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AMENDMENTS 133 – 249

Draft report
Pilar del Castillo Vera
(PE404.717v01-00)

Establishing the European Electronic Communications Market Authority

Proposal for a regulation
(COM(2007)0699 – C6-0428/2007 – 2007/0249(COD))

Amendment 133
Erika Mann

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The 2002 regulatory framework for electronic communications establishes a system of regulation undertaken by national regulatory authorities and provides for those authorities to co-operate with each other and with the Commission in order to ensure the development of consistent regulatory practice and the consistent application across the Community of the regulatory framework.

Amendment

(2) The 2002 regulatory framework for electronic communications establishes a system of regulation undertaken by national regulatory authorities and provides for those authorities to co-operate with each other and with the Commission in order to ensure the development of consistent regulatory practice and the consistent application across the Community of the regulatory framework ***but leaving room for regulatory competition between the national regulatory authorities in light of specific national market conditions.***

Or. en

Justification

BERT should not lead to full harmonisation of national markets. Healthy regulatory competition needs to be maintained.

Amendment 134
Erika Mann

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) BERT will be established to accomplish co-ordination between national regulatory authorities of Members States without harmonising existing regulatory approaches to a degree which undermines regulatory

competition.

Or. en

Amendment 135

Erika Mann

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) A more substantial institutional basis for the establishment of a body bringing together the expertise and experience of the national regulatory authorities, together with a clearly defined set of competencies, is therefore called for, taking account of the need for this body to exercise *real* authority in the eyes of its members and the sector being regulated through the quality of its output.

Amendment

(7) A more substantial institutional basis for the establishment of a body bringing together the expertise and experience of the national regulatory authorities, together with a clearly defined set of competencies, is therefore called for, taking account of the need for this body to exercise authority in the eyes of its members and the sector being regulated through the quality of its output.

Or. en

Amendment 136

Erika Mann

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The current approach to build greater consistency among national regulatory authorities by exchanging information and knowledge on practical experiences has proved to be successful in this short term following its deployment. However, a more intense coordination between all regulatory authorities at national and European level will be required to understand and further develop the internal market for electronic communication services in order to

enhance regulatory consistency.

Or. en

Justification

It should be stated, that although not perfect, cooperation between NRAs has been achieved over the last years. Greater cooperation is needed to understand and influence Europe's communication market in the right direction.

Amendment 137
Jorgo Chatzimarkakis

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) This calls for the establishment of a new Community body, **the European Electronic Communications Market Authority** (hereinafter the 'Authority'). The Authority would make an effective contribution to furthering the completion of the internal market through the assistance it provides to the Commission and the national regulatory authorities. It would operate as a point of reference and would establish confidence by virtue of its independence, the quality of the advice it delivers and the information it disseminates, the transparency of its procedures and methods of operation, and its diligence in performing the tasks assigned to it.

Amendment

(12) This calls for the establishment of a new **independent** Community body, **based on an enhanced European Regulators Group (ERG)** (hereinafter the 'Authority'). The Authority would make an effective contribution to furthering the completion of the internal market through the assistance it provides to the Commission and the national regulatory authorities. It would operate as a point of reference and would establish confidence by virtue of its independence, the quality of the advice it delivers and the information it disseminates, the transparency of its procedures and methods of operation, and its diligence in performing the tasks assigned to it.

Or. en

Justification

It is unnecessary to create a new agency. Instead, a body such as an enhanced ERG embedded in EU law should be established. The judgment of the ECJ Grand Chamber of 2 May 2006 in Case C-217/04 UK v Parliament and Council indicates that Article 95 can be used as a basis for establishment of a Community body. This gives ample grounds to give more powers to the ERG by giving it legal personality and therefore independence.

Amendment 138
Dragoş Florin David

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) The Authority *should* replace the ERG and *serve* as *the* exclusive forum for cooperation between national regulatory authorities in the exercise of the full range of their responsibilities under the regulatory framework.

Amendment

(14) The Authority *is to* replace the ERG and *act* as *an* exclusive forum for cooperation between national regulatory authorities *and between the latter authorities and the Commission*, in the exercise of the full range of their responsibilities under the regulatory framework.

Or. ro

Amendment 139
Dragoş Florin David

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) The Authority should be established within the Community's existing institutional structure and balance of powers. It should be independent in relation to technical matters and have legal, administrative and financial autonomy. To that end, it is necessary *and appropriate* that it should be a Community body having legal personality and exercising the tasks conferred on it by this Regulation.

Amendment

(15) The Authority should be established within the Community's existing institutional structure and balance of powers. It should be independent in relation to technical matters and have legal, administrative and financial autonomy. To that end, it is necessary that it should be a Community body having legal personality and exercising the tasks conferred on it by this Regulation.

Or. ro

Amendment 140
Dragoş Florin David

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The Authority should accordingly advise the Commission and the national regulatory authorities in accordance with the Community regulatory framework for electronic communications and thereby assist in its effective implementation.

Amendment

(18) The Authority should accordingly advise the Commission and the national regulatory authorities, ***as well as the European Parliament, at the latter's request***, in accordance with the Community regulatory framework for electronic communications and thereby assist in its effective implementation.

Or. ro

Amendment 141
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) The ***Authority should assist the Commission by undertaking an annual review of the measures taken the Member States informing the citizens about the existence and use of the single European emergency call number '112'***. The Authority's annual review ***would*** identify best practices ***and*** remaining ***bottlenecks*** and ***would*** contribute to ***improve*** the level of protection and security of citizens ***travelling in the European Union***.

Amendment

(20) The ***BERT's*** annual review ***should*** identify best ***regulatory*** practices, ***particularly in relation to the difficulties*** remaining ***in the market*** and contribute to ***improving*** the level of protection and security of citizens.

Or. es

Justification

For consistency with the approach taken in amendments to the other proposed provisions, since the powers given to the 'Authority' exceed those that such bodies ought to have.

Amendment 142

Francisca Pleguezuelos Aguilar

Proposal for a regulation

Recital 21

Text proposed by the Commission

Amendment

(21) In the context of pursuing the aims of 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), the Commission may seek the independent expert advice of the Authority relating to the use of the radio frequencies in the Community. This advice could involve specific technical investigations, as well as economic or social impact assessment and analysis relating to frequencies policy measures. It could also include matters relating to the implementation of Article 4 of Decision No 676/2002/EC, where the Authority may be asked to provide advice to the Commission on the results obtained under Commission mandates to the European Conference of Postal and Telecommunications Administrations (CEPT).

deleted

Or. es

Justification

Consistent with the BERT's tasks, as its scope should make it clear that it does not cover management and use of the spectrum.

Amendment 143
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) While technological and market developments have increased the potential for the deployment of electronic communications services beyond the geographical boundaries of individual Member States, ***there is a risk that the existence*** of differing legal and regulatory conditions for the deployment of those services under national laws will increasingly ***hold back*** the provision of such cross-border services. ***The Authority should therefore play a key role in the establishment of harmonised conditions for the authorisation of those services, whether with regard to general authorisations, rights of use for radio frequencies or rights of use for numbers, and in advising the Commission on the details of the measures to be taken under Directive 2002/21/EC (Framework Directive) to achieve such harmonised conditions***

Amendment

(22) While technological and market developments have increased the potential for the deployment of electronic communications services beyond the geographical boundaries of individual Member States, the ***gradual convergence*** of differing legal and regulatory conditions for the deployment of those services under national laws will increasingly ***facilitate*** the provision of such cross-border services.

Or. es

Justification

Shortens the recital, simplifying the wording.

Amendment 144
Silvia-Adriana Țicău

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) The ***Authority should act as*** a centre

Amendment

(24) The ***Union needs*** a centre of expertise

of expertise at European level on network and information security issues, providing guidance and advice to the European Parliament, the Commission or competent bodies appointed by the Member States. The security and resilience of communication networks and information systems remain a prime concern for society and a key element in the EU regulatory framework for electronic communications networks and service. The smooth functioning of the internal market risks being undermined by a heterogeneous application of the security-related provisions laid down in the Framework Directive and the Specific Directives. The opinion of the *Authority* providing technical advice at the request of the Commission and the Member States should facilitate the consistent application of those directives at national level.

at European level on network and information security issues, providing guidance and advice to the European Parliament, the Commission or competent bodies appointed by the Member States. The security and resilience of communication networks and information systems remain a prime concern for society and a key element in the EU regulatory framework for electronic communications networks and service. The smooth functioning of the internal market risks being undermined by a heterogeneous application of the security-related provisions laid down in the Framework Directive and the Specific Directives. The opinion of the *European centre of expertise on network and information security issues* providing technical advice at the request of the Commission and the Member States should facilitate the consistent application of those directives at national level.

