Case Number EWC/22/2019
9 October 2019

CENTRAL ARBITRATION COMMITTEE

TRANSNATIONAL INFORMATION AND CONSULTATION OF EMPLOYEES REGULATIONS 1999 AS AMENDED

DECISION ON COMPLAINT UNDER REGULATIONS 17, 18A, 19A, 21 & 21(1A)

The Parties:

1) Verizon European Works Council
2) Jean-Philippe Charpentier

and

The Central Management of the Verizon Group

Introduction

1. On 20 June 2019, Mr. David Buckle of Cubism Law[1] submitted a complaint to the CAC on behalf of the Verizon European Works Council (the VEWC) and Jean-Philippe Charpentier, Chairperson of the VEWC (collectively referred to as the Complainants) under Regulations 17, 18A, 19A, 21 and 21(1A) of the Transnational Information and Consultation of Employees Regulations 1999, as amended (TICER) in relation to the actions of the Central Management of the Verizon Group, which is based in Reading, UK (the Employer). The CAC gave both parties notice of receipt of the complaint on 21 June 2019. The Employer submitted a response to the CAC on 27 June 2019 which was copied to the Complainants.

2. In accordance with section 263 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), the CAC Chair established a Panel to consider the case. The Panel consisted of Professor Gillian Morris as Panel Chair and Mr. Mike Cann and Mr.

[1] Subsequently via Laytons LLP.

Paul Noon OBE as Members. The Case Manager appointed to support the Panel was Nigel Cookson.

Background

3. The background to the complaint, based on material supplied by the parties, is as follows.[2] Verizon Communications Inc. is an American communications technology company. Verizon is its representative agent in the European Union ("EU") for the purposes of Directive 2009/38/EC (the "Directive") and TICER. On 20 October 2016 the VEWC entered into the Verizon European Works Council Agreement ("the Charter") with the Employer; this replaced a previous agreement dating from 2008. The Charter, a copy of which is set out in Appendix 3, is governed by TICER. The VEWC is chaired by Jean-Philippe Charpentier ("JPC"), who also chairs the VEWC's Select Committee.

4. On 21 December 2018 the Select Committee was invited by the Employer to a meeting in London on 11 January 2019 "to share and discuss some aspects of our 2019 business plans" (the date of the meeting was subsequently changed to 10 January 2019). That invitation also stated "I cannot share details on the subject matter at this point, but clearly it is important and I hope you will find a way to attend". On 2 January 2019 JPC requested details of the agenda for the meeting and this was provided on 7 January 2019. In the correspondence accompanying the agenda the Select Committee was informed that "[h]aving reminded you on (sic) the need to respect and abide by the confidentiality provisions of the Charter, the issue we wish to share results from the write down in value of the Oath asset. There are serious consequences flowing from this write down, and we wanted to share best current thinking and get any input from you on those consequences prior to final decisions". On 8 January 2019 JPC emailed the Employer to state that the VEWC had done some homework and found two online articles referring to a leaked announcement of the Employer's decision to remove the Oath brand. He attached links to those articles and said "no doubt we will be talking about the timeframe".

[2] The summary which follows is designed to provide the context for the complaints and does not constitute a full record of the extensive documentation, and correspondence between the Complainants and the Employer, supplied to the CAC. In general we do not identify the author of letters sent on behalf of the Employer unless this is material to their content.

5. At the meeting on 10 January 2019 the Select Committee was informed of a proposed reorganisation of the Employer's business which would lead to the proposed termination of employment of 216 employees across eight of the countries covered by the VEWC (referred to later as "Project D"). No VEWC representatives from the countries where employees were potentially affected were invited to the meeting in addition to members of the Select Committee. The agenda for the meeting was, in material respects, as follows:

> 10.00 Start. Introductions and scene set.
> 10.15 Outline of the issues
> 10.45 Discussion, debate and dialogue
> 11.45 Break – opportunity for a recess if the five of you [ie the Select Committee] need to meet alone and discuss among yourselves what you have heard.
> 12.15 Final clarifications
> 12.30 Wrap up and next steps.

The Employer gave a slide presentation to the meeting. On the first slide of the presentation were the words "Legally Privileged"; "Strictly Private & Company Confidential"; "Not for Disclosure". In that presentation under the heading "Proposed Timelines" were the words "Global staff notifications – generally not before 24 January 2019". At the meeting the Select Committee said that it appreciated the "heads up" but that its members could not undertake the information and consultation process as they lacked a mandate to do so. The Select Committee raised various concerns about the Employer's failure to properly inform the VEWC about the reorganisation. In particular the Select Committee pointed out that any reorganisation presented to the VEWC needed to have representatives present from the impacted countries. The Select Committee advised the Employer to convene the VEWC as soon as possible; inform them of the reorganisation; and consult with them properly.

6. On 16 January 2019 the Employer's Director of Human Resources wrote to the Select Committee in response to some of the issues raised at the meeting on 10 January 2019. He provided some additional information which he said had been requested by the Select Committee. Under the heading "EWC Agreement and I&C Obligations" he stated that there was "definitely a sense of shared frustration over our agreement and its obligations". He continued as follows:

From my vantage point

Role of Select Committee: The path to sustainable, meaningful, early (I will come back to this issue) dialogue is to have a Select Committee that represents all its members. Logically a Select Committee that cannot conduct business on behalf of its members on the most important issues of the day, is of limited value ... I don't believe there is any appetite to get 20 odd people round a table to have the type of conversation we had on Thursday. Apart from logistics and confidentiality it is unwieldy and not manageable....

From your vantage point

Information and Consultation Obligations. In essence I think I continue to hear that these are not met. There were comments last Thursday about lateness of this and failure to do that. I suspect this boils down to wanting more notice of transactions and wanting detail earlier. Though I don't agree; my view remains that the level of detail, the rapidity, the regularity with which you are involved, the candour, the investment of leaders' time all reflects what our agreement describes, I will set up time to discuss with you all and Alan. It won't be until February, and probably mid February simply because of diaries.

7. On 18 January 2019 JPC contacted the Employer to express the Select Committee's concern about the information provided and the Employer's approach to confidentiality. On 24 January 2019 the Select Committee discovered a press announcement about implementation of the reorganisation. This announcement had been sent out on 23 January 2019 and referred to changes that "will impact around 7% of our global workforce". On 24 January 2019 the Employer sent out an email to staff stating that "Today we will be initiating redundancy processes in various countries across EMEA,[3] as we look to prioritise our investment decisions, focus on our customer needs, and move to a reduced cost model. We undertook an extensive review of our EMEA businesses at the end of 2018". On 24 January 2019, following discovery of the press announcement, JPC wrote to the Employer as follows:

[3] Europe, the Middle East and Africa.

> We'd like to remind you that consultation with the EWC is required before implementing any transnational change, in such a way that the EWC is able to influence the decision before it's taken. We are still waiting for you to inform the EWC before implementing the Oath reorganisation. We also remind you that you agreed to bring us into contact with people in Oath so we can get a better feel on how Oath employees experience working for Verizon.

The Employer replied later the same day confirming that it had initiated the redundancy process involved in the reorganisation that day. In that email the Employer stated that it would provide the EWC with an update on the redundancy processes at the next scheduled EWC meeting.

8. On 18 February 2019 JPC wrote to the Employer saying that the Select Committee would like to "stress again" that the Oath reorganisation was not carried out in line with the EU Directive in that:

- only the select committee of EWC was informed;
- no consultation took place;
- the Select Committee did not get copies of the "deck presented", although requested – no cost saving breakdown, nor business case to support the reorg.
- no contacts had been provided to it to reach local employees in the impacted countries;
- impacted employees were informed without the required information and consultation with the EWC;
- the contact details for the employee reps in the impacted locations were not, and are still not, provided.

JPC said that the reorganisation was in total breach of European laws and said that the EWC intended to enforce its rights. The Employer responded that day stating that every transaction was notified to the VEWC in advance and that there was every opportunity for the VEWC to conduct its scrutiny and review of any transaction in accordance with the Charter should it choose to do so. The Employer stated that it could inform and consult with the Select Committee only and contended that the level of I & C provided to the VEWC at the meeting in January met, and indeed exceeded, its Charter and legal obligations. On 20 March

2019 the VEWC met the Employer at a plenary meeting. There were no changes in the parties' respective positions.

9. On 9 April 2019 the Select Committee asked that an arbitration panel be appointed to resolve the dispute as required by Article XII.2 of the Charter. On 18 April 2019 the Employer responded, stating that in its view the parties had not yet fully explored whether the dispute between them was capable of resolution without arbitration and that the Employer was not yet at the point where it agreed that a resolution was "impossible". The Employer asked the VEWC to provide detailed submissions in writing within the next two-four weeks setting out what breaches of the Charter it alleged had been committed, whereupon the Employer would respond within the same timeframe. The Employer said that this would allow it to identify precisely the points of dispute and then to convene an extraordinary meeting of the Select Committee to discuss these points and establish whether the dispute could be resolved without escalation. The Employer said that if it was clear that, at the end of such a meeting, agreement could not be reached then, within a reasonable time, the parties should each appoint an arbitrator who should then agree on the third member of the arbitration panel. On 19 April 2019 the Select Committee wrote to the Employer setting out its demands in line with "EU directives". The VEWC rejected the Employer's proposed course of action as an attempt to "gain time" and said that it did not "see any benefit" to the Employer's proposal since the parties' positions were "so far apart". On 26 April 2019 the Employer wrote to the Select Committee reiterating its position that the matter should be resolved without resorting to arbitration at this stage. In that letter the Employer stated that a number of the Select Committee's comments about the consultation meeting in January were "not factually correct". On 8 May 2019 the Select Committee again rejected the Employer's proposal and informed the Employer that it would "engage with the CAC". On 9 May 2019 the Employer wrote to JPC stating that its strong preference was to avoid litigation and to resolve their differences in line with the Charter but that having reflected on JPC's indication that it would not be possible to resolve the conflict among themselves it "reluctantly" accepted the need to proceed to arbitration in line with Article XII.2 of the Charter.

10. On 17 May 2019 the Select Committee submitted a complaint to a two person arbitration panel;[4] the Employer responded on 26 May 2019. In its response the Employer said that it did "not accept the EWC's complaints as being merited". On 7 June 2019 the arbitration panel provided recommendations "to assist the Parties with their interaction and to help avoid conflict in the future". These recommendations covered the role of the Select Committee within the VEWC; the Information and Consultation process; the composition of the VEWC; and dispute resolution. The panel did not rule on the merits of the complaint itself. On 13 June 2019, in a document headed "Response to the Arbitral Recommendations", the Employer accepted the arbitration panel's recommendations. Under the heading "Next Steps" it stated the following:

> 8. Verizon welcomes the suggestion that the parties meet to consider each other's response to the Recommendations. It commits to attending such a meeting at the earliest opportunity.
>
> 9. Verizon recognises that the parties' implementation of the Recommendations will lead to a new way of working. It suggests that the meeting between the parties is used to discuss the Recommendations to ensure that there is a shared understanding of how they are implemented in practice.
>
> 10. Verizon understands the EWC's frustration that Verizon did not undertake information and consultation in respect of Project D in line with the Recommendations that have now been made. It accepts that its approach did not lead the EWC to feel that Verizon was committed to co-operating and entering into a constructive dialogue with it. Verizon also regrets that this frustration cannot be remedied in respect of Project D as it has already been implemented...
>
> 12. ... [T]he members of management responsible for Verizon's relationship with the EWC have recently changed. These individuals are committed to developing a better working relationship with the EWC. They hope that this response to the Recommendations will lead the EWC to conclude that Verizon's approach will be different in future.
>
> 13. Verizon invites the EWC to continue to refrain from filing complaints to the CAC until both parties have discussed the Recommendations.

[4] The parties agreed to dispense with a requirement for a three-person panel.

11. On June 17 2019 JPC wrote to the Employer stating that the VEWC had noted the Employer's response to the arbitral recommendations but also noted that the response only indicated regret by management as to the approach taken and set out potential changes for the future; it did not address actual breaches of the Charter itself or confirm that management accepted that it was in breach. The email stated that "... management will appreciate the concerns the EWC has for the future because it appears management are still not recognising there has been a breach". The email informed the Employer that the VEWC had appointed David Buckle from Cubism Law as its legal representative in this matter and that he would represent and advise the VEWC regarding its complaints to the CAC, his cost to be covered as per Article X.1 of the Charter.

