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*Committee on Civil Liberties, Justice and Home Affairs*

**2007/0247(COD)**

2.6.2008

## **OPINION**

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Industry, Research and Energy

on the proposal for a directive of the European Parliament and of the Council amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and services, and 2002/20/EC on the authorisation of electronic communications networks and services

(COM(2007)0697 – C6-0427/2007 – 2007/0247(COD))

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## SHORT JUSTIFICATION

To enhance investment, innovation, and consumer benefits in electronic communications, the EU needs a coherent regulatory framework which respects both the need for greater cooperation across the EU and the diversity of telecommunications markets within Member States.

National regulatory authorities (NRAs) would benefit from enhanced cooperation with one another as well as from the preservation of a significant degree of autonomy - from both the Commission and national governments - to assess and remedy national market issues. As complex issues within and between Member States require careful consideration and open dialogue, a mechanism of consultation and coordination will prove more effective than one of mandate and veto. The Commission should be able to recommend to a NRA to adopt or withdraw specific draft measures and the NRA may amend or withdraw draft measures within a period of three months.

NRAs should be provided with the tools they may require to enhance market competition. While specific national markets will require different solutions, functional separation should be available to NRAs as a potential option to address regulatory bottlenecks.

In line with respecting the specific needs and market conditions of Member States, spectrum management and harmonisation will be most effectively and appropriately addressed by NRAs in consultation with the Commission. Optimal decisions on assignment and allocation will respect technology neutrality while taking account of decisions taken by international organisations related to radio spectrum management.

Improving security and integrity are also vital to Europe's expanding electronic communications networks. While electronic networks and services draw Europe closer through communications, risks presented by breaches of security carry greater potential for harm. Safeguard measures should be proportional to assessed risks while also remaining circumstantially appropriate, so the Commission should have the power to adopt technical implementing measures in agreement with NRAs. Undertakings should notify NRAs of serious breaches of security, the definition of which should be determined by the specific NRA.

The Commission has proposed that once markets become more competitive, regulation should be left to competition policy. This should be taken a step further by means of sunset clauses to offer deadlines to work towards.

## AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

## Amendment 1

### Proposal for a directive – amending act Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) The sector-specific ex-ante market regulation as part of this framework makes provision for the transition from former monopolies to competitive markets for electronic communications networks and services. As soon as markets are competitive, ex-ante regulation should be discontinued and Community and national competition law should apply exclusively. With growing competitive dynamics in European electronic communications markets, the potential benefits of sector-specific ex-ante price and access regulation decrease significantly over time. The markets for electronic communications have shown strong competitive dynamics in recent years and competition is most likely to increase even further in the coming years. To ensure a timely transition to the exclusive application of Community and national competition law, the provisions of this Directive on sector-specific ex-ante regulation should lapse on a defined date unless the Commission demonstrates that continued ex-ante regulation will still be warranted after that date.***

## Amendment 2

### Proposal for a directive – amending act Recital 2

*Text proposed by the Commission*

*Amendment*

(2) In that regard, the Commission presented its initial findings in its Communication to the Council, the European Parliament, the European

(2) In that regard, the Commission presented its initial findings in its Communication to the Council, the European Parliament, the European

Economic and Social Committee and the Committee of the Regions of 29 June 2006 on the review of the EU regulatory framework for electronic communications networks and services. On the basis of these initial findings, a public consultation was held, which *identified the continued lack of an internal market for electronic communications as the most important aspect needing to be addressed. In particular, regulatory fragmentation and inconsistencies between the activities of the national regulatory authorities were found to jeopardise not only the competitiveness of the sector, but also the substantial consumer benefits from cross-border competition.*

Economic and Social Committee and the Committee of the Regions of 29 June 2006 on the review of the EU regulatory framework for electronic communications networks and services. On the basis of these initial findings, a public consultation was held, which *showed support for a continuation of the current model for the framework. The current framework introduces technical adjustments of a transitional nature to ensure that a full transition to competition law becomes a reality, as the nature of the framework remains temporary and should be reviewed by 31 December 2013, by which point if a fully competitive telecommunications market has developed, the provisions of this Directive shall lapse.*

### Amendment 3

#### Proposal for a directive – amending act Recital 3

##### *Text proposed by the Commission*

(3) The EU regulatory framework for electronic communications networks and services should therefore be reformed in order to complete the internal market for electronic communications by strengthening the Community mechanism for regulating operators with significant market power in the key markets. *This is complemented through the establishment by Regulation [.../.../EC] of [date] of the European Parliament and of the Council<sup>24</sup> of a European Electronic Communications Market Authority (hereinafter referred to as "the Authority").* The reform also includes the definition of an efficient spectrum management strategy in order to achieve a Single European Information Space and the reinforcement of provisions for users with disabilities in order to obtain an inclusive

##### *Amendment*

(3) The EU regulatory framework for electronic communications networks and services should therefore be reformed in order to complete the internal market for electronic communications by strengthening the Community mechanism for regulating operators with significant market power in the key markets. The reform also includes the definition of an efficient *and coordinated* spectrum management strategy in order to achieve a Single European Information Space and the reinforcement of provisions for users with disabilities in order to obtain an inclusive information society.

information society.

#### Amendment 4

##### Proposal for a directive – amending act Recital 6

*Text proposed by the Commission*

(6) The independence of the national regulatory authorities should be strengthened in order to ensure a more effective application of the regulatory framework and increase their authority and the predictability of their decisions. To this end, express provision should be made in national law to ensure that, in the exercise of its tasks, a national regulatory authority is protected against external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. Such outside influence makes a national legislative body unsuited to act as a national regulatory authority under the regulatory framework. For that purpose rules should be laid down in advance regarding the grounds for the dismissal of the head of the national regulatory authority in order to remove any reasonable doubt as to the neutrality of that body and its imperviousness to external factors. It is important that national regulatory authorities should have their own budget allowing them, in particular, to recruit a sufficient number of qualified staff. In order to ensure transparency, this should be published annually.