Or. ro

Justification

Network and information security is vital for consumer confidence in Information Society services.

Amendment 145 **Dragoş Florin David**

Proposal for a regulation **Recital 26**

Text proposed by the Commission

(26) Where disputes with a cross-border nature arise between undertakings in respect of rights or obligations under the regulatory framework for electronic communications, *at the request of a national regulatory authority responsible*

Amendment

(26) Where disputes with a cross-border nature arise between undertakings in respect of rights or obligations under the regulatory framework for electronic communications, *at the request of a national regulatory authority responsible*

for dispute settlement the Authority should **be able to investigate** the background to the dispute and advise the national regulatory authorities concerned as to the measures it considers are most appropriate for them to take to resolve it in accordance with the provisions of the regulatory framework.

for dispute settlement **and at the request of the Commission** the Authority **should order an investigation in which it should look into** the background to the dispute and advise the national regulatory authorities concerned as to the measures it considers are most appropriate for them to take to resolve it in accordance with the provisions of the regulatory framework.

Or. ro

Amendment 146
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) To be able to perform its tasks as set out in this Regulation and to understand better the challenges in the electronic communications field, **including current and emerging risks in the network and information security field**, the Authority **needs to be able to analyse current and emerging developments. For that purpose the Authority may collect appropriate information, in particular concerning breaches of security and integrity that had a significant impact on the operation of network or services provided by national regulatory authorities in accordance with Article 13a(3) of Directive 2002/21/EC (Framework Directive), as well as through questionnaires.**

Amendment

(28) To be able to perform its tasks as set out in this Regulation and to understand better the challenges in the electronic communications field, the **BERT must be familiar with all the aspects laid down in the framework directive and specific directives concerned, without going into matters that relate to specific Community bodies or agencies such as the European Network and Information Security Agency, which operate outside its terms of reference.**

Or. es

Justification

There is a need to make clear that issues concerning the network and information security do not fall within the competence of the BERT or Authority but that of ENISA.

Amendment 147
Erika Mann

Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) BERT should contribute to developing a culture of network and information security in particular through understanding network security threats, developing best practice methods, promoting risk assessment activities and cooperation with international organisations. In the framework of the review due on 1 January 2014 the role of BERT in the field of network and information security should be re-evaluated.

Or. en

Justification

It is too early to give BERT a greater role in security related topics, but it is wise to state that a greater role might be needed in the near future.

Amendment 148
Dragoş Florin David

Proposal for a regulation
Recital 29

Text proposed by the Commission

Amendment

(29) As a focal point for the sharing and exchange of information on matters relating to the regulation of electronic communications services across the Community, and in the interests of promoting transparency and reducing administrative burdens for providers and users of those services, the Authority should maintain and make accessible a register containing information on the use

(29) As a focal point for the sharing and exchange of information on matters relating to the regulation of electronic communications services across the Community, and in the interests of promoting transparency and reducing administrative burdens for providers and users of those services, the Authority should maintain and make accessible a register containing information on the use

of frequencies within the Community, on the basis of standardised information provided on a regular basis by each Member State. In order to improve the transparency of retail prices for making and receiving regulated roaming calls within the Community and to help roaming customers make decisions on the use of their mobile telephones while abroad, the **Authority** should ensure that up-to-date information on the application of Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC is made available to interested parties and publish the results of such monitoring on an annual basis.

of frequencies within the Community, on the basis of standardised information provided on a regular basis by each Member State. In order to improve the transparency of retail prices for making and receiving regulated roaming calls within the Community and to help roaming customers make decisions on the use of their mobile telephones while abroad, **BERT** should ensure that up-to-date information on the application of Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC is made available to interested parties and publish the results of such monitoring on an annual basis. ***This information is to be published in a pamphlet, the publishing and printing costs of which should be borne by the BERT budget.***

Or. ro

Amendment 149

Paul Rübige

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) The Commission should be able to request the Authority to undertake any additional specific task within its general remit which may be considered to contribute to meeting the objectives of the Community regulatory framework for electronic communications.

Amendment

deleted

Or. de

Justification

This not does appear to be a justified delegation of powers, as regulatory bodies should be given such tasks only where there is a specific need for regulation and then only via a specific legislative act after consultation of the groups concerned. Otherwise there would be a risk that regulatory tasks for which a need had not be ascertained were delegated on mere suspicion, which could be to the detriment of legal certainty and ultimately also of competition.

Amendment 150

Fiona Hall

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) The structure of **the Authority** should be suitable for the tasks it is to perform. **Experience with similar Community authorities provides some guidance in this respect, but the** structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the **national regulatory authorities** and their independent nature needs to be fully **addressed**.

Amendment

(32) The structure of **BERT** should be suitable for the tasks it is to perform. **The** structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the **NRAs** and their independent nature, **both at national and at European level**, needs to be fully **respected**.

Or. en

Justification

This puts beyond doubt the concept of NRA independence, whether individually at the national level or collectively at a European level, as the cornerstone of effective regulation in this sector.

Amendment 151
Mary Honeyball

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) The structure of *the Authority* should be suitable for the tasks it is to perform. *Experience with similar Community authorities provides some guidance in this respect, but the* structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the *national regulatory authorities* and their independent nature needs to be fully *addressed*.

Amendment

(32) The structure of **BERT** should be suitable for the tasks it is to perform. **The** structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the **NRAs** and their independent nature, **both at national and at European level**, needs to be fully **respected**.

Or. en

Justification

This amendment puts the concept of NRA independence beyond doubt.

Amendment 152
Erika Mann

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) The structure of *the Authority* should be suitable for the tasks it is to perform. *Experience with similar Community authorities provides some guidance in this respect, but the* structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the national regulatory authorities and their independent nature needs to be fully addressed.

Amendment

(32) The structure of **BERT** should be **lean and** suitable for the tasks it is to perform. **Its staff should not exceed 30 staff members.** **The** structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the national regulatory authorities and their independent nature needs to be fully addressed.

Amendment 153
Pilar del Castillo Vera

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) The structure of *the Authority* should be suitable for the tasks it is to perform. *Experience with similar Community authorities provides some guidance in this respect, but* the structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the *national regulatory authorities* and their independent nature needs to be fully addressed.

Amendment

(32) The structure of **BERT** should be suitable for the tasks it is to perform. **The** structure should be adapted to meet the specific needs of the Community system for the regulation of electronic communications. In particular, the specific role of the **NRAs** and their independent nature **at all levels** needs to be fully addressed.

Amendment 154
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) The *Authority* should **have the necessary powers** to perform **the regulatory** functions in an efficient and above all independent manner. Reflecting the situation on a national level, the Board of Regulators should **therefore** act independently from any market interest and shall not seek or take instructions from any government or other public or private entity.

Amendment

(33) The **BERT** should **be able** to perform **its** functions in an efficient and above all independent manner. **When intervening in matters relating to market regulation, and** reflecting the situation on a national level, the Board of Regulators should act independently from any market interest and shall not seek or take instructions from any government or other public or private entity.

Justification

The 'Authority' should not have regulatory functions but only those of an advisory nature.

Amendment 155
Catherine Trautmann

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) In addition to its operating principles based on independence and transparency, **the Authority** should be an organisation open to contacts with industry, consumers and other interested stakeholders. **The Authority** should **enhance cooperation between different actors operating in the field of network and information security, inter alia, by organising, on a regular basis, consultation with industry, research centres, as well as other stakeholders concerned and by establishing a network of contacts for Community bodies, public sector bodies appointed by the Member States, private sector and consumer bodies.**

Amendment

(37) In addition to its operating principles based on independence and transparency, **BERT** should be an organisation open to contacts with, **inter alia**, industry, consumers, **unions, public sector bodies, research centres** and other interested stakeholders. **Where appropriate, BERT** should **assist the Commission in the dissemination and exchange of best practice among undertakings.**

Or. en

Justification

BERT should have the possibility to consult and interact with the variety of stakeholders in the electronic communications sector.