12. On 18 June 2019 the Employer wrote to the Select Committee asking whether it had given substantial consideration to the arbitration panel's recommendations as well as to the Employer's response. It expressed disappointment that the Select Committee had decided to proceed to the CAC. It continued as follows:

> Central Management notes your decision to appoint Cubism Law. You have also indicated that its fees will be paid by Verizon. However, Article X.1 of the Agreement only requires Central Management to bear "reasonable expenses necessary for the functioning of the EWC".
>
> You have already prepared a detailed 23 page complaint with the assistance of Sjef Stoop,[5] whose fees for this Verizon will already be paying. It is therefore not reasonably necessary for Verizon to pay for you to receive further assistance at this stage. Central Management notes that the CAC is also not a body where lawyers are required and that the CAC takes steps to ensure that an unrepresented party is not disadvantaged.
>
> However we do wish to act reasonably. This means that if you do proceed to the CAC and consider that you need further assistance in due course, then we will consider any request that you make at that time. If you want to make such a request, then Cubism Law should provide a fixed-fee quote on a high-level basis for our prior approval. Verizon will not pay for any costs incurred without prior approval and puts David Buckle ... on notice of this.

[5] The VEWC-appointed arbitrator.

On 19 June 2019 JPC responded, stating that he had spoken to Mr Buckle who was happy to provide a fixed fee quote. He continued:

> I am told normal costs for proceeding to a full hearing are in the region of £15,000 to £25,000 plus VAT which also covers representation at the final hearing. [Mr Buckle] would however normally charge an hourly rate of £300 as matters may require less work than this but if you prefer to fix an amount no matter what, he will accept a set amount of £15,000 plus VAT if the matter is dealt with only on a one day final hearing. Additional days at any hearing would be £2,500 plus VAT. I would be grateful if you could confirm your final position on these costs as we will need to decide very shortly and tomorrow whether to include your refusal in the complaint ....

13. On 21 June 2019 the Employer informed the Select Committee that Central Management considered that the Select Committee did not reasonably require the assistance of Cubism Law to proceed to the CAC as commencing an EWC dispute was a "free and simple process" requiring almost nothing more than sending an email to the CAC with a copy of its arbitral submissions with which the Employer had already paid for it to be assisted. The Employer continued that it was "for this reason that if you ask us to pay Cubism Law's additional fees for commencing a claim then Central Management will refuse to pay them". The Employer said that it would give

> proper consideration to paying any fixed fee quote if and when necessary in due course.
>
> For example, if a CAC hearing is ultimately required then we will consider a fixed fee quote in respect of it such as "£2500 (plus VAT) for attendance at CAC hearing".
>
> But it is unreasonable to ask us unconditionally to pay Cubism Law £15,000 (plus VAT) at this stage irrespective of what assistance you might reasonably require.

The Complaints

14. The complaint dated 20 June 2019 submitted to the CAC alleged that the Employer had failed to comply with the terms of the Charter and with TICER in several respects.

These complaints are listed in paragraphs 15 and 16 below. The substance of these complaints and the material provisions of the Charter and TICER to which they relate are set out in greater detail later in this decision. The specific regulations relevant to this complaint are also set out in Appendix 2 to this decision.

15. The VEWC raised the following complaints under Regulations 17, 18A and 21 of TICER in relation to the failure of Central Management to comply with the terms of the Charter[6] and Regulation 18A of TICER, namely:

> 1. Failing to comply with the required information and/or consultation process with the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee on 10 January 2019[7] and acting as stated above in breach of Articles I.7 and 8; II.1 to 5; IV.1 and 11; V.2 and 5; VI.1 to 8: VII.7: and VIII.l of the Charter and Regulations 18A(3) and 18A(5) of TICER;
> 2. Failing to inform and consult with the correct elements of the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee on 10 January 2019 in breach of Articles I.7 and 8, II.1 to 3; IV.1, 10 and 11; V.2 and 5; and VI.1 to 8 of the Charter;
> 3. Refusal to allow the VEWC an expert of their choice, namely Cubism Law, under Article V.10 of the Charter and refusal to pay the expenses relating to the appointment of legal representation to pursue a complaint with the CAC under Article X.1 of the Charter.

16. JPC raised the following complaints under Regulations 19A and 21A of TICER that the Central Management had failed to provide the members of the VEWC with the means required to fulfil their duty to represent collectively the interests of employees, namely, Central Management's refusal:

> 1. to allow the VEWC an expert namely Cubism Law[8];

[6] The complaint used the term "VEWC Agreement" but as the parties refer to this as "the Charter" we have adopted this terminology throughout.
[7] As stated in paragraph 4 above, the date of the meeting was changed from 11 January 2019 to 10 January 2019. We have changed the date accordingly here and in subsequent paragraphs of this decision.
[8] Now Mr Buckle via Laytons LLP; see note 1 above. We have changed references from Cubism Law to Mr Buckle via Laytons LLP in subsequent paragraphs of this decision.

2. to provide the means required to fulfil their duty to represent collectively the interests of employees, namely, Central Management's refusal to pay the expenses relating to the appointment or legal representation to pursue a complaint with the CAC.

The Employer's response to the complaints and subsequent events prior to the hearing

17. In its response to the complaints dated 27 June 2019 the Employer accepted that aspects of the VEWC's complaints relating to the failure to comply with the required information and consultation process in respect of Project D were merited. For example, the VEWC had requested a further meeting with the Employer after that held on 10 January 2019 but no such meeting had been held despite the VEWC's entitlement to a meeting at its request. However the Employer said that it did not accept that all the complaints detailed in paragraph 15 point 1 were merited, for example it did not accept those in respect of the sufficiency of information about Project D.

18. The Employer also accepted that aspects of the VEWC's complaints specified in paragraph 15 point 2 above were merited. For example, the Employer had failed to invite all eligible attendees to the meeting on 10 January 2019. The Employer accepted that it should also have invited other members of the VEWC representing countries in which employees would potentially be affected. However the Employer did not accept that each of the articles in the Charter referred to by the VEWC prescribed the "correct elements" of the VEWC with which the Employer should have informed and consulted about Project D. For example, article II.2 of the Agreement concerned the circumstances of the Charter's conclusion; the Employer did not accept that it breached a provision that documented factual circumstances as at 20 October 2016.

19. The Employer proposed that the CAC's consideration of these complaints should be stayed pending the decision of the EAT in *Hans-Peter Hinrichs* v *Oracle Corporation UK Ltd* [9] which focussed on the timing of information and consultation with an EWC during exceptional circumstances. The Employer contended that this would not cause undue prejudice to the VEWC. The Employer noted that the VEWC had said that it considered itself

[9] UKEAT/0194/18/RN

'at risk' because the Employer had refused to accept that it had breached its obligations but said that it did now accept that it had breached some. The Employer further suggested that it would be helpful for the CAC to hold an informal meeting with the parties to provide an opportunity for the CAC to assist the parties to build a new working relationship, and possibly sufficient comfort to the VEWC for it to withdraw its complaints altogether. The Employer said that even if it was not possible completely to resolve these complaints an informal hearing may allow the parties to clarify and reduce the number of matters in dispute.

20. The Employer stated that the complaints specified in paragraph 15 point 3 and paragraph 16 above were unmerited. It invited the Complainants to withdraw those complaints failing which it invited the CAC to strike them out without an oral hearing on the basis that they were vexatious; had no reasonable prospect of success; and were being conducted unreasonably by Cubism Law. The reasons given by the Employer for submitting that these complaints were unmerited are not recorded at this stage of the decision as both parties made submissions relating to these complaints at the subsequent hearing.

21. The VEWC accepted the Employer's suggestion of an informal meeting with the Panel Chair and this was arranged for 3 September 2019. However on 8 August 2019 the Employer contacted the CAC to ask for this meeting to be cancelled and for the CAC to consider the complaints in its formal capacity. The Employer said that it had been informed that the VEWC intended to make additional complaints to the CAC in relation to another information and consultation process and that as a result the Employer had concluded that it would not be possible for the parties meaningfully to build a new working relationship or provide the VEWC with sufficient comfort for it to withdraw the existing complaints at the informal meeting. In a letter to the VEWC dated 9 August 2019 the Case Manager asked for the VEWC's comments on whether the informal meeting should be cancelled. The letter also stated that the Panel Chair had asked the Case Manager to point out to both parties that it was not CAC procedure to strike out applications or complaints nor did the CAC have the provision to award costs against a party. In an email to the Case Manager dated 13 August 2019 the VEWC said that it had "little choice but to agree" that the informal meeting should be cancelled.[10] In a letter to the parties dated 14 August 2019 the Case Manager said that the

[10] This letter and subsequent correspondence to the CAC from the Complainants was written by Mr Buckle on behalf of the Complainants.

Panel Chair had noted that it was now the view of both parties, albeit for differing reasons, that the informal meeting should be cancelled and had agreed that it should be cancelled. The letter invited the parties to attempt to determine which matters could be agreed between them, if possible by direct communication, and indicated that the Panel Chair would be happy to consider a stay of proceedings of a specified length if the Complainant, or the parties jointly, wished to request this. The Panel Chair offered to meet the parties' chosen representatives if the parties considered that this would be helpful in assisting the process. The Case Manager asked the Complainants to provide an update on progress and whether a stay was required by 28 August 2019. In an email to the VEWC dated 20 August 2019, which was copied to the CAC, the Employer said that owing to members of the management team being on leave it invited the Complainants to request that the CAC stay the case until 13 September 2019. In an email to the CAC dated 23 August 2019 the VEWC said that it was concerned that the Employer may be attempting to delay matters so as to frustrate the complaint and that it would be best now to proceed to a formal hearing.

The hearing

22. Having considered the parties' written submissions the Panel decided to hold a hearing to assist it in making its decisions. The hearing took place in London on 30 September 2019 and the names of those who attended are appended to this decision (Appendix 1). Both parties supplied the Panel with detailed written submissions in advance of the hearing together with supporting documentation. The Panel's decision on each of the complaints has been taken after full and careful consideration of the views of both parties as expressed in their written submissions and amplified at the hearing and of all the other material adduced in evidence.

Matters clarified at the start of the hearing

The structure of the hearing and of this decision

23. The Panel Chair said that the complaints and the submissions relating to them fell into two broad categories:

- The failure to comply with the required information and/or consultation process with the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee on 10 January 2019 and the failure to inform and consult with the correct elements of the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee on 10 January 2019 (Category 1 complaints).

- Complaints about the role and costs of experts (Category 2 complaints).

The Panel Chair suggested that each of these categories should be dealt with in a self-contained manner at the hearing, so that the parties would be invited to make submissions and to sum up on each of the categories individually. The parties agreed to this procedure. This structure is replicated in this decision and the Panel's considerations and decisions on each group of complaints are recorded at the end of the category to which they belong.

Admission of new evidence following the lodging of written submissions

24. The Panel Chair informed the parties that new evidence following the lodging of written submissions would be admitted only for good reasons and at the discretion of the Panel. The letter informing the parties of the arrangements for a hearing provide a deadline for the lodging of each party's statement of case together with any supporting documents relied on or referred to in their submission (eg legislation, cases, guidance documents). The letter contains the following paragraph in bold type:

> On no account should a party cross-copy new evidence to another party once submissions have been lodged; rather, the material should be brought to the hearing and the Panel will decide whether it should be admitted.

The deadline for submission of evidence in this case was noon on 19 September 2019. The Panel Chair reported that on the afternoon of Friday September 27 2019 the Employer had sent further written material to the Case Manager in an attachment to an email which the Case Manager had forwarded to the Panel at 15.31. The Panel Chair read the covering email shortly before 16.20. She did not open the attachment. She wrote immediately to the other

Panel members to ask them not to open the attachment and, if they had already done so, not to read the material it contained. She also instructed the Case Manager to return the material to the Employer. Both Panel members had by that time opened the attachment. Mr Cann informed the parties at the hearing that he had printed out the material contained in the attachment but had read only the first page by the time he received the Panel Chair's email and had put what he had read out of his mind. Mr Noon informed the parties that he had skim-read the material quickly on screen; had not printed it out; and had not retained any detail of what the material contained.

Coverage of the EWC

25. In their written submission the Complainants said that at one time the Employer had claimed that the VEWC did not represent employees working for Oath. Both parties confirmed that it was common ground that the VEWC covered workers working for Oath.

The existence of exceptional circumstances

26. Paragraph VI.4 of the Charter makes provision for the Select Committee of the VEWC to be informed in "exceptional circumstances". Both parties confirmed that it was common ground that Project D represented "exceptional circumstances".

Category 1 Complaints.

