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AMENDMENTS 460 - 602

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 460
Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 10
Directive 2002/20/EC
Article 9c – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) create an exception to the principle of service 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.

deleted

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 461
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 10
Directive 2002/20/EC
Article 9c – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) create an exception to the principle of service or technology neutrality, as well as

deleted

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. 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 462

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1 – point d

Text proposed by the Commission

Amendment

(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. ***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 463
Dominique Vlasto

Proposal for a directive – amending act
Article 1 – point 10
Directive 2002/20/EC
Article 9c – paragraph 1 – point d

Text proposed by the Commission

Amendment

(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. ***deleted***

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 464
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 10
Directive 2002/20/EC
Article 9c – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) create an exception to the principle of ***deleted***

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. 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 465

Ruth Hieronymi, Ivo Belet

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) create an exception to the principle of service 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.

deleted

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 466

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – subparagraph 1 – point d

Text proposed by the Commission

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

Amendment

d) harmonise the identification of the bans to which the principles of services or technology neutrality apply, 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 pluralisms, as well as the provision of broadcasting services.

Or. es

Justification

The reason for deleting letters (b) and (c) is that the conditions imposed on such transfers, as well as the procedures, conditions and limits, must be determined in accordance with the subsidiarity principle.

In order to be consistent with the approach taken in the proposed amendment to Article 9, the application of the principles of technology and service neutrality should be the responsibility of the Member States, provided this is possible, through coordinated management of the spectrum at national level, and therefore harmonisation measures should involve identification of the bands to which these principles must of necessity apply.

Amendment 467

Paul Rübige

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

(d) create an exception to the principle of services or technology neutrality, as well as to harmonise the scope and nature of any exceptions to these principles. ***All exceptions shall be in accordance with Articles 9(3) and (4).***

Or. en

Justification

Clarifies that all exceptions to the principles of service or technology neutrality are subject to the limits outlined in Articles 9(3) and (4), including those created by the Commission. Secondly, it is not clear why in the proposals the scope and nature of exceptions to the principles of service and technology neutrality based on cultural and linguistic diversity and media pluralism should not be subject to harmonization.

Amendment 468

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1 – point d

Text proposed by the Commission

(d) 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 paragraphs Article 9(3) and (4) other than those aimed at ensuring the promotion of

Amendment

(d) 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 paragraphs Article 9(3) and (4) other than those aimed at ensuring the promotion of

cultural and linguistic diversity and media pluralism.

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 469 **Anne Laperrouze**

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1a (new)

Text proposed by the Commission

Amendment

These implementing measures shall be without prejudice to measures taken at Community or national level, in compliance with Community law, to pursue general interest objectives, in particular measures relating to the promotion of cultural and linguistic diversity and media pluralism.

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 470
Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1a (new)

Text proposed by the Commission

Amendment

These implementing measures shall be without prejudice to measures taken at Community or national level, in compliance with Community law, to pursue general interest objectives, in particular measures relating to the promotion of cultural and linguistic diversity and media pluralism.

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 471
Ruth Hieronymi, Ivo Belet

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1a (new)

Text proposed by the Commission

Amendment

These implementing measures shall be without prejudice to measures taken at Community or national level, in

compliance with Community law, to pursue general interest objectives, in particular measures relating to content regulation and audio-visual policy.

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 472
Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 10
Directive 2002/20/EC
Article 9c – paragraph 1a (new)

Text proposed by the Commission

Amendment

These implementing measures shall be without prejudice to measures taken at Community or national level, in compliance with Community law, to pursue general interest objectives, in particular measures relating to content regulation and audio-visual policy.

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 473

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 1a (new)

Text proposed by the Commission

Amendment

These implementing measures shall be without prejudice to measures taken at Community or national level, in compliance with Community law, to pursue general interest objectives, in particular measures relating to content regulation and audio-visual policy.

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 474

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 2

Text proposed by the Commission

Amendment

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].

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 475

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 2

Text proposed by the Commission

Amendment

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***

The measures ***in this Article***, 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).

assisted by the Authority in accordance with Article 10 Regulation [.../EC].'

Or. en

Amendment 476
Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 2

Text proposed by the Commission

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]**.

Amendment

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

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 477
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 10
Directive 2002/20/EC
Article 9c – paragraph 2

Text proposed by the Commission

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].***

Amendment

The measures ***referred to in points (a) to (c) of paragraph 1,*** designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). In the implementation of the provisions of this paragraph, the Commission may be assisted by the ***RSCP.***

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 478
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 10
Directive 2002/20/EC
Article 9c – paragraph 2

Text proposed by the Commission

Those measures designed to amend non-

Amendment

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]***.

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). In the implementation of the provisions of ***points (a) to (c) of paragraph 1***, the Commission may be assisted by the ***RSPC***.

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 479

Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 2

Text proposed by the Commission

Those 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

Amendment

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). In the implementation of the provisions of ***points (a) to (c) of paragraph 1***, the Commission may be assisted by the ***RSPC***.

this paragraph, the Commission may be assisted by the *Authority in accordance with Article 10 Regulation [.../EC]*.

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 480

Patrizia Toia

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 2

Text proposed by the Commission

These measures designed to amend nonessential 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].

Amendment

These measures designed to amend nonessential 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]. ***The Commission shall adopt these measures taking the utmost account of the assessment by the relevant technical and standardization organizations and after consultation with interested parties.***

Or. en

Justification

The aim is to guarantee the technical and operational feasibility of such mechanisms since the introduction of network and service neutrality requires an in depth and band by band analysis in particular with respect to the interference issue which, if not adequately taken care of, may cause significant harm to consumers in terms of degradation of quality and safety. Therefore, it is important that this assessment is carried out by international technical bodies expressly mandated by the Commission like the CEPT/ECC/ETSI, which are institutionally requested to assist the European Commission in this technical field. Also, Member States should consult all players operating in the market in order to verify the consistency of the proposed measures to market needs and demand.

Amendment 481 **Gianni De Michelis**

Proposal for a directive – amending act

Article 1 – point 10

Directive 2002/20/EC

Article 9c – paragraph 2

Text proposed by the Commission

These measures designed to amend nonessential 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].

Amendment

These measures designed to amend nonessential 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]. ***The Commission shall adopt these measures taking the utmost account of the assessment by the relevant technical and standardization organizations and after consultation with interested parties.***

Or. en

Justification

The harmonisation measures provided for in this article, even though of implementing nature, aim at regulating fundamental aspects of the spectrum management. It is therefore of the

utmost importance to support the Commission harmonization action with a detailed assessment of the technical and operational feasibility and impacts of the said measures, which is to be carried out by the competent international technical bodies, like CEPT/ECC and ETSI.

Amendment 482
Robert Goebbels

Proposal for a directive – amending act
Article 1 – point 10a (new)
Directive 2002/20/EC
Article 9ca (new)

Text proposed by the Commission

Amendment

(10a) The following Article shall be inserted:

"Article 9ca

1. To ensure the efficient use and effective management of spectrum across the Community, the Member States and the Commission shall take into account the rules and regulations of the ITU, in particular the Radio Regulations, as amended from time to time, in the implementation of this Directive.

2. The Commission shall monitor developments regarding radio spectrum in third countries and in international organisations, including the ITU, which may have implications for the implementation of this Directive.

3. Member States shall inform the Commission of any difficulties created, de jure or de facto, by existing international agreements, third countries or international organisations, including the ITU, in relation to the implementation of this Directive.

4. The Commission shall report regularly on the results of the application of paragraphs 1 to 3 to the European Parliament and the Council, and may

propose measures with the aim of securing the implementation of the principles and objectives of this Directive, where appropriate. When necessary, common policy objectives shall be agreed to ensure coordination among Member States.

5. Measures taken pursuant to this Article shall be without prejudice to the rights and obligations of the Community and the Member States under relevant international agreements."

Or. en

Justification

To ensure efficient spectrum use it is essential that operators comply with and can rely on the filing and coordination procedures under the internationally binding rules and procedures of the ITU in order to ensure that a network or system can be successfully coordinated and brought into use. The international rights and obligations of administrations regarding their own and other administrations' frequency assignments are derived from the recording of the assignments in the ITU Master International Frequency Register, or the conformity of the assignments with an ITU frequency plan.

Amendment 483

Erna Hennicot-Schoepges, Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 10a (new)

Directive 2002/20/EC

Article 9ca (new)

Text proposed by the Commission

Amendment

(10a) The following Article shall be inserted:

"Article 9ca

1. The Commission shall monitor developments regarding radio spectrum in third countries and in international organisations, including the ITU, which may have implications for the

implementation of this Directive.

2. Member States shall inform the Commission of any difficulties created, de jure or de facto, by existing international agreements with third countries or international organisations, including the ITU, in relation to the implementation of this Directive.

3. The Commission shall report regularly on the results of the application of paragraphs 1 and 2 to the European Parliament and the Council, and may propose measures with the aim of securing the implementation of the principles and objectives of this Directive, where appropriate. When necessary, common policy objectives shall be agreed to ensure coordination among Member States.

4. Measures taken pursuant to this Article shall be without prejudice to the rights and obligations of the Community and the Member States under relevant international agreements."

Or. en

Justification

To ensure efficient spectrum use it is essential that operators comply with and can rely on the filing and coordination procedures under the internationally binding rules and procedures of the ITU in order to ensure that a network or system can be successfully coordinated and brought into use. The international rights and obligations of administrations regarding their own and other administrations' frequency assignments are derived from the recording of the assignments in the ITU Master International Frequency Register, or the conformity of the assignments with an ITU frequency plan.

Amendment 484
Paul Rübige

Proposal for a directive – amending act
Article 1 – point 11 – point -a (new)
Directive 2002/21/EC
Article 10 – paragraph 1

Text proposed by the Commission

Amendment

(-a) Paragraph 1 is replaced by the following:

"1. Member States shall ensure that national regulatory authorities control the assignment of all national numbering resources and the management of the national numbering plans. Member States shall ensure that adequate numbers and numbering ranges are provided [...]. *Even where services include nomadic functionalities, the availability of both non-geographic and geographic services is essential.* National regulatory authorities shall establish objective, transparent and non-discriminatory assigning procedures for national numbering resources."

