

Basic information	
2000/0186(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Electronic communications: access to networks and interconnection, new regulatory framework Repealed by 2016/0288(COD) Amended by 2007/0247(COD)	
Subject 2.60 Competition 3.30.05 Electronic and mobile communications, personal communications	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ITRE Industry, External Trade, Research, Energy	BRUNETTA Renato (PPE-DE)	22/06/2000
	Former committee responsible	Former rapporteur	Appointed
	ITRE Industry, External Trade, Research, Energy	BRUNETTA Renato (PPE-DE)	22/06/2000
	Former committee for opinion	Former rapporteur for opinion	Appointed
	BUDG Budgets	The committee decided not to give an opinion.	
Council of the European Union	JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	
	ENVI Environment, Public Health, Consumer Policy	The committee decided not to give an opinion.	
	CULT Culture, Youth, Education, Media and Sport	SANDERS-TEN HOLTE Maria Johanna (Marieke) (ELDR)	10/10/2000
	Council configuration	Meetings	Date
	Transport, Telecommunications and Energy	2395	2001-12-06

	Transport, Telecommunications and Energy	2374	2001-10-15
	Transport, Telecommunications and Energy	2340	2001-04-04
	Education, Youth, Culture and Sport	2408	2002-02-14
	Culture	2361	2001-06-21
	Telecommunications	2293	2000-10-03
	Telecommunications	2325	2000-12-22
European Commission	Commission DG		Commissioner
	Communications Networks, Content and Technology		

Key events			
Date	Event	Reference	Summary
12/07/2000	Legislative proposal published	COM(2000)0384	Summary
08/09/2000	Committee referral announced in Parliament, 1st reading		
03/10/2000	Debate in Council		
22/12/2000	Debate in Council		
13/02/2001	Vote in committee, 1st reading		Summary
13/02/2001	Committee report tabled for plenary, 1st reading	A5-0061/2001	
21/06/2001	Debate in Council		
04/07/2001	Modified legislative proposal published	COM(2001)0369	Summary
17/09/2001	Council position published	10418/1/2001	Summary
19/09/2001	Committee referral announced in Parliament, 2nd reading		
15/10/2001	Debate in Council		
27/11/2001	Vote in committee, 2nd reading		Summary
27/11/2001	Committee recommendation tabled for plenary, 2nd reading	A5-0434/2001	
06/12/2001	Debate in Council		
10/12/2001	Debate in Parliament		
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	2000/0186(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 2007/0247(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/5/14506

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0061/2001	13/02/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0111/2001 OJ C 277 01.10.2001, p. 0017-0072	01/03/2001	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0434/2001	27/11/2001	

Council of the EU

Document type	Reference	Date	Summary
Council position	10418/1/2001 OJ C 337 30.11.2001, p. 0001	17/09/2001	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2000)0384 OJ C 365 19.12.2000, p. 0215 E	12/07/2000	Summary
Modified legislative proposal	COM(2001)0369 OJ C 270 25.09.2001, p. 0161 E	04/07/2001	Summary
Commission communication on Council's position	SEC(2001)1409 	18/09/2001	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2002)0075 	07/02/2002	Summary
Follow-up document	COM(2003)0715 	19/11/2003	Summary
Follow-up document	COM(2006)0334 	29/06/2006	Summary
Document attached to the procedure	SEC(2006)0817 	29/06/2006	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0047/2001 OJ C 123 25.04.2001, p. 0050	25/01/2001	

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act
Directive 2002/0019 OJ L 108 24.04.2002, p. 0007-0020

[Summary](#)

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 01/03/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Mr Renato BRUNETTA (EPP/ED, I) which seeks to harmonise the way in which Member States regulate access to, and interconnection of electronic communications networks and associated facilities. (Please refer to the previous document).

