



Department for  
Business, Energy  
& Industrial Strategy



Department for  
Digital, Culture,  
Media & Sport

# EU Exit Business Readiness Forum: Information for businesses on a no deal exit from the EU

21st March 2019

These slides reflect government policy as of [21<sup>st</sup> March 2019]



Department for  
Business, Energy  
& Industrial Strategy

# Agenda for today

1	Welcome and Introductions		5 mins
2	Geo-Blocking		5 mins
3	eCommerce Directive		10 mins
4	Mobile Roaming		5 mins
5	.eu Domain Names		5 mins
6	NIS Directive		5 mins
7	Q&A	All panellists	30 mins

# Objectives for these forums



Share the key information businesses need to prepare for Exit



Provide you with materials to cascade to your network of members



Respond to your questions and gather your feedback

# Thanks for your feedback in the survey

## What we heard from you

Q&A with policy experts really useful

Background and context for each topic really helpful

Sound quality could be improved

Links to further sources of information

## Actions we are taking



Detailed write up of Q&A shared after the Forum



Introduction to each topic with 'how things work today'



New venue with improved sound quality, roaming mic for Q&A



Weekly bulletin with recent announcements, tools and links

# Business Readiness Forums: Programme to end-March

## February: Cover all key policy themes

7 Feb



Importing & Exporting



Regulations & Standards - Good

14 Feb



Digital & Data

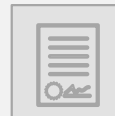


Organisational Compliance

21 Feb



Workforce & People



Intellectual Property

28 Feb



EU/UK Funding



Public Procurement

## March: Share new content released

7 March



Workforce & People

14 March



Regulations & Standards



Importing & Exporting

21 March



Digital & Data

*Focus for today*

28 March

*Topics TBC based on key announcements and emerging business needs*

*Agenda subject to change based on key announcements*

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# Geo-blocking: How things work today



Traders are prevented from blocking access to websites based on user location.



Prohibits discrimination based on nationality/ location when purchasing certain goods and services online.



Prohibits discrimination against a payment method solely based on place of issue in EU.



# Traders can treat EU and UK customers differently



The UK version of the Geo-Blocking Regulation would be repealed.



Traders will be able to differentiate between customers in the UK and EU e.g. a UK trader could offer different terms to a UK customer compared to a French customer.



UK traders must continue to comply with EU regulations prohibiting discrimination between customers in different members states if they want to operate in the EU.



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# eCommerce Directive: Summary of 'No Deal' policy

eCommerce regulations in a 'No Deal' scenario



To minimise disruption, the UK will continue to align with most of the provisions in the eCommerce Directive, including provisions on intermediary liability and general monitoring.

The exception is the “Country of Origin Principle” which will be removed from UK legislation.

Considerations for online service providers



Check for compliance issues resulting from the loss of the “Country of Origin Principle”.

Consider building on existing compliance processes.

# eCommerce Directive: How things work today



The eCommerce Directive (ECD) regulates certain legal aspects of “information society services” (ISS) across the EEA.



ISS include (but are not limited to):

- online retailers
- video sharing sites
- search tools
- social media platforms
- internet service providers



The ECD does not apply to non-commercial interactions, or the offline elements of online transactions (such as taxation). It also does not concern legal requirements relating to goods.



The ECD does not apply to matters now covered by the GDPR and e-Privacy Directive.

# The “Country of Origin Principle”



The “Country of Origin Principle” is a reciprocal arrangement so that an EEA-based ISS is only subject to certain laws (those which fall within the Directive’s “coordinated field”), in the EEA state in which it is established.



The Directive explains that the coordinated field covers “requirements relating to online activities such as online information, online advertising, online shopping [and] online contracting .”



The coordinated field does not include legal requirements related to goods themselves, such as safety standards and labelling.

# The Directive also sets the following rules for information society services



Limitations on the liability of intermediary service providers (conduits, or services who provide caching or hosting services) for information that they transmit or store.



Prohibitions on imposing ‘general monitoring’ obligations.



Prohibitions on imposing ‘prior authorisation’ requirements (e.g. licensing requirements pre start-up).



Regulations mandating certain information that must be displayed on sites, commercial communications (e.g. spam), electronic contracts and aspects of the online purchasing procedure.

# The eCommerce Directive in No Deal



The UK will continue to align with the provisions in the Directive. Including those on liability of intermediary service providers and general monitoring.



ISS established in the UK will cease to benefit from the “Country of Origin” principle when operating in EEA states. This means they will be required to adhere to the rules that govern online activities in each EEA state in which they operate.



