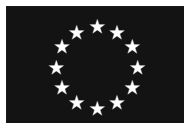


# EUROPEAN PARLIAMENT

2004



2009

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*Committee on Industry, Research and Energy*

**2007/0247(COD)**

3.6.2008

## **AMENDMENTS 318 - 459**

**Draft report**  
**Catherine Trautmann**  
(PE398.542v02-00)

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

Proposal for a directive – amending act  
(COM(2007)0697 – C6-0427/2007 – 2007/0247(COD))



**Amendment 318**  
**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**  
**Article 1 – point 9**  
Directive 2002/21/EC  
Article 9 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall ensure the effective management of radio frequencies for electronic communication services in their territory in accordance with Article 8. They shall ensure that the allocation and assignment of such radio frequencies by national regulatory authorities are based on objective, transparent, non-discriminatory and proportionate criteria, ***respect international agreements (including those made under the auspices of the ITU) and take account of public policy considerations.***

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures.*

**Amendment 319**  
**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**  
**Article 1 – point 9**  
Directive 2002/21/EC  
Article 9 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Or. es

*Justification*

*The specific technical characteristics of radio frequencies on the one hand necessitate the administration thereof in accordance with international agreements going beyond relations between EU Member States and on the other hand make them the ideal means of achieving certain public policy objectives, in particular social and territorial cohesion, promotion of freedom of expression and cultural and linguistic diversity.*

**Amendment 320**

**Karsten Friedrich Hoppenstedt**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

proportionate criteria.

***public policy considerations.***

Or. en

*Justification*

*As frequencies cross borders beyond the EU, internationally binding agreements to avoid interference must be respected.*

**Amendment 321**

**Rebecca Harms**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

***1. Taking account of the fact that radio frequencies are a public good that has an important social, cultural and economic value,*** Member States shall ensure the effective management of radio spectrum for electronic communication services in their territory in accordance with Article 8. They shall ensure that the allocation and assignment of such radio spectrum by national regulatory authorities are based on objective, transparent, non-discriminatory and proportionate criteria.

Or. en

*Justification*

*There is no doubt that radio spectrum is a scarce resource. Both its economic and public value should be considered accordingly and in a balanced way to manage it efficiently.*

**Amendment 322**  
**Catherine Trautmann**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 2

*Text proposed by the Commission*

2. Member States shall promote the harmonisation of use of radio frequencies across the Community, consistent with the need to ensure effective and efficient use thereof **and in accordance with Decision No 676/2002/EC (Radio Spectrum Decision)**.

*Amendment*

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

Or. en

*Justification*

*Amendment consistent with Amendment 58 repealing the Radio Spectrum Decision with a view to achieving an integrated, simplified and coherent spectrum regulatory framework.*

**Amendment 323**  
**Karsten Friedrich Hoppenstedt**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 2

2. Member States shall promote the harmonisation of use of radio frequencies across the Community, consistent with the need to ensure effective and efficient use thereof and in accordance with Decision No 676/2002/EC (Radio Spectrum Decision).

2. Member States shall promote the harmonisation of use of radio frequencies across the Community, consistent with the need to ensure effective and efficient use thereof, **which can contribute to the realisation of economies of scale and the interoperability of services for the benefit of consumers**, and in accordance with Decision No 676/2002/EC (Radio Spectrum Decision).

Or. en

**Amendment 324**  
**Silvia-Adriana Țicău**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) In order to ensure equal treatment, no radio frequency spectrum user shall be exempted from the obligation to pay the normal fees or charges set for the use of the spectrum.***

Or. ro

*Justification*

*The amendment seeks to ensure consistency with recital 50.*

**Amendment 325**  
**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

3. Unless otherwise provided in the second subparagraph ***or in the measures adopted pursuant to Article 9c***, Member States shall ensure that all types of ***radio network or wireless access*** technology may be used in the radio frequency bands ***open to*** electronic communications services.

3. Unless otherwise provided in the second subparagraph, Member States shall ensure, ***insofar as possible***, that all types of technology may be used in the radio frequency bands ***available for*** electronic communications services, ***as identified in their national frequency allocation plans and in the ITU Radio Regulations.***

Or. en

### *Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures. A policy of technology and service neutrality and “flexibility” raises the issue of how satellite and terrestrial (particularly mobile) technologies can operate in the same or adjacent bands.*

#### **Amendment 326**

**Robert Goebbels**

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

##### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 1

#### *Text proposed by the Commission*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall **ensure that** all types of radio network or wireless access technology **may be used** in the radio frequency bands **open** to electronic communications services.

#### *Amendment*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c **and Article 9d**, Member States shall, **insofar as possible, facilitate the use of** all types of radio network or wireless access technology in the radio frequency bands **allocated** to electronic communications services, **in accordance with their national frequency plans and the ITU Radio Regulations.**

Or. en

### *Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures.*



## Amendment 327

Erika Mann

### Proposal for a regulation – amending act

#### Article 1 – point 9

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 1

#### *Text proposed by the Commission*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands *open* to electronic *communications*.

#### *Amendment*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands *available* to electronic *communication services in accordance with their national frequency allocation tables and the ITU Radio Regulations*.

Or. en

#### *Justification*

*Adds the reference to national frequency allocation tables to the ITU Radio Regulation*

## Amendment 328

Karsten Friedrich Hoppenstedt

### Proposal for a regulation – amending act

#### Article 1 – point 9

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 1

#### *Text proposed by the Commission*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to paragraph Article 9c, Member States shall ensure that all types of radio network or wireless access technology may be used in the radio frequency bands open to electronic

#### *Amendment*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to paragraph Article 9c, Member States shall ensure that all types of radio network or wireless access technology may be used in the radio frequency bands open to electronic communications services *in accordance with their national frequency allocation tables and the ITU Radio*

communications services.

**Regulations.**

Or. en

*Justification*

*As frequencies cross borders beyond the EU, internationally binding agreements to avoid interference must be respected*

**Amendment 329**

**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9(c), Member States **shall ensure that** all types of radio network or wireless access technology **may be used** in the radio frequency bands open to electronic communications services.

*Amendment*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States **shall promote the use of** all types of radio network or wireless access technology in the radio frequency bands open to electronic communications services **in accordance with their national frequency tables and taking account as far as possible of regulations in this area issued by international telecommunications bodies.**

Or. es

*Justification*

*Moves to encourage the efficient use and effective management of radio frequencies are among the objectives of Article 8(2) and must be pursued with regard to not only frequency bands subject to general authorisation but also those subject to rights of use.*

**Amendment 330**  
**Dominique Vlasto, Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of **radio network or wireless access** technology may be used in the radio frequency bands open to electronic communications services.

*Amendment*

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of technology may be used in the radio frequency bands open to electronic communications services.

Or. fr

*Justification*

*All types of network cannot coexist without vital technical constraints to prevent interference (e.g. radio broadcasting networks and terrestrial mobile networks). Consequently, neutrality should be excluded as regards type of network.*

**Amendment 331**  
**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – introductory wording

*Text proposed by the Commission*

Member States may, however, provide for proportionate and non-discriminatory restrictions *to* the types of radio network or wireless access technology used where this is necessary to:

*Amendment*

Member States may, however, provide for proportionate and non-discriminatory restrictions *on* the types of radio network or wireless access technology used **for electronic communication services** where this is necessary to:

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures. A policy of technology and service neutrality and “flexibility” raises the issue of how satellite and terrestrial (particularly mobile) technologies can operate in the same or adjacent bands.*

**Amendment 332**

**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) avoid harmful interference,

(a) avoid ***the possibility of*** harmful interference,

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures. A policy of technology and service neutrality and “flexibility” raises the issue of how satellite and terrestrial (particularly mobile) technologies can operate in the same or adjacent bands.*

**Amendment 333**

**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) avoid harmful interference,

(a) avoid ***the possibility of*** harmful

interference,

Or. es

*Justification*

*Moves to encourage the efficient use and effective management of radio frequencies are among the objectives of Article 8(2) and must be pursued with regard to not only frequency bands subject to general authorisation but also those subject to rights of use.*

**Amendment 334**  
**Paul Rübiger**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) avoid harmful *interference*,

(a) avoid harmful *interferences caused by lack of coordination between Member States and operators occupying neighbouring bands*,

Or. en

*Justification*

*The proposal should clarify what is to be understood as “harmful interference”, such as interference between borders or between operators using neighbouring bands.*

**Amendment 335**  
**Reino Paasilinna**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point a (new)

*Text proposed by the Commission*

*Amendment*

*(aa) ensure quality of service,*

*Justification*

*In addition to harmful interference also ‘quality of service’ should be a criterion for providing restrictions to the technological neutrality. This is particularly important in cases where shared use of spectrum is allowed. Also a reference should be made to relevant international agreements (e.g. ITU). ‘The provision of universal or public service’ should be added to the list of possible restrictions. Fixed networks are being replaced by mobile communications networks and the mobile communications networks as a means to deliver universal service should be ensured. References to article 9c should be deleted.*

**Amendment 336****Erna Hennicot-Schoepges****Proposal for a regulation – amending act****Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point b

*Text proposed by the Commission**Amendment***(b) protect public health against electromagnetic fields,****(b) ensure technical quality of service,***Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures. A policy of technology and service neutrality and “flexibility” raises the issue of how satellite and terrestrial (particularly mobile) technologies can operate in the same or adjacent bands.*

**Amendment 337****Robert Goebbels****Proposal for a regulation – amending act****Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) **ensure maximisation of radio frequencies sharing where the use of frequencies is subject to a general authorisation, or**

(c) **comply with an obligation under an international agreement relating to the use of frequencies or under the ITU Radio Regulations,**

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures.*

### **Amendment 338**

**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) **ensure maximisation of radio frequencies sharing where the use of frequencies is subject to a general authorisation,**

(c) **encourage the efficient use and ensure the effective management of radio frequencies, together with technical service quality,**

Or. es

*Justification*

*Moves to encourage the efficient use and effective management of radio frequencies are among the objectives of Article 8(2) and must be pursued with regard to not only frequency bands subject to general authorisation but also those subject to rights of use.*

**Amendment 339**  
**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) ensure *maximisation* of radio frequencies *sharing where the use of frequencies is subject to a general authorisation*, or

(c) ensure *the efficient use* of radio frequencies, or

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures. A policy of technology and service neutrality and “flexibility” raises the issue of how satellite and terrestrial (particularly mobile) technologies can operate in the same or adjacent bands.*

**Amendment 340**  
**Erika Mann**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) ensure maximisation of radio frequencies sharing *where the use of frequencies is subject to a general authorisation*, or

(c) ensure maximisation of radio frequency sharing, or

Or. en



**Amendment 341**  
**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) protect public health against  
electromagnetic fields, or***

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures. A policy of technology and service neutrality and “flexibility” raises the issue of how satellite and terrestrial (particularly mobile) technologies can operate in the same or adjacent bands.*

**Amendment 342**  
**Robert Goebbels**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) ensure the efficient use of radio  
frequencies, or***

Or. en

**Amendment 343**  
**Karsten Friedrich Hoppenstedt**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) safeguard the efficient use of spectrum,**

Or. en

*Justification*

*The general philosophy of spectrum policy should strive at ensuring efficient use of the spectrum.*

**Amendment 344**  
**Rebecca Harms**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point d

*Text proposed by the Commission*

*Amendment*

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

(d) **fulfil a general interest objective** in accordance with paragraph 4.

Or. en

*Justification*

*Necessary to ensure general interest objectives.*

**Amendment 345**  
**Ruth Hieronymi, Ivo Belet**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point d

*Text proposed by the Commission*

*Amendment*

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

(d) **fulfil a general interest objective** in accordance with paragraph 4.

Or. en

*Justification*

*Necessary to ensure coherence with article 9.4.*

**Amendment 346**  
**Reino Paasilinna**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 – subparagraph 2 – point d a (new)

*Text proposed by the Commission*

*Amendment*

**(da) comply with an obligation under a relevant international agreement relating to the use of frequencies.**

Or. en

*Justification*

*In addition to harmful interference also ‘quality of service’ should be a criterion for providing restrictions to the technological neutrality. This is particularly important in cases where shared use of spectrum is allowed. Also a reference should be made to relevant international agreements (e.g. ITU). ‘The provision of universal or public service’ should be added to the list of possible restrictions. Fixed networks are being replaced by mobile communications networks and the mobile communications networks as a means to deliver universal service should be ensured. References to article 9c should be deleted.*

**Amendment 347**  
**Silvia-Adriana Țicău**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) Member States shall ensure that technical measurements and epidemiological surveys are carried out every three years to identify the necessary measures to protect public health from electro-magnetic fields.***

Or. ro

*Justification*

*In view of the numerous concerns expressed regarding the impact of electromagnetic fields on public health, it is necessary to carry out epidemiological surveys and specific measurements on a regular basis.*

**Amendment 348**  
**Rebecca Harms**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

4. Unless provided in the second subparagraph or in the measures pursuant to Article 9c, Member States shall ensure that all types of electronic communication services may be provided in the radio frequency band ***open*** to electronic ***communications***. The Member States may, however, provide for proportionate and non-discriminatory ***restrictions for*** the types of electronic communications

4. Unless provided in the second subparagraph or in the measures pursuant to Article 9c, Member States shall ensure that all types of electronic communication services may be provided in the radio frequency band ***available*** to electronic ***communication services as identified in their national frequency allocation tables and in the ITU Radio Regulations***. The Member States may, however, provide for

services to be provided.

proportionate and non-discriminatory **measures relating to** the types of electronic communication services to be provided.

Or. en

### *Justification*

*Service neutrality should be defined according to the possibilities offered by the ITU Regulations that determine which services can coexist in the different bands. As a result of this legally sound definition of service neutrality, measures taken in the framework of the ITU Regulations to ensure public interest objectives are not a restriction but a consequence to this principle. For transparency reasons, all general interest objectives should be defined in national legislation in conformity with community law.*

### **Amendment 349**

**Ruth Hieronymi, Ivo Belet**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

#### *Text proposed by the Commission*

4. Unless provided in the second subparagraph or in the measures pursuant to Article 9c, Member States shall ensure that all types of electronic communication services may be provided in the radio frequency band **open** to electronic **communications**. The Member States may, however, provide for proportionate and non-discriminatory **restrictions for** the types of electronic communications services to be provided.

#### *Amendment*

4. Unless provided in the second subparagraph or in the measures pursuant to Article 9c, Member States shall ensure that all types of electronic communication services may be provided in the radio frequency band **available** to electronic **communication services as identified in their national frequency allocation tables and in the ITU Radio Regulations**. The Member States may, however, provide for proportionate and non-discriminatory **measures relating to** the types of electronic communication services to be provided.

Or. en

### *Justification*

*Service neutrality should be defined according to the possibilities offered by the ITU Regulations that determine which services can coexist in the different bands. As a result of this legally sound definition of service neutrality, measures taken in the framework of the ITU Regulations to ensure public interest objectives are not a restriction but a consequence to this principle. For transparency reasons, all general interest objectives should be defined in national legislation in conformity with community law. The mere reference to “the promotion of cultural and linguistic diversity and media pluralism” is too narrow as it does not cover all general interest objectives pursued by audiovisual media policies.*

### **Amendment 350**

**Robert Goebbels**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

#### *Text proposed by the Commission*

4. Unless otherwise provided in the second subparagraph ***or in the measures adopted pursuant to Article 9c***, Member States shall ***ensure that*** all types of electronic communications services ***may be provided*** in the radio frequency bands open to electronic communications. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

#### *Amendment*

4. Unless otherwise provided in the second subparagraph, Member States shall, ***insofar as possible, facilitate the use of*** all types of electronic communications services in the radio frequency bands open to electronic communications, ***in accordance with their national frequency plans and the ITU Radio Regulations***. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

Or. en

### *Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures.*

**Amendment 351**  
**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

4. Unless otherwise provided in the second subparagraph ***or in the measures adopted pursuant to Article 9c***, Member States shall ***ensure that*** all types of electronic communications services ***may be provided*** in the radio frequency bands ***open to*** electronic communications. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

*Amendment*

4. Unless otherwise provided in the second subparagraph, Member States shall, ***insofar as possible, facilitate the use of*** all types of electronic communications services in the radio frequency bands ***available for*** electronic communications, ***in accordance with their national frequency allocation plans and the ITU Radio Regulations***. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures. A policy of technology and service neutrality and “flexibility” raises the issue of how satellite and terrestrial (particularly mobile) technologies can operate in the same or adjacent bands.*

**Amendment 352**  
**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall **ensure** that all types of electronic communications services may be provided in the radio frequency bands open to electronic communications. The Member States may, however, provide for proportionate and non discriminatory restrictions to the types of electronic communications services to be provided.

*Amendment*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall **encourage measures to** ensure that all types of electronic communications services may be provided in the radio frequency bands open to electronic communications. The Member States may, however, provide for proportionate and non discriminatory restrictions to the types of electronic communications services to be provided. ***In accordance with the national frequency tables and, where appropriate, the provisions of the International Telecommunications Union (ITU).***

Or. es

*Justification*

*Regarding the first proposal, the need to ensure concordance between national frequency tables and the relevant international regulations should be mentioned.*

*Regarding the second, the need to ensure high quality service for end-users is one of the general interest objectives.*

*Regarding the third, it is necessary to include a reference to the specific nature of radio and television services.*

**Amendment 353**

**Catherine Trautmann**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall

*Amendment*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall



ensure that all types of electronic communications services may be provided in the radio frequency bands ***open to electronic communications***. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided

ensure that all types of electronic communications services may be provided in the radio frequency bands ***available for electronic communication services in accordance with their national frequency allocation tables and the ITU Radio Regulations***. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

Or. en

#### *Justification*

*Service neutrality should be circumscribed to the possibilities offered by the ITU Radio Regulations that determine how services can co-exist in a given band (e.g. primary users are protected and neighbouring countries agree)*

#### **Amendment 354**

**Karsten Friedrich Hoppenstedt**

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

##### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

#### *Text proposed by the Commission*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands open to electronic communications. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided

#### *Amendment*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that, ***in accordance with internationally agreed frequency plans and the ITU Radio Regulations***, all types of electronic communications services may be provided in the radio frequency bands open to electronic communications. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

Or. en

*Justification*

*The proposal does not recognise or address the importance of ensuring compatibility with the ITU rules and procedures and international legally binding constraints arising under them. The efficient use of spectrum necessitates compliance with the ITU filing and coordination process.*

**Amendment 355**  
**Reino Paasilinna**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

**4. *Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c***, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands open to electronic communications. The Member States may, however, provide for proportionate and non discriminatory restrictions to the types of electronic communications services to be provided.

*Amendment*

4. Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands open to electronic communications. The Member States may, however, provide for proportionate and non discriminatory restrictions to the types of electronic communications services to be provided.

Or. en

*Justification*

*In addition to harmful interference also ‘quality of service’ should be a criterion for providing restrictions to the technological neutrality. This is particularly important in cases where shared use of spectrum is allowed. Also a reference should be made to relevant international agreements (e.g. ITU). ‘The provision of universal or public service’ should be added to the list of possible restrictions. Fixed networks are being replaced by mobile communications networks and the mobile communications networks as a means to deliver universal service should be ensured. References to article 9c should be deleted.*

**Amendment 356**  
**Gunnar Hökmark**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands *open to* electronic *communications*. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

*Amendment*

4. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands *available for* electronic *communication services*. The Member States may, however, provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided.

Or. en

*Justification*

*The ITU Radio Regulations govern spectrum arrangements between countries, primarily to offer protection against interference, but deliberately give Member States flexibility to deviate from the regulations on a national basis or where agreed bilaterally. Similar flexibility is also needed with respect to national allocation plans as they can lack transparency and may not be legally binding and are frequently altered.*

**Amendment 357**  
**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

*Text proposed by the Commission*

Restrictions that require a service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity

*Amendment*

Restrictions that require *an electronic telecommunications* service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general

with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism.

interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, ***the need to ensure adequate service quality for end-users*** or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism ***and the provision of radio and television broadcasting services.***

Or. es

### *Justification*

*Regarding the first proposal, the need to ensure concordance between national frequency tables and the relevant international regulations should be mentioned.*

*Regarding the second, the need to ensure high quality service for end-users is one of the general interest objectives.*

*Regarding the third, it is necessary to include a reference to the specific nature of radio and television services.*

### **Amendment 358** **Karsten Friedrich Hoppenstedt**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

Restrictions that require **a** service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with

#### *Amendment*

Restrictions that require **an electronic communications** service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective, ***as defined in national legislation*** in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national

Community law, the promotion of cultural and linguistic diversity and media pluralism.

legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism, ***including broadcasting services.***

Or. en

#### *Justification*

*The reference in the second subparagraph in 9.4 to " the promotion of cultural and linguistic diversity and media pluralism" is too limiting and should be expanded to refer specifically to broadcasting services.*

#### **Amendment 359**

**Erna Hennicot-Schoepges, Šarūnas Birutis, Rebecca Harms, Dominique Vlasto, Ruth Hieronymi, Claude Turmes, Den Dover, Paul Rübiger, Herbert Reul, David Hammerstein**

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

##### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

Restrictions that require **a** service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism.

#### *Amendment*

Restrictions that require ***an electronic communications*** service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism ***or the provision of radio and television broadcasting services.***

Or. en

#### *Justification*

*It is important that the definition of cultural and media policies remains in the hands of*

*Member States and that legal safeguards and flexibility on national level are guaranteed in this matter.*

## **Amendment 360**

**Rebecca Harms**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

**Restrictions** that require a service to be provided in a specific band shall be justified in order to ensure fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, **as defined in national legislation in conformity with Community law**, the promotion of cultural and linguistic diversity and media pluralism.

#### *Amendment*

**Measures** that require a service to be provided in a specific band shall be justified in order to ensure fulfilment of a general interest objective **defined in national legislation** in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or the promotion of **cultural and media policy objectives such as** cultural and linguistic diversity and media pluralism.

Or. en

#### *Justification*

*Service neutrality should be defined according to the possibilities offered by the ITU Regulations that determine which services can coexist in the different bands. As a result of this legally sound definition of service neutrality, measures taken in the framework of the ITU Regulations to ensure public interest objectives are not a restriction but a consequence to this principle. For transparency reasons, all general interest objectives should be defined in national legislation in conformity with community law.*

## **Amendment 361**

**Ruth Hieronymi, Ivo Belet**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

*Text proposed by the Commission*

**Restrictions** that require a service to be provided in a specific band shall be justified in order to ensure fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, **as defined in national legislation in conformity with Community law**, the promotion of cultural and linguistic diversity and media pluralism.

*Amendment*

**Measures** that require a service to be provided in a specific band shall be justified in order to ensure fulfilment of a general interest objective **defined in national legislation** in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or the promotion of **cultural and media policy objectives such as** cultural and linguistic diversity and media pluralism.

Or. en

*Justification*

*Service neutrality should be defined according to the possibilities offered by the ITU Regulations that determine which services can coexist in the different bands. As a result of this legally sound definition of service neutrality, measures taken in the framework of the ITU Regulations to ensure public interest objectives are not a restriction but a consequence to this principle. For transparency reasons, all general interest objectives should be defined in national legislation in conformity with community law. The mere reference to “the promotion of cultural and linguistic diversity and media pluralism” is too narrow as it does not cover all general interest objectives pursued by audiovisual media policies.*

**Amendment 362**

**Robert Goebbels**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

*Text proposed by the Commission*

Restrictions that require **a** service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or

*Amendment*

Restrictions that require **an electronic communications** service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, **the provision of universal or public services**, the promotion

territorial cohesion, the **avoidance of inefficient** use of radio frequencies, or, **as defined in national legislation in conformity with Community law**, the promotion of cultural and linguistic diversity and media pluralism.

of social, regional or territorial cohesion, the **efficient** use of radio frequencies **or the effective management of spectrum so as to take account of international commitments and practices**, or the promotion of cultural and linguistic diversity and media pluralism.

Or. en

### *Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures.*

### **Amendment 363** **Reino Paasilinna**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

Restrictions that require a service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism.

#### *Amendment*

Restrictions that require a service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, **the provision of universal or public services**, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism.

Or. en



### *Justification*

*In addition to harmful interference also 'quality of service' should be a criterion for providing restrictions to the technological neutrality. This is particularly important in cases where shared use of spectrum is allowed. Also a reference should be made to relevant international agreements (e.g. ITU). 'The provision of universal or public service' should be added to the list of possible restrictions. Fixed networks are being replaced by mobile communications networks and the mobile communications networks as a means to deliver universal service should be ensured. References to article 9c should be deleted.*

#### **Amendment 364** **Werner Langen**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

Restrictions that require a service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism.

#### *Amendment*

Restrictions that require a service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, ***the promotion of better access to the Information Society for all citizens***, the avoidance of inefficient use of radio frequencies, or, as defined in national legislation in conformity with Community law, the promotion of cultural and linguistic diversity and media pluralism.

Or. de

### *Justification*

*The access of all citizens to the Information Society is one of the main objectives of the Lisbon Strategy. It is therefore in the public interest that this should be specifically included in the list of grounds for possible derogations from the principle of service neutrality*

**Amendment 365**  
**Rebecca Harms**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 3

*Text proposed by the Commission*

A **restriction** which prohibits the provision of any other service in a specific band may only be provided for where justified by the need to protect safety of life services.

*Amendment*

A **measure** which prohibits the provision of any other **electronic communications** service in a specific band may only be provided for where justified by the need to protect safety of life services **or to avoid harmful interference**.

Or. en

*Justification*

*Service neutrality should be defined according to the possibilities offered by the ITU Regulations that determine which services can coexist in the different bands. As a result of this legally sound definition of service neutrality, measures taken in the framework of the ITU Regulations to ensure public interest objectives are not a restriction but a consequence to this principle. For transparency reasons, all general interest objectives should be defined in national legislation in conformity with community law.*

**Amendment 366**

**Ruth Hieronymi, Ivo Belet**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 3

*Text proposed by the Commission*

A **restriction** which prohibits the provision of any other service in a specific band may only be provided for where justified by the need to protect safety of life services.

*Amendment*

A **measure** which prohibits the provision of any other **electronic communications** service in a specific band may only be provided for where justified by the need to protect safety of life services **or to avoid harmful interference**.

*Justification*

*Service neutrality should be defined according to the possibilities offered by the ITU Regulations that determine which services can coexist in the different bands. As a result of this legally sound definition of service neutrality, measures taken in the framework of the ITU Regulations to ensure public interest objectives are not a restriction but a consequence to this principle. For transparency reasons, all general interest objectives should be defined in national legislation in conformity with community law. The mere reference to “the promotion of cultural and linguistic diversity and media pluralism” is too narrow as it does not cover all general interest objectives pursued by audiovisual media policies.*

**Amendment 367**

**Erna Hennicot-Schoepges, Šarūnas Birutis, Rebecca Harms, Dominique Vlasto, Ruth Hieronymi, Claude Turmes, Den Dover, Herbert Reul, David Hammerstein**

**Proposal for a regulation – amending act****Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

A restriction which prohibits the provision of any other service in a specific band may only be provided for where justified by the need to protect safety of life services.

A restriction which prohibits the provision of any other ***electronic communications*** service in a specific band may only be provided for where justified by the need to protect safety of life services ***or to ensure the fulfilment of a general interest objective as defined in national legislation in conformity with Community law, such as the promotion of cultural and linguistic diversity and media pluralism.***

*Justification*

*It is important that the definition of cultural and media policies remains in the hands of Member States and that legal safeguards and flexibility on national level are guaranteed in this matter.*

**Amendment 368**  
**Robert Goebbels**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 3

*Text proposed by the Commission*

A restriction which prohibits the provision of any other service in a specific band may only be provided for where justified by the need to protect safety of life services.

*Amendment*

A restriction which prohibits the provision of any other ***electronic communications*** service in a specific band may only be provided for where justified by the need to protect safety of life services ***or to ensure the fulfilment of a general interest objective defined in national legislation in conformity with Community law.***

Or. en

*Justification*

*References to the 2002 EC Spectrum Decision and the ITU Radio Regulations are essential to ensure consistency between EU rules, and compliance of EU rules with international rules reflected in national frequency allocation tables. The effective management of spectrum is the responsibility of the NRA and requires compliance with ITU procedures.*

**Amendment 369**  
**Karsten Friedrich Hoppenstedt**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 4 – subparagraph 3

*Text proposed by the Commission*

A restriction which prohibits the provision of any other service in a specific band may only be provided for where justified by the need to protect safety of life services.

*Amendment*

A restriction which prohibits the provision of any other ***electronic communications*** service in a specific band may only be provided for where justified by the need to protect safety of life services.

**Amendment 370**

**Erna Hennicot-Schoepges, Šarūnas Birutis, Rebecca Harms, Dominique Vlasto, Ruth Hieronymi, Claude Turmes, Den Dover, Pilar del Castillo Vera, Herbert Reul, David Hammerstein**

**Proposal for a regulation – amending act****Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 5

*Text proposed by the Commission**Amendment*

5. Member States shall regularly review the necessity of the restrictions referred to in paragraphs 3 and 4.	5. Member States shall regularly review the necessity of the restrictions referred to in paragraphs 3 and 4. <b><i>It lies within the competence of the Member States to define the scope and nature of any exception.</i></b>
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*Justification*

*It is important that the definition of cultural and media policies remains in the hands of Member States and that legal safeguards and flexibility on national level are guaranteed in this matter.*

**Amendment 371**

**Ruth Hieronymi, Ivo Belet**

**Proposal for a regulation – amending act****Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 5

*Text proposed by the Commission**Amendment*

5. Member States shall regularly review the necessity of the ***restrictions*** referred to in paragraphs 3 and 4.

5. Member States shall regularly review the necessity of the ***general interest objectives*** referred to in paragraphs 3 and 4.

