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Committee on Industry, Research and Energy

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AMENDMENTS 717 - 830

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

on the proposal for a directive of the European Parliament and of the Council amending Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services, Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and services, and Directive 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 717

Dominique Vlasto, Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 2 a (new)

Directive 2002/20/EC

Article 3 – paragraph 2a (new) §

Text proposed by the Commission

Amendment

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

"2a. Global telecommunications services shall be subject to no more than a simplified notification process with specified registration of electronic communications service activity as "global telecommunications services". Global telecommunications services are managed business data and voice services provided to multinational undertakings located in different countries and often different continents. They are inherently cross-border and, within Europe, pan-European services."

Or. en

Justification

Under the current EU General Telecommunications Framework, a provider of global telecommunications services (GTS) must comply with national authorization requirements in order to provide a pan-European service within each Member State. Such requirements vary substantially among Member States while compliance obligations imposed by national authorisation regimes often significantly diverge. Given its special nature and the competitive situation of the GTS market, it would be justified to subject GTS providers to a limited and harmonised authorisation process only.

Amendment 718

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

Proposal for a directive – amending act

Article 3 – point 2 a (new)

Directive 2002/20/EC

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

"2a. Global telecommunications services shall be subject to no more than a simplified process with specified registration of electronic communications service activity as "global telecommunications services." Global telecommunications services are managed business data and voice services provided to multinational undertakings located in different countries or continents. They are inherently cross-border and, within, Europe, pan-European services. "

Or. en

Justification

Under the current EU general telecommunications framework, a provider of global telecommunications services (GTS) must comply with national authorisation requirements in order a pan-European service within each member state to business clients. As such requirements vary substantially between member states and given the special nature of the GTS market is justified to subject GTS providers only to a limited and harmonised authorisation process. This would contribute further to the development of pan-European services and in particular a corporate cross-border telecommunications market.

Amendment 719

Reino Paasilinna

Proposal for a directive – amending act

Article 3 – point 2 a (new)

Directive 2002/20/EC

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

"2a. Global telecommunications services shall be subject to a more simplified notification process with specified registration of electronic communications service activity as "global telecommunications services." Global telecommunications services are managed business data and voice services provided to multinational undertakings located in different countries and often different continents. They are inherently cross-border and, within Europe, pan-European 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 we should ensure a more harmonised regulatory approach within the EU.

Amendment 720

Patrizia Toia

Proposal for a directive – amending act

Article 3 – point 2 a (new)

Directive 2002/20/EC

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

In Article 3 the following paragraph is added:

"2a. Global telecommunications services shall be subject to no more than a simplified notification process with specified registration of electronic communications service activity as

***“global telecommunications services.”
Global telecommunications services are managed business data and voice services provided to multinational undertakings located in different countries and often different continents. They are inherently cross-border and, within Europe, pan-European services.”***

Or. en

Justification

Under the current EU General Telecommunications Framework, a provider of global telecommunications services (GTS) must comply with national authorization requirements in order to provide a pan-European service within each Member State. Such requirements vary among Member States substantially. For example, while the UK imposes no initial registration obligation, most other Member States require notification and indication of the type of services to be provided. In addition, the compliance obligations imposed by national authorisation regimes often diverge significantly, and in many instances reflect social and economic regulatory policy concerns that do not apply to the GTS market. Given its special nature and the competitive situation of the GTS market it is justified to subject GTS providers only to a limited and harmonised authorisation process. This would contribute further to the development of pan-European services and in particular corporate cross-border telecommunications market for the benefit of the overall.

Amendment 721

Gabriele Albertini, Aldo Patriciello, Pia Elda Locatelli

Proposal for a directive – amending act

Article 3 – point 2 a (new)

Directive 2002/20/EC

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

"2a. Service providers providing services to multi-national undertakings across more than one Member State shall be subject to no more than a simplified notification process with specified registration of electronic communications service activity as “global

telecommunications services.””

Or. en

Justification

Under the current EU General Telecommunications Framework, a provider of global telecommunications services (GTS) must comply with national authorization requirements in order to provide a pan-European service within each Member State. Such requirements vary among Member States substantially. For example, while the UK imposes no initial registration obligation, most other Member States require notification and indication of the type of services to be provided. In addition, the compliance obligations imposed by national authorisation regimes often diverge significantly, and in many instances reflect social and economic regulatory policy concerns that do not apply to the GTS market. Given its special nature and the competitive situation of the GTS market it is justified to subject GTS providers only to a limited and harmonised authorisation process. This would contribute further to the development of pan-European services and in particular corporate cross-border telecommunications market for the benefit of the overall economies.

Amendment 722

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – introductory wording

Text proposed by the Commission

1. Member States shall ***not make*** the use of radio frequencies subject to ***the granting of individual rights of use but shall include the conditions for usage of such radio frequencies in the*** general authorisation, ***unless it is justified to*** grant individual rights in order to:

Amendment

1. Member States shall ***facilitate*** the use of radio frequencies subject to general authorisation. ***Member States may*** grant individual rights in order to:

Or. en

Justification

The proposed mechanism to review existing rights is not realistic, as justified for the amendments to Article 9a of the Framework Directive.

Amendment 723
Lambert van Nistelrooij

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – introductory wording

Text proposed by the Commission

1. Member States shall ***not make*** the use of radio frequencies ***subject to the granting of individual rights of use but shall include the conditions for usage of such radio frequencies in the*** general authorisation, ***unless it is justified to grant*** individual rights in order to:

Amendment

1. Member States shall ***facilitate*** the use of radio frequencies ***under*** general authorisation, ***given that thorough analysis has confirmed that the principle of granting*** individual rights ***of use is unnecessary*** in order to:

Or. en

Justification

Necessary conditions must be sufficiently defined and applied for deviating from the principle of individual rights. These conditions must imply the performance of thorough technical analysis to safeguard especially interference protection and efficient use of spectrum.

Amendment 724
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – introductory wording

Text proposed by the Commission

1. Member States shall ***not make the use of radio frequencies subject to the granting of individual rights of use but shall include the conditions for usage of such radio frequencies in the general*** authorisation, ***unless it is justified to*** grant individual rights in order to:

Amendment

1. Member States shall ***grant radio frequency use under general authorisations. They may*** grant individual rights in order to:

Or. es

Amendment 725
Paul Rübiger

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – introductory wording

Text proposed by the Commission

1. Member States shall **not** make the use of radio frequencies subject to the granting of individual rights of use **but** shall include the conditions for usage of **such** radio frequencies **in the** general authorisation, **unless it is justified to grant individual rights in order to:**

Amendment

1. Member States shall make the use of radio frequencies subject to the granting of individual rights of use. **They** shall include the conditions for usage of radio frequencies **under** general authorisation **in bands specified for this purpose.**

Or. en

Justification

General authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 726
Hannes Swoboda

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – introductory wording

Text proposed by the Commission

1. Member States shall **not** make the use of radio frequencies subject to the granting of individual rights of use **but** shall include the conditions for usage of such radio frequencies **in the** general authorisation, **unless it is justified to grant individual**

Amendment

1. Member States shall make the use of radio frequencies subject to the granting of individual rights of use. **They** shall include the conditions for usage of such radio frequencies **under** general authorisation **in**

rights in order to:

bands specified for this purpose.

Or. en

Justification

However, general authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 727

Hannes Swoboda

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

However, general authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 728

Paul Rübiger

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

General authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 729

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) avoid **the possibility** of harmful interference; or

Or. en

Justification

Any risk of “harmful interference” is a “serious risk”. The proposed mechanism to review existing rights is not realistic, as justified for the amendments to Article 9a of the Framework Directive.