Or. en

Justification

The right of communications providers to access telephone numbers should be reinforced. The availability of both non-geographic and geographic services for services such as Voice-over-IP enabled ones is clearly essential, even in cases where the services include nomadic functionalities.

Amendment 485
Paul Rübige

Proposal for a directive – amending act
Article 1 – point 11 – point a
Directive 2002/21/EC
Article 10 – paragraph 2

Text proposed by the Commission

2. National regulatory authorities shall ensure that numbering plans and procedures are applied in a manner that gives equal treatment to all providers **of publicly available electronic communications services**. In particular, Member States shall ensure that an undertaking assigned a range of numbers does not discriminate against other providers **of electronic communications services** as regards the number sequences used to give access to their services.

Amendment

2. National regulatory authorities shall ensure that numbering plans and procedures are applied in a manner that gives equal treatment to all providers **and users of numbers across the European Union**. In particular, Member States shall ensure that an undertaking assigned a range of numbers does not discriminate against other providers **and users** as regards the number sequences used to give access to their services.

Or. en

Justification

Failure to reform the numbering arrangements harms citizen, consumer and business interests in the EU. Art. 10 of the Framework Directive should be augmented with a stipulation to the effect that Member States shall remove restrictions in national numbering plans and associated rules which prevent the use of any kind of numbers anywhere in the EU, and shall remove any restrictions on the identity/classification of assignees of all types of numbers (this does not prevent attaching legitimate conditions to number assignment).

Amendment 486

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 11 – point a

Directive 2002/21/EC

Article 10 – paragraph 2

Text proposed by the Commission

‘2. National regulatory authorities shall ensure that numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services. In particular, Member States shall ensure that an undertaking assigned a range of numbers does not discriminate against other

Amendment

‘2. National regulatory authorities shall ensure that **national** numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services. In particular, Member States shall ensure that an undertaking assigned a range of numbers does not discriminate against other

providers of electronic communications services as regards the number sequences used to give access to their services.’

providers of electronic communications services as regards the number sequences used to give access to their services.’

Or. es

Justification

The NRA are responsible for national numbering plans.

Amendment 487

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall support harmonisation *in* numbering within the Community where *that promotes the functioning of the internal market or supports* the development of pan-European services. *The Commission may take appropriate technical implementing measures on this matter, which may include establishing tariff principles for specific numbers or number ranges. The implementing measures may grant the Authority specific responsibilities in the application of those measures.*

Amendment

4. Member States shall support *the* harmonisation *and availability of* numbering *resources* within the Community where *it is necessary to support* the development of pan-European services.

Or. en

Justification

Failure to reform the numbering arrangements harms citizen, consumer and business interests in the EU. Art. 10 of the Framework Directive should be augmented with a stipulation to the effect that Member States shall remove restrictions in national numbering plans and associated rules which prevent the use of any kind of numbers anywhere in the EU, and shall remove any restrictions on the identity/classification of assignees of all types of numbers (this does not prevent attaching legitimate conditions to number assignment).

Amendment 488
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 11 – point b
Directive 2002/21/EC
Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall support the harmonisation of numbering resources within the Community where that is necessary to support the development of pan European services. ***The Commission may take appropriate implementing measures on this matter, which may include establishing tariff principles for specific numbers or numbering ranges. The implementing measures may grant the Authority specific responsibilities in the application of those measures.***

Amendment

4. Member States shall support the harmonisation of numbering resources within the Community where that is necessary to support the development of pan European services.

Or. de

Justification

The planned measures on tariff principles contradict the purpose of the legal framework to deregulate retail prices as much as possible. Implementing measures can have a significant financial effect on industry. In this case a new legislative procedure must be initiated. The authority as envisaged in Commission proposal COM(2007)699 is not required.

Amendment 489
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act
Article 1 – point 11 – point b
Directive 2002/21/EC
Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall support harmonisation in numbering within the

Amendment

4. Member States shall support harmonisation in numbering within the

Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures on this matter, ***which may include establishing tariff principles for specific numbers or number ranges. The implementing measures may grant the Authority specific responsibilities in the application of those measures.***

Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures on this matter.

Or. en

Justification

The Commission's amendment would lead to an expansion of retail regulation via prescription of tariff principles. It constitutes a breach of the systematic of the regulatory framework, which foresees price regulation of retail services only in the case of an SMP-finding on a retail market under Art. 17 of the Universal Service Directive. To introduce a sweeping new competence for price-setting for regulators is in violation of the aim of better regulation and the overarching principle that regulation should in principle be confined to the wholesale level.

Amendment 490 **Stefano Zappalà**

Proposal for a directive – amending act
Article 1 – point 11 – point b
Directive 2002/21/EC
Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures ***on this matter, which may include establishing tariff principles for specific numbers or number ranges.*** The implementing measures may grant the

Amendment

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of ***new*** pan-European services, ***without detrimental effects for existing services.*** The Commission may take appropriate technical implementing measures ***to ensure cross-border access to national numbering used for essential services***

Authority specific responsibilities in the application of those measures.

such as directory enquiries. The implementing measures may grant the Authority specific responsibilities in the application of those measures.

Or. en

Justification

While harmonised European numbering would be of great benefit for new pan-European services, this would have a detrimental effect where, as is the case for directory enquiries, liberalization has taken place without such harmonisation having been effected.

Directory services are considered an essential access tool under Recital 11 of the Universal Service Directive. The capability for a European citizen to travel to other Member states and be able to access its usual directory enquiry services provider, in order to obtain information in his or her national language, is essential to promoting the single market.

Amendment 491

Dominique Vlasto, Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 - subparagraph 1

Text proposed by the Commission

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures *on this matter, which may include establishing tariff principles for specific numbers or number ranges*. The implementing measures may grant the Authority specific responsibilities in the application of those measures.

Amendment

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of *new* pan-European services, *without detrimental effects for existing services*. The Commission may take appropriate technical implementing measures *to ensure cross-border access to national numbering used for essential services such as directory enquiries*. The implementing measures may grant the Authority specific responsibilities in the application of those measures.

Or. en

Justification

While harmonised European numbering would be of great benefit for new pan-European services, this would have a detrimental effect where, as is the case for directory enquiries, liberalization has taken place without such harmonisation having been effected.

Directory services are considered an essential access tool under Recital 11 of the Universal Service Directive. The capability for a European citizen to travel to other Member states and be able to access its usual directory enquiry services provider, in order to obtain information in his or her national language, is essential to promoting the single market.

Amendment 492

Giles Chichester

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures ***on this matter, which may include establishing tariff principles for specific numbers or number ranges***. The implementing measures may grant the Authority specific responsibilities in the application of those measures.

Amendment

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services ***without detrimental effects for existing services***. The Commission may take appropriate technical implementing measures ***to ensure cross-border access to national numbering used for essential services such as directory enquiries***. The implementing measures may grant the Authority specific responsibilities in the application of those measures.

Or. en

Justification

While harmonised European numbering would be of great benefit for new pan-European services, this would have a detrimental effect where, as is the case for directory enquiries, liberalization has taken place without such harmonisation having been effected.

The capability for a European citizen to travel to other Member states and be able to access its usual directory enquiry services provider, in order to obtain information in his or her national language, is essential to promoting the single market.

Amendment 493
Fiona Hall

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures **on this matter, which may include establishing tariff principles for specific numbers or number ranges**. The implementing measures may grant **the Authority** specific responsibilities in the application of those measures.

Amendment

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of **new and existing** pan-European services. The Commission may take appropriate technical implementing measures **to ensure cross-border access to national numbering used for essential services such as directory enquiries**. The implementing measures may grant **BERT** specific responsibilities in the application of those measures.

Or. en

Justification

While harmonised European numbering would be of great benefit for new pan-European services, this would have a detrimental effect where, as is the case for directory enquiries, liberalization has taken place without such harmonisation having been effected and significant investments have already been made on national numbering plans and, consequently, on different numbers in different Member States. The capability for a European citizen to travel to other Member states and be able to access its usual directory enquiry services provider, in order to obtain information in his or her national language, is essential to promoting the single market.

Amendment 494
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall **support** harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures on this matter, which may include establishing tariff principles for specific numbers or number ranges. The implementing measures may grant the Authority specific responsibilities in the application of those measures.

Amendment

4. Member States shall **promote** harmonisation in numbering within the Community, **if it is technically and economically feasible**, where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures on this matter **in respect of pan-European services**, which may include establishing tariff principles for specific numbers or number ranges. The implementing measures may grant the Authority specific responsibilities in the application of those measures.

Or. es

Justification

The Commission's proposed wording is too ambiguous. The principle of 'promoting the functioning of the internal market' could be invoked to justify a broad range of regulatory measures. However, harmonisation of (parts of) national numbering plans will entail the adoption of expensive measures and complex technical adjustments to telecommunications networks and services which, in general, affect all operators. Accordingly, any specific harmonisation measure will require a detailed cost-benefit assessment.

Similarly, any technical implementing measures the Commission may adopt should refer only to pan-European services and not national services, for which the Member States are competent under the subsidiarity principle.

Under these conditions there are no urgent reasons to harmonise pan-European services since these are known sufficiently well in advance.

Amendment 495
Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures on this matter, which may include establishing tariff principles for specific numbers or number ranges. ***The implementing measures may grant the Authority specific responsibilities in the application of those measures.***

Amendment

4. Member States shall support harmonisation in numbering within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission, ***together with the national regulatory authorities,*** may take appropriate technical implementing measures on this matter, which may include establishing tariff principles for specific numbers or number ranges.

Or. ro

Justification

Harmonisation at European level cannot be introduced to the detriment of the responsibilities of the national regulatory authorities.

Amendment 496
Herbert Reul

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 2

Text proposed by the Commission

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

Amendment

deleted

On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).

