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Committee on Civil Liberties, Justice and Home Affairs

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AMENDMENTS 53 - 87

Draft opinion
Syed Kamall
(PE404.823v01-00)

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

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

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Amendment 53
Daciana Octavia Sârbu

Proposal for a directive – amending act
Recital 6

Text proposed by the Commission

(6) The independence of the national regulatory authorities should be strengthened in order to ensure a more effective application of the regulatory framework and increase their authority and the predictability of their decisions. To this end, express provision should be made in national law to ensure that, in the exercise of its tasks, a national regulatory authority is protected against external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. Such outside influence makes a national legislative body unsuited to act as a national regulatory authority under the regulatory framework. For that purpose rules should be laid down in advance regarding the grounds for the dismissal of the head of the national regulatory authority in order to remove any reasonable doubt as to the neutrality of that body and its imperviousness to external factors. It is important that national regulatory authorities should have their own budget allowing them, in particular, to recruit a sufficient number of qualified staff. In order to ensure transparency, this should be published annually.

Amendment

(6) The independence of the national regulatory authorities should be strengthened in order to ensure a more effective application of the regulatory framework and increase their authority and the predictability of their decisions. To this end, express provision should be made in national law to ensure that, in the exercise of its tasks, a national regulatory authority is protected against external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. Such outside influence makes a national legislative body unsuited to act as a national regulatory authority under the regulatory framework. For that purpose rules should be laid down in advance regarding the grounds for the dismissal of the head of the national regulatory authority in order to remove any reasonable doubt as to the neutrality of that body and its imperviousness to external factors. ***The reasons for any such dismissal, except those that might affect the image of the institution, must be publicly announced.*** It is important that national regulatory authorities should have their own budget allowing them, in particular, to recruit a sufficient number of qualified staff. In order to ensure transparency, this should be published annually.

Or. en

Amendment 54
Daciana Octavia Sârbu

Proposal for a directive – amending act
Recital 18

Text proposed by the Commission

(18) The current spectrum management and distribution system is generally based on administrative decisions that are insufficiently flexible to cope with technological and economic evolution, in particular with the rapid development of wireless technology and the increasing demand for bandwidth. The undue fragmentation amongst national policies results in increased costs and lost market opportunities for spectrum users, and slows down innovation, to the detriment of the internal market, consumers and the economy as a whole. Moreover, the conditions for access to, and use of, radio frequencies may vary according to the type of operator, while electronic services provided by these operators increasingly overlap, thereby creating tensions between rights holders, discrepancies in the cost of access to spectrum, and potential distortions in the functioning of the internal market.

Amendment

(18) The current spectrum management and distribution system is generally based on administrative decisions that are insufficiently flexible to cope with technological and economic evolution, in particular with the rapid development of wireless technology and the increasing demand for bandwidth. The undue fragmentation amongst national policies results in increased costs and lost market opportunities for spectrum users, and slows down innovation, to the detriment of the internal market, consumers and the economy as a whole. Moreover, the conditions for access to, and use of, radio frequencies may vary according to the type of operator, while electronic services provided by these operators increasingly overlap, thereby creating tensions between rights holders, discrepancies in the cost of access to spectrum, and potential distortions in the functioning of the internal market. ***Operators who obtained the right to use radio frequencies must use them for the period of time prescribed by law, and those who have not used them must be penalised or have their right to use them withdrawn.***

Or. en

Justification

These measures must be taken to avoid the cases in which the operators rent radio frequencies to reduce the number of users and implicitly of the competition.

Amendment 55

Jean-Marie Cavada, Claire Gibault

Proposal for a directive – amending act Recital 22

Text proposed by the Commission

(22) Spectrum users should also be able to freely choose the services they wish to offer over the spectrum subject to transitional measures to cope with previously acquired rights. ***It should be possible for exceptions to the principle of service neutrality which require the provision of a specific service to meet clearly defined general interest objectives such as safety of life, the need to promote social, regional and territorial cohesion, or the avoidance of inefficient use of spectrum to be permitted*** where necessary and proportionate. Those objectives should include the promotion of cultural and linguistic diversity and media pluralism as defined in national legislation in conformity with Community law. Except where necessary to protect safety of life, exceptions should not result in exclusive use for certain services, but rather grant priority so that other services or technologies may coexist in the same band insofar as possible. ***In order that the holder of the authorisation may choose freely the most efficient means to carry the content of services provided over radio frequencies, the content should not be regulated in the authorisation to use radio frequencies.***

