

Basic information	
2000/0184(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Electronic communications: common regulatory framework for networks and services. Framework Directive Repealed by 2016/0288(COD) Amended by 2006/0133(COD) Amended by 2007/0247(COD) Amended by 2008/0187(COD) Subject 3.30.05 Electronic and mobile communications, personal communications	

Key players			
European Parliament	Committee responsible		Rapporteur
	ITRE Industry, External Trade, Research, Energy		PAASILINNA Reino (PSE) 22/06/2000
	Former committee responsible		Former rapporteur
	ITRE Industry, External Trade, Research, Energy		PAASILINNA Reino (PSE) 22/06/2000
	Former committee for opinion		Former rapporteur for opinion
	BUDG Budgets		The committee decided not to give an opinion.
	JURI Legal Affairs and Internal Market		NIEBLER Angelika (PPE-DE) 17/10/2000
	ENVI Environment, Public Health, Consumer Policy		The committee decided not to give an opinion.
	CULT Culture, Youth, Education, Media and Sport		RIDRUEJO Mónica (PPE-DE) 10/10/2000
Council of the European Union	Council configuration		Meetings
	Transport, Telecommunications and Energy		2340 2001-04-04
	Transport, Telecommunications and Energy		2374 2001-10-15

	Transport, Telecommunications and Energy	2395	2001-12-06
	Education, Youth, Culture and Sport	2408	2002-02-14
	Culture	2361	2001-06-21
	Telecommunications	2325	2000-12-22
	Telecommunications	2293	2000-10-03
European Commission	Commission DG		Commissioner
	Communications Networks, Content and Technology		

Key events			
Date	Event	Reference	Summary
12/07/2000	Legislative proposal published	COM(2000)0393 	Summary
08/09/2000	Committee referral announced in Parliament, 1st reading		
03/10/2000	Debate in Council		
22/12/2000	Debate in Council		
06/02/2001	Vote in committee, 1st reading		Summary
06/02/2001	Committee report tabled for plenary, 1st reading	A5-0053/2001	
01/03/2001	Decision by Parliament, 1st reading	T5-0112/2001	Summary
21/06/2001	Debate in Council		
04/07/2001	Modified legislative proposal published	COM(2001)0380 	Summary
17/09/2001	Council position published	10420/1/2001	Summary
19/09/2001	Committee referral announced in Parliament, 2nd reading		
15/10/2001	Debate in Council		
04/12/2001	Vote in committee, 2nd reading		Summary
04/12/2001	Committee recommendation tabled for plenary, 2nd reading	A5-0435/2001	
06/12/2001	Debate in Council		
10/12/2001	Debate in Parliament		
12/12/2001	Decision by Parliament, 2nd reading	T5-0676/2001	Summary
14/02/2002	Act approved by Council, 2nd reading		
07/03/2002	Final act signed		
07/03/2002	End of procedure in Parliament		
24/04/2002	Final act published in Official Journal		

Technical information

Procedure reference	2000/0184(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealed by 2016/0288(COD) Amended by 2006/0133(COD) Amended by 2007/0247(COD) Amended by 2008/0187(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/5/14508

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0053/2001	06/02/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0112/2001 OJ C 277 01.10.2001, p. 0017-0091	01/03/2001	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0435/2001	04/12/2001	
Text adopted by Parliament, 2nd reading		T5-0676/2001 OJ C 177 25.07.2002, p. 0082-0152 E	12/12/2001	Summary
Council of the EU				
Document type	Reference		Date	Summary
Council position	10420/1/2001 OJ C 337 30.11.2001, p. 0034		17/09/2001	Summary
European Commission				
Document type	Reference		Date	Summary
Legislative proposal	COM(2000)0393  OJ C 365 19.12.2000, p. 0198 E		12/07/2000	Summary
Document attached to the procedure	COM(2001)0175 		28/03/2001	Summary
Modified legislative proposal	COM(2001)0380  OJ C 270 25.09.2001, p. 0199 E		04/07/2001	Summary
Commission communication on Council's position	SEC(2001)1365 		18/09/2001	Summary