Amendment 156
Pilar del Castillo Vera

Proposal for a regulation
Recital 40

Text proposed by the Commission

(40) In order to guarantee the full autonomy and independence of *the Authority*, it should receive an autonomous budget. *The Community budgetary procedure remains applicable as for any subsidies chargeable to the general budget of the European Union are concerned. Moreover, the Court of Auditors should undertake the auditing of accounts in accordance with Article 91 of Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.*

Amendment

(40) In order to guarantee the full autonomy and independence of **BERT**, it should receive an autonomous budget. **Whilst one third of its funding will be provided by the general budget of the European Union, two thirds of its funding will be provided by the NRAs. Member States are obliged to ensure that NRAs have adequate and unconditional funding for this purpose. This method of financing should be without prejudice to BERT's independence both from the Member States and the European Commission.**

Or. en

Amendment 157
Pilar del Castillo Vera

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) The Commission should be able to **impose financial penalties on** undertakings **that do not** provide the information that is necessary for *the Authority* to achieve its tasks effectively. Also, Member States should ensure that they have an appropriate framework for imposing on undertakings effective, proportionate and dissuasive penalties for

Amendment

(42) The Commission should be able to **take the necessary measures in case** undertakings **fail to** provide the information that is necessary for **BERT** to achieve its tasks effectively. Also, Member States should ensure that they have an appropriate framework for imposing on undertakings effective, proportionate and dissuasive penalties for non-compliance

non-compliance with obligations arising from this Regulation.

with obligations arising from this Regulation.

Or. en

Amendment 158

Erika Mann

Proposal for a regulation

Recital 49 a (new)

Text proposed by the Commission

Amendment

(49a) On 1 January 2014 a review should take place to evaluate whether there is a need to extend the mandate of BERT into the future. In case an extension is justified, budgetary and procedural regulations as well as human resources should be reviewed.

Or. en

Amendment 159

Alexander Alvaro

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. *A European Electronic Communications Market Authority* is established with the responsibilities laid down in this Regulation.

1. ***The European Regulators' Board of Electronic Communications (ERBEC)*** is established with the responsibilities laid down in this Regulation. ***The Commission shall consult ERBEC in carrying out its functions under the Framework Directive and the Specific Directives, as set out in this Regulation.***

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Or. en

Justification

In order to formalise the extended scope of the former ERG, as adviser and coordinator of common European regulatory policy. The term shall apply throughout the text.

Amendment 160 **Jorgo Chatzimarkakis**

Proposal for a regulation **Article 1 – paragraph 1**

Text proposed by the Commission

1. *A European Electronic Communications Market Authority* is established with the responsibilities laid down in this Regulation.

Amendment

1. *A European Regulators Group (ERG)* is established with the responsibilities laid down in this Regulation.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Or. en

Justification

It is unnecessary to create a new agency. Instead a body such as an enhanced ERG embedded in EU law should be created. The judgment of the ECJ Grand Chamber of 2 May 2006 in Case C-217/04 UK v Parliament and Council indicates that Article 95 can be used as a basis for establishment of a Community body. This gives ample grounds to give more powers to the ERG by giving it legal personality and therefore independence.

Amendment 161 **David Hammerstein**

Proposal for a regulation **Article 1 – paragraph 2**

Text proposed by the Commission

2. The Authority shall act within the scope of the Framework Directive and the Specific Directives and draw upon expertise available in the national regulatory authorities. It shall contribute to

Amendment

2. The Authority shall act within the scope of the Framework Directive and the Specific Directives and draw upon expertise available in the national regulatory authorities. It shall contribute to

the better functioning of the internal market for electronic communications networks and services, including in particular ***the development of cross-Community electronic communications and a high and effective level of network and information security***, through the tasks listed in Chapters II and III.

the better functioning of the internal market for electronic communications networks and services, including in particular:

a) facilitation of interoperable cross-border communication markets,

b) access to electronic communication markets without discrimination,

c) management of the market transition towards free information infrastructures as the internet,

d) coherence of national regulatory activities

through the tasks listed in Chapters II and III.

Or. en

Justification

The role of the authority should be to promote competition. It cannot 'develop' cross-community communication. The main tasks are here to manage the structural transition of traditional telecommunication markets towards the internet world and to combat access barriers and discrimination ensuring a coherent approach by all regulators in Europe.

Amendment 162 **Patrizia Toia**

Proposal for a regulation **Article 1 – paragraph 2**

Text proposed by the Commission

2. ***The Authority*** shall act within the scope of the Framework Directive and the Specific Directives and draw upon expertise available in the national regulatory authorities. It shall contribute to the better functioning of the internal

Amendment

2. ***BERT*** shall act within the scope of the Framework Directive and the Specific Directives and draw upon expertise available in the national regulatory authorities. It shall contribute to the better functioning of the internal market for

market for electronic communications networks and services, including in particular the development of cross-Community electronic communications **and a high and effective level of network and information security**, through the tasks listed in Chapters II and III.

electronic communications networks and services, including in particular ***the promotion of an effective and consistent application of the regulatory framework of electronic communications*** and the development of cross-Community electronic communications, through the tasks listed in Chapters II and III.

Or. en

Amendment 163
Erika Mann

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

2. **The Authority** shall act within the scope of the Framework Directive and the Specific Directives and draw upon expertise available in the national regulatory authorities. It shall contribute to the better functioning of the internal market for electronic communications networks and services, including in particular the development of cross-Community electronic communications **and a high and effective level of network and information security**, through the tasks listed in Chapters II and III.

Amendment

2. **BERT** shall act within the scope of the Framework Directive and the Specific Directives and draw upon expertise available in the national regulatory authorities. It shall contribute ***to improvement of national regulation in the electronic communications sector, and*** to the better functioning of the internal market for electronic communications networks and services, including in particular the development of cross-Community electronic communications, through the tasks listed in Chapters II and III.

Or. en

Amendment 164
Erika Mann

Proposal for a regulation
Article 1 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. BERT shall serve as a means for the exchange of information and the adoption of consistent decisions by NRAs. BERT shall provide an organisational basis for the decision-making of NRAs; BERT shall adopt common positions and comments, and shall advise the Commission and assist the NRAs in all matters within the scope of the tasks assigned to the NRAs by the Framework Directive and the Specific Directives.

Or. en

Amendment 165
Erika Mann

Proposal for a regulation
Article 1 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. With the entry into force of this Regulation, the Council and the European Parliament shall adopt a Decision to establish an office to ensure appropriate resources for BERT. The Decision shall provide that the office is part of the Community administration with regard to the terms and conditions of employment and budgetary responsibilities; as far as it is required to ensure the autonomous fulfilment of the tasks of BERT, the Decision shall provide specific staff regulations for the office. Furthermore, the Decision shall stipulate rules for the first assembly and the first chairmanship of BERT.

The office shall be established in Brussels.

Or. en

Amendment 166
Erika Mann

Proposal for a regulation
Article 3 – introductory phrase

Text proposed by the Commission

The Authority shall, in the furtherance of its tasks under this Regulation:

Amendment

BERT shall, in the furtherance of its tasks under this Regulation:

Or. en

Amendment 167
Erika Mann

Proposal for a regulation
Article 3 – point a

Text proposed by the Commission

(a) issue opinions ***at the request of the Commission or*** on its own initiative ***and assist the Commission by providing it with additional technical support*** in all matters ***regarding electronic communications***;

Amendment

(a) issue opinions, ***recommendations and decisions*** on its own initiative, ***where this Regulation so provides***, in all matters ***within the scope of the tasks assigned to BERT***;

Or. en

Justification

BERT shall only function within the scope of its tasks given in this regulation. It shall be an independent body working on its own initiative.

Amendment 168
Dragoş Florin David

Proposal for a regulation
Article 3 – point a

Text proposed by the Commission

(a) issue opinions at the request of the Commission or on its own initiative and assist the Commission by providing it with additional technical support in all matters regarding electronic communications;

Amendment

(a) issue opinions at the request of the Commission, ***of the national regulatory authorities*** or on its own initiative and assist the Commission by providing it with additional technical support ***and other necessary technical information*** in all matters regarding electronic communications;

Or. ro

Amendment 169
David Hammerstein

Proposal for a regulation
Article 3 – point h a (new)

Text proposed by the Commission

Amendment

(ha) offer technical assistance and reach out to open source communities which develop essential elements of the European communication infrastructure;

Or. en

Justification

Large parts of the European electronic communications infrastructure are developed by open source communities today. The new institution needs to reach out to these communities and raise awareness about the regulatory activities on the European level.

Amendment 170
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Article 3 – point i

Text proposed by the Commission

(i) **issue recommendations to** the national regulatory authorities on cross-border disputes and on e-Accessibility matters.

Amendment

(i) **advise** the national regulatory authorities on cross-border disputes and **when appropriate** on e-Accessibility matters.

Or. es

Justification

The term ‘recommendation’ should be avoided as this has acquired a special meaning in Community law.

Amendment 171
Silvia-Adriana Țicău

Proposal for a regulation
Article 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) draw up and submit to the European Parliament and the Commission an annual report on the security of electronic communications networks and information systems focusing on the provision of specific information society services, particularly in the area of e-government services, and propose to the Commission the adoption of measures to improve the security of those networks and systems.

