

## SCHEDULE 5

### Communications

#### Public electronic communications providers

**2.—**(1) A qualifying entity which—

(a) carries on activities which consist of or include either or both of the following—

- (i) providing a public electronic communications network;
- (ii) providing a public electronic communications service; and

(b) meets the turnover condition in sub-paragraph (2).

(2) The turnover condition is that the turnover of the entity's relevant business for the relevant period is at least £50,000,000.

(3) In sub-paragraph (2)—

(a) “relevant business” means so much of any business carried on in the United Kingdom by the entity in question or any of its associated entities as consists of either or both of the following—

- (i) the provision of a public electronic communications network;
- (ii) the provision of a public electronic communications service;

(b) “relevant period” means—

- (i) the period of one year ending with the 31st March last before the time when a person gains control of the qualifying entity, by virtue of one or more of the cases described in subsection (2), (5) or (6) of section 8 of the Act; and
- (ii) in the case of an entity which at that time has been carrying on that business for a period of less than a year, the period, ending with that time, during which it has been carrying it on.

(4) For the purposes of sub-paragraph (3)(a), another qualifying entity is an associated entity of the entity in question if—

- (a) the entity in question owns, or has a controlling interest in, the other qualifying entity;
- (b) the other qualifying entity owns, or has a controlling interest in, the entity in question; or
- (c) a person or group of persons owns, or has a controlling interest in, both entities.

(5) For the purposes of sub-paragraph (4), a person has a controlling interest in a qualifying entity if the person holds more than 50% of the shares or voting rights in the entity; and subsections (3), (4), and (7) of section 8 of the Act apply for the interpretation of this sub-paragraph.

(6) For the purposes of this paragraph—

- (a) turnover is to be calculated in conformity with accounting practices and principles which are generally accepted in the United Kingdom;
- (b) turnover is to be limited to the amounts derived by an entity from the relevant business after deduction of sales rebates, value added tax and other taxes directly related to amounts so derived;
- (c) where the relevant business of the entity in question is carried on by two or more entities that each prepare accounts the turnover shall be calculated by adding together the turnover of each, except that no account shall be taken of any turnover resulting from the supply of goods or the provision of services between them.