




Basic information	
2000/0188(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Electronic communications: authorisation of networks and services Repealed by 2016/0288(COD) Amended by 2007/0247(COD) Subject 3.30.05 Electronic and mobile communications, personal communications	

Key players			
European Parliament	Committee responsible		Rapporteur
	<div>ITRE</div> Industry, External Trade, Research, Energy		NIEBLER Angelika (PPE-DE) 22/06/2000
	Former committee responsible		Former rapporteur
	<div>ITRE</div> Industry, External Trade, Research, Energy		NIEBLER Angelika (PPE-DE) 22/06/2000
	Former committee for opinion		Former rapporteur for opinion
	<div>BUDG</div> Budgets		The committee decided not to give an opinion.
	<div>JURI</div> Legal Affairs and Internal Market		The committee decided not to give an opinion.
	<div>ENVI</div> Environment, Public Health, Consumer Policy		The committee decided not to give an opinion.
	<div>CULT</div> Culture, Youth, Education, Media and Sport		JUNKER Karin (PSE) 10/10/2000
Council of the European Union	Council configuration		Meetings
	Transport, Telecommunications and Energy		2374
	Transport, Telecommunications and Energy		2395
	Transport, Telecommunications and Energy		2340
	Education, Youth, Culture and Sport		2408

	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)0386 	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	A5-0062/2001	
01/03/2001	Decision by Parliament, 1st reading	T5-0113/2001	Summary
21/06/2001	Debate in Council		
04/07/2001	Modified legislative proposal published	COM(2001)0372 	Summary
17/09/2001	Council position published	10419/1/2001	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	A5-0433/2001	
06/12/2001	Debate in Council		
10/12/2001	Debate in Parliament		
12/12/2001	Decision by Parliament, 2nd reading	T5-0678/2001	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	2000/0188(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/5/14507

Documentation gateway







European Parliament


Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0062/2001	13/02/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0113/2001 OJ C 277 01.10.2001, p. 0018-0116	01/03/2001	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0433/2001	27/11/2001	
Text adopted by Parliament, 2nd reading		T5-0678/2001 OJ C 177 25.07.2002, p. 0083-0164 E	12/12/2001	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	10419/1/2001 OJ C 337 30.11.2001, p. 0018	17/09/2001	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2000)0386  OJ C 365 19.12.2000, p. 0230 E	12/07/2000	Summary
Modified legislative proposal	COM(2001)0372  OJ C 270 25.09.2001, p. 0182 E	04/07/2001	Summary
Commission communication on Council's position	SEC(2001)1411 	18/09/2001	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2002)0074 	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	CES0049/2001 OJ C 123 25.04.2001, p. 0055	25/01/2001	

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act
Directive 2002/0020 OJ L 108 24.04.2002, p. 0021-0032 Summary

Electronic communications: authorisation of networks and services

2000/0188(COD) - 12/07/2000 - Legislative proposal

PURPOSE : to implement an internal market in electronic communications services through the harmonisation and simplification of authorisation rules and conditions in order to facilitate the provision of electronic communications services and networks throughout the Community. **CONTENT** : the present proposal for a Directive is intended to replace the current Directive 97/13/EC on a common framework for general authorisations and individual licences in the field of telecommunications services which was adopted by the European Parliament and by the Council on 10 April 1997 and had to be implemented by 1 January 1998. The key elements of the existing Directive are the prohibition of any limitation in the number of new entrants (except to the extent required to ensure an efficient use of radio frequencies), priority given to general authorisations, as opposed to individual licences, and the definition of harmonised principles, including an exhaustive list of licensing conditions. The Commission Communication on the results of the public consultation on the 1999 Communication Review and Orientations for the new Regulatory Framework revealed strong support for significant further harmonisation and simplification of national authorisation rules and general authorisation on the telecommunication sector on the whole . In line with the policy objectives and principles of the new regulatory framework, the present proposal to revise the existing authorisation and licensing regimes is based on the need to stimulate a dynamic, competitive market for communications services, to consolidate the internal market in a converging environment, to restrict regulation to the necessary minimum and to aim at technological neutrality and accommodate converging markets. Furthermore, the present proposal: - intends to cover all electronic communication services and networks under a general authorisation and to limit the use of specific rights to the assignment of radio frequencies and numbers only; - aims to ensure that no information is required as a prior condition for market entry and that systematic verification of compliance with conditions attached to authorisations is limited to those conditions for which this is objectively justified; - would reduce administrative charges considerably by simplifying the authorisation regimes, thereby reducing the regulatory workload and the attendant administrative costs; - foresees a continuing role for the CEPT (European Conference Postal and Telecommunications Administrations) in the harmonisation of the radio frequencies. In addition, this proposal mainly places obligations on Member States or national regulatory authorities. In conclusion, the proposed Directive on the authorisation of electronic communications services and networks takes account of the results of the public consultation on the 1999 Review of the existing telecommunications regulatory framework. The proposal presents a lighter and more harmonised system of authorisations throughout the Community, with minimal regulatory barriers to market entry, in order to stimulate the development of new electronic communications services and to allow service providers and consumers to benefit from the economies of scale of the single European market.

