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# European Electronic Communications Code

## Follow On Industry Seminar End-User Rights

21<sup>st</sup> July 2020



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# Format of Today's Discussion

- **Introductions: Where the Department is with Transposition Generally**
- **The End-User Rights provisions: Issues Raised by Operators; the Department's view; Discussion:**
  - Article 102: Information Requirements for Contracts (Contract Summary Templates)
  - Article 102: Information Requirements for Contracts (Usage Monitoring and Alerts)
  - Article 105: Contract Duration and Termination (Best Tariff Advice)
  - Article 106: Information Requirements for Contracts (Auto-Prolongation)
  - Article 106: Provider Switching and Number Portability (IAS Switching)
- **Consumers vs End-Users vs Micro-enterprises**
- **Articles which require further discussion**
  - Article 106: Provider Switching and Number Portability (Credit Refunds)
  - Article 107: Bundles
- **Decisions taken by Department not included in discussions to date**
- **Transposition: Timeline**
- **Conclusions**



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# Introductions

- **The Code transposition project – a large task with real potential benefits for post Covid recovery**
- **Work to date would not have been possible without industry engagement**
- **December 2019: Industry Workshop on End-User Rights**
- **Promised Q2/3 Follow-up Postponed**
- **July 2020: Industry Seminar on End-User Rights**
- **Ongoing engagement with operators / industry representatives**
- **Department “open door policy” for submissions on Code**
- **OTT Engagement to Date: March 2020 OTT Stakeholder Workshop**
- **Potential OTT Follow on Virtual Workshop (subject to interest of sector)**



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# Article 102: Contract Summary Templates

- **Concern raised by operators that the CST requirements would require an overhaul of systems / add to administrative / IT issues**
- **Department understands engagement with ComReg on issue of CST**
- **No discretion in text**
- **Commission Implementing Act published in December 2019**
- **Customers required to get CST prior to agreeing contract (i.e. pre consumer / provider relationship)**
- **Info from CST = integral part of contract unless explicitly agreed otherwise**
- **What processes have operators looked at to integrate this into their operations?**
- **Have operators identified processes and are seeking to implement these?**



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# Article 102: Usage Monitoring and Alerts

- **Concern raised by operators in respect of both fixed line usage monitoring and opt-outs**
- **Fixed line usage monitoring: issues in respect of 24 hour service usage updates**
- **Requirement: Inform customers when usage limit is reached in a “timely manner” – from transposition**
- **Requirement: Inform customer prior to consumption limit reached – ComReg to have a role here so no Jan 2021 implementation**
- **Main issue = consumer harm**
- **Potential solutions: inform consumers they are close to hitting usage limit? Would this work for operators?**



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# Article 102: Usage Monitoring and Alerts

- **Opt-outs for consumption limits**
- **Department view: Code text “providers shall offer” – i.e. opt-outs should be permitted**
- **There should be ability to opt back in, if opted out already**
- **Focus on consumer control of their service**
- **It is envisaged that ComReg will have a role in specifying the format of these notifications**



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# Article 105: Best Tariff Advice

- Operators have expressed concern on BTA, specifically in respect of what should be included in it, its distinction from marketing material and when it should be received
- Little / no discretion in text in respect of timing: BTA required at least annually and at the end of their contract
- The Department proposes that ComReg will further specify the content, timing and format of the notification – this task assigned to them on transposition



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# Article 105: Auto-Prolongation

- Industry have expressed confusion as to when a contract is deemed to be “auto-prolonged”
- Industry seeking a definition of “auto-prolongation” that means a consumer is entered into a subsequent fixed term contract following the end of a prior fixed term contract
- The preliminary view of the Department is that auto-prolongation covers both this scenario and also the scenario in which a fixed duration contract ends and rolls into a non-fixed term contract



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# Article 106: IAS Switching

- **Industry have expressed concern as to how IAS Switching will work in practice and have sought the commencement of an industry wide process to determine how IAS Switching will work**
- **The Department understands that this process is now in train / beginning with ComReg and industry**
- **The Department further notes that it is an obligation of the Code for NRAs to ensure the efficiency and simplicity of the switching process for the end-user, but that this will necessarily involve industry wide work**



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# Consumers vs. End Users vs. Micro-Enterprises

- **Consumer = any natural person who uses or requests a publically available ECS for purposes outside his trade / business / craft / profession**
- **End-user = a user not providing ECN or publically available ECS**
- **Micro-enterprise – Department proposes adopting the definition as found in Commission Recommendation of 2003 concerning the definition of micro, small and medium sized enterprises (2003/361/EC): <10 people, annual turnover </= €2million**
- **In line with transposition guidelines, the Department proposes to follow the text of the Directive and not carve out certain classes of users from the provisions where this is not explicitly provided for in the text**



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# Further Discussion Required: Credit Refunds

- **The Department recognises the concern of operators in respect of credit refunds in Article 106**
- **Thanks TII for their providing of recent legal opinion on same**
- **This currently remains subject to legal advice in the Department**
- **Further clarity as to whether this is an issue that is primarily related to operators T&C's?**



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# Further Discussion Required: Bundles

- **The Department is currently awaiting advice on interpretation from the European Commission in respect of bundles and is engaging with other MS to seek a clear understanding of what this means**
- **The Department does not intend to define bundles on transposition**
- **Understands that ComReg is preparing guidance on bundles currently**



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# Decisions Taken by Department on other Articles

- **Operators will be expected to keep records when rights are waived by end-users (Articles 102(2), 102(4), 105(2) for example)**
- **Per Article 103(1) – transposition will stipulate that all ICS and IAS publish material in Annex IX**
- **Article 103 Comparison Tool – ComReg’s comparison tool will fulfill this requirement; ComReg, or a body nominated by ComReg, will certify other comparison tools**
- **Article 104 on the publication of QoS – ComReg to be given the power to provide for this – i.e. no obligation on transposition**
- **Article 106 on quarantine for numbers – propose maintaining 13 months**



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# Transposition Timelines

- **The Department recognises that Covid has posed challenges for all stakeholders**
- **The transposition deadline remains 21<sup>st</sup> December 2020 – no indication that this will change**
- **The Department intends to meet this deadline and is working towards it**
- **ComReg is independent in the carrying out of its functions**
- **As the NRA for the Code, enforcement of the Code will be a matter for the Regulator**



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# Conclusions

- **Final Discussion**
- **Closing Remarks**