



**Emergency Video Relay**

**Further Consultation**

**Virgin Media's response**

**7<sup>th</sup> April 2021**

**Non-Confidential response**

## **Emergency Video Relay**

### **Consultation Response**

Virgin Media welcomes the opportunity to respond to Ofcom's consultation on Emergency Video Relay ("**the Consultation**").

The need to ensure that all consumers have equivalent access to communication services is something that Virgin Media is acutely aware of and committed to. As a signatory to Ofcom's Fairness Commitments, we work hard to ensure that all customers are treated fairly. We have a particular focus on ensuring that those customers classed as vulnerable are provided with the support that they need to engage with and utilise our services, regardless of their vulnerability.

We believe that now is an appropriate time for Ofcom to engage with industry to assess the most appropriate approach to the implementation of Emergency Video Relay in order to support users of British Sign Language (BSL) in accessing emergency services.

We support the introduction of a facility that will allow BSL users to communicate with the emergency services whenever such a need arises. It is also important that this service is delivered in a way which provides the most consistent and resilient access for end users, while also allowing industry to do so in a fair, appropriate and consistent manner.

The four key areas highlighted within the Consultation are vital considerations for such an assessment but there are also further points that must be considered in order to move forward. These include, but are not limited to, the technical criteria that will apply to the service, the expectations and arrangements for resilience and clarification about where responsibility for various elements of the service will rest. These are important factors and development of the solution cannot, in our view, take place without addressing them. We would welcome further dialogue with Ofcom and industry in this regard.

Within this response, we set out our position on the matters considered in the Consultation and take each of the sections in turn, before responding to the specific questions set out by Ofcom.

### **Section 1: Requirement to provide Emergency Video Relay services**

Within the Consultation, Ofcom has made it clear that the onus would sit with Communications Providers (CPs) on how any Emergency Video Relay service would be provided; allowing CPs to provide the service themselves or contracting the service to an external supplier. Virgin Media believes that this approach is a reasonable one and provides CPs with flexibility around how we supply this service to our customers.

Each of the options available to CPs listed within the Consultation have both positive and negative elements, but we do not believe that this is an appropriate point at which to confirm our preferred option. Nonetheless, we believe that there are a number of points that are relevant to make now.

The option to follow a wholesale model, where one CP contracts with a supplier of Emergency Video Relay services, would provide a consistent approach for both CPs and consumers, meaning that all consumers would be able to enjoy the same service, even if they were to switch providers. This model would also allow compliance with Ofcom's General Conditions to be easily monitored and

measured, again leading to a more consistent approach for consumers. However, this approach is not without potential issues, such as how an appropriate charging mechanism would be developed (3).

The remaining options would be for individual CPs to contract with one of the approved suppliers of Emergency Video Relay or for there to be an industry wide approach involving a tender process to select one of the approved suppliers. The first approach would allow individual CPs to work directly with suppliers, some of whom they may already have an existing relationship with, giving them more control over the service provided. This approach could also mean that, were a consumer to switch CP, they may need to access a new service which could have some differences to the previous facility. However, based upon the likely small number of approved suppliers, the risk of this may be low.

The latter approach would result in a consistent industry wide approach whereby all consumers would have access to the same service (and thus eradicating the potential switching issue). It would also mean that compliance with the General Conditions would be consistent and easier to monitor across industry. Again, these approaches have elements that would need to be ironed out, particularly the question of how any supplier would be able to set up a robust, proportionate and accurate charging process if they were supplying industry as a whole.

## **Section 2: Approval Criteria and fair, reasonable and non-discriminatory terms**

As already mentioned in this response, with all potential approaches to the provision of Emergency Video Relay services, there are legitimate concerns among CPs about unfair or excessive application of wholesale rates and charges.

Whilst Virgin Media agrees with Ofcom's proposal to not regulate pricing or involve itself in contractual negotiations, we do feel that the highlighted risks remain. We believe, therefore, that the proposed intervention from Ofcom, requiring suppliers of approved emergency video relay services to include a clause about fair, reasonable and non-discriminatory terms in any contract with CPs, must be included in the approval criteria for suppliers of Emergency Video Relay services.

We also agree with the way in which Ofcom has set out its approval criteria for suppliers and we believe that it is appropriate (and necessary) for such a process to be put in place. As we move towards the implementation of these services, we would like to further understand this approval process and any timescales that are currently in place for its introduction.

## **Section 3: Zero-Rating services**

Virgin Media supports the principle that this service should be free to use for customers. However, it is important that the potential challenges of zero-rating certain website/app configurations is recognised. We therefore agree with the caveat inserted by Ofcom "where technically feasible."

