



CULLEN

INTERNATIONAL

Protecting the digital consumer

Overview of EU rules

BITS seminar
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Overview

- EU sector specific rights
- EU horizontal rights
- National rights
- Inconsistencies



Personal data

€€€€

Personal data + €€€€

AVMS
(Editorial
responsibility)



ECS
(Conveyance
signals)

Payment services






ISS
(At a distance,
individual request)

Services
(Economic activity)

EU sector specific rights

Sector specific rights

AVMS Directive 	Telecoms Package 	Electronic Commerce Directive 	Services Directive
Minors specifically protected	USO	Protection when placing an order	Non-discrimination
Protection against content containing incitement to hatred based on race, sex, nationality, religion	Number portability	Information to be provided when contracting	Information rights (redress, contact details of associations providing assistance)
Protected against certain types of advertising & advertising time limits	Cannot be locked in for more than 2 years Must have access to 12 month contracts too	Right to know that advertisement & who is behind	Information on general contract clauses
Minors specifically protected	Affordable tariffs		Existence of after sales guarantees
	Quality of service		Right to know main features of service + price
	+ e-privacy		Quality of service (information on)

EU horizontal rights

Horizontal rights

	Consumer Rights Directive	Unfair Commercial Practices Directive	Data Protection Regulation
ISS	v	v	v
ECS	v	v	v
AVMS	v	v	v



INTERNA

Some rights (fully harmonised)

