

CENTRAL ARBITRATION COMMITTEE
TRANSNATIONAL INFORMATION AND CONSULTATION OF EMPLOYEES
REGULATIONS 1999 AS AMENDED
DECISION ON COMPLAINT UNDER REGULATION 21

The Parties:

Verizon European Works Council

and

The Central Management of the Verizon Group

Introduction

1. On 9 October 2019, Jean-Philippe Charpentier, Chairperson of the Verizon European Works Council (the VEWC), submitted a complaint to the CAC on behalf of the VEWC (the Complainant) under Regulation 21 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 10 October 2019. The Employer submitted a response to the CAC dated 24 October 2019 which was copied to the Complainant.

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. Paul Noon OBE as Members. For the purpose of the hearing Mr. Cann was replaced by Mr. Roger Roberts. 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.¹ 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 4, is governed by TICER. Articles of the Charter of particular relevance to this case are as follows:

“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. (Article I.7)

“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. (Article I.8)

The EWC will be informed and consulted on matters related to the structure of Verizon, the strategy of the company, its economic and financial situation, the deployment of the business and sales, the situation and trend of employment,

¹ The summary which follows is designed to provide the context for the complaint and does not constitute a full record of the extensive documentation, and correspondence between the Complainant and the Employer, supplied to the CAC. However the Panel wishes to assure both parties that it read and considered carefully all the material submitted to it. In general we do not identify the individual author of letters sent on behalf of one of the parties unless this is material to their content. Some of the Employer’s correspondence was sent to the VEWC as a whole, some to the VEWC Select Committee only. This was not a material distinction for the purposes of this decision and in general, unless the sense otherwise requires, we refer to correspondence being sent to “the Complainant” in both cases.

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. (Article VI.1)

... 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..... (Article VI.4)

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. (Article VI.5)

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. (Article VI.6)

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. (Article VI.8)

4. On 13 December 2018 the Select Committee of the VEWC was informed by the Employer at its monthly meeting of a proposed transformation of the EMEA² Accounting and Finance function of the Employer's undertakings in states covered by the Charter ("the Project"). This proposal involved centralizing the Accounting and Finance function in Reading, United Kingdom. The day before that meeting the Employer sent members of the Select Committee slides with the following headings in bold: Objective; Scope; Background – Verizon Finance Transformation; Business Case and Next Steps. The slide deck also included a table which indicated the number of the Employer's Accounting Professionals currently in each of the 16 states covered by the Project. The Select Committee was told that the Complainant would be given further information in January. On 9 January 2019 the Select Committee was sent further slides about the Project in advance of its monthly meeting on 11 January 2019. These slides replicated those shown in December but also included an indication of the information gathered by the Employer to date;³ its approach; and its guiding principles. Under "Next Steps" the Employer indicated the milestones that it expected to reach in January and February. These included a proposal to meet with the Complainant during the first week of February to start the consultation process. The Employer said that during that meeting it would review the comprehensive business case; the proposed future state structure; the potential impact on employees; and give an overview of a potential transition approach. The Employer stated that "Respecting EWC's inputs and guidance, we will give our best efforts to answer any questions submitted by the EWC and the other employee representation bodies throughout the consultation process".

5. On 16 January 2019 the Select Committee sent a list of 38 questions to the Employer about the Project. These questions fell under the broad headings of "General"; "Compliance" and "People Impact". On 30 January 2019 the Employer sent its response. In relation to a request for the full business case the Select Committee was told that the Employer was currently at the discovery stage and therefore not in a position to share a detailed business

² Europe, the Middle East and Africa.

³ This was said to include the 2014 Workload Survey and 2017 Workload Survey; work products of External Advisors including KPMG, Scott Madden and DLA Piper over recent years; and a study of more centralized structures of APAC and LATAM Regions.

case but that the business case would be provided at consultation. In relation to a number of the questions posed, the Employer said that various options were currently being explored and that it was too early to comment.

6. On 6 February 2019 the Employer sent a more comprehensive slide deck to the Select Committee in anticipation of a meeting with the Select Committee about the Project the following day. In the event the topic of the Project was postponed until 14 February 2019 when there was a meeting between the Employer and the full VEWC on this topic. The slides distributed for this meeting included information under the following headings: Objectives; Business Rationale; Our Guiding Principles; Approach; Proposed Future Service Delivery Model; Proposed Future Organizational Structure; Current versus Future Comparison by Role and Location; Employee Impact; Transition Approach; Risk and Mitigation; and Investment Cost. The Employer stated that there were three major phases in the transition approach. Phase 1 covered Scope, Impact and Risk Analysis; Future Org and Delivery model Design; Stakeholder Engagement; Documentation Training; and Recruit Transformation/Hub Resources; Phase 2 involved Current owner document step-by-step instruction on processes end to end and all documents to be reviewed for quality assurance; and Phase 3 was Future Owner Shadow end to end processes; Current owner supervises and ensure quality on end to end processes; and Perform quality assurance w/stakeholders.⁴ It was explained that the Employer expected to group a number of countries at a time to start the three phases of transition envisaged, with each “wave” transition taking several months.

7. On 25 February 2019 the Complainant indicated to the Employer that it was unable to provide an opinion statement on the Project as requested by the Employer following the meeting on 14 February 2019 “given the fact that we have been provided limited information and lacking rationale for the proposed initiative”. The Complainant proposed that there should be a conference call with the Employer so that it could ask more questions and gain further understanding. The Complainant also said that four additional VEWC members had been elected to a sub-committee to be a point of contact for the consultation process in addition to the Select Committee. On 27 February 2019 the Employer said that while it was comfortable that the Complainants had been provided with the rationale and appropriate

⁴ We have used the language used by the Employer on the slide in question to set out what was included in each phase.

information about the Project it was happy to arrange a further meeting with the Select Committee and additional delegates to continue the consultation process which it had already commenced and to answer further questions. The Employer asked the Complainant to tell the Employer what its questions were at least 48 hours in advance of a meeting that it proposed should be held on 5 March 2019 so that the Employer could prepare for the meeting. On 1 March 2019 the Complainant told the Employer that it needed more internal discussion before meeting with management and asked that the meeting scheduled for 5 March 2019 be postponed.

8. On 5 March 2019 the Complainant wrote to the Employer reiterating its view that it did not have a clear and precise rationale and sufficient information regarding the Project. It said that the material received and the meetings held had “provided some level of understanding, but we still feel there are key areas we need concrete feedback (sic) in order to gain holistic understanding”. The Complainant reminded the Employer of the statutory definition of information and consultation. The email set out five specific questions and concluded by saying “Once we received sufficient feedback, we will drill in further details in order to provide meaningful consultation”. On 12 March 2019 the Complainant wrote to the Employer stating that, to “avoid misunderstanding” it was waiting for “an invite to a call in order to discuss our questions”. On 13 March 2019 the Employer wrote to the Complainant responding to these questions. In the covering email the Employer stated that at the moment as there were no specific questions that had not been answered the proposed meeting seemed unnecessary. The Employer said that it would schedule an update as work progressed in due course and that if the Complainant had further specific questions, recommendations or suggestions then it should not hesitate to provide them and the Employer would respond “asap”. The email concluded “We are very keen to hear your input, suggestions and thoughts on the proposed initiative so we can give them due consideration and use them as a constructive input to the work during the EWC consultation phase”.

