

What telecoms businesses should do if there's no Brexit deal

Summary

How the telecoms regulatory framework would be affected if the UK leaves the EU with no deal.

Detail

Find out about the government's contingency plan for a telecoms regulatory framework if the UK leaves the EU with no deal.

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an [overarching framing notice](<https://www.gov.uk/government/publications/uk-governments-preparations-for-a-no-deal-scenario/>) explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

The purpose of this notice is to inform businesses of our contingency plan with regard to the telecoms regulatory framework in the unlikely event that the UK leaves the EU in March 2019 with no agreement in place. It does not cover other matters which may also be relevant to telecoms providers (please see separate technical notices for information on mobile roaming and data protection).

Before 29 March 2019

The UK electronic communications regulatory framework is mainly contained within the [Communications Act 2003](<https://www.legislation.gov.uk/ukpga/2003/21/contents>) and the [Wireless Telegraphy Act 2006](<https://www.legislation.gov.uk/ukpga/2006/36/contents>), which implement the [EU Common Regulatory Framework](<https://ec.europa.eu/digital-single-market/en/telecoms-rules>). This domestic legislation governs the regulation of the telecoms markets, guarantees basic user rights, and sets out the powers and duties of Ofcom as the national regulator including how radio spectrum in the UK is managed.

The EU Common Regulatory Framework has been under review and a new electronic communications directive – the European Electronic Communications Code (EECC) - is expected to be adopted by the EU in Autumn 2018. EU countries will have 24 months from adoption to transpose the new directive into their national law.

After March 2019 if there's no deal

If the UK leaves the EU in March 2019 with no deal in place, parts of the UK electronic communications regulatory framework would no longer be appropriate without corrections (e.g. the requirement to notify matters to the European Commission would not be applicable because the UK would cease to be a member of the EU).

The UK framework also includes references to the EU policy objective of promoting the Single Market, and cross-references to EU obligations and Commission Recommendations with which Ofcom would no longer be required to comply. We would correct references within the UK's regulatory framework to EU bodies, processes and legislation, to ensure that the regulatory framework remains operable. We intend to make secondary legislation under the EU Withdrawal Act 2018 later this year, which would bring these corrections into force in March 2019.

If the EECC is adopted by the EU before exit day but with a transposition deadline post-exit (likely to be 24 months from Autumn 2018), the Government would be minded to implement, where appropriate, its substantive provisions in UK law, on the basis that it would support the UK's domestic policy objectives. We would intend to implement these provisions according to a similar timetable to the EU, subject to UK Parliamentary business.

Implications

After March 2019, irrespective of the outcome of the negotiations between the UK and the EU, we do not expect there to be significant impacts on how businesses operate under the telecoms regulatory framework and how consumers of telecoms services are protected. This is because the EU-derived rules applicable to communication providers and governing the way Ofcom regulates telecoms markets are implemented in UK law and would be corrected by statutory instruments made under the EU Withdrawal Act 2018. The rules on spectrum allocation and assignment would similarly be corrected so that the way Ofcom carries out these functions would be essentially unchanged.

Ofcom has always been able to and would continue to be able to tailor its regulatory approach to the needs of the UK telecoms market. In a no deal scenario, this approach would continue to be founded on the regulatory principles implemented presently in UK law, which aim to encourage competitive markets and guarantee consumer rights.

In a no deal scenario, UK operators would continue to be able to provide cross-border telecoms services as well as operate within the EU, under the World Trade Organisation's GATS (General Agreement on Trade in Services).

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.