Ban on misleading and aggressive commercial practices

Black list of unfair commercial practices

Harmonisation of pre-contractual information

Information on online ordering process

Right to withdraw

Ban on additional fees/payments

Delivery within 30 days

National rights



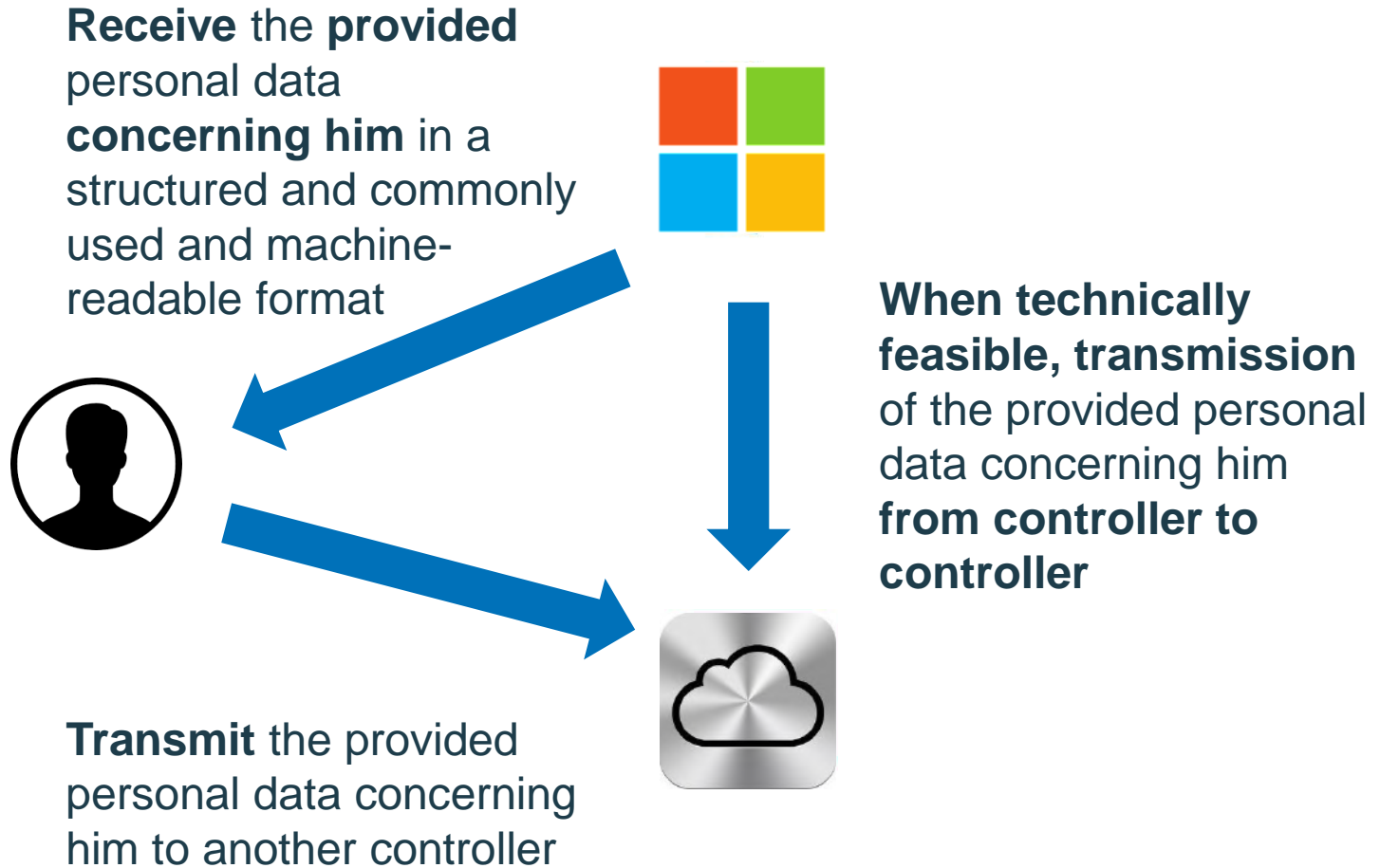
Inconsistencies

Some inconsistent rights

- ✓ **Portability (or right to retrieve)**
- ✓ **Contract duration**

General Data Protection Regulation

Right to data portability



A right to retrieve proposed directive on digital contracts

Technical means to retrieve

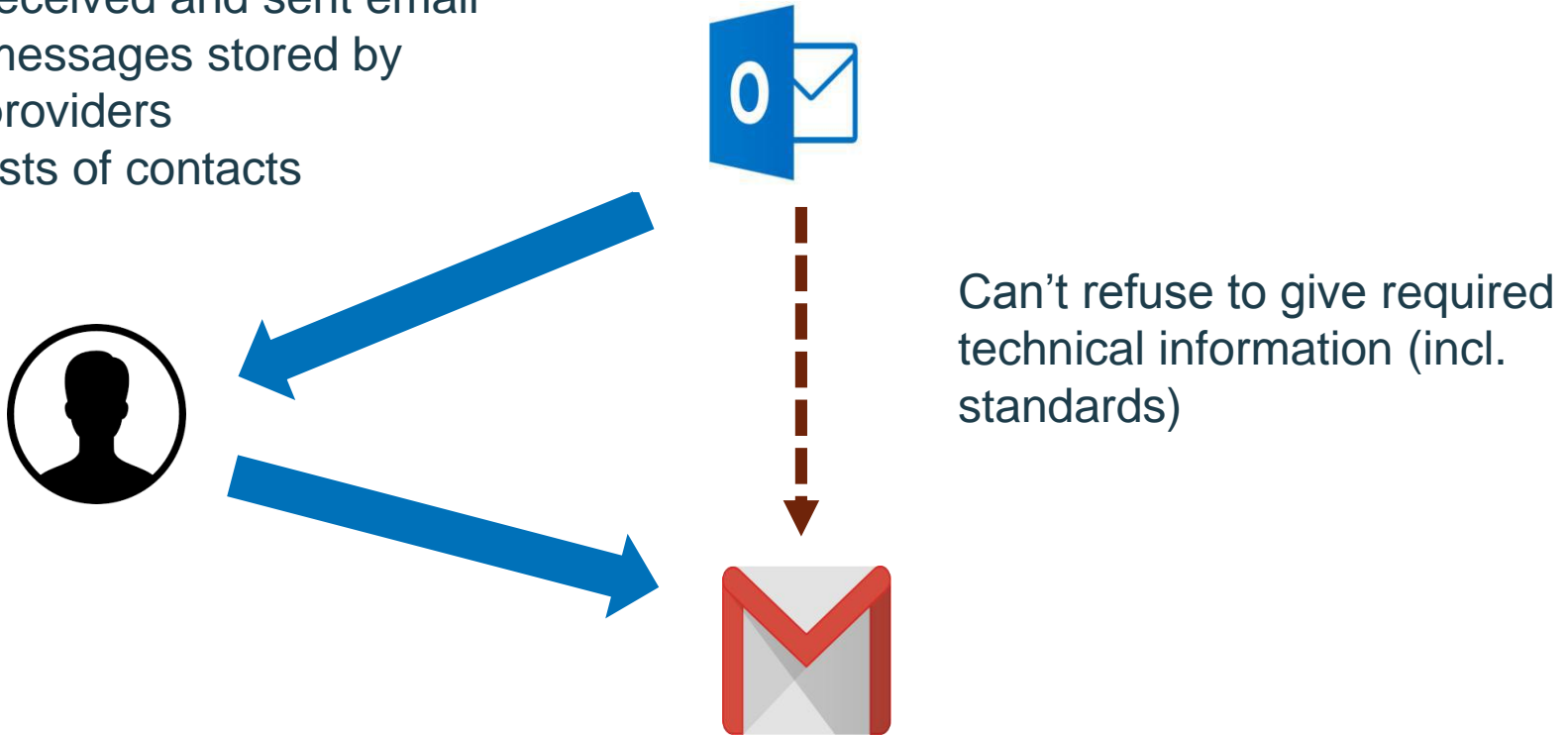
Content provided by the
consumer and any other
data produced/generated
through the consumer's
use of the digital content
**in commonly used
format**