Or. de

Justification

The planned measures on tariff principles contradict the purpose of the legal framework to deregulate retail prices as much as possible. Implementing measures can have a significant financial effect on industry. In this case a new legislative procedure must be initiated. The authority as envisaged in Commission proposal COM(2007)699 is not required.

Amendment 497

Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

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

Deleted

Or. ro

Justification

Harmonisation at European level cannot be introduced to the detriment of the responsibilities of the national regulatory authorities.

Amendment 498
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 11 – point b

Directive 2002/21/EC

Article 10 – paragraph 4 – subparagraph 2

Text proposed by the Commission

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

On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).

Amendment

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

Or. es

Justification

The Commission's proposed wording is too ambiguous. The principle of 'promoting the functioning of the internal market' could be invoked to justify a broad range of regulatory measures. However, harmonisation of (parts of) national numbering plans will entail the adoption of expensive measures and complex technical adjustments to telecommunications networks and services which, in general, affect all operators. Accordingly, any specific harmonisation measure will require a detailed cost-benefit assessment.

Similarly, any technical implementing measures the Commission may adopt should refer only to pan-European services and not national services, for which the Member States are competent under the subsidiarity principle.

Under these conditions there are no urgent reasons to harmonise pan-European services since these are known sufficiently well in advance.

Amendment 499
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 12

Directive 2002/21/EC

Article 11 – paragraph 1

Text proposed by the Commission

acts on the basis of simple, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within **four** months of the application, and

Amendment

acts on the basis of simple, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within **six** months of the application, and

Or. es

Justification

In some Member States, responsibility for granting rights of this kind lies to a large extent with local, autonomous or federal authorities. It therefore seems more realistic to extend the deadline, since this provision will affect not only rules governing the electronic communications sector, but also other rules with different scope.

Amendment 500
Dragoş Florin David

Proposal for a directive – amending act

Article 1 – point 12

Directive 2002/21/EC

Article 11 – paragraph 1

Text proposed by the Commission

acts on the basis of simple, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within **four** months of the application, and

Amendment

acts on the basis of simple, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within **two** months of the application, and

Or. en

Amendment 501
Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 12

Directive 2002/21/EC

Article 11 – paragraph 1

Text proposed by the Commission

acts on the basis of simple, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within four months of the application, and

Amendment

acts on the basis of simple, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within four months of the application, **while taking account of the national legislation on expropriation**, and

Or. ro

Justification

The national legislation on expropriation should also be taken into account.

Amendment 502
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

appropriate, also impose the sharing of these facilities with other public undertakings provided that that sharing is proportionate.

Or. en

Justification

It is important, however, to see that the provision preserves the principle of proportionality and reasonability. Access to basic infrastructure like ducts and masts might in a number of cases constitute the real remaining bottleneck in telecommunications. Thus access should be granted to support third party infrastructure roll-out.

Amendment 503 **Pilar del Castillo Vera**

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 504
Astrid Lulling

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

In the future, access to basic infrastructure like ducts and masts may often constitute the real remaining bottleneck in the access network. Thus basic facilities and, in particular, existing and new ducts capable of carrying electronic communications networks should be opened to support new and alternative infrastructure roll-out. The sharing of ducts must include all operators and public entities, subject to a proportionality requirement. An obligation for access to street cabinets is not warranted as street cabinets do not per se constitute an enduring economic bottleneck.

Amendment 505
Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Where **a public or private** undertaking has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities, **taking due account of the principle of proportionality**, shall be able to impose the sharing of such facilities or property, including masts, antennae, ducts **and** manholes.

Or. en

Justification

To support third party infrastructure roll access to ducts and masts must cover all operators – public and private. The expansion of sharing obligations towards “entries to buildings” is critical due to security reasons and it is unclear how an entry obligation can be implemented in practice. An obligation for access to street cabinets is not warranted, since street cabinets are in principle replicable and do not per se constitute an enduring economic bottleneck.

Amendment 506
Angelika Niebler

Proposal for a directive – amending act
Article 1 – point 13
Directive 2002/21/EC
Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Where **a public or private** undertaking providing electronic communications networks has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities shall, **according to the principle of proportionality**, be able to impose the sharing of such facilities or property, including entries to buildings,

manholes and street cabinets.

masts, antennae, ducts **and conduits**,
manholes and street cabinets.

Or. de

Justification

Every opportunity should be taken to use existing conduits in order to promote the development of communications networks.

Amendment 507

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

Access to basic infrastructure such as conduits and masts might, in a certain number of cases, constitute the crucial bottleneck in telecommunications and should therefore be guaranteed to all market operators so as to promote infrastructure development. Access to conduits must not, therefore, be artificially restricted but must be guaranteed by public and private undertakings.

Amendment 508
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

3. Measures taken by a national regulatory authority in accordance with paragraph 1 shall ***take into account the security interests of the undertaking and general security interests, as well as the need to ensure a clear delineation of the responsibilities of the undertakings involved, to prevent harmful interferences between users. Measures shall also*** be objective, transparent, and proportionate. ***When imposing obligations on an operator to provide access in accordance with the provisions of this Article, national regulatory authorities may, where necessary, lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access to ensure the normal operation of the network. Beneficiaries of access may be subjected to specific non-discriminatory conditions that ensure that scarce resources are used efficiently, especially in terms of network deployment. Obligations to follow specific technical standards or specifications shall comply with the standards and specifications laid down in accordance with Article 17(1).***

Or. en

Justification

Stresses the need to take the justified security interests of the parties involved into account.

Amendment 509
Alexander Alvaro

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Duct access to a broad range of infrastructure entry points -including entries to buildings, masts, tall support structures etc – are fit-for-purpose, nor add to existing facility sharing provisions. These provisions were not designed to facilitate general duct access on a symmetric basis across the entire range of infrastructure networks (such as gas and electricity). National implementation of article 12 to date demonstrates that facility sharing can only be applied on a case by case basis, taking into account environmental, network integrity and interference issues and other property rights related restrictions.

Amendment 510
Lambert van Nistelrooij

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Justification

Commission efforts to facilitate NGN investment and deployment have to be supported.

Amendment 511
Nikolaos Vakalis

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. To ensure that measures taken in accordance with paragraph 1 are proportionate, national regulatory authorities shall investigate the availability of all ducts, including those of telecommunications operators, energy providers, local communities and sewage pipes, capable of carrying telecommunications lines in the area where access is requested.

Justification

In order to foster infrastructure, roll-out access to ducts should not be artificially confined to ducts of telecommunications operators but should encompass all ducts available. The more ducts are available the better the chances for sustainable competition due to third party network roll-out.

Amendment 512
Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. To ensure that measures taken in accordance with paragraph 1 are proportionate, national regulatory authorities shall investigate the availability of all ducts, including those of telecommunications operators, energy providers, local communities and sewage pipes, capable of carrying telecommunications lines in the area where access is requested.

Or. en

Justification

Similar to the provisions on rights of way, it is proposed to oblige Member States to ensure processes for such sharing of facilities (of municipalities, public utility providers etc). Thus a provision for symmetric facility sharing for all ducts capable of carrying e-communications networks, also outside the e-communication sector is recommended. Such a symmetric regime would encourage and facilitate network deployment.

Amendment 513

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In order to guarantee the proportionality of the measures in paragraph 1, national regulatory authorities shall check the availability of all conduits suitable for laying telecommunication lines – including those of telecommunications providers, energy providers, urban providers and waste water pipes – in the areas in which access is required.

Justification

In order to promote infrastructure development, access to conduits should not be restricted to those of telecommunications providers but should cover all suitable conduits. The more conduits are available, the greater the chances of comprehensive network development and, therefore, of sustainable competition.

Amendment 514
Astrid Lulling

Proposal for a directive – amending act

Article 1 – point 13

Directive 2002/21/EC

Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. To ensure that measures taken in accordance with paragraph 1 are proportionate, national regulatory authorities shall investigate the availability of all ducts, including those of telecommunications operators, energy providers, local communities and sewage pipes, capable of carrying telecommunications lines in the area where access is requested.

Or. en

Amendment 515
Werner Langen

Proposal for a directive – amending act

Article 1 – point 13 a (new)

Directive 2002/21/EC

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(13a) In Article 13, the following paragraph is inserted:

"1a. In order to promote incentives for investments in new high-speed networks, when access fees are stipulated the undertaking providing the access shall be left with a yield which at least corresponds to the capital costs related to the investment and the risk specific to the investment."

Or. en

Justification

One of the key issues for the coming years is to give appropriate incentives for investments in new high speed networks that will support innovation in content-rich internet services.

Amendment 516

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 1

Text proposed by the Commission

1. Member States shall ***ensure that*** undertakings providing public communications networks or publicly available electronic communications services take appropriate technical and organisational measures to safeguard the security of their networks or services. Having regard to the state of the art, these measures shall ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent or minimise the impact of security incidents on users and on interconnected networks.

Amendment

1. Member States shall ***encourage*** undertakings providing public communications networks or publicly available electronic communications services ***to*** take appropriate technical and organisational measures to safeguard the security of their networks or services. Having regard to the state of the art, ***the ability to use the latest innovations, the ability to stay flexible and responsive to threats, and the cost of implementation,*** these measures shall ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent or minimise the impact of security incidents on users and on interconnected networks.

Or. en

Justification

Tackling security and network integrity is very important and providers should take measures to safeguard their networks or services to this effect. However, as regulatory requirements and top down approaches to security tend to stifle innovation, and make networks less, not more, secure and there is no evidence of market failure, there is no need to change from the duty provided for under the current legislation, which obliges providers of electronic communications networks or services to address these issues, to Member States issuing binding instructions or for the Commission to adopt technical implementing measures.

Amendment 517

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Tackling security and network integrity is very important and providers should take measures to safeguard their networks or services to this effect. However, as regulatory requirements and top down approaches to security tend to stifle innovation, and make networks less, not more, secure and there is no evidence of market failure, there is no need to change from the duty provided for under the current legislation, which obliges providers of electronic communications networks or services to address these issues, to Member States issuing binding instructions or for the Commission to adopt technical implementing measures.