Or. ro

Justification

The security of specific information society services, particularly of e-government services,

should be discussed by Parliament and the Commission.

Amendment 172
David Hammerstein

Proposal for a regulation
Article 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) provide software which is licensed under the European Union Public License or a compatible license.

Or. en

Justification

The institution may not only issue conferences but also publish software for national regulators or end-users. The amendment clarifies that.

Amendment 173
Erika Mann

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. At the request of the Commission, ***the Authority*** shall deliver opinions on all matters regarding electronic communications.

1. At the request of the Commission, ***BERT*** shall deliver opinions on all matters regarding electronic communications ***as set out in this Regulation. BERT may also provide an opinion on these matters to the Commission or to NRAs on its own initiative. BERT shall offer alternative solutions, where appropriate.***

Or. en

Justification

It is needed to be clear that BERT exclusively works within the scope of this regulation.

Amendment 174

Nikolaos Vakalis

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

2. The **Authority** shall in particular contribute to the harmonised application of the provisions of the Framework Directive and the Specific Directives by assisting the Commission in the preparation of recommendations or decisions to be adopted by the Commission in accordance with Article 19 of Directive 2002/21/EC (Framework Directive).

Amendment

2. The **BERT** shall in particular contribute to the harmonised application of the provisions of the Framework Directive and the Specific Directives by assisting the Commission in the preparation of recommendations or decisions to be adopted by the Commission in accordance with Article 19 of Directive 2002/21/EC (Framework Directive). ***BERT shall be in charge of the monitoring of regulatory compliance through consistent annual key performance indicators (KPIs) which would benchmark performance in particular regarding remaining bottlenecks.***

Or. en

Justification

In order to achieve the harmonized implementation of the existing LLU provisions the consistent monitoring and benchmarking is crucial. BERT should be empowered to supervise the correct implementation of LLU and give clear best practice benchmarks on time limits, prices and procedures used. BERT should provide national regulators with uniform benchmarks to assess the implementation on the basis of annual key performance indicators, which would include timescales terms and delivery of local loops, price and service levels and terms and conditions to information systems.

Amendment 175
Anni Podimata

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

2. **The Authority** shall in particular contribute to the harmonised application of the provisions of the Framework Directive and the Specific Directives by assisting the Commission in the preparation of recommendations or decisions to be adopted by the Commission in accordance with Article 19 of Directive 2002/21/EC (Framework Directive).

Amendment

2. **BERT** shall in particular contribute to the harmonised application of the provisions of the Framework Directive and the Specific Directives by assisting the Commission in the preparation of recommendations or decisions to be adopted by the Commission in accordance with Article 19 of Directive 2002/21/EC (Framework Directive). ***BERT shall be in charge of the monitoring of regulatory compliance through consistent annual key performance indicators (KPIs) which would benchmark performance in particular regarding remaining bottlenecks.***

Or. en

Justification

BERT should be empowered to supervise the correct implementation of local loop unbundling and give clear best practice benchmarks on time limits, prices and procedures used.

Amendment 176
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

2. The **Authority** shall in particular contribute to the harmonised application of the provisions of the Framework Directive and the Specific Directives by assisting the Commission in the preparation of recommendations or decisions to be adopted by the Commission in accordance

Amendment

2. The **BERT** shall in particular contribute to the harmonised application of the provisions of the Framework Directive and the Specific Directives by assisting the Commission, ***when the latter so requests,*** in the preparation of recommendations or decisions to be adopted by the Commission

with Article 19 of Directive 2002/21/EC (Framework Directive).

in relation to any of the matters referred to in Article 3 of this Regulation in accordance with Article 19 of Directive 2002/21/EC (Framework Directive).

Or. es

Justification

Consistent with the proposal for the BERT set out in previous amendments.

Amendment 177
Catherine Trautmann

Proposal for a regulation
Article 4 – paragraph 3 – point e

Text proposed by the Commission

(e) analyses of specific national markets in accordance with Article 16 of Directive 2002/21/EC (Framework Directive);

Amendment

(e) analyses of specific national markets in accordance with Article 16 of Directive 2002/21/EC (Framework Directive), **and, where appropriate, sub-national markets;**

Or. en

Justification

BERT has an advisory role on market analysis, on a national and where appropriate sub-national level.

Amendment 178
Dragoş Florin David

Proposal for a regulation
Article 4 – paragraph 3 – point h

Text proposed by the Commission

(h) **effective** implementation of the emergency call number '112', in accordance with Article 26 of Directive 2002/22/EC (Universal Service Directive);

Amendment

(h) implementation **and monitoring of the efficient use** of the emergency call number '112', in accordance with Article 26 of Directive 2002/22/EC (Universal Service

Directive);

Or. ro

Amendment 179
Nikolaos Vakalis

Proposal for a regulation
Article 4 – paragraph 3 – point m

Text proposed by the Commission

(m) transparency measures for the implementation of unbundling of the local loop, in accordance with Article 9 of Directive 2002/19/EC (Access Directive);

Amendment

(m) transparency measures for the implementation of unbundling of the local loop, in accordance with Article 9 of Directive 2002/19/EC (Access Directive). ***These measures shall in particular include targets for the enforcement of Regulation (EC) No 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop¹, such as timescales terms and conditions for the production and delivery of local loops, price and service levels for Service Level Agreements (SLAs) and terms and conditions to information systems guaranteeing equal access to specific information;***

¹ OJ L 336, 30.12.2000. p. 4.

Or. en

Justification

In order to achieve the harmonized implementation of the existing LLU provisions the consistent monitoring and benchmarking is crucial. BERT should be empowered to supervise the correct implementation of LLU and give clear best practice benchmarks on time limits, prices and procedures used. BERT should provide national regulators with uniform benchmarks to assess the implementation on the basis of annual key performance indicators, which would include timescales terms and delivery of local loops, price and service levels and terms and conditions to information systems.

Amendment 180
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Article 4 – paragraph 3 – point o

Text proposed by the Commission

(o) measures on radio frequencies issues in accordance with Articles 4 and 6 of Decision 676/2002/EC (the Radio Spectrum Decision);

Amendment

(o) matters that are the responsibility of the BERT identified in the Framework Directive and the Specific Directives, in so far as they affect management of the spectrum or are affected by its management;

Or. es

Justification

It would be appropriate for the Directives to specify which matters should come within the 'Authority's scope.

Amendment 181
Erika Mann

Proposal for a regulation
Article 4 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission and the NRAs shall take the utmost account of the opinions delivered by BERT. In case BERT proposes alternative solutions in the light of different market conditions and path dependence of different regulatory approaches, NRAs shall consider which solution fits best into their regulatory approach. NRAs and the Commission shall make public the manner in which the opinion of BERT has been taken into account.

Or. en

Justification

Existing differences in national markets need to be taken into account when proposing solutions.

Amendment 182

Fiona Hall

Proposal for a regulation

Article 5 – title

Text proposed by the Commission

Consultation of *the Authority* on the definition and analysis of national markets, and on remedies

Amendment

Consultation of **BERT** on the definition and analysis of national markets, and on remedies

Or. en

Justification

Even with the removal of a Commission veto over remedies BERT should have a role to play in this regard.

Amendment 183

Pilar del Castillo Vera

Proposal for a regulation

Article 5 – title

Text proposed by the Commission

Consultation of *the Authority* on the definition and analysis of national markets and on remedies

Amendment

Consultation of **BERT** on the definition and analysis of national markets and on remedies

Or. en

Amendment 184
Catherine Trautmann

Proposal for a regulation
Article 5 – title

Text proposed by the Commission

Consultation of *the Authority* on the definition and analysis of national markets, and on remedies

Amendment

Consultation of *BERT* on the definition and analysis of national markets, and on remedies

Or. en

Justification

To be consistent with Directive (2002/21/EC) on a common regulatory framework for electronic communications networks and services, in which BERT has a role over remedies, it is necessary to keep the reference to them.

Amendment 185
Mary Honeyball

Proposal for a regulation
Article 5 – title

Text proposed by the Commission

Consultation of *the Authority* on the definition and analysis of national markets, and on remedies

Amendment

Consultation of the *BERT* on the definition and analysis of national markets, and on remedies

Or. en

Justification

Even with the removal of a Commission veto over remedies, BERT should have a role to play with proposed remedies.