Amendment

(22) Spectrum users should also be able to freely choose the services they wish to offer over the spectrum subject to transitional measures to cope with previously acquired rights. ***However, spectrum use may also be expressly assigned for*** the provision of a specific service to meet clearly defined general interest objectives such as safety of life, the need to promote social, regional and territorial cohesion, or the avoidance of inefficient use of spectrum where necessary and proportionate. Those objectives should include the promotion of cultural and linguistic diversity and media pluralism as defined in national legislation in conformity with Community law. Except where necessary to protect safety of life, exceptions should not result in exclusive use for certain services, but rather grant priority so that other services or technologies may coexist in the same band insofar as possible.

Or. fr

Justification

In accordance with recital 5 of the framework directive, separation between regulation of transmission and regulation of content must not prevent account from being taken of the links between the two, in particular to guarantee media pluralism, cultural diversity and consumer protection. Member States must therefore retain the possibility of linking the allocation award

of individual rights for frequency use to obligations concerning provision of particular types of content.

Amendment 56

Jean-Marie Cavada

Proposal for a directive – amending act

Recital 23

Text proposed by the Commission

(23) It lies within the competence of the Member States to define the scope and nature of any exception regarding the promotion of cultural and linguistic diversity and media pluralism in accordance with their own national law.

Amendment

(23) It lies within the competence of the Member States to define the scope and nature of any exception regarding the promotion of ***cultural and media policy objectives, such as, for example,*** cultural and linguistic diversity and media pluralism in accordance with their own national law.

Or. fr

Justification

La simple référence à “la promotion de la diversité culturelle et linguistique et le pluralisme des médias” est trop étroite, car elle ne couvre pas tous les objectifs d’intérêt général que poursuit la politique audiovisuelle, par exemple l’intégration sociale, la protection des consommateurs et la protection des mineurs. Le considérant 6 de la directive-cadre 2002/21/CE reconnaît d’ailleurs que “La politique audiovisuelle et la réglementation en matière de contenu sont mises en oeuvre pour atteindre des objectifs d’intérêt général, tels que la liberté d’expression, le pluralisme des médias, l’impartialité, la diversité culturelle et linguistique, l’intégration sociale, la protection des consommateurs et la protection des mineurs”.

Amendment 57

Syed Kamall

Proposal for a directive – amending act

Recital 31

Text proposed by the Commission

(31) It is necessary to strengthen the powers of the Member States vis-à-vis

Amendment

(31) It is necessary to strengthen the powers of the Member States vis-à-vis

holders of rights of way to ensure the entry or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works. Improving facility sharing can significantly improve competition and lower the overall financial and environmental cost of deploying electronic communications infrastructure for undertakings.

holders of rights of way to ensure the entry or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works, ***where there is a lack of infrastructure competition***. Improving facility sharing can significantly improve competition and lower the overall financial and environmental cost of deploying electronic communications infrastructure for undertakings.

Or. en

Amendment 58
Bill Newton Dunn

Proposal for a directive – amending act
Recital 31

Text proposed by the Commission

(31) It is necessary to strengthen the powers of the Member States vis-à-vis holders of rights of way to ensure the entry or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works. Improving facility sharing can significantly improve competition and lower the overall financial and environmental cost of deploying

Amendment

(31) It is necessary to strengthen the powers of the Member States vis-à-vis holders of rights of way to ensure the entry or roll out of new network in an environmentally responsible way and independently of any obligation on an operator with significant market power to grant access to its electronic communications network. National regulatory authorities should be able to impose, on a case-by-case basis, the sharing of ducts, masts, and antennas, the entry into buildings and a better coordination of civil works, ***where there is a regulatory bottleneck in infrastructure competition***. Improving facility sharing can significantly improve competition and

electronic communications infrastructure for undertakings.

lower the overall financial and environmental cost of deploying electronic communications infrastructure for undertakings.

