



ICLG

The International Comparative Legal Guide to:

Telecoms, Media and Internet Laws and Regulations 2014

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A practical cross-border insight into telecoms, media and internet laws and regulations

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Ireland



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1 Overview

1.1 Please describe the: (a) telecoms; (b) audio-visual media distribution; and (c) internet infrastructure sectors in Ireland, in particular by reference to each sector's: (i) importance (e.g. measured by annual revenue); (ii) 3-5 most important companies; (iii) whether they have been liberalised and are open to competition; and (iv) whether they are open to foreign investment.

The telecommunications industry underpins business in Ireland, particularly in the export market. According to the Commission for Communications Regulation (ComReg), electronic network and service revenues in the year to March 2013 were over €3.7bn; the telecommunications industry invests €600 million every year on capital projects and provides direct employment to over 20,000 people.

Currently, there are four mobile network operators in the Irish market: Hutchison 3G Ireland (Three); Vodafone Ireland Limited; Meteor (owned by the incumbent telecoms operator Eircom Limited); and Telefónica Ireland Limited (O2). In June 2013 Hutchison 3G UK Holdings Limited entered into an agreement with Telefónica SA for the proposed acquisition of O2 (subject to regulatory clearance). Eircom remains the largest fixed service provider (voice and broadband). UPC Ireland, British Sky Broadcasting (Sky) and a number of smaller operators also provide certain fixed voice and broadband services.

The Irish broadcasting market has revenues of €1,157 million. Television services in Ireland include public service, commercial and community stations, across a range of platforms, including terrestrial, satellite, cable and Multichannel Multipoint Distribution Services (MMDS). Audio-visual media distribution as regards signal transmission is regulated as part of the telecoms sector. Saorview is Ireland's public broadcasting digital terrestrial television (DTT) service following analogue switch-off, which occurred on 24 October 2012. In terms of content, public broadcasting television channels are provided by RTÉ and TG4 (an Irish language service). TV3 is the only privately-owned terrestrial alternative to the public service television broadcasters and operates two services – TV3 and 3e.

Both the telecoms and broadcasting sectors are fully liberalised and open to foreign investment.

1.2 List the most important legislation which applies to the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Ireland.

- Communications Regulation Act 2002 (as amended by the Communications Regulation (Amendment) Act 2007) (2002 Act).
- European Communities (Electronic Communications Networks and Services); (Framework); (Access); (Authorisation); (Universal Service and User's Rights); and (Privacy and Electronic Communications) Regulations 2011.
- Wireless Telegraphy Acts 1926 – 2009.
- European Communities (Directive 2001/31/EC) Regulations 2003.
- Broadcasting Act 2009.
- European Communities (Television Broadcasting) Regulations 1999.
- European Communities (Audiovisual Media Services) Regulations 2010.

1.3 List the government ministries, regulators, other agencies and major industry self-regulatory bodies which have a role in the regulation of the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Ireland.

- Commission for Communications Regulation (ComReg).
- Department of Communications, Energy and Natural Resources (DCENR).
- Broadcasting Authority of Ireland (BAI).
- Competition Authority.
- National Consumer Agency (to be amalgamated with the Competition Authority in late 2013).
- Internet Services Providers Association of Ireland (ISPAI).
- Data Protection Commissioner.

1.4 Are there any restrictions on foreign ownership or investment in the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Ireland?

No. Non-EU applicants for broadcasting contracts are required to have some connection to the EU e.g., a place of residence or registered office within the EU.

2 Telecoms

General

2.1 Is Ireland a member of the World Trade Organisation? Has Ireland made commitments under the GATS regarding telecommunications and has Ireland adopted and implemented the telecoms reference paper?

Yes, Ireland is a member of the WTO, and has made commitments in respect of adopting Supplement 3 for telecommunications. The telecoms reference paper has been adopted and implemented.

2.2 How is the provision of telecoms (or electronic communications) networks or services regulated?

The provision of an electronic communications service (ECS) or electronic communications network (ECN) (or both) is subject to the authorisation regime set out in the Authorisation Regulations, which confers a general right to provide ECN or ECS (or both) subject to certain conditions. Persons wishing to provide ECN or ECS (or both) to third parties must notify ComReg in advance.

Additional obligations apply in respect of an authorised operator designated as having significant market power (SMP) or as being a universal service provider.

In addition to complying with the conditions of the general authorisation, mobile network operators and providers of fixed wireless services need to obtain a licence under the Wireless Telegraphy Acts.

