



An Roinn Comhshaoil,
Aeráide agus Cumarsáide
Department of the Environment,
Climate and Communications

European Electronic Communications Code

OTT Stakeholder Event

5th November 2020



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Issues for Discussion

- The General Authorisation Process
- Information Requests from Undertakings
- Security Requirements
- Access and Interconnection
- New Rights Afforded to Consumers
- ePrivacy Regulations / Lawful Interception
- Consequential Amendments to 2002 Act
- Q&A



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1. General Authorisation

- Articles 12 and 13
- Applies to all ECS, excluding NI-ICS (including NB-ICS, IAS, services consisting wholly or mainly in the conveyance of signals)
- All ECS (-NI-ICS) required to get a GA
- Register with ComReg
- Straightforward process - online
- Suite of obligations on operators subject to GA



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Electronic Communication Service (ECS)

A service provided via Electronic Communications Network (ECN):

- Internet access service
- Interpersonal communications service
- Services consisting wholly or mainly in the conveyance of signals such as 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



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Conditions of the GA

- The GA recognises that operators that benefit from the use of public numbering resources and a publicly ensured interoperable ecosystem should be subject to certain obligations / conditions
- GA allows the operator to provide services throughout the EU
- Potential conditions listed at Annex 1
- Currently the GA includes a range of conditions, including, *inter alia*:
 - Provision of Info
 - Security Requirement
 - Consumer Protection
 - Legal Interception
 - Admin Charges
 -



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2. Information Requests

- Article 20 and 21
- **Article 20:** Information Requests to all ECS / ECN / Associated Services
- Requests are required to be proportionate and reasoned
- Information requests to ensure conformity with the Directive, opinions / decisions made in accordance with it
- Compliance with requests is mandatory



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- **Article 21**
- Information requests to authorised undertakings
- Can be in order to ensure
 - *compliance with the GA*
 - *Collating studies / reports*
 - *Publishing overview of price / quality of services*
 - *Geographical Survey*
 - *Manage radio spectrum*
 - *Market analysis procedure*



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3. Security

- Key Articles: Article 40 and 41
- **Article 40** – requires ECS / ECN to ensure the security of their network
- Requirement to report security breaches that have had a significant impact on the operation of their network without undue delay
- When is an incident “significant”? Take into account the following:
 - *Number of users affected*
 - *Duration of incident*
 - *Geographical spread of incident*
 - *Impact on functioning of the network*
 - *Impact on economic and social activities*



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- **Article 41** imposes an obligation on Member States to ensure that competent authorities can enforce in respect of these security provisions
- ComReg will be the relevant NR
- They will be permitted to:
 - *Issue binding instructions to operators*
 - *Require information to be provided by ECS / ECN*
 - *Submit to a security audit (to be paid for by the operator)*



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4. Access and Interconnection

- Article 61(2)(c) – where end-to-end connectivity between end-users is endangered due to lack of ICS interoperability
- ComReg can impose obligations on relevant providers of NIICS with a significant level of coverage and user uptake, to make their services interoperable.
- Such obligations can only be imposed:
 - *To the extent necessary to ensure interoperability **AND***
 - *Where the Commission has found an appreciable threat to end-to-end connectivity throughout the Union or in at least 3 MS and has adopted implementing measures specifying the nature and scope of the obligations that may be imposed*



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5. New Rights for Consumers

- Consumers of all ECS / ECN benefit from new rights under the Code
- **All ECS / ECN**
 - *Contract Summary Templates (Art 102)*
 - *Information on Usage (Art 102 – only relevant for services subject to billing)*
 - *Inclusion in a comparison tool “where applicable” in accordance with Art 103(2)*
 - *QoS Publication Requirements (Art 104)*



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Consumer Rights *Excluding NI-ICS*

- *Aforementioned Rights*
- *Publication of terms and conditions of service (Art 103)*
- *Inclusion in Comparison Tool (Art 103)*
- *Rules regarding contract termination and duration (Art 105)*
- *Number portability (Art 106)*



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6. Update to ePrivacy Directive (2002/58/EC)

- Update to definition of ECS in Code and Repeal of Framework Directive
- ePrivacy Relies on FWD Definitions
- ePrivacy Directive (ePrivacy Regs) will have expanded scope – cover all ECS
- Concerned with processing of ECS data, unsolicited communications, direct marketing
- Not “one-stop-shop”
- ePrivacy Regulation Negotiations – Update
- ePrivacy Directive Derogation



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Legal Interception

- Policy Area of DJE
- Section 110, Postal and Telecommunications Services Act, 1983 and Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993
- Currently applies only to authorised undertakings
- Will continue to apply to these entities
- NB-ICS can be subject to legal interception orders



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7. Consequential Amendments to 2002 Act

- Consequential amendments to the 2002 Act required by EECC
- Update to the definition of ECS and ECN for the purpose of the 2002 Act
- Update to ComReg's functions
- Knock on effects for some of ComReg's powers under the act, *in certain instances*



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Q&A



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Thank You!

Follow on questions?

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