27. The two complaints by the VEWC falling into category 1 were:

> Failing to comply with the required information and/or consultation process with the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee on 10 January 2019 and acting as stated above in breach of Articles I.7 and 8; II.1 to 5; IV.1 and 11; V.2 and 5; VI.1 to 8: VII.7: and VIII.l of the Charter and Regulations 18A(3) and 18A(5) of TICER;
>
> Failing to inform and consult with the correct elements of the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee

on 10 January 2019 in breach of Articles I.7 and 8, II.1 to 3; IV.1, 10 and 11; V.2 and 5; and VI.1 to 8 of the Charter.

The Employer made a number of admissions in the statement of case provided for the hearing. That being so the Panel Chair asked the Employer to clarify the scope of these admissions at the outset so that the issues remaining in dispute between the parties could be identified.

The Employer's statement of case and the Complainant's response

28. The Employer stated that, in its Ground of Complaint, the VEWC had complained under regulations 17, 18A and 21 of TICER whereas, of those regulations, the CAC had jurisdiction to hear complaints made under regulation 21 only. The Employer said that it nevertheless accepted that complaints may be made under regulation 21(1)(a) of TICER in respect of an alleged breach of an agreement such as the Charter concluded in accordance with regulation 17 of TICER, and of regulation 18A of TICER. The Employer said that the VEWC had complained in its Grounds of Complaint that the Employer had breached 22 provisions of the Charter and two provisions of regulation 18A of TICER but had not otherwise referenced those provisions and the Employer submitted that many of them did not create an obligation on the Employer that it could have breached. For example, the first provision that the VEWC alleged that the Employer had breached was a definition of the concept of "information". The Employer accepted that other provisions of the Charter that impose obligations on it used that term but denied that it could have breached a definition in the abstract. The Employer said that it did not wish speculatively to respond to how the VEWC might be alleging that it had breached each of those 24 provisions in turn. The Employer said that it had therefore limited its response to the particularised allegations made by the VEWC that it had failed "to comply with the required information and/or consultation process with the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee" on 10 January 2019 and had failed "to inform and consult with the correct elements of the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee" on 10 January 2019. The Employer said that if the VEWC wished to particularise how it alleged that the Employer had breached each of those 24 provisions then the Employer would respond to each allegation if that would assist

the CAC but that given its admissions in respect of the allegations detailed above, set out in paragraph 29 below, the Employer hoped that the VEWC would consider such a process unnecessary. The Employer also said that it reserved its position in respect of whether each newly particularised complaint had been brought in time having regard to regulation 21(1B) of TICER which provides that a complaint may only be brought within a period of six months beginning with the date of the alleged failure or non-compliance. In its statement of case the Employer denied that it had breached any of the 24 provisions except insofar as it admitted to the contrary as set out in paragraphs 29 and 30 below. However at the hearing the Employer made additional admissions which are set out in paragraph 33 below.

29. In its statement of case the Employer admitted that it had breached Article VI.4 of the Charter which provides that the Select Committee of the VEWC shall, having been informed about exceptional circumstances, have the "right to meet, *at its request*, with Central Management" (emphasis added). The Employer said that paragraphs 63 and 69 of the CAC's decision in *Hans-Peter Hinrichs* v *Oracle Corporation UK Ltd*[11] confirmed the meaning of such a provision and unambiguously indicated that the Employer had erred by proceeding as follows after informing the Select Committee on 21 December 2018 that exceptional circumstances existed:

- proactively organising what it considered would be an information and consultation meeting on 10 January 2019 instead of waiting for the Select Committee to request such a meeting;
- subsequently treating that meeting on 10 January 2019 as having been an extraordinary information and consultation meeting despite it not having been requested by the Select Committee; and
- refusing the proper request by the Select Committee for an information and consultation meeting on the mistaken basis that it had already held such a meeting.

The Employer accordingly invited the CAC to find the VEWC's particularised allegations in this respect to be well-founded. This reflected the fact that that the Employer accepted that, from as early as its initial notification email to the Select Committee on 21 December 2018, it had failed properly to follow the information and consultation process detailed in the Charter. The Employer admitted, therefore, that it did not "comply with the required information

[11] EWC/17/2017, decision of 12 February 2018.

and/or consultation process" and that it had therefore failed properly to "inform and consult with the correct elements of the VEWC". The Employer committed to ensuring that it would follow the letter of its obligations under the Charter in future.

30. The Employer said that the VEWC had indicated that it may wish to make an application to the EAT in respect of any decision by the CAC in favour of the VEWC. The Employer invited the VEWC to reflect on whether, in light of its admissions above, the VEWC considered it necessary to apply for a penalty notice to be issued. The Employer said that in case the VEWC ultimately pursued an application to the EAT, the Employer proactively accepted that, if the validity of its entire information and consultation process had not been vitiated by its breach of Article VI.4 of the Agreement, it would nevertheless still have breached:

(a) Article VI.5 of the Charter and regulation 18A(2) of TICER by its failure to provide information in advance of the meeting on 10 January 2019. The Employer said that the question of how far in advance of the meeting on 10 January 2019 it would have been required to provide its information on Project D if the meeting had been requested by the Select Committee was a question of fact but it accepted that it would have been best for it to have provided its information on Project D, including the substantial information provided orally during the meeting on 10 January 2019, in advance of that meeting and

(b) Article VI.7 of the Charter by its failure to invite members of the VEWC from each country in which employees were potentially affected to the meeting on 10 January 2019.

31. The Employer noted that regulation 21(7) of TICER reserved to the EAT the role of determining whether the Employer had a reasonable excuse for its failure and regulations 21(8) and 22(3) of TICER reserved to the EAT the role of determining the gravity of the failure. The Employer said that it therefore reserved its right to make representations in accordance with regulation 21(7) of TICER if the VEWC made an application to the EAT for a penalty notice to be issued.

32. The Complainant said that it wished the Panel to consider all the aspects of the alleged breaches of the Charter which it had set out in its statement of case. The parties

agreed that an appropriate way of handling this was to consider each of the statements set out in paragraph 42 of the Complainant's statement of case to determine whether the Employer accepted the statement in question. In the event that the Employer did not accept a particular statement the Panel would hear submissions from the parties on it. The Employer said that as it had accepted, for the reasons set out in paragraph 29 above, that the information and consultation process had been tainted from the outset there was a logical difficulty in saying that provisions of the Charter which governed a valid process should have been applied, such as the individuals who should have been invited to attend a meeting convened at the Select Committee's request. With that proviso, however, the Employer said that it was content to follow the suggested course.

Consideration of the alleged breaches of the Charter as set out in the Complainant's statement of case

33. This paragraph lists in italics the 11 statements set out in the Complainant's statement of case and indicates whether the statement was accepted by the Employer and, if not accepted, the finding made by the Panel:

(i) *The Employer called a meeting, it appeared the intent for which was for it to be a full information and consultation meeting.* This was accepted by the Employer. The Employer drew attention to an internal email dated 21 December 2018 with the subject "European Works Council – Select Committee – extraordinary meeting" which the Employer said indicated the Employer's intent. The Employer accepted that the meeting which had been called did not accord with the Employer's legal obligations and that the rest of the process was tainted from that point on.

(ii) *That meeting was with the Select Committee alone. That meeting could not be a full Information and Consultation meeting. It could be deemed an initial meeting in "exceptional circumstances" but the purpose of a meeting such as this was to start the Information and Consultation process, not encapsulate the entire process, as it appeared the Employer asserted.* This was accepted by the Employer. The Employer pointed to the admission set out in paragraph 30 sub-paragraph (b) above that Article V1.7 of the Charter had been breached

by its failure to invite members of the VEWC from each country in which employees were potentially affected to the meeting.

(iii) *The Employer, in the meeting (and after) asserted that the Information and Consultation process generally should only involve the Select Committee, again in direct breach of Article VI.7. The role of the Select Committee on its own was, according to Article V.2, operational only.* This was accepted by the Employer for the reasons set out in (ii) above; insofar as the Employer thought that it was a valid meeting it should have invited members of the VEWC from each country in which employees were potentially affected to the meeting.

(iv) *The Employer failed and refused to involve VEWC members of the affected countries in breach of Articles IV.10 and 11 and again Article VI.7. After the acquisition of Yahoo, the Employer did not take any steps to make sure that the employees in any new countries within the scope of the VEWC could appoint or elect a VEWC member. In addition, the existing VEWC members in countries where employees from Yahoo and AOL were based were not included or involved in any meeting.* The Employer accepted the first sentence of this statement. The Employer said that any complaint relating to events following the acquisition of Yahoo was out of time under regulation 21(1B) of TICER and the matter was not considered further by the Panel.

(v) *If, as asserted by the Employer, the meeting in January 2019 was to be a full information and consultation meeting, which was denied, the information provided at that meeting did not fulfil the definition of Information under the Charter in breach of Article I.7. Provision of the data was by way of a webchat, without hard copies, over a very short period of time which did not "enable [the VEWC] to acquaint themselves with the subject matter and to examine it'. The manner of delivery was also not given "at such time, in such fashion and with such content as are appropriate to enable the EWC to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultation." This was especially the case as the Employer appeared to assert that the Select Committee was expected to consult on the reorganisation within an hour of being provided with the information and without the relevant individuals to make consultation effective. Further, it did not allow any discussion "in such fashion and with such content as enables the EWC to express an opinion on the*

basis of the information provided about the proposed measures to which the consultation is related" in breach of Article I.8. The Employer said that the date of the meeting had been altered from January 11 2019 to January 10 2019 in order to ensure that an appropriate person could provide the information at the meeting. The Employer pointed to the fact that there was a 30-minute slot on the agenda for members of the Select Committee to meet alone and discuss what they had heard before feeding back to the Employer. However the Employer also pointed to the recommendation of the arbitration panel that in normal circumstances Central Management would provide (preferably) written information to the Select Committee at least five working days in advance of a proposed meeting in accordance with Article VI.6 of the Charter. The Employer said that it had accepted this recommendation and that in view of its changed stance it did not wish to contest the contention that the information should have been provided in advance. The Employer said that the information was provided in writing in the form of slides and that members of the Select Committee had had the opportunity to acquaint themselves with the information and to examine it but the Employer accepted that this opportunity was not sufficient. The Employer said that following their private session members of the Select Committee had been invited to give their opinion but JPC said at the hearing that they did not wish or feel able to do this without others being present.

(vi) *The Employer did not provide the information specified in Article VI.5 and set out in the Business Template. By way of examples, it did not present alternatives. It did not provide the rationale for the reorganisation or, it appeared, the full rationale, seemingly placing emphasis on the GDPR rather than the reasons later stated in public announcements made on 23 January 2019.* The Employer referred to paragraph 88 of the decision in *Haines* and *The British Council*[12] and said that there had been a process of follow-up after the meeting on 10 January 2019 with additional information provided in an email sent by the Employer on January 16 2019 to the Select Committee. The Employer also drew attention to an email to the Employer from JPC on January 18 2019 thanking the Employer for the time spent

[12] EWC/7/2012, decision of 22 April 2013. This paragraph, so far as material, states: ".... the Employer adduced evidence that its consultative process involved on-going communications with the Steering Committee as well as the EWC, and that further consultation took place between the scheduled meetings of both the full EWC and the Steering Committee. The Employer showed a willingness to communicate and meet with both bodies, and to do so more frequently than required by the letter of the Regulations. Further, as an important part of this process, the EWC was able to ask for additional information by way of clarification, and if such information was available at the time, the Employer was normally willing to provide it".

together "on this important topic", which the Employer said clearly referred to the reorganisation, as an introduction to notes taken by the Select Committee "to ensure a follow up will take place". The Employer further contended that the requisite information had been given orally at the meeting on 10 January 2019. Mr O'Rourke, Assistant General Counsel, International Employment Law, Verizon, gave evidence that during the presentation on the screen there had been queries and a dialogue about the information being presented. He said that the Employer had been challenged about the timing of the meeting; there had been discussion about retraining people rather than cutting jobs; and the rationale for the reorganisation had been provided. The Panel said that it could not make a finding of fact on this aspect of the complaint and the Complainant accepted this.