9. On 2 April 2019 the Complainant wrote to the Employer thanking it for its reply to its email of 5 March 2019. The letter then continued “Great for us to gain a better understanding of the scope of this project, but please be aware that we do not consider being in the consultation phase”. The Complainant said that going forward it would like to include its adviser Sjef Stoop to help it through information and consultation and asked a further six

questions. On 3 April 2019 the Employer wrote to the Complainant stating that it planned to conclude its information and consultation obligations⁵ with the Complainant about the Project the following week. The Employer said that it would do this with a view to moving forward with local country engagement in the proposed Wave 1 and 2 countries in accordance with the terms of Article VI.8 of the Charter. The Employer also said that it appreciated that further information and/or consultation with the Complainant may be required for Wave 3 countries in due course when the Employer had a clearer indication of its proposed employee impacts in those locations. The Employer attached a further slide deck which it said addressed the questions sent on 2 April 2019 but invited the Complainants to let the Employer know if it had any additional questions prior to the forthcoming meeting. The Employer said that it expected the meeting to be “very interactive” and that it would allow time for any further questions the Complainant may have. The Employer said that it had no issue with the Complainant retaining Mr Stoop as an adviser but said that as the forthcoming meeting was an internal information and consultation meeting his attendance was not permitted at that meeting under the terms of the Charter. The Employer invited the full VEWC to a meeting on 10 April 2019 and sent the slide deck for the meeting to the full VEWC. In addition to the topics covered in the 14 February 2019 meeting it contained information under the headings Business Rationale and Expected Benefits; Alternatives Examined; Alternative Investment Cost; People and Change; and Wave Execution and specified the countries expected to be in Waves 1 and 2.

10. On 9 April 2019 the Complainant wrote to the Employer stating that it believed that a good part of its previous questions had not been answered. It stated that the detailed activity list, currently sitting in phase 2, needed to be part of phase 1; phase 1 should be done for all countries before going into the waves; and that consultation could only be concluded after phase 1 was completed. The email continued with a further 15 questions. The email also stated that the consultation phase “only starts when qualitative and pertinent information has been submitted to trigger a dialogue, or a consultation to fully understand the reasons, scope, impacts, alternative thoughts of (sic) the proposed reorganisation. While the EWC can read the text around this reorganisation, it cannot fully assess the situation present and future with the granularity given so far”. The Employer responded the same day thanking the

⁵ The word “consultation” was omitted from the first sentence of the second paragraph of this email but the parties agreed at the hearing that it was clear from the context that the sentence was intended to refer to both information and consultation obligations.

Complainant for its “very detailed and thoughtful analysis of the information provided last week” and stating that the Employer looked forward to answering these questions and an active discussion with the VEWC on these points the following day. On 10 April 2019 the Employer held a meeting with the full VEWC on the Project.

11. On 12 April 2019 Mr Voinescu, the Employer’s EMEA Lead, Employee and Labor Relations, wrote to the Complainant as follows:

Subject: Finance Transformation project: EWC information and consultation

Dear all,

Following our meeting last Wednesday, on behalf of the Central Management team, I would like to thank you all for the quality of your contribution during the entire consultation process.

Even though I wasn't personally involved from the very beginning, the richness and the variety of the voices and opinions expressed during the discussions which took place in the EWC meetings bear witness of the intensity and quality of our discussions.

With this last meeting, the information and consultation process is now complete.

Let me please remind you that the EWC has the possibility, if he wishes, to issue an opinion statement regarding the project.

12. On 16 April 2019 the Complainant sent a response dated 15 April 2019 to the Employer’s email of 12 April 2019. The Complainant made several criticisms of the Project but emphasised that it was unable to issue an “opinion statement” because consultation had been aborted by the Employer’s refusal to answer further questions in violation of the Charter. The response stated that it was “the prerogative of the EWC to decide if and when it has received adequate information” and that the Project could not continue as the consultation was not complete. The Complainant said at the hearing that its email dated 15 April 2019 was

a “key document” and the issues raised in it, as set out in the Complainant’s Statement of Case for the hearing,⁶ are contained in Appendix 2 of this decision.

13. On 26 April 2019 Mr Voinescu wrote to the Complainant stating that, in the Employer’s view, the Complainant’s email dated 15 April 2019 amounted to an “opinion statement” setting out the Complainant’s opinion on the matters discussed. The Employer said that it had counted in the Complainant’s email more than 14 value judgements, from a total of 23 points “raised”, with the focus on how the Employer should or should not act. The Employer said that during the information and consultation process, which had started on 13 December 2018 and was finalized on 10 April 2019, Central Management had provided all the required information and answered all the questions raised by the Complainant and that all the points foreseen for this type of process by the Charter had been covered. The Employer said that the Complainant’s requests for additional financial and economic information about the Project had the sole purpose of checking or challenging management’s decision which was not within the Complainant’s competence. The Employer said that the Complainant’s requests for additional in-depth data appeared in the Employer’s opinion to be unreasonable and not within the spirit of the Charter. The Employer said that it had taken into account the points raised by the Complainant but there was no requirement to engage in further consultation with the Complainant on the Project. The Employer said that it would arrange meetings with the Complainant to discuss Wave 3 of the Project in due course and that it remained “fully available” should the Complainant have any questions related to the roll out of the project.

14. On 14 May 2019 the Employer sent the Select Committee information relating to Wave 3 of the Project in advance of the monthly meeting to be held on 22 May 2019. The Employer extended the invitation to attend to VEWC members from impacted countries and said the Select Committee should feel free to invite any other VEWC members it considered relevant. On 16 May 2019 the Complainant wrote to the Employer explaining why it did not agree with the closure of the consultation process on Waves 1 and 2. The email reiterated that the Complainant was unable to provide an opinion as crucial information was not provided. Following the meeting on 22 May 2019 the Employer wrote to the Complainant stating that

⁶ This does not represent the entirety of the email dated 15 April 2010 sent by the Complainant, merely the text as set out in the Statement of Case. The letters accompanying each paragraph were inserted by the Complainant in its Statement of Case.

as the Complainant had expressed a wish for additional discussions the Employer proposed a further meeting on 29 May 2019. On 24 May 2019 the Complainant emailed the Employer indicating that data collection/task analysis should be conducted for Wave 3 before consultation could be started on Wave 3. The Complainant said that consultation:

needs to happen before final decision on 'wave in a box' (wave 1) (timing, impacted employees, transferred tasks, outsourced tasks) takes place. We are looking forward to receiving an invite once the project is thus advanced.

However it would be appreciated to have a call between SC & HR next week in order to agree on a common view on information and consultation. Especially your request to get an opinion and conclude consultation during a call is completely unacceptable.

15. On 29 May 2019 Mr Voinescu wrote to the Complainant as follows:

Thank you for your email and for this confirmation.

I must admit I am rather surprised by your comments regarding the consultation process for Finance transformation project. I need to restate what it was said previously: not only the consultation on wave 1 & 2 of the project took place but also it has been finalized on April 10, since all the required points for this type of process have been covered.

We have considered at that time that the EWC issued a negative opinion regarding Verizon's Accounting and Finance Transformation project and that (sic) was no requirement to engage in further consultation with the EWC on this project.

As we committed to doing so during our last call, we will share with you the global results of the in-depth national analyses once this step finalized. We don't expect the analyses to bring significant changes to the announced impacts, but it will allow us to fine-tune the approach and also to better involve the local teams.

Regarding Wave 3, we understand you don't have any additional questions in relation to the provided information or the discussions we had during our last meeting. Therefore I believe we can now consider the consultation process on Wave 3 also completed. The EWC has the possibility, if he wishes, to issue an opinion statement regarding the project.

As for the future meeting between SC and HR, we can schedule this for next week if this is ok with you, Let me know what date that suits you best.

16. On 23 July 2019 the Complainant wrote to the Employer as follows:

The most recent interaction between the EWC and the Verizon management on the topic of the Finance (Accounting) Transformation dates from the end of May 2019. At that time, the EWC was still not able to issue an opinion on this topic, given that the required information was not available. Although the claim was made that consultation was completed on the 10th of April, this claim is false as this isn't something management can unilaterally decide. Back then we have made it clear that as a minimum we were waiting for the overview of the actual activities that were going to be centralized, to enable us to actually consider the impact of the centralization on the people in Finance and the impact for the non-Finance people at each location. We have taken note of hiring activities in the UK, which don't seem to mesh with the current status of this project as far as we can see. We would like to know what the actual status is: which countries are in which wave now, and how far is each wave progressed? We are also worried with regards to rumours about unfair conditions for dismissals. We look forward to resume the Information phase when the summer vacation period has ended.

