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9 June 2015

Dear James,

Informal licence consultation

In response to your informal licence consultation on 'Competition in Connections Code of Practice' of 12 May 2015, we would make the following comments. This response is non confidential and we are happy that it can be put in the public domain and can be used in your meeting of 12 June.

We note Ofgem's comments that it believes that a best endeavours obligation is the necessary strength required for this licence condition. The proposed drafting of the licence condition however adds ambiguity. This acts two ways:

- the inclusion of "to the fullest extent reasonably practicable" seems to dilute the best endeavours; whereas
- some other existing obligations are reduced by applying best endeavours to them.

The tracked changes version of the draft licence condition attached shows where these two points apply. A number of other comments are made on the text. In particular, the definition of 'Input Services' needs careful consideration. The relationship between 'Input Services' and 'Non Contestable' activities is unclear and we would welcome further clarification from Ofgem on the interplay between these two definitions.

As always, if you require any further information, please do not hesitate to contact me.

Yours sincerely,

Brian Hoy
Head of Market Regulation