

## **European Subsea Cables Association (ESCA) Position Statement on Post-Installation Fishing Gear Trials**

### **Introduction**

ESCA advises that subsea cables, buried or otherwise, present a potential hazard or entanglement risk to fishermen. Subsea cables are Critical National and International Infrastructure; fishing in close proximity to cables presents a hazard to those cables which may cause damage resulting in loss of communications and/or power. ESCA strongly advises against any type of fishing, where there is a known and charted cable.

Cable owners ensure that positions of subsea cables are well known so that they can be avoided for the purpose of safety. Information on subsea cables around the UK and Northern Europe can be downloaded free of charge at <https://kis-orca.org/>. ESCA strongly advises that all fishermen ensure that up to date cable data is installed on their fishing plotters. We also urge all regulators and marine authorities to advise the same. Safety bulletins are also issued by Kingfisher to inform other sea users of ongoing cable installation or repair activities or known seabed hazards <https://kingfisherbulletin.org/>.

It is against UK, EU and International law to wilfully or negligently damage a subsea cable (Submarine Telegraph Act 1885, United Nations Convention on the Law of the Sea (UNCLOS)).

### **Post-Installation Fishing Gear Trials**

Over-trawl trials have been proposed<sup>1</sup> to industry as a method to verify whether it is safe to undertake demersal trawling or dredging over a subsea cable or deployed external cable protection.

Some Offshore Renewable developers have worked with regulators to explore, in a positive way, whether over-trawl trials represent a viable way to look at opportunities for greater co-existence.

There are notable issues with such methods as follows:

- The seabed is a dynamic and moving environment. If a cable is buried when an over-trawl were to take place, it may not be buried to the same extent hours/days/weeks/months later.
- Offshore Renewable installations and other submarine cables are generally deployed with a design life of 25 or 40 years, and in some cases are expected to

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<sup>1</sup> The method has been proposed in Scotland and England, but the position of ESCA regarding over-fishing trials applies to subsea cables in any location across Europe.

be in place for longer. Over-fishability trials only demonstrate a 'snapshot in time' and do not provide any useful indication whether it is safe to fish over subsea cables following installation, whether buried or unburied. The seabed is a dynamic environment, and burial depths and risk of exposures can change over time.

- If cables are trawled over numerous times, even when buried or protected with external cable protection measures, the depth of cover may be reduced as a result, and the integrity of any protection measures may be impaired.
- An over-trawl trial could be seen as an endorsement of the undertaking of a recognised unsafe practice, with potential liabilities arising as a consequence in the event of a future snagging incident, for example.
- Any instruction or recommendation, whether explicit or implied, to undertake a recognised unsafe practice carries the risk of vicarious liability.
- Wider Maritime Safety Advice urges caution when vessels are anchoring or trawling in the vicinity of subsea cables. Such practices should be avoided within 0.25nm of subsea cables. Undertaking over-trawl trials are therefore not consistent with the responsibilities of the skippers of fishing vessels under the International Convention for the 'Safety of Life at Sea' (SOLAS)<sup>2</sup>.

ESCA's position is that it is not reasonable for regulators to expect or oblige operators to undertake such trials, particularly considering the widely acknowledged safety risks, recommendations, industry practice and guidance that exists in the marine community.

### **Sea Users Safety Responsibilities**

In accordance with SOLAS, vessel operators and the master of any vessel have obligations to ensure the safety of vessel and crew and take into account navigational hazards when planning each voyage. As such, fishing over subsea cables should be avoided in all circumstances in accordance with safety advice from the maritime bodies responsible for safety offshore.

The Maritime and Coastguard Agency (MCA) has issued Marine Guidance Note (MGN) 661<sup>3</sup> to highlight 'Safe and Responsible Anchoring and Fishing Practices' which clearly explains the risks and responsibilities of other sea users.

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<sup>2</sup> Guidance on the interpretation of SOLAS chapter five for fishing vessels:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/282259/mgn266.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282259/mgn266.pdf)

<sup>3</sup> <https://www.gov.uk/government/publications/mgn-661-mf-navigation-safe-and-responsible-anchoring-and-fishing-practices/mgn-661-mf-navigation-safe-and-responsible-anchoring-and-fishing-practices>

### **ESCA Position on Over-Trawl and other Fishing Gear Trials**

Collaborative engagement between the sectors that deploy subsea cables and the fishing industry will lead to increased cross-sector understanding, and a safer environment for fishing vessel operators and protection of vital seabed assets. Long-standing industry advice must be taken into account when assessing suitability of Fishing Gear Trials and methods, given such could be seen as an endorsement of fishing over cables.

ESCA advises it is unsafe to fish over subsea cables, whether buried or unburied, or potential areas that could present a risk of snagging, such as associated external cable protection.

Snagging seabed infrastructure poses a serious risk to the safety of vessels and personnel. Subsea cables are charted and their locations are freely disseminated to the fishing industry to promote safe working practices in accordance with The Admiralty Mariners' Handbook (NP100)<sup>4</sup> and safety advice from the MCA (MGN 661).

The Admiralty Mariners' Handbook (NP100) sets out the clear safety message that demersal fishing should not take place within 0.25nm of any subsea cable. MGN 661 clearly states that this guidance should be particularly referred to regarding anchor operations and fishing activities.

Whilst subsea cables vary in physical characteristics, and sectors that deploy submarine cables have different requirements – there is no distinction in law in terms of safety between cables for Telecommunications, Interconnectors, Distribution Cables, or cables connecting Offshore Renewable Infrastructure.

In all circumstances, ESCA recommends that fishing should be avoided over all types of submarine cable, and emphasises that over-trawling or other fishing gear trials do not offer a means to demonstrate any increase in safety – either safety of life, or relating to protection of critical infrastructure.

Approval or requirement of over-trawl or other methods that encourage fishing over submarine cables poses a threat to safety of life, to property, to the environment and the integrity of critical National and International infrastructure.

### **About ESCA**

European Subsea Cables Association's (ESCA) primary goals are the promotion of marine safety, protection of the marine environment and the safeguarding of subsea cables from man-made and natural hazards.

For further information please visit: <https://www.escaeu.org/>

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<sup>4</sup> <https://www.admiralty.co.uk/publications/publications-and-reference-guides/admiralty-mariners-handbook>