Freedom of Information request: Right to know request

Thank you for your request for information concerning Post-Brexit EU Electronic Communications Code (EECC2018) Retention in UK Law. Your request was received on 27 September 2021 and we have considered it under the Freedom of Information Act 2000 (‘the Act’).

You asked:

1) Were any or all of the following EECC2018 Directives retained in UK legislation post Brexit?

"(110) The need to ensure that citizens are not exposed to electromagnetic fields at a level harmful to public health is imperative. Member States should pursue consistency across the Union to address this issue, having particular regard to the precautionary approach taken in Recommendation 1999/519/EC, in order to work towards ensuring more consistent deployment conditions. Member States should apply the procedure set out in Directive (EU) 2015/1535, where relevant, with a view also to providing transparency to stakeholders and to allow other Member States and the Commission to react."

"Article 45 2(h)pursuing consistency and predictability throughout the Union regarding the way the use of radio spectrum is authorised in protecting public health taking into account Recommendation 1999/519/EC."

"Article 45 4(b)protect public health against electromagnetic fields, taking utmost account of Recommendation 1999/519/EC;"

2) If any or all of the Directives in (1) above were retained in UK legislation, please give the name and location of that legislation in which the Directives are retained.

3) If any or all of the Directives in (1) above were NOT retained in UK legislation, please explain why not, and provide the name and location of relevant documents/information to support your explanation.
Our response

Although the UK left the European Union (EU) on 31 January 2020, under the terms of the Withdrawal Agreement, the UK remained under an obligation to transpose the Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (the European Electronic Communications Code Directive) (EECC) into domestic law. The UK Government made a number of changes to UK legislation to transpose the EECC into UK law via the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020. This was accompanied by an explanatory memorandum, which explains what changes were made, as well as a detailed transposition note that explains how each of the provisions of the EECC is implemented in UK law, including Article 45 of the EECC, which is largely implemented via the Wireless Telegraphy Act 2006. For more information about the Government’s approach to transposition, see the Government’s consultation and response on implementing the EECC.

As explained on the Government’s website (The telecoms regulatory framework in the UK) a number of changes to UK law were made by secondary legislation under the EU Withdrawal Act 2018 to make relevant corrections and ensure the UK telecoms framework remained operable after the UK left the EU. This secondary legislation was: The Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019. Again these regulations were accompanied by an explanatory memorandum which explains these changes. A few further changes were also made via the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020.

I hope this information is helpful. If you have any further queries, then please send them to information.requests@ofcom.org.uk quoting the reference number above in any future communications.

Yours sincerely

Zach Westbrook

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:
• the original decision is upheld; or
• the original decision is reversed or modified.

Timing
If you wish to exercise your right to an internal review you should contact us within two months of the date of this letter. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact information.requests@ofcom.org.uk

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF