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REPORT

on the Eighth Report from the Commission on the implementation of the
Telecommunications Regulatory Package
(COM(2002) 695 - 2003/2090(INI))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Nicholas Clegg

PR_INI

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PROCEDURAL PAGE

By letter of 3 December 2002 the Commission forwarded to Parliament its Eighth Report on the implementation of the Telecommunications Regulatory Package (COM(2002) 695), which had been referred to the Committee on Industry, External Trade, Research and Energy.

At the sitting of 15 May 2003 the President of Parliament announced that the Committee on Industry, External Trade, Research and Energy had been authorised to draw up an own-initiative report on the subject under Rules 47(2) and 163 and the Committee on Legal Affairs and the Internal Market had been asked for its opinion.

The Committee on Industry, External Trade, Research and Energy appointed Nicholas Clegg rapporteur at its meeting of 23 January 2003.

The committee considered the draft report at its meetings of 7 October and 4 November 2003.

At the last meeting it adopted the draft resolution by 33 votes to 1, with 2 abstentions.

The following were present for the vote Luis Berenguer Fuster (chairman), Jaime Valdivielso de Cué (vice-chairman), Yves Piétrasanta (vice-chairman), Nicholas Clegg (rapporteur), Konstantinos Alyssandrakis, Per-Arne Arvidsson (for Guido Bodrato), Sir Robert Atkins, Ward Beysen, Gérard Caudron, Giles Bryan Chichester, Willy C.E.H. De Clercq, Concepció Ferrer, Francesco Fiori (for Umberto Scapagnini), Norbert Glante, Michel Hansenne, Malcolm Harbour (for W.G. van Velzen), Hans Karlsson, Bashir Khanbhai, Rolf Linkohr, Caroline Lucas, Erika Mann, Marjo Matikainen-Kallström, Eryl Margaret McNally, Ana Clara Maria Miranda de Lage, Elizabeth Montfort, Angelika Niebler, Reino Paasilinna, Paolo Pastorelli, Godelieve Quisthoudt-Rowohl, Imelda Mary Read, Christian Foldberg Røvsing, Paul Rübig, Esko Olavi Seppänen, Claude Turmes, Alejo Vidal-Quadras Roca and Olga Zrihen Zaari.

The opinion of the Committee on Legal Affairs and the Internal Market is attached.

The report was tabled on 4 November 2003.

DRAFT EUROPEAN PARLIAMENT RESOLUTION

on the Eighth Report from the Commission on the implementation of the Telecommunications Regulatory Package (COM(2002) 695 - 2003/2090(INI))

The European Parliament,

- having regard to the 8th report from the Commission on the implementation of the telecommunications regulatory package (COM(2002) 695),
 - having regard to the communication from the Commission "electronic communications: the road to knowledge economy" (COM(2003) 65),
 - having regard to Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)¹,
 - having regard to Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)²,
 - having regard to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive),³
 - having regard to Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)⁴,
 - having regard to the conclusions of the Lisbon European Council of 23 and 24 March 2000, SN 100/1/00,
 - having regard to Rules 47(2) and 163 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, External Trade, Research and Energy and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0376/2003),
- A. whereas those countries who fail to implement the new regulatory framework are missing a unique opportunity to set the standards in a developing market,
- B. whereas the adoption of the Electronic Regulatory Framework represents a major boost for European competitiveness,
- C. whereas the continued drive towards a fully competitive, open market, promises

¹ OJ L 108, 24.4.2002, p. 7

² OJ L 108, 24.4.2002, p. 21

³ OJ L 108, 24.4.2002, p. 33

⁴ OJ L 108, 24.4.2002, p. 51

continued consumer and economic benefits by stimulating investment, innovation and quality services delivered at lower prices,

