

Code of Practice

1 INTRODUCTION

1.1 Background

The Irish Government has adopted a strategy that aims to promote the development of the Information Society and e-commerce in Ireland through the widespread availability of open access, affordable broadband infrastructure and services.

This strategy includes funding the construction and development by Government of metropolitan area networks in a number of towns across Ireland.

These networks shall remain in the exclusive and beneficial occupation of the Minister for Communications, Marine and Natural Resources (the “Minister”), but the marketing, management, operation and maintenance of these networks may be undertaken by a Management Services Entity (“MSE”), on behalf of the owners, and this MSE shall administer access to the networks on a carrier neutral and open access basis.

This Code of Practice (the “Code”) applies to the metropolitan area networks (or MANs) part-funded under the E-Commerce measures of the National Development Plan 2000-2006.

1.2 Objectives

This Code shall apply to the activities and transactions of all parties that have an interest in publicly funded broadband MANs. The interested parties shall include Public Bodies that will be, or have been, awarded public funding for the construction of such telecommunications infrastructure pursuant to grant agreements with the Minister (the “Grant Agreements”), the telecommunications operators, internet service providers, and other entities, public or private, that may wish to acquire access to such infrastructure and any entity or entities which may be appointed to manage, administer and allocate such infrastructure on behalf of Government that shall own the infrastructure. The Code shall apply to all such interested parties in a uniform manner without modification or exception for any party.

The Code aims:

- (a) to set out core principles;
- (b) to provide for uniformity, objectivity, transparency and clarity in the administration of access to publicly funded MANs;
- (c) to provide certain instructions on the type of information which shall be made available in relation to publicly funded MANs and the methods of administering access to such information;

- (d) to provide certain instructions on the procedure for applying for access to elements of the publicly funded MANs;
- (e) to provide certain instructions on the minimum and maximum allocations of access on such infrastructure to operators;
- (f) to outline the roles and responsibilities of the relevant interested parties.

1.3 Principles

The Code of Practice is based on a number of core principles:

- (a) the Code applies to all the MANs procured under the National Development Plan 2000-2006, or other schemes that may be identified, both current and future;
- (b) the Code, where possible, endeavours to be technology neutral;
- (c) the principle of ‘open access’ is core to the provision and allocation of publicly funded telecommunications infrastructure. Open access means the provision of access to infrastructure on fair, transparent and non-discriminatory terms to any or all interested parties and on an equal basis, subject to such interested parties agreeing to abide by this Code and to comply with the terms and conditions contained herein and the terms and conditions of any agreements governing the provision and allocation of such infrastructure, including EU State Aid rules, and subject to availability;
- (d) all interested parties shall be subject to and shall adhere to the principle of equal treatment. The principle of equal treatment requires that the same rules, criteria and guidelines shall apply to all the interested parties and that each of the parties shall adhere to this principle in their dealings with any other parties pursuant to the Code.
- (e) the principle of equal treatment means that clear, precise and uniform procedures and processes shall operate under and in conjunction with the Code. These procedures and processes must not be waived or altered in favour of any party. Adherence to this principle requires that objective and transparent criteria will be used in any decision making processes and procedures carried out in relation to the Code and that no party shall afford an anti-competitive or unfair advantage to another party in relation to the Code.
- (f) the principle of non-discrimination requires that no party may be unfairly prejudiced because of non-objective factors or criteria by another party in making decisions or taking actions pursuant to or in relation to the Code. The principle of non-discrimination shall be implemented by objective decision-making and selection processes based on criteria relevant to the needs and requirements of the parties. No working procedures or processes implemented by the interested parties shall discriminate against any other party. This principle requires that similarly situated parties

shall be treated on an equivalent basis. This principle also requires that an interested party is not permitted to apply different conditions or criteria to similarly situated parties.

1.4 Definitions and Interpretation

(a) **Definitions**

In this Code:

“Application Form” shall have the meaning set out in Section 3.4.

“Business Day” means a day when banks in Dublin are open for normal business.

“Code” means this Code of Practice.

“Concession Agreement” means the agreement or agreements between the Contractor Authority (as defined therein) and the MSE governing the relationship between these parties, as more generally described in Section 7.2 below.

“Contracting Authority” means the Minister who has awarded the concession to the MSE over the MANs.

“Customers” or **“Users”** means Operators and/or end users of the MSE to which customer services will be supplied by the MSE.