Amendment 518
Gianni De Michelis

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall ensure that undertakings providing public communications networks take steps to ensure the integrity of their networks so as to **provide pre-defined and appropriate levels of** continuity of supply of services provided over those networks, **taking into account their technical, economic and operational feasibility.**

Or. en

Justification

The functioning of IP based networks differ substantially from the PSTN. In principle ensuring the continuity of service on new networks may seem an attractive proposition but before pursuing the option it would be wise to consider if this is appropriate given the characteristics of NGNs. NGNs provide better quality of service and significantly lower fault rates but they are not suitable to replicate every PSTN feature. A forced provision of a PSTN like continuity of service on NGN would required significant investments without ensuring significant benefits to end-users. A mere transposition of the PSTN service requirements on NGN would do more harm than good. Beside many of the alternative operators networks have not been planned and built to provide this feature and thus, for them, a sudden imposition may even cause greater difficulties.

Amendment 519
Lambert van Nistelrooij

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that

Amendment

2. Member States shall ensure that

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

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

Or. en

Justification

An obligation to inform subscribers of any breach of security or integrity risks to overregulate and to unnecessarily undermine consumer e-confidence.

Amendment 520 **Silvia-Adriana Țicău**

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall ensure that undertakings providing public communications networks take all necessary steps to ensure the integrity of their networks so as to ensure the continuity of supply of services provided over those networks. **The national regulatory authorities shall hold consultations with all electronic communications service providers prior to adopting specific measures for the security and integrity of electronic communications networks.**

Or. ro

Justification

Consultation must precede the adoption of any specific measures.

Amendment 521

Lambert van Nistelrooij

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that undertakings providing public communications networks or publicly available electronic communications services notify the national regulatory authority of **any** breach of security or integrity that had a significant impact on the operation of networks or services.

Amendment

3. Member States shall ensure, **where appropriate**, that undertakings providing public communications networks or publicly available electronic communications services notify the national regulatory authority of **a serious** breach of security or integrity that had a significant impact on the operation of networks or services.

Or. en

Justification

An obligation to inform subscribers of any breach of security or integrity risks to overregulate and to unnecessarily undermine consumer e-confidence.

Amendment 522

Alexander Alvaro

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that undertakings providing public communications networks or publicly

Amendment

3. Member States shall ensure that undertakings providing public communications networks or publicly

available electronic communications services notify the ***national*** regulatory authority of any breach of security or integrity that had a significant impact on the operation of networks or services.

available electronic communications services notify the ***competent*** regulatory authority of any breach of security or integrity that had a significant impact on the operation of networks or services.

The new rules for breach notifications shall apply in the implementation of Directive 2002/58/EC of the European Parliament and of the Council of ... concerning the processing of personal data and the protection of privacy in the electronic communications sector¹.

¹ OJL ...

Or. en

Justification

Amendments relevant to integrity and security of networks with specific reference to breaches of those networks and their consequences have been made within the review of Directive 2002/58 concerning the processing of personal data and the protection of privacy in the electronic communications sector. The rules established there should be followed.

Amendment 523 **Alexander Alvaro**

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where appropriate, the ***national*** regulatory authority concerned shall inform the ***national*** regulatory authorities in other Member States and the ***Authority***. ***Where disclosure of the breach is in the public interest, the national regulatory authority may inform the public.***

Amendment

Where appropriate, the ***competent*** regulatory authority concerned shall inform the ***competent*** regulatory authorities in other Member States and the ***ENISA***.

Or. en

Justification

Amendments relevant to integrity and security of networks with specific reference to breaches of those networks and their consequences have been made within the review of Directive 2002/58 concerning the processing of personal data and the protection of privacy in the electronic communications sector. The rules established for disclosure of breaches should be followed.

Amendment 524

Lambert van Nistelrooij

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where appropriate, the national regulatory authority concerned shall inform the national regulatory authorities in other Member States and the Authority. ***Where disclosure of the breach is in the public interest, the national regulatory authority may inform the public.***

Amendment

Where appropriate, the national regulatory authority concerned shall inform the national regulatory authorities in other Member States and the Authority.

Or. en

Justification

An obligation to inform subscribers of any breach of security or integrity risks to overregulate and to unnecessarily undermine consumer e-confidence.

Amendment 525

Gianni De Michelis

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where appropriate, the national regulatory

Amendment

Where appropriate, the national regulatory

authority concerned shall inform the national regulatory authorities in other Member States and the Authority. **Where disclosure of the breach is in the public interest, the national regulatory authority may inform the public.**

authority concerned shall inform the national regulatory authorities in other Member States and the Authority.

Or. en

Justification

The functioning of IP based networks differ substantially from the PSTN. In principle ensuring the continuity of service on new networks may seem an attractive proposition but before pursuing the option it would be wise to consider if this is appropriate given the characteristics of NGNs. NGNs provide better quality of service and significantly lower fault rates but they are not suitable to replicate every PSTN feature. A forced provision of a PSTN like continuity of service on NGN would required significant investments without ensuring significant benefits to end-users. A mere transposition of the PSTN service requirements on NGN would do more harm than good. Beside many of the alternative operators networks have not been planned and built to provide this feature and thus, for them, a sudden imposition may even cause greater difficulties.

Amendment 526 **Nikolaos Vakalis**

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where appropriate, the national regulatory authority concerned shall inform the national regulatory authorities in other Member States and the **Authority**. Where disclosure of the breach is in the public interest, the national regulatory authority may inform the public.

Amendment

Where appropriate, the national regulatory authority concerned shall inform the national regulatory authorities in other Member States and the **ENISA**. Where disclosure of the breach is in the public interest, the national regulatory authority may inform the public.

Or. en

Justification

ENISA remains competent in security of networks and services and therefore should be

properly informed by the NRAs. The reporting by the NRAs to the Commission and ENISA should be on a yearly basis.

Amendment 527

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 3 – subparagraph 2

Text proposed by the Commission

Where appropriate, the national regulatory authority concerned shall inform the national regulatory authorities in other Member States **and the Authority**. Where disclosure of the breach is in the public interest, the national regulatory authority may inform the public.

Amendment

Where appropriate, the national regulatory authority concerned shall inform the national regulatory authorities in other Member States. Where disclosure of the breach is in the public interest, the national regulatory authority may inform the public.

Or. es

Justification

To avoid excessive red tape, this information could be routinely gathered by the Commission in the implementation report.

Amendment 528

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Every three months, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Amendment

Deleted

Justification

To avoid excessive red tape, this information could be routinely gathered by the Commission in the implementation report.

Amendment 529
Nikolaos Vakalis

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Every **three months**, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Amendment

Every **year**, the national regulatory authority shall submit a summary report to the Commission **and the ENISA** on the notifications received and the action taken in accordance with this paragraph.

Justification

ENISA remains competent in security of networks and services and therefore should be properly informed by the NRAs. The reporting by the NRAs to the Commission and ENISA should be on a yearly basis.

Amendment 530
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Every three months, the national regulatory authority shall submit a

Amendment

Once a year, the national regulatory authority shall submit a summary report to

summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

the Commission on the notifications received and the action taken in accordance with this paragraph.

Or. en

Justification

In order to avoid unnecessary bureaucracy and extra administrative load, national regulatory authorities should submit the reports only once a year.

Amendment 531
Lambert van Nistelrooij

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Every **three months**, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Amendment

Every **year**, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Or. en

Justification

An obligation to inform subscribers of any breach of security or integrity risks to overregulate and to unnecessarily undermine consumer e-confidence.

Amendment 532
Reino Paasilinna

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Every **three months**, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Amendment

Every **year**, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Or. en

Justification

Reinforcing network and information security is one of the areas where more action at Community is needed and where proposed amendments certainly could bring added value. The only problematic issue in this context concerns the reporting obligation which is proposed for NRAs. Reporting every three months would be too burdensome and bureaucratic. Therefore, it is proposed that reporting would take place every year instead of every 3 months.

Amendment 533
Gunnar Hökmark

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Every **three** months, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Amendment

Every **twelve** months, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Or. en

Justification

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Amendment 534
Silvia-Adriana Țicău

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Every **three** months, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Amendment

Every **six** months, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

Or. ro

Justification

The summary report drawn up every six months must be efficient in nature while not mutating into a bureaucratic procedure for artificially raising the regulatory authorities' costs.

Amendment 535
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 4

Text proposed by the Commission

4. The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 4(3)(b) of Regulation [.../EC], may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2,

deleted

Amendment

and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.

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

Or. de

Justification

There is no need for further harmonisation in network security. Every operator must take steps appropriate to its own technical situation. Implementing measures can have a significant financial effect on the industry. In this case a new legislative procedure must be initiated. The authority as envisaged in Commission proposal COM(2007)699 is not required.

Amendment 536

Paul Rübige

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 a – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 4(3)(b) of Regulation [.../EC], may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.

deleted

These implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the procedure

referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).

Or. en

Justification

Tackling security and network integrity is very important and providers should take measures to safeguard their networks or services to this effect. However, as regulatory requirements and top down approaches to security tend to stifle innovation, and make networks less, not more, secure and there is no evidence of market failure, there is no need to change from the duty provided for under the current legislation, which obliges providers of electronic communications networks or services to address these issues, to Member States issuing binding instructions or for the Commission to adopt technical implementing measures.

Amendment 537
Nikolaos Vakalis

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. The Commission, taking the utmost account of the opinion of the **Authority issued in accordance with Article 4(3)(b) of Regulation [.../EC]**, may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.

Amendment

4. The Commission, taking the utmost account of the opinion of the **ENISA**, may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.

Or. en

Justification

ENISA remains solely competent in security of networks and services at EU level.

Amendment 538
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 4(3)(b) of Regulation [.../EC], may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.

Amendment

4. The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 4(3)(b) of Regulation [.../EC], may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.
The technical implementing measures shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in paragraphs 1 and 2.

Or. en

Justification

In individual cases Member States should have the possibility to use higher standards than the harmonized base-line to meet the goals set out in paragraphs 1 and 2.

