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Dear Katie,

## European Electronic Communications Code (EECC) - Further consultation on emergency video relay services (EVRS)

### Introduction

1. We welcome Ofcom's decision to further consult on its EVRS proposals before issuing a Statement. A solution of this scale and importance must be planned and implemented carefully, ensuring that it works correctly first time and within any agreed timelines. In our view, further discussions and agreement with industry are required before this solution can be effectively implemented.
2. We have long been an accessibility champion and believe that everyone should have access to the products and services they need to thrive in a digital world. To that end, we provide our customers with 'Access for You' services that enable customers with disability and accessibility requirements to engage with our customer service teams. For example, we currently provide 'SignVideo' and Next Generation Text Relay Services (RelayUK), which allow BSL users to contact our support teams. We support the principle that customers with disability and accessibility needs should have equivalent access to emergency services.
3. As set out in our March 2020 consultation response<sup>1</sup>, we are broadly supportive of Ofcom's proposal to mandate an emergency video relay service, provided it:

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<sup>1</sup> O2's response to Ofcom's 'Implementing the EECC' consultation, submitted 10 March 2020 – found [here](#).

- Has the support of those that it is designed to serve; and
  - Meets the requirements of those providing and using the service.
4. We remain supportive of Ofcom's overarching EVRS proposal and agree with Ofcom's assessment of the benefits of an EVRS. We also welcome the clarity that Ofcom has provided regarding zero rating, registration and FRAND approval criteria.
5. However, we continue to have some concerns about *how* Ofcom intends to mandate and implement the new service. In our view, as it currently stands, Ofcom's proposal will not sufficiently meet the requirements of those providing the service and those using it. Our concerns can be summarised as follows:
- In our view, there is a risk that an autonomous approach to EVRS implementation could result in multiple, differentiated EVRS apps and websites. This could have unintended consequences for end-users and result in a bad customer experience.
  - It is not clear whether video relay service (VRS) providers have the requisite interest and/or capacity to facilitate a nationally available, 24/7 EVRS. Given the strictness of Ofcom's approval criteria, it could take time for a VRS provider to be in a position to facilitate a service that can be approved by Ofcom.
  - Regulatory and strategic roadmaps for communications providers (CP) remain highly contested<sup>2</sup>. Should Ofcom seek to require implementation of an EVRS concurrently with other industry or regulatory initiatives, there will inevitably be trade-offs. Ofcom's implementation timescales must take this into consideration.
  - We have some further questions about how zero rating will apply for roaming customers and for different EVRS apps (see our annex below).
6. In our view, these concerns need to be addressed before implementation can begin.

**An autonomous approach to EVRS implementation could have unintended consequences for end-users and result in a bad customer experience.**

7. Ofcom has amended its proposed General Condition obligation to make clear that, in the absence of a wholesale arrangement, each CP will have an obligation to provide an EVRS themselves<sup>3</sup>. Ofcom also suggests that there could

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<sup>2</sup> [X]

<sup>3</sup> Emergency Video Relay – Further consultation – Annex 5

be more than one approved EVRS provider in existence for CPs to contract with<sup>4</sup>. 'If more than one relay supplier applies for approval and meets the approval criteria, they will have to be approved. Without a wholesaler, this could lead to situation where different relay suppliers attempt to negotiate contracts with CPs<sup>5</sup>.

8. Whilst we recognise the benefits of effective competition for the provision of EVRS, we are concerned about the prospect of different CPs contracting with different EVRS providers. Such an approach could result in numerous, differentiated emergency video relay applications and websites. Ofcom's approval criteria and guidance does not provide a standard for how EVRS applications should be marketed to customers nor how an EVRS application interfaces should be structured. In the absence of an agreed standard, it is very likely that each CP's EVRS application and website could differ substantially from another's – a customer will need to refamiliarize themselves with the relevant EVRS application or website whenever they migrate to a new CP. We are particularly concerned that this could lead to customer confusion and distress when seeking to contact emergency services in a high-stress situation.
9. Furthermore, a customer may be unaware that different EVRS applications could be incompatible with other providers' networks. For example, should a mobile customer change their communications provider (e.g. move from O2 to Vodafone) while retaining the same device, there is a risk that the customer will be unaware that they also need to download a new EVRS application (in this example, the Vodafone EVRS application). Should the customer then try to use their 'old' EVRS application on their new network, there is a risk that the customer will not be connected to the emergency services at a critical moment. Alternatively, the customer could deplete their data allowances and be charged overage using the service<sup>6</sup>. If the customer has a spend cap, they could be cut off during an emergency call, potentially resulting in significant consumer harm.
10. Like Ofcom, we recognise the value of the EVRS wholesaler model and consider it to be the correct approach. In our view, a single EVRS application and website, supported by industry, would be the most efficient implementation approach. Moreover, it would be the most effective means of achieving Ofcom's stated objective – to ensure that access to emergency services for customers with disability or accessibility requirements is equivalent. Conventional '999' emergency services are effective because of their simplicity – most individuals will know that the emergency services can be contacted by simply dialling '999' on their device and selecting the appropriate service. This simplicity enables the emergency services to be contacted quickly and easily in high-stress situations. For an EVRS to be truly equivalent, applications and websites should, so far as is technically practicable, be as easy and intuitive to use in high-stress situations. As we have set out above, having numerous (potentially differentiated) applications and websites will undermine the simplicity of EVRS.

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<sup>4</sup> Proposals to implement the new EECC – para-10.54.

<sup>5</sup> Ofcom's Q&A Guide following emergency video relay (EVRS) round table discussion – 23 September 2020.

<sup>6</sup> Given this is a video relay service, data overage charges could be substantial.

11. We urge Ofcom to reconsider its decision to require industry to take an autonomous approach to EVRS implementation where a wholesaler does not volunteer. In our view, it is clear that the end-user, and the deaf community more broadly, will be better served by a single EVRS facility, supported by Ofcom and industry, that is easy to use and consistent across all networks. Where Ofcom is unable to obtain a voluntary commitment to be an EVRS wholesaler, our view is that Ofcom should consider designating an approved EVRS provider and CP wholesaler.

**Further clarity is required from VRS providers as to whether they can facilitate an EVRS for all UK CPs.**

12. It is unclear whether providers of VRS are willing and able to facilitate an EVRS that meets Ofcom's General Condition and approval criteria requirements.

13. Currently, there are a number of small independent interpreting service providers operating in the UK. Video interpreting services are not nationally available and are provided through contracts on an ad hoc basis<sup>7</sup>. However, it is not clear whether any of these providers, aside from ContactScotland, are willing or able to provide a 24/7 EVRS to the whole of the communications industry. Whilst Ofcom has set out its expectations for how the EVRS solution should be made available, it has not yet engaged with providers of VRS in the UK to determine whether its approval criteria and General Condition requirements are feasible. Feasibility will need to be established before commercial negotiations for the provision of EVRS can take place. In our view, we, along with the rest of industry, will need to understand:

- Whether any of the small, independent interpreting service providers operating in the UK can facilitate a nationally available, 24/7 EVRS service. If not, what do they require how long will it take for one (or multiple) provider(s) to achieve this?
- Whether there is any interest from VRS providers to facilitate a nationally available, 24/7 EVRS service.
- Should Ofcom opt for an autonomous approach to implementation, VRS providers will be able to facilitate commercial negotiations with multiple CPs in a short space of time (within 5 months according to Ofcom's most recent timeline). Will VRS providers have sufficient legal and commercial resource to achieve this?
- Whether there is a sufficient number of appropriately qualified VRS interpreters willing to take on the role of an EVRS interpreter<sup>8</sup>. This problem will be exacerbated if CPs contract with a number of different EVRS providers as no one provider will be able to achieve scale.

