

# **Electronic communications: common regulatory framework for networks and services, access, interconnection and authorisation. 'Telecoms Package'**

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The Committee on Industry, Research and Energy adopted the report drafted by Catherine **TRAUTMANN** (PES, FR), at first reading of the codecision procedure, on the proposal for a directive of the European Parliament and of the Council amending Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services, Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and Directive 2002/20/EC on the authorisation of electronic communications networks and services.

The main amendments concern the following issues:

**Additional objectives of the regulatory framework:** MEPs consider that amended regulatory framework should also encompass the additional aims of: i) promoting consumer protection in the electronic communications sector by providing for accurate and comprehensive information, employing every possible means to that end, for transparency in

terms of fees and charges, and for high standards in the delivery of services; ii) fully recognising the role of consumer associations in public consultations; iii) ensuring that the competent authorities are provided with the powers to thwart possible rigging and act with the necessary effectiveness to stamp out any instances of fraud involving electronic communications services.

**Public policy:** the activities of national regulatory authorities and of the Commission under the framework for electronic communications contribute to the fulfilment of broader public policy objectives in the areas of culture, employment, the environment, social cohesion, regional development and town and country planning. Public intervention should be proportionate and should neither distort competition nor inhibit private investment and should increase incentives to invest and lower entry barriers. In this respect, public authorities may support the rollout of future-proof high-capacity infrastructure. In so doing, public support should be attributed through open, transparent and competitive procedures, should not favour a priori any given technology and should provide access to infrastructure on a non-discriminatory basis.

**Consultation:** the views of national regulatory authorities and industry stakeholders should be taken into account by the Commission when adopting measures under this Directive through the use of effective consultation to ensure transparency and proportionality. The Commission should issue detailed consultation documents, explaining the different courses of action being considered.

**Towards generalised competition:** the aim is to progressively reduce ex ante sector specific rules as competition in the markets develops and, ultimately, for electronic communications to be governed by competition law only. It is essential that ex ante regulatory obligations should only be imposed where there is no effective and sustainable competition. Ex ante regulation should be reviewed as to the necessity of its continuation no later than three years after the date of transposition of this directive.

**Under national markets:** in order to ensure a proportional and adapted approach to varying competitive conditions, national regulatory authorities should be able to define markets on a sub-national basis and/or

lift regulatory obligations in markets and/or geographic areas where there is effective infrastructure competition, even if they are not defined as separate markets.

**Investments:** MEPs also advocate appropriate incentives for investments in new high-speed networks that will support innovation in content-rich internet services and strengthen European international competitiveness. Member States should release their digital dividends as quickly as possible, allowing citizens to benefit from the deployment of new, innovative and competitive services.

**Purpose of the Directive:** this Directive establishes a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services, and certain aspects of terminal equipment to facilitate access for disabled users and encourage the use of electronic communications by less favoured users.

**European Body of Regulators in Telecom (BERT):** MEPs introduced a new measure which ensures that the Member States ensure the establishment of the Body of Regulators in Telecom (BERT) comprised of all National Regulatory Authorities (NRAs). BERT would be set up as an association of national regulatory authorities that would not have an independent legal personality. Member States shall ensure that the goals of BERT in promoting greater regulatory coordination and coherence are actively supported by the respective national regulatory authorities. Member States shall ensure that NRAs take utmost account of common positions issued by BERT when adopting their own decisions for their home markets.

**Appeal bodies:** an effective regulatory framework requires also the existence of specialised appeal bodies and effective appeal mechanisms in order to prevent abuse of appeal procedures. Appeal procedures should also be entitled to consult BERT should the case have an internal market impact.

**Procedure for the consistent implementation of proposed solutions:** a dispute resolution procedure, rather than a veto mechanism, should be put in place to engage actively all the parties concerned, the Commission, the individual NRAs, BERT and the stakeholders in searching for constructive solutions regarding the imposition of remedies. The report proposes an alternative procedure for the consistent application of remedies. The procedure is based upon the principle that only if the Commission and BERT (acting by a simple majority) agree that the proposed remedy is not appropriate the Commission could issue a reasoned decision requesting the NRA concerned to amend the draft measure.

**Coordination of radio spectrum policy in the European Union – role of the Commission:** Member States shall cooperate with each other and with the Commission in the strategic planning, coordination and harmonisation of the use of radio spectrum in the European Union. To this end, they shall take into consideration, *inter alia*, economic, safety, health, public interest, freedom of expression, cultural, scientific, social and technical aspects of the EU policies. In the future, the management of frequencies should take account of cultural aspects and promote media pluralism.

**Flexible management of spectrum:** the draft directive, as amended, would require Member States to ensure that any technology or any service can use any frequency available for electronic communications services, in line with national frequency allocation plans and with the International Telecommunication Union's Radio Regulations. Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of technologies used to avoid harmful interference, to safeguard the efficient use of radio frequencies or to fulfil a general interest objective.

**Sharing of network elements and associated facilities:** where an undertaking providing electronic communications networks has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities shall, taking full account of the principle of proportionality, be able to impose the sharing of such facilities or property, including entries to buildings, building wiring, masts, antennae, towers and other supporting constructions, ducts, conduits, manholes and cabinets and all other

network elements which are not active. National Regulatory Authorities shall have the powers to require that the holders of the rights referred to in the Directive share facilities or property (including physical co-location) in order to encourage efficient investment in infrastructure and the promotion of innovation, after an appropriate period of public consultation.

**Numbering:** the Commission should be able to consult BERT in the area of numbering. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to be able to reach certain services by using the same recognisable numbers at similar prices in all Member States, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, the applicable tariff principle or mechanism, as well as the establishment of a single EU front-up call number ensuring user-friendly access to these services.