*Amendment*

(6) The independence of the national regulatory authorities should be strengthened in order to ensure a more effective application of the regulatory framework and increase their authority and the predictability of their decisions. To this end, express provision should be made in national law to ensure that, in the exercise of its tasks, a national regulatory authority is protected against external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. Such outside influence makes a national legislative body unsuited to act as a national regulatory authority under the regulatory framework. For that purpose rules should be laid down in advance regarding the grounds for the dismissal of the head of the national regulatory authority in order to remove any reasonable doubt as to the neutrality of that body and its imperviousness to external factors. ***The reasons for any such dismissal, except those that might affect the image of the institution, must be publicly announced.*** It is important that national regulatory authorities should have their own budget allowing them, in particular, to recruit a sufficient number of qualified staff. In order to ensure transparency, this should be published annually.

#### Amendment 5

##### Proposal for a directive – amending act Recital 11

*Text proposed by the Commission*

(11) The Community mechanism allowing the Commission to require national regulatory authorities to withdraw planned measures concerning market definition and the designation of operators having significant market power has contributed significantly to a consistent approach in identifying the circumstances in which ex-ante regulation may be applied and the operators are subject to such regulation. However, there is no equivalent mechanism for the remedies to be applied. Monitoring of the market by the Commission and, in particular, the experience with the procedure under Article 7 of the Framework Directive, has shown that inconsistencies in the national regulatory authorities' application of remedies, even under similar market conditions, undermine the internal market in electronic communications, do not ensure a level playing field between operators established in different Member States, and prevent the realisation of consumer benefits from cross-border competition and services. The Commission **should** be given powers to **require** national regulatory authorities **to withdraw** draft measures on the remedies chosen by national regulatory authorities. In order to ensure the consistent application of the regulatory framework in the Community, the Commission should consult the Authority prior to **its decision**.

**Amendment 6**

**Proposal for a directive – amending act**  
**Recital 13**

*Text proposed by the Commission*

(13) Likewise, in view of the need to avoid

*Amendment*

(11) The Community mechanism allowing the Commission to require national regulatory authorities to withdraw planned measures concerning market definition and the designation of operators having significant market power has contributed significantly to a consistent approach in identifying the circumstances in which ex-ante regulation may be applied and the operators are subject to such regulation. However, there is no equivalent mechanism for the remedies to be applied. Monitoring of the market by the Commission and, in particular, the experience with the procedure under Article 7 of the Framework Directive, has shown that inconsistencies in the national regulatory authorities' application of remedies, even under similar market conditions, undermine the internal market in electronic communications, do not ensure a level playing field between operators established in different Member States, and prevent the realisation of consumer benefits from cross-border competition and services. The Commission **may** be given powers to **negotiate with** national regulatory authorities **on the withdrawal of** draft measures on the remedies chosen by national regulatory authorities. In order to ensure the consistent application of the regulatory framework in the Community, the Commission should consult the Authority prior to **beginning negotiations**.

*Amendment*

(13) Likewise, in view of the need to avoid

a regulatory vacuum in a sector characterised by its fast-moving nature, if adoption of the re-notified draft measure would still create a barrier to the single market or be incompatible with Community law, the Commission, after having consulted the Authority, should be able to **require** the national regulatory authority concerned to impose a specific remedy within a specified time.

a regulatory vacuum in a sector characterised by its fast-moving nature, if adoption of the re-notified draft measure would still create a barrier to the single market or be incompatible with Community law, the Commission, after having consulted the Authority, should be able to **recommend to** the national regulatory authority concerned to impose a specific remedy within a specified time. ***If the national regulatory authority (NRA) concerned does not accept the recommendation, it should publish its reasoning in a clear and transparent manner.***

#### Amendment 7

##### Proposal for a directive – amending act Recital 14

###### *Text proposed by the Commission*

(14) Having regard to the short time limits in the Community consultation mechanism, ***powers should be conferred on the Commission to*** adopt implementing measures to simplify the procedures for exchanging information between the Commission and national regulatory authorities - for example in cases concerning stable markets, or involving only minor changes to previously notified measures - or to allow for the introduction of a notification exemption in order to streamline procedures in certain cases.

###### *Amendment*

(14) Having regard to the short time limits in the Community consultation mechanism, ***the Commission may, in consultation with NRAs,*** adopt implementing measures to simplify the procedures for exchanging information between the Commission and national regulatory authorities - for example in cases concerning stable markets, or involving only minor changes to previously notified measures - or to allow for the introduction of a notification exemption in order to streamline procedures in certain cases.

#### Amendment 8

##### Proposal for a directive – amending act Recital 15

###### *Text proposed by the Commission*

(15) In line with the objectives of the

###### *Amendment*

(15) In line with the objectives of the

European Charter on fundamental rights and the United Nations Convention on the Rights of the Persons with Disabilities, the regulatory framework should ensure that all users, including disabled end-users, the elderly, and users with special social needs, have easy access to **affordable high quality** services. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Community shall take account of the needs of persons with a disability in drawing up measures under Article 95 of the Treaty.

European Charter on fundamental rights and the United Nations Convention on the Rights of the Persons with Disabilities, the regulatory framework should ensure that all users, including disabled end-users, the elderly, and users with special social needs, have easy access to **electronic communications** services. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Community shall take account of the needs of persons with a disability in drawing up measures under Article 95 of the Treaty.

## Amendment 9

### Proposal for a directive – amending act Recital 19

#### *Text proposed by the Commission*

(19) National borders are increasingly irrelevant in determining optimal radio spectrum use. Fragmentation of the management of access to spectrum rights limits investment and innovation and **does** not allow operators and equipment manufacturers to realise economies of scale, thereby hindering the development of an internal market for electronic communications networks and services using radio spectrum.

#### *Amendment*

(19) National borders are increasingly irrelevant in determining optimal radio spectrum use. Fragmentation of the management of access to spectrum rights limits investment and innovation and **may** not allow operators and equipment manufacturers to realise economies of scale, thereby hindering the development of an internal market for electronic communications networks and services using radio spectrum.

## Amendment 10

### Proposal for a directive – amending act Recital 23

#### *Text proposed by the Commission*

(23) It lies within the competence of the Member States to define the scope and nature of any exception regarding the promotion of cultural and linguistic diversity and media pluralism in

#### *Amendment*

(23) It lies within the competence of the Member States to define the scope and nature of any exception regarding the promotion of cultural and linguistic diversity and media pluralism in

accordance with their own national law.

accordance with their own national law, **as long as this does not undermine the country of origin principle.**

## Amendment 11

### Proposal for a directive – amending act Recital 26

#### *Text proposed by the Commission*

(26) Given the effect of the exceptions on the development of the internal market for electronic communications services, the Commission **should be able** to harmonise the scope and nature of any exceptions to the principles of technology and service neutrality other than those aimed at ensuring the promotion of cultural and linguistic diversity and media pluralism, having regard to harmonised technical conditions for the availability and efficient use of radio frequencies under Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (“Radio Spectrum Decision”).

