The European Electronic Communications Code: OTT Stakeholder Workshop

Hosted by the *Telecommunications, Policy and Regulation Division*
Morrison Hotel, Dublin 1
3rd March 2020
Format of Discussion

• Introductions to the Code: Background, purpose, the transposition
• Introductions to the Definitions in the Code
  • What is an ECS / ICS / Number Independent / Number Dependant
  • Short Discussion on Definitions
• How will the Code Regulate my Company?
  • General Authorisation, plus short discussion
  • Information Requests from National Regulatory Authorities and Competent Authorities, plus short discussion
  • Interoperability Requirements, plus short discussion
  • End-User Rights, plus short discussion
  • ICS and Access to Emergency Communications, plus short discussion
• Conclusions and wrap up
What is The Code?

• Directive (EU) 2018/1972
• Cornerstone file of the European Digital Single Market
• Re-casting the regulatory framework for electronic communications in Europe
• Repealing and replacing:
  o the Framework Directive (Directive 2002/21/EC);
  o the Authorisation Directive (Directive 2002/20/EC);
  o the Universal Service Directive (Directive 2002/22/EC); and
  o the Access Directive (Directive 2002/19/EC)
Background

- It aims to **future-proof** the regulation of ECS and ECN, making it reflect the ECS / ECN market as it is experienced by end-users and laying a strong foundation for the digital economy in the EU
- Published in OJEU on 11 December 2018
- Transposition deadline is 21 December 2020
- Transposition project being managed by the Telecommunications Policy and Regulation Division, DCCAE
What services are going to be regulated by the Code?

• **Electronic Communications Services** and **Electronic Communications Networks**
• An Electronic Communications Service is (Article 2 (4)):
  ‘a service normally provided for remuneration via electronic communications networks, which encompasses, with the exception of services providing, or exercising editorial control over, content transmitted using electronic communications networks and services, the following types of services:
  
  (a) ‘internet access service’ as defined in point (2) of the second paragraph of Article 2 of Regulation (EU) 2015/2120;
  
  (b) **interpersonal communications service [ICS]**; and
  
  (c) services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting;
What is an ICS?

Article 2 (5)
‘interpersonal communications service’ means a service normally provided for remuneration that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient(s) and does not include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service;
What types of ICS are there?

An ICS can be either:

• A **Number Based** Interpersonal Communications Service

• A **Number Independent** Interpersonal Communications Service
**Electronic Communication Service (ECS)**
A service provided via Electronic Communications Network (ECN):
- Internet access service
- Interpersonal communications service
- Transmission services used for provision of machine-to-machine services and for broadcasting

**Interpersonal Communication Service (ICS)**
A service providing direct interpersonal and interactive exchange of information via ECN, between a finite number of persons

**Number Based ICS**
An ICS which connects with publicly assigned numbering resources or enables communication with a number

**Number Independent ICS**
An ICS which does not connect with publicly assigned numbering resources or does not enable communication with a number
Pause for Discussion
How will my company be regulated under the Code?

• General Authorisation
• Information Requests from National Regulatory Authorities and Competent Authorities
• Interoperability Requirements
• End-User Rights
• ICS and Access to Emergency Communications
General Authorisation

• Article 12 – 16 of EECC
• Any person intending to provide an electronic communications network or service in Ireland is required notify the Regulator of his intention to provide such a service in advance
• Notifying under the GA regime is currently straightforward – not expected to change
• Conditions can be attached to the GA
• Under the EECC, the conditions that can be attached are in Annex 1
General Authorisation: NB-ICS vs NI-ICS

NB-ICS **will** come under the scope of the GA regime

NI-ICS **will not** come under the scope of the GA regime
Pause for Discussion
Information Requests to Undertakings

Article 20

• Applies to both NB-ICS and NI-ICS
• Allows NRA’s/CA’s/BEREC to request information (including financial) from undertakings to ensure the compliance with the EECC
• Where the information gathered is insufficient, the NRA / CA can request information from “other relevant undertakings in closely related sectors”
• Requests for information will be proportionate and reasoned
Information Requests to Undertakings

Article 21

• Applies to NB-ICS only
• Allows NRA’s/CA’s to request information to ensure, amongst other purposes, compliance with GA conditions, efficient use of numbering resources, market analysis, statistical reports or studies
• Reasons for information collection will be provided
Pause for Discussion
Interoperability

- NB-ICS required to be interoperable
- Article 61(2)(c) allows for the imposition of interoperability requirements on NI-ICS
  - (c) in justified cases, where end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services, and to the extent necessary to ensure end-to-end connectivity between end-users, obligations on relevant providers of number-independent interpersonal communications services which reach a significant level of coverage and user uptake, to make their services interoperable;
- Only when:
  - (ii) where the Commission, after consulting BEREC and taking utmost account of its opinion, has found an appreciable threat to end-to-end connectivity between end-users throughout the Union or in at least three Member States and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed.
Pause for Discussion
End-User Rights

• Title 3 of the EECC deals with End-User Rights
• There are varying levels of End-User Rights provided for users of NB-ICS and NI-ICS
• Article 98: Microenterprise exemption for NI-ICS who qualify as a microenterprise
End-User Rights: NI-ICS & NB-ICS

• Information requirements for contracts (Article 102)
  • Note info in Annex VIII “to the extent this is relevant”
  • Contract Summary Template – IA (2019)9165
• Transparency, comparison of offers and publication of information (Article 103)
  • Note info to be published from Annex IX,
  • Potential for cost-comparison tool
• Quality of service related to IAS and publicly available ICS (Article 104)
  • Is QoS dependant on an external factor?
Pause for Discussion
ICS and Emergency Services

• NB-ICS should provide the end-user access to emergency services – **Art 109**
• **Recital 20** “Technical developments make it possible for end-users to access emergency services not only by voice calls but also by other interpersonal communications services. The concept of emergency communication should therefore cover all interpersonal communications services that allow such emergency services access…”
• Art 109(6) – Location information needs to be provided to PSAP
• Exceptions – grounds of technical infeasibility in which instances customers must be informed via contractual provisions
Wrap up Discussion