Electronic communications: common regulatory framework for networks and services. Framework Directive

2000/0184(COD) - 28/03/2001 - Document attached to the procedure

This report presents the Commission's working document on the draft guidelines on market analysis and the calculation of significant market power under Article 14 of the proposed Framework Directive on a common regulatory framework for electronic communications networks and services. These guidelines set out the principles for use by National Regulatory Authorities (NRAs). They are for the NRAs to use when determining whether an undertaking or undertakings enjoy significant market power as defined in Article 13 of that directive. Undertakings designated as having significant market power may be subject to obligations under other Directives in the regulatory package. These guidelines address the following subjects: market definition, assessment of Significant Market Power, SMP designation and procedural issues. The guidelines are structured in sections. Section 2 describes the methodolgy for market definitions. Section 3 describes the criteria for assessing SMP in a relevant market. Section 4 outlines the possible outcomes that NRAs may reach in their assessments of markets and sets out the possible actions in respect of each possible outcome. Section 5 describes the powers of investigations of NRAs, suggests procedures for co-ordination between NRAs, between NRAs and NCAs, and describes co-ordination and co-operation between NRAs and the Commission. Section 6 describes procedures for public consultation and publication of NRAs' proposed decisions. Lastly, by issuing these guidelines, the Commission also intends to explain to interested parties and companies operating in the electronic communication sector how NRAs will make their assessments of SMP under Directive (framework). By publishing these Guidelines, the Commission intends to maximise the transparency and legal certainty in the application of the sector specific legislation to which they are complementary. The Commission will amend the Guidelines, whenever appropriate, in the light of NRAs experience and related developments, for example, in response to future judgements of the Court of First Instance and the Court of Justice in competition law cases.