Email portability

Bill on the digital republic (France)

- received and sent email messages stored by providers
- lists of contacts



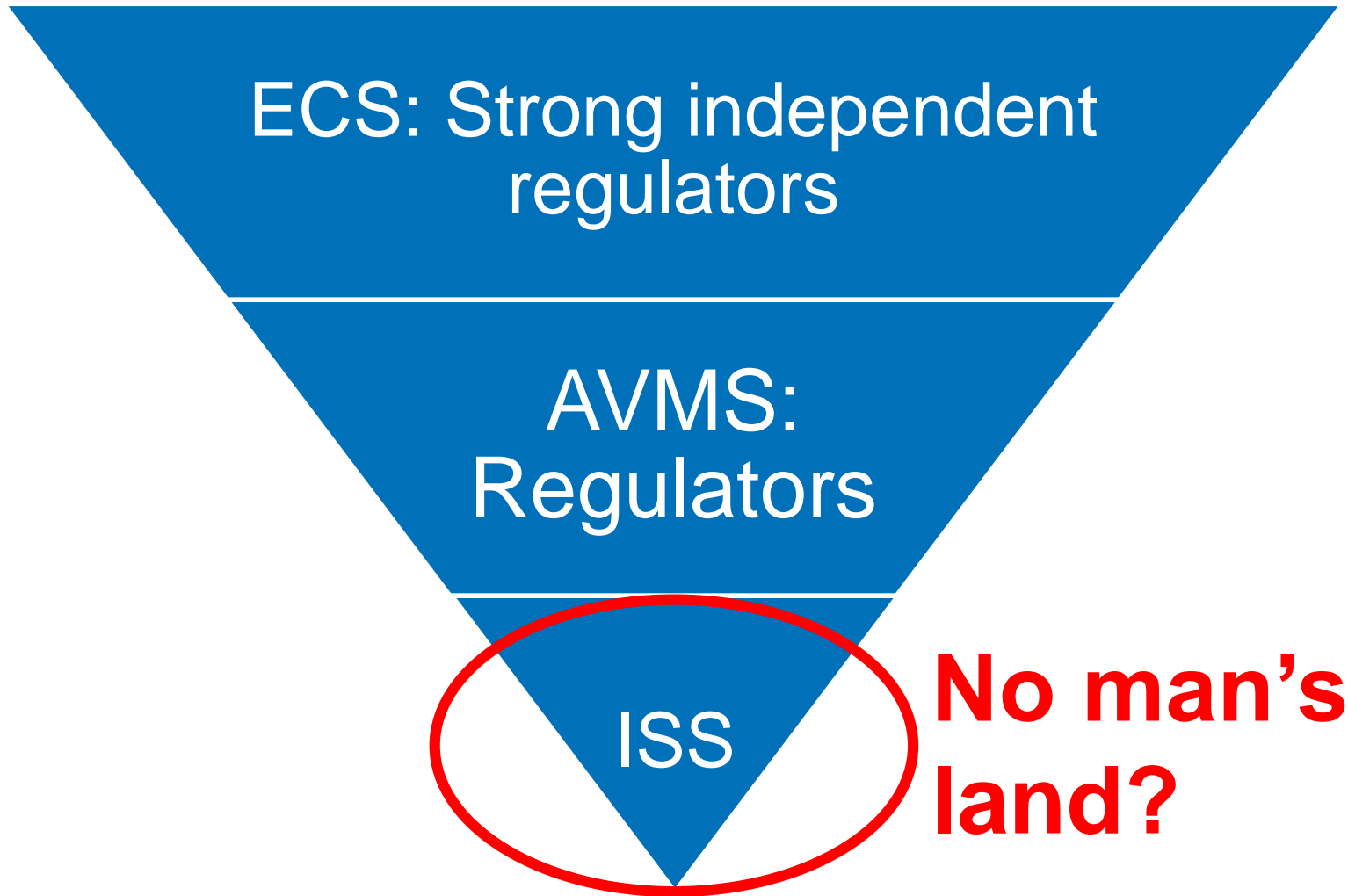
Portability and right to retrieve

	Beneficiaries	Suppliers	Type of data	Next
Number portability	Subscribers	ECS	Telephone numbers	Role for NRA
Data portability	Data subjects	Data controllers	All personal data provided by them & concerning them	Adoption then guidance by WP29
Digital content	Consumers	Suppliers of digital content but not ECS	Video, audio, chats, tweets, ratings,...	Adoption
Email portability (French proposal)	Consumers	Providers of email services	Received and sent emails Contacts	Adoption

