

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

2007/0247(COD) - 29/07/2009 - Commission opinion on Parliament's position at 2nd reading

At its Plenary Session of 6 May 2009, the European Parliament adopted a number of amendments negotiated with the Council to the Council's common position with a view to securing adoption in second reading. The Commission accepts the European Parliament's amendments as being in line with the overall purpose and the general characteristics of the proposal. It amends its proposal in line with the amendments voted by the European Parliament in second reading.

To recall, these amendments concern the following:

- **on spectrum:** the introduction of greater flexibility through service and technology neutrality albeit with a series of exceptions; the possibility of imposing service exclusivity in limited cases; the adoption of pluriannual spectrum policy programmes by the European Parliament and Council upon a proposal by the Commission assisted by the Radio Spectrum Policy Group; the power to harmonise bands where rights are to be made tradable, and exemption from the requirement to initiate a new award of rights in the case of the review of restrictions to existing rights;
- strengthening the independence of the national regulatory authorities responsible for ex ante market regulation and dispute resolution;
- further clarification of the requirements applicable to appeals against decisions of the national regulatory authorities;
- provision for the Commission, in close cooperation with BEREC, to issue recommendations with regard to the withdrawal and/or amendment of draft measures notified by national regulatory authorities relating to the imposition, amendment or withdrawal of ex ante obligations on operators;
- ensuring that national regulatory authorities take measures to promote the interests of citizens by safeguarding fundamental rights and freedoms of end-users;
- power for the Commission to adopt further harmonisation measures in the form of recommendations or binding decisions, where divergences in the implementation of remedies persist;
- strengthening the powers of national authorities to impose obligations for the sharing of facilities or property associated with electronic communications networks;
- clarification of the principles and objectives to be followed by national regulatory authorities, with particular reference to preserving incentives for investment in new network infrastructure while safeguarding competition;
- updating and modernisation of provisions in order to improve the technological neutrality of the framework;
- new provisions setting out the conditions and procedure for the imposition of functional separation by a national regulatory authority.

As regards a specific European Parliament amendment which leaves Member States to ensure that a fair balance is struck between the various fundamental rights protected by the Community legal order (in particular, the right to respect for private life, the right to protection of property, the right to an effective

remedy and the right to freedom of expression and information), the Commission states that it can accept it in its amended proposal after the European Parliament's first reading but supported the European Parliament-Council compromise text afterwards as a balanced solution. The Commission could, therefore, accept the amendment, but will do its utmost to facilitate the emergence of a compromise between the co-legislators on this issue.