“Good Industry Practice” means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably be expected from a skilled and experienced operator engaged in Ireland and/or the United Kingdom in the provision of services similar to the Services seeking in good faith to comply with its contractual obligations, complying with all applicable laws, codes of professional conduct, relevant codes of practice, Irish, European and other relevant standards and other consents.

“Grant Agreement” means the agreements between the Minister and certain Public Bodies that provide for the awarding of funding by the Minister for the purposes of constructing Telecommunications Infrastructure.

“Internet” means the public network of computer networks known by the name which enables the transmission of information between users or between users and a place on the network.

“ISP” means an Internet Service Provider and includes:

- (a) those providing connectivity and access to the Internet; and
- (b) those hosting web pages for Internet users.

“MAN Owner” means the Minister.

“Management Services Entity” or **“MSE”** means the organisation that is appointed to manage, operate and maintain the Networks, including its successors and lawful assigns.

“Metropolitan Area Networks” or **“MANs”** means the broadband, wireless or electronic communications infrastructure and other ancillary facilities or assets in connection with such infrastructure including, fibre in appropriate forms, extensions thereto, customer connections, enhancements and related or similar matters together with any additional MANs to be managed, operated and maintained by the MSE

“Minister” means the Minister for Communications, Marine and Natural Resources and his or her successors and assigns.

“Network” means the MANs or appropriate components thereof as held by the Minister and **“Networks”** shall be construed accordingly.

“Operators” means all appropriately authorised and/or licensed telecommunications or electronic communications operators, ISPs and other bodies, public, corporate or otherwise, or such other bodies (including, without limitation, HeaNet) who may seek access to the MANs.

“Operator’s Node” means a location where bandwidth is dropped or inserted by or on behalf of an Operator.

“Other Services” means the provision of other services by the MSE to the Operators, not specifically referred to in the Code, but consistent with the MSE’s function as a wholesale access provider of electronic communications services on the MANs.

“Parties” means the persons at paragraph 1.5.

“Point of Presence” or **“POP”** means a network access point.

“Public Bodies” means government departments, local and regional authorities, regional development authorities, companies owned by Public Bodies and companies promoted by or pursuant to statute (other than the Companies Acts 1963 to 2003 or comparable legislation in any jurisdiction) applicable in Ireland.

“Services” means the lighting facility, or terminating facility or community ethernet or Other Services or combinations of these as offered by the MSE to Operators.

“Service Agreement” means the agreement or agreements entered into between the MSE and the Operators, governing the relationship between these parties as more generally described in Section 7.3 below.

“**Steering Committee**” means a committee which may be established, at the discretion of the Minister, to co-ordinate the rights, responsibilities and actions in relation to the MANs.

(b) **Interpretation**

- (i) In this Code, where examples are provided of the manner in which a Code provision may be satisfied, these examples should not be interpreted as limiting the manner in which the provision may be satisfied and these examples should not in any way be construed as being legally binding and such are for illustrative purposes only.
- (ii) In this Code, words importing the singular shall import the plural and vice versa and words importing the masculine gender shall import the feminine and neuter and vice versa.
- (iii) The provisions of this Code shall apply in conjunction with the provisions of the Service Agreements, and the Grant Agreements. To the extent that any provision of this Code is inconsistent with the provisions of any of these agreements, then the provisions of the agreements shall prevail.
- (iv) Subject to Section 1.4(b)(iii) above the Code shall govern the activities and transactions of all Parties that have an interest in the Telecommunications Infrastructure and its terms shall not be varied save in accordance with the terms of Section 10 of the Code.

1.5 **Scope**

This Code shall apply to the following Parties:

- the Minister;
- Public Bodies;
- Operators;
- Customers; and
- the MSE

2 PROVISION OF INFORMATION

2.1 **Marketing and Media**

The MSE shall be responsible for marketing and promoting the availability of MANs and for promoting any related services. Public Bodies may take part in marketing and promoting the MANs situated within their geographical remit or county boundaries, as appropriate. The MSE will market and promote

infrastructure available for licence on all publicly-owned Networks within its remit. The MSE will co-ordinate all marketing and promotion activity of the MANs.

A dedicated central website (“the Website”), controlled by the MSE, exists/will exist for the provision of detailed information to interested Parties on all Networks.

Promotional material must comply with the provisions of any current legislative provisions, mandatory advertising standards or mandatory codes of practice regulating advertising practices and promotions. Each promoter of the MANs shall have the responsibility to ensure that it is compliant and up to date with these legislative requirements, standards and codes.