#### *Amendment*

(26) Given the effect of the exceptions on the development of the internal market for electronic communications services, the Commission **may, in agreement with NRAs, be able** to harmonise the scope and nature of any exceptions to the principles of technology and service neutrality other than those aimed at ensuring the promotion of cultural and linguistic diversity and media pluralism, having regard to harmonised technical conditions for the availability and efficient use of radio frequencies under Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (“Radio Spectrum Decision”).

## Amendment 12

### Proposal for a directive – amending act Recital 29

#### *Text proposed by the Commission*

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission **should** be given the power to grant the Authority specific responsibilities in the area of numbering. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to

#### *Amendment*

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission **may, in agreement with NRAs, be given** the power to grant the Authority specific responsibilities in the area of numbering. Furthermore, to allow citizens of the Member States, including

be able to reach certain services by using the same recognisable numbers at similar prices in all Member States, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, the applicable tariff principle or mechanism.

travellers and disabled users, to be able to reach certain services by using the same recognisable numbers at similar prices in all Member States, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, the applicable tariff principle or mechanism.

### Amendment 13

#### Proposal for a directive – amending act Recital 31

##### *Text proposed by the Commission*

(31) It is necessary to strengthen the powers of the Member States vis-à-vis holders of rights of way to ensure the entry or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works. Improving facility sharing can significantly improve competition and lower the overall financial and environmental cost of deploying electronic communications infrastructure for undertakings.

##### *Amendment*

(31) It is necessary to strengthen the powers of the Member States vis-à-vis holders of rights of way to ensure the entry or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works, ***where there is a lack of infrastructure competition***. Improving facility sharing can significantly improve competition and lower the overall financial and environmental cost of deploying electronic communications infrastructure for undertakings.

### Amendment 14

#### Proposal for a directive – amending act Recital 31

##### *Text proposed by the Commission*

(31) It is necessary to strengthen the powers of the Member States vis-à-vis holders of rights of way to ensure the entry

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or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works. Improving facility sharing can significantly improve competition and lower the overall financial and environmental cost of deploying electronic communications infrastructure for undertakings.

or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works, ***where there is a regulatory bottleneck in infrastructure competition***. Improving facility sharing can significantly improve competition and lower the overall financial and environmental cost of deploying electronic communications infrastructure for undertakings.

## Amendment 15

### Proposal for a directive – amending act Recital 32

#### *Text proposed by the Commission*

(32) Reliable and secure communication of information over electronic communications networks is increasingly central to the whole economy and society in general. System complexity, technical failure or human mistake, accidents or attacks may all have consequences for the functioning and availability of the physical infrastructures that deliver important services to EU citizens, including e-Government services. National regulatory authorities should therefore ensure the integrity and security of public communications networks are maintained. The Authority should contribute to the enhanced level of security of electronic communications by, among other things, providing expertise and advice, and promoting the exchange of best practices. Both the Authority and the national regulatory authorities should have the

#### *Amendment*

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necessary means to perform their duties, including powers to obtain sufficient information to be able to assess the level of security of networks or services as well as comprehensive and reliable data about actual security incidents that have had a significant impact on the operation of networks or services. Bearing in mind that the successful application of adequate security is not a one-off exercise but a continuous process of implementation, review and updating, the providers of electronic communications networks and services should be required to take measures to safeguard their integrity and security in **accordance with** the assessed risks, taking into account the state of the art of such measures.

necessary means to perform their duties, including powers to obtain sufficient information to be able to assess the level of security of networks or services as well as comprehensive and reliable data about actual security incidents that have had a significant impact on the operation of networks or services. Bearing in mind that the successful application of adequate security is not a one-off exercise but a continuous process of implementation, review and updating the providers of electronic communications networks and services should be required to take measures to safeguard their integrity and security in **proportion to** the assessed risks, taking into account the state of the art of such measures

## Amendment 16

### Proposal for a directive – amending act Recital 33

#### *Text proposed by the Commission*

(33) Where there is a need to agree on a common set of security requirements, power **should** be conferred on the Commission to adopt technical implementing measures to achieve an adequate level of security of electronic communications networks and services in the internal market. The **Authority** should contribute to the harmonisation of appropriate technical and organisational security measures by providing expert advice. National regulatory authorities should have the power to issue binding instructions relating to the technical implementing measures adopted pursuant to the Framework Directive. In order to perform their duties, they should have the power to investigate and to impose penalties in cases of non-compliance.

#### *Amendment*

(33) Where there is a need to agree on a common set of security requirements, power **may, in agreement with the national regulatory authorities**, be conferred on the Commission to adopt technical implementing measures to achieve an adequate level of security of electronic communications networks and services in the internal market **where industry-led self-regulatory initiatives have not achieved an adequate level of security in the internal market in one or more Member States. Where technical implementing measures are deemed necessary, a cost reimbursement scheme at national level should be required.** The **European Network and Information Security Agency (Enisa)** should contribute to the harmonisation of appropriate technical and organisational security measures by providing expert advice. National regulatory authorities should have

the power to issue binding instructions relating to the technical implementing measures adopted pursuant to the Framework Directive. In order to perform their duties, they should have the power to investigate and to impose penalties in cases of non-compliance.

## **Amendment 17**

### **Proposal for a directive – amending act Recital 36**

#### *Text proposed by the Commission*

(36) In order to provide market players with certainty as to regulatory conditions, a time limit for market reviews is necessary. It is important to conduct a market analysis on a regular basis and within a reasonable and appropriate timeframe. The timeframe should take account of whether the particular market has previously been subject to market analysis and duly notified. Failure of a national regulatory authority to analyse a market within the time limit may jeopardise the internal market, and normal infringement proceedings may not produce their desired effect in time. The Commission **should** therefore be able to ask the Authority to assist in the tasks of the national regulatory authority concerned, in particular to issue an opinion including a draft measure, the analysis of the relevant market and the appropriate obligations that the Commission could then impose.