- D. whereas failure to transpose the new regulatory framework on time undermines the objectives of the Lisbon Agenda to which all Member States signed up in 2001,
- E. whereas the 'old' problems in the sector, including international roaming tariffs and mobile call termination tariffs, but also number portability, have still not been solved; whereas new problems have subsequently arisen, such as the delay in 3G roll-out, and, in particular, in the development of new services and applications for use with 3G,
- F. whereas any delay in implementation of the new regulatory framework would hold up the development of competition and its benefits to consumers,
- G. whereas any delay in implementation of the new regulatory framework will deprive National Regulatory Authorities (NRAs) of the legal powers needed in order to gather information from telecoms operators to conduct market analyses,
- H. whereas any delay in infringement proceedings against those Member States who fail to transpose the new regulatory package would significantly disrupt market development,
- I. whereas numerous reports indicate that incumbent operators continue to dominate some segments of the EU telecoms market,
- J. whereas the quality of telecoms services offered to consumers could still be significantly improved, notably mobile number portability, the range of services available, customer service and waiting times prior to connection,
- K. whereas there is an obligation on telecommunications service providers to recognise the interests of disabled users in relation to choice, price and quality benefits of telecommunications services and their accessibility. Also to require the consultation of Disability representatives by regulators in their assessment of service delivery,
- L. whereas any regulatory obligations on operators should be fair and proportionate, and should be imposed only after the market concerned and the cost-benefit relation of the regulatory measures have been subjected to rigorous analysis, taking into account in particular the development of sustainable competition in infrastructures,
- M. whereas in May 2004 ten new Member States will join the European Union,
- N. whereas the accession countries have committed to fully liberalising their markets and implementing the new regulatory package upon their accession,
- O. whereas there is a lack of reliable and available data on the markets in accession countries,
- P. whereas the role of the European Regulators' Group (ERG) is fundamental in ensuring a consistent regulatory environment across the European Union,
- Q. whereas the interaction between the European Commission and the ERG is crucial to

the successful implementation of telecoms regulation,

- R. whereas it is ultimately the responsibility of the European Commission to ensure that EU legislation is both effective and consistent in application,
- S. whereas progress has been made by Member States in the adoption of the principles set out in the Universal Services and Users' Rights Directive,
1. Congratulates the European Commission on launching proceedings against those Member States who had not transposed the new regulatory package into national law as soon as the two month period for notifying the Commission had passed;
 2. Demands that infringement proceedings against those Member States are completed as quickly as possible;
 3. Calls on the Commission, in taking action against Member States that have not implemented the new directive in good time, not to confine itself simply to bringing infringement proceedings against such Member States, but also to make use of the broader range of instruments that are at its disposal, such for example as issuing official publications and conducting benchmark studies; calls on the Commission to exchange views with the European Parliament on the substance of that broader range of instruments;
 4. Urges the Commission and national supervisors in the European Regulators Group now to commit themselves to definitively solving 'old' problems in the sector, including international roaming tariffs, mobile call termination tariffs and number portability, and then to turn their attention to new questions, in particular joint dominance and the need for cooperation on developing 3G applications and services, so as to maintain competition in the sector;
 5. Emphasises the importance of a consistent and certain legal framework across the whole of the enlarged EU if new entrants to the communications sector are to be encouraged; calls upon the Member States and their NRAs to give high priority to achieving consistent treatment of market players based on clear competition-law principles; calls on NRAs to maintain proportionate and fair competitive regulatory pressure on the markets;
 6. Calls on the Commission to clarify the direct effect, if any, of the core provisions of the new framework, including the procedural and substantive provisions, so that interested parties have some clarity on the extent to which these can be relied on and the rights available to them are made effective;
 7. Calls on NRAs to act when short-term price reductions by incumbents inhibit the development of competitive market conditions in the long-term;
 8. Calls on NRAs to provide solid evidence to justify any regulatory obligations they impose, including an analysis of both the long and short-term effects of the proposed regulatory action;
 9. Recalls that facilities based competition in which competition service providers invest

in their own infrastructure generally yields better results for consumers and lays the foundations for sustainable competition; stresses, therefore, that the emphasis on access based competition (e.g. resale, local loop unbundling, bit-stream access) should not be regarded as an end in itself but as a route to fuller facilities based competition in the telecoms sector;