Amendment 730
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

a) avoid **the possibility** of harmful interference;

Or. es

Amendment 731
Robert Goebbels, Catherine Trautmann

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) avoid **the** risk of harmful interference;
or

Or. en

Justification

Any risk of “harmful interference” is a “serious risk”. The proposed mechanism to review existing rights is not realistic, as justified for the amendments to Article 9a of the Framework Directive.

Amendment 732
Gianni De Michelis

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) avoid a serious risk of harmful interference, ***taking the utmost account of the assessment by the relevant technical and standardization organizations***; or

Or. en

Justification

A series of safeguards are needed in order to guarantee quality of services for consumers and to avoid interferences. Therefore, it is of the utmost importance to provide for the assessment of technical and operational feasibility of the solutions envisaged by the Commission by international organisms like CEPT/ECC and ETSI, which are institutionally requested to assist the European Commission in this technical field.

Amendment 733
Reino Paasilinna

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point aa (new)

Text proposed by the Commission

Amendment

(aa) ensure quality of service;

Or. en

Justification

In addition to harmful interference also ‘quality of service’ should be a criterion for providing restrictions to the technological neutrality. This is particularly important in cases where shared use of spectrum is allowed.

Amendment 734
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 1 – point aa (new)

Text proposed by the Commission

Amendment

(aa) ensure the technical quality of service;

Or. es

Amendment 735
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 1 – point ab (new)

Text proposed by the Commission

Amendment

(ab) safeguard effective spectrum use;

Or. es

Amendment 736
Paul Rübzig

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) fulfil other objectives of general interest.

deleted

Justification

General authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 737
Hannes Swoboda

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) fulfil other objectives of general interest.

deleted

Justification

However, general authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 738
Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) fulfil other objectives of general interest.

(b) ensure the efficient use of spectrum.

Or. en

Justification

Any risk of “harmful interference” is a “serious risk”. The proposed mechanism to review existing rights is not realistic, as justified for the amendments to Article 9a of the Framework Directive.

Amendment 739
Rebecca Harms

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) fulfil other objectives of general interest.

(b) fulfil other objectives of general interest ***in compliance with Community law as defined by each Member State.***

Or. en

Justification

The aim is simply to preserve the competence of Member States to define general interest objectives.

Amendment 740
Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point ba (new)

Text proposed by the Commission

Amendment

(ba) ensure the technical quality of services.

Or. en

Justification

Any risk of “harmful interference” is a “serious risk”. The proposed mechanism to review existing rights is not realistic, as justified for the amendments to Article 9a of the Framework Directive.

Amendment 741

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point ba (new)

Text proposed by the Commission

Amendment

(ba) safeguard the efficient use of spectrum.

Or. en

Justification

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

Amendment 742

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 – point bb (new)

Text proposed by the Commission

Amendment

(bb) fulfil other objectives of general interest.

Or. en

Amendment 743

Paul Rübzig

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Member States shall harmonise frequency bands on the basis of common general principles. They shall apply harmonised licensing rules in respect of those frequency bands. National regulatory authorities shall be responsible for that licensing and the specification thereof.

Or. en

Justification

General authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 744

Hannes Swoboda

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Member States shall harmonise frequency bands on the basis of common general principles. They shall apply harmonised licensing rules in respect of those frequency bands. National regulatory authorities shall be responsible for that licensing and the specification thereof.

Or. en

Justification

However, general authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 745
Paul Rübiger

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

2. Where it is necessary to grant individual rights of use for radio frequencies and numbers, Member States shall grant such rights, upon request, to any undertaking providing or using networks or services under the general authorisation, subject to the provisions of Articles 6, 6a, 7 and 11(1)(c) of this Directive and any other rules ensuring the efficient use of those resources in accordance with Directive 2002/21/EC (Framework Directive).

2. Member States shall grant **individual** rights, upon request, to any undertaking, subject to the provisions of Articles 6, 6a, 7 and 11(1)(c) of this Directive and any other rules ensuring the efficient use of those resources in accordance with Directive 2002/21/EC (Framework Directive).

Justification

General authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 746
Hannes Swoboda

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. *Where it is necessary to grant individual rights of use for radio frequencies and numbers*, Member States shall grant ***such*** rights, upon request, to any undertaking ***providing or using networks or services under the general authorisation***, subject to the provisions of Articles 6, 6a, 7 and 11(1)(c) of this Directive and any other rules ensuring the efficient use of those resources in accordance with Directive 2002/21/EC (Framework Directive).

Amendment

2. Member States shall grant ***individual*** rights, upon request, to any undertaking, subject to the provisions of Articles 6, 6a, 7 and 11(1)(c) of this Directive and any other rules ensuring the efficient use of those resources in accordance with Directive 2002/21/EC (Framework Directive).

Justification

However, general authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 747
Erna Hennicot-Schoepges

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to specific criteria ***defined in advance*** by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive). ***The procedures shall also be open, except in cases where the granting of individual rights of use for radio frequencies to the providers of radio or television broadcast content services can be shown to be essential to meet a particular obligation defined in advance by the Member State which is necessary to achieve a general interest objective in conformity with Community law.***

Amendment

Without prejudice to specific criteria ***and procedures adopted*** by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive).

Or. en

Amendment 748
Hannes Swoboda

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to specific criteria defined in advance by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive). The procedures shall also be open, ***except in cases where the granting of individual rights of use for radio frequencies to the providers of radio or television broadcast content services can be shown to be essential to meet a particular obligation defined in advance by the Member State which is necessary to achieve a general interest objective in conformity with Community law.***

Amendment

Without prejudice to specific criteria defined in advance by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive). The procedures shall also be open.

Or. en

Amendment 749
Gianni De Michelis

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to specific criteria defined in advance by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast

Amendment

Without prejudice to specific criteria defined in advance by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast

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

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

Or. en

Justification

A new provision is added to paragraph 2 to ensure that any deviation from the general principles applied to spectrum assignments must be duly justified by Member States taking into utmost account the technological and market developments. Therefore, there is no need to review the grant prior to 5 years before the end of that period of time. When extension is evaluated, the criteria to grant individual rights of use (i.e. the risk of interference and general interest objectives) should be taken into consideration. In addition, the period of notice should be at least 5 years, rather than “not more than”, to ensure that licensees have sufficient notice period to inform end users of any changes proposed in spectrum use.

Amendment 750 **Pilar del Castillo Vera**

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to specific criteria defined in advance by Member States to

Amendment

Without prejudice to specific criteria defined in advance by Member States to

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

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

Or. en

Amendment 751

Robert Goebbels, Catherine Trautmann

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to specific criteria *defined in advance* by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and

Amendment

Without prejudice to specific criteria *and procedures adopted* by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and

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

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

Or. en

Amendment 752
Robert Goebbels

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 2 – subparagraph 3

Text proposed by the Commission

When granting rights of use, Member States shall specify whether those rights can be transferred by the holder of the rights, and under which conditions. In the case of radio frequencies, such provisions shall be in accordance with **Article 9b** of Directive 2002/21/EC (Framework Directive).

Amendment

When granting rights of use, Member States shall specify whether those rights can be transferred by the holder of the rights, and under which conditions. In the case of radio frequencies, such provisions shall be in accordance with **Article 9** of Directive 2002/21/EC (Framework Directive).

Or. en

Amendment 753
Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 4

Text proposed by the Commission

Where Member States grant rights of use for a limited period of time, the duration shall be appropriate for the service concerned in view of the objective pursued ***and defined in advance.***

Amendment

Where Member States grant rights of use for a limited period of time, the duration shall be appropriate for the service concerned in view of the objective pursued, ***taking due account of the need to allow for an appropriate period for amortization of investment.***

Or. en

Amendment 754
Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 5

Text proposed by the Commission

Any individual right to use radio frequencies that is granted for ten years or more and that may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive shall, every five years and for the first time five years after its issuance, be subject to a review in the light of the criteria in paragraph 1. If the criteria to grant individual rights of use are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice of not

Amendment

deleted

more than five years from the conclusion of the review, or shall be made freely transferable or leaseable between undertakings.