On 29 July 2019 Mr Voinescu replied that the information and consultation process regarding the Project was now finalized, despite the negative opinion of the VEWC. Mr Voinescu said that consultation regarding Wave 3 of the Finance Transformation project had ended with his email of 29 May 2019.

17. On 5 August 2019 the Complainant wrote to the Employer noting that, following the Complainant's own investigation, the majority of employees potentially impacted by the reorganization were above 45 and females. The email reiterated that the Complainant was still missing information which would allow the group to have an in-depth understanding of the proposed changes and their potential impacts which was a prerequisite of the Information & Consultation process and alleged that the Employer had broken the Charter by stating that the Complainant had issued a negative opinion statement which it never wrote. The email

said that the Complainant had concluded that it had another serious disagreement that it intended to get resolved in front of the CAC.⁷

18. On 29 August 2019 the Complainants agreed to use the arbitration procedure in line with the provisions of Article XII.2 of the Charter. Each party appointed one arbitrator and those arbitrators appointed a third. Following consideration of submissions by the parties the Arbitral Panel issued Guidance and Recommendations for the parties regarding the operation of the Charter on 4 October 2019. In an email to the Employer dated 9 October 2019 the Complainant thanked the Arbitral Panel for its work and referred to the Employer's verbal acceptance of the Panel's Guidance and Recommendations. The Complainant said that it considered that the Guidance and Recommendations did not address the actual breaches of the Charter and did not confirm that the Employer had accepted that it was in breach. It said that the VEWC considered that there needed to be a judgment and that the case should therefore be raised with the CAC.

The Complaints

19. The complaint dated 9 October 2019 submitted to the CAC read as follows:

The VEWC raises complaints under Regulations 17, 18A and 21 of TICER as amended in relation to the failure of Central Management to comply with the terms of the VEWC Agreement and Regulation 18A of TICER, namely failing to comply with the required information and/or consultation process with the VEWC generally in relation to waves 1, 2 and 3 of the Accounting and Finance Transformation prior to making a decision and specifically:

- a. Failing to provide sufficient information so as to allow the VEWC from (sic) undertaking an in-depth assessment of the information provided;
- b. Failing to consult with the VEWC on that information, such as it was;

⁷ For the previous disagreement see (1) *Verizon European Works Council* and (2) *Jean Philippe Charpentier and The Central management of the Verizon Group EWC/22/2019*, decision of 9 October 2019.

- c. Declaring the information and consultation processes to be closed on both 10 April and 29 May 2019 before those processes had been completed, the VEWC had given its opinion within the 14 day period provided and before any response to that opinion had been provided;

in breach of and failing to comply with Articles I.7 and 8; II.3 to 5; VI.1 to 8; VII.7; and VIII.1 of the VEWC Agreement and Regulation 18A of TICER.

The specific complaints listed here as a, b, and c are referred to in this decision as the first, second and third complaint respectively. The substance of these complaints is set out in greater detail later in this decision. The specific regulations relevant to this complaint are set out in Appendix 3 to this decision.

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

20. In its response to the Complaint dated 24 October 2019 the Employer expressed disappointment that the Complainant appeared to have chosen to finalise its Grounds of Complaint before it knew the outcome of efforts to resolve the dispute⁸ or had given the arbitral recommendations “substantial consideration” in accordance with article XII.2 of the Charter. The Employer stated that paragraphs 3 to 7 of the Grounds of Complaint (covering the period 3 April 2019 and before) concerned events that took place more than six months before the VEWC complained to the CAC on 9 October 2019. The Employer said that these were not, therefore, matters in respect of which the CAC could find any complaint to be well-founded⁹ although the Employer accepted that they provided materially relevant background to the circumstances that existed at the start of the period of time over which the CAC did have jurisdiction. The Employer said that, of the regulations cited by the Complainant in its complaint, the CAC only had jurisdiction to hear complaints made under regulation 21 of TICER but the Employer accepted that complaints may be made under regulation 21(1)(a) in

⁸ In paragraph 21 of its complaint to the CAC the Complainant stated “On 29 August 2019 the Select Committee and Central Management agreed to commence mediation (sic) in line with the provisions of Article XII.2 of the VEWC Agreement. This process is currently still to conclude.”

⁹ Regulation 21(1B) of TICER provides that complaints under Regulation 21 must be brought within a period of six months beginning with the date of the alleged failure or non-compliance.

respect of an alleged breach of an agreement, such as the Charter, concluded in accordance with regulation 17, and of regulation 18A.

21. In relation to the particularised complaints made by the Complainant specified in paragraph 19 above the Employer denied, in relation to the first complaint, that it had failed to provide sufficient information to the Complainant. The Employer also said that it considered it imperative for the Complainant to particularise exactly what information it alleged the Employer had failed to provide so it could understand the complaint against it and have a fair opportunity to defend itself. The Employer suggested that it would be particularly helpful if the Complainant could indicate into which category detailed in the Appendix to the Charter it believed that the information that the Employer had failed to provide fell. In relation to the second complaint, the Employer denied that it had failed to consult with the Complainant on the information that it had provided. In relation to the third complaint, the Employer noted that in his email of 12 April 2019 Mr Voinescu had said that after “this last meeting, the information and consultation process is now complete” and in his email of 29 May 2019 had said “we can now consider the consultation process on Wave 3 also completed”. The Employer accepted that the term “information and consultation process”, although not defined in the Charter, had a particular meaning in Article VI.8 of referring to the cumulative processes of information, consultation, the VEWC providing an opinion and the Employer responding to that opinion. The Employer pointed out that in the sentence immediately following that quoted above, the email of 12 April 2019 expressly sought to “remind” the VEWC that “the EWC has the possibility, if he (sic) wishes, to issue an opinion statement regarding the project”. The Employer said that it was therefore abundantly clear that the email was not seeking to assert that the cumulative processes referred to in article VI.8 of the Charter had concluded. The Employer accepted that it would have been better if the email had referred to “processes” (in the plural) as opposed to “process” (in the singular) but said that Mr Voinescu lived and worked in France and did not speak English as a native language. The Employer accordingly submitted that the typographical error made in a foreign language did not amount to a breach of its obligations under the Charter when the email was read in its totality. The Employer made a similar point in relation to Mr Voinescu’s email of 29 May 2019.

22. The Employer said that the Complainant had alleged that it had breached 15 separate articles of the Charter and regulation 18A of TICER and such allegations were made despite many of those provisions not creating an obligation on the Employer that it could have breached. For example, the first provision that the Complainant alleged that the Employer had breached was a definition of the concept of “Information”. The Employer said that whilst it accepted that other provisions of the Charter that imposed obligations on it used that term it nevertheless denied that it could have breached a definition in the abstract. The Employer said that in these circumstances it did not wish speculatively to respond to the allegations that it had breached each of those 16 provisions in turn. The Employer suggested that it would be in accordance with the overriding objective in civil litigation for the Panel to ask the VEWC to particularise exactly what information it alleged that the Employer had failed to provide to it and, as applicable, by specific reference to the categories of information detailed in the Appendix to the Charter. The Employer proposed that it should then be afforded the opportunity to provide written comments in response to the VEWC’s particularisation. The Employer also suggested that it might assist the Panel in hearing these complaints if, following this process, the parties were requested sequentially to seek to agree a joint bundle of evidence; an uncontentious set of agreed facts, including a chronology that referenced the joint bundle of evidence; a list of issues in dispute; and a joint bundle of authorities, such as legislation or case law, on which the parties intended to rely and on which they may each comment in their statements of case (“the case management proposals”).