Amendment 539
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. The Commission, ***taking the utmost account of the opinion of the Authority issued in accordance with***

Amendment

4. The Commission may adopt appropriate technical implementing measures with a view to harmonising the

Article 4(3)(b) of Regulation [.../EC], may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.

measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements.

Or. es

Amendment 540
Lambert van Nistelrooij

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 4 – subparagraph 2

Text proposed by the Commission

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

Amendment

These implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the procedure referred to in Article 22(3) ***where industry-led self-regulatory initiatives have not achieved an adequate level of security in the internal market in one or more Member States***. On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).

Or. en

Justification

An obligation to inform subscribers of any breach of security or integrity risks to overregulate and to unnecessarily undermine consumer e-confidence.

Amendment 541
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 a – paragraph 4 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Or. es

Amendment 542
Gianni De Michelis

Proposal for a directive – amending act
Article 1 – point 14
Directive 2002/21/EC
Article 13 b – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that national regulatory authorities have the power to issue binding instructions to undertakings providing public communications networks or publicly available electronic communications services in order to implement Article 13a.

Amendment

1. Member States shall ensure that national regulatory authorities have the power to issue binding instructions to undertakings providing public communications networks or publicly available electronic communications services in order to implement Article 13a. ***The binding instructions shall be submitted to public consultation, shall be proportionate and economically and technically feasible and shall come into force within a reasonable timeframe. National regulatory authorities shall also allow telecommunications operators to recover costs incurred in complying with the***

binding instructions.

Or. en

Justification

Instruction should be aimed at identifying minimum security requirements while leaving the technical and operational implementation decisions to operators. Telecom Italia believes that the process of identifying the appropriate security measure should thus be carried out in tight collaboration between NRAs and Operators.

Amendment 543

Patrizia Toia

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 b – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that national regulatory authorities have the power to issue binding instructions to undertakings providing public communications networks or publicly available electronic communications services in order to implement Article 13a.

1. Member States shall ensure that national regulatory authorities have the power to issue binding instructions to undertakings providing public communications networks or publicly available electronic communications services in order to implement Article 13a. ***The binding instructions shall be proportionate and economically and technically sustainable and shall be implemented within a reasonable timeframe.***

Or. en

Justification

It is necessary to consider proportionality, sustainability and reasonable timing as main guiding principles.

Amendment 544
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 b – paragraph 2 – point a

Text proposed by the Commission

(a) provide information needed to assess the security of their services and networks, including documented security policies; and

Amendment

(a) provide information needed to assess the security **and integrity** of their services and networks, including documented security policies; and

Or. es

Justification

The costs should be borne by the undertakings concerned.

Amendment 545
Gianni De Michelis

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 b – paragraph 2 – point b

Text proposed by the Commission

(b) instruct a qualified independent body to carry out a security audit and make the results thereof available to the national regulatory authority.

Amendment

(b) instruct a qualified independent body **in agreement with undertakings** to carry out a security audit and make the results thereof available to the national regulatory authority.

Or. en

Justification

Instruction should be aimed at identifying minimum security requirements while leaving the technical and operational implementation decisions to operators. Telecom Italia believes that the process of identifying the appropriate security measure should thus be carried out in tight collaboration between NRAs and Operators.

Amendment 546
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 b – paragraph 2 – point b

Text proposed by the Commission

(b) ***instruct a qualified independent body*** to carry out a security audit and make the results thereof available to the national regulatory authority.

Amendment

(b) ***request the undertakings concerned, at their own expense, to carry out a security and integrity*** audit and make the results thereof available to the national regulatory authority.

Or. es

Justification

The costs should be borne by the undertakings concerned.

Amendment 547
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 b – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that national regulatory authorities have all the powers necessary to investigate cases of non-compliance.

Amendment

3. Member States shall ensure that national regulatory authorities have all the powers necessary to investigate cases of non-compliance, ***together with the effects on the security and integrity of the networks.***

Or. es

Justification

As a logical consequence of the requirements laid down in Article 13a(3) to inform the NRA

of any impact on security, the NRA must be empowered to investigate this.

Amendment 548

Lambert van Nistelrooij

Proposal for a directive – amending act

Article 1 – point 14

Directive 2002/21/EC

Article 13 b – paragraph 4 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 549

Gabriele Albertini, Aldo Patriciello

Proposal for a directive – amending act

Article 1 – point 15 – point a

Directive 2002/21/EC

Article 14 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

(a) In the second subparagraph of paragraph 2, the second sentence is deleted.

deleted

Or. en

Justification

Joint dominance remains an untested and difficult concept in the telecoms sector in both an ex post and ex ante context, yet may become increasingly important as markets consolidate. It is important that guidance is not deleted but is rather clarified through the Framework.

Amendment 550

Mary Honeyball

Proposal for a directive – amending act

Article 1 – point 15 – point a

Directive 2002/21/EC

Article 14 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

(a) In the second subparagraph of paragraph 2, the second sentence is deleted.

deleted

Or. en

Justification

With increasing convergence in the telecoms sector, joint dominance could become an increasingly common problem. Guidance should be clarified, not deleted.

Amendment 551

Gabriele Albertini, Aldo Patriciello, Pia Elda Locatelli

Proposal for a directive – amending act

Article 1 – point 15 – point b

Directive 2002/21/EC

Article 14 – paragraph 3

Text proposed by the Commission

Amendment

(b) Paragraph (3) is *deleted*.

(b) Paragraph 3 is *replaced by*:

"Where an undertaking has significant market power on a specific market *and* where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening

the market power of the undertaking, remedies aimed at identifying or preventing such leverage may be applied in the linked market in accordance with Articles 9, 10, 11 and 13 of [access directive], and in the event that these are insufficient, Article 17 of [citizens rights directive]."

Or. en

Justification

Addressing leverage of dominance from one market into another is particularly vital in an industry characterised by vertical integration and convergence. Rather than deleting this measure – as the Commission has proposed – it should be refined to clarify that remedies such as non-discrimination, transparency, accounting separation – and prohibitions on anti-competitive bundling etc may be used ‘cross-market’ to address leverage problems. The existing provisions suggest that SMP would need to be found in the source and target leverage market in order to act. However, it is notable that this has not been used by regulators, is cumbersome and inconsistent with competition law, which does not require a ‘double dominance’ finding to address issues of leverage. The proposed changes would address this.

Amendment 552 **Rebecca Harms**

Proposal for a directive – amending act
Article 1 – point 15 – point b
Directive 2002/21/EC
Article 14 – paragraph 3

Text proposed by the Commission

(b) Paragraph (3) is **deleted**.

Amendment

(b) Paragraph 3 is **replaced by:**

"Where an undertaking has significant market power on a specific market *and* where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the undertaking, remedies aimed at identifying or preventing such leverage may be applied in the linked market in accordance with

Articles 9, 10, 11 and 13 of [access directive], and in the event that these are insufficient, Article 17 of [citizens rights directive]."

Or. en

Justification

Addressing leverage of dominance from one market into another is particularly vital in an industry characterised by vertical integration and convergence. Rather than deleting this measure – as the Commission has proposed – it should be refined to clarify that remedies such as non-discrimination, transparency, accounting separation – and prohibitions on anti-competitive bundling etc may be used ‘cross-market’ to address leverage problems.

Amendment 553

Patrizia Toia

Proposal for a directive – amending act

Article 1 – point 15 – point b

Directive 2002/21/EC

Article 14 – paragraph 3

Text proposed by the Commission

(b) Paragraph (3) is *deleted*.

Amendment

(b) Paragraph 3 is *replaced by*:

"Where an undertaking has significant market power on a specific market *and* where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the undertaking, *remedies aimed at identifying or preventing such leverage may be applied in the linked market in accordance with Articles 9, 10, 11 and 13 of [access directive], and in the event that these are insufficient, Article 17 of [citizens rights directive]."*

Or. en

Justification

Addressing leverage of dominance from one market into another is particularly vital in an industry characterised by vertical integration and convergence. Rather than deleting this measure – as the Commission has proposed – it should be refined to clarify that remedies such as non-discrimination, transparency, accounting separation – and prohibitions on anti-competitive bundling etc may be used ‘cross-market’ to address leverage problems. The existing provisions suggest that SMP would need to be found in the source and target leverage market in order to act. However, it is notable that this has not been used by regulators, is cumbersome and inconsistent with competition law, which does not require a ‘double dominance’ finding to address issues of leverage. The proposed changes would address this.

Amendment 554 **Pia Elda Locatelli**

Proposal for a directive – amending act
Article 1 – point 16 – point ba (new)
Directive 2002/21/EC
Article 15 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(ba) Paragraph 2a is inserted:

"At the latest by the date of entry into force of this Directive, the Commission shall publish guidelines for national regulatory authorities as regards decisions aimed at imposing, amending or withdrawing obligations on undertakings with significant market power."

Or. en

Justification

The 2002 Framework directive establishes that European Commission publishes guidelines for market analysis and the assessment of significant market power but not for the identification of the appropriate remedies. There is clearly a missing element in the market analysis guidance tools provided the Commission: guidance on the selection of the appropriate remedies. The third part of a market analysis (i.e. the choice of the appropriate remedies) is the most crucial since it has the most concrete impact on the market. An erroneous choice of remedies may create irreparable distortions on market competitiveness and investment decisions. It is also the most complicated since it has varied possible outcomes and it entails, to a large extent, subjective evaluations. The need to provide guidance on the

selection of regulatory obligations under the EU framework has indeed been recognised both by the Commission and the ERG.

Amendment 555

Erika Mann

Proposal for a directive – amending act

Article 1 – point 16 – point d

Directive 2002/21/EC

Article 15 – paragraph 4 – subparagraph 1

Text proposed by the Commission

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

Amendment

4. *After consultation with national regulatory authorities and considering the opinion of BERT, the* Commission may, *acting in accordance with the procedure referred to in Article 22(3)*, adopt a Decision identifying transnational markets.