Amendment 186
Catherine Trautmann

Proposal for a regulation
Article 6 – title

Text proposed by the Commission

Reviews of national markets by *the Authority*

Amendment

Reviews of national markets by **BERT**

Or. en

Amendment 187
Catherine Trautmann

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. If *the Authority* receives a request from the Commission pursuant to Article 16(7) of Directive 2002/21/EC (Framework Directive) to analyse a specific relevant market within a Member State, it shall deliver an opinion and provide the Commission with the necessary information, including the results of the public consultation and the analysis of the market. If the Authority finds that competition on that market is not effective, its opinion shall, following a public consultation, include a draft measure specifying the undertaking(s) it considers should be designated as having significant market power on that market and the appropriate obligations to be imposed.

Amendment

1. If **BERT** receives a request from the Commission pursuant to Article 16(7) of Directive 2002/21/EC (Framework Directive) to analyse a specific relevant market within a Member State, it shall deliver an opinion and provide the Commission with the necessary information, including the results of the public consultation and the analysis of the market. If the Authority finds that competition on that market is not effective, its opinion shall, following a public consultation, include a draft measure specifying the undertaking(s) it considers should be designated as having significant market power on that market and the appropriate obligations to be imposed.

Those obligations shall be consistent with Articles 8 and 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive).

Or. en

Justification

In case an NRA has not completed its analysis of a relevant market within the time laid down in Article 16(6) of Directive 2002/21/EC (Framework Directive), the Commission should have the possibility to request BERT to issue an opinion, including a draft measure.

Amendment 188
Dragoş Florin David

Proposal for a regulation
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) At the request of the national regulatory authorities, the Authority shall cooperate with them and offer them support and technical advice for the best possible implementation of the emergency call number "112".

Or. ro

Amendment 189
Catherine Trautmann

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. Upon request, ***the Authority*** shall provide advice to the Commission ***and conduct studies and reviews, in particular on technical and economic aspects, regarding*** the use of radio frequencies for electronic communications in the Community.

1. Upon request, ***BERT*** shall provide advice to the Commission, ***to the Radio Spectrum Policy Committee (hereinafter 'RSPC'), in relation to matters within BERT's scope of responsibility which affect or are affected by*** the use of radio frequencies for electronic communications in the Community. ***BERT shall work in cooperation with the RSPC where appropriate.***

Or. en

Justification

This reference to RSPC allows to remain consistent with Directive 2002/21/EC (Framework Directive).

Amendment 190 **Francisca Pleguezuelos Aguilar**

Proposal for a regulation **Article 10 – paragraph 3**

Text proposed by the Commission

Amendment

3. Upon request, the Authority shall provide advice to the Commission regarding the drawing up of common policy objectives referred to in Article 6(3) of Decision 676/2002/EC (Radio Spectrum Decision), when these fall within the electronic communications sector. ***deleted***

Or. es

Justification

The European Authority should not play any part in spectrum matters, nor in areas to which Article 6 of the Spectrum Decision refers (relations with third parties and international bodies) as for this purpose the NRAs with responsibilities for spectrum matters should form part of the Authority.

Amendment 191 **Francisca Pleguezuelos Aguilar**

Proposal for a regulation **Article 10 – paragraph 4**

Text proposed by the Commission

Amendment

4. The Authority shall publish an annual report on prospective frequencies developments in the electronic communications sector and policies in which it shall identify the potential needs ***deleted***

and challenges.

Or. es

Justification

The Authority should have no competence in spectrum matters.

Amendment 192

Erika Mann

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. ***The Authority shall, at the request of the Commission, provide the Commission with*** an opinion on the scope and content of any of the implementation measures provided for in Article 6a of Directive 2002/20/EC (Authorisation Directive). This may include in particular ***the Authority's*** assessment of the benefits that may accrue for the single market in electronic communications networks and services from the implementing measures adopted by the Commission pursuant to Article 6a of Directive 2002/20/EC (Authorisation Directive) and the identification of the services with cross-Community potential which would benefit from those measures.

Amendment

1. ***The Commission may request BERT to deliver to the Commission, the RSPG or the RSC*** an opinion on the scope and content of any of the implementation measures provided for in Article 6a of Directive 2002/20/EC (Authorisation Directive). This may include in particular ***BERT's*** assessment of the benefits that may accrue for the single market in electronic communications networks and services from the implementing measures adopted by the Commission pursuant to Article 6a of Directive 2002/20/EC (Authorisation Directive) and the identification of the services with cross-Community potential which would benefit from those measures.

Or. en

Amendment 193
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Article 15

Text proposed by the Commission

Amendment

Article 15

deleted

Own initiative

The Authority may, on its own initiative, deliver an opinion to the Commission on the matters referred to in Articles 4(2), 7(1), 8 (3), 10(1), 12, 14, 21 and 22.

Or. es

Justification

Consistency with the competences that it is considered the European Authority ought to have.

Amendment 194
Erika Mann

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. **The Authority** shall, taking account of the Community's electronic communications policy, promote the exchange of information both between the Member States, and between the Member States, national regulatory authorities and the Commission on the situation and development of regulatory activities regarding electronic communications networks and services, **including network and information security**.

1. **BERT** shall, taking account of the Community's electronic communications policy, promote the exchange of information both between the Member States, and between the Member States, national regulatory authorities and the Commission on the situation and development of regulatory activities regarding electronic communications networks and services. **In the light of different market conditions and path dependence of different national regulatory approaches, BERT may develop alternative problem solutions within the harmonised regulatory framework.**

Amendment 195
David Hammerstein

Proposal for a regulation
Article 19 – paragraph 2 – point b

Text proposed by the Commission

(b) commissioning or conducting studies on electronic communications networks and *services and the regulation and protection thereof*, and

Amendment

(b) commissioning or conducting studies on electronic communications networks and *service interoperability*, and

Justification

The term ‘protection’ lacks precision. The best safeguard for competition on the market is a close eye on interoperability issues as it is related to the objective to promote competition. It makes the provision more precise.

Amendment 196
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Article 19 – paragraph 2 – point b

Text proposed by the Commission

(b) commissioning or conducting studies on electronic communications networks and services and the regulation *and protection* thereof, *and*

Amendment

(b) commissioning or conducting studies on electronic communications networks and services and the regulation thereof, *in matters that are in the competence of the BERT as laid down in the Framework Directive and the Specific Directives*,

Justification

The subjects of the reports that may be commissioned from the Authority or BERT should be

confined to those that are its responsibility.

Amendment 197

Silvia-Adriana Țicău

Proposal for a regulation

Article 19 – paragraph 2 – point b

Text proposed by the Commission

(b) commissioning or conducting studies on electronic communications networks and services and the regulation *and protection* thereof, and

Amendment

(b) commissioning or conducting studies on electronic communications networks and services *and e-government services and systems* and the regulation thereof, and

Or. ro

Justification

E-government services should play a vital role in the activity of the institution responsible for the security of electronic communications networks.

Amendment 198

Francisca Pleguezuelos Aguilar

Proposal for a regulation

Article 19 – paragraph 2 – point c

Text proposed by the Commission

(c) organising or promoting training *on all* matters *regarding electronic communications*.

Amendment

(c) organising or promoting training *for the NRAs in matters that are in the competence of the BERT as laid down in the Framework Directive and the Specific Directives*.

Or. es

Justification

The subjects of the reports that may be commissioned from the Authority or BERT should be

confined to those that are its responsibility.

Amendment 199

Silvia-Adriana Țicău

Proposal for a regulation

Article 19 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) it shall, moreover, substantiate, together with the Member States, the Commission's measures to ensure the interoperability of electronic communications networks, information systems and electronic registers, as required by Community law.

Or. ro

Justification

Certain projects that are necessary for ensuring the interoperability of electronic communications networks, information systems and electronic registers, as required by Community law, should be substantiated at Community level and should be included in the Community budget.

Amendment 200

David Hammerstein

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. The Authority shall make such information available to the public in ***an easily accessible form.***

3. The Authority shall make such information available to the public in ***ISO 32000:2008, ISO/IEC 26300:2006, or ISO/IEC 15445:2000 format.***

Or. en

Justification

Clarification. It mentions the most common ISO document standards which are mandatory for government agencies in many member states.

Amendment 201

Erika Mann

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

3. **The Authority** shall make such information available to the public in an easily accessible form.

Amendment

3. **BERT** shall make such information available to the public in an easily accessible form; **confidentiality shall be respected for justifiable reasons.**

Or. en

Amendment 202

Dragoş Florin David

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

3. The Authority shall make such information available to the public in an easily accessible form.

Amendment

3. The Authority shall make such information available to the public, **the European Parliament, the Council and the Commission** in an easily accessible form.

Or. ro

Amendment 203
Francisca Pleguezuelos Aguilar

Proposal for a regulation
Article 21 – paragraph 3

Text proposed by the Commission

3. **The Authority may deliver** to the Commission, in conjunction with the publication of the annual report, an opinion on the measures that could be taken to overcome the problems identified in assessing the issues referred to in paragraph 1.