2.3 Who are the regulatory and competition law authorities in Ireland? How are their roles differentiated? Are they independent from the government?

The Competition Authority is responsible for administering and enforcing the Competition Act 2002-2012 (Competition Act). ComReg is responsible for the regulation of the electronic communications sector in Ireland and the BAI is responsible for the regulation of the broadcasting and audio-visual content sector. The Communications Regulation (Amendment) Act 2007 gives ComReg co-competition powers with the Competition Authority that enable it to pursue issues arising in the electronic communications sector under competition law and includes the power to investigate and take action in respect of anti-competitive agreements and abuse of dominance.

Pursuant to the Competition Act, ComReg and the BAI are each party to a cooperation agreement with the Competition Authority to facilitate cooperation, avoid duplication and ensure consistency between the parties insofar as their activities consist of, or relate to, the determination of a competition issue.

The Authority, ComReg and the BAI are each independent from government.

2.4 Are decisions of the national regulatory authority able to be appealed? If so, to which court or body, and on what basis?

Decisions of ComReg, the Competition Authority and the BAI can be challenged by way of judicial review.

A decision of ComReg may be challenged by way of statutory appeal in accordance with the Framework Regulations. The appeal

must be brought by a user or undertaking that is affected by the decision within 28 calendar days of the date the user/undertaking has been notified of the decision. An appeal can be made on the basis of an error of law or errors of fact.

A decision of the Competition Authority may be challenged pursuant to section 15 of the Competition Act (relating to the making of a category declaration) by any undertaking concerned or any other person aggrieved by the making of the decision within 28 days. Further, a merger decision of the Competition Authority can be appealed by any of the undertakings involved in the notified merger within one month, on any issue of law or fact.

Licences and Authorisations

2.5 What types of general and individual authorisations are used in Ireland?

All providers of ECN or ECS (or both) must be in possession of a general authorisation under the Authorisation Regulations in advance of offering the relevant services / network in Ireland.

2.6 Please summarise the main requirements of Ireland's general authorisation.

Conditions which may be attached to a general authorisation are set out in the schedule to the Authorisation Regulations e.g., obligation to negotiate access and interconnection, requirements concerning security / integrity of the network, requirements relating to privacy and confidentiality of electronic communications messages, consumer protection rules, etc.

2.7 In relation to individual authorisations, please identify their subject matter, duration and ability to be transferred or traded.

A general authorisation is personal to the holder of the authorisation, and shall take effect unless and until it is revoked by ComReg. The authorised person is not entitled to sub-authorise or grant or otherwise transfer any right, interest or entitlement in the authorisation.

Public and Private Works

2.8 Are there specific legal or administrative provisions dealing with access and/or securing or enforcing rights to public and private land in order to install telecommunications infrastructure?

Part 5 of the 2002 Act sets out provisions relating to the opening of public roads for the establishment of underground electronic communications infrastructure, and to the ability of network operators to lop trees which obstruct or interfere with their physical network infrastructure (on 28 days' notice to the landowner).

Access and Interconnection

2.9 How is network-to-network interconnection and access mandated?

Each operator in possession of a general authorisation has a right to negotiate interconnection with another operator. Where a request

for negotiation has been addressed to an operator, that operator must negotiate (see the general conditions attaching to the general authorisation, Access Regulations and Universal Service Regulations). The Access Regulations empower ComReg to impose access obligations in circumstances where market analysis indicates that a lack of effective competition exists.

2.10 How are interconnection or access disputes resolved?

In the event of a dispute between undertakings in relation to interconnection - subject to certain exceptions - ComReg must, at the request of either party, initiate an investigation of the dispute and make a determination to resolve the dispute within four months of the request being made. ComReg is also entitled to intervene on its own initiative.

2.11 Which operators are required to publish their standard interconnection contracts and/or prices?

SMP conditions are imposed on Eircom and it is obliged to publish reference offers for interconnection. Eircom's basic interconnect tariffs are available on Eircom's wholesale operations webpage.

2.12 Looking at fixed, mobile and other services, are charges for interconnection (e.g. switched services) and/or network access (e.g. wholesale leased lines) subject to price or cost regulation and, if so, how?

Yes.