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 07/03/2002 - Final act

PURPOSE : to harmonise the way in which Member States regulate access to, and interconnection of, electronic communications networks and associated facilities. COMMUNITY MEASURE :Directive 2002/19/EC of the European parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive). CONTENT : within the framework set out in Directive 2002/21/EC (Framework Directive), this Directive harmonises the way in which Member States regulate access to, and interconnection of, electronic communications networks and associated facilities. The aim is to establish a regulatory framework, in accordance with internal market principles, for the relationships between suppliers of networks and services that will result in sustainable competition, interoperability of electronic communications services and consumer benefits. This Directive establishes rights and obligations for operators and for undertakings seeking interconnection and/or access to their networks or associated facilities. It sets out objectives for national regulatory authorities with regard to access and interconnection, and lays down procedures to ensure that obligations imposed by national regulatory authorities are reviewed and, where appropriate, withdrawn once the desired objectives have been achieved. The term "Access" in this Directive does not refer to access by end-users. Member States shall ensure that there are no restrictions which prevent undertakings in the same Member State or in different Member States from negotiating between themselves agreements on technical and commercial arrangements for access and/or interconnection, in accordance with Community law. The undertaking requesting access or interconnection does not need to be authorised to operate in the Member State where access or interconnection is requested, if it is not providing services and does not operate a network in that Member State. Operators of public communications networks shall have a right and, when requested by other undertakings so authorised, an obligation to negotiate interconnection with each other for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of services throughout the Community. Member States shall require that undertakings which acquire information from another undertaking before, during or after the process of negotiating access or interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. The received information shall not be passed on to any other party, in particular other departments, subsidiaries or partners, for whom such information could provide a competitive advantage. National regulatory authorities shall, acting in pursuit of the objectives set out in Article 8 of Directive 2002/21/EC (Framework Directive), encourage and where appropriate ensure, in accordance with the provisions of this Directive, adequate access and interconnection, and interoperability of services, exercising their responsibility in a way that promotes efficiency, sustainable competition, and gives the maximum benefit to end-users. ENTRY INTO FORCE : 24/04/2002. IMPLEMENTATION : 24/07/2003.

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 04/07/2001 - Modified legislative proposal

The Commission presented an amended proposal giving an explanation of the main amendments. The proposal incorporates those that improve technical provisions and further clarify the respective rights and obligations of undertakings regarding access and interconnection. The amended proposal incorporates all these proposals that improve legal certainty for market players when negotiating access and interconnection. It also includes those that provide further criteria for the national regulatory authority to justify regulatory intervention and imposition of obligations or withdrawal on them when the market becomes competitive. The main amendments that could not be accepted include: - those that may over-regulate the market. These include the amendments imposing generic access obligations and those calling on the ad hoc imposition of obligations for call termination and roaming charges to be cost oriented. - those that are intended to extend the regulatory regime on conditional access systems and associated facilities such as electronic programming guides (EPGs), application programming interfaces (APIs) and other facilities necessary for interactive digital TV services. These amendments demand the introduction of major regulatory requirements that will impact current developments in the digital TV market. The Commission considers that the best way to deal with technological and market developments in this rapidly changing field is by the comitology procedure with adequate consultation with market players and the Communications committee, and keeping informed the relevant Parliamentary committees.

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 18/09/2001 - Commission communication on Council's position

Voting unanimously, the Council adopted a Common Position which, according to the Commission, reflects many of the key amendments of the European Parliament whilst remaining faithful to the structure and substance of the amended proposal of the Commission. The Commission therefore fully endorses the Common Position of the Council and urges the rapid adoption of the Directive considered an essential part of the new regulatory framework of electronic communications networks and services in the Community.

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(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 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.