Commission opinion on Parliament's position at 2nd reading	COM(2002)0078 	07/02/2002	Summary
Follow-up document	COM(2003)0715 	19/11/2003	Summary
Follow-up document	COM(2004)0541 	30/07/2004	Summary
Follow-up document	SEC(2004)1028 	30/07/2004	Summary
Follow-up document	COM(2006)0037 	02/02/2006	Summary
Follow-up document	COM(2006)0028 	06/02/2006	Summary
Follow-up document	COM(2006)0334 	29/06/2006	Summary
Document attached to the procedure	SEC(2006)0817 	29/06/2006	
Follow-up document	COM(2007)0401 	11/07/2007	Summary
Follow-up document	SEC(2007)0962 	11/07/2007	
Document attached to the procedure	COM(2007)0696 	13/11/2007	Summary
Follow-up document	C(2008)5925	15/10/2008	
Follow-up document	C(2009)3359	07/05/2009	
Follow-up document	SEC(2009)0599 	07/05/2009	
Follow-up document	SEC(2009)0600 	07/05/2009	
Follow-up document	C(2013)5761	11/09/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0050/2001 OJ C 123 25.04.2001, p. 0056	25/01/2001	
EU	Implementing legislative act	32003H0561 OJ L 190 30.07.2003, p. 0013-0018	23/07/2003	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

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

2000/0184(COD) - 23/07/2003 - Implementing legislative act

COMMUNITY MEASURE : Commission Recommendation 2003/561/EC on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services. CONTENT : under the new regulatory framework for electronic communications networks and services, national regulatory authorities have an obligation to contribute to the development of the internal market by, inter alia, cooperating with each other and with the Commission in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of the Directives making up the new regulatory framework. In order to facilitate and ensure the effectiveness of the cooperation and consultation mechanism set out in Article 7 of Directive 2002/21/EC (Framework Directive) and in the interests of legal certainty, this recommendation aims to lay down clear rules for the notification process and the examination by the Commission of a notification and for calculating the legal time limits. In order to simplify and expedite the examination of a notified draft measure, it is desirable for national regulatory authorities to use a standard format for notifications (summary notification form presented in the Annex). The Commission, together with the national regulatory authorities, will evaluate the necessity of reviewing these rules, in principle no earlier than 25 July 2004.

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

2000/0184(COD) - 12/12/2001 - Text adopted by Parliament, 2nd reading

The European Parliament has approved the recommendation by Reino PAASILINNA (PES, FIN) with the compromises proposed by the largest political groups and the Belgian Presidency. (Please refer to the previous text). In addition, another issue concerned the right to appeal. The compromise gives all network/service providers the right to appeal against the decision of the NRA to an appeal body, which may be a court, that is independent of the parties involved and has the appropriate expertise available to it to enable it to carry out its functions. Pending the outcome of any such appeal, the decision of the national regulatory authority would stand, unless the appeal body decided otherwise. Parliament also adopted an amendment on the development of digital television. Article 16 strikes a balance between consumer interests and investments already made, with a clear focus on the final goal of a standardised, interoperable and open system for digital TV services in the European Union, regardless of the transmission mode and hence technologically neutral. In addition to the changes to the common position, the House adopted an amendments to the legislative resolution, calling on the Commission to communicate to the European Parliament as soon as possible the concrete steps the Commission will take to ensure the rapid adoption of the Multimedia Home Platform as the open, single European standard for interactive digital television services.

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

2000/0184(COD) - 17/09/2001 - Council position

The Council's common position reflects Member States' wish to significantly realign the substance and the wording of the originally proposes Framework Directive. In many instances the changes introduced are done so in order to clarify and improve the legal text itself. Nevertheless, a number of important disagreements between the European Parliament and the Commission on the one hand and the Council on the other remain. Most notably these relate to 'Significant market power', 'Mechanisms for consultancy and transparency', 'The relationship to audio-visual policy', 'Management of Radio Frequencies' and 'Rights of way'. On the matter of 'Significant market power', the Council's common position introduces a number of technical improvements to clarify the text. This is deemed necessary to increase the legal certainty for National Regulatory Authorities (NRAs) dealing with markets where two undertakings with no economic links are exercising joint dominance. A clear set of criteria on joint dominance is set out in Annex 2. On the matter of 'Consultancy and Transparency' (Article 6 and 14) the Council's common position marks a distinct U-turn from that of the Commission. Specifically, the Council can not accept that the Commission would have the power to intervene a priori to prevent National Regulatory Authorities (NRAs) from taking certain measure. The Council considers that the original Commission proposal runs counter to the institutional balance established in the Treaty. In its place, the Council proposes a compromise solution whereby the Commission may delay the implementation of an NRA measure whilst it issues a detailed opinion. Further, the Council common position does not, unlike the Commission proposal, include radio spectrum matters within the sphere of Article 6. In terms of market definition, the Council considers it important to reinforce the role of NRAs in defining relevant markets within its territory, given that many markets are still primarily of national or regional nature. On the matter of 'audio-visual policy', the Council's changes to the Commission text aim to clarify the separate question of audio-visual policy and content regulation.