Mobile

Six operators have been designated with SMP in the market for wholesale voice call termination on individual mobile networks (Three, Vodafone, Meteor, O2, Tesco Mobile and Lycamobile), and are subject to a cost-orientation obligation. ComReg has specified that call termination rates should be set in accordance with pure long-run incremental cost (LRIC) methodology by July 2014, and that prior to this, rates will be benchmarked against other jurisdictions where the use of pure LRIC has been notified to the European Commission. Vodafone has launched an appeal in the High Court as regards the price control methodology; a decision is pending at the time of writing this chapter.

Fixed

Eircom has SMP in the market for fixed narrowband access, with access and wholesale cost-orientation price-control obligations. Wholesale prices are determined on a retail-minus basis and wholesale prices must be at least 10% less than the retail price charged by Eircom to its end-users for retail access to the public telephone network at a fixed location or as amended, which is the retail equivalent of such services and facilities.

Eircom has SMP in the market for wholesale broadband access (WBA), and is required to meet reasonable requests for access to and use of the wholesale bitstream access product's features or additional associated facilities. Retail-minus price controls are applied to each of the connection and rental charges for Eircom's wholesale bitstream products; this must be applied to any new retail products introduced.

Please also see question 2.14 in respect of Eircom's obligations regarding wholesale access.

2.13 Are any operators subject to: (a) accounting separation; (b) functional separation; and/or (c) legal separation?

Structural separation has not been provided for in the Irish regulatory framework (although it can be imposed under the Competition Act as a remedy in abuse of dominance cases).

Functional separation has been provided for in circumstances where other remedies have failed to achieve effective competition, and persistent competition problems exist, although no operator has been made subject to functional separation as yet.

Eircom is subject to an accounting separation requirement.

2.14 Are owners of existing copper local loop access infrastructure required to unbundle their facilities and if so, on what terms and subject to what regulatory controls? Are cable TV operators also so required?

Yes. Eircom has been designated by ComReg as having SMP in the market for wholesale unbundled access (including shared access) to metallic loops and sub-loops and must meet reasonable requests for access to the local loop and associated facilities at cost-oriented prices and must negotiate in good faith with undertakings requesting access.

Eircom has also been designated as having SMP in the Wholesale Physical Network Infrastructure Access (WPNIA) market, and is subject to access, transparency, and non-discrimination requirements, accounting separation and cost-oriented price control. Eircom is also required not to cause a margin/price squeeze. In 2011, Eircom voluntarily reduced local loop unbundling (LLU) and bitstream ancillary changes.

Cable TV operators are not required to unbundle their facilities.

2.15 How are existing interconnection and access regulatory conditions to be applied to next generation (IP-based) networks? Are there any regulations or proposals for regulations relating to next-generation access (fibre to the home, or fibre to the cabinet)? Are any 'regulatory holidays' or other incentives to build fibre access networks proposed? Are there any requirements to share passive infrastructure such as ducts or poles?

ComReg has imposed SMP obligations on Eircom for current and NGA WPNIA.

Eircom has flexibility in wholesale NGA pricing in the WBA market subject to a margin squeeze test against retail prices, while ensuring no foreclosure of LLU-based retail or wholesale services. With regard to non-discrimination measures Eircom has an obligation of equivalence of input for systems and certain processes for NGA services. In summary, the approach to NGA pricing is as follows:

- a ceiling for NGA prices in WBA will be calculated by reference to a margin squeeze test against retail prices;
- copper and fibre-based services will be priced consistently relative to their cost of provision; and
- a test to ensure replicability of retail services, providing an economic space between the various wholesale modes of provision of NGA (for example, between NGA bitstream and VUA).

Price and Consumer Regulation

2.16 Are retail price controls imposed on any operator in relation to fixed, mobile, or other services?

Retail prices for fixed narrowband access (i.e., retail line rental) services, and retail access to the public telephone network at a fixed location for residential customers and non-residential customers provided via analogue (PSTN) and digital (ISTN BRA) and managed VoIP services (i.e., Lower-Level Access or LLVA) in Ireland are subject to retail price cap measures.

2.17 Is the provision of electronic communications services to consumers subject to any special rules and if so, in what principal respects?

There is no obligation on undertakings to have contract terms and conditions filed with or approved by ComReg. Undertakings providing a publicly available ECN or an ECS must provide end-users and consumers with certain standard contract conditions pursuant to the Universal Service Regulations. The minimum terms and conditions are set out in Regulation 14(2) and must be specified in a clear, comprehensive and easily accessible form.

Operators must notify customers one month in advance of any proposed changes to their terms and conditions (including those which improve the customer's terms and conditions) and of their right to withdraw from the contract without penalty if they do not accept the changes.