(vii) *Such information that was provided was clearly given after a decision had been made. The basis for the refusal for a full Information and Consultation meeting was because there was not enough time before the implementation of the reorganisation, indicating that a decision had been finalised. Information and Consultation should have occurred when the decision on the proposed changes had not yet been finalised and could still potentially be changed, so that the VEWC could have an input that brought added value, thus again breaching Article VI.3.* Initially the Employer rejected the contention that the timing of the information and consultation was too late, maintaining that there was a two-week period between the meeting on 10 January 2019 and the global announcement on 24 January 2019 for the VEWC to come back with more detailed views. The Employer pointed to the statement in paragraph 83 of the CAC's decision in *Oracle* that it was not the role of the EWC to seek to reverse a management decision or any action taken and that 14 days was sufficient for the VEWC to carry out its function. The Employer said that it accepted that consultation had not taken place in accordance with the Regulations but questioned the premise about the role of the VEWC that underlay statement (vii). The Employer drew attention to the EAT decision in *Oracle* where it was stated that there was no obligation on an employer to await an opinion from the EWC before taking and implementing a decision if the requisite consultation has taken place.[13] The VEWC contended that the decision about the proposed changes had clearly been made before 10 January 2019 and pointed to a document in the Employer's bundle of evidence from Variety dated 18 December 2018 headed "Verizon is Officially Killing the 'Oath' Name". The Employer said that an announcement about the

[13] Above note 9, Slade J at [47]

Oath name was not the same as the decision about the reorganisation. It also pointed to an inherent tension between the requirements of Appendix 1 to the Charter, which required sufficient planning by management to provide this information, and the information and consultation process. In answer to a question from the Panel, Mr O'Rourke said that the decision about the reorganisation would have been made before the end of the 14-day period referred to but he did not know how long before and he acknowledged that it could potentially have been the day after the meeting on 10 January 2019. Mr O'Rourke said that he had fed back the discussion at the meeting to the Employer's US management but it was accepted by the parties that in the absence of evidence on when the decision about the reorganisation was taken it could not be shown that this was in time to influence the decision. The Employer accepted that the 14-day time period in Article VI.8 of the Charter for the VEWC to issue an opinion statement had not been provided.

(viii) *The VEWC requested a full Information and consultation meeting which was refused in breach of Article VI.7.* This was accepted by the Employer.

(ix) *The Select Committee requested further information. With the exception of the email by James Montgomery on 17 January 2019,*[14] *this did not result in the Select Committee receiving any more information which was in breach of Article VI.4.* The Employer contested this statement. It pointed to an email from the Employer to JPC dated 24 January 2019 which stated that the EWC would be provided with an update on the redundancy processes at the next scheduled EWC meeting. It also pointed to the Update on Project D given in a presentation to the EWC on 20 March 2019 and to a slide which indicated that in Italy and France the process of collective redundancies was still ongoing. The Employer accepted that it had not acted in accordance with the Charter or TICER but took issue with the allegation that no further information had been provided. The Complainants said that 20 March 2019 was two months after the decision had been taken and the Employer accepted this.

(x) *As above, the Select Committee did not receive adequate Information and was denied the opportunity to meet management in an Information and Consultation meeting, thus precluding the opportunity to issue an opinion statement on the subject matter. This was emphasised by the fact that the re-organisation was to be implemented within less than 14*

[14] This email was, in fact, dated 16 January 2019; see paragraph 6 above.

days of the meeting, which the Charter stipulated as a reasonable timeframe to provide that opinion, again breaching Article VI.8. It was agreed by the parties that this duplicated other statements and should be deleted.

(xi) *The Employer further sought to restrict all interaction to that of the Select Committee preventing it from complying with its obligation to inform its constituency on the outcome of Information and Consultation in breach of Article VIII and the right to contact all employees he/she represents in these locations (Article V.5) Since the affected countries were not communicated in advance,*(sic) *national employees' representatives could not be invited to participate nor were the VEWC members of the affected countries involved. Also, after the meeting in January 2019, the Select Committee members were not allowed or enabled to contact these representatives from affected countries. The information and consultation process at national level was not linked to the information and consultation of the VEWC.* The Employer accepted that a blanket prohibition on confidentiality was not appropriate and that it should have identified which information was restricted and why and provided a timeframe for restriction as envisaged in Article X1.1 of the Charter so that the Select Committee could have challenged the restriction under regulation 23(6) of TICER if it chose to do so. The Employer said that members of the Select Committee should have been able to share the information with VEWC members of the affected countries. In answer to a question from the Panel, the Employer said that it did not accept that it was necessary to share the information with the remaining VEWC members but said that it would not regard this as a problem given that they would be bound by the same obligations of confidentiality as the other members.

Apology by the Employer

34. The Employer said that it wanted to apologise to the EWC for what had happened. An apology was read to the hearing in the following terms:

> Verizon welcomes the opportunity afforded by this hearing to apologise in person to the EWC. Verizon should have informed and consulted with it about Project D in accordance with its obligations. It didn't and for that it publicly apologises.

The Employer said that it did not oppose a decision against it.

Decisions

35. The Panel's decisions on the complaints contained in Category 1 are as follows:

The complaint that the Employer failed to comply with the required information and/or consultation process with the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee on 10 January 2019 in breach of the Charter and Regulations 18A(3) and 18A(5) of TICER is well-founded.

The complaint that the Employer failed to inform and consult with the correct elements of the VEWC prior to a decision being made in relation to the reorganisation notified to the Select Committee on 10 January 2019 in breach of the Charter is well-founded.

The Complainants did not seek an order under regulation 21(4) of TICER and the Panel makes no such order.

Category 2 Complaints

36. The VEWC raised one complaint within Category 2:

- Failure by the Employer to comply with the terms of the Charter and Regulation 18A of TICER by a refusal to allow the VEWC an expert of their choice, namely Cubism Law, under Article V.10 of the Charter and refusal to pay the expenses relating to the appointment of legal representation to pursue a complaint with the CAC under Article X.1 of the Charter.

JPC raised two complaints within Category 2 under Regulations 19A and 21A of TICER for the failure by the Employer to provide the means required to fulfil their duty to represent collectively the interests of employees, namely the refusal:

- To allow the EWC an expert namely Cubism Law

- To provide the means required to fulfil their duty to represent collectively the interests of employees, namely the Employer's refusal to pay the expenses relating to the appointment of legal representation to pursue a complaint with the CAC.

Summary of the Complainants' submissions

37. The Complainants referred to the provisions of the Charter and legislation relevant to these complaints.

Article V.10 of the Charter provides:

> The EWC or the Select Committee may be assisted by an internal and external expert of its choice in so far as this is necessary to carry out its tasks.

Article X.1 of the Charter provides:

> The reasonable expenses necessary for the functioning of the EWC and the Select Committee will be borne by Verizon. An annual budget will be established for this purpose, with the budget being communicated to the EWC in the first financial quarter of each year.

Regulation 19A of TICER provides:

> .... the central management shall provide the members of a European Works Council with the means required to fulfil their duty to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings under these Regulations.

38. The Complainants noted that in its response to the initial complaint the Employer had stated that it was an agreed fact that Cubism Law was acting as the expert of the VEWC. The Employer had said that it had never sought to refuse to allow the VEWC legal representation

of its choice; had accepted that to do so would be wholly inappropriate; and had said that the right to legal representation of one's choice was a fundamental right. The Complainants submitted that these admissions confirmed that the requirements under Article V.10 for the appointment of an expert had been met, including the fact that such an expert was "necessary". The Complainants stated that the point of dispute appeared to be the amount of any cost as expert fees were payable. The Complainants submitted that the level of costs suggested was reasonable. The Complainants submitted that the Employer's approach to this matter was confused. In its response to the complaint the Employer had stated that it had not, in fact, refused to pay for the VEWC to be assisted in bringing its complaints. Rather, the Employer had said that it had already paid for the VEWC to be assisted to prepare a 23 page document detailing its complaints; wished to act reasonably; and would consider any request for further assistance in due course. However the Employer had also said that this was notwithstanding that it was not legally required to fund any further assistance. The Complainants submitted that to make this assertion was contradictory, the Employer having essentially agreed to an expert and then refused to pay the reasonable costs associated with his appointment. The Complainants said that in its response to the complaint the Employer had sought to characterise the request to pay legal costs as a complaint that it had "… not provided an unlimited guarantee of the EWC's further costs in connection with pursuing its complaints". The Complainants said that this was wholly incorrect and disingenuous; proposals as to costs had been provided and on receipt of a request from the Employer for a high-level fixed fee quote, this was also provided whereupon the Employer had complained about how such a fixed fee would require payment of a fixed amount.

39. The Complainants submitted that if the Employer would not pay for lawyers then the practical consequence was that any expert would be precluded from acting for the VEWC. The Complainants pointed to Article V.10 of the Charter and said that there was nothing to limit the definition of an expert or the parameters of his or her role; it would have been open to the parties to exclude legal representation and they had not done this. The Complainants also said that Article X.1 of the Charter did not suggest that the role of the VEWC was limited to information and consultation and submitted that bringing complaints to the CAC and EAT was part of its role. In addition, the Complainants pointed to the reference in regulation 19A of TICER to the duty of EWC members "to represent collectively the interests of the employees" and submitted that this must involve all the duties specified in the Charter

including going to the CAC. The Complainants said that it was not the place of individual members of the VEWC to spend their own money enforcing such agreements. The Complainants suggested that the Employer's legal team had been involved throughout the process and that even had they not been, the Employer had had the option to involve them, being an organisation with a turnover of some $139 billion, whereas without funding the VEWC generally did not have any such option. The Complainants said that the VEWC could not hold any funds and was entirely dependent on the provision of the means required to carry out its duties and obligations; it could not insure for such costs. The Complainants said that the complaints involved complex matters of law and fact which required legal argument and an ordered approach. The Complainants pointed out that for JPC, English was not his first language; he did not reside in the UK; and he had no knowledge of the procedures of courts and tribunals in England and Wales, and that this was the case for the vast majority of VEWC members.

40. The Complainants said that there was a difference between whether they needed a lawyer and whether they should have one. The Complainants said that the Employer appeared to be arguing that lawyers were never "necessary" under Article V.10 of the Charter. The Complainants said that if the test of necessity were always objective, as the Employer maintained, then it would always be left to the CAC to determine the matter which made the whole argument a circular one. The Complainants said that if the VEWC felt that it needed legal advice then deference should be given to that view. The Complainants noted that in this case the Employer had initially maintained that it had done nothing wrong in relation to the information and consultation processes regarding Project D and that it was unclear whether its change of position, and apology, which could have been given earlier, would have happened without legal representation and a complaint to the CAC. The Complainants said that it was not unreasonable for the Employer to ask about charges in advance and that asking for a fixed fee could be seen as appropriate. The Complainants said that they had not had any problems before about getting funding from the Employer for an expert.

41. The Complainants said that the Employer had referred to the case of *Emerson Electric European Works Council* and *Emerson Electric Europe*[15] as justification for not paying legal costs. Paragraph 67 of that decision reads as follows:

> The Panel was asked to decide whether the EEEWC Agreement and TICER provide a right to legal representation to pursue a complaint before the CAC. The CAC is not a body where lawyers are required, and the CAC takes steps to ensure that an unrepresented party is not disadvantaged. The Panel does not consider that failure to pay legal costs as such constitutes a breach of this Agreement or of Regulation 19A of TICER.

The Complainants submitted that the decision in *Emerson* needed to be assessed in the context of the submissions and statements made in the hearing. In that case, central management had offered to pay the costs of the legal expert at the hearing. To that extent, this made any decision relating to legal costs redundant. Indeed, paragraph 66 of the decision stated:

> The Employer stated at the hearing that it would have been willing to fund one or two experts to assist the Select Committee in these proceedings but that this did not give those experts the right to engage any other experts in addition. The Employer offered at the hearing to pay the reasonable fees of Mr Buckle of Cubism Law in attending the CAC hearing as an expert. The Panel notes these assurances by the Employer and does not therefore consider that it is required to make any additional findings in relation to the role of experts.

42. The Complainants said that questions arose from the decision in *Emerson*. In that case there had been no finding in respect of the complaint of failure to pay the legal representative as an expert under the terms of that EWC Agreement in the light of the offer made; despite this, the decision seems to state that no payment was due under the Agreement. The Complainants said that the decision did not confirm whether the role of an expert was strictly limited to attending only meetings and, in that case, hearings, and whether expert funding was similarly limited. The Complainants said that they understood that representation before

[15] EWC/13, 2015, decision of 19 January 2016.

the CAC in *Oracle* was undertaken by a non-legally trained EWC expert. Did the decision in *Emerson* bar any form of remuneration for any expert when assisting with or advising on a complaint to the CAC, or just legal costs? Did the decision mean that legal costs generally were also not allowed in respect of any advice that did not involve actual representation in the CAC hearing, yet which was linked to the same? The Complainants said that this could prevent the payment of a legally trained arbitrator in the arbitration process under Article XII of the Charter. Commenting on the Employer's reference to the Chairman of the lrish Labour Court's decision in *Nortel*[16] the Complainants said that the reference had omitted the sentence following that quoted which reads:

> In relation to the matters upon which the forum wished to seek advice, the Court is satisfied that the information which they required could have readily been obtained elsewhere, including from State Agencies, without the need to incur legal costs.