Or. en

Justification

The proposed mechanism to review existing rights is not realistic, as justified for the amendments to Article 9a of the Framework Directive.

Amendment 755
Anne Laperrouze

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 2 – subparagraph 5

Text proposed by the Commission

*Any individual right to use radio frequencies **that is** granted for ten years or more and that may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive **shall, every five years and for the first time five years after its issuance, be subject to a review in the light of** the criteria **in paragraph 1**. If **the criteria to grant individual rights of use** are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice **of not more than five years from the conclusion of the review**, or shall be made freely transferable or leaseable between undertakings.*

Amendment

*Where individual rights to use radio frequencies **are** granted for ten years or more and cannot be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive, **the national regulatory authority shall ensure the means to enable it to verify that** the criteria **to grant individual rights of use are still being applied and respected for the duration of the license**. If **these** criteria are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice **and after a reasonable time has elapsed**, or shall be made freely transferable or leaseable between undertakings. **When such a decision is taken, due account shall be taken of the need to grant an appropriate period for amortization of investment.***

Or. fr

Justification

Numerous new platforms and services are obliged to amortize their investments over a period exceeding ten or at least five years. Considerable losses are often incurred over the first one or two years of exploitation. It would not be proportionate to institute a rigid requirement that the national regulatory authority should undertake a formal quinquennial re-examination of all radio spectrum licenses.

Amendment 756 **Gianni De Michelis**

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 5

Text proposed by the Commission

Any individual right to use radio frequencies that is granted for ten years or more and that may not be transferred or leased between undertakings *as a allowed* by Article 9b of the Framework Directive shall, **every five years and for the first time** five years **after** its **issuance**, be subject to a review in the light of the criteria in paragraph 1. If the criteria to grant individual rights of use are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice of not **more** than five years from the conclusion of the review, or shall be made freely transferable or leaseable between undertakings.

Amendment

Any individual right to use radio frequencies that is granted for ten years or more and that may not be transferred or leased between undertakings *pursuant to* Article 9b of the Framework Directive shall, five years **before** its **expiry**, be subject to a review in the light of the criteria in paragraph 1. If the criteria to grant individual rights of use are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice of not **less** than five years from the conclusion of the review, or shall be made freely transferable or leaseable between undertakings.

Or. en

Justification

A new provision is added to paragraph 2 to ensure that any deviation from the general principles applied to spectrum assignments must be duly justified by Member States taking into utmost account the technological and market developments. Therefore, there is no need to review the grant prior to 5 years before the end of that period of time. When extension is evaluated, the criteria to grant individual rights of use (i.e. the risk of interference and general interest objectives) should be taken into consideration. In addition, the period of

notice should be at least 5 years, rather than “not more than”, to ensure that licensees have sufficient notice period to inform end users of any changes proposed in spectrum use.

Amendment 757
Hannes Swoboda

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 5

Text proposed by the Commission

Any individual right to use radio frequencies that is granted for ten years or more and that may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive shall, ***every five years and for the first time five years after its issuance***, be subject to a review in the light of the criteria in paragraph 1. If the criteria to grant individual rights of use are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice of ***not more than five years from the conclusion of the review***, or shall be made freely transferable or leaseable between undertakings.

Amendment

Any individual right to use radio frequencies that is granted for ten years or more and that may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive shall be subject to a review in the light of the criteria in paragraph 1. If the criteria to grant individual rights of use are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice of ***a reasonable period that is at least as long as the period for which the individual right of use was granted***, or shall be made freely transferable or leaseable between undertakings

Or. en

Justification

However, general authorisation bears immense legal and technical problems in particular with regard to the management of harmful interferences. Also, the Commission ignores contracts that have been agreed and guaranteed between operators and sovereign states, and seeks to shift the current regime of specific authorisation to one of general authorisation without paying attention to the damage it does to spectrum users across Europe.

Amendment 758
Catherine Trautmann

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 5

Text proposed by the Commission

Any individual right to use radio frequencies that is granted for ten years or more and that may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive **shall**, every five years and for the first time five years after its issuance, be subject to a review in the light of the criteria in paragraph 1. If the **criteria to grant individual rights of use are no longer applicable**, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice of not more than five years from the conclusion of the review, or shall be made freely transferable or leaseable between undertakings

Amendment

Any individual right to use radio frequencies that is granted for ten years or more and that may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive **may**, every five years and for the first time five years after its issuance, be subject to a review in the light of the criteria in paragraph 1. If the **individual right does not meet any of those criteria**, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice of not more than five years from the conclusion of the review, or shall be made freely transferable or leaseable between undertakings. **In taking such a decision, due account shall be taken of the need to allow for an appropriate period for amortization of investment.**

Or. en

Justification

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

Amendment 759
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 2 – subparagraph 5 a (new)

Text proposed by the Commission

Amendment

In taking a decision regarding rights of use, due account shall be taken of the need to allow for an appropriate period for amortisation of investment.

Or. en

Justification

For many new platforms and services, investment will need to be amortized over a period exceeding ten or, at any rate, five years. It is not uncommon to have to sustain substantial losses during the first couple of years of operation. It would be disproportionate to introduce a rigid requirement for national regulatory authorities to conduct a formal review of all spectrum licenses every five years.

Amendment 760
Robert Goebbels

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Decisions on rights of use shall be taken, communicated and made public as soon as possible after receipt of the complete application by the national regulatory authority, within three weeks in the case of numbers that have been allocated for specific purposes within the national numbering plan and within six weeks in the case of radio frequencies that have been allocated for ***electronic communications*** within the national frequency plan. The

3. Decisions on rights of use shall be taken, communicated and made public as soon as possible after receipt of the complete application by the national regulatory authority, within three weeks in the case of numbers that have been allocated for specific purposes within the national numbering plan and within six weeks in the case of radio frequencies that have been allocated for ***specific purposes*** within the national frequency plan. The latter time

latter time limit shall be without prejudice to any applicable international agreements relating to the use of radio frequencies or of orbital positions.

limit shall be without prejudice to any applicable international agreements relating to the use of radio frequencies or of orbital positions.

Or. en

Amendment 761

Robert Goebbels, Catherine Trautmann

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. Where it has been decided, after consultation with interested parties in accordance with Article 6 of Directive 2002/21/EC (Framework Directive), that rights for use of numbers of exceptional economic value are to be granted through competitive or comparative selection procedures, Member States may extend the maximum period of three weeks by up to three weeks.

Amendment

4. Where it has been decided, after consultation with interested parties in accordance with Article 6 of Directive 2002/21/EC (Framework Directive), that rights for use of numbers of exceptional economic value are to be granted through competitive or comparative selection procedures, Member States may extend the maximum period of three weeks by up to ***a further*** three weeks.

Or. en

Amendment 762

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 5

Text proposed by the Commission

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

Amendment

5. Member States shall not limit the number of rights of use to be granted except where this is necessary to ensure the efficient use of radio frequencies in accordance with Article 7. ***Member States shall take into account legacy investments and the level of competition.***

Or. en

Justification

Safeguard for making sure that legacy investments are taken into due account. Otherwise former investments might be devalued. This would severely distort the market and would negatively affect future investment decisions.

Amendment 763

Angelika Niebler, Giles Chichester

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 6

Text proposed by the Commission

6. National regulatory authorities shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). ***They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.***

Amendment

6. National regulatory authorities shall ensure that spectrum is efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive).

Or. en

Justification

The proposal is redundant since it is duplicating rules that already exist in EU Competition Law and which apply also to the transfer or accumulation of spectrum usage rights.

