Electronic communications: authorisation of networks and services

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The European Commission has presented its report on the implementation of the EU Electronic Communications Regulatory Package. The Commission underlines the importance of a full, effective and timely transition to the new EU framework for electronic communications networks and services adopted by the Parliament and Council in March 2002. This position has been strongly endorsed by the European Parliament. The European Parliament and Council set a legal deadline of 24 July 2003 for the transposition of the main provisions of the new framework. - As of 1 November, only eight countries had taken action to incorporate the Framework, Authorisation, Access and Universal Service Directives into national law. These are: Denmark, Spain, Ireland, Italy, Austria, Finland, Sweden and the United Kingdom. In some cases, secondary legislation is still required to ensure full transposition. Of those Member States that have not yet notified the Commission of transposition measures, there is particular concern that the passage of drafts through the legislative process is likely to be lengthy (Germany, France); that political uncertainties are causing delays (Belgium); or simply that despite the existence of drafts the legislative process has not yet been completed (Greece, Luxembourg, the Netherlands, Portugal). Infringement proceedings against the Member States were opened in early October 2003 under Article 226 of the Treaty, for failure to communicate transposition measures to the Commission. - By the deadline of 31 October, five countries had adopted measures to transpose the e-Privacy Directive. They are: Denmark, Spain, Italy, Austria and Sweden. In the United Kingdom the regulations transposing the e-Privacy Directive are due to come into force on 11 December 2003; - By 31 October, six countries had notified measures transposing the Competition Directive. They are: Denmark, Ireland, Italy, Austria, Finland and the United Kingdom. Concerning the issue of markets for electronic communications networks and services, the situation now appears to be stabilising. - The rate of growth in revenues is expected to reach between 3.7% and 4.7% in nominal terms in 2003; - The number of mobile subscribers will grow at a higher rate than in 2002, even if the penetration rate is close to 90% in a number of EU countries; - The number of fixed broadband access lines almost doubled between July 2002 and July 2003. - The number of new unbundled lines has increased by 828 000 between July 2002 and July 2003. This is double the number compared to the previous year but is still low as a proportion of total subscriber lines and the development of local loop unbundling is still rather unbalanced across the EU and has not yet taken off; - The recent period of economic weakness has discouraged new fixed operators from entering the voice telephony market: the number of large competing operators in each national market has remained more or less stable. Many operators have refocused their efforts on home markets; - Existing fixed operators now aim mostly at maintaining theposition acquired in the market during the years of market growth, in particular for international and long-distance traffic, where there was strong competition during the first stage of liberalisation. Competitive pressure seems to have moved to the local call segment, where the incumbents' fixed market share has on average decreased by 6% since December 2002. This is a consequence of the increasing use by subscribers of alternative operators for local calls; this has grown over the past year by 39%; - Since August 2002, the EU weighted average charge for call termination on fixed networks has decreased slightly at local and single transit levels (down 4% and 6% respectively), but has remained stable at double transit level; - The EU weighted average call termination charges on mobile networks have decreased by 15.3% for SMP mobile operators. As far as the regulatory issue are concerned, the Commission recognises the enormous amount that has been accomplished by the Member States that have transposed the framework in ensuring that the principles on which it is based are faithfully carried over into national law. The national measures (and drafts in the case of Member States that have not yet transposed) however give rise to some concerns that the Commission considers should be addressed if the objectives of the new framework are to be realised to the full. The Commission will monitor in particular where the Member States have complied with their obligations as regards: - The wider powers and discretion conferred on NRAs under the new framework in order to fulfil their specific

objectives relating to the promotion of competition and the development of the internal market; - The assignment of the tasks attributed to NRAs by the framework to competent national bodies, and the clear attribution of those tasks where they are distributed between different bodies; - The availability to NRAs of the full range of remedies provided for in the new framework, when they find a lack of effective competition in a relevant market; - The timely completion of the market analyses and review of existing obligations by the NRAs; - The principles that must apply to procedures for the grant of individual rights of use of frequencies; - The scope of the universal service, which should be clearly defined in accordance with the new framework, and the requirement that any mechanisms for designating universal service providers and for funding any unfair burden on them be established in a way that minimises market distortion and upholds the principle of non-discrimination.