Or. en

Amendment 556

Dragoş Florin David

Proposal for a directive – amending act

Article 1 – point 16 – point d

Directive 2002/21/EC

Article 15 – paragraph 4 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 557
Silvia-Adriana Țicău

Proposal for a directive – amending act
Article 1 – point 16 – point d
Directive 2002/21/EC
Article 15 – paragraph 4 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. ro

Justification

The national regulatory authorities must not be left out of this process.

Amendment 558
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 1 – point 16 – point d
Directive 2002/21/EC
Article 15 – paragraph 4 – subparagraph 1

Text proposed by the Commission

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

Amendment

4. ***After consulting the national regulatory authorities,*** the Commission may, taking the utmost account of the opinion of the ***BERT*** submitted in accordance with Article 7 of Regulation [.../EC], adopt a Decision identifying transnational markets.

Or. es

Justification

Although the Commission clearly has a role to play in matters with a cross-border dimension,

the NRA concerned cannot be overlooked, since they are in an ideal position to support the Commission in defining these markets. In addition, identification of a transnational market should not be the object of an urgent procedure.

Amendment 559

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 16 – point d

Directive 2002/21/EC

Article 15 – paragraph 4 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Or. es

Justification

Although the Commission clearly has a role to play in matters with a cross-border dimension, the NRA concerned cannot be overlooked, since they are in an ideal position to support the Commission in defining these markets. In addition, identification of a transnational market should not be the object of an urgent procedure.

Amendment 560

Erika Mann

Proposal for a directive – amending act

Article 1 – point 16 – point d

Directive 2002/21/EC

Article 15 – paragraph 4 – subparagraph 2

Text proposed by the Commission

This Decision, designed to amend non-essential elements of this Directive by

Amendment

This Decision, designed to amend non-essential elements of this Directive by

supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).
On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).

supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).

Or. en

Justification

The urgency procedure is not justified for the adoption of this type of measures.

Amendment 561

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 17 – point a

Directive 2002/21/EC

Article 16 – paragraph 1

Text proposed by the Commission

1. National regulatory authorities shall carry out an analysis of the relevant markets listed in the Recommendation, taking the utmost account of the Guidelines. Member States shall ensure that this analysis is carried out, where appropriate, in collaboration with the national competition authorities.

Amendment

1. National regulatory authorities shall carry out an analysis of the relevant markets ***taking account of those*** listed in the Recommendation ***and*** taking the utmost account of the Guidelines. Member States shall ensure that this analysis is carried out, where appropriate, in collaboration with the national competition authorities.

Or. es

Justification

To avoid giving the impression that the NRA have to analyse all markets identified in the recommendation, whereas (formally at least) the markets (and definitions) are given as a guide.

Amendment 562
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 1 – point 17 – point aa (new)
Directive 2002/21/EC
Article 16 – paragraph 4

Text proposed by the Commission

Amendment

(aa) Paragraph 4 is replaced by the following:

‘4. Where a national regulatory authority determines that a relevant market is not effectively competitive, *except in the case of new and developing markets*, it shall identify undertakings with significant market power on that market in accordance with Article 14 and shall impose on such undertakings the appropriate specific regulatory obligations referred to in paragraph 2 of this article or maintain or amend such obligations where they already exist, *taking into account the scope of the relevant geographical markets and, where appropriate, eliminating transitory access obligations on the road to deregulation of these markets.*

In determining these obligations, the national regulatory authority shall take account of the aim of promoting effective investment in infrastructure and encouraging competition between services provided by competing platforms, while encouraging investment in new and competitive infrastructures, as a way of achieving sustainable competition in networks and services in the long term which will make it possible, when the time comes, to relax the transitory access obligations, while, at the same time, maintaining the ex ante regulatory obligations which in any case will be applicable to infrastructures installed by undertakings enjoying special or exclusive rights and which are still

benefiting from those investments.'

Or. es

Justification

This includes reference to recital 27, which stipulates that new and developing markets should not be subject to inappropriate obligations.

The NRA should pursue the objective of adopting measures designed to promote effective investment in infrastructures, as laid down in Article 8(2)c.

Lastly, the text also incorporates the reference contained in the explanatory statement to the Recommendation on relevant markets to the effect that sustainable competition in networks and services in the long term must be based on competing network infrastructures.

Amendment 563
Gianni De Michelis

Proposal for a directive – amending act
Article 1 – point 17 – point aa (new)
Directive 2002/21/EC
Article 16 – paragraph 3

Text proposed by the Commission

Amendment

(aa) Paragraph 3 is replaced by the following:

"3. Where a national regulatory authority concludes that the market is not susceptible to ex-ante regulation, on the basis of the three criteria test stated in the Recommendation, or is susceptible to ex-ante regulation but is effectively competitive, it shall not impose or maintain any of the specific regulatory obligations referred to in paragraph 2 of this Article. In cases where sector specific regulatory obligations already exist, it shall withdraw such obligations placed on undertakings in that relevant market. An appropriate period of notice shall be given to parties affected by such a withdrawal of obligations."

Justification

As a matter of fact, as said in the second edition of the Commission Recommendation on relevant markets, the three criteria test focuses on the general structure and characteristics of a market in order to identify those markets that are likely to have possible persistent market failures needing to be analysed in more detail on a national basis by NRAs.

Amendment 564
Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 5 –subparagraph 1

Text proposed by the Commission

5. In the case of transnational markets identified in the Decision referred to in Article 15(4), the Commission shall request the Authority to conduct the market analysis taking the utmost account of the Guidelines and deliver an opinion on any imposition, maintenance, amendment or withdrawal of regulatory obligations as referred to in paragraph 2 of this Article.

Amendment

5. To determine whether a wholesale market is effectively competitive, national regulatory authorities shall assess market distortions at retail level. In particular, any draft measure imposing, amending or withdrawing an obligation on an operator on a wholesale market shall take utmost account of the market power of each actor at retail level.

Justification

NRAs should take utmost account of competition at retail level when deciding for a regulatory measure to be imposed. Therefore Directives should specify clearly that regulation on a wholesale market shall result from a thorough analysis of assessed market distortions at retail level.

Amendment 565
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 5 – subparagraph 1

Text proposed by the Commission

5. In the case of transnational markets identified in the Decision referred to in Article 15(4), the Commission shall request **the Authority** to conduct the market analysis taking the utmost account of the Guidelines and deliver an opinion on any imposition, maintenance, amendment or withdrawal of regulatory obligations as referred to in paragraph 2 of this Article.

Amendment

5. In the case of transnational markets identified in the Decision referred to in Article 15(4), the Commission shall request **BERT, after consulting the national regulatory authorities concerned**, to conduct the market analysis taking the utmost account of the Guidelines and deliver an opinion on any imposition, maintenance, amendment or withdrawal of regulatory obligations as referred to in paragraph 2 of this Article.

Or. es

Justification

In the case of transnational markets, the opinion of the NRA needs to be sought. The latter will also be responsible for imposing, maintaining or amending the regulatory obligations in a coordinated manner.

Amendment 566
Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The Commission, taking the utmost account of the opinion of the Authority, may issue a decision designating one or more undertakings as having significant market power on that market, and imposing one or more specific obligations

Amendment

deleted

under Articles 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive). In so doing, the Commission shall pursue the policy objectives set out in Article 8.

Or. en

Justification

NRAs should take utmost account of competition at retail level when deciding for a regulatory measure to be imposed. Therefore Directives should specify clearly that regulation on a wholesale market shall result from a thorough analysis of assessed market distortions at retail level.

Amendment 567
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 1 – point 17 – point b
Directive 2002/21/EC
Article 16 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The Commission, taking the utmost account of the opinion of the Authority, may issue a decision designating one or more undertakings as having significant market power on that market, and imposing one or more specific obligations under Articles 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive). In so doing, the Commission shall pursue the policy objectives set out in Article 8.

Amendment

The national regulatory authorities concerned shall impose, maintain, amend or withdraw the obligations referred to in paragraph 2 of this article in a coordinated manner.

Or. es

Justification

In the case of transnational markets, the opinion of the NRA needs to be sought. The latter will also be responsible for imposing, maintaining or amending the regulatory obligations in

a coordinated manner.

Amendment 568

Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The Commission, taking the utmost account of the *opinion* of the Authority, may issue a decision designating one or more undertakings as having significant market power on that market, and imposing one or more specific obligations under Articles 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive). In so doing, the Commission shall pursue the policy objectives set out in Article 8.

Amendment

The Commission, taking the utmost account of the *opinions of the national regulatory authorities and* of the Authority, may issue a decision designating one or more undertakings as having significant market power on that market, and imposing one or more specific obligations under Articles 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive). In so doing, the Commission shall pursue the policy objectives set out in Article 8.

Or. ro

Justification

The Authority must be able to define the market monitoring procedures, and the national regulatory authorities must be involved.

Amendment 569

Gabriele Albertini, Aldo Patriciello, Pia Elda Locatelli

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 6 – point a

Text proposed by the Commission

(a) within **two years** from a previous **notification** of a **draft** measure relating to that market;

Amendment

(a) within **three years** of a previous **entry into force** of a measure relating to that market **or earlier in the event that there is a significant change in market circumstances or if otherwise advised in an opinion of BERT or the Commission issued in accordance with Article 7a of [framework directive]**;

Or. en

Justification

The 2 years delay proposed for the revision of a decision is too tight. The validity period of a decision should be three years as from its coming into effect in the Member State (and not from the notification date). However, more frequent analyses are likely to be needed during periods of rapid market development – hence the exclusion suggested.

Amendment 570

Catherine Trautmann

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 6 – point a

Text proposed by the Commission

(a) within **two years** from a previous **notification** of a **draft** measure relating to that market;

Amendment

(a) within **three years** of a previous **entry into force** of a measure relating to that market **or before the expiry of any obligation set out in that measure, whichever is later**;

Or. en

Justification

The 2 years delay proposed for the revision of a decision is too tight. The validity period of a decision should be that of the obligations imposed by a measure or three years as from the coming into effect in the Member State (and not from the notification date) of the measure, whichever is longer.