Numbering

2.18 How are telephone numbers and network identifying codes allocated and by whom?

ComReg is responsible for the allocation of telephone numbers and management of the National Numbering Scheme (NNS) in Ireland. The National Numbering Conventions (NNC) is the set of rules under which the Irish NNS is managed and administered and includes the conditions of use for different number types and codes.

2.19 Are there any special rules which govern the use of telephone numbers?

All undertakings and users of numbers from Ireland's NNS must comply with the NNC.

2.20 Are there any obligations requiring number portability?

All undertakings providing a Publicly Available Telephone Service (PATS), including a mobile service, have a regulatory obligation to provide number portability as a customer right under Regulation 25(1) of the Universal Service Regulations. ComReg has directed that there shall be no direct charges to subscribers for number portability.

Undertakings must ensure that the porting of numbers and their subsequent activation are carried out within the shortest possible time; numbers must be activated within one working day, and loss of service during the porting process may not exceed one working day. ComReg has also specified maximum charges that fixed and mobile operators are permitted to charge for wholesale number porting charges going forward.

3 Radio Spectrum

3.1 What authority regulates spectrum use?

ComReg has responsibility for the effective management of radio frequencies for ECN and ECSs pursuant to Regulation 17 of the Framework Regulations.

3.2 How is the use of radio spectrum authorised in Ireland? What procedures are used to allocate spectrum between candidates - i.e. spectrum auctions, comparative 'beauty parades', etc.?

ComReg held an open auction for liberalised use of the spectrum in the 800MHz, 900MHz and 1,800MHz bands in 2012 (Liberalised Use Licences).

Prior to the 2012 auction, and with the exception of the award of the first mobile telephony licence, spectrum had been awarded by way of comparative evaluation processes. ComReg indicated in its Spectrum Management Strategy Statement 2011–2013 that it does not favour any specific approach for awarding spectrum rights, but that it has found it beneficial to use auctions as an award mechanism for certain spectrum bands where demand exceeds supply and the number of licences to be awarded is limited. ComReg stated that auctions have proved a quick, fair and transparent method for assigning frequencies and are, as a result, the preferred assignment method where the demand for spectrum exceeds supply.

3.3 Can the use of spectrum be made licence-exempt? If so, under what conditions?

Some classes of spectrum use have been made exempt from the requirement to obtain a radio frequency licence, e.g., short-range devices.

3.4 If licence or other authorisation fees are payable for the use of radio frequency spectrum, how are these applied and calculated?

Fees for the Liberalised Use Licences were payable by way of an upfront fee and annual spectrum usage fee. The auction raised almost €482 million in upfront fees with a further €373 million due in ongoing spectrum usage fees between 2013 and 2030.

Fees for spectrum in other bands have been structured in a number of ways e.g., annual payments per block (1,800MHz GSM Licence), spectrum access fee (including upfront payment and deferred payment) and annual spectrum fee (2.1GHz Licence) or by way of upfront fee and annual fee per block (26GHz Licence).

3.5 What happens to spectrum licences if there is a change of control of the licensee?

It is not necessary to seek ComReg's consent for a change of control of the licence-holder, although it is good practice to notify ComReg of the change.

3.6 Are spectrum licences able to be assigned, traded or sub-licensed and if so on what conditions?

ComReg's consent is generally required where licences are transferred / assigned to a different corporate entity (although ComReg's consent may not be unreasonably withheld).

Where an undertaking intends to transfer the right to use radio frequencies, it must notify ComReg of its intention to do so and ComReg must ensure that this notification is made public. The Wireless Telegraphy (Liberalised Use and Preparatory Licences in the 800MHz, 900MHz and 1,800MHz bands) Regulations 2012 specify that the rights of use under the recently issued Liberalised Use Licences are capable of being traded. Operators must notify ComReg of their intention to transfer rights of use, and may only effect transfers in accordance with procedures specified by ComReg. ComReg is currently consulting on a draft framework and guidelines for spectrum transfers, a final decision on which is likely to be published in 2013. In advance of such procedures being put in place, operators must not transfer rights of use without the prior consent of ComReg, which may not be unreasonably withheld.

4 Cyber-security, Interception, Encryption and Data Retention

4.1 Describe the legal framework (including listing relevant legislation) which governs the ability of the state (police, security services, etc.) to obtain access to private communications?