Other changes aim to promote cultural and linguistic diversity as well as media pluralism. On the matter of 'Management of Radio Frequencies', the Council has chosen to delete provisions specifically legitimising the use of auctions as well as administrative pricing for the assignment of frequencies. On the matter of 'Rights of Way', the Council has broadened the text of this Article to cover private network operators, whilst also redrafting it to clarify different types of procedures - depending on whether the network is public or private.

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

2000/0184(COD) - 29/06/2006

This Communication reports on the functioning of the five directives of the regulatory framework for electronic communications networks and services, as required by these directives. (Please see Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC and 2002/58/EC.) The Communication also launches a public consultation on the future of the electronic communications regulatory framework on which comments are requested by 27 October 2006. It explains how the framework has delivered on its objectives, and identifies areas for change.

Assessment of the framework: consumers and industry groups supported the framework's approach, albeit with criticisms concerning its implementation. New entrants, cable operators, ISPs and software and equipment producers noted that the framework had allowed the development of competition and innovation across Europe, facilitating investment and broadband penetration. However, the majority of incumbents considered that *ex-ante* regulation hindered new investment and should be phased out by 2015. In addition, there is room for significant improvement in the way that spectrum is managed. Specifically, the Commission considers that more effective management of spectrum would release its full potential to contribute to offering diverse and affordable services to the European citizen and to strengthen the competitiveness of European ICT industries. In other respects, the Commission considers that the principles and flexible tools in the regulatory framework offer the most appropriate means of encouraging investment, innovation and market development. There is nevertheless room for the Commission and NRAs to provide guidance on how the rules should be applied, so as to increase predictability for stakeholders.

Changes proposed overall:

The current regulatory framework has produced considerable benefits, but it needs attention in a number of areas in order to remain effective for the coming decade. The two main areas for change are:

- application to electronic communications of the Commission's policy approach on spectrum management, as set out in the Communication of September 2005;
- reduction of the procedural burden associated with the reviews of markets susceptible to *ex-ante* regulation.

In addition to these two, the Communication identifies other changes that seek to:

- consolidate the single market,
- strengthen consumers and user interests,
- improve security and
- remove outdated provisions.

Improved approach to managing spectrum for electronic communications: a new system for spectrum management is needed that permits different models of spectrum licensing (the traditional administrative, unlicensed and new market-based approaches) to coexist so as to promote economic and technical efficiency in the use of this valuable resource. Based on common EU rules, greater flexibility in spectrum management could be introduced by strengthening the use of general authorisations whenever possible. When not possible, owners of spectrum usage rights should not be unduly constrained but subject to certain safeguards, have the freedom to provide any type of electronic communications service ('service neutrality') using any technology or standard under common conditions ('technological neutrality'). Using criteria based on economic efficiency, selected bands agreed at EU level via a committee procedure would become available for use under general authorisations, or subject to secondary trading across the EU. Common authorisation conditions for the use of the radio spectrum would also be enacted with this procedure in appropriate cases. The administrative model will remain important especially where, on balance, legal certainty and interference management issues are priorities and where public interest objectives are at stake.

Streamlining market reviews: the Commission has reported on its experience with the 'Article 7' procedure and concluded that the procedure represents an important step towards the creation of an internal market for electronic communications. As a follow-up, this Communication proposes to reduce the administrative burden of the market review procedure by simplifying the notification requirements for certain draft national measures, given that by the time such changes are fully implemented, the NRAs will have considerably more experience with the process. Regulators would still need to conduct market reviews and undertake national and European consultations, but for certain market analyses and notifications the current level of detail would no longer be required. In a number of predefined categories of cases, a simplified notification procedure would be introduced. This would allow the Commission and the NRAs to focus on cases where substantial problems may arise. In the short term, it is proposed to issue a revised version of the procedural Recommendation in order to initiate the simplified notification procedures from 2007, and in the longer term, to modify the framework to allow all procedural elements to be gathered together into a single Regulation.