23. On 28 October 2019 the Case Manager copied the Employer’s response to the Complaint to the Complainant and invited the Complainant to comment on it. The letter said that the Panel would be grateful if the Complainants could particularise in broad terms the categories of information it was alleged that the Employer had failed to provide and specify any additional complaints that the Complainants wished the Panel to consider in addition to those particularised in paragraph 19 above. The letter nominated a date for a hearing and invited the Complainant’s comment on the Employer’s case management proposals. The letter stated that the Panel had noted the Employer’s request that it should have the opportunity to provide written comments in response to the Complainant’s particularisation of any additional complaints and that the Panel would consider that request further when the Complainant’s comments had been received. In a letter to the Case Manager dated 6 November 2019 the Complainant repeated what it had said in its letter to the Employer dated

15 April 2019 (see paragraph 12 above). The Complainant did not comment on the Employer's case management proposals. In a letter to the parties dated 7 November 2019 the Case Manager informed the parties of the arrangements for a hearing and encouraged the parties to implement some or all of the Employer's case management proposals prior to submitting their documentation for the hearing. The letter also recorded that the Panel had considered the Employer's request that it should have the opportunity to provide written information in response to the Complainant's particularisation of additional complaints and did not consider this to be necessary at this stage.

The hearing

24. 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 9 December 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 agreed bundles of evidence and authorities. The Panel is grateful that the parties were able to agree these bundles. The Panel's decision 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 at the request of the Panel Chair

Exceptional circumstances

25. In its Statement of Case the Employer stated that the Project amounted to "exceptional circumstances" for the purposes of Article VI.4 of the Charter. The Complainant agreed that this was the case.

Relevant date

26. In its Statement of Case the Employer took 10 April 2019 as being the relevant date for the purposes of determining whether the Complainant had sufficient information on Waves 1 and 2 of the Project. The Complainant agreed that this was the relevant date.

The meetings held on 10 April 2019 and 22 May 2019

27. In its Statement of Case the Employer stated that the meetings held on 10 April 2019 and 22 May 2019 were held following a request by the Select Committee and not at the Employer's instigation. The Complainant confirmed that this was the case.

The remedy sought

28. The Panel Chair noted that the Complainant had not, in its Complaint or Statement of Case, sought an order under regulation 21(4) of TICER in the event that the Panel decided that a complaint was well-founded. The Complainant confirmed that it was not seeking any order.

The Employer's submissions on the scope of "consultation"

29. The Panel Chair asked the Employer to clarify its submissions on the scope of "consultation" under the Charter so that these could be addressed by the Complainant in its submission. In its Statement of Case the Employer had said that its obligations

should not be construed more widely having particular regard to the decision of the parties to limit consultation to only the impact on employees by:

- a. adopting the definition of "consultation" used in the Directive in Article I.8 of the Charter and not the concept of "consultation" detailed in regulation 18A(5) of TICER. This is important because the Directive uses a more restrictive definition providing that the opinion that the EWC may provide is only on "the basis of the information provided *about the proposed measures to which the consultation is related*";
- b. providing in Article VI.4 of the Charter that any meeting is to be "further informed and consulted *about the envisaged measures*" and not on all aspects of the Project; and
- c. providing in Article VI.5 of the Charter that an opinion must be on "the possible impact on employees" and not on all aspects of the Project.

The Employer confirmed that it intended to submit that the role of the Complainant was confined to forming an opinion on the possible impact on employees and that this set the context for the information and consultation process.

The Employer's position on the third complaint

30. In its Statement of Case the Employer had said in relation to the third complaint that it repeated what had been said in its letter of 24 October 2019 (see paragraph 21 above) The Employer then said that it

submits that whether this complaint is well-founded depends entirely on the outcome of the ... [Complainant's] ... other two complaints. In particular:

a. if either of those other two complaints are well-founded then it follows that ... [the Employer] ... was wrong to state that the information and consultation processes had concluded;

and

b. if neither of those other two complaints is well-founded then it follows that ... [the Employer] ... was entitled to state that each of the information process and consultation process had concluded.

The Panel Chair pointed out that in its response to the Complaint the Employer had said that Mr Voinescu was not seeking to assert that the cumulative processes referred to in Article VI.8 had concluded. She also referred to paragraph 25 of the Employer's Response to the Complaint submitted to the Arbitration Panel where the Employer had apologized to the Complainant for its use of the phrase "information and consultation process" instead of "the processes of information and consultation" in its email of 12 April 2019 and had undertaken to be more accurate in its use of language in future. The Panel Chair said that in b above the Employer seemed to be taking a different approach in not acknowledging that the third complaint could be upheld even though the first and second complaints may not be. The Employer said that the submission in its Statement of Case did not represent a change in its position from its initial response to the application.

Summary of the Complainant's submissions

31. The Complainant raised complaints that the Employer had failed to comply with the required information and/or consultation process with the Complainant in relation to waves 1, 2 and 3 of the Project prior to making a decision, contrary to regulation 18A of TICER and the Charter. The Complainant referred to legislation relevant to these complaints and to relevant provisions of the Charter.

Regulation 18A of TICER, so far as material provides:

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.

Relevant provisions of the Charter are set out in paragraph 3 above but some are repeated for ease of reference in the paragraphs which follow.

32. The Complainant referred to the definition of “information” in Article I.7 of the Charter which reads as follows:

“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.

The Complainant noted that this definition was drawn broadly. The Complainant submitted that the information provided by the Employer was inadequate to enable members of the VEWC to acquaint themselves with the subject matter and to examine it and to undertake the required in-depth assessment of the possible impact in order to provide meaningful input and an opinion statement for the purposes of Article VI.8.

33. The Complainant submitted that the Charter was a common-sense document designed to enable the VEWC to do its job and that, contrary to what the Employer may wish, there was no “bright line” test to indicate what information should be provided in any particular situation given that every case was different. The Complainant referred to Article VI.1 of the Charter which reads as follows:

The EWC will be informed and consulted on matters related to the structure of Verizon, the strategy of the company, its economic and financial situation, the deployment 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.

The Complainant said that it was clear from Article VI.1 that the VEWC had a right to be informed and consulted on a wide range of issues and that Article VI was designed for a collaborative approach between the parties.

34. The Complainant said that the VEWC needed information in order to inform and consult with its members and that this required the VEWC to understand a decision and its rationale in order to provide useful input from the 'coalface'. The Complainant said that the Employer had all the knowledge and understanding and the Complainant did not have the same parity of understanding or expertise. The Complainant accepted that whether adequate information had been provided was largely an objective test but submitted that some deference should be given to the opinions of experienced VEWC members as to whether they understood the information given. The Complainant acknowledged that it was very difficult to define the test more precisely and that the informed bystander approach had its limitations in this context. The Complainant said that the question ultimately was whether the VEWC had acted reasonably in compliance with its obligations in asking for information and whether the information given was sufficient or insufficient. The Complainant submitted that the Arbitration Panel (see paragraph 18 above) clearly did not consider that the information requested was unreasonable¹⁰ and had recommended a more collaborative approach than the Employer simply saying it had provided enough and that was that.¹¹

¹⁰ In support of this proposition the Complainant cited Recommendations 1(b) and (d). 1(b) recommended:

35. The Complainant referred to Article VI.5 of the Charter which reads as follows:

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.

The Complainant said that the Employer appeared to be saying that only the third of the bullet points in Article VI.5 was relevant. The Complainant disputed this interpretation. The Complainant submitted that the first two bullet points were highly significant and should be read together with Article VI.1 above; had the parties intended to confine the VEWC's opinion to the possible impact on employees the points in Article VI.1 of the Charter would have been otiose.

36. The Complainant submitted that in order to express an opinion on the basis of the information provided that information must be finalised. The Complainant said that although

that the Parties acknowledge that the Information and Consultation process requires the provision of adequate information at such time to allow for a meaningful information and consultation process and to allow the EWC to consider the same and use as a basis for the provision of an Opinion, referred to at Arts 1.8 and VI.8;

i) it is further recommended that where a substantial issue is raised by the EWC the CM will give consideration and respond to the same whilst the EWC acknowledges that this does not infer (sic) a right of co-determination in the decision-making process.

