

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

2007/0249(COD) - 13/11/2007 - Legislative proposal

PURPOSE: to establish a European Electronic Communications Market Authority.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTEXT: in June 2006, the Commission presented a report to the European Parliament and the Council on the functioning of the regulatory framework for electronic communications networks and services. This extensive and comprehensive review process brought to light a number of important problems that remain to be solved, in particular the lack of consistency in the application of EU rules and the regulatory fragmentation of the internal market.

Indeed, despite the significant progress on the harmonisation of regulation in electronic communications, the inconsistent regulatory approaches by 27 national regulatory authorities – which vary significantly in terms of competences, independence and financial and human resources – stand in the way of technological developments and are increasingly felt by businesses as obstacles to the delivery of trans-national or pan-European services.

The independent advisory group "European Regulators Group" (ERG) was set up by the Commission in 2004 as a means of facilitating consultation, coordination and cooperation amongst national regulatory authorities and between these authorities and the Commission. The current approach within ERG, in practice, requires reaching the agreement among all 27 regulators. The Commission has therefore concluded that the tasks required could be best fulfilled by a separate entity which is independent and outside the Commission and which reinforces the powers of the NRAs by taking over the functions of the ERG and giving them a robust and transparent foundation in Community law.

CONTENT: the Commission is proposing a new independent Authority working in close cooperation with the national regulatory authorities (NRAs) and the Commission. This proposal complements two other proposals that seek to amend directives that comprise the current regulatory framework for electronic communications. (see [COD/2007/0247](#) and [COD/2007/0248](#)).

The new Authority, accountable to the European Parliament, will include a board of regulators comprising the heads of the national regulatory authorities of all EU Member States and will replace the European Regulators Group (ERG). It will provide expert advice to the Commission, notably to prepare regulatory decisions and to further the internal market by improving consistency in the application of EU rules. The new Authority would also take over the functions of the European Network Security Agency (ENISA).

According to the proposal the Authority would complement at European level the regulatory tasks undertaken by the regulatory authorities at national level in the following ways:

The Authority would complement at European level the regulatory tasks performed at national level by the regulatory authorities by:

- **Providing a framework for national regulators to cooperate.** It is proposed to improve the handling of cross-border aspects of e-communications market regulation and network integrity. The

Authority will provide procedures for cooperation between national regulators, in particular as regards the exchange of information, provision of advice and technical support. The Authority would have powers to mediate and resolve cross-border disputes between NRAs. This framework will also promote cooperation between EU national regulators and third countries.

- **Regulatory oversight of market definition, analysis and the implementation of remedies.** The Authority would in general have an advisory role vis-à-vis the Commission as regards market regulation issues and could issue non-binding guidelines to promote good practices among the national regulators. Draft measures of NRAs would be subject to opinions as concern their potential impact on single market and compatibility with Community law, where necessary proposals for modifications would be included in the opinion. These opinions will be delivered to the Commission on a fast-track basis on the basis of a simple majority vote amongst its members.
- **Definition of trans-national markets:** the Authority provides for an efficient and proportional mechanism to respond to growing cross-border markets stemming from rising mobility, increased penetration of internet-based services (e.g. VoIP), satellite-based services and convergence between fixed and mobile services. The Authority will also be responsible for monitoring the development of roaming services, both voice and data.
- **Advice on radio frequency harmonisation:** the Authority would increase the speed and effectiveness of radio spectrum policy through on-going analysis and reporting, the identification of the potential and means for development of new services, maintenance of a register of spectrum use across the EU, advice on common procedures for granting authorisations, technical support in the selection of applications for spectrum licences, advice on withdrawal of rights of use in the case of failure to conform to licence conditions.
- **Decision powers on numbering administration and advice on number portability.** The Authority would be charged with the administration and development of the European Telephony Numbering Space (ETNS), i.e. numbers using a single EU-wide prefix (3883) that can be assigned to organisations wishing to establish one-stop, pan-European call-centres. In addition, the Authority would work with NRAs and Member States on European aspects of numbering and number portability, inter alia by reporting on the development of the European Emergency Number 112, the identification of numbering ranges for cross-border services, the identification of the potential and means for development of new services, and providing advice on common procedures for granting authorisations.
- **Network and information security.** The Authority will subsume the tasks of the existing European Network and Information Security Agency). In so doing it will reinforce the coherence between obligations to ensure network integrity that today fall on NRAs and the responsibility to create a culture of network and information security that is today the remit of ENISA.
- **General informational and advisory functions.** The Authority would have a role to provide an annual report on the development of the electronics communications sector (offer and penetration of new services, development of competition, review of national regulatory situation, remedies applied, information on appeals procedures, etc.). In addition it would monitor and report on interoperability and e-accessibility in Europe, with the ability to issue recommendations on measures to be taken at national level to better meet, in particular, the needs of disabled or elderly citizens.

The annual budget is estimated at **10 million EUR** for the Authority's first year of operation, reaching 28 million EUR in its third year.