Consolidating the Internal Market: the Commission discusses proposals for the following:

- extending Commission veto powers to cover proposed remedies under the Article 7 procedure;

- tackling the problem of routine suspension of regulatory decisions by some national courts during the appeal period by laying down EU level criteria for granting suspension of regulatory decisions;

- for services with a pan-European or an internal market dimension, a Community procedure is proposed, in order to reach EU-level agreement on common usage conditions as well as on common approaches to authorisation, to allow for co-ordinated deployment of services;

- other changes designed to strengthen the internal market aim to: ensure that users can access information society services provided in other Member States (e.g. freephone numbers); strengthen the ability of NRAs to sanction a breach of regulatory obligations; extend the scope of the technical implementing measures that the Commission can take, e.g. in areas like numbering; introduce a mechanism for Commission approval of measures taken by NRAs under Article 5(1) of the Access and Interconnection Directive; require 'must carry' obligations to be reviewed by a specific deadline; and establish a procedure to facilitate agreement at EU level on common requirements on networks and services.

Strengthening consumers' and users' rights: the Commission intends to publish a Green Paper on universal service in 2007, to launch a wide ranging debate.

Improving Security: in order to reinforce the confidence of users in electronic communications, a series of measures is proposed: 1) to impose specific requirements on providers of electronic communications to notify certain breaches of security and to keep users informed; 2) to authorise competent national authorities to require specific security measures that implement Commission recommendations or decisions; and 3) to modernise the provisions on network integrity.

Better regulation: it is proposed to withdraw a number of redundant or outdated provisions.

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

2000/0184(COD) - 13/11/2007

This Communication reports on the results of Commission's Review of the regulatory framework for electronic communications and explains the main policy changes proposed by the Commission.

The EU regulatory framework for telecommunications was created in the 1990s in order to open up national markets to competition, markets which, until then, were dominated by state-owned monopolies. This process culminated in the liberalisation of national markets in 1998. A further step was taken in 2002 with the adoption of the current set of rules, which take account of the convergence of technologies and apply to all forms of electronic communications.

In 2006 and 2007, the Commission reviewed the functioning of the EU framework in against its main objectives, which are to promote competition, to consolidate the internal market and to promote the interests of the citizen. In the light of technological and market developments, especially improved competition in some areas, but also continued dominance by one or a few operators on a number of key markets as well as a continued lack of a single market for electronic communications and increasing divergence of regulatory approaches in the enlarged EU, a substantial reform of the regulatory framework is considered necessary by the Commission.

The 2007 Reform Proposals of the Commission can be grouped under the three pillars of better regulation, completing the single market and connecting with citizens.

1) Better regulation for competitive electronic communications: the 2007 Reform Proposals first of all aim to simplify and improve the quality of the regulatory environment, by reducing ex-ante regulation where market developments allow and by simplifying the market review procedure. The Commission also recommends better regulation of radio spectrum by simplifying access to and use of this scarce resource and moving to a more market-oriented allocation of spectrum. The Commission's legislative proposals strengthen the principles of technology and service neutrality, and create a mechanism to designate certain bands where, across the EU, rights acquired to use spectrum are allowed to be traded (secondary trading). Regulatory provisions to encourage licence-free spectrum use and to reinforce the coordination of conditions for spectrum authorisations are also proposed.

2) The Single Market for electronic communications: Europe does not yet have a single market for electronic communications networks or services. Implementation of the EU rules via 27 separate national regulatory systems has resulted in two major drawbacks: the artificial segmentation of markets on a national basis and a fundamental lack of consistency in the way the EU rules are applied. In order to address this lack of a single market, the Commission proposes the establishment of an independent European Electronic Communications Market Authority, which will build on the combined expertise of NRAs and improve the existing coordination mechanisms. At the same time, it is proposed to strengthen the independence and enforcement powers of national authorities, which will contribute to the effective and speedy implementation of the regulatory framework.

3) Connecting with citizens: In a rapidly changing market environment, new measures are needed in order to preserve and enhance consumer protection and user rights and ensure that consumers can reap the full benefits of a dynamic and increasingly borderless communications market. The Commission's proposals aim, in particular, to: 1) improve the transparency of information from service providers to consumers, including information on supply conditions and on tariffs; 2) set a time limit of one working day for 'porting' (transferring) a telephone number following a change of fixed or mobile operator; 3) enhance the implementation of '112' emergency services in the EU, in particular by ensuring more efficient access to caller location information; 4) enable NRAs to impose minimum requirements for the quality of services based on standards drawn up at Community level. The Reform Proposals will also ensure that users with disabilities, elderly users and people with special needs are not prevented from using and accessing eCommunications services.

The Commission believes that the 2007 Reform Proposals should become law before the end of 2009.

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

2000/0184(COD) - 18/09/2001 - Commission communication on Council's position

The Commission notes that the Council has decided to make substantive alterations to the initial proposal, which in effect, significantly modify the provisions and requirements of the Directive. Most controversial are changes made to Article 6 relating to "mechanisms for consultancy and transparency" and subsequent articles relating to this matter. Article 6 establishes requirements for National Regulatory Authorities (NRAs) to consult draft decisions at the national level. It sets up so-called "transparency mechanisms" whereby the Commission would have the power, in certain circumstances, to require NRA's to amend or withdraw its draft decision. Any changes to such a provision significantly weakens and reduces the likelihood of consistency of regulation. The Commission therefore considers it critical to maintain the original wording of the Article. The Commission also notes that it can not support the Council's decision to remove radio spectrum matters from the text. It cites the recent difficulties in third Generation mobile markets as a reason for maintaining radio spectrum matters in this Framework Directive. Furthermore, the Council has replaced the Commission's power to require NRAs to amend or withdraw a measure with the publication of a non-binding "detailed opinion". The Commission does not believe that this non-binding opinion would be effective in preventing national decisions being taken that are contrary to Community law. Other areas of disagreement include: - The Council's decision to include audio-visual policy under the scope and aims of the Directive. The Commission is of the view that this is unnecessary. In areas of appeal, the Council has, in the interests of subsidiarity, considerably weakened the role of the Commission. The Commission believes these amendments reduce legal certainty for the sector and as a result can not support the Council on this matter. - Under the heading of Policy Objectives and Regulatory Principles, the Commission expresses reservation over the changes introduced arguing that they could reduce consistency of regulatory action. - In terms of market definition procedures and market analysis procedure, the Commission notes that the Council has replaced the Common Decision on Relevant Product and Service Markets with a Recommendation. The Commission is concerned that this change, taken with the weakening of Article 6, will substantially reduce the Commission's ability to ensure legal certainty for undertakings via consistent regulatory action across the EU. Areas where the Commission agrees with the Council Common Position include: - Changes made to the provision of information and the strengthening of confidentiality/transparency. - The deletion of numbering, naming and addressing from the scope of this Directive, transferring it instead to the Universal Service Directive. - Broadening the scope of "Rights of Way" to include private sector network operators. - The inclusion of an Annex in relation to Undertakings with Significant market power. - Clarifications made to the text regarding market definition and market analysis. - Clarification of dispute resolution between undertakings. Lastly, the Council has deleted provisions related to the High Level Communications Group, on the advice of the Council Legal Service. The Commission can reluctantly accept this, and will examine the possibility of setting up such a group at its own initiative. Although the Commission has expressed its support for some of the changes, certain changes made by the Council mark a clear departure from the most critical principles guiding the reasoning of the Directive. Accordingly, the Commission feels it is unable to support or accept the Council's Common Position. Its views on this are expressed in a Commission Declaration, which has been annexed to the conclusions of the Telecommunications Council.

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

2000/0184(COD) - 04/07/2001 - Modified legislative proposal

In response to the first reading by Parliament, the Commission has accepted a number of new provisions. The majority of these serve to clarify or strengthen existing ideas in the original proposal. In addition, there are some new ideas which expand on the original text but do not change the fundamental principles. The Commission has not accepted certain amendments: - amendments which create the potential for over-regulation, particularly the one that modifies the proposal on Significant Market Power. It adds a number of alternative conditions for designating undertakings as having SMP, which creates the potential for over-regulation of undertakings in the electronic communications sector, as well as being likely to lead to inconsistency of regulatory action across the EU. - amendments which jeopardise harmonisation, in particular the removal of the obligation from an NRA to consult other EU NRAs. This is essential for building a European regulatory culture in the electronic communications sector. - amendments considered not to be in the scope of the framework, in particular those that seek to include content within the scope of the framework, or provide for audiovisual regulation to override the provisions of this framework.

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 proposal 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 standardisation). 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 and voluntary and to require NRAs to have objectives related to content was not appropriate. The compromise strikes a good balance between the two positions. It requires Member States to encourage digital television platform operators to use open application 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 rights 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 dominant position; - 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.

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

2000/0184(COD) - 19/11/2003

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 the position 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 issues 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.

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

2000/0184(COD) - 11/07/2007 - Follow-up document

The Commission presents its 2nd report on market reviews in electronic communications under the EU Regulatory Framework (2nd report). The Communication gives an insight into the experience gained from the market review process and highlights some major trends and issues. It contributes to the review of the regulatory framework that the Commission will propose to the Council and the European Parliament in the second half of 2007.

The Commission reports that almost all NRAs have finalised the first round of market reviews of the 18 markets included in the Recommendation on relevant markets, with the exception of the NRAs in Bulgaria and Romania that joined the EU only on 1 January 2007. The EU consultation mechanism established under **Article 7 of the Framework Directive** has been instrumental in the promotion of competition, investment and innovation as well as for the consolidation of the internal market for electronic communications. It has ensured a consistent approach, in particular regarding market definition and SMP analysis across Europe, brought sound economic analysis to the market review process and resulted in increased transparency. Overall, this form of cooperation between the Commission and NRAs led to better regulation based on competition principles and contributed to the development of a common European regulatory culture.

Although the regulatory approaches for market definition and market power analysis have converged to a large extent, **remedies are not always appropriate to resolve the identified competition problems** and sometimes differ markedly amongst Member States in spite of similar market situations. Regarding the choice of remedies, the Commission observes less consistency across the EU than has been achieved in market definition and SMP analysis. Differences in remedies were not always justified by diverging market conditions or other notified specificities. In addition, not always the most efficient remedy was chosen. The Commission points to the following:

- remedies imposed in the retail access markets vary substantially across Member States. Such differences are not always justified by diverging market circumstances;
- in the fixed and mobile termination markets, the Commission emphasised the need to move, in principle, towards symmetric termination rates based on costs of an efficient operator and encouraged NRAs to lower rates accordingly, in particular for mobile termination. As the diverging approaches across Member States have a negative effect on the internal market, the Commission invited NRAs to work closely with the European Regulators Group (ERG) to arrive at a coherent EU-wide approach on cost calculation and on enhancing symmetry;
- sometimes the belated application of remedies in the wholesale broadband access markets impaired the effectiveness of regulation. In several cases, the points in the network at which bitstream access had to be granted were either not specified or insufficient to enable the development of competition. Price regulation was not always effective and based on different price setting methods across the EU;

Further steps need to be taken to enhance the effectiveness of regulation and to achieve greater consistency in the selection and application of remedies.

The Commission will strive to further streamline procedures and to minimise the administrative burden for market players and NRAs, in line with the Commission's strategy for better regulation. It will make corresponding proposals in the context of the review of the regulatory framework. In addition, the Commission invites Member States to contribute to the streamlining of the market review process at the national level. In particular, NRAs should avoid

- delays between the notification of draft measures and the adoption of final measures, and
- notifying market analysis and intended remedies in different steps.

The Commission is currently reviewing the regulatory framework for e-communications and its proposal will be put forward to the Council and the Parliament in the second half of 2007. The revised regulatory framework however is not expected to enter into force before 2009-2010. In the short term the Commission is reviewing the Recommendation on relevant markets and the Article 7 procedural Recommendation and the new versions of the texts will be adopted in the second half of 2007.

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

2000/0184(COD) - 30/07/2004 - Follow-up document

This Communication sets out the Commission's position on interoperability of digital interactive television services pursuant to Art. 18 (3) of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (the Framework directive).

Article 18 (3) of the Framework directive requires the Commission to examine the effects of Art. 18, concerning interactive television services. If interoperability and freedom of choice for users have not been adequately achieved in one or more Member States, the Commission may act with the aim of making certain standards mandatory.

This Communication is based on the results of a public consultation launched in March 2004.

A wide range of players responded to the consultation, notably manufacturers, network operators, broadcasters and API providers; also consumer associations and others dedicated to particular viewpoints. Responses to the public consultation paint a conflicting picture as to whether adequate interoperability has been effectively achieved. The Commission considers that in view of the complexity of the technological and market environment, the very different perceptions of interoperability held by market players, and late implementation of the Framework Directive in many Member States, the aim of the review is essentially to determine whether there is a case to propose making one or more standards mandatory.

The Commission concludes that there is no clear case for mandating standards at present; the issue should be reviewed in 2005. Meanwhile, a range of promotional actions are proposed to promote the deployment of interactive digital services using the Multimedia Home Platform (MHP) standard, currently the only open standard for APIs adopted by EU standards bodies. These include the creation of a Member State group on MHP implementation, confirmation that Member States can offer consumer subsidies for interactive television receiver equipment, subject to conformity with state aid rules, and monitoring of access to proprietary technologies.

