



Department for  
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Sir William Cash MP  
Chair, European Scrutiny Committee  
House of Commons  
London SW1A 0AA

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Dear Sir William

**Update on: 12252/16 Proposal for a revised European Electronic Communications Code (EECC) (recast) and 12257/16 – proposal to establish a new Body of European Regulators for Electronic Communications (BEREC) Regulation.**

#### **General Update:**

I am writing to you with a further update and a request for the committees to lift their scrutiny reserves on both the EECC and the BEREC Regulation, as the institutions have reached a provisional political agreement. As with my previous letter, I am writing in identical terms to both Committees. The provisional political agreement meets all of the government's key negotiating lines. The legal text is currently being finalised. We expect the Code to be adopted and enter the Official Journal by Autumn 2018.

#### **Intra-EU Calls**

International consumer calls to telephone numbers registered in other Member States will be regulated and this will effectively cap calls at 16p/min and texts at 5p/text. The European Parliament sought surcharge-free calls and texts, but the Council secured a more balanced version with low call and text charges in return for significant concessions by the European Parliament.

#### **End User Rights**

The UK will be in a position to maintain a high level of sector specific end-user rights, despite the transition to fully harmonised rules. We can keep our national protections that are higher than those agreed in the Code. Number-independent interpersonal communications service (NIICS) such as WhatsApp and Facebook messenger will not be regulated unnecessarily. We also secured an amendment to ensure that consumers will not be locked into bundles consisting of electronic communications and digital content services.

#### **Universal Service Obligation (USO)**

Despite European Commission and European Parliament proposals to require Member States to fund USOs through the public purse only, the agreement preserves the existing provisions. These are consistent with the UK's domestic USO policy, which will be funded through an industry levy.

#### **Retail price regulation**

The UK successfully secured the reintroduction of regulatory controls on retail services allowing Ofcom to retain their existing power to directly intervene in retail markets, to set prices when all other remedies have failed. This ensures that consumers will be protected in mature and declining markets, such as the market for landline-only services. The European Commission had originally proposed to repeal this power, which we felt was premature and inappropriate.



## Access Regulation

With regards to Access Regulation, agreement was reached on the following specific points:

- Symmetric Obligations: In line with our objectives, this agreement does not limit Ofcom's existing broad power to impose network access obligations on all operators in a market. .
- Treatment of new fibre networks: The Commission proposed to relax regulatory remedies on operators with market dominance that offered co-investment in networks to competitors. Under the final agreement, the regulator will maintain oversight and be able to intervene in cases of significant competition problems, thus encouraging investment incentives for operators to co-invest in new fibre networks.

## Reverse-112

The text requires Member States to introduce a public warning system, with a flexibility via the regular public communications network or via an app. There is a total of three and a half years for Member States to introduce this system. The UK is already looking to develop a national public alert system consistent with the provisions of the EECC.

## Body of European Regulators of Electronic Communications (BEREC):

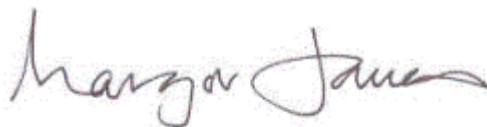
We have successfully negotiated to ensure BEREC does not become an agency of the European Union or be able to make legally binding decisions. Although BEREC can continue to bring together European regulators in an informal grouping and issue a variety of regulatory outputs, they will not be legally binding. This preserves the independence of BEREC along with its value as a body rooted in the expertise of its members.

## Timing & Other Issues

- We estimate the official adoption of the EECC and publication in the Official Journal of the European Union to be in Autumn 2018. The implementation deadline for transposition into national law will be two years after this.
- Intra-EU calls is subject to earlier transposition dates versus the rest of the Code: 15 May 2019.

I hope this update is helpful. I am writing in similar terms to the Chairman of the European Union Committee; Chris Johnson, Clerk to the Lords Committee; Lynn Gardner, Clerk to the Commons Committee; Les Saunders at the Department for Exiting the European Union; and to James Ainsworth and Agim Zekaj at the Department for Digital, Culture, Media and Sport.

Yours ever



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