Or. en

Amendment 59
Syed Kamall

Proposal for a directive – amending act
Recital 33

Text proposed by the Commission

(33) Where there is a need to agree on a common set of security requirements, power *should* be conferred on the Commission to adopt technical implementing measures to achieve an adequate level of security of electronic communications networks and services in the internal market. The Authority should contribute to the harmonisation of appropriate technical and organisational security measures by providing expert advice. National regulatory authorities should have the power to issue binding instructions relating to the technical implementing measures adopted pursuant to the Framework Directive. In order to perform their duties, they should have the power to investigate and to impose penalties in cases of non-compliance.

Amendment

(33) Where there is a need to agree on a common set of security requirements, power *may, after agreement with the national regulatory authorities*, be conferred on the Commission to adopt technical implementing measures to achieve an adequate level of security of electronic communications networks and services in the internal market *where industry-led self-regulatory initiatives have not achieved an adequate level of security in the internal market in one or more Member States*. The Authority should contribute to the harmonisation of appropriate technical and organisational security measures by providing expert advice. National regulatory authorities should have the power to issue binding instructions relating to the technical implementing measures adopted pursuant to the Framework Directive. In order to perform their duties, they should have the power to investigate and to impose penalties in cases of non-compliance.

Or. en

Amendment 60
Bill Newton Dunn

Proposal for a directive – amending act
Recital 33

Text proposed by the Commission

(33) Where there is a need to agree on a common set of security requirements, power should be conferred on the Commission to adopt technical implementing measures to achieve an adequate level of security of electronic communications networks and services in the internal market. The Authority should contribute to the harmonization of appropriate technical and organisational security measures by providing expert advice. National regulatory authorities should have the power to issue binding instructions relating to the technical implementing measures adopted pursuant to the Framework Directive. In order to perform their duties, they should have the power to investigate and to impose penalties in cases of non-compliance.

Amendment

(33) Where there is a need to agree on a common set of security requirements, power should be conferred on the Commission to adopt technical implementing measures to achieve an adequate level of security of electronic communications networks and services in the internal market ***where industry-led self-regulatory initiatives have not achieved an adequate level of security in the internal market in one or more Member States. Where technical implementing measures are deemed necessary, a cost reimbursement scheme at national level is required.*** The Authority should contribute to the harmonization of appropriate technical and organisational security measures by providing expert advice. National regulatory authorities should have the power to issue binding instructions relating to the technical implementing measures adopted pursuant to the Framework Directive. In order to perform their duties, they should have the power to investigate and to impose penalties in cases of non-compliance.

Or. en

Justification

The ICT industry is better placed to ensure that future-proof and robust solutions are deployed in a timely and coordinated way to ensure network resilience and integrity. Giving NRAs and the proposed EU communications authority proposed implementation powers to ensure security will not provide timely and effective solutions.

Amendment 61
Jean-Marie Cavada

Proposal for a directive – amending act
Recital 59

Text proposed by the Commission

(59) Measures necessary for the implementation of the Framework, Access and Authorisation Directives should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.

Amendment

(59) Measures necessary for the implementation of the Framework, Access and Authorisation Directives should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. ***These measures should not have an adverse impact on cultural and media policy objectives as laid down by Member States.***

Or. fr

Justification

The proposed safeguard is essential in the light of the extension of the implementing powers conferred on the Commission, in particular by Articles 9c and 19 of the Framework Directive, Article 6 of the Access Directive and Article 6a of the Authorisation Directive.

Amendment 62
Jean-Marie Cavada

Proposal for a directive – amending act
Article 1 - point 2 - point e
Directive 2002/21/EC (Framework Directive)
Article 2 - point s

Text proposed by the Commission

(s) “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable

Amendment

(s) “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable Community or national regulations ***and***

Community or national regulations.’

with international frequency plans.’

Or. fr

Justification

Given the seriousness of problems of interference between broadcasting and two-way services (reception and transmission), it is essential that digital broadcasting services be protected against harmful interference in accordance with international frequency plans, in particular the ITU Geneva Plan (GE-06). The definition of harmful interference must therefore be amended accordingly.