The listening, tapping, storage or other kinds of interception or surveillance of communications and related traffic data by persons other than users (without the consent of the users concerned) is prohibited under Regulation 5 of the Privacy Regulations, subject to the following exceptions:

- Under the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 (1993 Act) authorised operators are required to comply with directions given by the Minister for Justice to intercept telecommunications messages for the purpose of criminal investigation or in the interests of security of the Irish state.
- Under the Interception of Postal and Telecommunications Services Act 1983 where there is an investigation by a member of the Garda Síochána (the Irish Police force) of a suspected offence under section 13 of the Post Office (Amendment) Act 1951 (which refers to telecommunications messages of an obscene, menacing or similar character) on the complaint of a person claiming to have received such a message, interception of communications is permissible.
- Where the interception is legally authorised under a provision adopted in accordance with article 15 (1) of Directive 2002/58 on Privacy and Electronic Communications (which provides for a public interest derogation from the rights contained therein).

4.2 Summarise the rules which require market participants to maintain call interception (wire-tap) capabilities? Does this cover: (i) traditional telephone calls; (ii) VoIP calls; (iii) emails; and (iv) any other forms of communications?

Market participants must comply with any request for interception of communications pursuant to section 2 of the 1993 Act where:

- (i) The Minister for Justice and Equality issues an authorisation for the interception of telecommunications messages for the purposes of criminal investigations or in the interests of the security of the State (at the request of the Commissioner of the Garda Síochána).
- (ii) The Minister for Communications, Energy and Natural Resources issues an authorisation for the interception of telecommunications messages in the interest of the security of the State (at the request of the Chief of Staff of the Defence Forces).

The above applies to any ‘telecommunications message’, which is not defined in the legislation. This includes voice-calls and SMS/MMS, and although it is unclear, it is thought that the above provisions would apply to emails and VoIP provided over the internet where such communications are controlled by authorised undertakings.

4.3 How does the state intercept communications for a particular individual?

Please see response to question 4.1.

4.4 Describe the rules governing the use of encryption and the circumstances when encryption keys need to be provided to the state?

The rules governing encryption in Ireland are limited and piecemeal. Under the Electronic Commerce Act 2000, there is a requirement to grant certain authorities access to information which is encrypted; however, there is no requirement to disclose the encryption key itself.

4.5 What call data are telecoms or internet infrastructure operators obliged to retain and for how long?

The Communications (Retention of Data) Act 2011 requires service providers to retain specified data for stipulated periods and to make it available to the Irish police, Irish army and Irish taxation authorities in specified circumstances, in response to a disclosure request. Service providers must retain information concerning internet access, e-mail and internet telephony for a period of one year and retain telecommunications data in respect of fixed-network telephony and mobile telephony for a period of two years.

5 Distribution of Audio-Visual Media

5.1 How is the distribution of audio-visual media regulated in Ireland?

The provision of infrastructure over which content is delivered is regulated under the telecommunications regime outlined above.

5.2 Is there a distinction between the linear and non-linear content and/or content distributed over different platforms?

The Broadcasting Act and the European Communities (Audiovisual Media Services) Regulations 2010 (AVMS Regulations) implement the broadcasting elements of the Audiovisual Media Services Directive (AVMS Directive), which distinguishes between linear television broadcasting and non-linear on-demand services. Lighter regulation is applied to on-demand services, recognising that users have greater degrees of choice and control over on-demand services. The rules applicable to on-demand services are limited to rules safeguarding essential public interests – for example, protection of minors, encouraging cultural diversity, ensuring essential consumer protection and preventing incitement to hatred. The rules on advertising and protecting children are stricter for television broadcasting as it is a linear service provided for simultaneous viewing of programmes by many users. The BAI has approved a Code of Conduct for on-demand audiovisual media services which sets out the minimum standards required of service providers, and provides a complaint mechanism for consumers.

5.3 Describe the different types of licences for the distribution of audio-visual media and their key obligations.

A broadcasting licence is required for the operation of a broadcasting transmitter and provision of a broadcasting service. The Broadcasting Act also provides for the award by the BAI of content provision contracts including digital content contracts, satellite content provision contracts, local content contracts, community content contracts, and cable-MMD content contracts. The BAI is also empowered to grant sound broadcasting contracts.

5.4 Are licences assignable? If not, what rules apply? Are there restrictions on change of control of the licensee?

The BAI may prohibit the assignment of a broadcasting or multiplex contract or any material change in the ownership of a company, either by specifying a condition in the contract itself or by making the assignment subject to the previous consent in writing of the BAI, in which case the BAI shall have regard to the same criteria as considered when awarding the original contract. When considering applications for assignment or change of control, the BAI will also consider the tests set out in its Ownership and Control Policy Statement 2012.

