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DAJ/MW/cb

*Original : English***2007 EU Telecoms Reform****EBU proposal for Amendments
to the draft Amending Directive
regarding the Framework, Access and Authorisation Directives
(‘Better Regulation’) COM(2007) 697 final*****How the Package should continue to permit the promotion
of cultural and media policy objectives***

The Directives of the Telecom Package, adopted in 2002, confirmed the links that exist between transmission and content aspects, and between telecom and audiovisual policies, and provided the necessary mechanisms and safeguards to take account of them. This regulatory approach which reconciles telecom and audiovisual policy objectives has not only proven its worth and practicability but is also required in view of the Community's duty, under Article 151(4) of the EC Treaty, to take cultural aspects into account in its action under other provisions of the Treaty.

Accordingly, the 2002 Directives fully recognized the relevance of audiovisual policy objectives, and especially those related to cultural diversity and media pluralism. These are recognized both at the horizontal level¹ and through the inclusion of sectoral rules for the audiovisual sector, e.g. on access to digital television facilities, or on must carry obligations.²

The EBU considers it of the utmost importance to adhere to this approach in the current revision process, and particularly in view of the Commission proposal for a more market-based spectrum management.

If not amended, certain provisions of the Telecom Reform Proposals would run counter to the objectives of the Audiovisual Media Services Directive.

1. Access to spectrum

Spectrum policy and spectrum management have traditionally been a means whereby Member States have pursued cultural and media policy objectives in the broadcasting field.

The 2007 Reform Proposals introduce significant changes to spectrum management. Unlike the traditional planning (allocation) of spectrum and Member States' administrative systems of assigning frequencies to particular users and uses, the

¹ see, in particular, Recitals 5 and 6 and Article 1(3) of the Framework Directive

² see, in particular, Articles 5 and 6 of the Access Directive and Article 31 of the Universal Service Directive

Commission suggests the introduction of a flexible market-based approach, including spectrum trading and the possibility of auctioning spectrum. At the same time the Commission aims to harmonize spectrum use at the European level. There is no general audiovisual exclusion from the new spectrum management approach. However, Member States have the power to make certain limited exceptions/restrictions with a view to promoting cultural diversity and media pluralism.

Recital 23, in particular, confirms 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 this way, the 2007 Reform Proposals of the European Commission confirm to a certain extent the "conciliatory" approach taken in 2002. However, such a clarification in a Recital is not sufficient and, unfortunately, the same approach is not carried through, in a coherent manner, in other parts of the Reform Proposals.

It is therefore necessary to introduce a number of amendments to safeguard audiovisual media policy objectives. While some of the EBU amendments are more of a clarifying nature, others are essential to prevent the cultural and media policies of the Member States from being undermined, and especially as regards the proposed new provisions on implementing powers, spectrum trading, spectrum pricing and the granting of individual rights of use.

- **Clarifications with regard to cultural and media policy objectives**

It is necessary to clarify the possible exceptions to service neutrality and technological neutrality (*EBU Amendments 7 and 8*) and to maintain a broad concept of audiovisual policies, in line with Recital 6 of the Framework Directive (*see EBU Amendments 2 and 11*).

- **Interference - respecting the Geneva international agreement**

In view of the importance of the ITU Geneva Plan (GE-06) for digital broadcasting, it should remain beyond doubt that broadcasting services using frequencies in line with the Geneva Plan continue to enjoy protection against interference (*see EBU Amendment 6*).

- **Limiting the implementing powers of the Commission**

It is necessary to limit the implementing powers conferred on the European Commission and the new European Authority in matters which have cultural or media policy implications (*EBU Amendment 5, and also Amendments 11, 13 and 14*).

- **Spectrum trading - safeguards needed for audiovisual policy objectives**

The European Commission should not impose spectrum trading with regard to frequencies which a Member State has made available for broadcasting services. If spectrum trading is nevertheless allowed in this area, Member States must retain the power to put in place appropriate safeguards with a view to promoting cultural and media policy objectives such as cultural diversity and media pluralism (*EBU Amendment 10*).