Amendment 63

Daciana Octavia Sârbu

Proposal for a directive – amending act

Article 1 - point 3

Directive 2002/21/EC (Framework Directive)
Article 3 - paragraph 3 - subparagraph 2

Text proposed by the Commission

Member States shall ensure that the head of a national regulatory authority or his/her replacement may be dismissed only if he no longer fulfils the conditions required for the performance of his duties laid down in advance in national law, or if he has been guilty of serious misconduct. The decision to dismiss the head of the national regulatory authority shall contain a statement of reasons and be made public at the time of dismissal.

Amendment

Member States shall ensure that the head of a national regulatory authority or his/her replacement may be dismissed only if he no longer fulfils the conditions required for the performance of his duties laid down in advance in national law, or if he has been guilty of serious misconduct. The decision to dismiss the head of the national regulatory authority shall contain a statement of reasons and be made public at the time of dismissal, ***except for those that might affect the image of the institution.***

Or. en

Amendment 64

Daciana Octavia Sârbu

Proposal for a directive – amending act

Article 1 - point 4 - point a

Directive 2002/21/EC (Framework Directive)
Article 4 - paragraph 1 - subparagraph 1

Text proposed by the Commission

1. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks and/or services who is affected by a decision of a national regulatory authority has the right of appeal against the decision ***to an appeal body that is independent of the parties involved. This body, which may be a court, shall have the appropriate expertise available to it to enable it to carry out its functions.*** Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.

Amendment

1. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks and/or services who is affected by a decision of a national regulatory authority has the right of appeal against the decision ***in court in accordance with applicable Community or national law.*** Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.

Or. en

Amendment 65
Patrick Gaubert

Proposal for a directive – amending act
Article 1 - point 8 - point e
Directive 2002/21/EC (Framework Directive)
Article 8 - paragraph 4 - point g a (new)

Text proposed by the Commission

Amendment

(ga) ensuring cooperation between undertakings providing electronic communications networks and services and the relevant sectors, for protection and promotion of lawful content in connection with those networks and services.

Or. fr

Justification

It seems appropriate to give a coordinating remit to the European Electronic Communications Market Authority, or to the coordinating body superseding it, so as to

guarantee cooperation between electronic communications service operators as regards combating copyright breaches, which are increasing enormously.

Amendment 66

Daciana Octavia Sârbu

Proposal for a directive – amending act

Article 1 - point 9

Directive 2002/21/EC (Framework Directive)

Article 9 - paragraph 3 - subparagraph 2 - introductory wording

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 67

Jean-Marie Cavada

Proposal for a directive – amending act

Article 1 - point 9

Directive 2002/21/EC (Framework Directive)

Article 9 - paragraph 3 - subparagraph 2 - point d

Text proposed by the Commission

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

Amendment

(d) comply with a restriction in accordance with paragraph 4 below, ***including restrictions to ensure promotion of cultural and media policy objectives, such as, for example, cultural and linguistic diversity and media pluralism.***

Or. fr

Amendment 68
Daciana Octavia Sârbu

Proposal for a directive – amending act
Article 1 - point 9

Directive 2002/21/EC (Framework Directive)
Article 9 - paragraph 4

Text proposed by the Commission

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

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

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

Amendment

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

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

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

Operators who obtained the right to use radio frequencies shall use them for the period of time prescribed by law, and those who have not used them shall be penalised or have their right to use them withdrawn.

Or. en

Amendment 69
Jean-Marie Cavada

Proposal for a directive – amending act
Article 1 - point 9
Directive 2002/21/EC (Framework Directive)
Article 9 - paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall be competent to lay down the scope, nature and duration of restrictions to promote cultural and media policy objectives, such as, for example, cultural and linguistic diversity and media pluralism, in accordance with their own national law.

Or. fr

Amendment 70
Jean-Marie Cavada, Claire Gibault

Proposal for a directive – amending act
Article 1 - point 10
Directive 2002/21/EC (Framework Directive)
Article 9a - paragraph 2

Text proposed by the Commission

Amendment

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

2. This article shall not apply to restrictions introduced by Member States with a view to promoting cultural and media policy objectives, such cultural and linguistic diversity and media pluralism.

with Article 7(2) of the Authorisation Directive.

Or. fr

Justification

As Member States are competent to lay down the scope, nature and duration of restrictions on the principle of technology and service neutrality with a view to promoting cultural and media policy objectives the review procedure provided for in Article 9a would not be suitable in such instances. Furthermore, the Commission's paragraph 2 confuses two different issues: review of restrictions and review of rights of use as such, the latter being covered by Article 5(2) of the Authorisation Directive.