Amendment 571

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 6 – point a

Text proposed by the Commission

(a) within *two years* from *a previous notification of a draft measure* relating to that market;

Amendment

(a) within *three years at most* from *the adoption of measures* relating to that market;

Or. es

Justification

The aim is to introduce more realistic deadlines giving the national regulatory authorities flexibility to carry out this analysis more quickly.

Amendment 572

Gianni De Michelis

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 6 – point a

Text proposed by the Commission

(a) within two years *from* a previous notification of a draft measure relating to that market;

Amendment

(a) within two years *of* a previous notification of a draft measure relating to that market, *for markets which are identified both in the previous Recommendation and in the Recommendation in force*;

Justification

The goal of harmonising the timeframe of the development of regulation across Member States is to be achieved through standardising the dates within which final decisions are to be taken, i.e. the dates when revised regulatory regimes enter into force.

Amendment 573**Patrizia Toia****Proposal for a directive – amending act****Article 1 – point 17 – point b**

Directive 2002/21/EC

Article 16 – paragraph 6 – point a

Text proposed by the Commission

(a) within two years *from* a previous notification of a draft measure relating to that market;

Amendment

(a) within two years *of* a previous notification of a draft measure relating to that market, ***for markets which are identified both in the previous Recommendation and in the Recommendation in force;***

Justification

The amendments are aimed at clarifying the wording used in the Commission proposal and to include binding timeframes also for markets no longer listed in the recommendation. The latter markets fall within two categories: market removed in the last recommendation revision and market which, although not listed in the previous version of recommendation, have been regulated under the article 7 procedure. In case of markets not included in revised recommendation National Regulatory Authority have to carry out an additional formal test: the so called triple test.

The goal of harmonising the timeframe of the development of regulation across Member States is to be achieved through standardising the dates within which final decisions are to be taken, i.e. the dates when revised regulatory regimes enter into force.

Amendment 574
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 1 – point 17 – point b
Directive 2002/21/EC
Article 16 – paragraph 6 – point b

Text proposed by the Commission

(b) for markets not previously notified to the Commission, within **one year** from the adoption of a revised Recommendation on relevant markets, or;

Amendment

(b) for markets not previously notified to the Commission, within **two years at most** from the adoption of a revised Recommendation on relevant markets, or;

Or. es

Justification

The aim is to introduce more realistic deadlines giving the national regulatory authorities flexibility to carry out this analysis more quickly.

Amendment 575
Gianni De Michelis

Proposal for a directive – amending act
Article 1 – point 17 – point b
Directive 2002/21/EC
Article 16 – paragraph 6 – point ba (new)

Text proposed by the Commission

Amendment

(ba) within six months of the adoption of a revised Recommendation on relevant markets, for any market subject to regulation and not listed in the revised Recommendation, within the first three months the NRA shall notify the result of the three criteria test defined in the Recommendation and, in the case of markets passing this test, shall, within the following three months, carry out the SMP assessment of the market in order to decide whether to maintain, modify or withdraw existing obligations; or

Justification

The goal of harmonising the timeframe of the development of regulation across Member States is to be achieved through standardising the dates within which final decisions are to be taken, i.e. the dates when revised regulatory regimes enter into force.

Amendment 576

Patrizia Toia

Proposal for a directive – amending act

Article 1 – point 17 – point b

Directive 2002/21/EC

Article 16 – paragraph 6 – point ba (new)

Text proposed by the Commission

Amendment

(ba) within six months of the adoption of a revised Recommendation on relevant markets, for any market subject to regulation and not listed in the revised Recommendation, within the first three months the NRA shall notify the result of the three criteria test defined in the Recommendation and, in the case of markets passing this test, shall, within the following three months, carry out the SMP assessment of the market in order to decide whether to maintain, modify or withdraw existing obligations; or

Or. en

Justification

The amendments are aimed at clarifying the wording used in the Commission proposal and to include binding timeframes also for markets no longer listed in the recommendation. The latter markets fall within two categories: market removed in the last recommendation revision and market which, although not listed in the previous version of recommendation, have been regulated under the article 7 procedure. In case of markets not included in revised recommendation National Regulatory Authority have to carry out an additional formal test: the so called triple test.

The goal of harmonising the timeframe of the development of regulation across Member States is to be achieved through standardising the dates within which final decisions are to be

taken, i.e. the dates when revised regulatory regimes enter into force.

Amendment 577
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 1 – point 17 – point b
Directive 2002/21/EC
Article 16 – paragraph 6 – point c

Text proposed by the Commission

(c) for Member States that have newly joined the Union, within **one year** from their accession.

Amendment

(c) for Member States that have newly joined the Union, within **two years at most** from their accession.

Or. es

Justification

The aim is to introduce more realistic deadlines giving the national regulatory authorities flexibility to carry out this analysis more quickly.

Amendment 578
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 17 – point c
Directive 2002/21/EC
Article 16 – paragraph 7

Text proposed by the Commission

7. Where a national regulatory authority has not completed its analysis of a relevant market identified in the Recommendation within the time limit laid down in Article 16(6), the Commission may request the Authority to issue an opinion, including a draft measure, on the analysis of the specific market and the specific obligations to be imposed. The Authority shall carry out a public consultation on the draft measure

Amendment

deleted

concerned.

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

Or. de

Justification

There is no need for decisions which in the past have been taken by national regulatory authorities to be taken by an EU body under the new system.

Amendment 579

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 17 – point c

Directive 2002/21/EC

Article 16 – paragraph 7

Text proposed by the Commission

Amendment

7. Where a national regulatory authority has not completed its analysis of a relevant market identified in the Recommendation within the time limit laid down in Article 16(6), the Commission may request the Authority to issue an opinion, including a draft measure, on the analysis of the specific market and the specific obligations to be imposed. The Authority shall carry out a public consultation on the draft measure *deleted*

concerned.

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

Or. es

Justification

The Community legal system already provides for cases of failure on the part of Member States to comply with their obligations, with the Commission having the power to initiate infringement proceedings. For the Commission to take over the obligations of the Member States would be a breach of the subsidiarity principle.

Amendment 580

Mary Honeyball

Proposal for a directive – amending act

Article 1 – point 17 – point c

Directive 2002/21/EC

Article 16 – paragraph 7 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission, taking the utmost account of the opinion of the Authority issued in accordance with Article 6 of Regulation [.../EC], may adopt a decision requiring the national regulatory authority to designate certain undertakings as having significant market power and to impose specific obligations

deleted

under Articles 8, 9 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive) on those undertakings so designated. In so doing, the Commission shall pursue the same policy objectives as set out for national regulatory authorities in Article 8.

Or. en

Justification

NRAs should be obliged to undertake market analysis within a given timeframe. If NRAs do not, or are unable to undertake such analysis, then BERT should provide an opinion. However the commission is not best placed to veto remedies.

Amendment 581
Lambert van Nistelrooij

Proposal for a directive – amending act
Article 1 – point 17 ca (new)
Directive 2002/21/EC
Article 16 – paragraph 7a (new)

Text proposed by the Commission

Amendment

(ca) The following paragraph is inserted:
"7a. Notwithstanding the regular review provided for in paragraph 6, national regulatory authorities may issue decisions on remedies for a period of longer than two years where this is required to provide investors in next generation access networks with the necessary long term regulatory certainty."

Or. en

Justification

Regulatory certainty for all operators affected by investment decision in new and/or alternative next generation access networks requires the possibility for the NRA to commit itself to a regulatory approach beyond the 2 year period for market analyses currently

prescribed in the Framework. The deployment of next generation access networks entails a significant amount of risk. Long term planning certainty is needed to foster investments in NGA.

Amendment 582

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 17 ca (new)

Directive 2002/21/EC

Article 16 – paragraph 7a (new)

Text proposed by the Commission

Amendment

(ca) The following paragraph is inserted in Article 16:

‘7a. Irrespective of the regular analyses referred to in paragraph 6, national regulatory authorities may decide on measures which are valid for longer than two years if this is necessary for long-term planning reliability, particularly in order to develop next-generation access networks.’

Or. de

Justification

The development of next-generation access networks entails a considerable risk for investors. Long-term planning certainty will be necessary if investment in this development is to be promoted. The framework Directive should therefore allow measures longer validity in these cases.

Amendment 583

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 1 – point 18 – point aa (new)

Directive 2002/21/EC

Article 17 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

(aa) In paragraph 2, subparagraph 3 shall be replaced by the following:

"In the absence of such standards and/or specifications, Member States shall encourage the implementation of international standards or recommendations adopted by the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the International Organisation for Standardisation (ISO) or the International Electrotechnical Commission (IEC)."

Or. en

Justification

CEPT develops conditions for spectrum use in Europe and this should be taken into account, particularly in the absence of an ETSI standard.

Amendment 584

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to Article 9 of this Directive and to Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by national regulatory authorities of the regulatory tasks specified in this Directive and the Specific Directives may create a barrier to the internal market, the

deleted

Commission may, taking the utmost account of the opinion of the Authority, if any, issue a recommendation or a decision on the harmonised application of the provisions in this Directive and the Specific Directives in order to further the achievement of the objectives set out in Article 8.

Or. de

Justification

No additional competencies need to be granted to the EU Commission in the new regulatory framework. The national level is better placed to take the requisite regulatory measures concerning network investment and network access. Implementing measures can have a significant financial effect on industry. In this case a new legislative procedure must be initiated.

Amendment 585 Reino Paasilinna

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Justification

In the current framework the Commission can issue recommendations on the harmonised application of the Directives. This method has been very efficient where it has been used and the Member States have also followed the recommendations very well. Unfortunately, the Commission has not fully exploited this possibility.

Instead, the extension of the Commission's power to issue binding decisions besides recommendations cannot be justified. In the Union consisting of 27 different national communications markets it cannot be appropriate to harmonise all the details of the implementation. Some room for manoeuvre should be left to subsidiarity in order to take account of national circumstances.

