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

2000/0184(COD) - 07/02/2002 - Commission opinion on Parliament's position at 2nd reading

The Commission can accept in full all 23 amendments made by the European Parliament. These refer in particular to: - harmonisation: the main issue dividing Council and Parliament during the negotiations has been the so-called 'transparency mechanism'. The Commission proposed that the Commission should have powers to require a national regulatory authority to withdraw draft measures in certain areas where those measures were contrary to Community law. Parliament strongly supported the Commission propsoal in its first reading, sharing the Commission's analysis that there was a need for a balancing harmonisation power, given the increased discretion delegated to national authorities under the new framework. The Council, on the other hand, rejected this binding intervention power in its common position. The compromise solution sets out in some of the amendments represents a good balance between these two positions, concentrating the Commission's power to intervene on the two issues central to maintaining consistency of regulatory action. It covers decisions to analyse markets not listed in the Commission recommendation and the designation or not of undertakings as having Significant Market Power (SMP). Another amendment reinforces consistency of regulatory decision-making; - interoperability: in its first reading and in committee, the Parliament adopted several amendments strengthening provisions on interoperability, in particular an amendment mandating implementation of the so-called Multimedia Home Platform (MHP) standard for interactive services on digital TV on all new market players (and entirely replacing the existing Article 16 on standarisation). Council argued that to impose the MHP standard would contradict the new approach on standardisation and the directive's own Article 16 whereby standardisation should be industry-led an voluntary and to require NRAs to have objectives related to content was not appropriate. The compromise stikes a good balance between the two positions. It requires Member States to encourage digital television platform operators to use open applciation program interfaces (APIs) and requires the Commission to review the application of the provision one year after the package is transposed, with a view to holding a public consultation upon the desirability of making a standard mandatory; - right of appeal: an amendment clarifies that the appeal body may be a court, and require Member States to ensure that the merits of the case are duly taken into account. Other amendments introduce a new requirement for appeal against decisions on rights of way. This is a useful strengthening of the package on righs of way which the Commission fully supports; - roaming: this amendment adds the national market for international roaming to the list of markets which the Commission must include in its first Recommendation on Relevant Markets, thereby ensuring that this market is analysed by national regulatory authorities. The Commission recognises that there are legitimate concerns about the degree of competition in international roaming, and considers this amendment a useful strengthening of the text on this point. In addition, further amendments were adopted which aim to: - clarify that a market which is effectively competitive is in effect a market on which there is no undertaking with a dominantposition; - clarify that systems that use electricity cables for transmission of signals (i.e. 'powerline'systems) are a further example of an electronic communications network; - add a definition of 'trans-national market' which the Commission must identify; - clarify that there is an obligation on NRAs and competition authorities to provide each other with the information necessary to carry out their tasks under this Directive, but that confidentiality of this information must be ensured; - add an obligation for the Commission to consult publicly on its Recommendation on Relevant Markets before adoption.