All promotion, advertising and marketing information concerning MANs must be accurate, complete and maintained to ensure that it is always up to date. The Minister and the Public Bodies shall be responsible for providing all relevant information to the MSE in a timely manner and in accordance with any guidelines that the MSE may issue from time to time. The MSE shall be obliged to ensure that the Website and detailed information is updated as required in accordance with Good Industry Practice.

2.2 Network Generic Information

Operators will have access to generic information that is common to all Networks, including:

- (a) duct and sub-duct specification and routes, in accordance with agreed specifications;
- (b) fibre specification and routes, in accordance with agreed specifications;
- (c) wholesale managed services;
- (d) the application process, including the procedure for ordering drop connections;
- (e) standard application forms, standard pro-forma Service Agreements and standard service level agreements;
- (f) this Code;
- (g) contact information, including actual address and other contact details of the MSE and its key points of contact; and
- (h) any applicable Network access rules governing access to the MANs.

This information will also be ordinarily available on the Website and/or elsewhere.

2.3 Network Specific Information

Operators will also have access to information that is specific to individual Networks, including:

- (a) a list of all available Networks;
- (b) details of individual Networks, including routes, distances and chamber locations;
- (c) details of essential maintenance programmes and costs; and
- (d) details of Network management and repair procedures.

This information will ordinarily be available on the Website and/or elsewhere.

2.4 Pricing Information

The MSE shall ensure that charges for access to the MANs are ordinarily made available on the Website and/or elsewhere. It shall also be made clear whether any such charges quoted are inclusive or exclusive of VAT. Any additional charges payable, such as connection and maintenance charges, shall also be stated. If any charges cannot be quantified, e.g., until further details are obtained, the likely occurrence of these additional charges must be stated. Pricing information, in particular, shall be accurate, up to date, legible, prominent, and presented in such a way that it is clear and not misleading.

2.5 Information supplied by Operators

Operators are required to provide such information as is requested in the application form which shall be supplied by the MSE (the “Application Form”) and shall provide any other additional information that may be requested in connection with an application or other information which may be requested by the MSE at any time.

2.6 Data Protection and Confidentiality

- (a) The Parties shall observe their respective obligations set out in the Data Protection Acts, 1988 to 2003, as may be amended, modified or consolidated, together with any further legislation, international conventions or EU rules adopted in respect of data protection.
- (b) The Parties acknowledge the serious adverse effects that unauthorised disclosure of personal data relating to data subjects would have upon the operations of the other Party and shall endeavour to avoid any such disclosure.
- (c) The Parties will keep in confidence and use only for the purposes of this Code and for matters referred to in this Code all Confidential Information. Confidential Information means information belonging or relating to the Parties, their business or affairs, including without

limitation, information relating to the development, resources, products, processes, analyses, data, business plans, customers, finances, personnel data and other material or information considered confidential and proprietary by the Parties or which either Party is otherwise informed is confidential or might or ought reasonably expect that the other Party would regard as confidential or which is marked “Confidential”.

- (d) Confidential Information for the purposes of this Code does not include any information:
 - (i) which one Party knew before the other Party disclosed it to that Party
 - (ii) which has become publicly known through no wrongful act of either Party, or either Parties’ employees or agents;
 - (iii) which either Party developed independently, as evidenced by appropriate documentation;
 - (iv) which is required to be disclosed by law including in response to a request under the Freedom of Information Act, 1997;
 - (v) where disclosure of such information is essential for the purposes of the MSE and/or the Public Bodies and their duties and in such circumstances, the MSE and/or the Public Bodies shall ensure that the disclosure shall be proportionate and shall have regard to the intentions of the disclosing Party and its trade secrets; or
 - (vi) as may be required by law or court order.
- (e) The Parties will procure and ensure that each of its employees, agents, servants, sub-contractors and advisers comply with the provisions contained in this section of the Code.

3 PROCESS OVERVIEW

3.1 Overview of Roles

The roles and responsibilities of all interested Parties are outlined in Section 9 of this Code. A brief outline of some of these roles is provided here to aid understanding of the process for licensing products on the MANs.

- (a) **Infrastructure Owners**

The Infrastructure Owner is the Minister. The MSE shall have access to a suitably experienced employee and deputy employee within each Public Body with whom it will liaise on all matters regarding the MANs and additions thereto. This designated employee and deputy employee shall have responsibility for liaising with the relevant Public Bodies.

