

# **Notes on the General Conditions for Electronic Communications**

prepared for the UK–MANs meeting on 23 April 2003

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- EC directives have a timescale for implementation
- If the corresponding national legislation is not been enacted in time, the features of the EC Directives can be applied through Statutory Instruments under the European Community Act 1972
- However, EC law will not allow a minister to delegate actions through the SI mechanism (although such delegation *can* be carried out if the appropriate national legislation is enacted)
- By 25 July 2003, EC directives on
  - Common regulatory framework for electronic communications networks and services
  - Access to, and interconnection of, electronic communications networks and associated facilities
  - Universal service and user's rights relating to electronic communications networks and services
  - Authorisation of electronic communications networks and services
 must be in service
- The directives are being incorporated into national legislation by the Communications Bill, which sets up Ofcom (*inter alia*).
- But the Communications Bill may not be enacted in time and Ofcom will not be set up in time.
- The change in licensing regime on 25 July 2003 needs General Conditions that are applicable to all *Electronic Communications Network Providers* and *Electronic Communications Service Providers* to be in place. Comments on these General Conditions were provided on behalf of UK-MANs (by Chris Cheney) and UCISA (by Brian Gilmore) last September.
- Oftel are seeking for further comments on the General Conditions, in the light of the previous responses and the two versions (Comms Act/SI):
  - One which will be used during a possible interim period should the Communications Bill not be enacted in time;
  - The other is to be used after enactment of the Communications Bill.

# Partial taxonomy of Communications Providers

## Communications Provider

*The provider is the person, including a legal entity, that directs or controls, not the actual operator of a facility.*

### 1. Electronic Communications Network Provider

*(cf “running a telecommunications system”)*

*concerned with transmission, switching, routing*

*e.g. BT, NTL, WorldCom, University of Cambridge*

#### 1.1. Public Electronic Communications Network Provider

##### 1.1.1. Public Telephone Network Provider

#### 1.2. Private Electronic Communications Network Provider

*e.g. institutional computing services, but not UKERNA or LenSE*

### 2. Electronic Communications Service Provider

#### 2.1. Public Electronic Communications Service Provider

##### 2.1.1. Publicly Available Telephone Service Provider

###### 2.1.1.1. public pay phone providers

###### 2.1.1.1.1. 24-hour public pay phone providers

*e.g. BT, Kingston, Interphone*

###### 2.1.1.1.2. Other public pay phone providers

#### 2.2. Private Electronic Communications Service Provider

*e.g. Most MANs, UKERNA, institutional computing services*

## Providers of Conduits [sic] Systems

*(Telecommunications) Code (Powers):*

- *Some exemptions from the Town and Country Planning regime*
- *Right to install apparatus in the streets without a NRSWA licence*
- *Right to apply to a Court to confer the right to execute works on private land when agreement with the landowner cannot be reached*

<b>General Condition</b>	<b>Applies to</b>
1. General Access and Interconnection obligations	Providers of <i>Public Electronic Communications Networks</i>
2. Standardisation and Specified Interfaces	<i>All Communications Providers</i> (e.g. all providers of telephone and internet networks and conveyance services)
3. Proper and Effective Functioning of the Network	Providers of <i>Public Telephone Networks</i> or Providers of <i>Publicly Available Telephone Services</i> at fixed locations
4. Emergency Call Numbers	Providers of <i>Publicly Available Telephone Services</i> , incl. providers of access to such services via payphones, and providers of <i>Public Telephone Networks</i>
5. Emergency Planning	Providers of <i>Public Telephone Networks</i> or <i>Publicly Available Telephone Services</i>
6. Public Pay Telephones	§1 and §2 apply to all providers of <i>public pay telephones</i> ; other paras. only apply where such payphones are accessible 24H
7. Consumer Interest Bodies OR Must-Carry conditions	Providers of <i>Public Telephone Networks</i> or <i>Publicly Available Telephone Services</i> OR providers of an 'Appropriate Network'
8. Operator Assistance, Directories and Directory Enquiry Facilities	Providers of <i>Publicly Available Telephone Services</i> , except public payphones
9. Requirement to Offer Contracts with Minimum Terms	Providers of <i>Public Electronic Communications Services</i>
10. Transparency and Publication of Information	Providers of <i>Publicly Available Telephone Services</i> , except public payphones
11. Quality of Service	Providers of <i>Public Electronic Communications Services</i>
12. Metering and Billing	<i>Publicly Available ...</i>
13. Itemised Bills	Providers of <i>Publicly Available Telephone Services</i>
14. Non-Payment of Bills	Providers of <i>Publicly Available Telephone Services</i> at fixed locations