**Amendment 372**

**Paul Rübiger**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. Member States shall regularly review the necessity of the restrictions referred to in paragraphs 3 and 4.	5. Member States shall regularly review the necessity of the restrictions referred to in paragraphs 3 and 4. <b><i>They shall provide a report thereon which shall be made publicly available.</i></b>
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Or. en

*Justification*

*A competitive mobile communications economy with better access to the information society for all citizens is seen as one of the main foundations of the Lisbon strategy and an aim of European policies as it will create more economic growth and jobs in Europe. This aim is expressly accepted by the amendment as a general interest objective. Therefore it can legitimise exceptions to the principle of service neutrality.*

**Amendment 373**

**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 6

*Text proposed by the Commission*

*Amendment*

6. Paragraphs 3 and 4 shall apply to allocation and assignment of radio frequencies after <b><i>31 December 2009</i></b> .	6. Paragraphs 3 and 4 shall apply to <b><i>the</i></b> allocation and assignment of radio frequencies after <b><i>[date of transposition]</i></b> .
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Or. en

**Amendment 374**  
**Alexander Alvaro**

**Proposal for a regulation – amending act**

**Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. Member States intend to split the spectrum of the UHF bands IV/V (470-862 Mhz) into equal shares for the further development of broadcasting and mobile communication services.***

***Member States shall follow the outcome of the WRC 2007. The harmonised sub-band 790-862 Mhz shall be vacated and assigned to mobile broadband services no later than six months after the entry into force of this Directive.***

***At the request of a network operator, the NRA shall review whether the existing allocations and assignments of radio frequencies issued for the purpose of broadcast content services are necessary for the fulfilment of the objectives referred to in Article 9(4). This review shall be completed within three months. Should those allocations and assignments not be necessary for the fulfilment of those objectives, new allocations to mobile communications services and assignments shall be issued by the national regulatory authority within six months. If there are compelling reasons, the national regulatory authority may, after notification to the Commission, take a decision on the reallocation of the radio frequencies in question.***

Or. en

*Justification*

*Mobile broadband technologies will provide access to the internet and to minimise the digital*

*divide in rural areas in particular. Against this background the early introduction of mobile internet services seems to be advisable as well as the establishment of reasonable legal rules in this area. On the other hand, the interest of the broadcasting industry and the objectives of promoting cultural and linguistic diversity and media pluralism have to be recognized. Accordingly, the Member States shall intend to use the spectrum of the UHF bands IV/V (470-862 MHz) for the further development of broadcasting and mobile services in equal shares*

## **Amendment 375**

**Paul Rübzig**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. The Member States intend to split the spectrum of the UHF bands IV/V (470-862 MHz) into equal shares for further developing broadcasting and mobile communication services.***

***As a first step, Member States shall follow the outcome of the World Radio Conference 2007. The harmonised subband of 790-862 MHz shall be vacated and assigned to mobile broadband services as soon as possible, but not later than six months after the date of entry into force of this Directive.***

***Thereafter, at least one-third of the additional spectrum that will be released in the UHF bands IV/V (470-862 MHz) in the process of the digital switchover of broadcasting services shall be immediately allocated and assigned to mobile broadband networks until the aim referred to in the first subparagraph is met. Frequencies shall be allocated and assigned to mobile broadband networks in a harmonised manner. For this purpose, the necessary planning procedures shall be initiated immediately.***

***At the request of a mobile network operator, the national regulatory***



*authority shall review whether the existing allocations and assignments of radio frequencies issued for the purpose of broadcast content services are necessary for the fulfilment of the objectives referred to in Article 9(4). This review shall be completed within three months. Should those allocations and assignments not be necessary for the fulfilment of those objectives, new allocations to mobile communications services and assignments shall be issued by the national regulatory authority within six months. If there are compelling reasons, the national regulatory authority may extend the time limit after notification to the Commission by an additional three months.*

Or. en

#### *Justification*

*Due to its favourable conditions for mobile applications, the band below 1 GHz is of specific importance. The UHF band IV/V (470-862 MHz) in particular, currently mainly used for television is part of this. Due to its physical characteristics, this spectrum achieves a broader reach and therefore needs comparatively fewer base station sites for the coverage of large areas. Therefore, the deployment of the next generation mobile broadband networks could be much more cost-efficient in rural areas.*

#### **Amendment 376**

**Ján Hudacký**

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

##### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. The Member States intend to split the spectrum of the UHF bands IV/V (470-862 MHz) into equal shares for further developing broadcasting and mobile communication services.***

*As a first step, Member States shall follow the outcome of the World Radio Conference 2007. The harmonised subband of 790-862 MHz shall be vacated and assigned to mobile broadband services as soon as possible, but not later than six months after the date of entry into force of this Directive.*

*Thereafter, at least two-thirds of the additional spectrum that will be released in the UHF bands IV/V (470-862 MHz) in the process of the digital switchover of broadcasting services shall be immediately allocated and assigned to mobile broadband networks until the aim referred to in the first subparagraph is met. Frequencies shall be allocated and assigned to mobile broadband networks in a harmonised manner. For this purpose, the necessary planning procedures shall be initiated immediately.*

*At the request of a mobile network operator, the national regulatory authority shall review whether the existing allocations and assignments of radio frequencies issued for the purpose of broadcast content services are necessary for the fulfilment of the objectives referred to in Article 9(4). This review shall be completed within three months. Should those allocations and assignments not be necessary for the fulfilment of those objectives, new allocations to mobile communications services and assignments shall be issued by the national regulatory authority within six months. If there are compelling reasons, the national regulatory authority may extend the time limit after notification to the Commission by an additional three months.*

Or. en

## *Justification*

*Mobile broadband will provide access to the internet in rural areas. Establishing reasonable legal rules in this area is urgent. Also interests of the broadcasting industry and the objectives of promoting cultural and linguistic diversity and media pluralism are to be recognized. Accordingly, the Member States shall intend to use the UHF bands IV/V (470-862 MHz) for further development of broadcasting and mobile services in equal shares.*

### **Amendment 377**

**Werner Langen**

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

##### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. Member States shall seek to allocate the frequencies of UHF Bands IV/V (470-862 MHz) in equal shares for the future development of radio and mobile services.***

***As a first step, Member States should follow the results of the World Radio Conference 2007. The harmonised sub-band of 790-862 MHz frequencies should be released and allocated as soon as possible, and at the latest 6 months after the entry into force of this Directive, for mobile broadband services.***

***Thereafter at least two-thirds of the frequencies which will additionally be released in UHF Band IV/V (470-862 MHz) through the digitisation of radio broadcasts, should be allocated directly to mobile broadband networks until the objective of a 50:50 division of frequencies between radio and mobile services is achieved. The frequencies should be allocated harmoniously. The necessary planning procedures shall commence forthwith.***

***At the request of a mobile provider, the national regulatory authority must examine whether the current division and allocation of frequencies for the purpose***

*of broadcasting radio content is necessary in order to attain the objectives listed in Article 9(4). Such scrutiny should be concluded within three months. Should division and allocation prove unnecessary for the attainment of these objectives, the national regulatory authority must proceed with re-allocation to mobile services within six months. In the event of pressing reasons, the national regulatory authority may, after notifying the Commission, extend this period by three further months.*

Or. de

#### *Justification*

*Im Falle einer ausreichenden Zuteilung von Frequenzen im UHF Band können mobile Breitbanddienste einen großen Beitrag zur Überwindung der digitalen Kluft leisten und damit auch Bürgern in ländlichen Regionen einen Zugang zur Informationsgesellschaft bieten. Deshalb ist eine rasche Zuteilung an Anbieter von mobilen Breitbanddiensten zu begrüßen. Weiterhin sind zur Wahrung der kulturellen Vielfalt auch die Interessen der Rundfunkanbieter zu berücksichtigen, so dass eine hälftige Teilung der Frequenzen zwischen Rundfunkanbietern und Mobilfunkanbietern angemessen erscheint. Um Planungssicherheit für die Beteiligten zu erreichen ist es wichtig, daß die Richtlinie konkrete Vorgaben für die Zuteilung der sogenannten digitalen Dividende macht.*

#### **Amendment 378**

**Lambert van Nistelrooij**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. Member States shall ensure the release of digital dividend spectrum, which will ensure better access to the information society for all.***

Or. en

### *Justification*

*This will ensure that future technological developments for broadcast and mobile broadband services will be harmonised to overcome any hurdles that might occur and to increase cost-efficient broadband access all over Europe as soon as possible.*

#### **Amendment 379** **Gianni De Michelis**

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

#### **Article 1 – point 9**

Directive 2002/21/EC

Article 9 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. Member States shall apply the provisions of paragraphs 3 to 6 taking the utmost account of the assessment by the relevant technical and standardization organizations and after consultation with interested parties. In applying this Article, Member States shall take appropriate measures to guarantee fair competition, ensuring that full account is taken of investments made by market players for the acquisition of radio frequencies.***

Or. en

### *Justification*

*The application of the principles of technology and service neutrality should not jeopardise the investments made in particular by mobile operators in 3G licences and by private broadcasting in frequency trading. At the same time, it should be applied in a way to be consistent with the objective of promoting a non-distorting mechanism and fair competition in the markets.*

**Amendment 380**  
**Erna Hennicot-Schoepges**

**Proposal for a regulation – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9 a

*Text proposed by the Commission*

*Amendment*

**Article 9a**

**deleted**

***Review of restrictions to existing rights***

***1. For a period of five years starting on [1 January 2010], Member States shall ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).***

***Before adopting its decision the competent national regulatory authority shall notify the right holder of its reassessment of the restrictions, indicating the extent of the right after reassessment, and allow him a reasonable time limit to withdraw his application.***

***If the right holder withdraws his application, the right shall remain unchanged until its expiry or till the end of the 5 year period, whichever is the earlier date.***

***2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective as a result of application of***

*Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive.*

*3. After the five-year period referred to in paragraph 1, Member States shall take all appropriate measures to ensure that Article 9(3) and (4) apply to all remaining assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.*

*4. In applying this Article, Member States shall take appropriate measures to guarantee fair competition.*

Or. en

*Justification*

*The forced review of existing rights is likely to introduce major business uncertainty, discourage investment and does not take account of the commercial reality for many operators.*

**Amendment 381**  
**Robert Goebbels**

**Proposal for a regulation – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9 a

*Text proposed by the Commission*

*Amendment*

*Article 9a*

*deleted*

*Review of restrictions to existing rights*

*1. For a period of five years starting on [1 January 2010], Member States shall ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article*

**9(3) and (4).**

***Before adopting its decision the competent national regulatory authority shall notify the right holder of its reassessment of the restrictions, indicating the extent of the right after reassessment, and allow him a reasonable time limit to withdraw his application.***

***If the right holder withdraws his application, the right shall remain unchanged until its expiry or till the end of the 5 year period, whichever is the earlier date.***

***2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective as a result of application of Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive.***

***3. After the five-year period referred to in paragraph 1, Member States shall take all appropriate measures to ensure that Article 9(3) and (4) apply to all remaining assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.***

***4. In applying this Article, Member States shall take appropriate measures to guarantee fair competition.***

Or. en



### *Justification*

*The forced review of existing rights is likely to introduce major business uncertainty, discourage investment and does not take account of the commercial reality for many operators.*

#### **Amendment 382**

**Paul Rübiger**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 1 – subparagraph 1

#### *Text proposed by the Commission*

1. For a period of **five years** starting on [1 January 2010], Member States shall ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).