Amendment 764
Robert Goebbels

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 6

Text proposed by the Commission

6. National regulatory authorities shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. ***For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.***

Amendment

6. National regulatory authorities shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure *that* competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights.

Or. en

Amendment 765
Alexander Alvaro

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 6

Text proposed by the Commission

6. ***National*** regulatory authorities shall ensure that radio frequencies are efficiently

Amendment

6. ***The competent*** regulatory authorities shall ensure that radio frequencies are

and effectively used in accordance with **Article 9(2)** of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

efficiently and effectively used in accordance with **Articles 8 and 9(2)** of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Or. en

Justification

As NRAs sometimes do not have the necessary authority to take such decisions, the Amendment is necessary.

Amendment 766 **Francisca Pleguezuelos Aguilar**

Proposal for a directive – amending act
Article 3 – point 3
Directive 2002/20/EC
Article 5 – paragraph 6

Text proposed by the Commission

6. **National regulatory authorities** shall ensure that radio frequencies are efficiently and effectively used in accordance with **Article 9(2)** of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may **take** appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Amendment

6. . **Member States** shall ensure that radio frequencies are efficiently and effectively used in accordance with **Articles 8(2) and 9(2)** of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may **provide for** appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Or. es

Justification

Here, replacing 'national regulatory authorities' by 'Member States' should dispel the doubts as to requisites such as 'independence' relating to the administrative bodies competent in the area of spectrum management. In addition, the addition of reference to Article 8(2) entails identification of efficient and effective radio frequency use in the context of general objectives. At the same time, Article 9(2) is concerned with achieving the same objectives via harmonisation measures adopted under the radioelectric spectrum directive.

Amendment 767

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 6

Text proposed by the Commission

6. **National regulatory authorities** shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Amendment

6. **Member States** shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Or. en

Amendment 768

Reino Paasilinna

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 6

Text proposed by the Commission

6. **National regulatory authorities** shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Amendment

6. **Member States** shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Or. en

Justification

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

Amendment 769

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 3

Directive 2002/20/EC

Article 5 – paragraph 6

Text proposed by the Commission

6. National **regulatory** authorities shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Amendment

6. National authorities shall ensure that radio frequencies are efficiently and effectively used in accordance with Article 9(2) of Directive 2002/21/EC (Framework Directive). They shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.

Justification

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

Amendment 770
Hannes Swoboda

Proposal for a directive – amending act
Article 3 – point 4 – point a
Directive 2002/20/EC
Article 6 – paragraph 1

Text proposed by the Commission

1. *The* general authorisation for the provision of electronic communications networks or services and the rights of use for radio frequencies and rights of use for numbers may be subject only to the conditions listed in Annex I. Such conditions shall be non-discriminatory, proportionate and transparent and, in the case of rights of use for radio frequencies, shall be in accordance with Article 9 of Directive 2002/21/EC (Framework Directive).

Amendment

1. ***In the case of a general authorisation, the*** general authorisation for the provision of electronic communications networks or services and the rights of use for radio frequencies and rights of use for numbers may be subject only to ***the management of harmful interferences and*** the conditions listed in Annex I. Such conditions shall be non-discriminatory, proportionate and transparent and, in the case of rights of use for radio frequencies, shall be in accordance with Article 9 of Directive 2002/21/EC (Framework Directive).

Justification

The principle of individual authorisation should prevail, while general authorisation should be an exemption from the rule. The Commission should specify frequency bands which could be subject to general authorisation; and this measure should be included under Art. 6 (1).

Amendment 771
Herbert Reul

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – introductory wording

Text proposed by the Commission

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

Amendment

1. ***Without*** prejudice to ***Article 5(1) and (2)*** of this Directive ***and Articles 8a and 9 of Directive 2002/21/EC (Framework Directive)***, the Commission may adopt implementing measures:

Or. en

Amendment 772
Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – introductory wording

Text proposed by the Commission

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

Amendment

1. In order to achieve the objectives set out in Article 1, and without prejudice to ***Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)***¹ and to Article 5(2) of this Directive, the Commission may adopt implementing measures:

¹ ***OJ L 108, 24.4.2002, p. 1.***

Or. en

Justification

EU harmonisation of conditions for grant of individual spectrum rights and general authorisations may facilitate wireless services deployment and promote investment and innovation to benefit end-users; if conforming with 2002 Radio Spectrum Decision. It is not appropriate or proportionate for the Commission to have power or responsibility to select undertakings to benefit from spectrum rights.

Amendment 773

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – introductory wording

Text proposed by the Commission

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

Amendment

1. In order to achieve the objectives set out in Article 1, and without prejudice to Article 5(2) of this Directive **and to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)¹**, the Commission may adopt implementing measures:

¹ *OJ L 108, 24.4.2002, p. 1.*

Or. en

Justification

The reference to the Radio Spectrum Decision is crucial to achieve an integrated policy approach and coherent treatment of harmonisation measures.

Amendment 774
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – introductory wording

Text proposed by the Commission

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

Amendment

1. In order to achieve the objectives set out in Article 1, and without prejudice to Article 5(2) of this Directive ***or to the decision on the radio spectrum (Decision 676/2002/EC)***, the Commission may adopt implementing measures:

Or. es

Amendment 775
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point -a

Text proposed by the Commission

Amendment

-a) pan-European services;

Or. es

Amendment 776
Herbert Reul

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) to identify radio frequency bands the use of which is to be made subject to general authorisations ***or individual rights of use for radio frequencies***;

Amendment

(a) to identify radio frequency bands the use of which is to be made subject to general authorisations;

Or. en

Amendment 777
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

a) to identify radio frequency bands the use of which is to be made subject to ***general*** authorisations ***or individual rights of use for radio frequencies***;

Amendment

a) to identify radio frequency bands the use of which is to be made subject to authorisations;

Or. es

Amendment 778
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) to identify radio frequency bands the use of which is to be made subject to general authorisations or individual rights of use for radio frequencies;

(a) to identify radio frequency bands **providing pan-European networks or electronic communications services**, the use of which is to be made subject to general authorisations or individual rights of use for radio frequencies;

Or. en

Justification

The scope of the article is far too open. Moreover, the wording is not in line with the principle of checks and balances. It is important to ensure that Member States' competences regarding frequencies are not undermined by new centralized procedures at EU level. Insofar it is appropriate to refer this article to pan-European services.

Amendment 779

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) to identify radio frequency bands the use of which **is to** be made subject to general authorisations or individual rights of use for radio frequencies;

(a) to identify radio frequency bands the use of which **may** be made subject to general authorisations or individual rights of use for radio frequencies; **and**

Or. en

Justification

EU harmonisation of conditions for grant of individual spectrum rights and general authorisations may facilitate wireless services deployment and promote investment and innovation to benefit end-users; if conforming with 2002 Radio Spectrum Decision. It is not appropriate or proportionate for the Commission to have power or responsibility to select undertakings to benefit from spectrum rights.

Amendment 780
Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

*(c) to harmonise procedures for the
granting of general authorisations or
individual rights of use for radio
frequencies or numbers;* **deleted**

Or. en

Justification

EU harmonisation of conditions for grant of individual spectrum rights and general authorisations may facilitate wireless services deployment and promote investment and innovation to benefit end-users if conforming with 2002 Radio Spectrum Decision. It is not appropriate or proportionate for the Commission to have power or responsibility to select undertakings to benefit from spectrum rights.

Amendment 781
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

*c) to harmonise procedures for the
granting of general authorisations or
individual rights of use for radio
frequencies or numbers;* **deleted**

Or. es

Amendment 782
Herbert Reul

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) to harmonise procedures for the granting of general authorisations or individual rights of use for radio frequencies or numbers;

deleted

Or. en

Justification

All implementing measures under Article 6a (harmonisation) should be adopted according to the regulatory procedure with scrutiny. The urgency procedure is not justified for the adoption of these measures.