<b>General Condition</b>	<b>Applies to</b>
15. [Codes of Practice and] Dispute Resolution	Providers of <i>Public Electronic Communications Services</i> to ‘Domestic and Small Business Customers’
16. & 17. have been deleted	n/a
18. Special Measures for End-Users with Disabilities	Providers of <i>Publicly Available Telephone Services</i>
19. Provision of Additional Facilities	Providers of <i>Public Telephone Networks</i>
20. Allocation and Adoption of Telephone Numbers	All Communications Providers, <i>where they apply for and have been allocated telephone numbers</i>
21. Number Portability	All Communications Providers, <i>where they apply for and have been allocated telephone numbers</i>
22. Provision of Directory Information	All Communications Providers, <i>where they apply for and have been allocated telephone numbers</i>
23. Non-Geographic Numbers	All Communications Providers, <i>where they apply for and have been allocated telephone numbers</i>

## **General Condition 2 (Comms Act version)**

2.1 The Communications Provider shall comply with any standards and/or specifications as are listed in the Official Journal of the European Communities for the provision of services, technical interfaces and/or network functions. Where no standards or specifications have been so published, the Communications Providers shall take full account of any standards and/or specifications adopted by the European Standards Organisations.

2.2 In the absence of such standards and/or specifications referred to in paragraph 2.1 above, the Communications Provider shall take full account of international standards or recommendations adopted by the International Telecommunications Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC).

2.3 In the absence of such standards and/or specifications referred to in paragraphs 2.1 and 2.2 above, the Communications Provider shall take full account of any other standard specified by Ofcom in a direction under this Condition for the purposes of service interoperability and Interconnection, provided that Ofcom shall not make such a direction if an appropriate European or other international standard is expected to be promulgated within a reasonable time.

2.4 Ofcom may from time to time issue a direction under this Condition requiring a specified Network Interconnection Interface to be compliant with a specified standard. Any such direction shall be to ensure End to End Connectivity and interoperability, and shall take full account of any relevant standards in existence as referred to in paragraphs 2.1 to 2.3 above.

2.5 Subject to paragraph 2.6 below, the Communications Provider shall ensure that:

- (a) any Network Interconnection Interface provided by it which is specified in any direction under paragraph 2.4 above is compliant with the specified standard in that direction, and
- (b) the relevant Network Interconnection Interface is available to other providers of Public Electronic Communications Networks.

2.6 The Communications Provider shall not be required to comply with paragraph 2.5 above where:

- (a) any other provider of a Public Electronic Communications Network seeking interconnection with the Communications Provider's Network at the relevant Network Interconnection Point does not require it to do so; or
- (b) to do so would require the Communications Provider to incur any cost, or resolve any technical difficulty, disproportionate to the benefits to be gained from implementing the specified standard, provided that the Communications Provider takes reasonable steps to incorporate the specified standard in its plans for network development.

2.7 In this condition:

*<various definitions>*

## **Additional points arising from an e-mail from A. Cormack, UKERNA, received after the UK-MANs meeting**

- Ofcom will be funded by an administrative charge levied on Electronic Communications Providers who have an annual turnover at least £5M. This appears as Schedule 5 to Annex D as the *Text of Draft Interim Networks and Services Regulations* (see [http://www.communicationsbill.gov.uk/pdf/Implementation\\_Con\\_Doc\\_AnnexD.pdf](http://www.communicationsbill.gov.uk/pdf/Implementation_Con_Doc_AnnexD.pdf) – 99 pages long) and, I guess, within the Communications Bill itself.
- With the advent of IP telephony, IP addresses might be considered to be telephone numbers and therefore subject to General Conditions 20 and 23. IP telephony seems likely to cause a lot of confusion, e.g., where is the boundary between NetMeeting-like activities and telephony?
- Unless a MAN has any elements of self-provision, it will presumably be an Electronic Communications Service (ECS). If there is self-provision, those parts will presumably form an Electronic Communications Network (ECN).
- JANET is presumably a private ECS but there is a chance that JANET might be considered to be a Public ECS and therefore subject to a few more of the General Conditions. If so, the same might apply to some MANs. Similarly regarding Public ECNs for any self-provision. Unless there is an obvious reason why a particular MAN should be considered to be a Public ECN/ECS, it would seem sensible to assume that it is not the case.