Lastly, the Commission seeks to ensure that European citizens benefit from a growing range of interactive DTV services, available on an increasing number of transmission platforms, and considers that the market is best served at the present time by continuing to apply the provisions already agreed by the European Parliament and the Council in the Framework Directive.

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

2000/0184(COD) - 30/07/2004 - Follow-up document

COMMISSION'S IMPACT ASSESSMENT

1- PROBLEM IDENTIFICATION

In December 2003, around 25 million of the 32 million digital receivers in the EU15 included API (application program interface) functionality. There are five different API systems and they are not interoperable at terminal level. Given that the majority of the receivers use proprietary APIs, **the key question is whether one or more standards should be mandated – or other measures adopted – in order to improve interoperability for I-TV services in the EU.**

For more information regarding the context of interactive television (I-TV), please refer to the summary of COM(2004) 0541 on interoperability of digital interactive television services.

1.1- Risks

Both action (to mandate standards) and inaction (maintaining the status quo) carry a degree of risk and no consensus has emerged among market players and policy makers as to which approach entails the most risk.

1.2- Who is affected? What are the underlying motive forces?

The imposition of API standards for interactive digital TV would affect broadcasters, network operators, equipment manufacturers, software companies and viewers.

Within these categories, however, there are sub-categories which may have differing views:

- *Pay TV operators (satellite and cable) have made substantial investments in network equipment and set-top boxes (STBs), based on proprietary technologies; they seek to protect their investment and maintain their commercial freedom;*
- *Free-to-air broadcasters seek to have their interactive content available on different delivery platforms and seek a migration from proprietary standards to open standards;*
- *Providers of first generation proprietary APIs are concerned that any imposition of open standards would force them either to incur costs in changing their systems, or to quit the market;*
- *Some manufacturers of set-top boxes and television receiver equipment seek the economies of scale that a single standard could provide;*
- *Interactive application and content providers face lower cost with a single API standard. Open standards offer more predictability than proprietary standards.*

2- OBJECTIVES

The 'Framework' Directive 2002/21/EC lays down a common regulatory framework for electronic communications networks and services. In this context, the Commission's objective is to ensure that European citizens benefit from a growing range of I-TV services available on an increasing number of transmission platforms. The use of proprietary technologies will need to be kept under competition law review.

3- POLICY OPTIONS AND IMPACTS

3.1- Option 1: The Commission imposes mandatory implementation of one or more open standards at European level.

3.1.1- Option 1a: The Commission imposes mandatory implementation of one API standard at European level.

Economic impact: *it would provide hardware manufacturers, application developers, broadcasters and, in some cases, platform operators with legal certainty concerning technological decisions which, in turn, could lead to further investment in equipment production and development of services and help achieve economies of scale for MHP. However, the installed base of more than 25 million set top boxes incompatible with MHP implies an important economic cost – with a negative impact on platform operators using proprietary systems and possibly also for their customers.*

Social impact: positive by reducing political concerns regarding media pluralism and cultural diversity.

Environmental impact: *the mandatory replacement of some or all of the 25 million set top boxes (STBs) already in use would present a disposal problem.*

Overall, although this option presents certain positive social and economic impacts, it could block technological progress.

3.1.2- Option 1b: The Commission requires implementation of one of a range of APIs that has been standardised by a European standards body.

Economic impact: The anticipated economies of scale in this option are expected to be lower, as there is a greater range of products.

Social impact: *the obligatory use of open standards does not guarantee consumers can receive all content.*

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

2000/0184(COD) - 01/03/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Mr Reino PAASILINNA (PES, FIN) with numerous amendments to the Commission's proposal for a common regulatory framework for telecommunications networks. (Please refer to the previous text). It should also be mentioned that the new legal framework will cover all satellite-based and terrestrial communications networks, i.e both the public telephone network and networks using the Internet and protocol, as well as cable television, mobile and terrestrial broadcasting networks.

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 methodology 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.