#### *Amendment*

(36) In order to provide market players with certainty as to regulatory conditions, a time limit for market reviews is necessary. It is important to conduct a market analysis on a regular basis and within a reasonable and appropriate timeframe. The timeframe should take account of whether the particular market has previously been subject to market analysis and duly notified. Failure of a national regulatory authority to analyse a market within the time limit may jeopardise the internal market, and normal infringement proceedings may not produce their desired effect in time. The Commission **may, in agreement with the NRAs**, therefore be able to ask the Authority to assist in the tasks of the national regulatory authority concerned, in particular to issue an opinion including a draft measure, the analysis of the relevant market and the appropriate obligations that the Commission could then impose.

## **Amendment 18**

### **Proposal for a directive – amending act Recital 53**

*Text proposed by the Commission*

(53) Removing legal and administrative barriers to a general authorisation or rights of use for spectrum or numbers with European implications should favour technology and service development and contribute to improving competition. While the coordination of technical conditions for the availability and efficient use of radio frequencies is organised pursuant to the Radio Spectrum Decision<sup>28</sup>, it may also be necessary, in order to achieve internal market objectives, to coordinate or harmonise the selection procedures and conditions applicable to rights and authorisations in certain bands, to rights of use for numbers and to general authorisations. This applies in particular to electronic communications services that by their nature have an internal market dimension or cross-border potential, such as satellite services, the development of which would be hampered by discrepancies in spectrum assignment between Member States. The Commission, assisted by the Communications Committee and taking the utmost account of the opinion of the Authority, should therefore be able to adopt technical implementing measures to achieve such objectives. Implementing measures adopted by the Commission may require Member States to make available rights of use for spectrum and/or numbers throughout their territory and where necessary withdraw any other existing national rights of use. In such cases, Member States should not grant any new right of use for the relevant spectrum band or number range under national procedures.

*Amendment*

(53) Removing legal and administrative barriers to a general authorisation or rights of use for spectrum or numbers with European implications should favour technology and service development and contribute to improving competition. While the coordination of technical conditions for the availability and efficient use of radio frequencies is organised pursuant to the Radio Spectrum Decision<sup>28</sup>, it may also be necessary, in order to achieve internal market objectives, to coordinate or harmonise the selection procedures and conditions applicable to rights and authorisations in certain bands, to rights of use for numbers and to general authorisations. This applies in particular to electronic communications services that by their nature have an internal market dimension or cross-border potential, such as satellite services, the development of which would be hampered by discrepancies in spectrum assignment between Member States ***and between the EU and third countries, taking into account the decisions of international organisations dealing with radiofrequency spectrum management, e.g. the International Telecommunication Union (ITU) and the European Conference of Postal and Telecommunications Administrations (CEPT)***. The Commission, assisted by the Communications Committee and taking the utmost account of the opinion of the Authority, should therefore be able to adopt technical implementing measures to achieve such objectives. Implementing measures adopted by the Commission may require Member States to make available rights of use for spectrum and/or numbers throughout their territory and where necessary withdraw any other existing national rights of use. In such cases, Member States should not grant any new right of use for the relevant spectrum band or number range under national

procedures.

## Amendment 19

### Proposal for a directive – amending act

#### Article 1 - point 1

Directive 2002/21/EC (Framework Directive)

Article 1 - paragraph 1

#### *Text proposed by the Commission*

1. This Directive establishes a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services, **and certain aspects of terminal equipment**. 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.

#### *Amendment*

1. 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.

## Amendment 20

### Proposal for a directive – amending act

#### Article 1 - point 2 - point e

Directive 2002/21/EC (Framework Directive)

Article 2 - point s

#### *Text proposed by the Commission*

(s) “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable Community or national regulations.

#### *Amendment*

(s) “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable **international**, Community or national regulations.

## Amendment 21

**Proposal for a directive – amending act**  
**Article 1 - point 2 - point e**  
Directive 2002/21/EC (Framework Directive)  
Article 2 - point s

*Text proposed by the Commission*

(s) “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable Community or national regulations.’

*Amendment*

(s) “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable Community or national regulations **and with international radiofrequency plans.**’

*Justification*

*Given the seriousness of problems of interference between broadcasting and two-way services (reception and transmission), it is essential that digital broadcasting services be protected against harmful interference in accordance with international frequency plans, in particular the ITU Geneva Plan (GE-06). The definition of harmful interference must therefore be amended accordingly.*

**Amendment 22**

**Proposal for a directive – amending act**  
**Article 1 - point 5**  
Directive 2002/21/EC (Framework Directive)  
Article 5 - paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that undertakings providing electronic communications networks and services provide all the information, including financial information, necessary for national regulatory authorities to ensure conformity with the provisions of, or decisions made in accordance with, this Directive and the Specific Directives.  
***Those undertakings shall also be required to submit information concerning future network or service developments that could have an impact on the wholesale services made available to competitors.***

*Amendment*

1. Member States shall ensure that undertakings providing electronic communications networks and services provide all the information, including financial information, necessary for national regulatory authorities to ensure conformity with the provisions of, or decisions made in accordance with, this Directive and the Specific Directives. These undertakings shall provide such information promptly on request and to the timescales and level of detail required by the national regulatory authority. The information requested by the national

These undertakings shall provide such information promptly on request and to the timescales and level of detail required by the national regulatory authority. The information requested by the national regulatory authority shall be proportionate to the performance of that task. The national regulatory authority shall give the reasons justifying its request for information.

### **Amendment 23**

#### **Proposal for a directive – amending act**

##### **Article 1 - point 6**

Directive 2002/21/EC (Framework Directive)

Article 7 - paragraph 1 a (new)

*Text proposed by the Commission*

regulatory authority shall be proportionate to the performance of that task. The national regulatory authority shall give the reasons justifying its request for information ***and comply with Community and national law on business confidentiality.***

*Amendment*

***1a. Member States shall not impose conditions on the provision of electronic communications services from another Member State***

### **Amendment 24**

#### **Proposal for a directive – amending act**

##### **Article 1 - point 6**

Directive 2002/21/EC (Framework Directive)

Article 7 - paragraph 5

*Text proposed by the Commission*

5. Within the two month period referred to in paragraph 4, the Commission may ***take a decision requiring*** the national regulatory authority concerned to withdraw the draft measure. The Commission shall take the utmost account of the opinion of the Authority submitted in accordance with Article 5 of Regulation [...../EC] before issuing a decision. The ***decision*** shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted together with specific proposals

*Amendment*

5. Within the two month period referred to in paragraph 4, the Commission may ***recommend that*** the national regulatory authority concerned withdraws the draft measure. The Commission shall take the utmost account of the opinion of the Authority submitted in accordance with Article 5 of Regulation [...../EC] before issuing a decision. The ***recommendation*** shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted together with specific proposals

for amending the draft measure.

for amending the draft measure.

