

Direction under section 106(3) of the Communications Act 2003 applying the electronic communications code

Background

- 1.** CityFibre Metro Networks Limited, whose registered company number is 06586002 (the “Applicant”), applied to Ofcom for a direction applying the Code to it.
- 2.** The date on which Ofcom received a completed application that meets the statutory requirements with respect to the content of an application for a direction applying the Code and the manner in which such an application is to be made was 17 October 2011.
- 3.** By virtue of regulation 3 of the Electronic Communications and Wireless Telegraphy Regulations 2011 (SI 2011 No. 1210), except in cases of expropriation, Ofcom must make its decision within 6 months of receiving the completed application.
- 4.** Prior to giving a decision under section 106(3) of the Act to apply the Code in a person’s case, Ofcom must publish a notification of its proposal to give the direction and consider any representations about that proposal that are made to Ofcom within the period specified in the notification.
- 5.** On 3 November 2011, Ofcom published a notification in accordance with section 107(6) of the Act of its proposal to give a direction applying the Code to CityFibre Metro Networks Limited. That notification explained how, in proposing to grant the application, Ofcom had regard, in particular, to each of the matters set out in section 107(4) of the Act and had also considered its proposal in accordance with its general duties in section 3 of the Act and the requirements in section 4 of the Act. The notification invited representations to Ofcom by no later than 5pm on 5 December 2011.
- 6.** Ofcom did not receive any representations about the proposal and added the Applicant to the registered list of persons with powers under the Electronic Communications Code. The Applicant has been included on Ofcom’s published list since at least 17 January 2012 and has been treated as having Code powers throughout.
- 7.** Following an audit of Ofcom’s registered list, Ofcom has not been able to locate any direction applying Code powers to the Applicant in its records. Therefore, for the avoidance of doubt, and to ensure clarity with forward looking effect, Ofcom has decided to make this direction applying the Code to CityFibre Metro Networks Limited.

Decision

- 7.** Ofcom, having reached a decision on the application from CityFibre Metro Networks Limited for a direction to apply code powers on 6 December 2011, hereby directs, in accordance with section 106 of the Act, as follows—
 - (a) the Code shall apply to CityFibre Metro Networks Limited (whose registered company number is 06586002) for the purposes of the provision by it of
 - (b) an electronic communications network and the provision of a system of infrastructure; and;

- (c) that application of the Code shall have effect throughout the United Kingdom.

Interpretation

9. In this Direction—

- (a) “**Act**” means the Communications Act 2003;
- (c) “**Code**” means the electronic communications code set out in Schedule 3A to the Communications Act 2003;
- (d) “**Ofcom**” means the Office of Communications.

10. For the purpose of interpreting this Direction—

- (a) headings and titles shall be disregarded;
- (b) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.

Signed



Brian Potterill

Policy Director, Network & Communications

A person duly authorised in accordance with paragraph 18 of the Schedule to the Office of Communications Act 2002

14 March 2025