HMG intends to fully remove the “Country of Origin Principle” from UK legislation, when parliamentary time allows.

# Further implications of No Deal



Removing this principle from UK legislation will bring EEA-based information society services in scope of UK laws from which they were previously exempt.



The requirement that UK-based information society services adhere to UK law falling within the ‘coordinated field’ when operating in the EEA will be removed.







Therefore UK-based information society services may not have to simultaneously adhere to UK and EEA requirements when providing services in EEA states after exit day.



UK legislation will continue to apply to UK-based information society services when they are providing services to users in the UK.

# Considerations for Internet Society Services

-  Consider checking for any compliance issues resulting from the loss of the Directive's Country of Origin principle. This will depend upon the nature of your online service(s), and the EEA markets that you operate in.
-  In some instances, ISS will already be compliant with the relevant rules in the EEA states in which they operate. This will depend on the nature of the online service.
-  Consider building on existing processes for ensuring compliance with the legal requirements relating to online activities in each individual EEA country.
-  Consider processes for ensuring ongoing compliance in the event that individual EEA states change their requirements governing online activities.



# Further considerations



Also consider determining your ‘place of establishment’. This should be considered in relation to each information society service your organisation provides (if it offers more than one).



ISS services established in the UK may be subjected to any such prior authorisation regimes which are established in EEA states and which operate with respect to ‘third country’ providers.

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# Mobile data roaming: How things work today



There is surcharge-free mobile roaming in the EU - 'Roam Like at Home'.



Mobile operators have to apply a default financial limit for mobile data usage of €50 - customers must actively choose to spend more.



Operators need to send alert once device reaches 80% and 100% of agreed data limit.



# Surcharge free roaming no longer guaranteed



Three, EE, O2 & Vodafone have stated they have no current plans to reimpose roaming surcharges in the EU.



EU operators will be able to increase roaming charges on UK operators.



But government will ensure UK operators set limit for data roaming charges at £45 per month - customers must actively choose to spend more.



Operators must also continue to protect customers from inadvertent data usage with alerts.

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# .eu Domain Names: How things work today



Use of .eu top level domain (TLD) names is currently governed by the EU regulatory framework for the .eu TLD. EURid is the registry manager of the .eu TLD.



The following are currently eligible to register .eu domain names:

- Organisations established within the EEA
- Natural persons resident within the EEA
- Undertakings having their registered office, central administration or principal place of business within the EEA

# UK-based entities will not be able to register .eu domain names in a No Deal scenario



Undertakings and organisations that are **established in the UK but not in the EEA** and individuals who **reside in the UK**, will no longer be eligible to register .eu domains from 30 March 2019.



Existing .eu registrants will no longer be eligible to renew currently registered .eu domains.

# Existing UK-based entities may lose their .eu domain names in a No Deal scenario



UK registrants will receive emails from EURid on 23 March and 30 March 2019 informing them that their domain name is not compliant with the .eu regulatory framework.



UK registrants will be allowed to retain their domains until 30 May 2019, providing a grace period of two months after the date of the UK's exit from the EU. This period will allow UK registrants the opportunity to demonstrate their compliance.



# Existing UK-based entities may lose their .eu domain names in a No Deal scenario (cont.)



If .eu registrants are unable to prove their eligibility, these domains will be withdrawn on 30 May 2019.



They will not be available to any other entity for a further ten months (until 30 March 2020). In this time, UK registrants can have their .eu domain reactivated if they can demonstrate that they satisfy the eligibility criteria.



This means you may lose access to your .eu website or email.



If by 30 March 2020, the UK registrants cannot demonstrate that they meet the eligibility criteria, their domains will be revoked and will become available to potential registrants.

# Check your eligibility



Undertakings, organisations and individuals should read **Article 4(2)(b) of Regulation (EC) No 733/2002** and check if they are still eligible to hold a .eu TLD.



You may still satisfy the eligibility criteria if you have your registered office, central administration, or principal place of business within the EEA or are otherwise established within the EEA, or are a natural person resident in the EEA.

# Consider transferring top level domain names



If you currently hold a .eu domain name, you may wish to discuss transferring your registration to another top level domain with your local domain name registrar.



Examples of other top level domains include .co.uk, .com, .net or .org.



You may also wish to seek advice from your local domain name registrar on whether the terms of your contractual agreement provide for any recourse in the event of withdrawal or revocation of a .eu registration. You may also want to seek legal advice.

# Future changes to the eligibility criteria



New Regulations concerning the .eu top level domain are expected to be adopted in March / April 2019.