(b) **MSE**

The MSE shall process all orders to carry out the site surveys, install drop connections (as applicable) and provide on the ground co-ordination and management. The MSE will also facilitate supervised access to co-location space if necessary.

(c) **Operators**

The Operator may accompany the MSE personnel for any site survey and other matters.

3.2 Products/Services available for Licence

The following include products/services which may be made available by the MSE,

- (a) Dark Fibre
- (b) Sub-ducting
- (c) Ducting
- (d) Co-location Space
- (e) Drop Connections
- (f) Lighting Facility
- (g) Terminating Facility
- (h) Community Ethernet Aggregate
- (i) Wholesale Managed Services
- (j) Other Services

Such other products/services as may be provided from time to time to Operators, consistent with the MSE's function as a wholesale open access, carrier neutral provider to the MANs.

3.3 New Drop Connections – Options

- (a) Extending the drop connections into buildings or other locations presents a number of optional solutions. The decision as to the option pursued will be made on a case-by-case basis by the MSE taking account of, among other matters:
 - (i) the strategic importance of the connection, and
 - (ii) the Operator requirements.

(b) In the event that a new drop connection is required, the following options may be available to the applicant:

(i) **MSE Installed on behalf of Operators at Customers premises**

The MSE shall install or arrange the installation of the drop connection on behalf of the Operator at retail customers' premises. The schedule of costs for this option will be available on the Website. The MSE will enter into a wayleave agreement with the end customer/property owner through whose property the drop connection is constructed. This wayleave agreement will grant the right to the MSE to build and use the drop connection and also allows the MSE to enter into the sub-use agreement with the operator(s). The drop connection forms part of the MANs and shall remain in the exclusive beneficial ownership and occupation of the Minister subject to the right of use of the end customer/property owner as set out in the wayleave agreement.

There will be no Operator access to the chambers on the Network without the consent of the MSE. Under certain circumstances, access supervised by the MSE will be facilitated.

Or

(ii) **Operator Installed – Operator Owned**

The Operator with the written agreement of the MSE may install, or arrange the installation of the drop connection at its own cost and expense and shall retain ownership of same provided that the drop is to an agreed MSE interconnection chamber.

There will be no Operator access to the chambers on the Network without the consent of the MSE. Under certain circumstances, access supervised by the MSE will be facilitated.

3.4 Application Process

The process for applying for and allocating elements of the MANs and Services is described below.

(a) Operators wishing to be allocated or to use the MANs and/or Services shall make an initial application using an Application Form, which shall be available on the Website. The Application Form requires details including:

(i) full legal name of applicant;

(ii) trading name of applicant;

(iii) regulatory status;

- (iv) details of main business activities;
 - (v) type of connection required;
 - (vi) connection addresses;
 - (vii) preferred term of agreement;
 - (viii) contact details of applicant, including name, position within company (if authorised person submits an application on behalf of a company), telephone number, fax number, e-mail address;
 - (ix) contact details of applicant's local representative, including name, position within company, telephone number, fax number, e-mail address;
 - (x) contact details of applicant's customer service centre , contact details of applicant's maintenance representative;
 - (xi) preferred textual medium either SMS or e-mail, and contact details for the reception of fault and performance reports by the applicant; and
 - (xii) names of contact persons within first and second connection addresses, if relevant.
- (b) This completed Application Form shall be submitted to the MSE and the receipt of the Application Form shall be subsequently acknowledged in writing by the MSE within one Business Day.

The MSE shall then identify suitable chambers in proximity to the connection addresses and the route between them. On completion of this exercise the MSE shall enter this data in the network database (the "Database") and submit a preliminary response to the applicant, within 5 Business Days of the acknowledgement of receipt of the Application Form detailing the following:

- (i) locations of nearest chambers to connection addresses;
- (ii) the estimated cost of the chamber-to-chamber connection;
- (iii) approximate distance of drop connections between the existing Network and the connection addresses, if required;
- (iv) proposed survey date;
- (v) additional information where there is a proposal to connect a number of different Networks; and
- (vi) survey fee quotation and request for payment of survey fee if applicant wishes to proceed.