1(d) recommended:

That the CM will endeavour to provide the written information referred to at 1(b) above in accordance with Appendix 1 of the Charter and taking into account the definition of Information in the Charter shall provide a statement alongside the written information that in its (CM's) opinion the information does accord with Appendix 1. In circumstances where the CM are unable to provide information in accordance with Appendix 1 it will provide a brief explanation as to the reasons why.

¹¹ In support of this proposition the Complainant cited recommendation 1(e) which reads as follows:

The Parties shall seek to agree and identify together the items of information referred to in Art VI.5 that are needed by the EWC to express an opinion in accordance with Art VI.8. Such information should be as defined in Art 1.7 for the purposes set out in Art VI.5 of the Charter.

it had accepted that 10 April 2019 was the relevant date for the purposes of determining whether it had adequate information on Waves 1 and 2 of the Project it was necessary to look at what had happened previously. The Complainant pointed to the slide decks of 13 December 2018 and 11 January 2019, the questions it had raised on 16 January 2019, and the large number of questions which the Employer said on 30 January 2019 could not at that stage be answered. The Complainant said that it did not necessarily expect all its questions to be answered immediately but that many of the questions it had raised on 16 January 2019 had never been answered. The Complainant next referred to the slide decks dated 6 and 14 February 2019; the statement by the Complainant on 25 February 2019 that it lacked the requisite information and rationale for the Project to provide an opinion statement as requested; and the Employer's response of 27 February 2019 which indicated that the Employer considered that the information requirements had been satisfied even then. The Complainant referred to its email to the Employer of 5 March 2019 which stated "To start with, those are our high level questions" and said that it could not be more granular at that stage because the information it had received was fairly abstract. Referring to its email to the Employer of 2 April 2019, in which it said it did not consider itself to be in the consultation phase, the Complainant said that it could only begin consultation when it had the necessary information to 'consult' among themselves. The Complainant said that some of the information given at the meeting on 10 April 2019 had not been given before and that it needed time to digest that information. The Complainant said that the heart of its claim, though, was that the information provided throughout was inadequate so there could not be any meaningful consultation.

37. The Panel Chair said that the Employer, in a table in its Statement of Case, had set out the topics listed in Appendix 1 to the Charter and had specified the slide where, in its submission, the requisite information on these topics had been supplied to the Complainant on 3 April 2019. The Panel Chair said that it would be helpful if the Complainant could indicate which topics had not, in its view, been covered in the information provided by the Employer. The Vice-Chair of the VEWC, Jan Gyselinck, said that he could not say that the "bald propositions" in the Employer's table were not accurate. The Complainant said that its complaint was focussed not on the specific topics addressed, however, but rather on the adequacy of the information provided, which should be sufficient to explain the rationale which underlay the Employer's conclusions and adequate to enable the Complainant to

discharge its functions. The Complainant said that it was not sufficient for the Employer to state its conclusion on a particular matter; it should also provide the information which led the Employer to that conclusion and the reasons underlying its decisions. The Complainant gave the following examples to illustrate this point:

(a) The lack of proof regarding the claimed inefficiency or lack of effectiveness in the current teams.¹² The Complainant said that it had been given any documentation to back up this point.

(b) The implications of Brexit. In answer to the Complainant's request to see a risk analysis of Brexit regarding the Project the Employer had said the following:

We have been consulting with Matt Peake who is leading the Legal cross functional project to review Verizon's level of preparedness and approach generally for Brexit. It has been confirmed that we do not foresee a scenario of any Brexit related future legislation that would preclude supporting EU countries' accounting from the UK. All and any Brexit questions can be address (sic) to Matt and his team to brexit@intl.verizon.com – they are committed to do their best in answering the questions.¹³

The Complainant said that the Employer should have given a three-to-four page summary of the advice that the Employer had received on Brexit so that the Complainant could be assured that the appropriate questions regarding the workforce had been examined. The Complainant said that it was not prepared to accept what the Employer said without questioning it and asking for evidence to substantiate it. In answer to a question from the Employer the Complainant did not deny that it had not taken up the offer to approach the Brexit team directly but said that the Complainant's members were full-time employees with other jobs who should not have to reach out in this way; rather the duty was on the Employer to inform them directly.¹⁴

¹² See point (a) of the Complainant's email dated 15 April 2019 as set out in Appendix 2.

¹³ Employer's email of 13 March 2019

¹⁴ In answer to a further question from the Employer Mr. Gyselinck said that the regular quarterly updates received by the Complainant included discussion of Brexit and Kevin Rodgers said there had been a briefing on 20 March 2019 about the legal implications in general terms.

(c) Benefits to the company, customers and employees. The Employer had stated that Slide 3 of the deck sent on 3 April 2019 covered this topic. The Complainant pointed to the first and sixth bullet points which read as follows:

- Currently, the EMEA Accounting team has a non-optimal and fragmented structure with parts of the team located in various countries (57% of resources spread over 15 countries) and the majority (43%) located in the UK. This current fragmented structure is due to historical reasons and the structure does not reflect the strategic needs of the business.
- An opportunity to add depth to career opportunities/progression for our resources as the Regional Hub will be offering more diverse experiences.

The Complainant said that these bullet points were far too vague to constitute adequate information.

(d) Financial information. The Employer had stated that Slide 11 of the deck sent on 3 April 2019 covered this. The Complainant said that this slide contained only headline data which did not allow analysis of the costs of training and resettlement for example, and there was little of detailed substance which could allow it to have any input.

38. In its Statement of Case the Complainant had said that it was axiomatic one could not consult unless there was a stable position with stable proposals and stable and adequate information provided on which to consult in the first place. At the hearing the Panel Chair asked the Complainant to address the question posed by the Employer in its Statement of Case which asked whether the Complainant's case was (a) that the Employer's approach to the meetings on 10 April 2019 and 22 May 2019 was in and of itself insufficient to discharge it of its obligation to consult (irrespective of whether its information was sufficient) or (b) that the Employer's approach to consulting would have been compliant with its obligations to consult but for the validity of the consultation meetings having been vitiated by its failure first to discharge its obligation to provide sufficient information to the Complainant. The Complainant said that if the Panel found that the information provided by the Employer by 10 April 2019 was adequate then consultation too was adequate.

39. The Complainant submitted that the correct procedure to close the information and consultation process was not followed. The Complainant referred to Article VI.8 of the Charter which reads as follows:

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.

The Complainant referred to Mr Voinescu's email of 12 April 2019 which referred to the meeting of 10 April and continued:

With this last meeting, the information and consultation process is now complete. Let me please remind you that the EWC has the possibility, if he wishes, to issue an opinion statement regarding the project.

The Complainant said that declaring the information and consultation process complete before the Complainant had had an opportunity to issue an opinion statement was a clear breach of Article VI.8. The Complainant repeated this criticism in relation to Wave 3, where on 29 May 2019, the Employer had said:

Regarding Wave 3, we understand you don't have any additional questions in relation to the provided information or the discussions we had during our last meeting. Therefore, I believe we can now consider the consultation process on Wave 3 also completed. The EWC has the possibility, if he wishes, to issue an opinion statement regarding the project.

The Complainant said that this showed a fundamental misunderstanding of the process on the part of the Employer. The Complainant also submitted that there was nothing in Article VI.8 that allowed the Employer to treat a non-opinion statement as an opinion statement so bringing the process to an end as the Employer had sought to do in relation to the Complainant's email dated 15 April 2019 (see paragraph 13 above). The Complainant said that it was for it to determine whether a document should or should not be treated as an "opinion statement" for the purposes of Article VI.8.

40. At the hearing the Employer asked the Complainant whether its position was that it did not understand that it was being asked to give an opinion following the meeting on 10 April 2019. Mr. Gyselinck confirmed that the Complainant understood that the next step was to write an opinion.