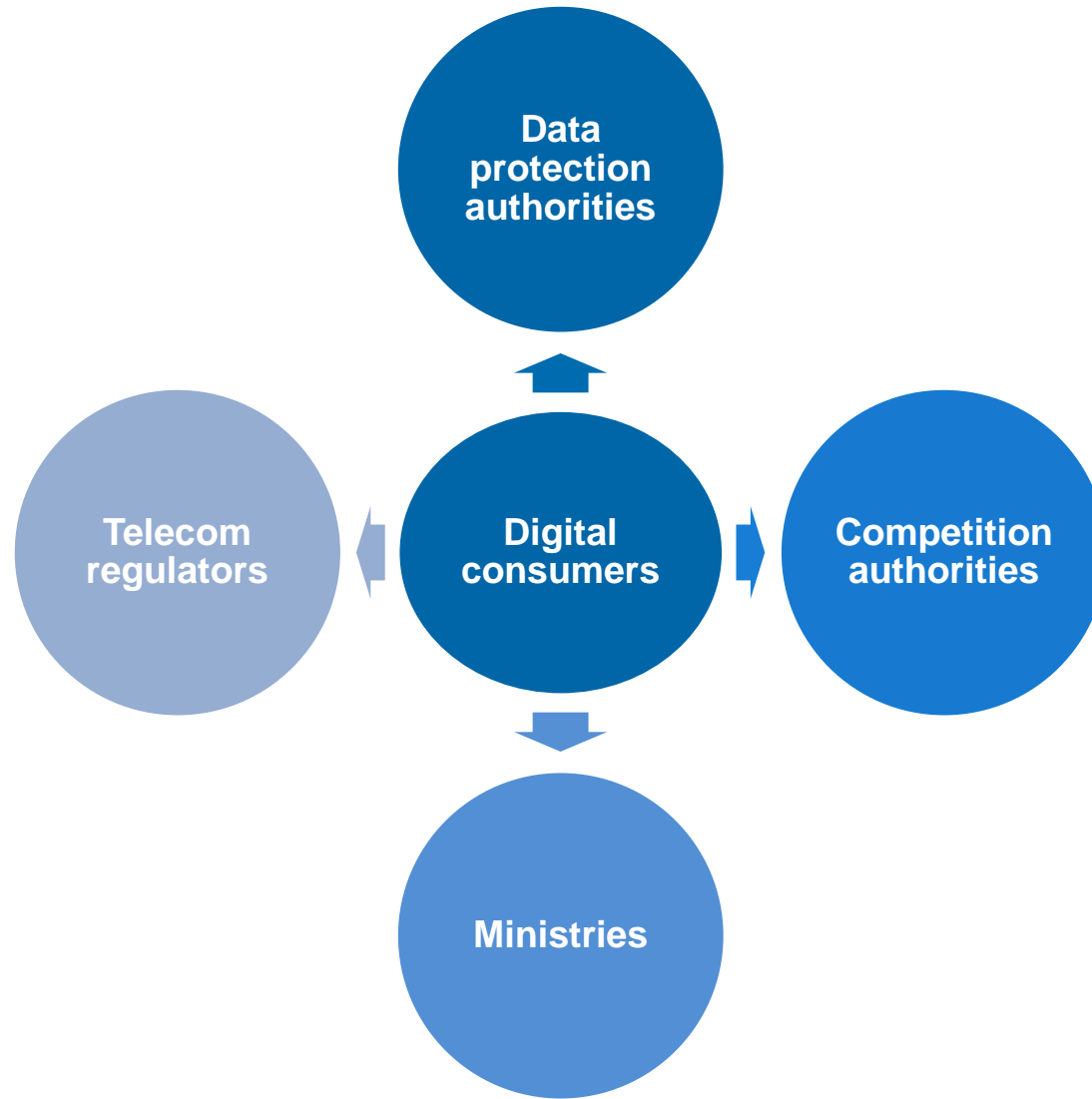
Contract duration

Type of service	Max contract duration	Source
ECS	24 months	Universal Service Directive
Digital content contracts (i.e. video, TV, games, cloud, SNS)	12 months (right for consumer to terminate after 12 months, with 14 day notice)	Proposed directive on certain aspects concerning contracts for the supply of digital content (COM(2015) 634 final)

Unequal protection and enforcement?



The role of regulators/authorities



Consumer
protection
associations

The time is right to rethink

- REFIT of consumer protection directives
- Review of telecom package
- Review of AVMS
- Review of e-privacy
- Process of adoption of proposed directive on digital content

- Shame about the Ecom Directive