- (c) A copy of the MSE response will also be sent to the relevant Public Body's designated employee or deputy employee, who will review the application and make preliminary enquiries as to the feasibility of the proposed drop connections. The designated employee or deputy employee will provide preliminary approval within five (5) Business Days flagging any constraints before the survey. He/she will initiate any internal wayleave or permissions procedures
- (d) If the applicant elects to proceed to survey, the applicant shall confirm its intention to proceed by submitting payment for the quoted survey fee and by agreeing a survey date directly with the MSE. The survey shall be conducted by the MSE or its representatives and shall take place on the agreed survey date or at any relevant survey date agreed between the MSE and the applicant.
- (e) On completion of the survey, the MSE shall produce a complete quotation and submit same to the applicant within three (3) Business Days of completion of the survey. This quotation shall include the costs of all relevant components of the required MANs, including connection and maintenance charges, where applicable.
- (f) All data pertaining to the access ordered will be entered into the Database to temporarily reserve such access for the applicant by the MSE. The applicant will be informed that the MSE has reserved the access and that this reservation is guaranteed for thirty (30) days.
- (g) If the applicant accepts the quotation, it shall submit an order to the MSE. This order shall contain the same details as those required by the Application Form referred to above along with invoicing contact details and technical contact details within the applicant and the quoted price. The order shall be signed by an authorised signatory of the applicant.
- (h) On receipt of the order, the MSE shall promptly acknowledge it in writing, reproducing the details of the order to confirm the MSE's receipt of the correct details. The MSE shall forward the Service Agreement to the Applicant within one Business Day of the acknowledgement. The MSE shall also invoice the Operator for all relevant charges in accordance with Section 8 of this Code. The Service Agreement shall contain detailed service levels in relation to the access ordered.
- (i) The Operator shall have thirty (30) days from the date of invoice to make full payment pursuant to the invoice.
- (j) The foregoing is subject to relevant consents or extraneous factors.

3.5 Connection Process

- (a) The Database of the MSE shall be updated to reflect the applicant's status and the access reservation is changed from temporary to permanent.

- (b) The MSE shall then obtain the necessary permissions from the authorities concerned to proceed with the installation of drop connections, where applicable and/or to slew the relevant sub-ducts or fibre optic cabling to the applicant's nominated connection addresses.
- (c) Immediately prior to the commencement of installation work, the Operator shall pay the invoice and return two signed copies of the Service Agreement with the original signatures of authorised signatories to the MSE.
- (d) The works concerning the relevant installations and connections shall commence after receipt of the signed Service Agreement in duplicate from the applicant Operator. An end-to-end fibre circuit will be installed, if applicable. Drop connections will be installed and connected, if applicable. Sub-duct or duct will be slewed to the Operator's chamber, if applicable. A designated space will be prepared with the necessary utilities in a co-location facility, if applicable.
- (e) All prepared access products/services may be tested as required in accordance with Good Industry Practice prior to implementation of the Service Agreement.
- (f) In the event of a cancellation by the Operator of its application for access the Operator may be liable to pay certain cancellation fees.

3.6 Network Management and Maintenance

- (a) The MSE shall be responsible for the management, maintenance, operation and repair of all MANs. During the term of a Service Agreement the MSE shall have responsibility for giving effect to the service levels set out therein.
- (b) The Operator shall have a responsibility to inform the MSE, through the methods specified in the Service Agreement, of any faults or breakages on the Network.

4 MAINTENANCE OF RECORDS

4.1 Recording of MAN details and maintenance of Records

- (a) Data capture and the maintenance of records concerning the MAN are required for asset control, network maintenance, sales and fault identification.
- (b) The MSE's Database will be the primary data source for the storage and recording of infrastructure information. The Minister shall mandate the MSE to carry out this function.
- (c) The MSE shall hold all records securely and amend the records, as required, to reflect changes to access allocations and, subsequently, terminations of agreements.

5 ALLOCATION OF ACCESS TO MANs

As described in Section 1.3, access to the MANs is allocated on an open access and non-discriminatory basis. However, minimum and maximum access levels are applied. Minimum allocation levels are applied in accordance with industry norms and to avoid rendering elements of the MANs becoming unmarketable. Maximum access limits are applied in order to support the said principles of open access and non-discrimination and to prevent the frustration of those objectives. The following minimum and maximum access levels shall apply.

5.1 Dark Fibre

- (a) The minimum access to dark fibre until further notice to an applicant is one fibre pair in any nominated Network sub-ring.
- (b) The maximum access to dark fibre until further notice per Operator, or per combination of Operators under the same ownership, is 20% of the original number of fibre strands infrastructure in any Network ring.