We believe that further clarification is required on Ofcom's expectations of zero rating and its understanding of how it could work in practice. Firstly, in the case of a mobile app, our expectation would be that the zero-rating requirement would apply to any mobile data used whilst accessing the service. Although Virgin Media is supportive of the principle, we wish to emphasise that our ability

to do so would be based upon our ability to identify the traffic stream as it can be problematic to zero-rate something as specific as this.

Secondly, our assumption is that this process of zero-rating would not extend to the downloading of the mobile app at the outset. Again, there may well be technical limitations in this regard and we would not expect this to be deemed part of the provision of the service itself.

#### **Section 4: Registration**

Although Virgin Media understands the rationale behind the proposal to not require registration for the service, we believe that Ofcom's view is too simplistic and does not fully consider the implications of not having any form of registration process in place.

When considering any registration process, this should be viewed in two parts; initial registration when downloading/signing up for the service and any registration/sign in that would take place each time the service is used.

Firstly, it is important to stress that Virgin Media agrees that users should not be required to register/sign in to the service each time they wish to use it. As Ofcom highlights, this requirement would not fit with the idea of equivalence of access to services, as any customer wishing to contact emergency services via the usual route of calling 999 is not required to go through any registration process.

However, we would assert that an initial registration process is very different to this and is, in fact, essential for the service to function properly and support users. Having spoken to service providers, Virgin Media proposes a basic registration process, whereby the user would simply have to provide details such as their name, email address and contact phone number when they initially sign up for the service. Provision of these basic details would mean that if the service were to fail or drop out during a call, the service provider would have details with which to re-contact the customer and attempt to continue the call and provide the support needed. It has also been highlighted that current video relay services can often be targeted by both hoax callers, where non-BSL users call the service, and fraudulent activity. Requiring registration would help to alleviate and deter these issues and leave the service free to be used by those who need it the most.

There are similar services available to consumers both in Scotland and the United States, both of which require some form of registration, allowing call backs to take place, which would suggest that there should not be an issue with requiring it in this instance. It is our understanding that these services also allow consumers to use these services anonymously, if done so via the supporting website.

#### **Section 5: Conclusion**

Overall, Virgin Media agrees with the proposals made within the Consultation. However, there are a number of points stemming from them that we believe need to be considered before moving forward: in particular registration, charging structures and CPs' ability to zero rate the service. These are in addition to the further considerations that we set out at the beginning of this response.

In addition to the points made above, Virgin Media would like to understand more about the implementation process of this service, particularly the timeframes envisaged and how Ofcom sees its involvement in the process as a whole. Since this element of the EECC has been separated from the other main elements, it is essential for CPs to be given a clear roadmap for next steps and implementation, including the approval process for potential suppliers and any planned implementation date of the service. Clearly, industry as a whole and individually, would need the time to decide upon the best approach to providing this service and also work with one of the approved suppliers in order to finalise the key details on how it would work.

As already mentioned, we appreciate Ofcom's stance on not involving itself in commercial negotiations but also making the inclusion of a fair, reasonable and non-discriminatory contractual clause a pre-requisite for supplier approval. However, we believe that there is scope for Ofcom to have some involvement in this service once it becomes live, particularly in relation to promoting and publicising it and offering guidance on its usage. Individual CPs will seek to ensure that customers are aware of the service, but we believe that Ofcom should also use its position as the regulator to publicise its existence and availability. It is vital that, as an industry, we use every available avenue to ensure as many BSL users as possible are aware of and engage with the service.

### **Consultation Question Responses**

Please see below for our response to the specific questions in the Consultation.

#### **Question 1: 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?**

Virgin Media agrees with the proposal that regulated providers should be required to provide emergency video relay or contract for it to be provided.

#### **Question 2: 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?**

Virgin Media agrees that it is vital that this obligation is included in any approval criteria to ensure that CPs are not faced with unreasonable or unfair terms when contracting for such services.

#### **Question 3: Do you agree with our proposal that data used for emergency video relay should be zero-rated?**

Virgin Media agrees with the fundamental intention that this service is offered free of charge to consumers. However, as mentioned above, there may be difficulties in ensuring that it is zero-rated and these need to be acknowledged, with CPs not penalised if they have genuine insurmountable technical challenges.

#### **Question 4: Do you agree with our proposal that end-users should not be required to register to access or use emergency video relay?**

Virgin Media agrees that end-users should not be required to register when using the service. However, we believe that an initial registration process should be required in order for the service to be used effectively and to enable it to fully support its users.