

# EUROPEAN PARLIAMENT

2004



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*Committee on Budgetary Control*

**2007/0249(COD)**

3.6.2008

## **OPINION**

of the Committee on Budgetary Control

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council  
establishing the European Electronic Communications Market Authority  
(COM(2007)0699– C6-0428/2007 – 2007/0249(COD))

Draftsman: Umberto Guidoni

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## SHORT JUSTIFICATION

In order to promote the development of an effective telecommunications single market in the EU the Commission is proposing a new independent Authority working in close cooperation with the national regulatory authorities (NRAs) and the Commission. The new Authority, accountable to the European Parliament, will include a board of regulators comprising the heads of the national regulatory authorities of all EU Member States.

The new authority will provide expert advice to the Commission, improve consistency in the application of EU rules and act as a centre of expertise for electronic communication networks and services at EU level. The new Authority would also take over the functions of the European Network Security Agency (ENISA), thereby overcoming many of the problems that have been identified in the operation of ENISA.

The proposal provides in Article 38(10) for discharge to be given by the European Parliament.

## AMENDMENTS

The Committee on Budgetary Control calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation Recital 12

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

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

##### *Amendment*

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

assigned to it.

assigned to it.

### *Justification*

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

## **Amendment 2**

### **Proposal for a regulation**

#### **Recital 24**

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

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

##### *Amendment*

(24) **An extended ENISA** should act as a centre of expertise at European level on network and information security issues, providing guidance and advice to the European Parliament, the Commission or competent bodies appointed by the Member States. The security and resilience of communication networks and information systems remain a prime concern for society and a key element in the EU regulatory framework for electronic communications networks and services. The smooth functioning of the internal market risks being undermined by a heterogeneous application of the security related provisions laid down in the Framework Directive and the Specific Directives. The opinion of **ENISA, having an extended mandate, being embedded in both Directorate-General Information Society and Media and Directorate-General Justice, Freedom and Security, and** providing technical advice at the request of the Commission and the Member States should facilitate the consistent application of those directives at national level.

### *Justification*

*ENISA's mandate runs out in 2009 and unless another body takes over its present duties, European Network and information security cannot be monitored and adequately dealt with. Moreover, a second evaluation of ENISA is currently taking place. A definitive decision on ENISA's future should thus await the results of this evaluation.*

### **Amendment 3**

#### **Proposal for a regulation**

#### **Article 1 — paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

**1. An enhanced ERG** is established *as the authority* with the responsibilities laid down in this Regulation.

### *Justification*

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

### **Amendment 4**

#### **Proposal for a regulation**

#### **Article 38 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1a. The Director shall draw up an annual activity report for the Authority, together with a statement of assurance. Those documents shall be made public.**

### *Justification*

*Under the rules currently in force, it is up to each agency director to decide whether or not to draw up an activity report and statement of assurance. Thus some do and some do not. For the sake of consistency, it would be preferable for all directors to do so.*

## Amendment 5

### Proposal for a regulation Article 38 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 38a*

##### *Internal control systems*

*The Internal Auditor of the Commission shall be responsible for auditing the Authority's internal control systems.*

*Justification*

*To clarify the position as to responsibility for auditing.*

## Amendment 6

### Proposal for a regulation Article 39

*Text proposed by the Commission*

*Amendment*

Financial rules applicable to the Authority shall be drawn up by the Administrative Board after consultation with the Commission. Those rules may deviate from Commission Regulation (EC, Euratom) No 2343/2002 if the specific operational needs for the functioning of the Authority so require and **only** with the prior **agreement** of the Commission.

Financial rules applicable to the Authority shall be drawn up by the Administrative Board after consultation with the Commission. Those rules may **only** deviate from Commission Regulation (EC, Euratom) No 2343/2002 if the specific operational needs for the functioning of the Authority so require and with the prior **consent** of the Commission.

*Justification*

*To harmonise the terminology with that of recent proposals on Joint-Undertakings.*

## PROCEDURE

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| <b>Title</b>                                    | European Electronic Communications Market Authority  |
| <b>References</b>                               | COM(2007)0699 – C6-0428/2007 – 2007/0249(COD)  |
| <b>Committee responsible</b>                    | ITRE   |
| <b>Opinion by</b><br>Date announced in plenary  | CONT<br>10.12.2007   |
| <b>Drafts(wo)man</b><br>Date appointed          | Umberto Guidoni<br>22.1.2008   |
| <b>Date adopted</b>                             | 2.6.2008   |
| <b>Result of final vote</b>                     | +: 9<br>-: 2<br>0: 0   |
| <b>Members present for the final vote</b>       | Jean-Pierre Audy, Herbert Bösch, Paulo Casaca, Jorgo Chatzimarkakis, Esther De Lange, Szabolcs Fazakas, Dan Jørgensen, Bogusław Liberadzki, Nils Lundgren, Ashley Mote, José Javier Pomés Ruiz |
| <b>Substitute(s) present for the final vote</b> | Paul Rübzig  |