These will expand the eligibility criteria to allow EEA citizens to register a .eu domain name independently of their place of residence, 6 months after the regulation comes into force.



EEA citizens resident in the UK may therefore meet the eligibility requirement once this change comes into effect.

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# The NIS Directive: How things work today



The Network and Information systems (NIS) Directive provides legal measures to boost the overall level of network and information system security in the EU.



UK-based “Digital Service Providers” (DSPs) are required to:

- Register with the ICO
- Have appropriate and proportionate security measures in place to manage risks to the NIS that support their service
- Notify incidents to the ICO, where those incidents have a substantial impact on the provision of their service.



A DSP that is not established in the EU, but offers digital services within the EU, must designate a representative in one of the EU Member States where the services are offered.

The DSP will be deemed to be under the jurisdiction of the EU Member State where that representative is established.

# What is a “Digital Service Provider”?



A DSP is anyone who provides at least one of these digital services:

- Online marketplaces (digital services that allow consumers and/or traders to conclude online sales or service contracts with traders either on the online marketplace website or on a trader’s website that uses computing services provided by the online marketplace)
- Online search engines
- Cloud computing services



In the domestic NIS Regulations, digital service providers who are either:

- based in the UK (i.e. have a head office in the UK) or;
- based outside the UK but have designated a representative in the UK are known as “relevant digital service providers” (RDSPs).

# Who is affected?



You will be affected if you are a digital service provider that:

1. has 50 or more staff, or a turnover of more than €10m per year, or a balance sheet total of more than €10m per year; and
2. has its main establishment in the UK; and
3. you offer services in the EU.



Micro and small digital service providers with fewer than 50 staff, and a turnover or balance sheet of less than €10 million a year are exempt from the NIS Directive.



## Who is affected (cont.)?



A digital services provider under the EU NIS Directive covers both RDSPs and other digital service providers offering services within the EU.

They may be based either within or outside the EU country in which they are offering services.



A digital service provider plans to offer services within the EU if:

- the digital service provider uses a language generally used in one or more EU Member States;
- the digital service providers uses a currency generally used in one or more EU Member States;
- customers have the possibility to order services in a language generally used in one or more EU Member States; and
- the digital service provider mentions customers or users who are in the EU.

# The NIS Directive in No Deal



RDSPs established in the UK that offer services in one or more EU countries must designate a representative in one of the EU Member States where they offer services.



There is only an obligation to have one representative in the EU, even in circumstances where digital services are offered in more than one Member State.



To get more information on how to designate a representative in an EU Member State, you will need to contact the competent authority for DSPs in that EU Member State. You can find the relevant contact details [here](#).

# Considerations for RDSPs established in the UK



If your main establishment is in the UK, find out whether you offer services within the EU:

- If you offer services within the EU, you must designate a representative in one of the EU Member States where you offer services. You must comply with the law in that EU Member State.
- Your representative will act on your behalf, and it should be possible for the competent authorities and/or the computer security incident response of the relevant EU Member State to contact the representative.
- You should designate the representative in writing by a formal process set by the relevant EU Member State authority, stating that the representative will act on your behalf to fulfil your to fulfil any legal requirements that arise under the law of that EU Member State, including incident reporting.

# Considerations for RDSPs established in the UK



Ascertain whether your ‘main establishment’ is in the UK:

- If your main establishment is in the UK, you must register with the ICO (if you have not already done so) and comply with the NIS Regulations.



Inform the ICO if:

- you have designated a representative in an EU Member State;
- you have to comply with equivalent legislation in another country
- you have network and information systems located outside the UK

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# Further advice and guidance on action to take

## Source of material in this section

Mobile roaming if there's no Brexit deal - Available [here](#)

Geo-blocking of online content if there's no Brexit deal- Available [here](#)

Guidance on .eu top level domain name registrations - Available [here](#)

EURid Brexit Notice - Available [here](#)

European Commission Notice to stakeholders - Available [here](#)

Guidance on the eCommerce Directive in the event of a 'no deal' EU exit - Available [here](#)

Guidance for digital service providers established in the UK in a 'no deal' EU Exit scenario - Available [here](#)

## Additional information beyond this presentation

There may be other issues not addressed in this material

In some areas, policy content is still being developed

Please visit [gov.uk/euexit](https://www.gov.uk/euexit) for the latest information

You may have further questions on these and other issues. Please visit [gov.uk/euexit](https://gov.uk/euexit) for more information

If you have questions about the EU Exit Business Readiness forum, please contact [sed@beis.gov.uk](mailto:sed@beis.gov.uk)