#### *Amendment*

1. For a period of **one year** starting on [1 January 2010], Member States shall ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).

Or. en

### *Justification*

*The period as of which member states are to apply the new rules on radio frequency management should be reduced to one year. The faster spectrum refarming is possible the faster efficiency gains could be realized by operators benefiting customers in the longer run by lower prices and better services. Within their rights, license holders should be allowed to use their frequency bands for whichever standardised technology they like to use it. For an efficient use of spectrum, a maximum amount of license right certainty and a minimum amount of restrictions on the use of spectrum are crucial.*

**Amendment 383**  
**Fiona Hall**

**Proposal for a regulation – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9 a – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

<p>1. For a period of five years starting on [<b>1 January 2010</b>], Member States <b>shall</b> ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).</p>	<p>1. For a period of five years starting on [<b>date of transposition</b>], Member States <b>may</b> ensure that holders of rights to use radio frequencies which were granted before that date <b>for a period of not less than five years</b> may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4). <b>By 1 January 2015, Member States shall take all appropriate measures to ensure that Article 9(3) and (4) apply to all assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.</b></p>
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Or. en

**Amendment 384**  
**Gunnar Hökmark**

**Proposal for a regulation – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9 a – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

<p>1. <b>For a period of five years starting on [1 January 2010]</b>, Member States shall <b>ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).</b></p>	<p>1. <b>By [1 January 2015]</b>, Member States shall <b>take all appropriate measures to ensure that Article 9(3) and (4) apply to all assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.</b></p>
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*Justification*

*All licences should comply with the requirements of 9(3) and 9(4) by a set date but Member States should have flexibility to manage this process in order to deal with national circumstances.*

**Amendment 385**  
**Gianni De Michelis**

**Proposal for a regulation – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9 a – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

1. For a period of five years starting **on [1 January 2010]**, Member States shall ensure that holders of rights to use radio frequencies which were granted before **that date** may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).

*Amendment*

1. For a period of five years starting **from [the date of transposition of this Directive]**, Member States shall ensure that holders of rights to use radio frequencies which were granted before **1 January 2010** may submit an application to the competent national regulatory authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).

*Justification*

*A sunset period during which national regulators should be obliged to allow existing right holders to apply for a variation of their license is suitable and necessary to cope with the transition phase between the current and newly proposed spectrum management regime. Since the new regime introduces significant changes in the frequency management process, with significant impacts on the existing rights, we consider that the correct timeframe for member States and undertakings to adapt to the new regime should be necessary extended and linked to the timing of the regulatory review. At the same time, it should be applied in a way to be consistent with the objective of promoting a non-distorting mechanism and fair competition in the markets.*

**Amendment 386**  
**Reino Paasilinna**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

1. For a period of five years starting on [1 January 2010], Member States shall ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national <b>regulatory</b> authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).	1. For a period of five years starting on [1 January 2010], Member States shall ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).
--	--

Or. en

*Justification*

*The competent authority in spectrum issues is not always the same authority as the national regulatory authority as defined in the Framework Directive.*

**Amendment 387**  
**Reino Paasilinna**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

Before adopting its decision the competent national <b>regulatory</b> authority shall notify the right holder of its reassessment of the restrictions, indicating the extent of the right after reassessment, and allow him a reasonable time limit to withdraw his application.	Before adopting its decision the competent national authority shall notify the right holder of its reassessment of the restrictions, indicating the extent of the right after reassessment, and allow him a reasonable time limit to withdraw his application.
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Or. en

*Justification*

*The competent authority in spectrum issues is not always the same authority as the national regulatory authority as defined in the Framework Directive.*

**Amendment 388**

**Paul Rübiger**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

If the right holder withdraws his application, the right shall remain unchanged until its expiry ***or till the end of the 5 year period, whichever is the earlier date.***

*Amendment*

If the right holder withdraws his application, the right shall remain unchanged until its expiry.

Or. en

*Justification*

*The period as of which member states are to apply the new rules on radio frequency management should be reduced to one year. The faster spectrum refarming is possible the faster efficiency gains could be realized by operators benefiting customers in the longer run by lower prices and better services. Within their rights, license holders should be allowed to use their frequency bands for whichever standardised technology they like to use it. For an efficient use of spectrum, a maximum amount of license right certainty and a minimum amount of restrictions on the use of spectrum are crucial.*

**Amendment 389**

**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

If the right holder withdraws his

*Amendment*

If the right holder withdraws his

application, the right shall remain unchanged until its expiry ***or till the end of the 5 year period, whichever is the earlier date.***

application, the right shall remain unchanged until its expiry.

Or. es

*Justification*

*Because of the existence of rights of use which might affect third parties, it is necessary to have sufficient time to take the necessary regulatory measures.*

**Amendment 390**  
**Anne Laperrouze**

**Proposal for a regulation – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9 a – paragraph 2

*Text proposed by the Commission*

***2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective as a result of application of Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive.***

*Amendment*

***2. This article does not apply to restrictions introduced by the Member States in order to promote cultural and media policy objectives, for example cultural and linguistic diversity and media pluralism.***

Or. fr

*Justification*

*Since the Member States are responsible for defining the scope, nature and duration of*

*restrictions on the principles of technological and service neutrality with a view to promoting cultural and media policy objectives, the review procedure provided for in Article 9 would not be suitable in such instances. Furthermore, paragraph 2 confuses two different points: the review of restrictions and the review of user rights as such, the second being covered by Article 5(2) of the Authorisation Directive.*

**Amendment 391**  
**Rebecca Harms**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 2

*Text proposed by the Commission*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, including ***delivery*** of broadcasting ***services, an application for reassessment can only be made in respect of*** the part of the radio frequencies which is ***necessary for*** the fulfilment of ***such*** objective. The part of the radio frequencies which ***becomes*** unnecessary for the fulfilment of that objective ***as a result of application of*** Article 9(3) and (4) ***shall be subject to a new assignment procedure in conformity with*** Article 7(2) of the Authorisation Directive.

*Amendment*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, including ***the provision of a radio or*** broadcasting ***service, the right to use*** the part of the radio frequencies which is ***allocated to*** the fulfilment of ***that*** objective ***shall remain unchanged until its expiry***. The part of the radio frequencies which ***may become*** unnecessary for the fulfilment of that objective ***shall be subject to a new assignment procedure in accordance with*** Article 9(3) and (4) ***of this Directive and*** Article 7(2) of the Authorisation Directive.

Or. en

*Justification*

*Radio and broadcasting operators should be able to continue providing their services and even develop them further after the digital switchover*

**Amendment 392**  
**Catherine Trautmann**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 2

*Text proposed by the Commission*

*Amendment*

<p>2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, <b><i>an application for reassessment can only be made in respect of</i></b> the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies <b><i>which becomes unnecessary</i></b> for the fulfilment of that objective <b><i>as a result of application of Article 9(3) and (4)</i></b> shall be subject to a new assignment procedure in <i>conformity</i> with Article 7(2) of the Authorisation Directive.</p>	<p>2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, <b><i>including the provision of broadcasting services, the right to use</i></b> the part of the radio frequencies which is necessary for the fulfilment of that objective <b><i>shall remain unchanged until its expiry</i></b>. The part of the radio frequencies <b><i>whose usage departs from</i></b> the fulfilment of that objective shall be subject to a new assignment procedure in <i>accordance</i> with <b><i>Article 9(3) and (4) of this Directive and Article 7(2) of Directive 2002/20/EC</i></b> (the Authorisation Directive).</p>
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Or. en

*Justification*

*Broadcasting operators should be able to continue providing their broadcasting services and even to develop them further (i.e. HDTV) after the digital switchover. The part of the digital dividend which will not be used for broadcasting purposes should be re-assigned to other purposes according to the new rules*

**Amendment 393**  
**Pilar del Castillo Vera**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 2



*Text proposed by the Commission*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, ***an application for reassessment can only be made in respect of*** the part of the radio frequencies which is necessary for the fulfilment of ***such*** objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective ***as a result of application of Article 9(3) and (4)*** shall be subject to a new assignment procedure in *conformity* with Article 7(2) of the Authorisation Directive.

*Amendment*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, ***the right to use*** the part of the radio frequencies which is necessary for the fulfilment of ***that*** objective ***shall remain unchanged until its expiry***. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective shall be subject to a new assignment procedure in *accordance* with ***Article 9(3) and (4) of this Directive and Article 7(2) of Directive 2002/20/EC*** (the Authorisation Directive).

Or. en

**Amendment 394**

**Lambert van Nistelrooij**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 2

*Text proposed by the Commission*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective ***as a result of application of Article 9(3) and (4)*** shall be subject to a new assignment procedure in *conformity* with Article 7 (2) of the

*Amendment*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, the right to use the part of the radio frequencies which is necessary for the fulfilment of that objective shall remain unchanged until its expiry. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective shall be subject to a new assignment procedure in *accordance* with ***Article 9(3) and (4) of this Directive and Article 7(2) of Directive 2002/20EC*** (the

Authorisation Directive.

