

15 March 2011

# Screening report

## Iceland

### Chapter 10 – Information society and media

**Date of screening meetings:**

Bilateral meeting only: 17 November 2010

## I. CHAPTER CONTENT

The *acquis* on information society and media aims to eliminate obstacles to the effective operation of the internal market in electronic communications services and networks, promote competition and safeguard consumer interests in the sector, including the universal availability of basic modern services. It also includes rules on information society services and a transparent, predictable and effective regulatory framework for audiovisual media services in line with European standards.

The Digital Agenda for Europe (DAE) frames the information and communication technologies (ICT) strategy in the European Union and is one of the seven flagship initiatives of the Europe 2020 Strategy. The DAE aims at delivering sustainable economic and social benefits from a digital single market based on ultra fast internet. The Agenda outlines seven priority areas for action such as creating a vibrant digital single market delivering the benefits of the digital era; improving the framework conditions for interoperability between ICT products and services; boosting internet trust and security or enhancing digital literacy, skills and inclusion.

The *acquis* in information society and media is covered by the EEA Agreement except for the Audiovisual Media Services Directive (2010/13/EU) which governs EU-wide coordination of national legislation on all audiovisual media services. Moreover, Iceland participates in several EU policies supporting the development at national and European level of the information society and media, such as broadband strategies and policies for e-Government, e-Health, e-Inclusion and the MEDIA programme.

## II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Iceland and the discussion at the screening meeting. Iceland states that it can accept the *acquis* regarding Information Society and Media and that it does not expect any difficulties to implement the *acquis* by accession.

### Digital Agenda for Europe (DAE)

Iceland stated that preparation at national level is in line or surpasses requirements of the DAE (particularly regarding general internet penetration and download allocations). Iceland is already participating in the High Level Group on the Digital Agenda and in the Competitiveness and Innovation Framework Programme (CIP).

Iceland's current information society strategy (2008-2012), called "Iceland the e-nation", focuses on the online accessibility of all appropriate public services and aims to offer user-friendly and efficient services at a single location. The formulation of the policy and its implementation is under the responsibility of the Prime Minister's Office with currently two staff working on the policy. Iceland is currently developing a communications policy plan (to succeed the Telecom Policy Statement 2005-2010) which will incorporate most of the action areas of the DAE.

In the area of the **digital single market**, Iceland is currently experiencing a fragmented market limited to national portals with limited possibilities for cross-border activities. Iceland informed that **interoperability and standards** – which ensure that new IT devices, applications, data repositories and services interact seamlessly anywhere – will be included in the communications policy plan. With regard to **trust and security**, Iceland is planning to establish a new computer emergency response team (CERT) at the premises of the National Regulatory Authority (the Post and Telecommunication Administration). Additional actions will be included in the Communications Policy Plan. In regard to **fast and ultrafast internet access** Iceland estimates that current access network availability is at around 96% of homes in reach of an xDSL

network, 10% of homes connected with fibre, 4% having fixed wireless or mobile wireless access and 0,1% having satellite broadband access. Iceland plans to increase fast (30Mb) and ultrafast access (100Mb) to around 50% of homes, mainly in the metropolitan area, before the end of 2012 primarily through the rollout of VDSL. Iceland aims at 100Mb in 2020 for 99% of homes. Iceland is planning to amend the primary law (on electronic communications) to include articles encouraging the National Regulatory Authority (NRA) to evaluate and address the network investments' needs in its market analysis decisions. Regarding **e-Inclusion**, Iceland stated that it has high computer/ICT literacy; the Ministry of Culture has developed a policy for e-learning to address the 'e-inclusion' of the elderly, people with low income and people with disabilities. Finally, in terms of **ICT- enabled benefits for society**, Iceland participates in the EU Competitiveness and Innovation Programme ICT policy support programme.

Regarding Commission Recommendation 2010/572/EU on the **next generation access network** (NGA), which aims to promote timely efficient investment and innovation in new enhanced high-speed infrastructures, taking due account of the risk incurred by all investing undertakings, Iceland informed that the NRA will take this recommendation into account in their market analysis and also when designing regulatory remedies for market 4 (wholesale network infrastructure access, including shared or fully unbundled access) and market 5 (wholesale broadband access).

Iceland pointed out that it is in a good position to advance further on **broadband** and on DAE actions in general. At the end of February 2011, access of homes and businesses to basic broadband was practically 100% (99,99%). Iceland informed about the creation of a communication fund in 2006 to develop broadband in areas where the market forces alone do not ensure the necessary service. Broadband speed requirements are higher than those indicated in the universal service provisions. The communication's fund proceeds are privately tendered and contracted within the Ministry through a separate unit representing the board of the fund.

