

2018 No. 1231

ELECTRONIC COMMUNICATIONS

**The Electronic Communications (Universal Service)
(Broadband) Regulations 2018**

Made - - - - 26th November 2018

Coming into force - - 4th December 2018

The Office of Communications (“OFCOM”), in exercise of the powers conferred by sections 66(1) and section 403(7) of the Communications Act 2003(a) (the “Act”), make the following Regulations.

Before making these Regulations, OFCOM have given notice of their proposal to do so in accordance with section 403(4)(a) of the Act, published notice of their proposal in accordance with section 403(4)(b) of the Act, and have considered the representations made to them before the time specified in the notice in accordance with section 403(4)(c) of the Act.

Citation and commencement

1. These Regulations may be cited as the Electronic Communications (Universal Service) (Broadband) Regulations 2018 and shall come into force on 4th December 2018.

Interpretation

2. In these Regulations—

- (a) “the Universal Service Order” means the Electronic Communications (Universal Service) (Broadband) Order 2018(b);
- (b) “the Act” means the Communications Act 2003;
- (c) “OFCOM” means the Office of Communications;
- (d) “the universal service” means the provision in the United Kingdom of the connections and services set out in Schedule 1 of the Universal Service Order; and
- (e) “a universal service provider” means a person designated to provide the whole or part of the universal service (and to whom universal service conditions under section 67 of the Act are applicable).

Designation of universal service provider

3.—(1) OFCOM shall propose the designation of such persons as they consider appropriate as universal service providers.

(a) 2003 c. 21.
(b) S.I. 2018/445.

(2) Proposals for designating any person as a universal service provider shall be by means of a notification published by OFCOM—

- (a) stating that they are proposing to designate that person as a universal service provider;
- (b) giving the reasons for making that proposal;
- (c) inviting alternative proposals from any other person to be designated as a universal service provider instead of the person stated in the notification; and
- (d) specifying the period within which representations about OFCOM's proposal, including any alternative proposals, may be made.

(3) The period specified for the purpose of paragraph (2)(d) must be one of not less than one month, beginning with the day after the day on which the notification was published.

(4) The publication of a notification under this regulation must be in such manner as appears to OFCOM to be appropriate for bringing it to the attention of the persons who, in OFCOM's opinion, are likely to have an interest in it, or be affected by it.

(5) Where following publication of a notification in accordance with paragraph (2), OFCOM receive, within the period specified for the purposes of paragraph (2)(d), an alternative proposal from a person to be designated as a universal service provider instead of the person state in the notice they shall—

- (a) consider that alternative proposal; and
- (b) determine whether or not, in their opinion, it would be appropriate to propose to designate that person as a universal service provider instead of the person stated in the notification.

(6) Where OFCOM determine, in accordance with paragraph (5)(b), that it would be appropriate to propose to designate another person as a universal service provider instead of the person stated in the notification, they must, before confirming that proposal, publish a notification in accordance with paragraph (2).

(7) If—

- (a) OFCOM have considered every representation about the proposals set out in a notification published under paragraph (2) that is made to them within the period specified in the notification; and
- (b) OFCOM have determined, in accordance with paragraph (5)(b), that it would not be appropriate to propose to designate another person as a universal service provider instead of the person stated in the notification,

OFCOM shall, by publication of a further notification, make the proposed designation, with or without modification.

Review of designation

4.—(1) Where OFCOM undertake a review of the designations in accordance with section 66(4) of the Act, they must first publish their intention to do so in such manner as appears to OFCOM to be appropriate for bringing it to the attention of the persons, who, in OFCOM's opinion, are likely to have an interest in it, or be affected by it.

(2) After publishing their intention, where OFCOM propose to make changes to the designation of any universal service provider, OFCOM shall follow a process with the same steps as those for designation set out in Regulations 3(2) to 3(7).

(3) Where, following a review of any designation in accordance with paragraphs (1) and (2), the universal service conditions applicable to a designated person are all revoked, the designation of that person as a universal service provider shall immediately cease to have effect.

26th November 2018

Jonathan Oxley
Group Director Competition Group
For and by the authority of the Office of Communications

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the process by which the Office of Communications (“OFCOM”) shall designate the persons to whom broadband universal service conditions are to be applicable, in exercise of its powers under section 66 of the Communications Act 2003 (c 21) (the “Act”).

Regulation 3 provides for the procedure that OFCOM will adopt to propose and confirm the designation of a person as a universal service provider. Regulation 3(2) provides for certain information that OFCOM must provide in its proposals for designation. Regulation 3(3) provides for the timeframe in which to make representations on the proposed designation. Regulations 3(5) and 3(6) provide for what OFCOM must do in light of such representations. Regulation 3(7) provide for OFCOM to confirm the designation.

Regulation 4 sets out what OFCOM must do in reviewing such designation from time to time.

A full regulatory impact assessment of the effect that these Regulations will have on cost to business is available to the public from OFCOM’s website at <http://www.ofcom.org.uk> or from the OFCOM library at Riverside House, 2a Southwark Bridge Road, London SE1 9HA. Copies of this assessment have also been placed in the library of the House of Commons.

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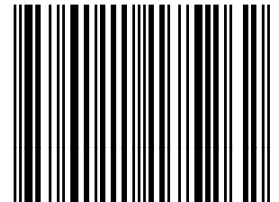
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