Amendment

3. **The BERT shall submit** to the Commission, in conjunction with the publication of the annual report, an opinion on the measures that could be taken to overcome the problems identified in assessing the issues referred to in paragraph 1.

Or. es

Justification

It does not seem appropriate for the Authority's report to be solely at the Commission's behest, as it is logical that if the Authority or BERT reports on the state of the markets, that report should not only identify current problems but also propose appropriate solutions, without the Commission having to make a specific request for one.

Amendment 204
Dragoş Florin David

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. The Authority shall, at the request of the Commission *or on its own initiative*, advise the Commission and **Member States** on improving the interoperability of, access to, and use of electronic communications services and terminal equipment, and in particular cross-border interoperability issues. ***It shall establish a group consisting of representatives from Member States, associations of undertakings in the electronic***

Amendment

(1) The Authority shall, at the request of the Commission *or on its own initiative*, advise the Commission and **the national regulatory authorities** on improving the interoperability of, access to, and use of electronic communications services and terminal equipment, and in particular cross-border interoperability issues, **looking** at the particular needs of disabled end-users and the elderly.

communications industry, associations of end-users and associations representing disabled end-users. The group shall also look at the particular needs of disabled end-users and the elderly.

Or. ro

Amendment 205
Erika Mann

Proposal for a regulation
Article 25 – paragraph 2

Text proposed by the Commission

2. The *Administrative* Board shall appoint its Chairperson and its Vice-Chairperson from among its members. The Vice-Chairperson shall automatically replace the Chairperson if the latter is not in a position to perform his/her duties. The terms of office of the Chairperson and of the Vice-Chairperson shall be two and a half years *and shall be renewable. In any event, however, the term of office of the Chairperson and that of the Vice-Chairperson shall expire the moment they cease to be members of the Administrative Board.*

Amendment

2. The Board *of Regulators* shall appoint its Chairperson and its Vice-Chairperson from among its members. The Vice-Chairperson shall automatically replace the Chairperson if the latter is not in a position to perform his/her duties. The terms of office of the Chairperson and of the Vice-Chairperson shall be two and a half years, *pursuant to the election procedures set out in the rules of procedure.*

Or. en

Amendment 206
Fiona Hall

Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. Meetings of the *Administrative* Board *shall be* convened by *its* Chairperson. *The Director of the Authority shall participate*

Amendment

3. Meetings of the Board *of Regulators*, convened by *the* Chairperson shall *occur* at least *four times* a year in ordinary session.

in the deliberations unless the Administrative Board decides otherwise. The Administrative Board shall meet at least twice a year in ordinary session. It shall also meet at the initiative of its Chairperson, at the request of the Commission or at the request of at least a third of its members. The Administrative Board may invite any person with potentially relevant opinions to attend its meetings in the capacity of an observer. The members of the Administrative Board may, subject to the rules of procedure, be assisted by advisers or by experts. The Administrative Board's secretarial services shall be provided by the Authority.

It *may* also meet *exceptionally* at the initiative of its Chairperson, at the request of the Commission or at the request of at least a third of its members. The Board *of Regulators* may invite any person with potentially relevant opinions to attend its meetings in the capacity of an observer. The members of the Board *of Regulators* may subject to the rules of procedure, be assisted by advisers or by experts.

Or. en

Justification

The convening of meetings of BERT's governing body should be done by the Chair of that governing body. This would not undermine the Managing Director's operational responsibilities (e.g. of preparing the agenda, and sending out notices of meetings).

Amendment 207 **Catherine Trautmann**

Proposal for a regulation **Article 25 – paragraph 3**

Text proposed by the Commission

3. Meetings of the *Administrative Board shall be* convened by *its Chairperson. The Director of the Authority shall participate in the deliberations unless the Administrative Board decides otherwise. The Administrative Board shall meet at least twice a year in ordinary session. It shall also meet* at the initiative of its Chairperson, at the request of the Commission or at the request of at least a third of its members. The *Administrative Board* may invite any person with

Amendment

3. Meetings of the Board *of Regulators*, convened by *the Managing Director* shall *occur* at least *four times* a year in ordinary session. *Special meetings may also be held* at the initiative of its Chairperson, at the request of the Commission or at the request of at least a third of its members. The Board *of Regulators* may invite any person with potentially relevant opinions to attend its meetings in the capacity of an observer. The members of the Board *of Regulators* may, subject to the rules of procedure, be

potentially relevant opinions to attend its meetings in the capacity of an observer. The members of the *Administrative* Board may, subject to the rules of procedure, be assisted by advisers or by experts. ***The Administrative Board's secretarial services shall be provided by the Authority.***

assisted by advisers or by experts.

Or. en

Justification

In case of a strong reliance on 'co-regulation' mechanisms, implying BERT's opinions through votes, there is a risk that only four ordinary meetings a year may not be enough to cope with the task in a timely manner.

Amendment 208 Pilar del Castillo Vera

Proposal for a regulation Article 25 – paragraph 3

Text proposed by the Commission

3. Meetings of the *Administrative* Board shall be convened by its Chairperson. ***The Director of the Authority shall participate in the deliberations unless the Administrative Board decides otherwise. The Administrative Board shall meet at least twice a year in ordinary session. It shall also meet at the initiative of its Chairperson, at the request of the Commission or at the request of at least a third of its members. The Administrative Board may invite any person with potentially relevant opinions to attend its meetings in the capacity of an observer. The members of the Administrative Board may, subject to the rules of procedure, be assisted by advisers or by experts. The Administrative Board's secretarial services shall be provided by the Authority.***

Amendment

3. Meetings of the Board ***of Regulators***, convened by the Chairperson shall ***occur*** at least ***four times*** a year in ordinary session. It ***may*** also meet ***exceptionally*** at the initiative of its Chairperson, at the request of the Commission or at the request of at least a third of its members. The Board ***of Regulators*** may invite any person with potentially relevant opinions to attend its meetings in the capacity of an observer. The members of the Board ***of Regulators*** may, subject to the rules of procedure, be assisted by advisers or by experts.

Amendment 209
Pilar del Castillo Vera

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

4. Decisions of the *Administrative* Board shall be adopted on the basis of a two-thirds majority of the members present.

Amendment

4. Decisions of the Board *of Regulators* shall be adopted on the basis of a two-thirds majority of the members present *unless otherwise provided for in this Regulation, the Framework Directive and the Specific Directives.*

The Board of Regulators shall approve the rules of procedure of BERT by a two thirds majority. These rules of procedure shall guarantee that the members of the Board of Regulators are always provided with full agendas and draft proposals in advance of each meeting in order to have the chance to propose amendments prior to the vote.

Amendment 210
Dragoş Florin David

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

4. Decisions of the *Administrative* Board shall be adopted on the basis of a two-thirds majority of the members present.

Amendment

(4) Decisions of the Board *of Regulators* shall be adopted on the basis of a two-thirds majority of the members present, *unless any other provisions are applied under this regulation, by a framework directive or by specific directives. These decisions shall be communicated to the Commission.*

Amendment 211
Erika Mann

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

4. Decisions of the *Administrative* Board shall be adopted on the basis of a *two-thirds* majority *of the members present*.

Amendment

4. Decisions of the Board *of Regulators* shall be adopted on the basis of a *qualified* majority *in accordance with rules applying to votes of the Council pursuant to Article 205, paragraph 2 of the Treaty establishing the European Community*.

Or. en

Justification

To be able to function properly a qualified majority according to the rules applied in the Council will be appropriate.

Amendment 212
Pilar del Castillo Vera

Proposal for a regulation
Article 26 – paragraph 8

Text proposed by the Commission

8. The *Administrative* Board shall exercise disciplinary authority over the Director *and the Chief Network Security Officer*.

Amendment

8. The Board *of Regulators* shall exercise disciplinary authority over the *Managing* Director.

Or. en

Amendment 213
Fiona Hall

Proposal for a regulation
Article 26 – paragraph 8

Text proposed by the Commission

8. The *Administrative* Board shall exercise disciplinary authority over the Director *and the Chief Network Security Officer*.

Amendment

8. The Board *of Regulators* shall exercise disciplinary authority over the *Managing* Director.

Or. en

Justification

The Managing Director should be answerable to the Board of Regulators – the main decision-making body – not simply acting under the guidance of the Board of Regulators.

Amendment 214
Pilar del Castillo Vera

Proposal for a regulation
Article 26 – paragraph 13 a (new)

Text proposed by the Commission

Amendment

13a. The Board of Regulators shall provide guidance to the Managing Director in the execution of the Managing Director’s tasks.

