



Notification Number: 2017/332/UK

The Investigatory Powers (Technical Capability) Regulations.

Date received : 13/07/2017

End of Standstill : 16/10/2017

Message

Message 001

Communication from the Commission - TRIS/(2017) 01860

Directive (EU) 2015/1535

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notification - Notifica - Pieteikums - Pranešimas - Bejelentés - Notifika - Kennisgeving - Zawiadomienie - Notificação - Hlásenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2017/0332/UK - Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201701860.EN)

1. Structured Information Line

MSG 001 IND 2017 0332 UK EN 13-07-2017 UK NOTIF

2. Member State

UK

3. Department Responsible

Department for Business, Energy and Industrial Strategy
European Reform Directorate
1 Victoria Street
London, SW1H 0ET

Email: technicalregulations@beis.gsi.gov.uk

3. Originating Department

Home Office
Office for Security and Counter Terrorism
2 Marsham Street



London
SW1P 4DF

4. Notification Number

2017/0332/UK - V00T

5. Title

The Investigatory Powers (Technical Capability) Regulations.

6. Products Concerned

Telecommunications operators, services and systems.

The powers provided for in the Investigatory Powers Act 2016 are consistent with Directive 2002/58/EC on the processing of data and protection of privacy in electronic communications under the derogations at Article 15(1).

7. Notification Under Another Act

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8. Main Content

Telecommunications operators may be required to provide assistance in giving effect to warrants and other authorisations under the Investigatory Powers Act 2016 (previously notified under 2016/0384/UK). The Investigatory Powers (Technical Capability) Regulations do not themselves impose requirements on telecommunications operators, but set out the specific obligations that may be imposed on operators in a 'technical capability notice'. This type of notice will be used to obligate operators to maintain a technical capability to ensure that, when a warrant is served, the company can give effect to it securely and quickly.

A notice may be given only when deemed necessary and proportionate by a Secretary of State and when this decision is approved by a Judicial Commissioner. The use of these powers will be subject to extensive safeguards and judicial oversight.

9. Brief Statement of Grounds

These regulations do not impose restrictions on operators but set out which requirements may be imposed in a 'technical capability notice' under the Investigatory Powers Act 2016.

The Investigatory Powers Act 2016 provides that telecommunications operators should receive an appropriate contribution in respect of reasonable costs in complying with any obligations set out in a technical capability notice.

The Government will also avoid imposing obligations that could have an impact on an operator's ability to innovate or grow its business. The operator concerned must be consulted prior to any obligation being imposed. The Secretary of State must then consider the impact of imposing obligations on the operator, including the technical feasibility and cost of complying with these obligations.

The impact of these regulations on small businesses will be low. The regulations may only apply to small businesses in relation to the acquisition of communications data. The regulations relating to interception and equipment interference may only apply to companies with over 10000 customers. The cost recovery



arrangements will also ensure that there is no additional impact on small firms which have obligations placed on them.

As such, we do not anticipate that this legislation would affect competition in the telecommunications sector.

10. Reference Documents - Basic Texts

References of the Basic Texts: A copy of the Investigatory Powers (Technical Capability) Regulations accompany this document.

11. Invocation of the Emergency Procedure

No

12. Grounds for the Emergency

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13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

These regulations do not impose restrictions on operators but set out obligations that may be imposed in a 'technical capability notice' under the Investigatory Powers Act 2016. The Act was previously notified under 2016/0384/UK and an Impact Assessment was submitted with that notification.

16. TBT and SPS aspects

TBT aspect

No - The draft has no significant impact on international trade

SPS aspect

No - The draft has no significant impact on international trade

European Commission

Contact point Directive (EU) 2015/1535

Fax: +32 229 98043

email: grow-dir2015-1535-central@ec.europa.eu