Authorisation Directive). *Member States shall ensure that all necessary preconditions for the rapid achievement of the aims set out in Article 9(7) are met, and that the time frame referred to in this paragraph is respected.*

Or. en

*Justification*

*Additional text ensures that the above amendment is consistent with the text of the amendment to Article 9, paragraph 7.*

**Amendment 395**  
**Werner Langen**

**Proposal for a regulation – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9 a – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective as a result of application of Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive.

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective as a result of application of Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive. *Member States shall ensure that all the necessary conditions for the rapid attainment of the objectives set out in Article 9, paragraph 7, are met and that the time framework mentioned in Article 9, paragraph 7, is respected.*

*Justification*

*This amendment is intended to ensure that the attainment of the objectives of developing mobile broadband services and promoting cultural and linguistic diversity is not delayed.*

**Amendment 396**  
**Gianni De Michelis**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 2

*Text proposed by the Commission*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective as a result of application of Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive.

*Amendment*

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific general interest objective **and not acquired commercially**, an application for reassessment can only be made in respect of the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which becomes unnecessary for the fulfilment of that objective as a result of application of Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive.

*Justification*

*A sunset period during which national regulators should be obliged to allow existing right holders to apply for a variation of their license is suitable and necessary to cope with the transition phase between the current and newly proposed spectrum management regime. Since the new regime introduces significant changes in the frequency management process, with significant impacts on the existing rights, we consider that the correct timeframe for member States and undertakings to adapt to the new regime should be necessary extended*

*and linked to the timing of the regulatory review. At the same time, it should be applied in a way to be consistent with the objective of promoting a non-distorting mechanism and fair competition in the markets.*

**Amendment 397**

**Paul Rübiger**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 3

*Text proposed by the Commission*

3. After the **five-year** period referred to in paragraph 1, Member States shall take all appropriate measures to ensure that Article 9(3) and (4) apply to all remaining assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.

*Amendment*

3. After the **one-year** period referred to in paragraph 1, Member States shall take all appropriate measures to ensure that Article 9(3) and (4) apply to all remaining assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.

Or. en

**Amendment 398**

**Francisca Pleguezuelos Aguilar**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 4

*Text proposed by the Commission*

**4. In applying this Article, Member States shall take appropriate measures to guarantee fair competition.**

*Amendment*

*deleted*

Or. es

### *Justification*

*This paragraph is not necessary, measures to encourage fair competition being one of the objectives listed in Article 8.*

#### **Amendment 399** **Gianni De Michelis**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 4

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

4. In applying this Article, Member States shall take appropriate measures to guarantee fair competition.

##### *Amendment*

4. In applying this Article, Member States shall take appropriate measures to guarantee fair competition, ***ensuring that full account is taken of investments made by market players for the acquisition of radio frequencies.***

Or. en

### *Justification*

*A sunset period during which national regulators should be obliged to allow existing right holders to apply for a variation of their license is suitable and necessary to cope with the transition phase between the current and newly proposed spectrum management regime. Since the new regime introduces significant changes in the frequency management process, with significant impacts on the existing rights, we consider that the correct timeframe for member States and undertakings to adapt to the new regime should be necessary extended and linked to the timing of the regulatory review. At the same time, it should be applied in a way to be consistent with the objective of promoting a non-distorting mechanism and fair competition in the markets.*

#### **Amendment 400** **Rebecca Harms**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9 a – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. It shall lie within the competence of the Member States to define the scope, nature and duration of measures intended for the promotion of cultural and media policy objectives, such as cultural and linguistic diversity and media pluralism, in accordance with their own national law.***

Or. en

*Justification*

*Ensure coherency in vocabulary as article 9.4 refers to "measures" and not to "restrictions"*

**Amendment 401**  
**Reino Paasilinna**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

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

1. ***Where appropriate***, Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies.

Or. en

*Justification*

*Promotion of transferability of individual rights of use is important but it does not necessitate assignment of specific frequency bands at European level or harmonisation of the conditions related to a transfer. Also it is crucial that a prior consent by a Member State's competent authority can be required for any transfer.*

**Amendment 402**  
**Catherine Trautmann**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c, ***provided that such transfer or lease is in accordance with national procedures and does not result in a change either in the service provided over that radio frequency band or in the obligations attached to the rights of use.***

Or. en

*Justification*

*Tradability shouldn't lead to imbalances in the diversity of services or to speculation, and should also cover cases where spectrum use may be free but linked to obligations. Also, national procedures shouldn't be ignored, since spectrum management remains a national competence.*

**Amendment 403**  
**Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

1. Member States shall ensure that undertakings may transfer or lease to other

*Amendment*

1. Member States shall ensure that undertakings may transfer or lease to other

undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c ***without the prior consent of the national regulatory authority.***

undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c, ***provided that such transfer or lease is in accordance with national procedures and does not result in a change in the service as identified in the national frequency allocation tables and in the ITU Radio Regulations for that radio frequency band.***

Or. en

### *Justification*

*The efficient management of spectrum is the responsibility of the national regulatory authority (Article 9.1). When the transfer or lease of rights leads to a 'change of use' (i.e. a change of technology, with different characteristics/patterns), this is likely to significantly increase the risks of harmful interference, to the detriment of spectrum users and ultimately end-users.*

#### **Amendment 404**

**Erika Mann**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en



*Justification*

*Restricting trading on providers of the same service will undermine the benefits of trading and will frustrate the overall intent of the spectrum reforms.*

**Amendment 405**

**Francisca Pleguezuelos Aguilar**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Or. es

*Justification*

*The transfer of right should be carried out in accordance with national statutory procedures. Prior agreement may be necessary to prevent frequencies being appropriated by certain market participants.*

**Amendment 406**

**Mary Honeyball**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

1. Member States shall ensure that undertakings may transfer or lease to other

*Amendment*

1. Member States shall ensure that undertakings may transfer or lease to other

undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c ***without the prior consent of the national regulatory authority.***

undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c, ***provided that such transfer or lease is in accordance with national procedures.***

Or. en

#### *Justification*

*This amendment makes a minor change to the Rapporteurs amendment 30. Service neutrality is important as long as it remains within Member States' public policy objectives. Service neutrality and spectrum trading should not be expressly prohibited.*

#### **Amendment 407**

**Lena Ek**

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

#### **Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

#### *Justification*

*The fundamental idea behind increased flexibility for spectrum users is that users themselves are better at judging what is the right balance between services than the State. This amendment seems to suggest that regulators can make better decisions on how much spectrum should be used for specific services than those actually providing or using those services.*

*Any conditions attached to a license, such as, for instance, an obligation to provide a certain service, shall of course be unaffected by the transfer or lease of the license. Within those*

*parameters of the license conditions, however, license holders should be free to provide any service they regard as the most efficient use of spectrum.*

**Amendment 408**

**Karsten Friedrich Hoppenstedt**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

*Justification*

*In view of the sensibility of the telecommunication sector national regulatory authorities should set the framework for the transfer.*

**Amendment 409**

**Dragoş Florin David**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

1. Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures

*Amendment*

1. Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures

adopted pursuant to Article 9c *without* the prior consent of the national regulatory authority.

adopted pursuant to Article 9c *with* the prior consent of the national regulatory authority.

Or. en

**Amendment 410**  
**Gunnar Hökmark**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9b – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 411**  
**Reino Paasilinna**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9b – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

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

*Amendment*

*deleted*

Or. en

*Justification*

*Promotion of transferability of individual rights of use is important but it does not necessitate assignment of specific frequency bands at European level or harmonisation of the conditions related to a transfer. Also it is crucial that a prior consent by a Member State's competent authority can be required for any transfer. The competent authority in spectrum issues is not always the same authority as the national regulatory authority as defined in the Framework Directive.*

**Amendment 412**

**Francisca Pleguezuelos Aguilar**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

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

*Amendment*

In other bands, Member States may also make provision for undertakings to transfer or lease individual rights to use radio frequencies to other undertakings, ***in accordance with national statutory procedures.***

Or. es

*Justification*

*The transfer of right should be carried out in accordance with national statutory procedures. Prior agreement may be necessary to prevent frequencies being appropriated by certain market participants.*

**Amendment 413**

**Karsten Friedrich Hoppenstedt**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

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

*Amendment*

In other bands, Member States may also make provision for undertakings to transfer or lease individual rights to use radio frequencies to other undertakings ***in accordance with national procedures.***

Or. en

*Justification*

*In view of the sensibility of the telecommunication sector national regulatory authorities should set the framework for the transfer.*

**Amendment 414**

**Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

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

*Amendment*

In other bands, Member States may make provision for undertakings to transfer or lease individual rights to use radio frequencies to other undertakings ***in accordance with national procedures.***

Or. en

*Justification*

*The efficient management of spectrum is the responsibility of the national regulatory authority (Article 9.1). When the transfer or lease of rights leads to a ‘change of use’ (i.e. a change of technology, with different characteristics / patterns), this is likely to significantly increase the risks of harmful interference, to the detriment of spectrum users and ultimately end-users.*

**Amendment 415**  
**Dominique Vlasto, Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. However, where such transfer or lease would involve frequencies which have been made available on the basis of a restriction to ensure the fulfilment of a general interest objective as provided for in Article 9(4), the prior consent of the national regulatory authority shall be required. Where applicable, Member States may require an authorisation or an opinion from the national authority responsible for audiovisual media services.***

Or. en

*Justification*

*In view of Member States' competence to introduce specific restrictions to service neutrality, it is a logical consequence to introduce some limitations to the transfer of those frequencies or "spectrum trading". That is particularly obvious in the case of restrictions based on cultural and media policies. If spectrum trading is nevertheless allowed in this area, Member States must keep the power to be put in place appropriate safeguards to ensure that their audiovisual policy objectives are not undermined.*

**Amendment 416**  
**Dominique Vlasto, Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Radio frequencies which have been attributed freely to stakeholders may not***

*be transferred in return for remuneration.*

*If radio frequencies have been attributed in fulfilment of a general interest obligation, the transfer of those frequencies shall entail the transfer of that obligation to the stakeholder.*

Or. en

*Justification*

*It would be unacceptable that stakeholders who got freely frequencies obtain revenues by selling these frequencies. All the obligations attached to the frequencies should be transferred with them.*

**Amendment 417**  
**Francisca Pleguezuelos Aguilar**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies is notified to the national regulatory authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

*Amendment*

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies is notified to the national regulatory authority responsible for spectrum assignment and is made public. Where ***specific conditions for the use of*** a radio frequency ***have been established at national level*** or have been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with ***the conditions laid down for*** harmonised use.