6 Internet Infrastructure

6.1 Are conveyance services over the internet regulated in any different way to other electronic communications services? Which rules, if any, govern access to the internet at a wholesale (i.e. peering or transit) and/or retail (i.e. broadband access) level? Are internet service providers subject to telecommunications regulation?

Conveyance services over the internet are regulated in the same way as any other ECS (please see above in respect of regulation of the telecommunications sector). Eircom has been found to have SMP in the WBA market. Internet service providers may also be subject to the European Communities (Directive 2001/31/EC) Regulations, 2003 (the eCommerce Regulations).

6.2 How have the courts interpreted and applied any defences (e.g. 'mere conduit' or 'common carrier') available to protect telecommunications operators and/or internet service providers from liability for content carried over their networks?

The eCommerce Regulations provide that where an intermediary service provider (ISP) acts only as a passive transmitter or mere conduit of information, then it shall not be liable for the information that it transmits as part of its service. An ISP will be deemed to be a 'mere conduit' where it did not initiate a transmission, it did not select the receiver of a transmission and where it did not select or modify the information contained in the transmission. This approach was followed in *EMI Records [Ireland] Ltd & Ors -v- UPC Communications Ireland Ltd* [2010] IEHC 377.

6.3 Are telecommunications operators and/or internet service providers under any obligations (i.e. provide information, inform customers, disconnect customers) to assist content owners whose rights may be infringed by means of file-sharing or other activities?

Eircom has entered into a private 'three strikes' agreement with record companies, whereby the record companies provide Eircom

with the IP address of an infringing user, Eircom issues a number of warnings and where the infringement continues, Eircom will disconnect that user.

6.4 Are telecommunications operators and/or internet service providers able to differentially charge and/or block different types of traffic over their networks? Are there any 'net neutrality' requirements?

ComReg is required to ensure that when exercising its functions under the 2002 Act, it does so in a technology neutral manner. To date, no legislation or guidelines have been introduced in Ireland in relation to network neutrality requirements for operators / ISPs.

6.5 Are telecommunications operators and/or internet service providers under any obligations to block access to certain sites or content?

The general requirements of the Code of Practice and Ethics issued by the ISPAI include a requirement on all members to use best endeavours to ensure that services (excluding third-party content) and promotional material do not contain anything that is illegal and is not of a kind that is likely to mislead. They must also ensure that services and promotional material are not used to promote or facilitate any practices that are contrary to Irish law, nor must any services contain material that incite violence, cruelty, racial hatred or prejudice and discrimination of any kind. Members are also required to register with www.hotline.ie, which is a notification service to facilitate the reporting of suspected breaches under the Child Trafficking and Pornography Act, 1998 (as amended by the Child Trafficking and Pornography (Amendment) Act, 2004) and the removal of illegal material from internet websites.

'Caching' is described as the automatic, intermediate and temporary storage of information by ISPs for the sole purpose of making onward transmission more efficient. ISPs are not liable for the caching of information provided that they adhere to certain conditions; for example, if the ISP becomes aware that access to information, which is the subject of the caching, has been disabled or removed from the network at the initial source or by order of a court or an administrative authority, then it is incumbent on the ISP to act expeditiously and remove or disable access to the information also. The eCommerce Regulations also provide limited liability to ISPs that host information on behalf of third parties. However, if the ISP has actual knowledge that the information being hosted by it concerns unlawful activities, the exemption will not apply if the ISP fails to act expeditiously to remove or block the information.

The Copyright and Related Rights Act 2000 was amended in February 2012 to allow copyright owners to seek injunctions against internet service providers and other intermediaries to block access to websites. In June 2013, an injunction was granted against six major Irish internet service providers ordering them to block access to The Pirate Bay website.

6.6 How are 'voice over IP' services regulated?

VoIP services fall within the amended definition of a PATS, and so will be subject to the same level of regulation as public switched telephone networks (PSTNs). However, in recognising that certain obligations will be difficult for VoIP providers to meet, new regulations have been drafted so as to provide some leeway for VoIP providers where it is not possible for them to meet obligations, i.e., it is a defence to the requirement to provide access to emergency calls on a free-of-charge basis and provide location

information services if the operator can show that reasonable steps have been taken to comply with that requirement, or it was not possible to comply with the requirement.

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