Basic information

2005/2052(INI) INI - Own-initiative procedure	Procedure completed
European electronic communications regulation and markets, 2004 **Subject** 3.30.05 Electronic and mobile communications, personal communications	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ITRE Industry, Research and Energy	TOIA Patrizia (ALDE)	17/03/2005

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	04/07/2005
JURI Legal Affairs	KAUPPI Piia-Noora (PPE-DE)	21/04/2005

Key events

Date	Event	Reference	Summary
02/12/2004	Non-legislative basic document published	COM(2004)0759	Summary
12/05/2005	Committee referral announced in Parliament		
11/10/2005	Vote in committee		Summary
14/10/2005	Committee report tabled for plenary	A6-0305/2005	
30/11/2005	Debate in Parliament		
01/12/2005	Decision by Parliament	T6-0467/2005	Summary
01/12/2005	Results of vote in Parliament		
01/12/2005	End of procedure in Parliament		

Technical information	
Procedure reference	2005/2052(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/6/27333

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE362.648	19/09/2005	
Committee opinion	JURI	PE362.750	06/10/2005	
Committee report tabled for plenary, single reading		A6-0305/2005	14/10/2005	
Text adopted by Parliament, single reading		T6-0467/2005	01/12/2005	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2004)0759	02/12/2004	Summary
Commission response to text adopted in plenary	SP(2005)5015	15/12/2005	

European electronic communications regulation and markets, 2004

2005/2052(INI) - 01/12/2005 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Patrizia **TOIA** (ALDE, IT) in response to the Commission paper on European electronic communications regulation and markets, fully supporting the Commission in its role as a driving force for regulation, both as regards the correct interpretation of the new rules and the need to ensure their uniform application in a manner consistent with the objectives of electronic communications regulation, by means of timely and constant monitoring; (Please see the summary of 11/10/2005.)

The institutional framework: Parliament stressed the need to open an institutional debate aimed at strengthening and clarifying both the European institutional model in the electronic communications sector and the relevant regulatory framework, and at identifying the best ways of achieving this goal.

Commission: Parliamentcalled for the Commission to play a central role as the guardian of Community legislation, whereas the European Regulators Group (ERG) should continue to act as a consultative and advisory body. 4. Fully supports the Commission's activities both in bringing proceedings against Member States failing to comply and in analysing the notifications from NRAs pursuant to Article 7 of the Framework Directive; calls on the Commission to remain vigilant so as to ensure that measures relating to national markets do not jeopardise the completion of the single market in electronic communications;

ERG: To avoid overlapping, agreement should also be reached on the gradual merging of the ERG and the Independent Regulators Group (IRG). The ERG must confine itself to consultative activities, involving all parties concerned as fully and as transparently as possible, and pursue activities specifically entrusted to it under the regulatory framework.

Parliament: To ensure that Parliament was properly involved in the monitoring process, it called for the Commission reports as promptly as possible.

Member States and NRAs: Parliament regretted the fact that some Member States have not yet fully transposed the regulatory framework or have not applied it properly, and called on these Member States to comply immediately with Community law on electronic communications. They must provide adequate support for the activities of NRAs, whose limited resources do not enable them to complete the tasks assigned to them quickly. Member States were urged to guarantee the total independence of NRAs. They were also asked to comply with the principles of transparency and proportionality and justify the administrative charges imposed on operators for authorisation of services, while respecting public interest concerns. Parliament stressed the importance of adequate frequency allocation for public-interest services, transparent and non-discriminatory procedures, and the need for sufficient flexibility when allocating radio frequencies and granting licences.

Parliament also called on the Member States to ensure that the sites for installations intended to support the mobile telephony network are selected with due regard for health and the environment and in accordance with transparent urban planning procedures. The Commission is asked to monitor these activities and report on them regularly to the European Parliament. Furthermore, information on radiation values should be made public. Parliament emphasised also the importance of data privacy in relation to the growing number of requests for data retention.

Industry and consumers: The information and communications technology (ICT) sector serves as an engine for the European economy, contributing significantly to growth and job creation. European legislation on electronic communications seeks to promote competition among firms, while at the same time ensuring a high level of protection for consumers. The Commission needed to carry out studies where the following parameters were analysed: transparency of invoicing, contract guarantees and trends in prices and markets, for broadband and fixed and mobile telephony.

Parliament felt that it was vital for operators to adopt transparent pricing practices and for consumers to be clearly informed about the services offered and the prices charged, particularly as regards costs. It called on the Commission and the Member States to analyse which structural changes are needed in order to ensure adequate and transparent roaming charges. The Commission should draw up an action plan and timetable that will enable consumers to benefit from international roaming at the best possible cost and as soon as possible, throughout European territory, with continuity of service.

Parliament went on to ask the Commission to take action to lower the charges for termination of mobile-phone contracts, which remain high in many Member States and should be linked to the costs incurred.

Lastly, Parliament pointed out that all European citizens must have access to the services of the information society, and that this means using consumer-friendly regulation to reduce the digital gap, particularly for disabled and older people. Supporting an open European standard to establish interoperability in services, transmission platforms and terminals will make a vital contribution to achieving that aim.

European electronic communications regulation and markets, 2004

2005/2052(INI) - 02/12/2004 - Non-legislative basic document

PURPOSE: to present a Communication on European Electronic Communications Regulation and Markets 2004.