Amendment 71
Jean-Marie Cavada

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

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c without the prior consent of the national regulatory authority. ***However, the transfer or leasing of frequencies intended by a Member State for radio services shall require the prior consent of the national regulatory authority responsible for radio broadcasting in order specifically to ensure that obligations intended to promote cultural and linguistic diversity and media pluralism are maintained.***

Or. fr

Justification

As cultural and media policy competence lies with Member States, the Commission should not impose the exchange of spectrum intended by a Member State for radio broadcasting services. While spectrum exchange is authorised in this area, Member States must retain the possibility of introducing the necessary safeguards to preserve their audiovisual policy objectives.

Amendment 72

Daciana Octavia Sârbu

Proposal for a directive – amending act

Article 1 - point 10

Directive 2002/21/EC (Framework Directive)

Article 9b - paragraph 1

Text proposed by the Commission

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

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

Amendment

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

In other bands, Member States may also make provision for undertakings to transfer or lease individual rights to use radio frequencies to other undertakings, *with the prior consent of the national regulatory authority*.

Or. en

Amendment 73

Jean-Marie Cavada

Proposal for a directive – amending act

Article 1 - point 10

Directive 2002/21/EC (Framework Directive)

Article 9c - subparagraph 1 -point d

Text proposed by the Commission

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

Amendment

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

Or. fr

Justification

Les exceptions visant à assurer la promotion de la diversité culturelle et linguistique et le pluralisme des médias sont exclues du champ d'application des mesures d'harmonisation. Cette exclusion est bienvenue mais devrait couvrir tous les objectifs d'intérêt général que poursuit la politique audiovisuelle, par exemple l'intégration sociale, la protection des consommateurs et la protection des mineurs. Le considérant 6 de la directive-cadre 2002/21/CE reconnaît d'ailleurs que "La politique audiovisuelle et la réglementation en matière de contenu sont mises en oeuvre pour atteindre des objectifs d'intérêt général, tels que la liberté d'expression, le pluralisme des médias, l'impartialité, la diversité culturelle et linguistique, l'intégration sociale, la protection des consommateurs et la protection des mineurs.

Amendment 74

Daciana Octavia Sârbu

Proposal for a directive – amending act

Article 1 - point 13

Directive 2002/21/EC (Framework Directive)

Article 12 - paragraph 2

Text proposed by the Commission

2. Member States may require that the holders of the rights referred to in paragraph 1 share facilities or property (including physical co-location) or take measures to facilitate the coordination of public works in order to protect the environment, public health, public security or to meet town and country planning

Amendment

2. Member States may require that the holders of the rights referred to in paragraph 1 share facilities or property (including physical co-location) or take measures to facilitate the coordination of public works in order to protect the environment, public health, public security or to meet town and country planning

objectives only after an appropriate period of public consultation, during which ***all interested parties shall*** be given an opportunity to express their views. Such sharing or coordination arrangements may include rules for apportioning the costs of facility or property sharing.

objectives only after an appropriate period of public consultation, during which ***persons with a direct interest shall*** be given an opportunity to express their views. Such sharing or coordination arrangements may include rules for apportioning the costs of facility or property sharing. ***Where the persons with a direct interest are not satisfied with the apportionment of the costs they shall have a right of appeal in the national courts.***

Or. en

Amendment 75
Bill Newton Dunn

Proposal for a directive – amending act
Article 1 - point 13
Directive 2002/21/EC (Framework Directive)
Article 12 - paragraph 3

Text proposed by the Commission

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

Amendment

3. Measures taken by a national regulatory authority in accordance with paragraph 1 shall be objective, transparent, ***non-discriminatory*** and proportionate and ***undertaken in accordance with the procedure laid out in article 7a (4) of Directive 2002/21/EC Framework Directive.***

Or. en

Amendment 76
Syed Kamall

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 77
Bill Newton Dunn

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

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

There is the risk to overregulate and to unnecessarily undermine consumer e-confidence if there is an obligation to inform subscribers of any breach of security or integrity.