Summary of the Employer's submissions¹⁵

41. The Employer submitted that it was clear from the evidence that it had complied with its obligation to provide information about the Project. The Employer said that it had informed the Select Committee about the Project on 13 December 2018; provided further initial information on 11 January 2019; and held a third preliminary meeting at which information was provided to the full VEWC on 14 February 2019. The Employer said that in the slides sent to the Complainant on 3 April 2019 all the information prescribed by Appendix 1 to the Charter had been included and provided a table which indicated the specific slides(s) on which it said that a specified topic had been covered. The Employer said that updated information on Wave 3 of the Project had been provided to the entire membership of the VEWC on 14 May 2019 with clear guidance on what was new information.

42. The Employer referred to the evidence and said that there was no example of the Employer, having being asked for information by the Complainant, responding by asking why the Complainant wanted this information or failing to respond; all questions had been answered regardless of whether they were "necessary" as required in Article VI.5 of the Charter. The Employer provided a table which set out when questions had been asked by the Complainant and answered by the Employer. The Employer also pointed to examples in the correspondence, in particular the Employer's email of 3 April 2019, where it had asked the Complainant to let it know if it had any remaining questions prior to the meeting scheduled for 10 April 2019 and had also said that time would be allowed at that meeting for any further

¹⁵ This summary of the Employer's submissions is confined to matters that proved relevant at the hearing. The Employer's Statement of Case included what it referred to as "fundamental propositions of law" without referencing the source of these propositions, with "detailed legal analysis" being set out in an Annex. Examination of the Annex showed that some of these "fundamental propositions" were derived from CAC decisions which have no precedent value; one, derived from an EAT decision, was stated incompletely. As these propositions did not, in the event, prove relevant they are not recorded in this decision.

questions that the Complainant may have. The Employer said that Article VI.5 made clear that it was permissible for information to be provided in a “verbal” as well as in a written format. The Employer attached to its Statement of Case a witness statement by Mr Voinescu in which he stated that at the meeting on 10 April 2019 the Employer went through the answers to all the questions it had received in advance. Mr Voinescu also stated that the Complainant had “repeated many of its previous questions during the meeting so we restated the answers that we had already told them. They weren’t happy with them and it felt like this was not because they didn’t like the level of detail in them but because they wanted different answers altogether”. Mr Voinescu said that no questions had been left unanswered at the end of the meeting. The Employer said that no outstanding questions had been identified in the Complainant’s email dated 15 April 2019 and that the Complainant had not subsequently identified any questions it had asked to which an answer was being awaited. The Employer reiterated that the meetings on 10 April 2019 and 22 May 2019 had been held, in line with Article VI.6 of the Charter, following a request by the Select Committee (see paragraph 27 above) and that it was therefore permissible for the Employer to use them to both “complete the information and continue with the Consultation process”. The Employer said that its primary submission was that the burden lay on the Complainant to show the Employer had failed to provide information and that at no stage had the Complainant identified information that the Employer had failed to provide or had declined to provide when specifically requested.

43. The Employer said that the Complainant had not complained that information had not been provided by the Employer in anything other than generic terms. The Employer said that the complaint was primarily one of failing to provide information required under the Charter and the Employer needed to know what it had failed to do. The Employer noted that the Complainant had not sought a specific remedy under regulation 21(4) of TICER in the event that the complaint was well founded (see paragraph 28 above) even though the Project was not complete. The Employer submitted that the failure to invite the Panel to order the provision of specified information demonstrated that the failure the Complainant was alleging was not articulated. The Employer said that the parties were in agreement that whether information had been provided had an objectivity about it and asked how deference to the view of the Complainant that adequate information had not been provided could work. The Employer said that if the parties had wished the adequacy of information provided for the

purposes of Article VI.8 to be governed by a subjective test it could have provided for that in the Charter. The Employer also submitted that an obligation to supply information to the Complainant's subjective satisfaction would inherently give the Complainant a right to delay consultation and thereby the Employer's ability to implement its proposals as it could always simply ask for more information. The Employer said that if the Complainant chose not to give an opinion statement under Article VI.8 it was the workers who would suffer as a result.

44. The Employer submitted that it was not the role of the Complainant to make a value judgment or to verify data underlying a business decision. The Employer submitted that the legislation was not intended to restrict the ability of businesses to make business decisions. The Employer said that the business may make a wrong decision; the Complainant may express the view that the business was wrong; but the decision was one for the business itself to make. In answer to the second bullet point in example (c) in paragraph 37 above, the Employer said that it was clear that the people working at the Regional Hub would have greater opportunities to advance. In answer to example (d) the Employer said that it was explicit on the slide in question that the Project was not "cost reduction driven" and for that reason the figures did not need to be more detailed at VEWC level. The Employer said that it was inevitable that consultation was not at the granularity of a complete decision and that consultation would be frustrated if it were.

45. The Employer acknowledged that Article VI.1 was broadly defined but reiterated the view set out in paragraph 29 above that Article VI.5 restricted the information required to be provided so that the employees' representatives "[c]an form an opinion on the possible impact on employees" and that this set the context for the information and consultation process. However the Employer also submitted that there was no point in conducting an abstract exercise if there was no specific failure to provide information.

46. The Employer emphasised that a conscious decision had been taken by those formulating the Directive that there should be no requirement to consult with a view to reaching agreement in this context. In relation to the Complaint that the Employer had terminated the information and consultation process prematurely by virtue of Mr Voinescu's email of 12 April 2019 the Employer said that the evidence showed that the Complainant had not understood that letter to indicate that the process was closed (see paragraph 40 above).

The Employer also submitted that the Complainant's email dated 15 April 2019 (see Appendix 2 below) showed that the Complainant considered that the process was still open and that it had not, therefore been disadvantaged by Mr Voinescu's email.

Considerations

47. The complaint submitted to the CAC reads as follows:

The VEWC raises complaints under Regulations 17, 18A and 21 of TICER as amended in relation to the failure of Central Management to comply with the terms of the VEWC Agreement and Regulation 18A of TICER, namely failing to comply with the required information and/or consultation process with the VEWC generally in relation to waves 1, 2 and 3 of the Accounting and Finance Transformation prior to making a decision and specifically:

- a. Failing to provide sufficient information so as to allow the VEWC from (sic) undertaking an in-depth assessment of the information provided;
- b. Failing to consult with the VEWC on that information, such as it was;
- c. Declaring the information and consultation to be closed on both 10 April and 29 May 2019 before those processes had been completed, the VEWC had given its opinion within the 14 day period provided and before any response to that opinion had been provided;

in breach of and failing to comply with Articles I.7 and 8; II.3 to 5; VI.1 to 8; VII.7; and VIII.1 of the VEWC Agreement and Regulation 18A of TICER.

This decision considers these specific complaints in turn. Each party urged the Panel to take a different approach to its task. The parties agreed that whether sufficient information had been provided could not be determined by the view of one party alone. However, whereas the Employer submitted that the test was purely an objective one, the Complainant submitted that although it was largely objective some deference should be paid to the opinion of the

Complainant as to whether its members felt they understood the decision under discussion and the rationale for it. The Panel agrees that this is not a question on which the view of either party should be determinative. The Panel also considers that the fact that the Complainant has formed the view that insufficient information has been provided, and the reasons for its view, are clearly material to the Panel's deliberations. However the very fact that the Complainant is not satisfied with the information that has been provided is not an overriding factor; rather the Panel is required to consider all the evidence before it reaches a decision.

48. The Complainant's first complaint was that the Employer had failed to provide sufficient information so as to allow the Complainant to undertake an in-depth assessment of the information provided. The Employer's primary submission was that at no stage had the Complainant identified information that the Employer had failed to provide or that the Employer had declined to provide when specifically requested.