10. Reminds NRAs that they should impose appropriate obligations on the retail market only if obligations imposed at wholesale level are not sufficient to bring about competition at retail level (Art 17 Universal Service Directive), and considers that the observance of this regulatory principle must be closely monitored by the ERG and the Commission;
11. The Commission is encouraged to ensure that proprietary standards will not become control mechanisms that prevent interoperability and thus expansion of services in the Internal Market;
12. Notes that the new framework envisages that the old regulatory framework can persist for as long as non-competitive market conditions prevail, which will be especially relevant to the accession countries; stresses, however, that NRAs in accession countries require detailed assistance in making the transition from one regulatory framework to the other as soon as possible;
13. Calls on the European Commission to collate information on the state of play in the accession countries and their readiness to implement the new framework and to keep the European Parliament fully informed. The Commission should also set out what technical assistance will be made available to facilitate implementation in cases where countries are unlikely to meet the requirements;
14. Stresses that, as stated in Recital 15 of the Recommendation on relevant markets, new and emerging markets, in which market power may be found to exist because of "first mover" advantages, should not in principle be subject to ex-ante regulation, even though it is not always easy to agree on a clear definition of what emerging markets are;
15. Stresses that the ERG should remain fully independent and that no Ministries should be members of the Group;
16. Insists that NRAs are fully independent, should be properly resourced and have the necessary powers to carry out their functions and are capable of taking a proactive role so as to stimulate sector competition;
17. Calls on the European Commission to take a forward looking and highly active role in the way in which the ERG interprets its regulatory tasks;
18. Welcomes efforts by the ERG to consult stakeholders;
19. Welcomes the work being undertaken by the EU Inclusive Communication group INCOM to put forward recommendations on how the provisions of the telecommunications legislation must fulfil the accessibility provisions for disabled consumers and calls for such recommendations to include clear and ambitious targets

- and timeframes for implementation together with effective monitoring instruments;
20. Urges the ERG to take further steps to involve all stakeholders in as full and transparent a manner as possible;
 21. Insists that all Member States review their judicial processes for handling, with speed, effectiveness and expertise, cases referred to them by plaintiffs or NRAs under the remit of the new framework legislation;
 22. Notes that the membership and mandates of the ERG and IRG overlap to a significant degree; considers it essential that any duplication of scarce administrative resources and effort should be avoided; to that end, recommends that a progressive merger of the ERG and IRG should be agreed;
 23. Notes the importance of speedy determination of appeals against NRAs decisions; requests all member States to ensure that they have effective dispute resolution procedures in place ; notes that the Commission should monitor dispute resolution timetables and include performance against targets in future implementation reports;
 24. Considers that, in order to encourage consistent jurisprudence in a complex, technological driven sector, Member States courts should be encouraged to co-operate through sharing case experiences and information: asks the Commission to consider measures in this area including the possibility of an information network dedicated to communications cases;
 25. Strongly reminds all parties that, in the case of the communications sector, "justice delayed is justice denied", emphasises the importance of speedy access to and determination of judicial referrals;
 26. Notes that reasonable progress has been made in Member States with adoption of the key principles set out in the Universal Service and Users' Rights Directive;
 27. Remains concerned about inconsistencies in the allocating of universal service funding;
 28. Insists that universal service funding is properly justified and non-discriminatory and is allocated via a transparent tendering process not least to encourage those operators with the most appropriate technological solutions to providing universal service;
 29. Reminds NRAs that centrally-funded universal service provision must be opened to all operators, not just incumbents, and that in a number of regions mobile service operators and all other relevant operators must be allowed to tender to provide universal service; it should be noted that the scope of the new directive expressly includes all electronic services;
 30. Notes with disappointment the slow adoption in some Member States' of mandatory provisions in the new framework to improve access for disabled and disadvantaged users and to implement tariff transparency measures;
 31. Calls on the Commission to ensure that regulation specific to particular sectors will

only be used in place of competition law if the criteria laid down for relevant markets in the Commission recommendation have been fulfilled;

32. Emphasises the importance of number portability as a pro-consumer and market opening measure in the mobile sector; notes that the relevant provisions have relatively low take-up in some Member State; requests NRAs to ensure that unnecessary delays or costs in making transfers are not being used to discourage this consumer right;
33. Welcomes the full engagement of stakeholders and the Commission in the working group on caller location standards in mobile telephony; hopes that the group can reach a consensus with NRAs and operators as quickly as possible, so that consumers may gain early benefits;
34. Calls on the European Commission to put pressure on the telecoms operators, especially the incumbents, to put in place networks facilitating consumer and business adoption of the single European code '3883';
35. Reminds NRAs of the provision in the Universal Service and User Rights' Directive concerning tariff transparency and tariff publication and the availability of comparative information to small business customers; the right to receive itemised bills free of charge must specifically be upheld; requests all NRAs to adopt the relevant provisions as soon as possible;
36. Approves the Commission's early decision to encourage the liberalisation of leased-line services as a first decision under the new sector-specific legislation as soon as possible where competitive supply is appropriate;
37. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

Introduction

It is an important time for telecoms in Europe. The sector is emerging from a period of commercial slump and is showing signs of stabilising. EU Member States are in the process of implementing a new regulatory package aiming to liberalise the European telecoms market. In May 2004 the European Union will welcome ten new Member States to its ranks who will also work towards implementing the new framework.