Amendment 783
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) to harmonise procedures for the granting of general authorisations or individual rights of use for radio frequencies or numbers;

(c) to harmonise procedures for the granting of general authorisations or individual rights of use for radio frequencies **providing pan-European networks or electronic communications services** or for numbers;

Or. en

Justification

The scope of the article is far too open. Moreover, the wording is not in line with the principle

of checks and balances. It is important to ensure that Member States' competences regarding frequencies are not undermined by new centralized procedures at EU level. Insofar it is appropriate to refer this article to pan-European services.

Amendment 784

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) to harmonise the conditions specified in Annex II relating to general authorisations or individual rights of use for radio frequencies or numbers; ***deleted***

Or. en

Justification

EU harmonisation of conditions for grant of individual spectrum rights and general authorisations may facilitate wireless services deployment and promote investment and innovation to benefit end-users if conforming with 2002 Radio Spectrum Decision. It is not appropriate or proportionate for the Commission to have power or responsibility to select undertakings to benefit from spectrum rights.

Amendment 785

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) to harmonise the conditions specified in Annex II relating to general authorisations or individual rights of use for radio frequencies or numbers;; ***deleted***

Amendment 786

Herbert Reul

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) to harmonise the conditions specified in Annex II relating to general authorisations or individual rights of use for radio frequencies or numbers; *deleted*

Or. en

Amendment 787

Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) to harmonise the conditions specified in Annex II relating to general authorisations or individual rights of use for radio frequencies or numbers;

(d) to harmonise the conditions specified in Annex II relating to general authorisations or individual rights of use for radio frequencies ***providing pan-European networks or electronic communications services*** or for numbers;

Or. en

Justification

The scope of the article is far too open. Moreover, the wording is not in line with the principle

of checks and balances. It is important to ensure that Member States' competences regarding frequencies are not undermined by new centralized procedures at EU level. Insofar it is appropriate to refer this article to pan-European services.

Amendment 788

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

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point da (new)

Text proposed by the Commission

Amendment

(da) to harmonise the conditions specified in Annex I relating to general authorisations;

Or. en

Justification

Part A of Annex I contains a number of conditions which may be attached to general authorisations, such as conditions for electronic communications networks for business customers. For global telecommunications services (GTS) some have merit, such as financial contributions to the funding of universal services, while others provide an unnecessary regulatory burden. Therefore, the Commission should have the power to adopt harmonisation measures in this area.

Amendment 789

Patrizia Toia

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point da (new)

Text proposed by the Commission

Amendment

(da) to harmonise the conditions specified in Annex I relating to general authorisations;

Or. en

Justification

Part A of Annex I contains a number of conditions which may be attached to general authorisations, such as those for operating an electronic communications network for business customers. Among the conditions are financial contributions to the funding of universal service and administrative charges as well as thirteen other conditions. For certain authorisations, such as for global telecommunications services, (GTS) the previously named financial conditions have merits. At the same time, other conditions with little or no merit are being imposed by one or the other national regulator creating a regulatory burden on providers of GTS. The Commission should have the power to adopt harmonisation measures in this area.

Amendment 790

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) to provide for the amendment or withdrawal of authorisations or rights of use and the procedures relating to point (d);

deleted

Or. en

Justification

EU harmonisation of conditions for grant of individual spectrum rights and general authorisations may facilitate wireless services deployment and promote investment and innovation to benefit end-users; if conforming with 2002 Radio Spectrum Decision. It is not appropriate or proportionate for the Commission to have power or responsibility to select undertakings to benefit from spectrum rights.

Amendment 791

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) to provide for the amendment or withdrawal of authorisations or rights of use and the procedures relating to point (d); *deleted*

Or. es

Amendment 792

Herbert Reul

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) to provide for the amendment or withdrawal of authorisations or rights of use and the procedures relating to point (d); *deleted*

Or. en

Justification

All implementing measures under Article 6a (harmonisation) should be adopted according to the regulatory procedure with scrutiny. The urgency procedure is not justified for the adoption of these measures.

Amendment 793

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) to lay down procedures for the selection of undertakings to which individual rights of use for radio frequencies or numbers shall be granted by the national regulatory authorities, where appropriate in accordance with the provisions of Article 6b.

deleted

Or. en

Justification

EU harmonisation of conditions for grant of individual spectrum rights and general authorisations may facilitate wireless services deployment and promote investment and innovation to benefit end-users; if conforming with 2002 Radio Spectrum Decision. It is not appropriate or proportionate for the Commission to have power or responsibility to select undertakings to benefit from spectrum rights.

Amendment 794

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) to lay down procedures for the selection of undertakings to which individual rights of use for radio frequencies or numbers shall be granted by the national regulatory authorities, where appropriate in accordance with the provisions of Article 6b.

deleted

Or. es

Amendment 795
Herbert Reul

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) to lay down procedures for the selection of undertakings to which individual rights of use for radio frequencies or numbers shall be granted by the national regulatory authorities, where appropriate in accordance with the provisions of Article 6b.

deleted

Or. en

Justification

All implementing measures under Article 6a (harmonisation) should be adopted according to the regulatory procedure with scrutiny. The urgency procedure is not justified for the adoption of these measures.

Amendment 796
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) to lay down procedures for the selection of undertakings to which individual rights of use for radio frequencies or numbers *shall* be granted by the national regulatory authorities, where appropriate in accordance with the provisions of Article 6b.

(f) to lay down procedures for the selection of undertakings ***providing pan-European networks or electronic communications services*** to which individual rights of use for radio frequencies or numbers *will* be granted by the national regulatory authorities, where appropriate in accordance with the provisions of Article 6b.

Justification

The scope of the article is far too open. Moreover, the wording is not in line with the principle of checks and balances.

Amendment 797
Gianni De Michelis

Proposal for a directive – amending act
Article 3 – point 5
Directive 2002/20/EC
Article 6a – paragraph 1 – subparagraph 2

Text proposed by the Commission

The measures listed in points (a) to (d) and (f), 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 14a(3). On imperative grounds of urgency, the Commission may *use* the urgency procedure referred to in Article 14a(4).

Amendment

The measures listed in points (a) to (d) and (f), 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 14a(3). On imperative grounds of urgency, the Commission may *have recourse to* the urgency procedure referred to in Article 14a(4). ***The Commission shall adopt those measures taking the utmost account of the assessment by the relevant technical and standardization organizations and after consultation with interested parties.***

Amendment 798
Erna Hennicot-Schoepges

Proposal for a directive – amending act
Article 3 – point 5
Directive 2002/20/EC
Article 6a – paragraph 1 – subparagraph 2

Text proposed by the Commission

The measures listed in points **(a) to (d) and (f)**, 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 14a(3). ***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 14a(4).***

Amendment

The measures listed in points **(a) and (b)**, 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 14a(3).

Or. en

Justification

EU harmonisation of conditions for grant of individual spectrum rights and general authorisations may facilitate wireless services deployment and promote investment and innovation to benefit end-users; if conforming with 2002 Radio Spectrum Decision. It is not appropriate or proportionate for the Commission to have power or responsibility to select undertakings to benefit from spectrum rights.

Amendment 799
Herbert Reul

Proposal for a directive – amending act
Article 3 – point 5
Directive 2002/20/EC
Article 6a – paragraph 1 – subparagraph 2

Text proposed by the Commission

The measures listed ***in points (a) to (d) and (f)***, 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 14a(3). ***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 14a(4).***

Amendment

The measures listed ***in the first subparagraph***, 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 14a(3).

Or. en

Justification

All implementing measures under Article 6a (harmonisation) should be adopted according to the regulatory procedure with scrutiny. The urgency procedure is not justified for the adoption of these measures.

Amendment 800

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 1 – subparagraph 2

Text proposed by the Commission

The measures listed in ***points (a) to (d) and (f)***, 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 14a(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 14a(4).

