

PANORAMIC

TELECOMS & MEDIA 2024

Contributing Editors

Alexander Brown, David Trapp, Edoardo Tedeschi, Matteo Susta, Christopher Götz, Eric Le Quellenec,
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Panoramic guide (formerly Getting the Deal Through) enabling side-by-side comparison of local insights into local regulatory framework, foreign ownership restrictions and licensing requirements; spectrum use considerations; ex ante regulatory obligations; structural / functional separation considerations; universal service obligations; number allocation and portability; customer terms and conditions; net neutrality; platform regulation; next-generation access (NGA) networks; data protection and cybersecurity issues; big data; local storage requirements; foreign programmes and local content requirements; advertising; must-carry obligations; regulation of new media content; digital switchover; media plurality; regulatory agencies, competition law, and appeals; and recent trends.

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Telecoms and Media: Introduction

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The media and telecommunications industries continue to change and adapt to advancements in technology, consumer information consumption habits, and – quite pertinently – the social and economic environment. As businesses seek to adapt, so too do the laws and regulations in these sectors that aim to remain appropriate, applicable and useful.

Telecoms and Media seeks to provide an assessment of the relevant legal and regulatory environment, setting out each market's regulatory framework as well as the practical implications of how those regulations affect service providers and end users equally. In addition to outlining any significant events over the previous year, Telecoms and Media's responses also emphasise any potential future developments and any proposed plans for change.

Media and telecommunications remain an essential part of consumer lives and, accordingly, these industries are frequently highly regulated and subject to intricate competition law regulations. In addition to these regulatory oversights, Telecoms and Media additionally considers laws that are not specific to these industries, like cybersecurity, data protection and online safety laws, and how these may affect the media and telecom sectors.

Telecoms and Media seeks to provide a comprehensive overview of a wide range of areas within these industries, from mobile communications to broadband connectivity for telecoms, and newspapers to online video content for media. By avoiding a narrow focus on one or two segments of the industries, this publication provides a more complete understanding of the complex regulatory landscape.

The covid-19 pandemic had a significant impact on the telecoms, media and technology (TMT) sector, acting as a catalyst for the digital transformation of business and society as they sought to adapt to the various challenges and grasp the potential opportunities. This shift underscored the advantages of technological advancements, and since the pandemic, the pace of digital transformation has continued as demonstrated by the sustained rise of remote working, and the societal need for online connectivity.

In particular, artificial intelligence (AI) capabilities in data analysis, automation, and predictive modelling have been harnessed to enhance operational efficiency, customer experience and decision-making processes. Furthermore, AI's role in the TMT sector is expected to grow, with advancements in machine learning, robotics and generative AI. However, this also necessitates careful consideration of regulatory frameworks to ensure ethical use and data protection. Regulators are adopting a pro-innovation stance towards AI regulation, striking a balance between exploiting AI's potential and mitigating its risks. As AI evolves, it is poised to further transform our work, communication, and interactions.

The UK communications regulator, Ofcom, is actively adapting its existing regulatory framework to oversee the use and implications of AI across its regulated sectors. Outlined within Ofcom's recently published strategic approach to AI in its Plan of Work for 2024/25, outlining its regulatory approach to services using AI, the process of identifying and mitigating current AI risks, and setting out Ofcom's future AI work and global collaboration. The overarching theme of Ofcom's strategic approach emphasises the importance of harnessing the extensive benefits AI has to offer whilst effectively mitigating its associated risks within the parameters of the United Kingdom's pro-innovation approach to AI.

Ofcom sets out four priority outcomes in its AI approach:

- a reliable internet: Ofcom aims to ensure that the internet infrastructure is robust and reliable, providing consistent and high-quality connectivity for all users;
- trusted and valued media: this involves maintaining the trustworthiness of media platforms and ensuring that they deliver valuable content that meets the needs and expectations of the public;
- safer online life: Ofcom is committed to promoting online safety and protecting users from harmful and illegal content. This includes addressing the risks posed by AI-generated content; and
- enabling wireless services in the broader economy: Ofcom seeks to facilitate the integration of wireless services into various sectors of the economy, recognising the role of AI in enhancing these services.

Ofcom makes a clear distinction in its regulatory focus being on services utilised by people rather than the fundamental regulation of the underlying technologies that facilitate those services and Ofcom will use existing regulatory structures (like the Communications Act 2003 and the new Online Safety Act) to regulate services enabled by AI as well as promote AI-enabled safety technology.

In the rapidly developing landscape of AI, Ofcom continues to invest in technical knowledge and expertise to facilitate an ongoing understanding of the technologies utilised in the United Kingdom's regulated sectors and their outcomes for consumers, supported by over 100 technology experts, including approximately 60 AI experts, in its data and technology teams. As reflected in the AI Plan of Work for 2024/25, Ofcom's approach continues to be policy specific and lends focus to online safety, broadcasting and telecoms sectors, with a specific emphasis on continuing to cultivate collaborative relationships with UK academic and governmental organisations, and further engage within domestic and international regulatory forums. Ofcom is currently a member of the Digital Regulation Cooperation Forum, the European Platform of Regulatory Authorities and a founding member and current chair of the Global Online Safety Regulators Network. Moreover, Ofcom continues to remain vigilant and informed on all international AI policy debates and developments pertinent to the markets it regulates.

Outside of the United Kingdom and the sphere of AI, this year has seen the continuation and escalation of unrest around the world including the Ukraine war and the Israel-Gaza conflict. Apart from the humanitarian crisis that these conflicts represent, the additional economic shock continues to be felt around the world as supply chains are severely disrupted by difficulties in sourcing raw materials for hardware, the effect of economic sanctions, disrupted communications, and energy prices increase.

Regulatory responses to these pressures continue to pay significant attention to ensuring that there is effective competition in the regulated industries. Moreover, the resultant cost-of-living crisis has increasingly focused regulatory scrutiny on consumer protection.

Most obviously, we are seeing these regulatory pressures manifest themselves through the growing number of significant new legislation focusing on digital markets and services – sectors with so many nascent segments that regulators and lawmakers are increasingly seeking opportunities to put in place various forms of ex-ante regulation. Such attempts by regulators to catch up and get ahead of the rapid evolution of the sector – and in particular the future development and use of AI – are already showing signs of potentially significant divergence across jurisdictions. As a result, these new approaches in digital regulation and – to varying extents – merger control, promise to bring a number of significant challenges over the next year.



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