49. The Panel; has considered carefully the information provided by the Employer at each stage of the information and consultation process; the questions raised by the Complainant at each stage; and the Employer's responses to those questions. This iterative process lasted for about three months. The Complainant did not contest the "bald propositions" in the Employer's Statement of Case that information had been provided on the topics specified in Appendix 1 to the Charter. The Complainant was also unable to point to any specific information which had not been provided or any questions which had remained unanswered prior to its letter dated 15 April 2019.¹⁶ The focus of the complaint was, rather, that the information provided, and the answers given to its questions, by the Employer on the matters covered by the Charter were insufficiently detailed, evidenced and/or explained to enable the Complainant's members to acquaint themselves with the subject matter, examine it and conduct an in-depth assessment of the possible impact and to prepare for consultation. The Complainant submitted that it was not sufficient for the Employer to state its conclusions on a particular matter; it should also provide the information which led the Employer to that conclusion and the reasons underlying it so the Complainant could explain the rationale for the Employer's proposals to the workforce. The Complainant accepted that there were limits

¹⁶ As stated in paragraph 36 above, the Complainant said that many of the questions raised in its email to the Employer of 16 January 2019 had never been answered but it did not specify what these questions were.

to this process. Thus, it would be impractical for the Employer to supply all the documentation which led to its conclusions on Brexit, for example, but the Complainant suggested that the Employer should have supplied a three-to-four page summary of the advice that it had received so the Complainant could be assured that the appropriate questions regarding the workforce had been examined.

50. The Complainant chose four areas to exemplify its contention that the information provided by the Employer was insufficient to enable it to carry out its role. These were set out in paragraph 37 above. The Panel has therefore commented specifically on these areas in this decision although it also considered carefully the information provided in all the remaining contexts. The first was that there was no proof that the current teams were inefficient or ineffective. The Panel concurs with the view of the Employer that it is not the role of the Complainant to make an independent assessment of whether a business decision is sound nor, therefore, is there an obligation on the Employer to provide proof to persuade the Complainant of the viability of any such decision to the Complainant's satisfaction. The second was that information provided about the benefits of the company, customers and employees was inadequate. Again the Panel is satisfied that the information provided by the Employer was sufficient to enable the Complainant to understand why the Employer had come to the view that it had. The third was financial information. The Panel notes that the slide on which the information was given expressly stated that the Project was "not a cost reduction driven project but a strategic investment for our organization". That being so the Panel does not consider that the Employer was required to give a greater breakdown of the costs than appeared on the slide in question. More generally, in relation to the second and third examples, the Panel notes that the information in question was provided on slides distributed on 3 April 2019 in advance of the meeting scheduled for 10 April 2019. When distributing the slides the Employer expressly invited the Complainant to let it know if it had any remaining questions and also gave an assurance that there would be time for further questions at the meeting. In his witness statement describing the meeting on 10 April 2019 Mr Voinescu stated that the Employer went through the answers to all of the questions it had received in advance and that at the end of the meeting there were no questions left unanswered. The Complainant did not dispute the contents of this witness statement at the hearing.

51. The fourth example given by the Complainant related to the implications of Brexit. The Complainant submitted that it should not have been asked to take the Employer's conclusion that there were no Brexit implications for the Project 'on trust'. The Complainant submitted that the Employer should have prepared a three-to-four page summary of the advice it had received. The Panel does not consider that the Employer is obliged proactively to provide a summary of this nature in relation to this or any other issue material to the Complainant's role as a matter of course although the Employer should be prepared either to address specific questions raised by the Complainant or to explain why it is unable or unwilling to do so. The Complainant also submitted that it was not sufficient for the Employer to invite it to address any questions it may have on Brexit to a specialist team. The Panel agrees that in general the individual nominated by the Employer to deal with information and consultation on a specific area should answer the Complainant's questions directly and that routinely to refer it to another individual or department would place an undue burden on the Complainant's members. However in the context of a complex area such as Brexit, for which a specialist team within the Employer was responsible, the Panel does not consider it unreasonable for the Employer to invite the Complainants to put specific questions to that team. The Panel notes that the Complainant did not take up this offer.

52. The Panel agrees with the Complainant that there is no "bright line" test to determine whether the information provided by an Employer is sufficient in any given context. The Panel also agrees with the Complainant that in order to fulfil its role it must understand a decision and the rationale for that decision. However this does not mean that the Complainant should feel unable to fulfil its role without having access to the full range of information it considers it would need were it in the shoes of the Employer as decision-maker. The Complainant said that ultimately the question for the Panel was whether the Complainant had acted reasonably in compliance with its obligations in asking for information and whether the information given was sufficient or insufficient. The Panel does not consider it necessary to examine whether each and every question asked by the Complainant was "reasonable" because the evidence showed that in any event the Employer had genuinely sought to address the questions raised prior and up to 10 April 2019. The Panel appreciates that the Complainant felt that some of the questions it had raised on 16 January 2019 had not been answered but the Complainant did not specify what these questions were so the Panel was unable to consider that contention further. In relation to the sufficiency of information,

having reviewed the totality of the evidence before it the Panel has concluded that the information provided by the Employer was sufficient in the circumstances to enable the Complainant to carry out its role in the information and consultation process. The Panel has therefore decided that the Complainant's first complaint is not well-founded.

53. The Complainant's second complaint was that the Employer had failed to consult with it on the information provided. As stated in paragraph 38 above the Complainant accepted that if the Panel were to find that the information provided on 10 April 2019 was sufficient then the consultation was also sufficient. As stated in paragraph 52 above the Panel has concluded that the information provided on 10 April 2019 was sufficient. It follows that the Panel has concluded that the Complainant's second complaint is not well-founded.

54. The Complainant's third complaint was that the Employer had declared the information and consultation processes to be closed on both 10 April 2019 and 29 May 2019 before those processes had been completed, the Complainant had given its opinion within the specified 14 day period and before any response to that opinion had been provided. Had the emails sent by Mr Voinescu on 12 April 2019 and 29 May 2019 been the only evidence before the Panel it would have taken the view that this complaint was well-founded. However on being asked at the hearing whether the Complainant understood that it was being asked to give an opinion following the meeting on 10 April 2019 Mr. Gyselinck confirmed that the Complainant understood that the next step was to write an opinion. The Panel also agrees that the Complainant's email to the Employer dated 15 April 2019 (see Appendix 2 below) showed that the Complainant considered that the process was still open. The Panel therefore accepts the Employer's submission that the Complainant had not been disadvantaged by Mr Voinescu's email of 12 April 2019. The parties did not specifically comment at the hearing on the Complainant's understanding of the email of 29 May 2019. However when the Panel Chair asked the Employer if it wished to comment further on the Complainant's submissions relating to the third complaint the Employer said that it understood that the issue as a whole had been dealt with following Mr Gyselinck's evidence and the Complainant did not dispute this.

55. Having considered all the evidence relating to the third complaint the Panel has concluded that it is not well-founded because, on the facts of the case, the Complainant was

not disadvantaged by the Employer's emails of 12 April 2019 and 29 May 2019. However the Panel welcomes the Employer's apology in its submissions to the Arbitration Panel for using the phrase "information and consultation process" in its email of 12 April 2019 and undertaking to ensure that it is more accurate in its use of language in future (see paragraph 30 above).

56. The Complainant submitted that there was nothing in Article VI.8 that allowed the Employer to treat a non-opinion statement as an "opinion statement" so bringing the process to an end as the Employer had sought to do in relation to the Complainant's email dated 15 April 2019. The Panel agrees that it is not open to the Employer unilaterally to label a document an "opinion statement" for the purposes of Article VI.8; rather, whether a document is an "opinion statement" for that purpose is a matter for the Complainant to decide. The Panel notes that there is a maximum 14-day period for the Complainant to exercise the option to issue an opinion statement so leaving the decision to do so in the hands of the Complainant does not enable it to delay the subject matter of information and consultation indefinitely.

Decision

57. For the reasons given in paragraphs 49-56 above, the Panel does not consider the complaints set out in paragraph 47 above to be well-founded.

Concluding observation.