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 12/07/2000 - Legislative proposal

PURPOSE : to establish a new regulatory framework for dealing with issues to the access to, and interconnection of, electronic communications networks and associated facilities. **CONTENT** : this proposal for a directive is one element in a new regulatory framework which seeks to ensure that the electronic communications sector continues to develop as a competitive market delivering benefits to all companies and individuals in the Community that use these services. (Also refer to COD/2000/0183; COD/2000/0184; COD/2000/0188; COD/2000/0189). This proposal for a Directive will establish a new regulatory framework for dealing with issues of access to, and interconnection of, electronic communications networks in the Community. It will ensure that, during a period of converging technologies and services and strong market growth, the market for electronic communications services continues to develop in a manner that stimulates innovation, competition and user choice. It also provides legal certainty for market players by establishing clear criteria for regulatory intervention, and clear limitations on what obligations concerning access and interconnection can be imposed in which circumstances, whilst at the same time allowing for sufficient flexibility to allow regulatory authorities to deal effectively with new market problems that hinder effective competition. Furthermore, the proposal aims to harmonise the way in which Member States regulate the market between suppliers of communications networks carrying publicly available communications services. In summary, the regulatory framework set out in the proposed Directive for access and interconnection will be characterised by: - priority given to full commercial negotiations between parties to agree on the terms and conditions for access and interconnection, subject to compliance with Community law; - a defined framework for national regulatory authorities to address issues of access and interconnection; - continuity with the current regulatory framework, with obligations for national regulatory authorities to review and when possible roll back certain obligations on operators with significant market power; - possibility for national regulatory authorities to intervene to address identified market failures, acting in accordance with the principles of transparency, objectivity and proportionality.

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(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: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 07/02/2002 - Commission opinion on Parliament's position at 2nd reading

The European Parliament adopted 7 amendments, and the Commission can accept all of them in full. In particular, Parliament introduced new text to highlight the need for monitoring by regulatory authorities and/or the Commission, with regulatory action to be taken where appropriate on a number of key issues. Those concern in particular the interoperability of services for end users, charges which contribute to tariffs for end users, the need for market analysis on international roaming, and possible adverse effects of new infrastructure on the environment and the landscape. The Commission can accept these amendments since they clarify the regulatory supervision powers included in the relevant provisions of the Council's common position.

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 12/12/2001 - Text adopted by Parliament, 2nd reading

The European Parliament adopted the recommendation by Renato BRUNETTA (EPP-ED, I) on the draft directive to harmonise the way in which Member States regulate access to, and interconnection of, electronic communications network. Parliament adopted a few compromise amendments to the common position. It asks the Commission to conduct a review of the market in order to reduce ex-ante sector specific rules progressively as competition in the market develops. Parliament said this should also take account of transitional problems in the market such as those relating to international roaming. The Parliament believes that in order to ensure that the transnational electronic communications market is effective and efficient, the Commission should monitor and publish information on charges which contribute to determining prices to end-users.

Electronic communications: access to networks and interconnection, new regulatory framework

2000/0186(COD) - 17/09/2001 - Council position

The Council supports the approach and aims proposed by the Commission. Some changes to both the wording and the substance of the Commission's text were nevertheless made. For the most these changes aim to provide greater guarantees to users in terms of end-to-end connectivity and to create flexibility regarding the future development of obligations on access to digital television. Concerning 'Obligations to interconnect', the common position grants NRAs specific powers to interconnect undertakings controlling access to end-users. This is in addition to the possibility of imposing such obligations on operators with significant market power under Article 12. Concerning 'Conditional access obligations', the Council considers the Commission proposed approach too rigid. It therefore introduces a new sub-paragraph whereby Member States will have the freedom to include requirements for other facilities (APIs and EPGs). The common position also allows for a provision of 'rolling back' the regulation on condition that access systems as markets become more competitive - provided that the accessibility of specified 'must carry' broadcasts is maintained. Concerning 'Certain limitations to public networks', the Council has decided to follow the broad scope of the originally proposed Directive. Certain provisions are amended however in order to clarify that they apply to public networks only. On 'local loop unbundling' the Council has decided to add a number of detailed provisions with the objective of carrying over into the new framework the obligations laid down in the recently adopted regulation on local loop unbundling.