The 1999 Review of the telecoms sector and the new regulatory framework adopted in March 2002 identify fair competition as the driving force to allow new market entrants fair market access and guarantee choice and lower prices for consumers. Whilst market forces are not always applicable in all circumstances to all services of general interest, the telecoms sector stands out as a service which has benefited significantly from market liberalisation. Member States are analysing their markets with a view to withdrawing *ex ante* regulation as soon as markets are found to be competitive. Your Rapporteur considers it essential that this momentum is sustained. The European Union should continue to apply pressure on the Member States in this direction. It is this conviction that underpins your Rapporteur's analysis.

For competition to develop and its benefits to flow to consumers there are certain key requirements:

- The implementation of the new regulatory framework must take place as quickly as possible
- Implementation of the framework must be consistent and transparent across all EU Member States
- A careful balance must be struck between fair and proportionate regulation and non-intervention

Your Rapporteur is appalled that only five Member States succeeded in meeting the deadline for transposition of the new regulatory package earlier this year on 24th July 2003. Belgium, France, Germany, Greece, Luxembourg, the Netherlands, Portugal and Spain have all yet to transpose the new framework into national law and continue to hold up the liberalisation process. These countries are missing a unique opportunity to set the standards in a developing market. Delay in introducing the new regulatory framework penalises both incumbents who are deprived of the opportunity to expand new services and market entrants wishing to boost the innovation in new services. Until Member States fully implement the framework, National Regulatory Authorities (NRAs) remain powerless to gather information from market players to enable them to carry out market analyses. More importantly, failure to transpose the package on time severely undermines the objectives all governments signed up to at the 2001 Summit in Lisbon pledging to work towards establishing a 'competitive and dynamic knowledge-based economy'. Your Rapporteur urges the European Commission to launch proceedings against these Member States as soon as the two month period for notifying the Commission of timely transposition has passed. It is then crucial that infringement proceedings are completed without delay in order to minimise further disruption to market development.

Incumbents

It has been argued that excessive regulatory intervention is penalising incumbents and discouraging much-needed investment in infrastructure. Your Rapporteur sees no conclusive evidence that incumbents have been harmed by regulation. European Commission data indicates that in July 2003 out of 12.58 million DSL lines in the EU, 77.4% were retailed directly by incumbents. Numerous reports suggest that in most Member States incumbents continue to dominate the market.

Equally, the quality of services provided to consumers could still be significantly improved. The range of services available is still too limited, some customers are forced to wait for long periods before connection and customer service is at times inadequate.

Furthermore, there is evidence that the threat of competition has forced incumbents to up their game and improve the services they offer to consumers. The fact, for instance, that the Regulation on Local Loop Unbundling did not lead to the expected increase in new market entrant activity, disguises the way that incumbents themselves appear to have been provoked into improving the broadband services they offer to customers.

If we wish the quality and diversity of broadband services to continue to improve in the future, it is clearly essential that competitive regulatory pressure is maintained rather than decreased, in keeping with the beneficial effects that such pressure has already yielded for European consumers.

There is a risk that in providing ever lower retail prices to consumers, under pressure from Governments and Regulators, incumbents are squeezing new market entrants out of the market. For consumers to benefit from healthy market conditions in the long-term, it is crucial that NRAs impose regulatory remedies which strike a balance between price reductions for consumers and the need to retain sufficient price margins for a fully competitive market in the long-term.

Regulatory obligations imposed on incumbents should be fair and proportionate. NRAs should provide solid evidence to justify any regulatory obligations they impose, including an analysis of both the long and short-term effects of the proposed regulatory action.

Accession Countries

It is important that the ten new Member States carry through their commitment to fully liberalise their markets and implement the new regulatory framework as soon as possible upon their accession in May 2004. The European Commission has restructured the relevant parts of its Information Society Directorate General to facilitate implementation of the new framework in the accession countries and meets regularly with their representatives to offer guidance on draft transposition laws. Observers from accession countries attend the meetings of the Communications Committee (CoCom).