## Amendment 25

### Proposal for a directive – amending act

#### Article 1 - point 6

Directive 2002/21/EC (Framework Directive)

Article 7 - paragraph 6

#### *Text proposed by the Commission*

6. Within three months of the Commission issuing a **decision** in accordance with paragraph 5 **requiring** the national regulatory authority to withdraw a draft measure, the national regulatory authority shall amend or withdraw the draft measure. If the draft measure is amended, the national regulatory authority shall undertake a public consultation in accordance with the procedures referred to in Article 6, and re-notify the amended draft measure to the Commission in accordance with the provisions of paragraph 3.

#### *Amendment*

6. Within three months of the Commission issuing **a recommendation** in accordance with paragraph 5 **to** the national regulatory authority to withdraw a draft measure, the national regulatory authority may amend or withdraw the draft measure. If the draft measure is amended, the national regulatory authority shall undertake a public consultation in accordance with the procedures referred to in Article 6, and re-notify the amended draft measure to the Commission in accordance with the provisions of paragraph 3.

## Amendment 26

### Proposal for a directive – amending act

#### Article 1 -point 6

Directive 2002/21/EC (Framework Directive)

Article 7 - paragraph 8

#### *Text proposed by the Commission*

**8. Where a draft measure has been amended in accordance with paragraph 6, the Commission may take a decision, requiring the national regulatory authority to impose a specific obligation under Articles 9 to 13a of Directive 2002/19/EC (Access Directive), and Article 17 of Directive 2002/22/EC (Universal Service Directive) within a given time-limit.**

***In so doing, the Commission shall pursue***

#### *Amendment*

***deleted***

*the same policy objectives as set out for national regulatory authorities in Article 8. The Commission shall take the utmost account of the opinion of the Authority submitted in accordance with Article 6 of Regulation [.../EC], in particular in elaborating the details of the obligation(s) to be imposed.*

#### **Amendment 27**

##### **Proposal for a directive – amending act**

##### **Article 1 - point 7**

Directive 2002/21/EC (Framework Directive)

Article 7a - paragraph 2

*Text proposed by the Commission*

*Amendment*

*2. The measures referred to in paragraph 1, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).*

*deleted*

#### **Amendment 28**

##### **Proposal for a directive – amending act**

##### **Article 1 - point 8 - point e**

Directive 2002/21/EC (Framework Directive)

Article 8 - paragraph 4 - point g a (new)

*Text proposed by the Commission*

*Amendment*

*(ga) ensuring cooperation between undertakings providing electronic communications networks and services and the relevant sectors, for the protection and promotion of lawful content in connection with those networks and services.*

## *Justification*

*It seems appropriate to give a coordinating remit to the European Electronic Communications Market Authority, or to the coordinating body superseding it, so as to guarantee cooperation between electronic communications service operators as regards combating copyright breaches, which are increasing enormously.*

### **Amendment 29**

#### **Proposal for a directive – amending act**

##### **Article 1 - point 9**

Directive 2002/21/EC (Framework Directive)

Article 9 - paragraph 1

#### *Text proposed by the Commission*

1. Member States shall ensure the effective management of radio frequencies for electronic communication services in their territory in accordance with Article 8. They shall ensure that the allocation and assignment of such radio frequencies by national regulatory authorities are based on objective, transparent, non-discriminatory and proportionate criteria.

#### *Amendment*

1. Member States shall ensure the effective management of radio frequencies for electronic communication services in their territory in accordance with Article 8. They shall ensure that the allocation and assignment of such radio frequencies by national regulatory authorities are based on objective, transparent, non-discriminatory and proportionate criteria ***and that the allocation and assignment of radiofrequency spectrum by national regulatory authorities ensures effective competition, taking into consideration their respective national radiofrequency plans and the prior decisions of international organisations dealing with radiofrequency spectrum management.***

### **Amendment 30**

#### **Proposal for a directive – amending act**

##### **Article 1 -point 9**

Directive 2002/21/EC (Framework Directive)

Article 9 - paragraph 2

#### *Text proposed by the Commission*

2. Member States shall promote the harmonisation of use of radio frequencies across the Community, consistent with the need to ensure effective and efficient use thereof and in accordance with Decision

#### *Amendment*

2. Member States shall promote the harmonisation of use of radio frequencies, ***where practicable***, across the Community, consistent with the need to ensure effective and efficient use thereof and in accordance

No 676/2002/EC (Radio Spectrum Decision).

with Decision No 676/2002/EC (Radio Spectrum Decision), ***taking into consideration their respective national radiofrequency plans and the prior decisions of international organisations dealing with radiofrequency spectrum management.***

### **Amendment 31**

#### **Proposal for a directive – amending act**

##### **Article 1 - point 9**

Directive 2002/21/EC (Framework Directive)

Article 9 - paragraph 3 - point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) avoid distortions of competition***

### **Amendment 32**

#### **Proposal for a directive – amending act**

##### **Article 1 - point 9**

Directive 2002/21/EC (Framework Directive)

Article 9 - paragraph 3 - subparagraph 2 - point d

*Text proposed by the Commission*

*Amendment*

(d) comply with a restriction in accordance with paragraph 4 below.

(d) comply with a restriction in accordance with paragraph 4 below, ***including restrictions to ensure the promotion of cultural and media policy objectives, such as cultural and linguistic diversity and media pluralism.***

### **Amendment 33**

#### **Proposal for a directive – amending act**

##### **Article 1 - point 9**

Directive 2002/21/EC (Framework Directive)

Article 9 - paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***5a. The Member States shall have competence to define the scope, nature***

*and duration of restrictions to promote cultural and media policy objectives, such as cultural and linguistic diversity and media pluralism, in accordance with their national law.*

## Amendment 34

### Proposal for a directive – amending act

#### Article 1 - point 10

Directive 2002/21/EC (Framework Directive)

Article 9b - paragraph 1

#### *Text proposed by the Commission*

1. Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c **without** the prior consent of the national regulatory authority.