Amendment

The measures listed in ***the previous paragraph***, 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 14a(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 14a(4)..

Or. es

Amendment 801

Hannes Swoboda

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6a – paragraph 2 – subparagraph 2

Text proposed by the Commission

2. The Commission shall assess the justification for the request, taking into account the specific situation in the Member State, and may grant a partial

Amendment

deleted

exemption or temporary derogation or both provided this does not unduly defer the implementation of the implementing measures referred to in paragraph 1 or create undue differences in the competitive or regulatory situations between Member States.

Or. en

Amendment 802
Hannes Swoboda

Proposal for a directive – amending act
Article 3 – point 5
Directive 2002/20/EC
Article 6a – paragraph 3

Text proposed by the Commission

Amendment

3. In implementing the provisions of this Article, the Commission may be assisted by the European Electronic Communications Market Authority (hereinafter referred to as ‘the Authority’). The Commission shall take the utmost account of the opinion of the Authority, if any, submitted in accordance with Article 11 of Regulation [].

deleted

Or. en

Amendment 803
Erna Hennicot-Schoepges

Proposal for a directive – amending act
Article 3 – point 5
Directive 2002/20/EC
Article 6a – paragraph 3

Text proposed by the Commission

Amendment

3. In implementing the provisions of this Article, the Commission *may be assisted*

3. In implementing the provisions of this Article, the Commission shall take the

by the European Electronic Communications Market Authority (hereinafter referred to as 'the Authority'). The Commission shall take the utmost account of the opinion of the Authority, if any, submitted in accordance with Article 11 of Regulation [].

utmost account of *national frequency allocation plans and the ITU Radio Regulations.*

Or. en

Amendment 804
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Article 3 – point 5
Directive 2002/20/EC
Article 6a – paragraph 3

Text proposed by the Commission

3. In implementing the provisions of this Article, the Commission may be assisted by the *European Electronic Communications Market Authority (hereinafter referred to as 'the Authority')*. The Commission shall take the utmost account of the opinion of the *Authority, if any, submitted in accordance with Article 11 of Regulation []*.

Amendment

3. In implementing the provisions of this Article, the Commission may be assisted by the **BERT**. The Commission shall take the utmost account of the opinion of the **BERT**.

Or. es

Amendment 805
Hannes Swoboda

Proposal for a directive – amending act
Article 3 – point 5
Directive 2002/20/EC
Article 6b

Article 6 b

deleted

Common selection procedure for issuing rights

1. The technical implementing measure referred to in paragraph 6a(1)(f) may provide for the Authority to make proposals for the selection of undertaking(s) to which individual rights of use for radio frequencies or numbers are to be granted, in accordance with Article 12 of Regulation [...].

In such cases, the measure shall specify the period within which the Authority shall complete the selection, the procedure, rules and conditions applicable to the selection, and details of any charges and fees to be imposed on the holders of rights for use of radio frequencies and/or numbers, in order to ensure the optimal use of spectrum or numbering resources. The selection procedure shall be open, transparent, non-discriminatory and objective.

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

Or. en

Amendment 806
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6b – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The technical implementing measure referred to in paragraph 6a(1)(f) may provide for the Authority to make proposals for the selection of *undertaking(s)* to which individual rights of use for radio frequencies or numbers are to be granted, in accordance with Article 12 of Regulation [...].

Amendment

1. The technical implementing measure referred to in paragraph 6a(1)(f) may provide for the Authority to make proposals for the selection of *the undertaking or undertakings providing pan-European networks or electronic communications services* to which individual rights of use for radio frequencies or numbers are to be granted, in accordance with Article 12 of Regulation [...].

Or. en

Justification

Article 6 b is not in line with the principle of subsidiarity. It is important to ensure that Member States' competences regarding frequencies are not undermined by new centralized procedures at EU level. Insofar it is appropriate to refer this article to pan-European services.

Amendment 807
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act

Article 3 – point 5

Directive 2002/20/EC

Article 6b – paragraph 2

Text proposed by the Commission

2. Taking the utmost account of the opinion of the Authority, the Commission shall adopt a measure selecting the *undertaking(s)* to which individual rights of use for radio frequencies or numbers

Amendment

2. Taking the utmost account of the opinion of the Authority, the Commission shall adopt a measure selecting the *undertaking or undertakings providing pan-European networks or electronic*

shall be issued. The measure shall specify the time within which such rights of use shall be issued by the national regulatory authorities. In so doing, the Commission shall act in accordance with the procedure referred to in Article 14a(2).

communications services to which individual rights of use for radio frequencies or numbers shall be issued. The measure shall specify the time within which such rights of use shall be issued by the national regulatory authorities. In so doing, the Commission shall act in accordance with the procedure referred to in Article 14a(2).

Or. en

Justification

Article 6 b is not in line with the principle of subsidiarity. It is important to ensure that Member States' competences regarding frequencies are not undermined by new centralized procedures at EU level. Insofar it is appropriate to refer this article to pan-European services.

Amendment 808

Rebecca Harms

Proposal for a directive – amending act

Article 3 – point 8 – point a

Directive 2002/20/EC

Article 10 – paragraph 3 – subparagraph 2

Text proposed by the Commission

In this regard, Member States shall empower the relevant authorities to impose financial penalties where appropriate. ***The measures and the reasons on which they are based shall be communicated to the undertaking concerned without delay and shall stipulate a reasonable period for the undertaking to comply with the measure.***

Amendment

In this regard, Member States shall empower the relevant authorities to impose:

(a) dissuasive financial penalties where appropriate, ***which may include periodic penalties having retroactive effect; and***

(b) orders to cease provision of a service or bundle which would result in a significant detriment to competition, pending compliance with access obligations imposed following a market

Justification

The amendment proposes two explicit enforcement powers which are currently available to some, but not all regulators and which have proved useful in aiding enforcement. In particular, the ability to prevent a dominant operator from launching a service which would foreclose competition before access is made available to allow all to enter on a level playing field is important in ensuring that markets can be competitive (rather than monopolised) from the outset, which tends to boost roll-out and lower prices.

Amendment 809

Gabriele Albertini, Aldo Patriciello, Pia Elda Locatelli

Proposal for a directive – amending act

Article 3 – point 8 – point a

Directive 2002/20/EC

Article 10 – paragraph 3 – subparagraph 2

Text proposed by the Commission

In this regard, Member States shall empower the relevant authorities to impose financial penalties where appropriate. ***The measures and the reasons on which they are based shall be communicated to the undertaking concerned without delay and shall stipulate a reasonable period for the undertaking to comply with the measure.***

Amendment

In this regard, Member States shall empower the relevant authorities to impose:

- (a) dissuasive*** financial penalties where appropriate, ***which may include periodic penalties having retroactive effect; and***
- (b) orders to cease provision of a service or bundle which would result in a significant detriment to competition, pending compliance with access obligations imposed following a market analysis under Article 16.***

Justification

The amendment proposes two explicit enforcement powers which are currently available to some, but not all regulators and which have proved useful in aiding enforcement. In particular, the ability to prevent a dominant operator from launching a service which would foreclose competition before access is made available to allow all to enter on a level playing field is important in ensuring that markets can be competitive (rather than monopolised) from the outset, which tends to boost roll-out and lower prices.

Amendment 810

Gabriele Albertini, Aldo Patriciello, Pia Elda Locatelli

Proposal for a directive – amending act

Article 3 – point 8 – point c

Directive 2002/20/EC

Article 10 – paragraph 5

Text proposed by the Commission

In cases of serious **and** repeated breaches of the conditions of the general authorisation or of the rights of use, or specific obligations referred to in Article 6(2), where measures aimed at ensuring compliance as referred to in paragraph 3 of this Article have failed, national regulatory authorities may prevent an undertaking from continuing to provide electronic communications networks or services or suspend or withdraw rights of use. Sanctions and penalties which are effective, proportionate and dissuasive may be applied to cover the period of any breach, even if the breach has subsequently been rectified.