Electronic communications: authorisation of networks and services

2000/0188(COD) - 12/12/2001 - Text adopted by Parliament, 2nd reading

The European Parliament approved the report Mrs Angelike NIEBLER (EPP-ED, D) on the authorisation of electronic communications networks and services. It stresses the need for simple harmonised rules for market access. An amendment passed to the common position says that where, in case of competitive or comparative selection procedures, fees for rights of use of radio frequencies consist entirely or partly of a one-off amount, payment

arrangements should ensure that such fees do not in practice lead to selection on the basis of criteria unrelated to the objective of ensuring optimal use of radio frequencies. The European Commission may publish on a regular basis benchmark studies with regard to best practices of allocation of radio frequencies, assigning of numbers or rights of way. Parliament also stressed that Member States should not restrict or withdraw rights to install facilities before the expiry date of the period for which they were granted except where justified and where applicable in conformity with relevant national provisions regarding compensation for withdrawal of rights. Lastly, Member States may extend the validity of those rights and obligations until at the latest 9 months after the date of application.

Electronic communications: authorisation of networks and services

2000/0188(COD) - 04/07/2001 - Modified legislative proposal

Of the 23 amendments proposed by the European Parliament during its first reading on the authorisation of electronic communications networks and services, the European Commission found that some amendments it could not accept, others it could accept in part only and others it could accept in full. Where the amendments are deemed to strengthen and enhance the proposed Directive, the European Commission has accepted them in part or in full. Those accepted relate to competition amongst network providers. The Commission considers it vital that Member States facilitate and enhance access for service providers in what can be a cumbersome procedure. Accordingly, Article 15 of the proposed Directive and Article 14 have been amended to take account of Parliamentary concerns. The European Commission also accepts that a more harmonised approach to usage fees is needed to strengthen the provisions of the Directive. Parliamentary proposals to enhance this aspect of the Directive have in large part been incorporated into the text by the Commission. Those not accepted by the European Commission include amendments relating to any content conditions to be imposed on transmission service providers. The Commission holds that conditions imposed on transmission service providers is outside the scope of this Directive. Concerning amendments on a common regulatory framework for electronic communications networks and services, the European Commission holds that any such provision would be a duplication of Article 4 of the proposed Directive. Equally, the Commission rejects a proposed amendment on professional secrecy since it considers this a duplication of Article 5. Further, the Commission feels it would not be appropriate to include proposals which aim to strike a better balance between frequencies used by public and commercial service providers. It proposes instead that this be covered by a forthcoming Decision on a regulatory framework for radio spectrum policy in the EU. The Commission also rejects Parliamentary amendments concerning turn-over related to distribution costs.

Electronic communications: authorisation of networks and services

2000/0188(COD) - 07/03/2002 - Final act

PURPOSE : to implement an internal market in electronic communications networks and services through the harmonisation and simplification of authorisation rules and conditions in order to facilitate their provision throughout the Community. **COMMUNITY MEASURE :** Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive). **CONTENT :** this Directive shall apply to authorisations for the provision of electronic communications networks and services. The Directive provides a general authorisation applicable to networks and to electronic service communications: Member States shall ensure the freedom to provide electronic communications networks and services, subject to harmonisation and simplification of electronic communications rules and conditions for the authorisation of networks and services cannot be sufficiently achieved by the Member States and can the conditions set out in this Directive. To this end, Member States shall not prevent an undertaking from providing electronic communications networks or services, except where this is necessary for the reasons set out in Article 46(1) of the Treaty. Decisions on rights of use shall be taken, communicated and made public as soon as possible after receipt of the complete application by the national regulatory authority, within three weeks in the case of numbers that have been allocated for specific purposes within the national numbering plan and within six weeks in the case of radio frequencies that have been allocated for specific purposes within the national frequency plan. The Commission shall periodically review the functioning of the national authorisation systems and the development of cross-border service provision within the Community and report to the European Parliament and to the Council. In order to arrive at a single date of application of all elements of the new regulatory framework for the electronic communications sector, it is important that the process of national transposition of this Directive and of alignment of the existing licences with the new rules take place in parallel. However, in specific cases where the replacement of authorisations existing on the date of entry into force of this Directive by the general authorisation and the individual rights of use in accordance with this Directive would lead to an increase in the obligations for service providers operating under an existing authorisation or to a reduction of their rights, Member States may avail themselves of an additional nine months after the date of application of this Directive for alignment of such licences, unless this would have a negative effect on the rights and obligations of other undertakings. **ENTRY INTO FORCE :** 24/04/2002. **IMPLEMENTATION :** 24/07/2003.