## **II.a. Electronic communications policy and information technologies**

The competent authority in the areas of **regulatory framework for networks and services** and **radio spectrum** is the Ministry of the Interior (2 staff). The Electronic Communications Act and the Postal and Telecommunications Administration Act, both enacted in June 2003, constitute the general legal framework in this area in Iceland.

Iceland stated that it takes EU legislation into account immediately, and in the case of recommendations even before publication in the EEA. Iceland also informed that there is a provision in the Electronic Communications Act aimed at implementing EU recommendations on relevant markets. The analysis of relevant markets is notified to the EFTA Surveillance Authority (ESA) by the NRA.

Iceland's **National Regulatory Authority (NRA)** has currently a staff of 24. The financial and legal independence of the NRA is ensured as follows: the financing of the NRA is based on a percentage of the annual turnover of operators. The NRA proposes and executes the budget, which is then accounted for in the NRA annual report. The Ministry of the Interior does not interfere with the NRA's day-to-day operations. NRA decisions can be appealed at the independent appeal committee; between 5 to 10 decisions are taken per year. There is no suspensive effect on NRA decisions during the time of the appeal procedure. The cooperation agreement between NRA and the National Competition Authority (NCA) primarily specifies task distribution and division of *ex-ante* regulation (with the NRA) and *ex-post* regulation (with the NCA).

Commission Regulation (EC) No 874/2004 on the **".eu" top-level domain** and the Commission Decision on the **selection of operators providing mobile satellite services (MSS)** have not been incorporated into the EEA Agreement and have therefore not been transposed into Icelandic legislation. Directive 2009/136/EC on the "2009 reform telecoms package" (review of the 2002 EU regulatory framework for electronic communications) is not yet formally included in the EEA agreement since their provisions need to be transposed before May 2011. This is also delaying the transposition of the BEREC Regulation (EC) No 1211/2009 (body of EU regulators) into Icelandic legislation. However, Iceland indicated that a legislative proposal is ready to transpose the amendments to the authorisation and framework directives on electronic communications networks and services, with the remaining legislative proposals expected to be drafted by February 2011.

**Facility sharing** is dealt with in the Electronic Communications Act under a general provision on co-locations of equipment and facility sharing. More detailed provisions have been set out within market analysis decisions and subsequent remedies imposed on the incumbent.

According to Iceland, the incumbent operator already has **functional separation** in place, which means that there are two separate undertakings (one for the network, the other for services) under the same ownership.

On **net neutrality**, Iceland informed that this principle will be strengthened in future legislation.

As regards **universal service**, Iceland indicated that it is currently reviewing the universal service obligation, and is considering to increase the minimum requirement of 128 kb/s for data bandwidth. .

Regarding 'end user interests' and **number portability**, Iceland stated that it is already fulfilling the requirement of porting a number within one day.

Iceland indicated the need for specific adaptations on the **roaming Regulation** (EC) No 544/2009. Transactions in other currencies are determined by applying the European Central Bank exchange rate. However, due to currency exchange rate restrictions on the Icelandic Krona, there is no registration of the exchange rate at present.

The **local loop** (access infrastructure) in Iceland consists mostly of copper wire (6% fibre optics). Alternative access infrastructure does not exist, except for some small areas where local operators provide wireless connections.

In the area of **radio spectrum**, Iceland indicated that the digital switchover is planned for the end of 2012, but the method is still to be decided. Iceland expects no problems on the spectrum issues. The main platform is terrestrial, but other platforms are emerging such as Internet Protocol Television (IPTV) and digital broadcasting services via satellite. Decision 2008/477/EC on the harmonisation of the 2500-2690 MHz frequency band was flagged by Iceland as potentially requiring specific adaptations as this frequency band (2500-2690 MHz) is in use for digital television broadcasting and assurance may be needed on the possible extension of the spectrum licence to third generation mobile phones.

## **II.b. Information society services**

The formulation of the policy on information society and its implementation is coordinated by the Prime Minister's Office (2 staff) in cooperation with the Ministry of the Interior (2 staff) and the Ministry of Education, Science and Culture (2 staff).

In the field of **e-commerce**, Iceland stated that it has fully implemented the EU legislation in line with its EEA obligations. EU Directive 2000/31/EC on e-Commerce has been transposed by the Icelandic Act No. 30/2002 on Electronic Commerce and Other Electronic Services. Decisions adopted by the Icelandic consumer agency can be appealed at the independent consumers appeal committee.

Regarding the Icelandic legislation on **conditional access services**, Iceland stated that it is largely aligned with EU legislation. Directive 98/84/EC is largely transposed by Iceland's Broadcasting Act No. 53/2000. Iceland specified that internet routers (end user equipment), which are not covered by the current relevant legislation, will be included in the revision of the Electronic Communications Act by July 2011.