Or. en

Amendment 215
Erika Mann

Proposal for a regulation
Article 26 – paragraph 13 a (new)

Text proposed by the Commission

Amendment

13a. The Board of Regulators shall appoint the Managing Director. The

Board of Regulators shall take this decision by a majority of three quarters of its members.

Or. en

Amendment 216
Zdzisław Kazimierz Chmielewski

Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission

Amendment

2. The Director shall be the Chairperson of the Board of Regulators.

2. The Board of Regulators shall elect a Chairperson from among its members.

Or. pl

Justification

Article 27(2) is in contradiction with Article 28(1). Under the Commission's proposal, the Director of the European Electronic Communications Market Authority is to hear, in effect, his or her own opinions, as these are delivered by the Board of Regulators, which, according to Article 27(2), is chaired by the Director.

Amendment 217
Pilar del Castillo Vera

Proposal for a regulation
Article 29 – title

Text proposed by the Commission

Amendment

The Director

*The **Managing** Director*

Or. en

Amendment 218
Fiona Hall

Proposal for a regulation
Article 29 – title

Text proposed by the Commission

The Director

Amendment

*The **Managing** Director*

Or. en

Amendment 219
Pilar del Castillo Vera

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. *The Authority* shall be managed by its Director, *who shall act independently in the performance of his/her functions. Without prejudice to the respective powers of the Commission, the Administrative Board and the Board of Regulators, the Director shall not seek or accept any instruction from any government or from any body.*

Amendment

1. ***BERT** shall, **under the guidance of the Board of Regulators**, be managed by its **Managing** Director. **The Managing** Director shall not seek or accept any instruction from any government or from any body.*

Or. en

Amendment 220
Fiona Hall

Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. *The Authority* shall be managed by its Director, who shall *act independently* in the performance of his/her functions. *Without prejudice to the respective powers of the Commission, the Administrative*

Amendment

1. ***BERT** shall be managed by its **Managing** Director, who shall **be accountable to and act under the instructions of the Board of Regulators** in the performance of his/her functions. The*

Board and the Board of Regulators, the Director shall not seek or accept any instruction from any government or from any body.

Managing Director shall not **otherwise** seek or accept any instruction from any government or from any body.

Or. en

Justification

The Managing Director should be a senior staff member with operational responsibilities within BERT, answerable to the Board of Regulators.

Amendment 221
Pilar del Castillo Vera

Proposal for a regulation
Article 29 – paragraph 3

Text proposed by the Commission

3. The Director's term of office shall be five years. ***In the course of the nine months preceding the end of this period, the Commission shall undertake an evaluation. In the evaluation, the Commission shall assess in particular :***
(a) the performance of the Director;
(b) the Authority's duties and requirements in the coming years.

Amendment

3. The **Managing** Director's term of office shall be five years.

Or. en

Amendment 222
Pilar del Castillo Vera

Proposal for a regulation
Article 29 – paragraph 4 – first subparagraph

Text proposed by the Commission

4. ***After consulting the Board of Regulators, the Administrative Board, acting on a proposal from the***

Amendment

4. **The** Board of Regulators may extend the term of office of the **Managing** Director once for not more than three years, taking

Commission, may extend the term of office of the Director once for not more than three years, taking into account the evaluation report and only in those cases where it can be justified by the duties and requirements of *the Authority*.

into account the evaluation report and only in those cases where it can be justified by the duties and requirements of **BERT**.

Or. en

Amendment 223

Fiona Hall

Proposal for a regulation

Article 29 – paragraph 4 – first subparagraph

Text proposed by the Commission

4. **After consulting the** Board of Regulators, **the Administrative Board, acting on a proposal from the Commission**, may extend the term of office of the Director once for not more than three years, taking into account the evaluation report and only in those cases where it can be justified by the duties and requirements of *the Authority*.

Amendment

4. **The** Board of Regulators may extend the term of office of the **Managing** Director once for not more than three years, taking into account the evaluation report and only in those cases where it can be justified by the duties and requirements of **BERT**.

Or. en

Justification

The Managing Director is a senior staff member, and his renewal should not depend on a Commission initiative.

Amendment 224

Dragoş Florin David

Proposal for a regulation

Article 29 – paragraph 6

Text proposed by the Commission

6. The European Parliament and the Council may **call upon** the Director to

Amendment

(6) The European Parliament and the Council may **request** the executive director

submit a report on the performance of his duties.

to submit a report on the performance of his duties. *Should this be necessary, the committee responsible in the European Parliament may ask the Director-General to take the floor and to answer any questions put by its members.*

Or. ro

Amendment 225

Fiona Hall

Proposal for a regulation

Article 30 – paragraph 1

Text proposed by the Commission

1. The Director *shall be responsible for representing the Authority and* shall be in charge of *its* management.

Amendment

1. The *Managing* Director shall be in charge of *the* management *of BERT acting in accordance with the powers delegated by the Board of Regulators.*

Or. en

Justification

The Managing Director may be authorised by the Board of Regulators to represent BERT. However, the Board of Regulators is the body which should represents BERT in the first instance.

Amendment 226

Pilar del Castillo Vera

Proposal for a regulation

Article 30 – paragraph 1

Text proposed by the Commission

1. The Director *shall be responsible for representing the Authority and* shall be in charge of its management.

Amendment

1. The *Managing* Director *may be authorised by the Board of Regulators to represent BERT in specific matters and* shall be in charge of its management.

Or. en

Amendment 227
Fiona Hall

Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

2. The Director shall prepare ***the work of the Administrative*** Board. He/she shall participate, without having the right to vote, in the work of the ***Administrative*** Board.

Amendment

2. The ***Managing*** Director shall prepare ***the agenda*** of the Board ***of Regulators***. He/she shall participate, without having the right to vote, in the work of the Board ***of Regulators***.

Or. en

Justification

The Managing Director should prepare, not set, the agenda. The setting of the agenda is an executive task which should be carried out by the Chair.

Amendment 228
Fiona Hall

Proposal for a regulation
Article 30 – paragraph 3

Text proposed by the Commission

3. The Director shall adopt the opinions, recommendations and decisions referred to in Articles 4 to 23, subject to the assent of the Board of Regulators.

Amendment

deleted

Or. en

Justification

The Managing Director should be a senior staff member with operational responsibilities within BERT, answerable to the Board of Regulators. This provision is a legacy of the Commission's EECMA proposal and not consistent with the BERT proposal.

Amendment 229
Fiona Hall

Proposal for a regulation
Article 30 – paragraph 5

Text proposed by the Commission

5. The Director shall be responsible for **implementing** the annual work programme of *the Authority*, under the guidance of the Board of Regulators **and of the Chief Network Security Officer as appropriate, and under the administrative control of the Administrative Board.**

Amendment

5. The **Managing** Director shall be responsible for **supervising the implementation of** the annual work programme of **BERT**, under the guidance of the Board of Regulators.

Or. en

Justification

The Managing Director should be a senior staff member with operational responsibilities within BERT. Proper implementation should be the responsibility of the Board of Regulator. The Managing Director's responsibility should be to supervise that process.

Amendment 230
Fiona Hall

Proposal for a regulation
Article 30 – paragraph 8

Text proposed by the Commission

8. Each year the Director shall prepare the draft annual report on the activities of *the Authority* with a section on the regulatory activities of *the Authority* and a section on financial and administrative matters.

Amendment

8. Each year the **Managing** Director shall prepare the draft annual report on the activities of **BERT** with a section on the regulatory activities of **BERT** and a section on financial and administrative matters.

Or. en

Justification

BERT's activities will include not only the provision of advice/consultation to the Commission, but also the development of common positions and best practices and the sharing of expertise among its constituent NRAs. The word 'regulatory' is wider, and would

capture the full range of its activities.

Amendment 231
Pilar del Castillo Vera

Proposal for a regulation
Article 30 – paragraph 9

Text proposed by the Commission

9. With regard to the staff of *the Authority*, the Director *shall* exercise the powers provided for in Article 49(3).

Amendment

9. With regard to the staff of **BERT**, *the Board of Regulators may delegate to the Managing Director the exercise of the powers provided for in Article 49(3).*

Or. en

Amendment 232
Pilar del Castillo Vera

Proposal for a regulation
Article 36 – paragraph 1

Text proposed by the Commission

1. The revenues of *the Authority* shall *consist of*:

(a) *charges for services provided by the Authority*;

(b) *a proportion of usage fees paid by applicants in accordance with the provisions of Article 17*;

Amendment

1. The revenues of **BERT** shall *be divided as follows*:

(a) *one-third of its annual funding shall be paid directly in the form of a Community subsidy, under the appropriate heading of the EC budget as stipulated by the budgetary authority, in accordance with point 47 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹*;

(b) *two-thirds of its annual funding shall be paid as a direct contribution from the NRAs. Member States shall ensure that the NRAs have the adequate financial and*

human resources required to participate in the work of BERT, and properly fund the latter. Member States shall specify the budget line, which NRAs must use to provide resources for BERT from their annual budgets. The budgets shall be made public.