Amendment

In cases of serious **or** repeated breaches of the conditions of the general authorisation or of the rights of use, or specific obligations referred to in Article 6(2), where measures aimed at ensuring compliance as referred to in paragraph 3 of this Article have failed, national regulatory authorities may prevent an undertaking from continuing to provide electronic communications networks or services or suspend or withdraw rights of use. Sanctions and penalties which are effective, proportionate and dissuasive may be applied to cover the period of any breach, even if the breach has subsequently been rectified.

Or. en

Amendment 811

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 8 – point d

Directive 2002/20/EC

Article 10 – paragraph 6

Text proposed by the Commission

6. Irrespective of the provisions of paragraphs 2, 3 and 5, where the relevant authority has evidence of a breach of the conditions of the general authorisation rights of use or specific obligations referred to in Article 6(2) that represents an immediate and serious threat to public safety, public security or public health or will create serious economic or operational problems for other providers or users of electronic communications networks or services, it may take urgent interim measures to remedy the situation in advance of reaching a final decision. The undertaking concerned shall thereafter be given a reasonable opportunity to state its views and propose any remedies. Where appropriate, the relevant authority may confirm the interim measures, which shall be valid for a maximum of 3 months.

Amendment

6. Irrespective of the provisions of paragraphs 2, 3 and 5, where the relevant authority has evidence of a breach of the conditions of the general authorisation rights of use or specific obligations referred to in Article 6(2) that represents an immediate and serious threat to public safety, public security or public health or will create serious economic or operational problems for other providers or users of electronic communications networks or services, it may take urgent interim measures to remedy the situation in advance of reaching a final decision. The undertaking concerned shall thereafter be given a reasonable opportunity to state its views and propose any remedies. Where appropriate, the relevant authority may confirm the interim measures, which shall be valid for a maximum of 3 months, ***with the possibility of extension for another 3 months should the implementation procedure not have been completed.***

Or. es

Amendment 812

Mary Honeyball

Proposal for a directive – amending act

Article 3 – point 9a (new)

Directive 2002/20/EC

Article 11 – paragraph 1 – subparagraph 1 – point fa (new)

Text proposed by the Commission

Amendment

(9a) In Article 11, paragraph 1, subparagraph 1, the following point is added:

"(fa) encouraging the efficient use and ensuring the effective management of radio frequencies."

Justification

Spectrum trading encourages spectrum efficiency and should eliminate spectrum hoarding. However accurate figures on spectrum usage from undertakings would help BERT and NRAs accurately assess spectrum usage.

Amendment 813
Gianni De Michelis

Proposal for a directive – amending act

Article 3 – point 13

Directive 2002/20/EC

Article 17 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 9a of Directive 2002/21/EC (Framework Directive), Member States shall bring authorisations already in existence on 31 December 2009 into conformity with Articles 5, 6, 7, and Annex I of this Directive by **[31 December 2010] at the latest.**

Amendment

1. Without prejudice to Article 9a of Directive 2002/21/EC (Framework Directive), Member States shall bring authorisations already in existence on 31 December 2009 into conformity with Articles 5, 6, 7, and Annex I of this Directive by ...*.

*** Five years from the date of transposition of this Directive.**

Justification

The transition from the current spectrum management regime to a new one is critical to many industry sectors, and a cautious approach should be taken. In order to properly deal with legacy issues for licence holders who currently possess long-term licences which are valid long beyond the current proposed date, it is unsuitable for the review periods to be so short. This undermines the important investments made under the current system of licensing. We deem it opportune to link the obligation on member States to bring existing licenses into conformity with the new regime to the timing of the regulatory review.

Amendment 814
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 13

Directive 2002/20/EC

Article 17 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 9a of Directive 2002/21/EC (Framework Directive), Member States shall bring authorisations already in existence on **31 December 2009** into conformity with Articles 5, 6, 7, and Annex I of this Directive by **[31 December 2010]** at the latest.

Amendment

1. Without prejudice to Article 9a of Directive 2002/21/EC (Framework Directive), Member States shall bring **general** authorisations **and rights of use** already in existence on **[date of transposition]** into conformity with Articles 5, 6, 7, and Annex I of this Directive by **[two years after entry into force]** at the latest.

Or. es

Amendment 815
Gianni De Michelis

Proposal for a directive – amending act

Article 3 – point 13

Directive 2002/20/EC

Article 17 – paragraph 2

Text proposed by the Commission

2. Where application of paragraph 1 results in a reduction of the rights or an extension of the obligations under authorisations already in existence, Member States may extend the validity of those rights and obligations **till [30 September 2011] at the latest**, provided that the rights of other undertakings under Community law are not affected thereby. Member States shall notify such extensions to the Commission and state the reasons *therefore*.

Amendment

2. Where application of paragraph 1 results in a reduction of the rights or an extension of the obligations under authorisations already in existence, Member States may extend the validity of those rights and obligations **for a further year**, provided that the rights of other undertakings under Community law are not affected thereby. Member States shall notify such extensions to the Commission and state the reasons *therefor*.

Or. en

Justification

The transition from the current spectrum management regime to a new one is critical to many industry sectors, and a cautious approach should be taken. In order to properly deal with legacy issues for licence holders who currently possess long-term licences which are valid long beyond the current proposed date, it is unsuitable for the review periods to be so short. This undermines the important investments made under the current system of licensing. We deem it opportune to link the obligation on member States to bring existing licenses into conformity with the new regime to the timing of the regulatory review.

Amendment 816

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Article 3 – point 13

Directive 2002/20/EC

Article 17 – paragraph 2

Text proposed by the Commission

2. Where application of paragraph 1 results in a reduction of the rights or an extension of the obligations under authorisations already in existence, Member States may extend the validity of those rights and obligations till [30 September 2011] at the latest, provided that the rights of other undertakings under Community law are not affected thereby. Member States shall notify such extensions to the Commission and state the reasons therefore.

Amendment

2. Where application of paragraph 1 results in a reduction of the rights or an extension of the obligations under ***general*** authorisations ***or rights of use*** already in existence, Member States may extend the validity of those rights and obligations till [***date of transposition***] at the latest, provided that the rights of other undertakings under Community law are not affected thereby. Member States shall notify such extensions to the Commission and state the reasons therefore.

Or. es

Amendment 817

Gianni De Michelis

Proposal for a directive – amending act

Annex I – point 3 – point a

Directive 2002/20/EC

Annex I – part A – point 4

Text proposed by the Commission

4. Accessibility of numbers from the national numbering plan to end-users, **numbers from ETNS and UIFN, and** conditions in conformity with Directive 2002/22/EC (Universal Service Directive).

Amendment

4. Accessibility of numbers from the national numbering plan to end-users **and global international numbering schemes managed by ITU-T and ETNS, including** conditions in conformity with Directive 2002/22/EC (Universal Service Directive).

Or. en

Justification

The Commission's proposal should be based on real market demand and needs. Concerning ETNS, it is important to stress that these numbers are needed only in case of provision of pan-European services, provided on the basis of commercial agreements between undertakings based in different member States.

Amendment 818

Catherine Trautmann

Proposal for a directive – amending act

Annex I – point 3 – point a

Directive 2002/20/EC

Annex I – part A – point 4

Text proposed by the Commission

4. Accessibility of numbers from the national numbering **plan** to end-users, numbers from ETNS and UIFN, and conditions in conformity with Directive 2002/22/EC (Universal Service Directive).

Amendment

4. Accessibility of numbers from the national numbering **plans of Member States** to end users, numbers from ETNS and UIFN, and conditions in conformity with Directive 2002/22/EC (Universal Service Directive).

