

Tenant Connectivity Consultation
Digital Infrastructure Directorate
Department for Culture, Media and Sport
100 Parliament Street
London
SW1A 2BQ

Our ref: MM/Legal/TCC

By email: tenantconnectivity@culture.gov.uk

21 December 2018

Dear Sirs

Consultation dated 29 October 2018 on ensuring tenants' access to gigabit-capable connections (the "Consultation")

Heathrow Airport Limited welcomes the opportunity to respond to this Consultation.

We note that the aim of the Consultation is to set out proposals to amend the Electronic Communications Code (the "Code") , via primary legislation, to encourage landlords to engage with operators where a tenant requests a service and that the stated intention is ***to amend the Code to place an obligation on landlords to facilitate access to their properties for communications operators once suitably notified by that Operator of their intention to deploy electronic communications apparatus and where a service request is made by a tenant.***

Whilst we do not disagree with the intentions behind the Consultation, we think vital that any proposed legislation is absolutely be clear as to what are the circumstances that would allow an operator to apply to court.

It is somewhat unclear to us how the proposed legislation and amendments to the Code would be used by Operators to force access to parts of our estate and as it stands, the Consultation **does not direct nor require operators to give any consideration to the unique nature of an Airport environment, with its emphasis on safety and security, when executing their requirements.** As you will appreciate, Heathrow's highest priority is the safety and security of its passengers, staff and all others that operate at the Airport and the application of the Code, through operators, should in no way be allowed to compromise this.

Also, Heathrow Airport does not and cannot fall within the standard classification of "landowner" or "landlord" referred to throughout the Consultation document and we think it necessary that the amended form of Code of Practice does reflect the unique nature and requirements of certain landowners, including, obviously, airports.

We submit that in the interest of safety and security at airports, telecoms operators must be subject to similar duties as those set out in the Water Industry Act 1991 under which water undertakers have similar powers to carry out works but are also required to consider the nature of the land on which they are to carry out the works (Schedule 13, Part 1, Paragraph 1). The Act makes provision that where any works would interfere, directly or indirectly, with works or

property owned by, or the carrying on of, a 'Protected Undertaking' (which includes Heathrow Airport), the undertaker must first obtain consent from the Protected Undertaking. This consent may be subject to reasonable conditions.

Whilst, Heathrow acknowledges the need to ensure that Telecoms Operators are able to access land and install equipment to provide satisfactory telecommunications services to our customers, we consider that, similarly to the Water Industry Act 1991, the Code of Practice should direct Operators to take into account the particular issues and obligations faced by Heathrow as both a landlord and an airport when exercising their rights.

The amended Code of Practice should be the tool that directs operators and others to consider the unique nature of certain operating environments, in our case an international airport, which is constantly subject to change, transformation, upgrading and reconfiguration in the interest of passengers and other users of the airport.

The new Code is, we acknowledge, intended to be in the public interest but that, of course, must be balanced against safety and security and the need for major airports to undergo transformation, redevelopment and reconfiguration which, we would argue, are of equal - if not greater - importance to the public.

We work with our telecoms operators to achieve the best possible service for the travelling public but for that to continue, the operators must give due regard (and must be guided to give due regard) to the airports requirements just as the airport (as landowner) is required to give due regard to theirs.

We trust that the above points will be given due consideration and will be reflected in the final version of the Code of Practice. Please do not hesitate to contact me should you wish to discuss this further.

Yours faithfully,


Heathrow Airport Limited