The Complainants maintained that this ruling was specific to the facts of that case; moreover the Employer had not stated where such free independent assistance could be derived from for the VEWC. The Complainants said that the CAC in *Emerson* had rightly referred to the efforts of the CAC to ensure that an unrepresented party was not disadvantaged but this would arise only once a complaint had been brought. The Complainants said that the CAC was not in a position to assist in respect of what complaints should be brought, nor could it assist an unrepresented party as to what evidence was applicable and should be used in a complaint to the CAC or in preparation of a statement of case. For the CAC to truly address any imbalance, it would need to represent the EWC and that was not its role.

43. The Complainants said that the CAC was not bound by its previous decisions and that in this respect the submissions made in *Emerson* may still be made. The Complainants said that the reason that the Directive was amended in 2009 was to make it more effective as stated in Recital 7 which reads:

> It is necessary to modernise Community legislation on transnational information and consultation of employees with a view to ensuring the effectiveness of employees' transnational information and consultation rights, increasing the proportion of

[16] ICC/09/1. See paragraph 48 below.

> European Works Councils established while enabling the continuous functioning of existing agreements, resolving the problems encountered in the practical application of Directive 94/45/EC and remedying the lack of legal certainty resulting from some of its provisions or the absence of certain provisions....

The Complainants said that Article 10 of the Directive asserted for the first time the entitlement of members of the EWC to the "means required to apply the rights arising from" the Directive and that given the purpose of the Directive, Article 10 should not be interpreted narrowly. The Complainants suggested that Article 10 had been introduced, at least in part, to ensure that employers respected the spirit and provisions of the Directive and to provide EWCs with financial legal assistance to ensure they did. The Complainants said that evidence could be found in Article 11.2 of the Directive, which referred to an entitlement to adequate administrative or judicial procedures to be made available by the member states to enable the obligations deriving from this Directive to be enforced. The Complainants said that it could thus be deduced that costs linked to legal actions and disputes between the EWC and management should be covered.

44. The Complainants submitted that the importance of an effective remedy is a general principle of EU Law. Article 47 of the Charter of Fundamental Rights of the EU provides that:

> Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.
>
> Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.

Similarly, Recital 36 of the Directive provides:

> In accordance with the general principles of Community Law, administrative or judicial procedures as well as sanctions that are effective, dissuasive and

proportionate in relation to the seriousness of the offence, should be applicable in cases of infringement of the obligations arising from this Directive.

The Complainants submitted that the Charter and regulation 19A of TICER had to be interpreted in the light of these fundamental rights and principles and consideration given to whether legal costs may fall under these provisions. The Complainants said that if the means required stated in both the Directive, Regulation 19A of TICER and the Articles of the Charter did not include funded assistance for the VEWC in respect of applying its rights in a complaint to the CAC where it was given no other real option, this would potentially make any rights practically unenforceable. Without fear of enforcement, there was no impetus for compliance with the legislation. On these grounds the Complainants submitted that the legal costs of enforcing the VEWC's rights were covered by the Charter and regulation 19A of TICER and the fees accrued in bringing this complaint should be paid. The Complainants submitted that the Charter did not limit the VEWC's entitlement to a single expert; Article V.10 could include a firm as well as an individual and Article X.1, in referring to "reasonable expenses", contained no such limitation. In answer to a question from the Panel, Mr Buckle said that he had asked Mr Harding to act at the hearing because he was a better advocate and had the ability to deal with the unforeseen.

Summary of the Employer's submissions

45. The Employer said that the VEWC had complained under regulations 17, 18A and 21 of TICER and that JPC had complained under regulations 19A and 21A. The Employer said that of those regulations the CAC had jurisdiction to hear complaints made only under regulations 21 and 21A but the Employer accepted that complaints may be made under regulation 21(1)(a) of TICER in respect of an alleged breach of the Charter and under regulation 21A(1)(b) in respect of an alleged breach of regulation 19A of TICER.

46. The Employer began by affirming that it had never refused to allow the VEWC the legal representation of its choice. The Employer said that the VEWC had an unfettered right to appoint a lawyer whether on a *pro bono* basis or with some form of legal aid. The Employer said that whether an expert was "necessary" under Article V.10 was a question of fact and that it was not necessary to have an expert to assist a complaint to the CAC. The

Employer submitted that it was not the duty of the VEWC to bring complaints against management; rather its tasks were as set down in the Charter.

47. In its written submission the Employer said that it had not, in fact, refused to pay for the VEWC to be assisted in bringing its complaints in any event. The Employer said that it had already paid for the VEWC to be assisted to prepare a 23 page document detailing its complaints prior to the arbitration; wished to act reasonably; and would consider any request for further assistance in due course. This was notwithstanding that it was not legally required to fund any further assistance. The Employer said that the Complainants' complaints were that it had not provided an unlimited guarantee of the VEWC's further costs in connection with pursuing its complaints and it was clearly unreasonable to demand such a guarantee. The Employer said that this conclusion was also supported by the Department for Business, Innovation & Skills Guidance dated April 2010 which indicated that:

> Of course, the means which central management must make available to EWCs are not without limit. In particular, management must provide only those means that are "required". Expenditure which is superfluous to requirements or which is excessive relative to the need may therefore not be covered.

At the hearing the Employer reiterated that it wanted to act reasonably and referred to the fact that in *Oracle* the company had exercised its direction to pay the expert's fees. The Employer referred to the exchange of emails between the parties outlined in paragraphs 11-13 above. The Employer said that JPC's email of 17 June 2019 had made no reference to fees other than saying Mr Buckle's costs would be covered "as per Article X1." of the Charter. The Employer also referred to its email to JPC of June 18 2019; JPC's letter of 19 June 2019 setting out Mr Buckle's fixed fee quote; and the Employer's offer contained in its letter of 21 June 2019 to JPC to:

> give proper consideration to paying any fixed fee quote if and when necessary in due course.
> For example if a CAC hearing is ultimately required then we will consider a fixed fee quote in respect of it such as "£2,500 (plus VAT) for attendance at CAC hearing".

> But it is unreasonable to ask us unconditionally to pay Cubism Law £15,000 (plus VAT) at this stage irrespective of what assistance you might reasonably require.

The Employer said that it had received no response to this offer. The Panel Chair asked the parties to adjourn to discuss whether they could now reach agreement on this matter. After an adjournment the parties reported that they had been unable to reach agreement.

48. The Employer referred to the CAC's decision in *Emerson* (see paragraph 41 above) where the EWC Agreement said that the "company will pay all reasonable costs of the experts including professional fees and disbursements". The Employer said that the Complainants' lawyers in that case had made comprehensive submissions on the issue and the CAC's attention had been drawn not only to the relevant provisions of the Directive and TICER but even to article 47 of the EU Charter of Fundamental Rights. The Employer acknowledged that the CAC was not bound by its previous decisions but referred to the following dictum in *IWGB and CIS Security Ltd*:

> While CAC decisions are not binding on other panels they do set out the thinking of panels chosen for their industrial knowledge and experience. While many CAC decisions turn on their own facts some involve determinations of general principle. Where CAC panels have consistently determined a point of principle in one way that is of significance, particularly because it involves the consideration of the issue by a number of panels all selected for their industrial knowledge including panel members who have many years of experience in the workplace.[17]

The Employer acknowledged that *Emerson* alone did not amount to a consistent practice but also noted that the Complainants had not provided any basis to justify the CAC departing from its decision in *Emerson*. The Employer submitted that the threshold for the VEWC to succeed on this occasion was higher than that in *Emerson* because of the need to demonstrate that its fees would be both "reasonable" and "necessary" whereas no test of necessity existed in *Emerson*. The Employer said that the CAC could take reassurance from the Chairman of the Irish Labour Court's decision in *Nortel*.[18] He had held in respect of a claim for expenses

[17] TURI/1091/ 2019, decision of 29 April 2019, paragraph 37.
[18] ICC/09/1.

for legal representation for a body established in accordance with national legislation transposing an EU directive on national information and consultation that was materially similar to the Directive:

> Having regard to all the circumstance of this case the Court does not accept that legal advice or representation is necessary for the pursuance of industrial relations claims. Nor does the Court accept that the pursuance of such claims falls within the range of duties ascribed to an information and consultation forum under the Act.

49. The Employer pointed to differences in the wording of Article 10.1 of the Directive and regulation 19A of TICER. Article 10 of the Directive reads as follows:

> .... the members of the European Works Council shall have the means required to apply the rights arising from this Directive, to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.

Unlike TICER, therefore, the Directive made no reference to Central Management. The Employer said that Article 10.1 was merely giving the EWC capacity to enforce its rights as there had been a question whether an EWC could go to court. The Employer said that Article 11.2 of the Directive, referred to by the Complainants, merely replicated the wording of the earlier Directive and could not, therefore, create evidence of intention in 2009.

50. The Employer said that the words "means required to fulfil their duty to represent collectively the interests of employees" in regulation 19A of TICER should not be construed to cover legal expenses and it would be an unwelcome legal precedent for an Employer to be obliged to fund legal action against it. The Employer sought to submit in evidence for the first time at the hearing in support of this contention material from the *Government Response to the Public Consultation: Implementation of the Recast European Works Council Directive: Draft Regulations*, BIS, April 2010. The Complainants challenged the admission of this document on *Pepper* v *Hart* principles and on the basis that further research on the relevance and context of the document would be required were it to be admitted. The Panel upheld the view that the document should not be admitted at the hearing. The Employer said that

regulation 17(4)(e) of TICER required an EWC agreement to cover "the financial and material resources to be allocated" to the EWC and that the Panel's findings should be on the basis of the Charter only; this was essentially a contractual case and the complaint under regulation 19A of TICER was not well-founded. The Employer noted that the Complainants' reference to the Charter of Fundamental Rights of the EU (see paragraph 44 above) had omitted the final sub-paragraph which states:

> Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

The Employer sought to make submissions on the interpretation and application of Article 47 relying on case law which was not contained in its statement of case or supporting documents and of which, therefore, the Panel and the Complainants had had no previous sight. The Panel Chair pointed this out to the Employer who said that the Panel should at least take account of the principles decided in those cases. After a short adjournment the Panel decided that it did not wish to hear further submissions on these matters.

51. In relation to the Charter, the Employer submitted that as a general principle there was no need for the VEWC to have external expert assistance before the CAC; it was neither "necessary" or "reasonable". The Employer said that it was for the CAC to ensure a party could advance its case properly and fairly. The Employer's fall-back position was that there was no need for legal assistance; if this was wrong, then the matter should be assessed on a case-by-case basis. The Employer submitted that Article V.10 by referring to "an expert" was not contemplating multiple experts. The Employer also pointed to the Subsidiary Requirements in the Schedule to TICER, paragraph 9(5) of which states:

> The operating expenses of the European Works Council shall be borne by the central management; but where the European Works Council is assisted by more than one expert the central management is not required to pay such expenses in respect of more than one of them.

Considerations

52. The Complainants' first complaint was that the Employer had failed to allow the VEWC an expert of their choice, namely Cubism Law. The Employer strongly denied this and there was no evidence before the Panel that this had occurred. The Panel does not regard this complaint as well-founded.

53. The Complainants' second complaint was that the Employer had refused to pay the expenses relating to the appointment of legal representation to pursue a complaint with the CAC. The Complainants maintain that both the Charter and regulation 19A of TICER require these expenses to be paid. The Employer's primary submission is that legal representation is not necessary or reasonable for complaints to the CAC under the Charter and is not covered by regulation 19A of TICER and that there is no requirement, therefore, for the Employer to pay the expenses incurred. The Employer further submitted that it was not required to pay for the Complainants to have any form of expert assistance in relation to complaints to the CAC.

54. The Employer submitted that the tasks of the VEWC were confined to those specified in the Charter; the Complainants that bringing complaints to the CAC was part of its role. The Panel considers that the role of the VEWC and, where applicable, its individual members,[19] extends to bringing complaints to the CAC. The question then arises as to whether legal representation is "necessary" for the VEWC to carry out this task under the Charter and/or whether it falls within the "means required" for members of an EWC to fulfil their duty to represent collectively the interests of employees under regulation 19A of TICER.