5.2 Sub-ducting

- (a) The minimum access to sub-ducting to an applicant is one sub-duct in any nominated Network ring until further notice.
- (b) The maximum access to sub-ducting per Operator is two sub-ducts in any Network ring. After 8 sub-ducts have been allocated, it is not intended to allocate any further sub-ducts unless a new duct is constructed.

5.3 Ducting

- (a) If ducting is made available as a product, the minimum access to ducting to an applicant shall be one duct in any nominated Network ring.
- (b) The maximum access to ducting per Operator shall be one duct.

5.4 Co-Location Space

- (a) The minimum access to collocation space in a nominated co-location facility, to an applicant is one shelf space of 3.5 inches (2U) in height.
- (b) The maximum access to collocation space, per Operator, in any co-location facility is 20% of the available rack space in that facility. The maximum power allocation is 18% of the available power.
- (c) Exceptions to the maximum access provision may be made including, for example, to allow Operators to deploy fibre rich networks.

5.5 Access procedures and policies

Operators shall have no unauthorised and/or unsupervised physical access to any enclosures or chambers that form part of the MANs at any time. The MSE may

facilitate authorised access, by an Operator, to a co-location facility and shall implement supervision procedures as it deems necessary.

5.6 Conditions governing additional allocations

Operators may apply for additional allocations of access to MANs, over and above that which has already been allocated to them. Such applications will follow the same procedure as outlined in Section 3.3.

6 NETWORK MANAGEMENT AND MAINTENANCE

6.1 Service Levels

The service agreement will cover, among other things:

- (a) technical specification of the duct, and sub-duct;
- (b) technical specifications of fibre optic cable including specification for joints and termination;
- (c) technical specifications of the Lighting Facility, Terminating Facility and Community Ethernet Aggregate;
- (d) maximum time to acknowledge a request for a service from an operator;
- (e) maximum time to respond to the operator with a survey date and a budget cost for the circuit;
- (f) maximum time from order acknowledge to site survey;
- (g) maximum time for the MSE to produce detailed quotation once the site survey is complete;
- (h) maximum time for installation and commissioning of the circuit;
- (i) procedure for logging faults;
- (j) definitions of faults;
- (k) maximum time to attend on site once a circuit/duct break is logged
- (l) maximum time to initiate service restoration if there are no other mitigating circumstances, for example a gas leak;
- (m) reporting procedures re meeting requirements;
- (n) list of circumstances where the Services Agreement will not apply;
- (o) procedures and process for supervised access;
- (p) maximum time to accommodate requests for access to chambers and infrastructure;

- (q) maximum time to accommodate requests for access to co-location facilities;
- (r) procedures and terms of payment;
- (s) sanctions for non-compliance by MSE including details as to how they are to be calculated; and
- (t) procedures for applying sanctions.

6.2 Response times

The service level attributes referred to in Section 6.1 shall refer to the response times to which the MSE shall adhere on receipt of a call logged in accordance with the agreed procedure.

6.3 Procedure for logging faults

Before reporting a fault, an Operator shall ensure that there is no fault on its own equipment, and that the fault lies within the MANs that forms the subject matter of the service agreement. Faults shall be logged in accordance with the procedure set out in the services agreement.

7 CONTRACTUAL RELATIONSHIP BETWEEN THE MSE AND THE OPERATORS

7.1 Service Agreement

Prior to granting access to the MAN the Operator shall be required to enter into a service agreement with the MSE. The services agreement shall set out in detail the term, nature, scope and quality of the services which the MSE shall provide the Operators in return for the payment of service fees by the Operators to the MSE.

8 TARIFFS

8.1 Details of relevant tariffs shall ordinarily be available on the Website.

9 OPERATOR'S RIGHTS AND RESPONSIBILITIES

9.1 In addition, to the rights and obligations set out in Section 5.5, Operators and their agents shall not have unrestricted physical access to any MAN at any time. Authorised physical access to a co-location facility may be provided by the MSE subject to agreed supervision procedures where deemed necessary by the MSE.

9.2 On foot of service agreements, Operators will be responsible for:

- (i) making all payments pursuant to such agreements in a timely manner, and complying with their obligations thereunder generally;
- (ii) liaising with the MSE in relation to day-to-day issues in relation to the MANs;

- (iii) responsibility for all loss, damage, claims, proceedings, costs and expenses in connection with the MAN; and
- (iv) dealing with regulatory issues.

10 AMENDMENTS TO THE CODE OF PRACTICE

The Minister reserves the right to amend or add to the Code. Where practicable, the Minister shall endeavour to consult interested parties in advance in relation to any proposed amendment.