Or. es

*Justification*

*Transfers must in any case comply with the conditions previously laid down at national or*



*Community level.*

**Amendment 418**  
**Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9b – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that an undertaking's ***intention to*** transfer rights to use radio frequencies is notified to the national regulatory authority responsible for spectrum assignment and is made public. Where radio frequency ***use has*** been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such ***harmonised*** use.

*Amendment*

2. Member States shall ensure that an undertaking's transfer ***of*** rights to use radio frequencies is notified to the national regulatory authority responsible for spectrum assignment and is made public. Where ***specific conditions for the use of a radio frequency have been established at national level or have*** been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such use.

Or. en

*Justification*

*The efficient management of spectrum is the responsibility of the national regulatory authority (Article 9.1). When the transfer or lease of rights leads to a 'change of use' (i.e. a change of technology, with different characteristics / patterns), this is likely to significantly increase the risks of harmful interference, to the detriment of spectrum users and ultimately end-users.*

**Amendment 419**  
**Karsten Friedrich Hoppenstedt**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9b – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies is notified to the national **regulatory** authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

*Amendment*

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies, **as well as the effective transfer thereof**, is notified to the **competent** national authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

Or. en

*Justification*

*The competent authority is not always the same authority as the national regulatory authority as defined in the Framework Directive.*

**Amendment 420**  
**Gunnar Hökmark**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9b – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that an undertaking's **intention to** transfer rights to use radio frequencies is notified to the **national regulatory** authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

*Amendment*

2. Member States shall ensure that an undertaking's transfer **of** rights to use radio frequencies is notified to the **competent** authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

Or. en

### *Justification*

*It is the actual transfer, rather than the intention that needs registering. Registering intentions risks leading to over-regulation and unnecessary bureaucracy. The Radio Spectrum Decision provides the basis for important and well-functioning work, for instance by the Radio Spectrum Committee.*

#### **Amendment 421**

**Lena Ek**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 2

#### *Text proposed by the Commission*

2. Member States shall ensure that an undertaking's ***intention to*** transfer rights to use radio frequencies is notified to the ***national regulatory*** authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

#### *Amendment*

2. Member States shall ensure that an undertaking's transfer ***of*** rights to use radio frequencies is notified to the ***competent*** authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

Or. en

### *Justification*

*It is not the intention but the actual transfer of rights that needs registering. Registering intentions creates a clear risk of over-regulation and unnecessary bureaucracy. The Radio Spectrum Decision provides the basis for important and well-functioning work, for instance by the Radio Spectrum Committee.*

#### **Amendment 422**

**Reino Paasilinna**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9b – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies is notified to the national **regulatory** authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies is notified to the national authority responsible for spectrum assignment and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

Or. en

*Justification*

*Promotion of transferability of individual rights of use is important but it does not necessitate assignment of specific frequency bands at European level or harmonisation of the conditions related to a transfer. Also it is crucial that a prior consent by a Member State's competent authority can be required for any transfer. The competent authority in spectrum issues is not always the same authority as the national regulatory authority as defined in the Framework Directive.*

**Amendment 423**  
**Angelika Niebler**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c

*Text proposed by the Commission*

*Amendment*

*Article 9c*

*deleted*

***Radio Frequency Management  
Harmonisation Measures***

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

*bands for which usage rights may be transferred or leased between undertakings;*

*(b) harmonise the conditions attached to such rights and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;*

*(c) harmonise the specific measures to ensure fair competition where individual rights are transferred;*

*(d) create an exception to the principle of services or technology neutrality, as well as to harmonise the scope and nature of any exceptions to these principles in accordance with Article 9(3) and (4) other than those aimed at ensuring the promotion of cultural and linguistic diversity and media pluralism.*

*These measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4). In the implementation of the provisions of this paragraph, the Commission may be assisted by the Authority in accordance with Article 10 Regulation [.../EC].'*

Or. de

#### *Justification*

*The Commission's proposal that the guidelines be adopted in accordance with the regulatory procedure with scrutiny significantly restricts the rights of the European Parliament and should therefore be rejected.*

**Amendment 424**  
**Lambert van Nistelrooij**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c

*Text proposed by the Commission*

*Amendment*

*Article 9c*

*deleted*

***Radio Frequency Management***  
***Harmonisation Measures***

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

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

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

*procedure referred to in Article 22(4). In the implementation of the provisions of this paragraph, the Commission may be assisted by the Authority in accordance with Article 10 Regulation [.../EC].*

Or. en

*Justification*

*Although current co-ordination mechanisms can be improved, it is not certain that Europe has harmonisation or co-ordination problems of the size and the nature that justify a radical change in the institutional set-up.*

**Amendment 425**  
**Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – introductory wording

*Text proposed by the Commission*

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

*Amendment*

In order to contribute to the development of the internal market, for the achievement of the principles of this Article **and in accordance with Article 9d and the Radio Spectrum Decision**, the Commission may adopt appropriate implementing measures to:

Or. en

*Justification*

*The conditions under which radio spectrum can be transferred or leased at national level should be left to the national regulatory authorities, which are ultimately responsible for the effective management of spectrum.*

**Amendment 426**  
**Herbert Reul**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – introductory wording

*Text proposed by the Commission*

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

*Amendment*

In order to contribute to the development of the internal market **and without prejudice to Article 8a**, for the achievement of the principles of this Article, the Commission may **take** appropriate **technical** implementing measures to:

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 427**  
**Ruth Hieronymi, Ivo Belet**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – introductory wording

*Text proposed by the Commission*

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

*Amendment*

In order to contribute to the development of the internal market **and without prejudice to Article 8a**, for the achievement of the principles of this Article, the Commission may **take**



implementing measures to:

appropriate **technical** implementing measures to:

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 428**  
**Dominique Vlasto**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – introductory wording

*Text proposed by the Commission*

*Amendment*

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

In order to contribute to the development of the internal market **and without prejudice to Article 8a**, for the achievement of the principles of this Article, the Commission may adopt appropriate **technical** implementing measures to:

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures and the Commission should thus not harmonize these procedures.*

**Amendment 429**  
**Rebecca Harms**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – introductory wording

*Text proposed by the Commission*

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

*Amendment*

In order to contribute to the development of the internal market **and without prejudice to Article 8a**, for the achievement of the principles of this Article, the Commission may **take** appropriate **technical** implementing measures to:

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/EC), in particular with regards to the scope of the article which concerns technical implementation measures and measures of general interest objectives. Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 430**  
**Anne Laperrouze**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – introductory wording

*Text proposed by the Commission*

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

*Amendment*

In order to contribute to the development of the internal market, **and without prejudice to Article 8a**, for the achievement of the principles of this

implementing measures to:

Article, the Commission may adopt appropriate **technical** implementing measures to:

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures, and the Commission should thus not harmonize these procedures.*

**Amendment 431**  
**Anne Laperrouze**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – point -a (new)

*Text proposed by the Commission*

*Amendment*

***(-a) harmonise the rules relating to the availability and efficient use of radio frequencies in accordance with the procedure set out in Annex IIa;***

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures, and the Commission should thus not harmonize these procedures.*

**Amendment 432**  
**Dominique Vlasto**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point -a (new)

*Text proposed by the Commission*

*Amendment*

***(-a) harmonise the rules relating to the availability and efficient use of radio frequencies in accordance with the procedure set out in Annex IIa;***

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures and the Commission should thus not harmonize these procedures.*

**Amendment 433**  
**Ruth Hieronymi, Ivo Belet**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point -a (new)

*Text proposed by the Commission*

*Amendment*

***(-a) harmonise the rules relating to the availability and efficient use of radio frequencies in accordance Article 9;***

Or. en

### *Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

#### **Amendment 434**

**Rebecca Harms**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point -a (new)

*Text proposed by the Commission*

*Amendment*

***(-a) harmonise the rules relating to the availability and efficient use of radio frequencies in accordance with Article 9;***

Or. en

### *Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/EC), in particular with regards to the scope of the article which concerns technical implementation measures and measures of general interest objectives. Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

#### **Amendment 435**

**Herbert Reul**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point -a (new)

*Text proposed by the Commission*

*Amendment*

***(-a) harmonise the rules relating to the availability and efficient use of radio frequencies in accordance Article 9;***

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 436**  
**Anne Laperrouze**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – point -aa (new)

*Text proposed by the Commission*

*Amendment*

***(-aa) ensure the coordinated and timely provision of information concerning the allocation, availability and use of radio frequencies in accordance with the procedure set out in Annex IIa;***

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease*

*of individual rights is subject to national procedures, and the Commission should thus not harmonize these procedures.*

**Amendment 437**  
**Dominique Vlasto**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – point -aa (new)

*Text proposed by the Commission*

*Amendment*

***(-aa) ensure the coordinated and timely provision of information concerning the allocation, availability and use of radio frequencies in accordance with the procedure set out in Annex IIa;***

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures and the Commission should thus not harmonize these procedures.*

**Amendment 438**  
**Herbert Reul**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – point -aa (new)

*Text proposed by the Commission*

*Amendment*

***(-aa) ensure the coordinated and timely provision of information concerning the allocation, availability and use of radio***

**frequencies;**

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 439**

**Ruth Hieronymi, Ivo Belet**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point -aa (new)

*Text proposed by the Commission*

*Amendment*

***(-aa) ensure the coordinated and timely provision of information concerning the allocation, availability and use of radio frequencies;***

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*



**Amendment 440**  
**Rebecca Harms**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – point -aa (new)

*Text proposed by the Commission*

*Amendment*

***(-aa) ensure the coordinated and timely provision of information concerning the allocation, availability and use of radio frequencies;***

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/EC), in particular with regards to the scope of the article which concerns technical implementation measures and measures of general interest objectives. Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 441**  
**Herbert Reul**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) ***harmonise the identification of*** the bands for which usage rights may be transferred or leased between undertakings;