In other bands, Member States may also make provision for undertakings to transfer or lease individual rights to use radio frequencies to other undertakings.

#### *Amendment*

1. Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c **with** the prior consent of the national regulatory authority.

In other bands, Member States may also make provision for undertakings to transfer or lease individual rights to use radio frequencies to other undertakings, **with the prior consent of the national regulatory authorities.**

## Amendment 35

### Proposal for a directive – amending act

#### Article 1 - point 10

Directive 2002/21/EC (Framework Directive)

Article 9c, subparagraph 1

#### *Text proposed by the Commission*

In order to contribute to the development of the internal market, for the achievement of the principles of this Article, the Commission may **adopt** appropriate implementing measures to:

(a) harmonise the identification of the bands for which usage rights may be

#### *Amendment*

In order to contribute to the development of the internal market, for the achievement of the principles of this Article, the Commission may, **in agreement with the NRAs, recommend** appropriate implementing measures to:

(a) harmonise the identification of the bands for which usage rights may be

transferred or leased between undertakings;  
(b) harmonise the conditions attached to such rights and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;  
(c) harmonise the specific measures to ensure fair competition where individual rights are transferred;  
(d) create an exception to the principle of services or technology neutrality, as well as to harmonise the scope and nature of any exceptions to these principles in accordance with Article 9(3) and (4) ***other than those aimed at ensuring the promotion of cultural and linguistic diversity and media pluralism.***

### Amendment 36

#### Proposal for a directive – amending act

##### Article 1 - point 11 - point (a)

Directive 2002/21/EC (Framework Directive)

Article 10 - paragraph 2

#### *Text proposed by the Commission*

2. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may ***take appropriate technical implementing measures on this matter, which may include establishing tariff principles for specific numbers or number ranges. The implementing measures may grant the Authority specific responsibilities in the application of those measures. The measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).***

transferred or leased between undertakings;  
(b) harmonise the conditions attached to such rights and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;  
(c) harmonise the specific measures to ensure fair competition where individual rights are transferred;  
(d) create an exception to the principle of services or technology neutrality, as well as to harmonise the scope and nature of any exceptions to these principles. ***All exceptions shall be*** in accordance with Article 9(3) and (4).

#### *Amendment*

2. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may, ***in agreement with the NRAs, recommend appropriate technical implementing measures in this respect.***

## Amendment 37

### Proposal for a directive – amending act

#### Article 1 - point 13

Directive 2002/21/EC (Framework Directive)

Article 12 - paragraph 1

#### *Text proposed by the Commission*

1. Where an undertaking providing electronic communications networks has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities shall be able to impose the sharing of such facilities or property, including entries to buildings, masts, antennae, ducts, manholes and street cabinets.

#### *Amendment*

1. Where an undertaking providing electronic communications networks has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities shall be able to impose the sharing of such facilities or property, including entries to buildings, masts, antennae, ducts, manholes and street cabinets, ***subject to appropriate and proportionate compensation at a fair market price for the holders of those rights.***

## Amendment 38

### Proposal for a directive – amending act

#### Article 1 - point 13

Directive 2002/21/EC (Framework Directive)

Article 12 - paragraph 3

#### *Text proposed by the Commission*

3. Measures taken by a national regulatory authority in accordance with paragraph 1 shall be objective, transparent, and proportionate.

#### *Amendment*

3. Measures taken by a national regulatory authority in accordance with paragraph 1 shall be objective, transparent, ***non-discriminatory*** and proportionate and ***undertaken in accordance with the procedure laid out in Article 7a(4).***

## Amendment 39

**Proposal for a directive – amending act**

**Article 1 - point 14**

Directive 2002/21/EC (Framework Directive)

Article 13a - paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that undertakings providing public communications networks take **all necessary** steps to ensure the integrity of their networks so as to ensure the continuity of supply of services provided over those networks.

*Amendment*

2. Member States shall ensure that undertakings providing public communications networks take **appropriate** steps to ensure the integrity of their networks so as to ensure the continuity of supply of services provided over those networks. ***The Member States shall ensure that the national regulatory authorities regularly consult with undertakings in order to ensure that appropriate steps have been taken to ensure security or integrity.***

**Amendment 40**

**Proposal for a directive – amending act**

**Article 1 - point 14**

Directive 2002/21/EC (Framework Directive)

Article 13a - paragraph 4

*Text proposed by the Commission*

***4. The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 4(3)(b) of Regulation [.../EC], may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements. These implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the procedure referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).***

*Amendment*

***deleted***

## Amendment 41

### Proposal for a directive – amending act

#### Article 1 - point 14

Directive 2002/21/EC (Framework Directive)

Article 13b - paragraph 2 - introductory wording

*Text proposed by the Commission*

2. Member States shall ensure that national regulatory authorities have the power to require undertakings providing public communications networks or publicly available electronic communications services to:

*Amendment*

2. Member States shall ensure that national regulatory authorities, **where appropriate**, have the power to require undertakings providing public communications networks or publicly available electronic communications services to:

*Justification*

*The proposed enforcement powers in the form of NRA binding instructions, security audits and the ability to require information provision on network operators is an additional compliance burden and should be minimised, so that over the longer term they do not harm development of new technologies to market.*

## Amendment 42

### Proposal for a directive – amending act

#### Article 1 - point 14

Directive 2002/21/EC (Framework Directive)

Article 13b - paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. The Member States shall ensure that a cost reimbursement scheme is made available to undertakings providing public communications networks or publicly available electronic communications services where the Commission adopts technical implementing measures under Article 13a(4).***

*Justification*

*The proposed enforcement powers in the form of NRA binding instructions, security audits and the ability to require information provision on network operators is an additional compliance burden and should be minimised, so that over the longer term they do not harm development of new technologies to market.*

## Amendment 43

### Proposal for a directive – amending act

#### Article 1 - point 16 - point d

Directive 2002/21/EC (Framework Directive)

Article 15 - paragraph 4

#### *Text proposed by the Commission*

4. The Commission may, **taking the utmost account of the opinion of the Authority submitted in accordance with Article 7 of Regulation [.../EC]**, adopt a Decision identifying transnational markets.

This Decision, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). **On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).**

#### *Amendment*

4. The Commission may, **after consulting the national regulatory authorities**, adopt a Decision identifying transnational markets.

This Decision, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).