55. The Panel concurs with the view expressed in *Emerson* that the CAC is not a body where lawyers are required and the CAC takes steps to ensure that an unrepresented party is not disadvantaged. The Panel does not consider that failure to pay legal costs as such constitutes a breach of the Charter or of regulation 19A of TICER. However this does not mean that it can never constitute such a breach. The Panel considers that, as a general

[19] Under regulation 21(3)(a) of TICER the EWC itself is a “relevant applicant”; under regulation 21A(10)(c)(ii) a member of the EWC is a “relevant applicant”.

principle, the assistance of an expert is "necessary" under Articles V.10 and X.1 of the Charter and falls within the "means required" under regulation 19A of TICER in relation to proceedings before the CAC. The Panel also considers that the expert is entitled to reasonable payment for acting as such and that both the Charter and TICER require the reasonable expenses of his or her appointment to be borne by the Employer. The choice of expert is a matter for the VEWC and an individual is not debarred from acting as an expert in this context because he or she is legally qualified. In this case Mr Buckle, now via Laytons LLP, was the VEWC's chosen expert. It follows that the Panel considers that a failure on the part of the Employer to pay the reasonable expenses relating to the appointment of Mr Buckle as an expert in relation to these proceedings is in breach of the Charter and of regulation 19A of TICER.

56. The Panel notes that in this case the Employer invited the Select Committee to obtain a high-level fixed-fee quote and then took the view that it would give proper consideration to paying any quote "if and when necessary in due course" (see paragraph 13 above). This approach left individual members of the VEWC, the expert, or both at risk of financial loss or non-payment as applicable. The Panel considers that the VEWC and the expert should be assured at the outset that the "reasonable expenses" incurred as a result of the expert's appointment will be met by the Employer, either on a fixed fee or other basis as agreed. In this case the Employer did not give the VEWC any such assurance.

57. In this case the VEWC was assisted by two individuals, Mr Buckle in his capacity as the VEWC's nominated expert and Mr Harding of Counsel. The Panel does not exclude the possibility that there may be circumstances where recourse to the assistance of more than one expert can be justified by an EWC under TICER or an EWC Agreement, with a corresponding obligation on the Employer to pay the reasonable expenses associated with their appointment. However the Panel does not consider that more than one expert was required to assist with the complaints at issue here. The Panel appreciates Mr Buckle's frankness in explaining why he felt it appropriate to call upon Mr Harding to act as the Complainants' advocate at the hearing. However the reasons Mr Buckle gave relate to his perception of his own competencies rather than the exigencies of the case. Moreover the Panel notes that it is open to the VEWC to choose a different expert at any time if the designated expert is not considered suitable for a particular role. The Panel does not therefore

consider the Employer's refusal to pay Mr Harding's fees to constitute a breach of the Charter or of regulation 19A of TICER.

58. Mr Buckle informed the hearing that his own fees in relation to these proceedings totalled £10,000 plus VAT, consisting of 25 hours' work charged at £300 per hour prior to the hearing and £2,500 for the hearing itself. Mr Buckle said that this did not include work which duplicated that undertaken prior to the arbitration. The Panel considers these fees to be reasonable in the circumstances and has made orders accordingly as set out in paragraphs 61 and 62 below.

Decisions

59. The CAC does not consider the complaints by the VEWC and JPC that the Employer had failed to allow the VEWC an expert of their choice to be well-founded.

The CAC considers the complaint by the VEWC that the Employer had refused to pay the expenses relating to the appointment of Mr Buckle via Laytons LLP to pursue a complaint with the CAC to be well- founded.

The CAC considers the complaint by JPC that the Employer had refused to provide the members of the VEWC with the means required to fulfil their duty to represent collectively the interests of employees by refusing to pay the expenses relating to the appointment of Mr Buckle via Laytons LLP to pursue a complaint with the CAC to be well- founded.

The Orders

60. The Complainants brought complaints under two provisions of TICER in respect of the same matter: the VEWC under regulation 21, JPC under regulation 21A. The CAC has found both these complaints to be well-founded. The CAC has therefore made orders under both these provisions on the basis that compliance with one order will also discharge the obligation under the second order.

61. In the exercise of its discretion under regulations 21(4) of TICER the CAC makes the following order under regulation 21(5):

(a) the representative agent Verizon shall pay the expenses incurred as a result of the appointment by the VEWC of Mr David Buckle via Laytons LLP to pursue a complaint to the CAC, being the sum of £10,000 plus VAT;
(b) the representative agent Verizon failed to undertake to make this payment on 30 September 2019;[20]
(c) this order must be complied with within 21 days of the date of this decision.

62. In the exercise of its discretion under regulation 21A(3) of TICER the CAC makes the following order under regulation 21(5):

(a) the representative agent Verizon shall pay the expenses incurred as a result of the appointment by a member or members of the VEWC of Mr David Buckle via Laytons LLP to pursue a complaint to the CAC, being the sum of £10,000 plus VAT;
(b) the representative agent Verizon failed to undertake to make this payment on 30 September 2019;
(c) this order must be complied with within 21 days of the date of this decision.

Concluding observation

63. As stated in paragraphs 24 and 50 above the Employer in this case sought to introduce material, including case law, which had not been included in its statement of case submitted prior to the hearing. The Panel reminds the parties that all material which they wish to be considered by the Panel should be submitted with the statement of case so that it can be properly considered by the other party and the Panel prior to the hearing. New material will be admitted at a hearing only for good reason, for example where the material in question was not available at an earlier stage, and at the discretion of the Panel.

[20] The Employer failed to undertake to make a payment at an earlier date but 30 September 2019, the date of the hearing, was the date when the Employer's position was stated unequivocally.

The Panel

Professor Gillian Morris – Panel Chair

Mr Mike Cann

Mr Paul Noon OBE

9 October 2019

Appendix 1

Names of those who attended the hearing on 30 September 2019:

For the Complainants

Simon Harding – Counsel
David Buckle - Solicitor
Jean-Philippe Charpentier - Chair, Verizon EWC
Jan Gyselinck - Verizon EWC
Jan Froding - Verizon EWC
Kevin Rodgers - Verizon EWC

For the Employer

David Hopper - Senior Associate, Lewis Silkin LLP
Alan O'Rourke - Associate General Counsel, International Employment Law, Verizon
Dragos Voinescu - EMEA Lead Employee & Labor Relations, Point of Contact for the EWC, Verizon
Lucy Snell - Senior Legal Counsel, International Employment Law, Verizon
Michèle Minnebo - EMEA HR Business Partner EMEA, Verizon

Appendix 2

Transnational Information and Consultation of Employees Regulations 1999, as amended: regulations relevant to this decision

Content and scope of a European Works Council agreement and information and consultation procedure

17.—(1) The central management and the special negotiating body are under a duty to negotiate in a spirit of cooperation with a view to reaching a written agreement on the detailed arrangements for the information and consultation of employees in a Community-scale undertaking or Community-scale group of undertakings.

(2) In this regulation and regulations 18 and 20, the central management and the special negotiating body are referred to as "the parties".

(3) The parties may decide in writing to establish an information and consultation procedure instead of a European Works Council.

(4) Without prejudice to the autonomy of the parties, where the parties decide to proceed with the establishment of a European Works Council, the agreement establishing it shall determine—

(a) the undertakings of the Community-scale group of undertakings or the establishments of the Community-scale undertaking which are covered by the agreement;

(b) the composition of the European Works Council, the number of members, the allocation of seats and the term of office of the members;

(c) the functions and the procedure for information and consultation of the European Works Council and arrangements to link information and consultation of the European Works Council with information and consultation of national employee representation bodies;

(d) the venue, frequency and duration of meetings of the European Works Council;

(dd) where the parties decide that it is necessary to establish a select committee, the composition of the select committee, the procedure for appointing its members, the functions and the procedural rules;

(e) the financial and material resources to be allocated to the European Works Council; and

(f) the date of entry into force of the agreement and its duration, the arrangements for amending or terminating the agreement, the circumstances in which the agreement is to be renegotiated including where the structure of the Community-scale undertaking or Community-scale group of undertakings changes and the procedure for renegotiation of the agreement.

(4A) In determining the allocation of seats under paragraph (4)(b), an agreement shall, so far as reasonably practicable, take into account the need for balanced representation of employees with regard to their role and gender and the sector in which they work.

(5) If the parties decide to establish an information and consultation procedure instead of a European Works Council, the agreement establishing the procedure must specify a method by which the information and consultation representatives are to enjoy the right to meet to discuss the information conveyed to them.

(6) An agreement referred to in paragraph (4) or (5) is not to be subject to the provisions of the Schedule, except to the extent that the parties provide in the agreement that any of those requirements are to apply.

(7) Where a Community-scale group of undertakings comprises one or more undertakings or groups of undertakings which are themselves Community-scale undertakings or Community-scale groups of undertakings, the European Works Council shall be established at the level of the first-mentioned Community-scale group of undertakings, unless an agreement referred to in paragraph (4) provides otherwise.

(8) Unless a wider scope is provided for in an agreement referred to in paragraph (1), the powers and competence of a European Works Council and the scope of an information and consultation procedure shall, in the case of a Community-scale undertaking, cover all the establishments located within the Member States and, in the case of a Community-scale group of undertakings, all group undertakings located within the Member States.

(9) Where information disclosed under a European Works Council agreement or an information and consultation procedure includes information as to the employment situation in the Community-scale undertaking or, as the case may be, the Community-scale group of undertakings, this shall include suitable information relating to the use of agency workers (if any).

Information and consultation

18A.—(1) This regulation applies where—

(a) a European Works Council or information and consultation procedure has been established under regulation 17; or

(b) a European Works Council has been established by virtue of regulation 18.

(2) The central management, or any more appropriate level of management, shall give information to—

(a) members of a European Works Council; or

(b) information and consultation representatives,

as the case may be, in accordance with paragraph (3).

(3) The content of the information, the time when, and manner in which it is given, must be such as to enable the recipients to—

(a) acquaint themselves with and examine its subject matter;

(b) undertake a detailed assessment of its possible impact; and

(c) where appropriate, prepare for consultation.

(4) The central management, or any more appropriate level of management, shall consult with—

(a) members of a European Works Council; or

(b) information and consultation representatives,

as the case may be, in accordance with paragraph (5).

(5) The content of the consultation, the time when, and manner in which it takes place, must be such as to enable a European Works Council or information and consultation representatives to express an opinion on the basis of the information provided to them.

(6) The opinion referred to in paragraph (5) shall be provided within a reasonable time after the information is provided to the European Works Council or the information and consultation representatives and, having regard to the responsibilities of management to take decisions effectively, may be taken into account by the central management or any more appropriate level of management.

(7) The information provided to the members of a European Works Council or information and consultation representatives, and the consultation of the members of a European Works Council or information and consultation representatives shall be limited to transnational matters.

(8) Where information as to the employment situation in the Community-scale undertaking or, as the case may be, the Community-scale group of undertakings, is disclosed by the central management or any more appropriate level of management, this shall include suitable information relating to the use of agency workers (if any).

Means required

19A.—(1) Subject to paragraph (2), the central management shall provide the members of a European Works Council with the means required to fulfil their duty to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings under these Regulations.

(2) The obligation on central management in paragraph (1) does not include an obligation to provide a member of a European Works Council with—

(a) time off during working hours to perform functions as such a member, or remuneration for such time off (as required by regulations 25 and 26);

(b) the means required to undertake training (as required by regulation 19B); or

(c) time off during working hours to undertake training, or remuneration for such time off (as required by regulations 25 and 26).

21.—(1) Where—

(a) a European Works Council or information and consultation procedure has been established under regulation 17; or

(b) a European Works Council has been established by virtue of regulation 18,

a complaint may be presented to the CAC by a relevant applicant where paragraph (1A) applies.

(1A) This paragraph applies where a relevant applicant considers that, because of the failure of a defaulter—

(a) the terms of the agreement under regulation 17 or, as the case may be, the provisions of the Schedule, have not been complied with; or

(b) regulation 18A has not been complied with, or the information which has been provided by the management under regulation 18A is false or incomplete in a material particular.

(1B) A complaint brought under paragraph (1) must be brought within a period of six months beginning with the date of the alleged failure or non-compliance.

(2) In this regulation, "failure" means an act or omission and a failure by the local management shall be treated as a failure by the central management.

(3) In this regulation "relevant applicant" means—

(a) in the case of a failure concerning a European Works Council, either the central management or the European Works Council; or

(b) in the case of a failure concerning an information and consultation procedure, either the central management or any one or more of the information and consultation representatives,

and "defaulter" means the persons mentioned in sub-paragraph (a) or (b) against whom the complaint is presented.

(4) Where the CAC finds the complaint well-founded it shall make a decision to that effect and may make an order requiring the defaulter to take such steps as are necessary to comply with the terms of the agreement under regulation 17 or, as the case may be, the provisions of the Schedule.

(5) An order made under paragraph (4) shall specify—

(a) the steps which the defaulter is required to take;

(b) the date of the failure; and

(c) the period within which the order must be complied with.