The overall responsibility for implementing the **Notification Directive 98/48/EC**, which established a mechanism by which Member States must notify the Commission of any draft legislation in the field of information society services for which there is no EU legislation, remains with the Ministry of Foreign Affairs, with the day-to-day notifications delegated to the consumer agency.

## **II.c. Audiovisual policy**

In the field of European audiovisual standards, the competent authority is the Ministry of Education, Science and Culture with currently four people working in this policy area. Iceland indicated that its legislation is largely in line with the *acquis* except for the Audiovisual Media Services (AVMS) Directive, which has not yet been transposed into national law. The AVMS directive will be transposed by the new Media Bill which should be adopted in spring 2011. The issue of advertisements for alcoholic beverages within the AVMS directive was flagged by Iceland as potentially requiring specific adaptations.

## **III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY**

Overall, Iceland has already reached a high level of alignment and applies a substantial part of the *acquis* in the fields covered by this chapter, due to its EEA membership. Some parts of the regulatory and policy framework, in particular those still to be included in the EEA Agreement, require transposition and implementation. Iceland's administrative capacity in the field of information society and media is satisfactory at present, but Iceland will need to ensure that the administrative capacity is sufficient in view of the *acquis* requirements that still have to be transposed.

### **Digital Agenda for Europe (DAE)**

Regarding the implementation of DAE, the preparation at national level is in line with the requirements of the DAE. Some areas such as general internet penetration and download allocations may even surpass DAE requirements. Furthermore, Iceland is already participating in the High Level Group on the Digital Agenda advising the Commission and in the Competitiveness and Innovation Framework Programme (CIP). The enforcement record and administrative capacity are satisfactory in this area.

### III.a. Electronic communications policy and information technologies

Regarding **electronic communications and information technologies**, some adjustments are necessary to implement the amended provisions on the **independence of the NRA**. The most important aspects are: a) to legally ensure that the NRA will not work under the 'instructions' of the ministry, b) to have the conditions for the dismissal of the Head of NRA legally specified. Moreover, Iceland needs to ensure that the notification obligations under Article 7 of the Framework Directive 2002/21/EC are contained in the law itself. Iceland will need to ensure that the NRA has the necessary administrative capacity when the BEREC Regulation has been transposed.

The **mobile satellite services selection Decision** is not applicable to new member states.

**Facility sharing** is applied in Iceland. No further action is required at this stage.

On **net neutrality**, Iceland needs to ensure that the relevant principles contained in the "2009 telecoms package" are fully transposed.

Concerning **universal service** Iceland needs to ensure that its current review of the universal service obligation is in line with the *acquis*.

Iceland already fulfils the new requirement of **number portability** within one day (to be implemented by EU Member States by May 2011).

Regarding **roaming**, no specific adaption is needed of Article 1(4) of the roaming Regulation relating to exchange rates.

Regarding the access infrastructure (**local loop**, Iceland will need to analyse markets 4 (wholesale network infrastructure access, including shared or fully unbundled access) and 5 (wholesale broadband access), taking into account the NGA recommendation also when designing regulatory remedies for these markets.

Regarding **radio spectrum policy**, Iceland is expected to fulfil the requirements under Decision 2008/477/EC without any adaptations.

### III.b. Information society services

Iceland is largely in line with the *acquis* on information society services and has the necessary administrative capacity. However, there remain several gaps in the transposition of the **e-commerce Directive** (EU Directive 2000/31):

- Article 7 regarding unsolicited commercial communications (spam) is not fully transposed. Furthermore, Iceland has to ensure full transposition of the modified provisions of the e-privacy Directive 2002/58/EC, including on unsolicited communications ('spam') and cookies.
- Article 8 allowing commercial communications for regulated professions still needs to be transposed. Iceland has only amended legislation prohibiting commercial communications for specific regulated professions.
- Article 15 on the prohibition of a general obligation on providers to monitor the information which they transmit or store still needs to be transposed.

As regards the transposition of the **conditional access Directive**, the Commission notes that Icelandic legislation is only partially in line with the *acquis*. Legal protection needs to be extended to conditional access devices other than broadcasting services decoders.

### **III.c. Audiovisual Policy**

In the field of audiovisual policy, still needs to fully transpose the Audio Visual Media Services (AVMS) Directive. Iceland should consult the content of the AVMS Directive before adopting its new Media Bill so as to ensure full alignment without any specific adaptations on the advertising on alcoholic beverages. The Commission will monitor progress on the implementation of the AVMS Directive. Iceland will need to ensure that administrative capacity is sufficient in view of the requirements of the AVMS directive.