## Amendment 44

### Proposal for a directive – amending act

#### Article 1 - point 17 - point c

Directive 2002/21/EC (Framework Directive)

Article 16 - paragraph 7 - subparagraph 2

#### *Text proposed by the Commission*

The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 6 of Regulation [.../EC], may **adopt a decision requiring** the national regulatory authority to designate certain undertakings as having significant market power and to impose specific obligations under Articles 8, 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive) on those undertakings so designated. In so doing, the Commission shall pursue the same policy objectives as set out for

#### *Amendment*

The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 6 of Regulation [.../EC], may **recommend that** the national regulatory authority designate certain undertakings as having significant market power and suggest specific obligations under Articles 8, 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive) on those undertakings so designated. In so doing, the Commission shall pursue the same policy objectives as set out for national

national regulatory authorities in Article 8.

regulatory authorities in Article 8.

## Amendment 45

### Proposal for a directive – amending act

#### Article 1 - point 20

Directive 2002/21/EC (Framework Directive)  
Article 19 - paragraph 1

#### *Text proposed by the Commission*

1. Without prejudice to Article 9 of this Directive and to Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by national regulatory authorities of the regulatory tasks specified in this Directive and the Specific Directives may create a barrier to the internal market, the Commission may, taking the utmost account of the opinion of the Authority, if any, issue a recommendation **or a decision** on the harmonised application of the provisions in this Directive and the Specific Directives in order to further the achievement of the objectives set out in Article 8.

## Amendment 46

### Proposal for a directive – amending act

#### Article 1 - point 20

Directive 2002/21/EC (Framework Directive)  
Article 19 - paragraph 3

#### *Text proposed by the Commission*

***3. The decision mentioned in paragraph 1 designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in***

#### *Amendment*

1. Without prejudice to Article 9 of this Directive and to Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by national regulatory authorities of the regulatory tasks specified in this Directive and the Specific Directives may create a barrier to the internal market, the Commission may, taking the utmost account of the opinion of the Authority, if any, issue a recommendation on the harmonised application of the provisions in this Directive and the Specific Directives in order to further the achievement of the objectives set out in Article 8.

#### *Amendment*

***deleted***

*Article 22(4).*

#### **Amendment 47**

**Proposal for a directive – amending act**

**Article 1 - point 20**

Directive 2002/21/EC (Framework Directive)

Article 19 - paragraph 4

*Text proposed by the Commission*

*Amendment*

***4. Measures adopted pursuant to paragraph 1 may include the identification of a harmonised or coordinated approach for dealing with the following issues:***

***deleted***

- (a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;***
- (b) Numbering, naming and addressing issues, including number ranges, portability of numbers and identifiers, number and address translation systems, and access to 112 emergency services;***
- (c) Consumer issues, including accessibility to electronic communications services and equipment by disabled end-users;***
- (d) Regulatory accounting.***

#### **Amendment 48**

**Proposal for a directive – amending act**

**Article 1 - point 23**

Directive 2002/21/EC (Framework Directive)

Article 21a

*Text proposed by the Commission*

*Amendment*

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and the Specific Directives and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective,

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and the Specific Directives and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be ***appropriate***,

proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the [*time-limit for implementation of the amending act*] at the latest and shall notify it without delay of any subsequent amendment affecting them.

effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the [*time-limit for implementation of the amending act*] at the latest and shall notify it without delay of any subsequent amendment affecting them.

## **Amendment 49**

### **Proposal for a directive – amending act**

#### **Article 2 - point 2**

Directive 2002/19/EC (Access Directive)

Article 4 - paragraph 1

#### *Text proposed by the Commission*

1. Operators of public communications networks shall have a right and, when requested by other undertakings so authorised in accordance with Article 4 of Directive 2002/20/EC (Authorisation Directive), 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. Operators shall offer access and interconnection to other undertakings on terms and conditions consistent with obligations imposed by the national regulatory authority pursuant to Articles 5, 6, 7 and 8.’

#### *Amendment*

1. Operators of public communications networks shall have a right and, when requested by other undertakings so authorised in accordance with Article 4 of Directive 2002/20/EC (Authorisation Directive), 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. Operators shall offer access and interconnection to other undertakings on terms and conditions consistent with obligations imposed by the national regulatory authority pursuant to Articles 5, 6, 7 and 8. ***However the terms and conditions for interconnection shall not introduce unjustified barriers to interoperability.***

## **Amendment 50**

### **Proposal for a directive – amending act**

#### **Article 2 - point 4**

Directive 2002/19/EC (Access Directive)

Article 6 - paragraph 2

*Text proposed by the Commission*

2. In the light of market and technological developments, the Commission may **adopt** implementing measures to amend Annex I. ***The measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 14(4).***

***In preparing the provisions referred to in this paragraph, the Commission may be assisted by the European Electronic Communications Market Authority (hereinafter referred to as 'the Authority').***

#### **Amendment 51**

**Proposal for a directive – amending act**  
**Article 2 - point 8, point - a (new)**  
Directive 2002/19/EC (Access Directive)  
Article 12 - paragraph 1 - point b a (new) -

*Text proposed by the Commission*

*Amendment*

2. In the light of market and technological developments, the Commission may, ***in consultation with the NRAs, recommend*** implementing measures to amend Annex I.

*Amendment*

***(-a) In paragraph 1, the following point is inserted:***

***"(ba) to conclude radio access network sharing agreements to cover remote and or non-profitable areas in order to offer and give access to multiple choices of services throughout the territory of each Member State for the benefit of the consumers and the environment."***

## Amendment 52

### Proposal for a directive – amending act

#### Article 2 - point 9

Directive 2002/19/EC (Access Directive)

Article 13 a - paragraph 2 - introductory part

#### *Text proposed by the Commission*

2. When a national regulatory authority intends to impose an obligation for functional separation, it shall **submit a request to** the Commission that **includes**.

#### *Amendment*

2. When a national regulatory authority intends to impose an obligation for functional separation, it shall **notify** the Commission **and include**:

## Amendment 53

### Proposal for a directive – amending act

#### Article 3 - point 1

Directive 2002/20/EC (Authorisation Directive)

Article 2 - paragraph 2

#### *Text proposed by the Commission*

2. The following **definition** shall also apply:

"general authorisation" means a legal framework established by the Member State ensuring rights for the provision of electronic communications networks or services and laying down sector specific obligations that may apply to all or to specific types of electronic communications networks and services, in accordance with this Directive.