(6) If the CAC makes a decision under paragraph (4) and the defaulter in question is the central management, the relevant applicant may, within the period of three months beginning with the date on which the decision is made, make an application to the Appeal Tribunal for a penalty notice to be issued.

(6A) Where such an application is made, the Appeal Tribunal shall issue a written penalty notice to the central management requiring it to pay a penalty to the Secretary of State in respect of the failure.

(7) Paragraph (6A) shall not apply if the Appeal Tribunal is satisfied, on hearing the representations of the central management, that the failure resulted from a reason beyond the central management's control or that it has some other reasonable excuse for its failure.
(8) Regulation 22 shall apply in respect of a penalty notice issued under this regulation.
(9) No order of the CAC under this regulation shall have the effect of suspending or altering the effect of any act done or of any agreement made by the central management or the local management.

Disputes about failures of management

21A.—(1) A complaint may be presented to the CAC by a relevant applicant who considers that—
(a) because of the failure of a defaulter, the members of the special negotiating body have been unable to meet in accordance with regulation 16(1A);
(b) because of the failure of a defaulter, the members of the European Works Council have not been provided with the means required to fulfil their duty to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings in accordance with regulation 19A;
(c) because of the failure of a defaulter, a member of a special negotiating body or a member of the European Works Council has not been provided with the means required to undertake the training referred to in regulation 19B; or
(d) regulation 19E(2) applies and that, because of the failure of a defaulter, the European Works Council and the national employee representation bodies have not been informed and consulted in accordance with that regulation.
(2) A complaint brought under paragraph (1) must be brought within a period of six months beginning with the date of the alleged failure.
(3) Where the CAC finds the complaint well-founded it shall make a decision to that effect and may make an order requiring the defaulter to take such steps as are necessary to comply with regulation 16(1A), 19A, 19B or 19E(2), as the case may be.
(4) An order made under paragraph (3) shall specify—
(a) the steps which the defaulter is required to take;
(b) the date of the failure; and
(c) the period within which the order must be complied with.
(5) If the CAC makes a decision under paragraph (3), the relevant applicant may, within the period of three months beginning with the date on which the decision is made, make an application to the Appeal Tribunal for a penalty notice to be issued.
(6) Where such an application is made, the Appeal Tribunal shall issue a written penalty notice to the defaulter requiring it to pay a penalty to the Secretary of State in respect of the failure.

(7) Paragraph (6) shall not apply if the Appeal Tribunal is satisfied, on hearing the representations of the defaulter, that the failure resulted from a reason beyond the defaulter's control or that it has some other reasonable excuse for its failure.

(8) Regulation 22 shall apply to a penalty notice issued under this regulation.

(9) No order of the CAC under this regulation shall have the effect of suspending or altering the effect of any act done or of any agreement made by the central management or the local management.

(10) In this regulation—

(a) "defaulter" means, as the case may be—

(i) the management of any undertaking belonging to the Community-scale group of undertakings;

(ii) the central management; or

(iii) the representative agent or the management treated as the central management of the Community-scale undertaking or Community-scale group of undertakings within the meaning of regulation 5(2);

(b) "failure" means an act or omission and a failure by the local management shall be treated as a failure by the central management;

(c) "relevant applicant" means—

(i) for a complaint in relation to regulation 16(1A), a member of the special negotiating body;

(ii) for a complaint in relation to regulation 19A, a member of the European Works Council;

(iii) for a complaint in relation to regulation 19B, a member of the special negotiating body or a member of the European Works Council;

(iv) for a complaint in relation to regulation 19E(2), a member of the European Works Council, a national employee representation body, an employee, or an employees' representative.

Appendix 3 - The Verizon Group EWC Agreement ("the Charter").

verizon

Verizon European Works Council Agreement

This Agreement is made by and between:
The Central Management of Verizon
and
Verizon European Works Council representing
Verizon's employees within the geographical scope
of this Agreement.

Table of Contents

I. Definitions

When used in this Agreement, each of the following terms shall have the following meaning:

1. "Agreement" shall mean this Agreement on the establishment of the Verizon European Works Council, signed by Central Management and the European Works Council of 20.10.2016.

2. "EWC Directive" shall mean Council Directive 2009/38/EC of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

3. "UK TICER" shall mean Statutory Instrument 1999 No. 3323, the Transnational Information and Consultation Regulations and the amendment by Statutory Instrument 2010 No.88 of the United Kingdom.

4. "EWC" shall mean the European Works Council, a transnational employee representative body consisting of employees' representatives, as defined in article IV below.

5. "Central Management" shall mean the management team based in Reading, U.K representing Verizon's European Headquarters, while the main headquarters is located in Basking Ridge, New Jersey, U.S.A.(Verizon)

6. "EWC members" means the persons who have either been appointed or elected as employees' representatives in the EWC in accordance with this Agreement or such individuals as replace them in accordance with this Agreement.

7. "Information" shall mean transmission of data by the employer to the EWC in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable the EWC to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultation

8. "Consultation" shall mean the establishment of dialogue and exchange of views between the EWC and Central Management and, as the parties agree, any more appropriate level of management, at such time, in such fashion and with such content as to enable the EWC to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of Central Management, and within a reasonable time, which may be taken into account in the decision making process.

9. "Transnational": A matter is considered transnational when it affects all employees in Europe or the employees in at least two countries covered by this Agreement.

SJC

II. Purpose of the Agreement

1. This EWC Agreement describes the remit and proceedings of the Verizon European Works Council, which is established for the purpose of information and Consultation on transnational topics taking place at European level between the Central Management and the European Works Council.

2. Central Management and the European Works Council have concluded this Agreement pursuant the EWC Directive and its UK transposition law, UK TICER. This Agreement has been negotiated under the conditions of article XIII of the Verizon EWC Agreement from 1 October 2008. This Agreement succeeds and replaces the Verizon European Works Council Agreement of 1 October 2008.

3. This Agreement fosters social dialogue defined as the process of negotiation by which the EWC and Central Management reach agreement to work together on policies and activities in undertakings controlled by Verizon by strengthening a common sense of belonging and contributing to an enhanced climate of trust and mutual respect. It is recognized that social dialogue takes place at national and sectorial as well as European level.

4. Both parties promote the co-operation between Central Management, all levels of management, and European employees' representatives through this Agreement and to enter into a constructive dialogue to meet social and economic challenges at the European level. Both parties acknowledge the importance of the establishment of dialogue and exchange of views on strategic issues which impact Verizon employees in Europe.

5. Parties take hereby into account that, in order to meet the constantly increasing demand of Verizon's customers and the global economy, change has become a necessary feature of Verizon's operations and, as a result, constructive dialogue around change is a prerogative. Verizon seeks to achieve the aforementioned goals through:

   - Open and two-way dialogue
   - Employee engagement
   - Spirit of co-operation
   - Effective information and consultation as per EU directives and local la...
   - Professionalization of the EWC

6. The European Works Council shall not replace any rights of local and/or national employee representation bodies but shall be additional. The EWC shall act as a conduit for countries without employee representation bodies. However, this Agreement shall not replace the right of any country to establish its own local and/or national employee representation body in accordance with national law.

III. Territorial Scope

1. The present Agreement covers all the countries of the European Union (EU), the European Economic Area (EEA) and Switzerland, in which the Verizon group has or will have establishments. All employees of such establishments will be covered by its provision and will be directly represented in the EWC.

2. A company or establishment belongs to the Verizon group if Verizon Inc. directly or indirectly maintains a dominant influence over the company or establishment. Verizon Inc. has a dominant influence over another company if Verizon Inc. directly and/or indirectly:

   - Can appoint more than half of the members of the company's administrative management of supervisory body;
   - Holds the majority of the votes attached to the company's issued share capital or
   - Holds more than 50% of the shares of that company.

3. Employees working in companies in which Verizon is participating through a joint venture are not covered by this Agreement, unless Verizon has a dominant influence over the companies, as defined above.

IV. Composition of the EWC

1. The EWC will consist of Verizon employee representatives, called EWC members. The EWC shall represent collectively the interests of Verizon employees in Europe.

2. Each country covered by this Agreement will have one EWC member.

3. The EWC members will be selected in line with the existing national legislation and practice. If no such legislation exists, the EWC member will be elected through a direct election by the entire work force of the country in which no such legislation exists. The formulation of the list of the candidates may take into account the need for balanced representation of employees with regard to their activities, category and gender.

4. For each EWC member, a substitute member will be selected (same procedure as for effective EWC members). A substitute member will only be invited to attend the physical EWC meetings when the employee representative he/she was selected for as a substitute, is no longer eligible or is unable to attend. The substitute member may serve for up to the remainder of the term of office of the representative he/she replaces. There should always be a primary and a substitute representative for each country covered by this Agreement

5. EWC members will have at least one (1) year of seniority within the Verizon group and will be able to communicate in English. An employee under notice or working pursuant to a time limited contract cannot be selected as an employee representative or substitute.

6. The EWC members should fully understand the rights and responsibilities associated with their role. As the duty involves an investment of time and effort, both Central Management and the EWC should be willing to commit to the Agreement in a spirit of cooperation consistent with Verizon's company values of integrity, respect, performance excellence and accountability such time as is reasonable and in accordance with the EWC internal rules.

7. EWC members should serve a four year term, unless binding national legislation dictates otherwise.

8. In case the employment of a EWC member within the Verizon group comes to an end, so will his/her mandate within the EWC.

9. In case national legislation or practice for the selection of EWC members requires the EWC member to be selected or appointed among the existing local employee representatives or substitutes, the fact that the individual employee representative concerned loses his/her capacity as a local employee representative or substitute, will then make an immediate and automatic end to the mandate as an EWC member.

10. In case Verizon expands its business into a country that falls within the territorial scope of this Agreement but has no EWC member yet, all employees in such country will be immediately covered by the present Agreement and the employees in that country will appoint or elect an EWC member as soon as possible. The condition that an EWC member will have at least one (1) of seniority in Verizon (Article IV.5) will not apply.

11. In case Verizon expands into a country for which there is already an EWC member, the employees of the newly acquired company or companies will be represented by the already existing EWC member for that country until the end of the four years' mandate. The EWC member from that country will actively involve the employees or their representatives from the acquired company in the preparation and follow-up of the EWC meetings and in information and Consultation processes.

12. If the expansion of the Verizon group happens through a take-over that leads to a structural change in the company or a takeover of a company or group of companies having its own EWC or procedure for informing and consulting employees, article XII.4 will apply.

V. Structure and Functioning of the EWC

1. The EWC will elect amongst its members a Select Committee which will consist of five (5) EWC members. The Select Committee will consist of a chairperson, a vice-chairperson, a secretary and two (2) general Select Committee members.

2. The Select Committee will be responsible for the operational management of the EWC. This will include liaising with Central Management over the arrangements for EWC

meetings, proposing to Central Management agenda items for EWC plenary meetings, arranging any preparatory meetings and attending monthly calls with the representatives of Central Management.

3. The chairperson of the EWC represents the EWC in law.

4. The European Works Council can, after consultation with management, establish sub-groups to work on specific areas on an ad hoc basis.

5. An EWC member, who represents employees in other sites than his/her own, shall have the right to contact all employees he/she represents in these locations.

6. EWC members and their substitutes shall be protected in accordance with the national laws and/or practice in force in their country of employment and thus not suffer any disadvantages resulting from the activities in the EWC.

7. All reasonable time spent by the EWC member on EWC activities is considered working time. The time spent for the EWC shall not affect leave from work and contingents of time for work as an employee representative provided for under national law.

8. The EWC will develop its own internal rules and regulations for its proper governance, including the appointment procedure, the function and the procedural rules for the Select Committee. Both parties agree that these internal bylaws cannot supersede this Agreement in any way, shape or form and that these internal rules and/or regulations will not bind Central Management in any manner. Before adopting the internal rules and regulations of the EWC, Central Management will be consulted.

9. Central Management may appoint representatives to serve as first point of contact for the EWC and to coordinate activities with the Select Committee. The HR Director will be one of those representatives.

10. The EWC or the Select Committee may be assisted by an internal and external expert of its choice in so far as this is necessary to carry out its tasks.

VI. Information and Consultation

1. The EWC will be informed and consulted on matters related to the structure of Vertzon, the strategy of the company, its economic and financial situation, the development of the business and sales, the situation and trend of employment, investments, divestments, changes concerning organization, introduction of new working methods and processes, transfers of activities, outsourcing and insourcing, mergers and acquisitions, cut-backs or closures and reduction in force, Human Resource policies, health and safety, sale of the company or a part thereof, social responsibilities and initiatives and diversity; provided that these matters are of a transnational nature and significantly affect the employees interest in all countries covered by this agreement or at least two of them.

