

# alto

alternative operators in the communications market

**Consultation on the Scheme of the Consumer Rights Bill 2021**

**Submission By ALTO**

**Date: June 30<sup>th</sup> 2021**

The voice of the Irish telecoms industry, ALTO represents national and international operators in the fixed, wireless, mobile and cable sectors. Our objective is to see the creation of a dynamic and innovative telecoms market in Ireland based on the principle of fair and open competition.

ALTO's mission is to represent and communicate the interests of members to senior policy makers, regulators, the business community, and the media.

Membership is open to authorised communications providers and currently includes a host of significant players in the industry. To date, ALTO members have invested hundreds of millions in the Irish telecoms sector and they currently employ over 10,000 people.

ALTO acknowledges the importance of robust consumer protection rules to ensure that consumers have confidence when engaging with industry and consuming products and services and we welcome the opportunity to comment on this consultation.

## **ALTO Remarks**

ALTO notes that many of the provisions published in the scheme for the Consumer Rights Bill 2021 are maximum harmonisation provisions deriving from EU law, specifically from the Digital Content Directive<sup>1</sup>, the Sales Directive<sup>2</sup> and the Better Enforcement Directive<sup>3</sup>, and therefore the Government has limited flexibility in respect of those provisions as they cannot be exceeded or supplemented in national legislation.

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<sup>1</sup> Directive 2019/770 on certain aspects concerning contracts for the supply of digital content and digital services

<sup>2</sup> Directive 2019/771 on certain aspects concerning contracts for the sale of goods

<sup>3</sup> Directive 2019/2161 on the better enforcement and modernisation of EU consumer protection rules

ALTO also notes that there is flexibility in respect of the rules on services in Part 4 of the Scheme, consumer information and cancellation rights in Part 5 of the Scheme and unfair terms in Part 7 of the Scheme. In this regard, ALTO members request that the Government be cognisant of the provisions contained in the new European Electronic Communications Code<sup>4</sup> (the Code) that is currently being transposed into Irish law by the Department of the Environment, Climate and Communications.

The Code contains very detailed consumer protection rules for the telecoms industry and ALTO members have been engaging with the Irish transposition team since 2019 in relation to its implementation and in particular to understand the changes that will be required once it comes into force. ALTO members have also attended a number of sessions with the Commission for Communications Regulation (ComReg) and with the European Commission to understand the implications of the Code for industry.

The detailed consumer protection rules in the Code include provisions on the information that must be provided to the consumer at the point of sale prior to any contract being concluded (including a mandatory template for this information), provisions listing the contractual information that must be provided on a durable medium, rules around any proposed amendments to contractual information and whether they are to the benefit of the consumer, and notifications that must be provided to consumers prior to the end of the contract for fixed term contracts and in-life best tariff information that must be provided to consumers. There are also specific rules around the processes and procedures for switching service provider and compensation schemes for service issues, installation issues and missed appointments.

To avoid confusion for consumers as to what rules apply when they are purchasing products and services from telecoms providers and to avoid any unnecessary and

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<sup>4</sup> Directive 2018/1972 establishing the European Electronic Communications Code

costly burden on industry, ALTO members believe that the Code should be expressly called out in the new Consumer Rights Bill and it should be made clear that where the provisions of the Code apply these take precedent.

To take an example for additional context, the information that must be provided to consumers at the point of sale, including for distance selling, has been mandated for the telecoms industry in a document called a '*Contract Summary*'. The Contract Summary is a standardised one-page document (for one service) or up to three pages (for a 'bundle') which will be provided to every consumer prior to the conclusion of their contract. It includes the main information that providers are required to make available to consumers, such as contact details, description of the service, speeds of the internet service, price, duration, renewal and termination of the contract and features for end-users with disabilities. This was consulted on and negotiated at EU level and the template for this Contract Summary was set out in an EU regulation which applies directly in Ireland and cannot be deviated from.<sup>5</sup> Where this Contract Summary is provided this should be considered compliance with any distance selling rules on information to be provided at the point of sale.

Similarly, where operators provide the contractual information required by the Code,<sup>6</sup> and follow the processes and procedures required by the Code, this should be considered compliance from a consumer protection perspective.

As an industry, significant work has gone into (and continues to go into) compliance with the Code including very costly technical development to build new point of sale processes. We would ask that this be acknowledged by Government in progressing with the Consumer Rights Bill to avoid a situation of potentially conflicting rules and confusion for both consumers and industry.

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<sup>5</sup> Commission Implementing Regulation (EU) 2019/2243 of 17 December 2019 establishing a template for the contract summary to be used by providers of publicly available electronic communications services pursuant to Directive (EU) 2018/1972 of the European Parliament and of the Council

<sup>6</sup> There is a detailed list of requirements in Annex VIII of the Code

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