The 3rd report on EU Candidate Countries (Telecommunication Services Sector), prepared by IBM for the Commission and published in June 2003, notes a lack of reliable data on the state of the markets in accession countries. The report suggests that competition is developing gradually in accession countries and NRAs are established in all countries. However, there are

indications that some new Member States may not have adequate administrative or judicial capacities to meet the objectives of the new regulatory framework. For example, there is little or no competition in the area of local access in most countries and mobile penetration was at an average of 40% in December 2002 (varying from 24% to 85% across the accession countries).

The Commission should provide a report to the European Parliament by the end of February 2004 outlining the state of play in the accession countries and their readiness to implement the new framework. In cases where countries are unlikely to be able to meet the requirements, the Commission should set out what technical assistance will be made available to facilitate implementation.

The Role of Regulators

The role of the ERG is fundamental in ensuring a harmonised approach to regulatory remedies across the EU. To carry out its function properly it is crucial that the Group remains fully independent. Its membership should comprise only of independent regulatory authorities from each Member State. No Ministries should be members of the ERG. NRAs should be properly resourced and have the necessary powers to carry out their functions effectively.

The interaction between the European Commission and the ERG will also be crucial to the successful implementation of telecoms regulation. Whilst the European Commission's role is strictly circumscribed in key areas by the legislation, such as the application of remedies, it is nevertheless necessary for the Commission to take a proactive approach in providing guidance and input to regulators. It is the Commission's ultimate responsibility to ensure that EU legislation is both effective and consistent in application. This will be made considerably harder if the ERG, or national regulators separately, decide to develop interpretations of EU regulation which is either inconsistent or disproportionate to the objectives set out in EU law. That is why the European Parliament, in your Rapporteur's view, should continue to put pressure on the European Commission to take a forward looking and highly active role in the way in which the ERG interprets its regulatory tasks.

Whilst some industry associations have called for greater transparency in the ERG's procedures, your Rapporteur welcomes the efforts already made by the Group to consult stakeholders whilst urging it to take further steps to involve all stakeholders in as full and transparent manner as possible.

Judicial Co-operation

The judicial processes operating in Member States have failed to deal with appeals against NRA decisions in a speedy and effective fashion. It is essential that all Member States are able to deal with such appeals within the four month target specified in EU legislation. Ineffective and inconsistent judicial procedures have the potential to severely hold up the development of the EU telecoms market.

The Commission should monitor this issue and include performance against targets in its future implementation reports. The Commission should consider ways of enhancing Member State co-operation and exchange of best practice in order to minimise divergence of approaches and improve appeals procedures across the EU.

Universal Services

Whilst recognising that progress has been made by Member States in the adoption of the principles set out in the Universal Services and Users' Rights Directive, your Rapporteur remains concerned about inconsistencies in the allocating of universal service funding. It is vital that such funding is properly justified and non-discriminatory and is allocated via a transparent tendering process, not least to encourage those operators with the most appropriate technological solutions to providing universal service.

Your Rapporteur is also disappointed by the slow adoption in some Member States' of mandatory provisions in the new framework to improve access for disabled and disadvantaged users and to implement tariff transparency measures.

13 October 2003

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Industry, External Trade, Research and Energy

on the Eighth Report from the Commission
on the Implementation of the Telecommunications Regulatory Package
(COM(2002) 695 – C5-0208/2003 – 2003/2090(INI))

Draftsman: Malcolm Harbour

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Malcolm Harbour draftsman at its meeting of 18 March 2003.

It considered the draft opinion at its meetings of 10 September 2003, 1 and 7 October 2003.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote Willi Rothley (vice-chairman), Ioannis Koukiadis (vice-chairman), Bill Miller (vice-chairman), Ulla Maija Aaltonen, Paolo Bartolozzi, Maria Berger, Ward Beysen, Michel J.M. Dary, Bert Doorn, Raina A. Mercedes Echerer, Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Fiorella Ghilardotti, José María Gil-Robles Gil-Delgado, Lord Inglewood, Piia-Noora Kauppi (for Kurt Lechner), Klaus-Heiner Lehne, Sir Neil MacCormick, Manuel Medina Ortega, Marcelino Oreja Arburúa (for Rainer Wieland), Anne-Marie Schaffner, Astrid Thors (for Toine Manders), Marianne L.P. Thyssen, Diana Wallis, Joachim Wuermeling and Stefano Zappalà.

SHORT JUSTIFICATION

The electronic communications sector across the EU moves into a crucial phase of its evolution with the roll-out of the new regulatory package, approved by Parliament in December 2001. The transposition deadline for the package, 24 July 2003, has not been met by a significant number of Member States. However, the process of reform and liberalisation is well advanced in all 15 existing Member States and ten Accession countries are also establishing new regulatory mechanisms that conform with the framework requirements.

It is therefore timely for Parliament to produce its view on the progress achieved so far and to indicate the policy areas to which it believes more attention must be given.

The Legal Affairs and Internal Market Committee, which was responsible for Parliament's scrutiny of the universal service and users' rights element of the communications package, is producing this opinion. Your rapporteur, who was also the rapporteur for the Universal Service and Users' Rights Directive, intends to focus the committee's opinion on elements for which the committee was previously responsible. He also addresses issues of jurisprudence, at Member State and EU level, and the need for speedy access to dispute-resolution procedures in a sector in which delays can have serious commercial impacts.

CONCLUSIONS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following points in its motion for a resolution:

Implementation of the New Framework

1. Calls upon Member States to adopt the provisions of the new electronic communications legislative package without delay; in particular to ensure that their National Regulatory Authorities (NRAs) are fully independent, have delegated regulatory powers, are properly resourced to carry out their functions and are capable of taking a proactive role so as to stimulate sector competition;
2. Emphasises the importance of a consistent and certain legal framework across the whole of the enlarged EU if new entrants to the communications sector are to be encouraged; calls upon the Member States and their NRAs to give high priority to achieving consistent treatment of market players based on clear competition-law principles;
3. The NRAs should use higher evidentiary standards before ex ante regulation is imposed. NRAs should undertake clearly to identify the cost, benefits and the proportionality of all alternative ex ante and ex post remedies available to them in the package. The Commission's role in monitoring this will be essential.
4. The Commission is encouraged to ensure that proprietary standards will not become control mechanisms that prevent interoperability and thus expansion of services in the

Internal Market;

Judicial Framework

5. Insists that all Member States review their judicial processes for handling - with speed, effectiveness and expertise - cases referred to them by plaintiffs or NRAs under the remit of the new framework legislation;
6. Notes the importance of speedy determination of appeals against NRAs' decisions; requests all Member States to ensure that they have effective dispute-resolution procedures in place and that they are capable of dealing with matters within the four-month target specified by the EU legislation; notes that the Commission should monitor dispute-resolution timetables and include performance against targets in future implementation reports;
7. Considers that, in order to encourage consistent jurisprudence in a complex, technology-driven sector, Member States' courts should be encouraged to cooperate through sharing case experience and information; asks the Commission to consider measures in this area including the possibility of an information network dedicated to communications cases;
8. Strongly reminds all parties that, in the case of the communications sector, "justice delayed is justice denied" and emphasises the importance of speedy access to justice and determination of judicial referrals;

Universal Service and Users' Rights

9. Notes that reasonable progress has been made in Member States with adoption of the key principles set out in the Universal Service and Users' Rights Directive;
10. Is concerned, however, that there are still inconsistencies in the application of the universal service funding formula, and reminds Member States that any provision for universal service funding must be properly justified and applied in a non-discriminatory way;
11. Reminds NRAs that centrally-funded universal service provision must be opened to all operators, not just incumbents, and that in a number of regions mobile service operators and all other relevant operators must be allowed to tender to provide universal service; it should be noted that the scope of the new directive expressly includes all electronic services;
12. Reiterates its support for mandatory provisions to improve access for disabled and disadvantaged users, and expresses disappointment at the slow adoption of such provisions in some Member States;
13. Reminds NRAs of the provision in the Universal Service and User Rights' Directive concerning tariff transparency and tariff publication and the availability of comparative information to small business customers; the right to receive itemised

bills free of charge must specifically be upheld; requests all NRAs to adopt the relevant provisions as soon as possible;

14. Approves the Commission's early decision to encourage the liberalisation of leased-line services as a first decision under the new sector-specific legislation as soon as possible where competitive supply is appropriate;
15. Emphasises the importance of number portability as a market-opening measure in the mobile sector; notes that the relevant provision is not yet offered in some Member States and has a relatively low take-up in others; requests NRAs to ensure that unnecessary delays or costs in making transfers are not being used to discourage this consumer right; awaits with interest the Commission's report on the effects which number portability has had on the various types of market.