The Commission's proposal for Article 19 is problematic also from the legal perspective because the formulation is far too open and leaves it up to the Commission to decide where more detailed binding rules are needed. For example, harmonised rules on regulatory treatment of new services – which has been mentioned as one possible example – could involve nearly anything, in any case much more than only non-essential elements of the directives. Where legislative power is delegated to the Commission by the European Parliament and the Council, the powers should be well defined and concern only non-essential elements of directives.

Amendment 586

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 1

Text proposed by the Commission

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

Amendment

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

on the harmonised application of the provisions in this Directive and the Specific Directives in order to further the achievement of the objectives set out in Article 8.

application of the provisions in this Directive and the Specific Directives in order to further the achievement of the objectives set out in Article 8.

Or. es

Justification

The positive development experienced by markets during the current regulatory framework does not justify strengthening the ex-ante intervention powers of the Commission or the NRA, but rather reducing them.

Amendment 587
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 20
Directive 2002/21/EC
Article 19 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the Commission issues a recommendation pursuant to paragraph 1, it shall act in accordance with the procedure referred to in Article 22(2).

deleted

Member States shall ensure that national regulatory authorities take the utmost account of those recommendations in carrying out their tasks. Where a national regulatory authority chooses not to follow a recommendation, it shall inform the Commission, giving the reasoning for its position.

Or. de

Justification

No additional competencies need to be granted to the EU Commission in the new regulatory framework. The national level is better placed to take the requisite regulatory measures concerning network investment and network access. Implementing measures can have a

significant financial effect on industry. In this case a new legislative procedure must be initiated.

Amendment 588

Reino Paasilinna

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

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

Or. en

Justification

In the current framework the Commission can issue recommendations on the harmonised application of the Directives. This method has been very efficient where it has been used and the Member States have also followed the recommendations very well. Unfortunately, the Commission has not fully exploited this possibility.

Instead, the extension of the Commission's power to issue binding decisions besides recommendations cannot be justified. In the Union consisting of 27 different national communications markets it cannot be appropriate to harmonise all the details of the implementation. Some room for manoeuvre should be left to subsidiarity in order to take account of national circumstances.

The Commission's proposal for Article 19 is problematic also from the legal perspective because the formulation is far too open and leaves it up to the Commission to decide where more detailed binding rules are needed. For example, harmonised rules on regulatory treatment of new services – which has been mentioned as one possible example – could involve nearly anything, in any case much more than only non-essential elements of the directives. Where legislative power is delegated to the Commission by the European Parliament and the Council, the powers should be well defined and concern only non-essential elements of directives.

Amendment 589
Herbert Reul

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

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

Or. de

Justification

No additional competencies need to be granted to the EU Commission in the new regulatory framework. The national level is better placed to take the requisite regulatory measures concerning network investment and network access. Implementing measures can have a significant financial effect on industry. In this case a new legislative procedure must be initiated.

Amendment 590
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. The decision mentioned in paragraph 1 designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the *deleted*

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).

Or. es

Justification

The need to be consistent now that the possibility of adopting decisions has been removed.

Amendment 591
Reino Paasilinna

Proposal for a directive – amending act
Article 1 – point 20
Directive 2002/21/EC
Article 19 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;

(b) Numbering, naming and addressing issues, including number ranges, portability of numbers and identifiers, number and address translation systems, and access to 112 emergency services;

(c) Consumer issues, including accessibility to electronic communications services and equipment by disabled end-users;

(d) Regulatory accounting.

Or. en

Justification

In the current framework the Commission can issue recommendations on the harmonised application of the Directives. This method has been very efficient where it has been used and the Member States have also followed the recommendations very well. Unfortunately, the Commission has not fully exploited this possibility.

Instead, the extension of the Commission's power to issue binding decisions besides recommendations cannot be justified. In the Union consisting of 27 different national communications markets it cannot be appropriate to harmonise all the details of the implementation. Some room for manoeuvre should be left to subsidiarity in order to take account of national circumstances.

The Commission's proposal for Article 19 is problematic also from the legal perspective because the formulation is far too open and leaves it up to the Commission to decide where more detailed binding rules are needed. For example, harmonised rules on regulatory treatment of new services – which has been mentioned as one possible example – could involve nearly anything, in any case much more than only non-essential elements of the directives. Where legislative power is delegated to the Commission by the European Parliament and the Council, the powers should be well defined and concern only non-essential elements of directives.

Amendment 592

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

- (a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;***
- (b) Numbering, naming and addressing issues, including number ranges, portability of numbers and identifiers, number and address translation systems, and access to 112 emergency services;***
- (c) Consumer issues, including***

accessibility to electronic communications services and equipment by disabled end-users;
(d) Regulatory accounting.

Or. es

Justification

The proposed wording of this paragraph ('the measures ... may include') is of no practical use, since it does not provide an exhaustive list. On the contrary, the listing of the examples quoted could be used as a justification for adopting harmonisation measures on the matters expressly referred to without the Commission having to justify the need for further harmonisation in these areas.

Amendment 593
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 20
Directive 2002/21/EC
Article 19 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

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

Or. de

Justification

No additional competencies need to be granted to the EU Commission in the new regulatory framework. The national level is better placed to take the requisite regulatory measures concerning network investment and network access. The authority as envisaged in Commission proposal COM(2007)699 is not required.

Amendment 594
Gianni De Michelis

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4 – point a

Text proposed by the Commission

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;

Amendment

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services ***and new access infrastructure***;

Or. en

Justification

Since the future competitiveness of the Europe is at stake, the European Institutions can not afford to risk that different regulatory approaches across Member States jeopardise prospects for potential comprehensive NGAN roll-out.

The European Commission should lead the way by adopting a specific decision on the regulation of future NGAN as soon as possible. Many of the hints outlined in this document could be furthermore elaborated to fit a NGAN specific Commission Decision.

Amendment 595
Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) Consistent implementation of regulatory approaches, including regulatory treatment of **new** services;

(a) Consistent implementation of regulatory approaches, including regulatory treatment of services **with a single market dimension, such as the provision of multi-national business services**;

Or. en

Justification

Priority should be given to harmonising conditions for inputs which are required for the provision of multi-national telecom services, as this has a direct implication for development of the single market.

Amendment 596

Catherine Trautmann

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services, **including global telecommunications services, and the definition of sub-national markets resulting from different competitive conditions**;

Or. en

Justification

Global telecommunications services (GTS) offered to multinational companies with offices in a number of European countries are one of the areas where the Commission should have the capacity to ensure a harmonised regulatory approach within the EU.

Amendment 597
Patrizia Toia

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4 – point a

Text proposed by the Commission

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;

Amendment

(a) Consistent implementation of regulatory approaches, including regulatory treatment of ***pan-European services, such as global telecommunications services, and of*** new services;

Or. en

Justification

Pan-European telecommunications services with its current lead example of global telecommunications services (GTS) offered to multinational companies with offices in a number of European countries are one of the areas where the Commission should have the power to ensure a harmonised regulatory approach within the EU.

Amendment 598
Reino Paasilinna

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4 – point a

Text proposed by the Commission

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;

Amendment

(a) Consistent implementation of regulatory approaches, including regulatory treatment of ***pan-European services, such as global telecommunications services, and of*** new services;

Or. en

Justification

Pan-European telecommunications services with its current lead example of global telecommunications services (GTS) offered to multinational companies with offices in a number of European countries are one of the areas where the Commission should have more powers to ensure a harmonised regulatory approach within the EU.

Amendment 599

Alexander Alvaro, Jorgo Chatzimarkakis, Sharon Bowles, Ignasi Guardans Cambó

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4 – point a

Text proposed by the Commission

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;

Amendment

(a) Consistent implementation of regulatory approaches, including regulatory treatment of ***pan-European services, such as global telecommunication services, and of*** new services;

Or. en

Justification

The Commission should have power to ensure a harmonised regulatory approach within the EU for global telecommunications services (GTS) offered to multinational companies with offices in a number of European countries.

Amendment 600

Dominique Vlasto, Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 4 – point a

Text proposed by the Commission

(a) Consistent implementation of regulatory approaches, including

Amendment

(a) Consistent implementation of regulatory approaches, including

regulatory treatment of new services;

regulatory treatment of **pan-European services, such as global telecommunications services, and of** new services;

Or. en

Justification

Pan-European telecommunications services with its current lead example of global telecommunications services (GTS) offered to multinational companies with offices in a number of European countries are one of the areas where the Commission should have the power to ensure a harmonised regulatory approach within the EU.

Amendment 601
Reino Paasilinna

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 5

Text proposed by the Commission

Amendment

5. The Authority may on its own initiative advise the Commission on whether a measure should be adopted pursuant to paragraph 1. **deleted**

Or. en

Justification

In the current framework the Commission can issue recommendations on the harmonised application of the Directives. This method has been very efficient where it has been used and the Member States have also followed the recommendations very well. Unfortunately, the Commission has not fully exploited this possibility.

Instead, the extension of the Commission's power to issue binding decisions besides recommendations cannot be justified. In the Union consisting of 27 different national communications markets it cannot be appropriate to harmonise all the details of the implementation. Some room for manoeuvre should be left to subsidiarity in order to take account of national circumstances.

The Commission's proposal for Article 19 is problematic also from the legal perspective

because the formulation is far too open and leaves it up to the Commission to decide where more detailed binding rules are needed. For example, harmonised rules on regulatory treatment of new services – which has been mentioned as one possible example – could involve nearly anything, in any case much more than only non-essential elements of the directives. Where legislative power is delegated to the Commission by the European Parliament and the Council, the powers should be well defined and concern only non-essential elements of directives.

Amendment 602
Herbert Reul

Proposal for a directive – amending act

Article 1 – point 20

Directive 2002/21/EC

Article 19 – paragraph 5

Text proposed by the Commission

Amendment

5. The Authority may on its own initiative advise the Commission on whether a measure should be adopted pursuant to paragraph 1. ***deleted***

Or. de

Justification

No additional competencies need to be granted to the EU Commission in the new regulatory framework. The national level is better placed to take the requisite regulatory measures concerning network investment and network access. The authority as envisaged in Commission proposal COM(2007)699 is not required.