(a) ***identify*** the bands for which usage rights may be ***directly*** transferred or leased between undertakings, ***excluding radio frequencies intended by Member States to be used for broadcasting services;***

Or. en

### *Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

#### **Amendment 442**

**Karsten Friedrich Hoppenstedt**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point a

#### *Text proposed by the Commission*

(a) ***harmonise the identification of*** the bands for which usage rights may be transferred or leased between undertakings;

#### *Amendment*

(a) ***identify*** the bands for which usage rights may be transferred or leased between undertakings, ***excluding frequencies intended by Member States to be used for broadcasting services;***

Or. en

### *Justification*

*The measures which are proposed to be adopted in comitology are much broader than just 'non-essential elements of the Directive. On the other hand a lot of harmonisation can be conducted and has been conducted successfully on the basis of the existing Radio Spectrum Decision (676/2002/EC). Therefore b and c of the article should be deleted. Referring to recital 23 it lies within the competence of the Member States to define media policies.*

#### **Amendment 443**

**Anne Laperrouze**

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

##### **Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be transferred or leased between undertakings, **excluding radio frequencies allocated or intended by Member States to be used for broadcasting services**;

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures, and the Commission should thus not harmonize these procedures.*

#### **Amendment 444**

**Francisca Pleguezuelos Aguilar**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – subparagraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be transferred or leased between undertakings, **excluding frequencies assigned by Member States to radio and television services**;

Or. es

*Justification*

*The deletion of letters (b) and (c) is motivated by the fact that the conditions for such transfers and the procedures, conditions and limits applicable must be established in accordance with the principle of subsidiarity.*

*In order to be consistent with the approach adopted by the amendment to Article 9, the implementation of the principles of technological and service neutrality should, wherever possible, be the responsibility of the Member States through the coordinated management of the spectrum at national level. Harmonisation levels accordingly involve identification of the frequency bands to which the EU principles of neutrality must necessarily apply.*

**Amendment 445**  
**Dominique Vlasto**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be transferred or leased between undertakings, **excluding radio frequencies allocated or intended by Member States to be used for broadcasting services**;

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures and the Commission should thus not harmonize these procedures.*

**Amendment 446**  
**Ruth Hieronymi, Ivo Belet**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be **directly** transferred or leased between undertakings, **excluding radio frequencies intended by Member States to be used for broadcasting services**;

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/Commission), in particular with regards to the scope of the article which concerns technical implementation measures and general interest objectives (new (d) which corresponds to Article 1 para.4 of the Spectrum decision). Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 447**  
**Rebecca Harms**

**Proposal for a directive – amending act**  
**Article 1 – point 10**  
Directive 2002/21/EC  
Article 9c – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be **directly** transferred or leased between undertakings, **excluding radio frequencies intended by Member States to be used for broadcasting services**;

Or. en

*Justification*

*Legal consistency should be ensured with Article 8a (new) and the definition of service and technology neutrality in Article 9 of this Directive. Also, legal consistency needs to be ensured with the Radio Spectrum Decision (676/2002/EC), in particular with regards to the scope of*

*the article which concerns technical implementation measures and measures of general interest objectives. Any harmonised decision on further exceptions of service and technology neutrality does constitute an essential element of this Directive and should be subject to a legislative amendment.*

**Amendment 448**

**Dominique Vlasto, Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be transferred or leased between undertakings, **with the exception of radio broadcasting frequencies**;

Or. fr

*Justification*

*It is important that the definition of specific rights and obligations associated with the issuing of initial licences for transferred or leased frequencies remains a national competence. That will allow specific obligations, such as coverage or spatial planning obligations, for example, to be taken into account. The need to ensure fair competition is not contested, but it depends on specific national measures having to take into account the particular situation in the different Member States.*

**Amendment 449**

**Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be transferred or leased between

undertakings;

Or. en

*Justification*

*The conditions under which radio spectrum can be transferred or leased at national level should be left to the national regulatory authorities, which are ultimately responsible for the effective management of spectrum.*

**Amendment 450**

**Karsten Friedrich Hoppenstedt**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point b

*Text proposed by the Commission*

***(b) harmonise the conditions attached to such rights and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;***

*Amendment*

***(b) create an exception to the principle of service or technology neutrality, as well as to harmonise the scope and nature of any exceptions to the principle of service or technology neutrality in accordance with Article 9(3) and (4), other than those aimed at ensuring the promotion of cultural and linguistic diversity and media pluralism, including broadcasting services;***

Or. en

*Justification*

*The measures which are proposed to be adopted in comitology are much broader than just 'non-essential elements of the Directive. On the other hand a lot of harmonisation can be conducted and has been conducted successfully on the basis of the existing Radio Spectrum Decision (676/2002/EC). Therefore b and c of the article should be deleted. Referring to recital 23 it lies within the competence of the Member States to define media policies.*

**Amendment 451**  
**Dominique Vlasto, Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point b

*Text proposed by the Commission*

*Amendment*

***(b) harmonise the conditions attached to such rights and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;***

***(b) create an exception to the principle of services or technology neutrality, as well as to harmonise the scope and nature of any exceptions to these principles in accordance with Article 9(3) and (4), other than those aimed at ensuring the promotion of cultural and linguistic diversity and media pluralism;***

Or. fr

*Justification*

*It is important that the definition of specific rights and obligations associated with the issuing of initial licences for transferred or leased frequencies remains a national competence. That will allow specific obligations, such as coverage or spatial planning obligations, for example, to be taken into account. The need to ensure fair competition is not contested, but it depends on specific national measures having to take into account the particular situation in the different Member States.*

**Amendment 452**  
**Francisca Pleguezuelos Aguilar**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – subparagraph 1 – point b

*Text proposed by the Commission*

*Amendment*

***(b) harmonise the conditions attached to such rights and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;***

***deleted***



*Justification*

*The deletion of letters (b) and (c) is motivated by the fact that the conditions for such transfers and the procedures conditions and limits applicable must be established in accordance with the principle of subsidiarity.*

*In order to be consistent with the approach adopted by the amendment to Article 9, the implementation of the principles of technological and service neutrality should, wherever possible, be the responsibility of the Member States through the coordinated management of the spectrum at national level. Harmonisation levels accordingly involve identification of the frequency bands to which the EU principles of neutrality must necessarily apply.*

**Amendment 453****Erna Hennicot-Schoepges****Proposal for a directive – amending act****Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point b

*Text proposed by the Commission**Amendment*

***(b) harmonise the conditions attached to such rights and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;***      ***deleted***

Or. en

*Justification*

*The conditions under which radio spectrum can be transferred or leased at national level should be left to the national regulatory authorities, which are ultimately responsible for the effective management of spectrum.*

**Amendment 454**  
**Anne Laperrouze**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point b

*Text proposed by the Commission*

(b) harmonise the conditions attached to such rights ***and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;***

*Amendment*

(b) harmonise the conditions attached to such rights;

Or. en

*Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures, and the Commission should thus not harmonize these procedures.*

**Amendment 455**  
**Dominique Vlasto**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point b

*Text proposed by the Commission*

(b) harmonise the conditions attached to such rights ***and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;***

*Amendment*

(b) harmonise the conditions attached to such rights;

Or. en

### *Justification*

*Bringing the Commission's implementing powers of the Radio Spectrum Decision within the Framework Directive must go along with the inclusion in the Directive of a clause equivalent to Article 1(4) of the Radio Spectrum Decision. In view of Member States' competence for cultural and media policy, the Commission should not identify broadcasting bands as bands for which usage rights might be transferred or leased. Under Article 9b, the transfer or lease of individual rights is subject to national procedures and the Commission should thus not harmonize these procedures.*

#### **Amendment 456**

**Karsten Friedrich Hoppenstedt**

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

##### **Article 1 - point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

***(c) harmonise the specific measures to ensure fair competition where individual rights are transferred;***

***deleted***

Or. en

### *Justification*

*The measures which are proposed to be adopted in comitology are much broader than just 'non-essential elements of the Directive. On the other hand a lot of harmonisation can be conducted and has been conducted successfully on the basis of the existing Radio Spectrum Decision (676/2002/EC). Therefore b and c of the article should be deleted. Referring to recital 23 it lies within the competence of the Member States to define media policies.*

#### **Amendment 457**

**Erna Hennicot-Schoepges**

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

##### **Article 1 - point 10**

Directive 2002/21/EC

Article 9c – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

***(c) harmonise the specific measures to ensure fair competition where individual rights are transferred;*** ***deleted***

Or. en

*Justification*

*The conditions under which radio spectrum can be transferred or leased at national level should be left to the national regulatory authorities, which are ultimately responsible for the effective management of spectrum.*

### **Amendment 458**

**Francisca Pleguezuelos Aguilar**

**Proposal for a directive – amending act**

**Article 1 - point 10**

Directive 2002/21/EC

Article 9c – subparagraph 1 – point c

*Text proposed by the Commission*

*Amendment*

***(c) harmonise the specific measures to ensure fair competition where individual rights are transferred;*** ***deleted***

Or. es

*Justification*

*The deletion of letters (b) and (c) is motivated by the fact that the conditions for such transfers and the procedures conditions and limits applicable must be established in accordance with the principle of subsidiarity.*

*In order to be consistent with the approach adopted by the amendment to Article 9, the implementation of the principles of technological and service neutrality should, wherever possible, be the responsibility of the Member States through the coordinated management of the spectrum at national level. Harmonisation levels accordingly involved identification of the frequency bands to which the EU principles of neutrality must necessarily apply.*

**Amendment 459**  
**Dominique Vlasto, Erna Hennicot-Schoepges**

**Proposal for a directive – amending act**

**Article 1 - point 10**

Directive 2002/21/EC

Article 9c – subparagraph 1 – point c

*Text proposed by the Commission*

*Amendment*

***(c) harmonise the specific measures to ensure fair competition where individual rights are transferred;*** ***deleted***

Or. fr

*Justification*

*It is important that the definition of specific rights and obligations associated with the issuing of initial licences for transferred or leased frequencies remains a national competence. That will allow specific obligations, such as coverage or spatial planning obligations, for example, to be taken into account. The need to ensure fair competition is not contested, but it depends on specific national measures having to take into account the particular situation in the different Member States.*