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<sup>7</sup> ASLI – Video Interpreting Best Practice Guide, 2015 – page 6 - 7

<sup>8</sup> We note ASLI's response to Ofcom's December 2019 consultation. ASLI has suggested that EVRS interpreters should be given appropriate training and the choice of whether they wish to receive emergency calls. Additionally, ASLI recommends at least three years of post-qualification experience before allowing interpreters to work in an EVRS setting. These proposals (which should, in our view, be taken seriously) further narrows the number of eligible interpreters.

- Whether prospective EVRS providers have the appropriate systems and processes in place to capture and report on the information set out in Ofcom's approval criteria.

14. We would welcome clarification from Ofcom and VRS providers as to whether the VRS industry has the requisite resource to be able to deliver an EVRS in line with Ofcom's expectations. We propose that Ofcom engage with the relevant independent interpreting service providers to gain a better understanding of what is possible before issuing its Statement. Commercial negotiations between CPs and EVRS providers can only begin once we have confidence that an EVRS provider can meet Ofcom's approval criteria.

**Ofcom's updated implementation timescales must take into consideration the numerous ongoing regulatory projects and complexity of the EVRS solution.**

15. Regulatory and strategic roadmaps for CPs remain highly contested and there is limited capacity for additional projects. At present, [X].
16. Should Ofcom seek to require implementation of an EVRS concurrently with other industry or regulatory initiatives, there will inevitably be trade-offs. Resource from ongoing regulatory projects will likely need to be re-allocated, which could jeopardise timely compliance with other regulatory requirements.
17. We urge Ofcom to take this into account when setting its final implementation timelines. Whether or not there are viable VRS providers should also inform Ofcom's final timelines – where VRS providers require additional training, systems development, interpreter training or time for commercial negotiation, Ofcom should extend the implementation window to allow for this.

## Annex

<p><b>Q1. Do you agree with our proposal that regulated providers should be required to either provide emergency video relay or contract for it to be provided?</b></p> <p>As set out in our response, we continue to have concerns about Ofcom's proposed approach to implementation. We do not agree that an autonomous approach to implementation is correct, and there is a risk that such an approach could result in customer confusion (including distress in high-stress situations) due to the EVRS being difficult to use.</p> <p>Furthermore, it remains unclear whether there is appetite from VRS providers to facilitate an industry EVRS solution or whether there are any viable VRS providers at the present time. More information is needed about what VRS providers will need in order to comply with Ofcom's General Condition and approval criteria requirements.</p> <p>Ofcom will need to ensure that its timescales for implementation reflect CPs regulatory and commercial roadmaps and take into account the complexity of the EVRS solution.</p>
<p><b>Q2. Do you agree that the Approval Criteria should contain a requirement obliging suppliers of approved emergency video relay services to include a clause about fair, reasonable and non-discriminatory terms in any contract with any Regulated Provider or wholesaler?</b></p> <p>Yes. We welcome Ofcom's decision to ensure access to wholesale emergency video relay services to be on fair, reasonable and non-discriminatory terms, conditions and charges (FRAND). This is consistent with the requirements set out for the existing Next Generation Text Relay service.</p>
<p><b>Q3. Do you agree with our proposal that data used for emergency video relay should be zero-rated?</b></p> <p>Yes, we welcome Ofcom's clarification on whether usage EVRS apps and websites should be zero rated. In our view, this is technically possible and should be achievable if the relevant information is provided to CPs by application developers and EVRS providers. However, we have two further questions for which we would welcome clarification:</p> <ul style="list-style-type: none"> <li>• Does Ofcom expect EVRS applications to be available to roaming customers in the UK? If so, is it Ofcom's expectation that roaming usage of EVRS will also be zero-rated?</li> <li>• In the event that multiple EVRS applications are created (for example, by various CPs contracting with various EVRS providers), does Ofcom expect all applications to be compatible with every network? If so, would Ofcom expect CPs to zero-rate usage for all EVRS applications (including those that it has not contracted to provide)?</li> </ul>
<p><b>Q4. Do you agree with our proposal that end-users should not be required to register to access or use emergency video relay?</b></p> <p>Yes – we agree that customers should not need to 'log in' or register for usage of an EVRS application or website.</p>