

Electronic communications: common regulatory framework for networks and services.

Framework Directive

2000/0184(COD) - 06/02/2006 - Follow-up document

The regulatory framework set up in 2002 on provisions for electronic communications was innovative in that it replaced a more mechanistic approach to regulation with that of an economic approach where regulations are based on competition law principles. Under this system, national regulators or “NRAs” are expected to conduct “market reviews” in order to determine whether a particular market should be regulated. In cases where an undertaking appears to be in a dominant position (here referred to as SMP) NRAs must impose appropriate regulation. Conversely, regulation must not be imposed or existing regulation withdrawn, where no undertaking is found to have SMP. The market review system is subject to Commission scrutiny.

The purpose, therefore, of this Communication is to assess the functioning of the Community consultation mechanism for electronic communications and to assess the experience gained so far on its application. The Commission notes that the consultation mechanism under Article 7 has given the Commission a deep insight into developments on e-communication markets access in the EU. The conclusions set out in the Communication are a first assessment of the procedures and act as an input for the forthcoming review of the regulatory framework, including the Commission’s Recommendation on relevant markets, in 2006.

Having thoroughly assessed the situation to date, the Report notes that the market review process, including the Article 7 consultation mechanism, has led to more consistent regulation and therefore represents an important step towards the creation of an internal market for electronic communications. The development of a “joint European regulatory culture” is significant in that all NRAs are expected to follow a common methodological approach, based on EC competition law principles. In spite of some initial investment in terms of analytical and organisational capacities, the new regulatory system has led to an approximation of regulatory approaches and thereby helped to pave the way towards an internal market for electronic communications. It has also ensured that all regulators base their decisions on sound economic considerations and that what regulation there is is kept to a minimum. To conclude, the Commission considers that the system of market reviews establishes a regulatory framework which, on balance, has proved to be a success.

In its next review, the Commission will look for ways to decrease the administrative burden on companies and NRAs and to streamline procedures even further. As such the Commission has launched a call for input on the review of the regulatory framework, which also covers the market review procedures.