CONTENT: The electronic communications sector play a vital role in nearly all economic activities and innovative communications services are a potent driver of labour productivity. The implementation of the new EU regulatory framework for electronic communications provides technologically neutral regulatory principles which, when fully operational in the Member States (MS), will assist the market to deliver choice and value for the consumer. The optimum timeframe for implementation is short and critical. The effective application of EC competition rules also plays a vital role. The Commission has promoted implementation of the EU framework vigorously through reporting, co-operation with MSs' authorities and, where necessary, infringement proceedings. The last report on regulation and markets (COM(2003)715) concentrated on the Commission's main concerns resulting from the transposition process. This Communication focuses on market developments and the main persisting regulatory issues. It is based on more detailed analysis and market data set out in a Commission services' working document adopted in parallel, and covers all twenty-five MS for the first time. The regulatory situation described here is generally that at 1 October 2004.

MS were required to transpose the EU regulatory framework by 24 July 2003 (EU 15) as regards the core directives and by 30 October 2003 as regards the ePrivacy Directive; it applied in its entirety from 1 May 2004 for the 10 new MS.

20 MS have completed the adoption of primary legislation and notified the Commission thereof. This is a major achievement which in all cases has involved either a complete recasting of existing laws or the introduction of major new legislation. However, 5 MS, although they have in all cases carried out significant steps in the legislative process, still need to adopt primary legislation to transpose the framework: Belgium, Czech Republic, Estonia, Greece and Luxembourg. The Commission has launched infringement proceedings for non-notification, and proceedings are pending before the European Court of Justice against Belgium, Greece and Luxembourg.

Secondary legislation (substantive, in some cases) is still to be adopted in 8 MS in order to give full effect to primary legislation: Spain, France, Cyprus, Latvia, Lithuania, Poland, Slovenia and Slovakia.

The Commission is currently assessing the conformity with the EU *acquis* of the transpositions carried out in all MS, and will take appropriate action in accordance with the Treaty.

While the picture in the market is broadly positive, the Commission has identified a number of key areas where regulation in the MS needs to be improved. These are as follows:

- National regulatory authorities (NRA): The ability of national markets to function well is directly proportionate to the quality of the legal framework put in place in the MS concerning the NRAs. NRAs must be independent of all commercial or other vested interests. They must also be entrusted with all of the powers laid down in the framework, and be able to exercise them without outside interference. The Commission has serious concerns that the principles of independence and impartiality are still not fully observed in all 25 MS. Some of these arise from the fact that full separation between a

State's shareholding and the taking of regulatory decisions is still not ensured in all instances. There is also concern that in some countries NRAs may be impeded in the application of appropriate regulatory remedies in the light of their market analyses. This can arise, for example, where ministries, which have not been notified as NRAs responsible for market analysis, intervene by giving instructions or directions affecting the NRAs' regulatory decisions. In certain cases it is rather the national legislation that is at fault for limiting the discretion of the regulator to regulate the market. Lastly, the need for NRAs to undertake market reviews in addition to their work on market supervision, dispute settlement and enforcement has, in some cases, caused severe resource problems for a significant number of regulators.

- Charges for authorisation of services: Charges relating to the management of authorisation systems and the granting of rights of use should be transparent, proportionate and objectively justified and cover only the actual administrative costs incurred. Other charges may not be imposed. The Commission is examining the position in some MS where charges are relatively high and where compliance with these principles needs to be verified.

- Individual rights of use for radio frequencies: Where individual rights of use of radio frequencies are granted by MS, open, transparent and non-discriminatory procedures should be used. While this requirement has been extensively transposed, the Commission is examining whether the practical application of these criteria can be observed in practice in a number of MS, in the absence of a national frequency allocation table or because of licensing procedures.

- Rights of way, co-location and facility sharing: The Commission notes the persistent problems that have arisen across the Union in particular in the granting of rights to install masts and antennas for the provision of mobile services, and related fees. This has in some cases delayed the rollout of third generation (3G) infrastructure, sometimes in the face of strict rollout requirements in national licences.

- Provision of universal service: The provision of a minimum set of services to all end-users at an affordable price and specified quality is a key principle of the regulatory framework; MS are required to ensure that no undertaking or category of undertaking is precluded a priori from providing universal service. The Commission is examining closely concerns that in some MS the universal service provider may be designated without regard to this principle, or without the necessary transparency.

- Must-carry obligations: MS may impose must-carry obligations only where they are necessary to meet clearly-defined general interest objectives. The Commission is examining whether a clear link between the obligations and objectives has been established, so that the discretionary powers of the authorities to grant must-carry status do not give rise to arbitrary decisions.

- Unsolicited commercial communications: The Commission notes that, while the opt-in rules in the ePrivacy Directive have in general been transposed, there is a tendency to move also towards voluntary codes to protect users. This development is welcomed.

- Traffic data: The Commission will examine the tendency for the authorities in a number of MS to increase the statutory period during which a requirement for the retention of traffic data may be imposed for law enforcement purposes.

- Implementation of the transitional provisions in the EU15: MS from the EU15 are required under the transitional provisions to ensure that existing regulatory obligations on SMP undertakings remain in place until determinations are made by regulators in accordance with the new framework. The Commission is examining whether there are still instances where such obligations, relating for example to cost accounting and accounting separation, are not well implemented, leading to margin squeezes on new entrants. It is also concerned that the positive development of investment by new entrants and the migration of customers to better-grade products via a move from resale products to bitstream and local loop unbundling may in some cases be frustrated by process-related problems.

- Implementation of the 'starting conditions' in the new MS: The new MS were required to ensure that regulatory obligations were in place on SMP undertakings by the date of accession. Some of the outstanding problems in the EU 10 replicate those persisting under the old framework in the EU 15, such as cost accounting and tariff transparency. The existence of an appropriate reference interconnection offer is also questionable in some of the new MS, as well as the absence of full implementation of carrier selection, carrier pre-selection and number portability.