

## The European Electronic Communications Code (From the Volume Editor)

### ARTICLES

Wojciech Krupa, **Modification of regulatory policy aims in the European Electronic Communications Code**

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**Abstract:** The article presents the analysis of the modification of regulatory policy aims defined in the European Electronic Communications Code (EECC). The key changes are related to the promotion of investment in Very High Capacity Networks and strengthening the development of the internal market. An increasing role of online platforms in the modern society demands also the introduction of partially same rules for providers of ‘traditional’ communications services and OTT’s providers. The article analyses the reasons of changes in regulatory policy and the impact of this policy drift on the communications market in EU.

**Key words:** EECC, regulatory policy, investment, convergence, digital single market, BEREC, digital convergence

**JEL:** K23

Andrzej Nałęcz, **Investment into very high capacity networks**

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1. The transposition of EECC provisions relating to investment into very high capacity networks into Polish law
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**Abstract:** Based on existing scholarly literature, the article evaluates the regulation of investment into very high capacity networks in the European Electronic Communications Code. Both the reduction of asymmetric regulation and the potential increase of symmetric regulation may negatively reflect on the quality and accessibility of retail electronic communications services. The implementation of the EECC in Polish law must, therefore, be informed and studious, but it does not require the replacement of the current Law on Telecommunications Act by a completely new Act. However, an update is necessary, and the article proposes amendments.

**Key words:** European Electronic Communications Code, very high capacity networks, Law on Telecommunications.

**JEL:** D43, K23, K24

### Mateusz Chołodecki, **The European Electronic Communications Code regulations concerning National Regulatory Authorities (NRAs)**

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- IV. Independence of NRAs
- V. Safeguarding the universal service by NRAs
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- VII. Conclusions

**Abstract:** Since the EU regulatory framework for the telecommunication market has been established, regulatory authorities play a principal role in the market. Their aims have been changing ever since the new regulatory framework was adopted. In 2018 a new EU directive – the European Electronic Communications Code (2018/1972 – EECC) has been adopted. The EECC points at National Regulatory Authorities (NRAs) as the main authorities responsible for carrying out regulatory tasks. This paper aims to characterize different aspects of NRAs in the EECC. In the paper, the key legal elements of the regulatory framework are presented. First to be shown is the evolution of NRAs in EU law; this is due to the fact that the institutional position of NRAs has been constantly growing. Secondly, the paper presents the general objectives of the EECC and how NRAs shall contribute within their competences to ensure these objectives. Thirdly, the independence of NRAs is analyzed. Hitherto, EU regulation highlighted that there is a need to further reinforce the independence of NRAs. Thus, the paper shows how the independence of NRAs has been strengthened in the EECC. Fourthly, the paper presents how NRAs exercise their

tasks in safeguarding the universal service obligation on the market. The last, fifth, part focuses on the collaboration between NRAs and other competent authorities in carrying out the regulatory tasks specified in the EECC.

**Key words:** National Regulatory Authority; NRA; Telecommunication Market Regulator; Infrastructural Markets; market regulation; electronic communication regulation; Telecommunication Market; Telecommunication Law.

**JEL:** K23

Jakub Woźny, **The European Electronic Communications Code – categories of electronic communications services**

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- III. Electronic communications service
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**Abstract:** The definition of an electronic communications service determines the scope of the application of the European Electronic Communications Code. Thus, it defines the permissible activity of the Polish Office of Electronic Communications and the rights and obligations of market participants. Despite the clear expectations of both doctrine and case-law, the new definition does not meet the expectations. Simultaneous maintenance of the technological criterion (signal transmission) with the introduction of the functional criterion (interpersonal communication service) deepens the interpretation difficulties. Therefore, it is not a revolutionary measure which was supposed to ensure the achievement of the objectives set out in the directive.

**Key words:** electronic communications service, internet access service, interpersonal communications service, signal conveyance, European Electronic Communications Code.

**JEL:** K23

Artur Salbert, **Universal service under the European Code of Electronic Communications**

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- II. The origin of universal service regulations
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- IV. Summary

**Abstract:** The European Electronic Communications Code, which was adopted in 2018, introduced essential changes in respect of the universal service provision. The changes concern in particular the scope of universal service, entities entitled to enjoy its functionalities and manners in which National Regulatory Authorities ensure the requirements of universal service. The objective of this article is to present new regulations regarding universal service in a comparison with those currently in force. Such a comparison makes it possible to understand the essence of universal service regulated in new EU act.

**Keywords:** Universal service, adequate broadband internet access service, voice communications service, affordable price, accessibility, fixed location, net cost.

**Key words:** Nett Cost; Universal Service; Telecommunication Market Regulator; Infrastructural Markets; Telecommunication Market; Telecommunication Law.

**JEL:** K23

Xawery Konarski, **The impact of the European Electronic Communications Code (EECC) on the protection of personal data and privacy of users of OTT-1 services (interpersonal communications services)**

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**Abstract:** The entry into force of the European Electronic Communications Code (EECC) has a significant impact on the protection of privacy of users of those Over-the-Top (OTT) services that qualify as interpersonal communications services under the EECC (art.2 point 5). Instant messaging and webmail services are examples of such services. Limitations provided for in Articles 5, 6 and 9 of Directive 2002/58/EC ('e-Privacy Directive') are directly applicable to providers of those services. In consequence, in most cases the processing of information contained in electronic communications and the related metadata generated in the course of the provision of OTT-1 services shall require user consent. The only exceptions may be legally authorized in accordance with Article 15.1 of the e-Privacy Directive.

**Key words:** Over-the-Top service, OTT, interpersonal service, Electronic Communications Code, e-Privacy.

**JEL:** K24

**REPORT AND LAW REVIEW**

**“The European Electronic Communications Code – implementation in Polish law”, Faculty of Management of the University of Warsaw, 24 June 2019. Conference report (Andrzej Nałęcz)**

**Chronological list of the most important EU legal acts regarding to the telecommunication market (electronic communications) (Mateusz Chołodecki)**

**Contents, Summaries and Key Words**