2. The EWC shall be informed on matters that have a significant impact on employees of only one country covered by this Agreement, including all reductions in force for business reasons in cases that involve multiple individuals or a complete business function. Information on one-country matters provided by Central Management will not constitute initiation of a consultation process, unless the decision making level of the issue impedes the national employees' representatives to be engaged in Information and Consultation.

3. Information and Consultation shall take place at a time when the decision on the proposed changes has not been finalized yet and can still potentially be changed, so that the EWC can have an input that brings added value. Verizon will not start implementing a planned decision until the information and Consultation process with the EWC has been finalized. The consultation process will not affect management's prerogatives and power to take appropriate decisions at the time required by the business.

4. Information and Consultation shall take place at regular EWC meetings and regular EWC conference calls. In exceptional circumstances, affecting employees' interests to a considerable extent; particularly a significant reduction in force (10% or more of total staff population within the impacted countries or as mutually agreed upon between Central Management and Select Committee), sale of the company or a part thereof, or office relocations or closures, the Select Committee shall be informed by Central Management as soon as possible in order to start the Information and Consultation process. The Select Committee shall have the right to meet, at its request, with Central Management or in agreement with Central Management with the appropriate level of management with decision making powers on the matter at stake, to be further informed and consulted about the envisaged measures. Extra ordinary meetings will take place in person or by conference call, as to be agreed by the Select Committee and Central Management. Article VI.5 and VI.7 to VI.10 will apply accordingly.

5. Written and verbal information provided by Central Management to the EWC will be so that the employees' representatives:

   - Are acquainted with the motivation behind the strategies implemented
   - Understand the objectives pursued
   - Can form an opinion on the possible impact on employees

   For this purpose, it shall answer a minimal list of questions under a Business Template as per Appendix 1. This list is not restrictive. If necessary, other questions will be answered by Central Management and/or additional documents will be provided.

6. After the first provision of information, at the request of the Select Committee, an Information and Consultation meeting can be held to complete the information and continue with the Consultation process. This meeting can be held in person or by conference call as to be agreed by the Select Committee and Central Management.

7. In the Information and Consultation process, the following parties will be involved:

- The HR Business Partner
- The Select Committee
- EWC members of the affected countries covered by this Agreement
- Business Lead if a Q&A session is requested

National employees' representatives can also be invited to participate in the Information and Consultation process.

8. When the Select Committee has received adequate information and has had the opportunity to meet management in an Information and Consultation meeting, the EWC can issue an opinion statement on the subject matter within a reasonable timeframe, not exceeding fourteen (14) days. The receipt of the opinion statement and EWC obtaining a response from Central Management close the information and Consultation process.

9. Within the definition and spirit of the EU directives, if both parties agree, other ways of alternative consultation can be followed.

10. The Information and Consultation of the Verizon EWC shall be coordinated with the information and consultation process at national level and linked so as to begin within a reasonable time of each other

VII. Meetings

1. Central Management and the EWC shall meet four times a year. Two regular in-person plenary Information and Consultation meetings will occur for Q1 (normally March) and Q3 (normally September), while two additional regular Information and Consultation meetings will take place for Q2 and Q4 per conference call.

2. Central Management who will take part in the meetings will consist of management executives with European responsibilities and any other senior executives or experts invited by Central Management and the Select Committee.

3. The meetings shall be planned and organised as follows:

   - Central Management representatives and the Select Committee will agree on the exact date and location of the meeting.
   - The agenda for the meeting will be arranged between Central Management's representatives and the Select Committee. Central Management shall propose any relevant and current topics for discussion while the Select Committee shall ensure that all the EWC members have the opportunity to bring in agenda points.
   - Requests for information from the EWC will be formalized and forwarded to Central Management at least one month prior to the meeting
   - Central Management's representatives will then agree the agenda and communicate it to the EWC at least two weeks prior to any regularly scheduled meeting.

- Any presentation decks (both from Central Management and the EWC) will be shared, at least in draft format, one week before the meeting takes place.

4. These regular meetings will be chaired by both the chairperson of the EWC and one of the representatives of Central Management.

5. Each regular meeting between the EWC and Central Management will last one business day.

6. The meetings will be conducted in English.

7. Regular meetings between the EWC and Central Management are to be considered Information and Consultation meetings, meaning that article VI applies and that the EWC can issue an opinion statement on the subjects dealt with at the regular meeting within fourteen (14) days after the meeting.

8. During the meeting, the minutes of the meetings will be drafted by a representative of Central Management. The minutes of the meeting shall be the detailed exchanges taking place during the meeting. The minutes of the meeting shall be sent to the Select Committee for review within five (5) Business Days after the meeting and then be circulated by the Select Committee to all EWC members. Minutes will then be approved within 2 business days by the EWC, in case of disagreement the EWC and CM will notice the discrepancies and close the minutes.

9. The employee representatives to the EWC will hold a pre-meeting at the occasion of a regular meeting. After the meeting with management, the EWC will normally hold a post meeting. The meetings will not exceed three (3) days in total.

VIII. Communication

1. As per article 19C of the UK TICER, the EWC has the obligation to inform its constituency on the outcome of Information and Consultation in the EWC. Following a regular Information and Consultation meeting between the EWC and Central Management, or after an extra ordinary Information and Consultation process, the Select Committee of the EWC will prepare a draft communiqué for approval and sign-off by Central Management prior to the distribution to the employees. This communiqué is the primary mode of communication concerning the information and Consultation in the EWC and will be communicated to all Verizon employees represented. If necessary, local management will provide for translating the communiqué into the local language

2. If within a month after the regular Information and Consultation meeting or the finalisation of the Information and Consultation process, the EWC and Central Management could not find an agreeable communiqué to be sent to all EMEA employees via the official channel of communication, and with a view to fulfilling its legal obligation in term of communication to its constituency, the EWC will be entitled in accordance with current applicable legislation to send its communiqué to local employees' representatives, and not directly to the employees, and also to publish it on its internal web site. In doing so, the EWC will make it very clear that this communiqué has not been agreed with Central Management. In response, Central Management will be entitled to send out its own communiqué to local employees' representatives. Thereafter there will be no further

communiqués to local employees' representatives sent by either the EWC or Central Management in respect of the same meeting or process unless it is an agreed communiqué.

3. An Online Portal will be accessible by all EWC members and Management. The EWC Portal will be hosted on Verizon's internal social media platform. The EWC group will be private and the content will, therefore, be visible only to group members.

   The EWC Portal will contain, among others, the following features:

   - The EWC Agreement
   - Updates regarding the annual meetings
   - Decks from the meeting presentations
   - Post-meeting communiqué
   - Requests for specific updates from the EWC
   - Training material
   - Q&A forum
   - Surveys

   Both the EWC representatives and the Central Management representatives are able to view, respond to and add new content to the group. To ensure engagement, all users of the EWC portal are encouraged to cooperate and collaborate in an active and continuous manner.

IX. Training

1. It is the intention of Verizon that the employee representatives are correctly trained to take an effective and appropriate part in the EWC. The EWC shall be provided with relevant training without loss of wages or impact on local training rights of employee representatives.

2. For practical reasons, these group training sessions will be combined with the two regular in person plenary meetings, taking place, as far as possible, the day prior to the meeting. Individual training shall take place when it is convenient for the employee as long as they serve EWC purposes.

3. The content of group training courses shall be proposed and agreed by the Select Committee and Central Management. In order to define a tailor-made training path, the EWC members will also have the opportunity to propose specific training needs.

4. The cost of EWC group training and that of its inherent expenses (tuition fees, transportation, meals and accommodation) shall be borne by Central Management.

X. Expenses

1. The reasonable expenses necessary for the functioning of the EWC and the Select Committee will be borne by Verizon. An annual budget will be established for this purpose; with the budget being communicated to the EWC in the first financial quarter of each year.

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2. All expenses related to travel and hotel accommodation for the employee representatives need to be in accordance with the applicable travel policies of Verizon and will be reimbursed to the employee representatives via their local entity. These expenses will be charged to a Central Management cost centre.

XI. Confidential Information

1. Verizon may choose to share certain confidential information with the EWC. Central Management shall inform the EWC prior to the matter in question being dealt about on
   - the reasons for such confidentiality;
   - which written or oral information is concerned;
   - the duration of the confidentiality;
   - to the extent such might be the case, the persons or employee representation bodies to whom the information may be disclosed without breach of the imposed confidentiality.

   Confidential information must not to be used for any purposes other than that contemplated in this Agreement and must not be minuted and must not be reported upon.

   In order to share such confidential information with their expert, Central Management has to approve this beforehand. In exceptional situations, non-disclosure agreements will be executed for the EWC members or their expert(s).

2. Central Management is not required to disclose any information when its nature is such that, according to objective criteria, the disclosure would seriously harm the functioning of, or would be prejudicial to the company.

3. Any breach of confidentiality obligations by a EWC member and/or participating Manager will be deemed to be a serious disciplinary offence which will lead to legal and/or disciplinary action by the appropriate Verizon entity in accordance with the provisions of the respective national law.

XII. Applicable Law and Dispute Resolution

1. The provisions of the present Agreement are governed by United Kingdom law: Statutory Instrument 1999 No. 3323, the Transnational Information and Consultation Regulations and the amendment by Statutory Instrument 2010 No.68 of the United Kingdom.

2. In case of conflict, the EWC members and Central Management shall attempt to resolve their differences among themselves. In case this works out to be impossible, the parties to the present agreement agree to submit their differences within one week to an arbitration panel composed of three arbitrators. One of the arbitrators is selected by the EWC and another one is selected by Central Management. Together these two arbitrators appoint a third arbitrator. The arbitral panel will decide within a week by

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simple majority vote and make a recommendation to the EWC. If those efforts fail, and only then, may a party initiate a court procedure. The parties agree that the recommendation of the arbitration panel should be given substantial consideration. The labour courts of the United Kingdom will be considered as the competent courts.

XII. Duration of the Agreement

1. The present Agreement is concluded for a period of time of four years, starting from the date of signature of the Agreement.
2. After 3 years of being in force, Central Management and the European Works Council will evaluate the Agreement. The Agreement will be tacitly prolonged for a similar period of four years if both parties agree upon that on the basis of the evaluation. If one of the parties involved so requests, the EWC Agreement will be renegotiated.
3. The request to renegotiate the EWC Agreement has to be given in writing and has to be addressed to Central Management if given by the EWC or to the Select Committee of the EWC if notice is given by Central Management. In case of renegotiation, the EWC will negotiate the new EWC agreement on behalf of all the employees of the Verizon within the territorial scope of the present Agreement. During the negotiations, the existing Agreement remains valid and in force.
4. Where the structure of Verizon in Europe changes significantly, particularly in the case of a take-over, the European Works Council and Central Management will evaluate the Agreement. If either party so requests, the EWC Agreement will be renegotiated. Article XII.3 will apply accordingly. In the event of a merger with or acquisition of any business that already has a EWC established, the CM and the Select Committees (SC's) of both bodies will meet to agree an appropriate integration of both EWC's. If no agreement can be reached within 12 months Regulation 19F of the TICER will apply.1 During the negotiations the existing EWC´s shall function in accordance with the applicable agreements
5. If Verizon or a significant part of it is taken over by another company or group of companies, the present EWC Agreement will stay in force until the takeover date.

Agreed and executed in Reading, United Kingdom, on 20 October 2016.

On behalf of Central Management	On behalf of the EWC
James Montgomery	Jean Philippe Charpentier
Director – Human Resources - EMEA	Chairman of the EWC

Appendix 1 – Business Template

Project overview

General introduction to the proposed measure

Reason for the proposed measure

Benefits to the company, customers and employees

Differences compared with the current situation, including an organization chart of current and future structures

Alternatives examined

Relationship of the measure to other projects and programs

Countries and sites potentially impacted

Schedules and deadlines regarding further planning, decisions and implementations

Project owner

Financial and economic background

Financial consequences of the measure proposed such as:

Project costs

Pay-back period

Estimated benefits (financial and non-financial)

Cost calculation of possible alternatives (benchmark)

Impact on the organisation

Risk assessment of the project

Plans to retain knowledge and skills

Impact on existing service level

Impact on employees

- The number of employees potentially impacted (headcount and FTEs; made redundant, retained or reassigned or transferred) per country/site/legal entity and function
- Support for remaining employees in their new/changed roles
- Support for employees impacted in securing alternative employment within or outside of Verizon
- Information on employment-related agreements in case of a transfer

Information and consultation process at national/local level

- Dates and timelines for information and consultation at national/local level
- Social partners at national/local level