Amendment 78
Syed Kamall

Proposal for a directive – amending act

Article 1 - point 14

Directive 2002/21/EC (Framework Directive)

Article 13a - paragraph 3

Text proposed by the Commission

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

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

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

Amendment

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

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

Every **year**, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph. **National regulatory authorities shall determine the definition of "serious breach" in consultation with the national data protection authority and electronic communication service providers.**

Or. en

Amendment 79
Bill Newton Dunn

Proposal for a directive – amending act

Article 1 - point 14

Directive 2002/21/EC (Framework Directive)

Article 13a - paragraph 3

Text proposed by the Commission

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

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

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

Amendment

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

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

Every **year**, the national regulatory authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph. **National regulatory authorities shall determine the definition of “serious breach” in consultation with electronic communication service providers.**

Or. en

Justification

There is the risk to overregulate and to unnecessarily undermine consumer e-confidence if there is an obligation to inform subscribers of any breach of security or integrity.

Amendment 80
Daciana Octavia Sârbu

Proposal for a directive – amending act
Article 1 - point 14
Directive 2002/21/EC (Framework Directive)
Article 13a - paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 81
Bill Newton Dunn

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

Text proposed by the Commission

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

These implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be

Amendment

deleted

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

Or. en

Justification

There is the risk to overregulate and to unnecessarily undermine consumer e-confidence if there is an obligation to inform subscribers of any breach of security or integrity.

Amendment 82
Bill Newton Dunn

Proposal for a directive – amending act
Article 1 - point 14
Directive 2002/21/EC (Framework Directive)
Article 13b - paragraph 2 - introductory wording

Text proposed by the Commission

2. Member States shall ensure that national regulatory authorities have the power to require undertakings providing public communications networks or publicly available electronic communications services to:

Amendment

2. Member States shall ensure that national regulatory authorities, **where appropriate**, have the power to require undertakings providing public communications networks or publicly available electronic communications services to:

Or. en

Justification

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

Amendment 83
Bill Newton Dunn

Proposal for a directive – amending act

Article 1 - point 14

Directive 2002/21/EC (Framework Directive)

Article 13b - paragraph 4 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 84
Daciana Octavia Sârbu

Proposal for a directive – amending act

Article 1 - point 23

Directive 2002/21/EC (Framework Directive)

Article 21a

Text proposed by the Commission

Amendment

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and the Specific Directives and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and the Specific Directives and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be ***appropriate***, effective, proportionate and dissuasive.

States shall notify those provisions to the Commission by the [*time-limit for implementation of the amending act*] at the latest and shall notify it without delay of any subsequent amendment affecting them.

The Member States shall notify those provisions to the Commission by the [*time-limit for implementation of the amending act*] at the latest and shall notify it without delay of any subsequent amendment affecting them.

Or. en

Amendment 85
Daciana Octavia Sârbu

Proposal for a directive – amending act
Article 3 - point 3

Directive 2002/20/EC (Authorisation Directive)
Article 5 - paragraph 2 - subparagraph 5 a (new)

Text proposed by the Commission

Amendment

Operators who obtained the right to use radio frequencies shall use them for the period of time prescribed by law, and those who have not used them shall be penalized or have their right to use them withdrawn.

Or. en

Justification

These measures must be taken to avoid the cases in which the operators rent radio frequencies to reduce the number of users and implicitly of the competition.

Amendment 86
Daciana Octavia Sârbu

Proposal for a directive – amending act
Article 3 - point 8 - point c

Directive 2002/20/EC (Authorisation Directive)
Article 10 - paragraph 5

Text proposed by the Commission

Amendment

5. In cases of serious and repeated breaches

5. In cases of serious and repeated breaches

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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.’

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. ***Operators who obtained the right to use the radio frequencies shall use them for the period of time prescribed by law, and those who have not used them shall be penalised or have their right to use them withdrawn.***

Or. en

Justification

These measures must be taken to avoid the cases in which the operators rent radio frequencies to reduce the number of users and implicitly of the competition.

Amendment 87 Bill Newton Dunn

**Proposal for a directive – amending act
ANNEX I - point 3 - point g**
Directive 2002/20/EC (Authorisation Directive)
Annex - Part A- point 19

Text proposed by the Commission

***(g) The following point 19 is added:
‘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