58. In its Statement of Case the Employer submitted that the parties had decided under the Charter to limit consultation "to only the impact on employees" and that this decision of the negotiating parties was "of great significance". This submission is recorded in paragraphs 29 and 45 above. The Employer based this submission on the argument that the third bullet point of Article VI.5 of the Charter states that information provided by Central management will be so that the employees' representatives "[c]an form an opinion on the possible impact on employees". The Complainant disputed this interpretation and submitted that the first two bullet points of Article VI.5 were highly significant and should be read together with Article VI.1 of the Charter. The Panel was not persuaded by the Employer's submission that the

Charter limits the scope of the Employer's obligations relating to information and consultation to the possible impact on employees.

The Panel

Professor Gillian Morris – Panel Chair

Mr Roger Roberts

Mr Paul Noon OBE

20 December 2019

Appendix 1

Names of those who attended the hearing on 9 December 2019:

For the Complainants

Simon Harding – Counsel

Jean-Philippe Charpentier - Chair, Verizon EWC

Jan Gyselinck - Verizon EWC

Jan Froding - Verizon EWC

Kevin Rodgers - Verizon EWC

Vera Benyschek – Verizon EWC

For the Employer

David Reade QC - Counsel

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

The Issues Raised in the Complainant's letter to the Employer dated 15 April 2019 as set out in the Complainant's Statement of Case

- (a) There's a severe lack of proof regarding the claimed inefficiency or lack of effectiveness in the current teams;
- (b) Centralizing in one specific country is counterproductive for functions that require knowledge of accounting practices and compliance requirements in other European countries;
- (c) The financial side of the transformation is incomplete. The data only includes total numbers for costs linked to redundancies, a total project cost and a comparison to the projected costs for the fixed resources. No details or itemization is provided;
- (d) No viable economical argument was provided regarding the centralization to the Reading office;
- (e) The loss of experience is completely ignored. The cost calculation doesn't include this. It's not mentioned anywhere as a risk that needs to be evaluated and/or monitored. The experience isn't quantified at all;
- (f) The ongoing Brexit has implications on a business level. While Verizon has taken preparations on this topic, there is a lack of impact analysis regarding this project. The claim that this has no impacted on the project is quite hard to believe;
- (g) The people affected are mostly Verizon veterans. Nowhere does Verizon make any commitment to replace people with new employees of similar age. This is a clear case of age discrimination;
- (h) This centralization activity introduces discrimination and unfair competition in Verizon's business practices. On top of the age, the EWC also sees clear discrimination linked to gender and geographic origin;
- (i) The impact on employee motivation – inside and outside the affected teams - is completely ignored;
- (j) The current employees of the various Finance teams play a critical role in various local procedures and practices. The question to get an official overview of these tasks was left unanswered;
- (k) The existing experience of employees, which could be useful and relevant to entities that are part of Verizon Connect and Verizon Media Services, is ignored;

- (l) Justification based on experience from managers is inappropriate for any business decision;
- (m) There have been plenty of centralization efforts in the last few years. Examples like Payroll and Accounts Payable come to mind, where it's clear that it's never straightforward. Mistakes happen often and they are hard to correct. And a lot of people outside of those departments have had to jump in and provide help and support to get things done;
- (n) While management talks about listening to stakeholders, they exclude local employees from that status. Several people of the Finance team, provide either directly or indirectly, officially or unofficially, service to local employees;
- (o) Excluding critical costs from a business case is fraudulent. This change will result in a higher than expected dependency on a local external partner. Costs for such a partner are not considered. Not even in a best case/worst case exercise;
- (p) The EWC Charter considers these the goal of the information exchange between management and the EWC:
- (i) To acquaint the EWC with the motivation behind the strategies implemented
 - (ii) To understand the objectives pursued
 - (iii) To be able to form an opinion on the possible impact on employees
 - (iv) The EWC Charter is clear when it specifies that when the EWC has received adequate information, and has been able to consult with management, that the EWC Select Committee can issue an opinion statement.
 - (v) It is however the prerogative of the EWC to decide if and when it has received adequate information;
- (q) The EWC was informed on the conference call of 10 April 2019 that Verizon management now considers Consultation to be complete. No more information will be provided and the EWC can now issue an opinion statement (or not);
- (r) Verizon clearly considers the products and services it offers – remote collaboration and telepresence - to be of inferior quality. This lack of trust in its own products results in the decision to centralize teams in one location;
- (s) With current business practices, an ROI of 16 years - whilst the cost calculation is incomplete - would usually lead to a no-go decision. This is exacerbated by the high risks and the heavy investment that's required;
- (t) The choice to only involve most (but not all) of the Finance teams in the VES branch feels very arbitrary;

- (u) Verizon considers the employee's opinion in questionnaires like Viewpoints important. But in the mean time employee motivation seems to be the least of the concerns;
- (v) The Verizon Code of Conduct is being breached by the clear discrimination introduced by this project;
- (w) The European Works Council concludes on this basis that:
- (i) There's no economical basis for this transformation;
 - (ii) The business case is very vague; financial estimates are crude and lack any detail, no proper risk analysis, no clear view on what the teams currently actually do;
 - (iii) There's a huge risk to the company, both financially and for the corporate image. Inexperienced employees can make a lot of mistakes, even if they work in good faith. Mistakes can open up the company to litigation, which in this case are likely to be very costly. There's also a personal risk to members of the board of directors to each of the legal entities for which Finance is responsible. Further more, Verizon's image of being a proper corporate citizen is at risk;
 - (iv) The lack of relevant experience of the new teams, as well as the lack of knowledge of the local practices and/or the local language will end up costing a lot of money, spent on external consultancy;
 - (v) The relocation of the Finance people to the UK office will result in disruptions in local workflows and processes, further negatively impacting Verizon's ability to operate successfully in the market;
 - (vi) A partial and arbitrary consolidation of some of the Finance teams in Europe cannot be justified on a business level, and puts the different parts of the business in competition with each other. The lack of consideration of the usefulness and experience of the local people for the future consolidation with the legal entities from the different branches is another sign of the lack of a decent foundation for this transformation;
 - (vii) The proper consultation process with the EWC was not respected. Consultation was prematurely aborted by the refusal to answer further questions. This is a gross violation of the EWC Charter;
 - (viii) The European Works Council has been unable to figure out the objective benefit Verizon has to make this change. The EWC considers the project to be very costly, the risks to the business to be extremely high, and advises management to strongly reconsider proceeding with this transformation. The lack of respect for Verizon

employees is also unbelievable. At this point in time, there can be no doubt that the most important asset Verizon has are those employees. The EWC is also appalled by the gross violation of the EWC Charter and the disrespect of the EWC and what it stands for. This forces the EWC to take further steps on this topic.

(ix) The EWC is unable to issue an Opinion Statement in these circumstances. This project cannot continue, as the consultation is not complete.

Appendix 3

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 4

The Verizon Group EWC Agreement ("the Charter").



Verizon European Works Council Agreement

The 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.

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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, UK 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.

s/c
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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 TCER. 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 laws
 - 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.

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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 or 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.

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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 end 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 XIII.4 will apply.

V. Structure and Functions 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 Verizon, 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, out-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.

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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 employeesFor 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:

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- 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

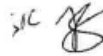
1. Central Management and the EWC shall meet four times a year. Two regular In-person plenary Information and Consultation meetings will occur for Q1 (normally March) and Q3 (normally September), while two additional regular Information and Consultation meetings will take place for Q2 and Q4 per conference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

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- 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 TUCER, 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 terms 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



communicate 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
- Decos 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.

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 be used for any purposes other than that contemplated in this Agreement and must not be misused 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.

XI. 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.88 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



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.

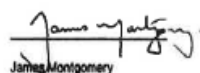
XII. Duration of the Agreement

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 XIII.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 18F of the TIGER will apply. 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

Director - Human Resources - EMEA


Jean Philippe Charpentier

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

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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