#### *Amendment*

2. The following **definitions** shall also apply:

"general authorisation" means a legal framework established by the Member State ensuring rights for the provision of electronic communications networks or services and laying down sector specific obligations that may apply to all or to specific types of electronic communications networks and services, in accordance with this Directive.

**"global telecommunications services" means managed business data and voice services for multinational companies with locations in different countries and often different continents; they are inherently cross-border and, within Europe, pan-European services.**

## Amendment 54

### Proposal for a directive – amending act

#### Article 3 - point 2 a (new)

Directive 2002/20/EC (Authorisation Directive)

Article 3 - paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**(2a) In Article 3, the following paragraph is added:**

**"3a. New global telecommunications services shall be subject to no more than a simplified notification process with specific registration of electronic communications service activity as "global telecommunications services"."**

## Amendment 55

### Proposal for a directive – amending act

#### Article 3 - point 3

Directive 2002/20/EC (Authorisation Directive)

Article 5 - paragraph 1 - point (a)

*Text proposed by the Commission*

*Amendment*

(a) avoid a serious risk of harmful interference; or

(a) avoid a serious risk of harmful interference, **avoid distortions of competition**; or

## Amendment 56

### Proposal for a directive – amending act

#### Article 3 - point 3

Directive 2002/20/EC (Authorisation Directive)

Article 5 - paragraph 2 - subparagraph 2

*Text proposed by the Commission*

*Amendment*

Without prejudice to specific criteria defined in advance by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity

Without prejudice to specific criteria defined in advance by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity

with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive). The procedures shall also be open, except in cases where the granting of individual rights of use for radio frequencies to the providers of radio or television broadcast content services can be shown to be essential to meet a particular obligation defined in advance by the Member State which is necessary to achieve a general interest objective in conformity with Community law.

with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive). The procedures shall also be open, except in cases where the granting of individual rights of use for radio frequencies to the providers of radio or television broadcast content services can be shown to be essential to meet a particular obligation defined in advance by the Member State which is necessary to achieve a general interest objective in conformity with Community law. ***The Member States shall publish their justification for granting individual rights for the use of radiofrequencies.***

## **Amendment 57**

### **Proposal for a directive – amending act**

#### **Article 3 - point 3**

Directive 2002/20/EC (Authorisation Directive)

Article 5 - paragraph 5

#### *Text proposed by the Commission*

5. Member States shall not limit the number of rights of use to be granted except where this is necessary to ensure the efficient use of radio frequencies in accordance with Article 7.

#### *Amendment*

5. Member States shall not limit the number of rights of use to be granted except where this is necessary to ensure the efficient use of radio frequencies in accordance with Article 7. ***Legacy investments, including where an incumbent has inherited its legacy network from the former public telecommunications operator, and the level of competition should be duly taken into account.***

## Amendment 58

### Proposal for a directive – amending act

#### Article 3 - point 5

Directive 2002/20/EC (Authorisation Directive)

Article 6 a - paragraph 1 - introductory part

*Text proposed by the Commission*

1. In order to achieve the objectives set out in Article 1, and without prejudice to Article 5(2) of this Directive, the Commission may **adopt** implementing measures:

*Amendment*

1. In order to achieve the objectives set out in Article 1, and without prejudice to Article 5(2) of this Directive, the Commission may, **in consultation with the NRAs, recommend** implementing measures:

## Amendment 59

### Proposal for a directive – amending act

#### Article 3 - point 5

Directive 2002/20/EC (Authorisation Directive)

Article 6 b - paragraph 2

*Text proposed by the Commission*

2. Taking the utmost account of the opinion of the Authority, the Commission **shall adopt** a measure selecting the undertaking(s) to which individual rights of use for radio frequencies or numbers shall be issued. ***The measure shall specify the time within which such rights of use shall be issued by the national regulatory authorities. In so doing, the Commission shall act in accordance with the procedure referred to in Article 14a(2).***

*Amendment*

2. Taking the utmost account of the opinion of the Authority, the Commission may, **in consultation with the NRAs, recommend** a measure selecting the undertaking(s) to which individual rights of use for radio frequencies or numbers shall be issued.

## Amendment 60

### Proposal for a directive – amending act

#### ANNEX I - point 3 - point g

Directive 2002/20/EC (Authorisation Directive)

Annex - Part A- point 19

*Text proposed by the Commission*

**(g) The following point 19 is added:**

*Amendment*

**deleted**

***‘19. Compliance with national measures  
implementing Directive 2001/29/EC of the  
European Parliament and of the Council  
and Directive 2004/48/EC of the  
European Parliament and of the Council’***

## PROCEDURE

<b>Title</b>	Electronic communications networks and services		
<b>References</b>	COM(2007)0697 – C6-0427/2007 – 2007/0247(COD)		
<b>Committee responsible</b>	ITRE		
<b>Opinion by</b> Date announced in plenary	LIBE 10.12.2007		
<b>Drafts(wo)man</b> Date appointed	Syed Kamall 31.1.2008		
<b>Discussed in committee</b>	27.3.2008	5.5.2008	29.5.2008
<b>Date adopted</b>	29.5.2008		
<b>Result of final vote</b>	+: 41	–: 0	0: 2
<b>Members present for the final vote</b>	Alexander Alvaro, Emine Bozkurt, Philip Bradbourn, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Panayiotis Demetriou, Gérard Deprez, Agustín Díaz de Mera García Consuegra, Bárbara Dührkop Dührkop, Claudio Fava, Armando França, Urszula Gacek, Patrick Gaubert, Roland Gewalt, Jeanine Hennis-Plasschaert, Lívia Járóka, Ewa Klamt, Stavros Lambrinidis, Henrik Lax, Roselyne Lefrançois, Viktória Mohácsi, Claude Moraes, Martine Roure, Csaba Sógor, Manfred Weber, Tatjana Ždanoka		
<b>Substitute(s) present for the final vote</b>	Edit Bauer, Frieda Brepoels, Simon Busuttil, Evelyne Gebhardt, Genowefa Grabowska, Sophia in 't Veld, Syed Kamall, Sylvia-Yvonne Kaufmann, Marian-Jean Marinescu, Marianne Mikko, Bill Newton Dunn, Nicolae Vlad Popa		
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Manolis Mavrommatis		