(c) a subsidy from the Community, entered in the general budget of the European Communities (Commission Section);

(d) any legacies, donations or grants as mentioned in Article 26(7).

(e) any voluntary contribution from the Member States or from their regulatory authorities.

¹ OJ C 139, 14.6.2006, p. 1. Agreement as amended by Decision 2008/29/EC of the European Parliament and of the Council (OJ L 6, 10.1.2008, p. 7).

Or. en

Amendment 233
Erika Mann

Proposal for a regulation
Article 36 – paragraph 1

Text proposed by the Commission

1. The revenues of *the Authority* shall consist of:

(a) charges for services provided by the Authority;

(b) a proportion of usage fees paid by applicants in accordance with the provisions of Article 17;

(c) a subsidy from the Community, entered in the general budget of the European Communities (Commission Section);

Amendment

1. The revenues of **BERT** shall consist of:

(a) a subsidy from the Community, entered in the general budget of the European Communities;

(d) any legacies, donations or grants as mentioned in Article 26(7).

(e) any voluntary contribution from the Member States or from their regulatory authorities.

(b) any voluntary contribution from the Member States or from their regulatory authorities.

Or. en

**Amendment 234
Paul Rübzig**

**Proposal for a regulation
Article 36 – paragraph 1 – point d**

Text proposed by the Commission

Amendment

(d) any legacies, donations or grants as mentioned in Article 26(7),

deleted

Or. de

Justification

The funding structure of the proposed European Authority is extremely unfortunate, given the need for the authority to be independent. The possibility of voluntary contributions by Member States, NRAs or even third parties (grants!) runs a considerable risk of unilateral influence by particularly opulent donors. Any regulatory decision would have to be scrutinised for that. And the public would take an extremely dim view of such a mechanism.

**Amendment 235
Paul Rübzig**

**Proposal for a regulation
Article 36 – paragraph 1 – point e**

Text proposed by the Commission

Amendment

(e) any voluntary contribution from the Member States or from their regulatory authorities.

deleted

Or. de

Justification

The funding structure of the proposed European Authority is extremely unfortunate, given the need for the authority to be independent. The possibility of voluntary contributions by Member States, NRAs or even third parties (grants!) runs a considerable risk of unilateral influence by particularly opulent donors. Any regulatory decision would have to be scrutinised for that. And the public would take an extremely dim view of such a mechanism.

Amendment 236

Erika Mann

Proposal for a regulation

Article 36 – paragraph 2

Text proposed by the Commission

2. The expenditure of *the Authority* shall cover staff, administrative, infrastructure and operational expenses.

Amendment

2. The expenditure of **BERT** shall cover staff, administrative, infrastructure and operational expenses.

Or. en

Amendment 237

Erika Mann

Proposal for a regulation

Article 36 – paragraph 4

Text proposed by the Commission

4. All *Authority* revenue and expenditure shall be the subject of forecasts for each financial year, coinciding with the calendar year, and shall be entered in its budget.

Amendment

4. All revenue and expenditure shall be the subject of forecasts for each financial year, coinciding with the calendar year, and shall be entered in its budget.

Or. en

Amendment 238
Erika Mann

Proposal for a regulation
Article 36 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The organisational and financial structure of BERT shall be reviewed on 1 January 2014.

Or. en

Amendment 239
David Hammerstein

Proposal for a regulation
Article 41 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Information requested pursuant to paragraph 1 may relate to documentation for the purpose of ensuring interoperability between two different electronic systems or networks so as to allow communication and exchange of data content between them.

Or. en

Justification

Provision for the documentation request related to inter-connectivity.

Amendment 240
Pilar del Castillo Vera

Proposal for a regulation
Article 43 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission may impose financial penalties on undertakings if they fail to provide information referred to in Article 41. Penalties shall be effective, proportionate and dissuasive.

deleted

Or. en

Amendment 241
David Hammerstein

Proposal for a regulation
Article 43 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Authority may in appropriate cases issue a waiver related to essential patent claims for European standards, when justified to prevent an abuse of patents by their holders, such as a failure to draw the attention of a standard body and markets to a known patent or a known pending patent application prior to the market dissemination of the European standard.

Or. en

Justification

An instrument to combat ‘submarine patenting’ of communication standards which is a great danger for market confidence as an implementation of Art 8(2) and Article 30 of the TRIPs agreement. See also the RIM blackberry case where the US government intervened.

Amendment 242
Pilar del Castillo Vera

Proposal for a regulation
Article 43 – paragraph 3

Text proposed by the Commission

3. When penalties are imposed under this Article, the Authority shall publish the names of the undertakings involved and the amounts of and reasons for the financial penalties imposed.

Amendment

3. The Commission shall demand the attention of undertakings when they fail to comply with the request for information referred to in Article 41. If appropriate, and upon the request by BERT, the Commission may publish the names of these undertakings.

Or. en

Amendment 243
David Hammerstein

Proposal for a regulation
Article 45 – paragraph 3 a (new)

Text proposed by the Commission

3a. Audiovisual streaming and recording services shall be provided in a technology-neutral fashion.

Amendment

Or. en

Justification

Streaming and audiovisual recordings shall be made available to ensure utmost transparency.

Amendment 244
Catherine Trautmann

Proposal for a regulation
Article 47 – paragraph 3

Text proposed by the Commission

3. Decisions taken by **the Authority** pursuant to Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or of proceedings before the Court of Justice in accordance with the conditions laid down in Articles 195 and 230 of the Treaty respectively.

Amendment

3. Decisions taken by **BERT** pursuant to Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or of proceedings before the Court of Justice in accordance with the conditions laid down in Articles 195 and 230 of the Treaty respectively.

Or. en

Amendment 245
Mary Honeyball

Proposal for a regulation
Article 49 – paragraph 4

Text proposed by the Commission

4. The **Administrative** Board may adopt provisions to allow national experts from Member States to be employed on secondment at **the Authority**.

Amendment

4. The Board **of Regulators** may adopt provisions to allow national experts from Member States to be employed on secondment at **BERT**.

Or. en

Justification

BERT should be able to benefit from expertise within NRAs.

Amendment 246
Erika Mann

Proposal for a regulation
Article 49 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The staff of BERT shall not exceed 30 staff members.

Or. en

Justification

BERT should be established with a slim structure.

Amendment 247
Pilar del Castillo Vera

Proposal for a regulation
Article 55

Text proposed by the Commission

Amendment

Within ***five years*** from the effective start of operations ***and every five years thereafter***, the Commission shall publish ***a general*** report on the experience acquired as a result of the operation of ***the Authority and of the procedures laid down in this Regulation***. The evaluation shall cover the results achieved by ***the Authority*** and its working methods, in relation with its objective, mandate and tasks defined in this Regulation and in its annual work programmes. The evaluation shall take into account the views of stakeholders, at both Community and national level. The report ***and any accompanying proposals*** shall be forwarded to the European Parliament and to the Council.

Within ***three years*** from the effective start of operations, the Commission shall publish ***an evaluation*** report on the experience acquired as a result of the operation of ***BERT***. The evaluation shall cover the results achieved by ***BERT*** and its working methods, in relation with its objective, mandate and tasks defined in this Regulation and in its annual work programmes. The evaluation shall take into account the views of stakeholders, at both Community and national level. The report shall be forwarded to the European Parliament and to the Council. ***The European Parliament shall give an opinion on the Commission's report.***

Or. en

Amendment 248
Pilar del Castillo Vera

Proposal for a regulation
Article 57 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Within five years of the effective start of operations, BERT shall cease to exist unless the European Parliament, the Council and the Commission find that market conditions have not evolved to the extent that a body of regulators is no longer necessary. In this regard, the Commission shall publish a report evaluating market conditions and forecasting the trends. The evaluation report and any accompanying legislative proposal shall be forwarded in due course to both the European Parliament and the Council.

Or. en

Amendment 249
Erika Mann

Proposal for a regulation
Article 57 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

On 1 January 2014 a review shall take place to evaluate whether there is a need to extend the mandate of BERT into the future. In case an extension is justified, budgetary and procedural regulations as well as human resources shall be reviewed.

Or. en

Justification

A review is relevant, before deciding on the future prospects for BERT.