Or. en

Justification

Cross-border access to numbers is required for the internal market.

Amendment 819
Stefano Zappalà

Proposal for a directive – amending act
Annex I – point 3 – point a
Directive 2002/20/EC
Annex I – part A – point 4

Text proposed by the Commission

4. Accessibility of numbers from the national numbering *plan* to end-users, numbers from ETNS and UIFN, and conditions in conformity with Directive 2002/22/EC (Universal Service Directive).

Amendment

4. Accessibility of numbers from the national numbering *plans of Member States* to end-users, numbers from ETNS and UIFN, and conditions in conformity with Directive 2002/22/EC (Universal Service Directive).

Or. en

Justification

Cross-border access to numbers is required for the internal market. This change is consistent with the proposed changes to Article 28 of the Universal Service Directive.

Amendment 820
Lambert van Nistelrooij

Proposal for a directive – amending act
Annex I – point 3 – point g
Directive 2002/20/EC
Annex I – part A – point 19

Text proposed by the Commission

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

Amendment

deleted

Or. en

Justification

It would be more efficient and welcome if discussion on the protection of copyright and

related issues on electronic communications networks would be dealt with within the Content Online consultation. This initiative intends to create the right environment for a dialogue where all stakeholders from across the electronic value chain can work together to find solutions that are based on self-regulation and will be supported by all stakeholders.

Amendment 821
Paul Rübiger

Proposal for a directive – amending act
Annex I – point 3 – point ga (new)
Directive 2002/20/EC
Annex I – part A – point 19a (new)

Text proposed by the Commission

Amendment

(ga) The following point is added:

"19a. Transparency obligations on public communications network providers to ensure end-to-end connectivity, including unrestricted access to content, services and applications, in conformity with the objectives and principles set out in Article 8 of Directive 2002/21/EC, disclosure regarding restrictions on access to services and applications and regarding traffic management policies and, where necessary and proportionate, access by national regulatory authorities to such information needed to verify the accuracy of such disclosure."

Or. en

Justification

The existing set of conditions do not explicitly include transparency obligations for the purpose of ensuring that end-user access rights are protected. It is particularly important that NRAs have enough information to evaluate public communications networks providers' compliance with their obligations to permit end-users to have access to content, services and applications of their choice. The general authorisation conditions provide a mechanism for ensuring transparency among communications network providers that do not have significant market power.

Amendment 822
Dominique Vlasto, Erna Hennicot-Schoepges

Proposal for a directive – amending act
Annex I – point 4 – point a
Directive 2002/20/EC
Annex I – part B – point 1

Text proposed by the Commission

1. Obligation to provide a service or to use a type of technology for which the rights of use for the frequency has been granted, including, where appropriate, coverage requirements.

Amendment

1. Obligation to provide a service or to use a type of technology for which the rights of use for the frequency has been granted, including, where appropriate, ***exclusive use of a frequency for broadcasting specific audiovisual content or services and*** coverage requirements.

Or. fr

Justification

Exclusive use of a frequency for a broadcasting service should still be possible. Effective frequency use could be a condition attached to rights of use.

Amendment 823
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Annex I – point 4 – point a
Directive 2002/20/EC
Annex I – part B – point 1

Text proposed by the Commission

1. Obligation to provide a service or to use a type of technology for which the rights of use for the frequency has been granted, including, where appropriate, coverage requirements.

Amendment

1. Obligation to provide a service or to use a type of technology for which the rights of use for the frequency has been granted, including, where appropriate, coverage ***and quality*** requirements.

Or. es

Amendment 824
Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act
Annex I – point 4 – point c
Directive 2002/20/EC
Annex I – part B – point 4

Text proposed by the Commission

Amendment

(c) In point 4 the terms ‘subject to any changes in the national frequency plan’ are deleted.

deleted

Or. es

Amendment 825
Lambert van Nistelrooij

Proposal for a directive – amending act
Annex I – point 4 – point d
Directive 2002/20/EC
Annex I – part B – point 7

Text proposed by the Commission

Amendment

7. Voluntary commitments which the undertaking obtaining the usage right has made in the course of a competitive or comparative selection procedure.

7. Voluntary commitments which the undertaking obtaining the usage right has made in the course of a competitive or comparative selection procedure. ***If such a commitment corresponds de facto to one or more of the obligations listed in Articles 9 to 13a of Directive 2002/19/EC, that commitment shall be considered as having expired by 1 January 2010 at the latest.***

Or. en

Justification

Regulatory obligations shall only be imposed on undertakings with significant power in a market justifying ex ante regulation. Prior to the 2002 framework, the obtainment of usage rights had sometimes been made conditional upon 'voluntary commitment' by new entrants

which corresponded to such regulatory obligations (non-discrimination obligations etc). To avoid perpetuated regulation irrespective of market power, such 'voluntary commitments' shall be regarded to be expired after a transition period.

Amendment 826

Mary Honeyball

Proposal for a directive – amending act

Annex I – point 4a (new)

Directive 2002/20/EC

Annex I – part C – point 1

Text proposed by the Commission

Amendment

(4a) In Part C, point 1 is replaced by the following:

"1. Designations of service for which the number shall be used, including any requirements linked to the provision of that service and, for the avoidance of doubt, tariff principles and maximum prices that can apply to specific number ranges for the purposes of ensuring consumer protection in accordance with Article 8(4)(b) of Directive 2002/21/EC (Framework Directive)."

Or. en

Justification

Specific number ranges refer to particular types of service (free phone, national rate, local rate). It is important that NRAs can ensure that the charges operators levy for these services are within the range expected by customers. For example, customers could reasonably expect a (non-geographic) national rate number to be charged at their normal national rate.

Amendment 827

Francisca Pleguezuelos Aguilar

Proposal for a directive – amending act

Annex II

Directive 2002/20/EC

Annex II

Text proposed by the Commission

Amendment

The following Annex II is added to Directive 2002/20/EC (Authorisation Directive):

deleted

Or. es

Justification

Consistency with the deletion of Article 6a(d) as mentioned.

Amendment 828

Lambert van Nistelrooij

Proposal for a directive – amending act

Annex II

Directive 2002/20/EC

Annex II

Text proposed by the Commission

Amendment

The following Annex II is added to Directive 2002/20/EC (Authorisation Directive):

deleted

Or. en

Justification

This is consistent with the amendment to the proposed articles 6a and 6b of the Authorisation Directive.

Amendment 829

Mary Honeyball

Proposal for a directive – amending act

Annex II

Directive 2002/20/EC

Annex II – point 1 – point d

Text proposed by the Commission

Amendment

(d) the method of determining usage fees for the right of use of the radio frequencies;

(d) the method of determining usage fees for the right of use of the radio frequencies, ***without prejudice to systems defined by Member States where the obligation to pay usage fees is replaced by an obligation to fulfil specific general interest objectives;***

Or. en

Justification

It must remain possible for Member States to maintain or introduce systems where the obligation to pay usage fees is replaced by an obligation to fulfil specific general interest objectives. Such systems are commonplace with regard to terrestrial broadcastings frequencies where they serve media pluralism objectives.

Amendment 830
Anne Laperrouze

Proposal for a directive – amending act
Annex II
Directive 2002/20/EC
Annex II – point 1 – point d

Text proposed by the Commission

Amendment

(d) the method of determining usage fees for the right of use of the radio frequencies;

(d) (d) the method of determining usage fees for the right of use of the radio frequencies, ***without prejudice to the mechanisms provided for by the Member States with a view to replacing the user rights obligation by an obligation to meet specific general interest objectives;***

Or. fr

Justification

Member States should be allowed to keep the option of retaining or introducing mechanisms for replacing the user rights obligation by an obligation to meet specific general interest objectives. Such mechanisms, which serve the objectives of media pluralism, correspond to

usual practice in the context of frequency allocation for land broadcasting.