



Commission for
Communications Regulation

Information Notice

Publication of new regulations for electronic communications regulation

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An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

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Introduction

ComReg welcomes the new telecommunications regulations package published by the Department of Communications, Energy and Natural Resources on Friday 1st July. These new regulations have implications for a number of stakeholders, including consumers, operators, users of spectrum, and ComReg.

The new regulations are:

- The European Communities (Electronic Communications Networks and Services)(Framework) Regulations 2011,
- The European Communities (Electronic Communications Networks and Services)(Access) Regulations 2011,
- The European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2011,
- The European Communities (Electronic Communications Networks and Services)(Universal Service) Regulations 2011, and
- European Communities (Electronic Communications Networks and Services)(Privacy and Electronic Communications) Regulations 2011.

These regulations transpose the European regulatory framework (published in 2002 and amended in December 2009).

In general, the regulations provide for enhanced consumer protection through changes such as mandatory compensation schemes by operators. There are also a number of implications for operators, some of which are outlined in this information notice, and for ComReg in terms of its objectives and associated powers.

Implications for Consumers

There have been a number of improvements to consumers' rights as a result of the new regulations. More information in respect of the details of these rights will be published over time in the consumer section of the ComReg website, <http://www.AskComReg.ie>. Examples of these enhanced rights are:

- New rules in relation to the consumer's right to retain their numbers when changing service provider ("porting") have been introduced. This gives subscribers more predictability in respect of the time taken to change service provider, allowing them to port their number to another service provider within one working day.
- A specific right to compensation for subscribers in the event of delay or abuse of the number porting procedure is provided for.
- Operators must offer the possibility to subscribe to a contract with a maximum duration of 12 months and other conditions and procedures for contract termination may not act as a disincentive to consumers to changing service provider.

- An entitlement to improved information to ensure that consumers understand the services they subscribe to and what they can and cannot do with those services. Consumer contracts are also to specify minimum service quality levels offered.
- Improvements on requirements for clarity of communications of contract changes by enabling ComReg to specify the format of notifications of contract changes and additional aspects including the basic level of itemised bills which are to be provided to subscribers free of charge.
- Provisions relating to access to and equal choice of electronic communications services for users with disabilities have been strengthened and new protections in relation to unsolicited communications have been introduced.

The above does not list all the benefits to consumers of the new regulations but shows a number of key areas of improvement.

Implications for operators and spectrum licensees

There are many implications for operators in respect of the obligations imposed by these regulations. Operators will need to review the new legislation carefully to assess the relevant aspects for their organisations. Examples to note:

- The enhanced consumer rights will have implications for the obligations of operators. An example is the requirement for consumers to be able to port numbers between operators within one working day. This will have implications in respect of the wholesale and retail processes which operators will have to follow to enable this consumer right to be delivered. Further, operators will need to provide for the compensation of subscribers in the event of delay in or abuse of porting by them or on their behalf.
- In the management of radio frequencies, a number of the changes which have been introduced are particularly important to market participants. These include changes in the management of radio frequencies which introduce the concept of service and technology neutrality, facilitate transfer or lease of individual rights to use radio frequencies and also provide that ComReg may lay down rules to prevent spectrum hoarding.
- In the area of enhancing the security and reliability of communications networks, operators providing electronic communications networks and services will be required to take measures to manage risks posed to the security and integrity of networks. ComReg may require operators to submit to security audits to be carried out by a qualified independent body. In the event of a breach of security or loss of integrity, operators must notify ComReg which, with the agreement of the Minister, shall inform amongst others the national regulatory authorities in other Member States.
- In the case of operators found to have significant market power, a new exceptional remedy of functional separation can be imposed by ComReg, where other remedies have failed to achieve effective competition. ComReg has also been given a power to impose remedies to address leveraging between related markets.

Implications for ComReg

The new framework amends ComReg's regulatory tasks to include the following:

1. to promote competition by:
 - (a) ensuring that elderly users, and users with special social needs derive maximum benefit in terms of choice, price, and quality;
 - (b) ensuring that there is no distortion or restriction of competition in the electronic communications sector, including in the transmission of content;
2. to contribute to the development of the internal market by:
 - (a) cooperating with BEREC so as to ensure the development of consistent regulatory practice and the consistent application of the framework.
3. to promote the interests of telecommunications users in the European Union by:
 - (a) addressing the needs of, elderly users and users with special social needs;
 - (b) ensuring that the integrity and security of public communications networks are maintained.
 - (c) promoting the ability of end-users to access and distribute information or use applications and services of their choice;

Further the new framework requires that ComReg shall, in pursuit of the existing and new policy objectives referred to above, apply objective, transparent, non-discriminatory and proportionate regulatory principles by:

- (a) promoting regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods;
- (b) ensuring that, in similar circumstances, there is no discrimination in the treatment of operators providing electronic communications networks and services;
- (c) safeguarding competition to the benefit of consumers and promoting, where appropriate, infrastructure-based competition;
- (d) promoting efficient investment and innovation in new and enhanced infrastructures, including by ensuring that any access obligation takes appropriate account of the risk incurred by the investing operators and by permitting various cooperative arrangements between investors and parties seeking access to diversify the risk of investment, whilst ensuring that competition in the market and the principle of non-discrimination are preserved;
- (e) taking due account of the variety of conditions relating to competition and consumers that exist in the various geographic areas within Ireland;
- (f) imposing ex-ante regulatory obligations only where there is no effective and sustainable competition and relaxing or lifting such obligations as soon as that condition is fulfilled.

Summary

These new regulations will impact in a number of areas. While consumers are invited to note the benefits to which they are entitled through the regulations, ComReg will be monitoring the roll out of these benefits to consumers and will take action in the event of any shortfall.

Operators will need to ensure that they are aware of all the implications for their operations and comply fully with the new legal requirements.

Further Information

The full text of the regulations is published by the Department of Communications, Energy and Natural Resources at this link:
<http://www.dcenr.gov.ie/Communications/Communications+Policy/Telecommunications+Regulatory+Reform/Transposition+of+the+Telecommunications+Regulatory+Reform+Package.htm>

A summary of the main provisions of the revised regulatory framework published by the Department of Communications, Energy and Natural Resources is available at this link;
<http://www.dcenr.gov.ie/NR/rdonlyres/384685F8-1471-45AB-8589-28A8392AB4C3/0/MainProvisionsoftheRevisedRegulatoryFramework.doc>

The relevant directives are published at this link:
http://ec.europa.eu/information_society/policy/ecomm/library/legislation/index_en.htm