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

2000/0184(COD) - 07/03/2002 - Final act

PURPOSE : to establish a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services. **COMMUNITY MEASURE :** Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Framework Directive). **CONTENT :** this Directive establishes a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services. It lays down tasks of national regulatory authorities and establishes a set of procedures to ensure the harmonised application of the regulatory framework throughout the Community. Member States shall ensure that each of the tasks assigned to national regulatory authorities in this Directive and the Specific Directives is undertaken by a competent body. Member States shall guarantee the independence of national regulatory authorities by ensuring that they are legally distinct from and functionally independent of all organisations providing electronic communications networks, equipment or services. Member States that retain ownership or control of undertakings providing electronic communications networks and/or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control. In addition, Member States shall also ensure that national regulatory authorities exercise their powers impartially and transparently. Member States shall publish the tasks to be undertaken by national regulatory authorities in an easily accessible form, in particular where those tasks are assigned to more than one body. National regulatory authorities and national competition authorities shall provide each other with the information necessary for the application of the provisions of this Directive and the Specific Directives. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as the originating authority. Member States shall notify to the Commission all national regulatory authorities assigned tasks under this Directive and the Specific Directives, and their respective responsibilities. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks and/or services who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body that is independent of the parties involved. This body, which may be a court, shall have the appropriate expertise available to it to enable it to carry out its functions. The national regulatory authorities shall promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services by inter alia: - ensuring that users, including disabled users, derive maximum benefit in terms of choice, price, and quality; - ensuring that there is no distortion or restriction of competition in the electronic communications sector; - encouraging efficient investment in infrastructure, and promoting innovation; and - encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources. The national regulatory authorities shall contribute to the development of the internal market by inter alia: - removing remaining obstacles to the provision of electronic communications networks, associated facilities and services and electronic communications services at European level; - encouraging the establishment and development of trans-European networks and the interoperability of pan-European services, and end-to-end connectivity; - ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services; - cooperating with each other and with the Commission in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of this Directive and the Specific Directives. The national regulatory authorities shall promote the interests of the citizens of the European Union by inter alia: - ensuring all citizens have access to a universal service specified in Directive 2002/22/EC (Universal Service Directive); - ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved; - contributing to ensuring a high level of protection of personal data and privacy; - promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services; - addressing the needs of specific social groups, in particular disabled users; and - ensuring that the integrity and security of public communications networks are maintained. The Directive also covers other aspects such as the management of radio frequencies for electronic communications services; numbering; rights of way; accounting separation and financial reports; undertakings with significant market power; standardisation; Interoperability of digital interactive television services; resolution of cross-border disputes. **ENTRY INTO FORCE :** 24/04/2002. **IMPLEMENTATION :** 24/07/2003.

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

2000/0184(COD) - 12/07/2000 - Legislative proposal

PURPOSE : directive to establish a harmonised regulatory framework for electronic communications networks and services across the European Union. **CONTENT :** this is one of six proposals that together create a new framework for the regulation of electronic communications networks and services. This directive seeks to respond to the convergence phenomenon by covering all electronic communications networks and services within its scope. It sets out a number of principles and objectives for regulators (National Regulatory Authorities) to follow, as well as certain procedures to which they are subject such as consultation and publication of information. It establishes a series of tasks in respect of management of scarce resources such as radio spectrum and numbering. In particular, NRAs are required to manage spectrum efficiently and have a right to permit the trading of frequency assignments, subject to certain safeguards. It also contains a number of horizontal provisions common to more than one measure in the package. These include the definitions of significant market power, the procedure to be used for market analysis, harmonisation measures, as well as provisions for the resolution of disputes between undertakings.

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

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

The purpose of this Communication is, in accordance with Article 18 of the Framework Directive, to review the inter-operability of digital interactive television services. The review builds on earlier assessments and takes account of the market developments since July 2004. In addition it takes account of the "MHP" Implementation Group which was formed in order to act as a forum for the exchange of ideas and best practice.

The Commission states that its present priority is to work closely with the Member States in order to guarantee the successful switchover to digital T.V. – a prerequisite for having interactive digital services. A further priority is to support open standards and the on-going co-operation on inter-operability and exchange of best practice between Member States and between stakeholders. On the question of mandating a common standard, however, the Commission's approach remains that of relying on industry-led voluntary standardisation initiatives. Such a position will ensure that innovation is not stifled. In future, the Commission's priorities will be to:

- Work with the Member States to ensure the successful switchover to digital T.V. In other words to act as a facilitator for interactive digital services.
- Promote open standards and interoperability.
- Support co-operation between the Member States and amongst the stakeholders.
- Promote international co-operation on digital TV open standards and interoperability.
- Monitor the use of proprietary technologies.

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.