Electronic communications: authorisation of networks and services

2000/0188(COD) - 18/09/2001 - Commission communication on Council's position

Overall the Commission has decided to support and accept the Council's Common Position Areas of reservation nevertheless remain and refer mainly to: - Article 12 on administrative charges. The Common Position has changed the scope of this article considerably by widening the amount of administrative costs that may be recovered through administrative charges. In line with Parliamentary wishes, the Council has decided to delete the turn-over related distribution key as well as the minimal threshold excluding SME's from administrative charges. In light of these changes, the Commission foresees considerable variation in levels of charges between the Member States. Further, there is less certainty that systems for charges will be simple, pro-competitive and in line with the basic principles of a general authorisation system. Lastly, the absence of a minimal threshold may lead to administrative charges acting as a disincentive for entry in the market. - Article 13 on usage fees. The Council has decided not to accept Commission and Parliamentary proposals to submit all measures regarding usage fees to the transparency procedure of the framework Directive and to allow alternative payment facilitated in the case of very high one-off fees. The Commission expresses some reservation over this. - Article 17 on an additional transition period. In spite of these reservations, the Commission notes that the Council has taken on board most of the amendments

proposed by the Commission, including many of the Parliamentary amendments, following its first reading and as a result, has decided to accept and support the Council.

Electronic communications: authorisation of networks and services

2000/0188(COD) - 17/09/2001 - Council position

The Council endorses the approach and aims proposed by the Commission. A small number of changes have been made however. They are as follows: - On administrative charges, the Council has decided to maintain the financial independence of national regulatory authorities (NRAs) by extending the scope of administrative costs which may be recovered through charges. The Council is in agreement with the European Parliament that the explicit requirement to link charges proportionately to an undertaking's turnover should be deleted. Also deleted is the specific requirement for undertakings with low turnover. - On the matter of setting deadlines on rights of user frequencies and numbers, the Council considers it necessary to extend the basic deadlines for numbers (now 3 weeks instead of 2) and the maximum deadlines for frequencies allocated by competitive or comparative selection (now 8 months, instead of 6). - On the matter of review procedures under comitology, the Council considers it inappropriate to include the possibility of further harmonisation of national provisions on the basis of comitology. Any such future harmonisation should, be based on a co-decision procedure in order to ensure the full participation of Parliament. - On the matter of existing authorisations (Article 17), the Council has decided to bring existing licenses into line with this Directive. The additional period granted for cases where alignment would reduce rights or extend obligations has been extended from six to twelve months.

Electronic communications: authorisation of networks and services

2000/0188(COD) - 01/03/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Mrs Angelika NIEBLER (EPP/ED, D). The Parliament agreed with the basic line of the Commission proposal but amended it with a few clarifications. (Please refer to the previous text).

Electronic communications: authorisation of networks and services

2000/0188(COD) - 07/02/2002 - Commission opinion on Parliament's position at 2nd reading

Of the four amendments tabled by the European Parliament following the second reading of the Authorisation Directive, all have been accepted fully by the Commission. The Council too has decided to accept the wording of the four amendments. They refer to: - New wording regarding the payment arrangement of one-off usage fees for radio frequencies. - Introduction of a new paragraph limiting the restriction or withdrawal of rights to install facilities and including a reference to possible compensation in such cases. - The creation of a transparency register regarding rights to install facilities. - Introduction of an additional transition period for cases where the new authorisation regime would lead to a reduction of rights or an extension of obligation. This has now been shortened from 12 to 9 months. Having agreed to the four Parliamentary amendments the conciliation committee does not need to be invoked. Adoption of the Regulation is expected at the beginning of 2002 following verification of the texts by jurist-linguists.

Electronic communications: authorisation of networks and services

2000/0188(COD) - 19/11/2003 - Follow-up document

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: authorisation of networks and services

2000/0188(COD) - 29/06/2006 - Follow-up document

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.