve the current process are as follows:

**No reference to charging fibre or equipment installation;** we do not consider that standard wayleave templates should include any reference to charging for fibre or equipment installation. In Verizon's experience around 90% of last mile installations requiring a fixed wayleave for private land in metropolitan town and city sites do not include a contractual installation or ongoing annual charge. If this were to be introduced, as for mobile masts, this would have a highly detrimental impact on the cost/benefit analysis associated with network deployment and it would seriously discourage the UK government's fibre/broadband connectivity initiatives, as well as hampering Ofcom's desire to see greater network based competition. Ideally, there should be a prohibition on charging for wayleave access, as is the case in certain countries (e.g. in India, charges for wayleaves on government land cannot be required (apart from administrative charges))<sup>1</sup>.

**Dispute resolution;** a clear, fast and cost effective dispute resolution procedure needs to be established that is user-friendly and practical. The current practice is weighted against the interests of the access-seeking provider, and if a landlord refuses to allow a connection Verizon will typically not pursue the issue through dispute resolution. In addition to better dispute resolution practices, we consider that transparency could be improved where there have been historic issues with access - for example a web site to post sites that have unreasonably refused to allow a service provider to connect end users. This would greatly help from a planning perspective.

**Timelines;** we consider that all parties should be required to commit to a target wayleave completion time from engagement to completing a wayleave of 30 days, and if this target is not met then default terms will be deemed accepted and installation can continue on the default basis. We would also like to see consideration of incentives given to all parties to engage in a timely fashion, potentially coupled with remedies or penalties if parties simply will not engage or take an unduly long time to respond.

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<sup>1</sup> See s.5(3) of the Right of Way Guidelines published by the Department of Telecommunications, India – (page 9): [http://www.dot.gov.in/sites/default/files/2016\\_11\\_18%20RoW%20Policy.pdf](http://www.dot.gov.in/sites/default/files/2016_11_18%20RoW%20Policy.pdf)



**Agreements in principle;** landlords sometimes agree to permit an installation to take place on the basis of having a provisioning “agreement in principle”. This allows network installation to commence immediately without further delays, and the final agreement can then be agreed whilst installation work is progressing. We would like to see this principle strengthened and made binding.

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