- **Spectrum pricing - not justified for broadcasters with content and general interest obligations**

It must remain possible for Member States to maintain or introduce systems wherein the obligation to pay usage fees is replaced by an obligation to fulfil content obligations and specific general interest objectives (*EBU Amendments 4 and 14*). Broadcasters are granted exclusive individual rights as they are subject to strict regulations regarding content obligations and general interest objectives (investment in independent production, programming of European original content in accordance with the Audiovisual Media Services Directive and national legislation). If broadcasters have to pay for the use of, and access to, spectrum, this would most likely lead to a decrease in European programming. It would also have an impact on the European broadcasting model and on consumers.

- **Individual rights of use - necessary to guarantee the provision of content and general interest obligations**

The distinction between the regulation of transmission and the regulation of content should not prejudice taking into account the links which exist between them. However, the proposals of the Commission, which may have been motivated by a desire to facilitate spectrum trading, seem completely to sever the ties between telecom and audiovisual regulation as regards the granting of individual rights of use. Instead, it must remain possible for Member States to link the granting of individual rights of use with commitments related to the provision of particular content services (*EBU Amendments 1 and 3*).

The specificities of the audiovisual sector and the need for an appropriate period to amortize investments must also be taken into account in the context of the review of individual rights of use (*EBU Amendments 9 and 12*). Moreover, it is important to ensure that Member States' competences for cultural and media policies are not undermined by centralized selection procedures at EU level (*EBU Amendment 13*).

2. Access to facilities for digital TV (APIs and EPGs)

The EBU welcomes the fact that the Commission has left essentially intact the current possibilities for Member States, in Article 5 of the Access Directive, to ensure broadcasters' access to application programming interfaces (APIs) and electronic programme guides (EPGs). However, the EBU does not understand why the Commission has now proposed to make such measures by national regulatory authorities subject to an intensified form of Community supervision, as laid down in Article 7(4)-(6) of the Framework Directive. This ignores the fact that such measures serve to maintain media pluralism and cultural diversity in the field of digital television, and are thus clearly related to matters falling within the competence of the Member States.

The complex procedure is ultimately equivalent to an unacceptable right of veto by the Commission with regard to access obligations which national regulators can impose on undertakings in order to pursue national media policies.

The EBU therefore proposes maintaining the current level of Community supervision in this area, and especially since no serious internal market problems have arisen with regard to measures taken under Article 5(1)(b) of the Access Directive (*see EBU Amendments 15 and 16*).

Overview of Amendments proposed by the EBU

1. SPECTRUM MANAGEMENT, SPECTRUM TRADING and RIGHTS OF USE

Amendment	Recital/Article	Directive	EBU amendment
1	Recital 22	Directive COM(2007) 697 Framework/Access/Authorisation	Individual rights to use spectrum: possibility to include content aspects should remain
2	Recital 23	Directive COM(2007) 697 Framework/Access/Authorisation	Exceptions by Member States with a view to promoting cultural and media policy objectives in general (not limited to cultural diversity and media pluralism)
3	Recital 49	Directive COM(2007) 697 Framework/Access/Authorisation	Exceptions to technological and service neutrality, individual rights of use for broadcasting
4	Recital 50	Directive COM(2007) 697 Framework/Access/Authorisation	Spectrum pricing: flexibility needed with regard to specific general interest objectives
5	Recital 59	Directive COM(2007) 697 Framework/Access/Authorisation	Limitation of implementing measures taken by the Commission via the comitology procedure if they have cultural and media policy implications
6	Art. 2	Framework Directive	Definition of harmful interference: reference to internationally agreed frequency plans to be added
7	Art. 9(3)	Framework Directive	Restrictions to technological neutrality: clarification needed
8	Art. 9(5a)	Framework Directive	Restrictions to technological and service neutrality: competence of Member States to define the scope, nature and duration of restrictions which promote cultural and media policy objectives
9	Art. 9a	Framework Directive	Technological and service neutrality: review of restrictions to existing rights where these have been granted for a general interest purpose
10	Art. 9b	Framework Directive	Spectrum trading: trading of broadcasting frequencies subject to cultural and media policy considerations
11	Art. 9c	Framework Directive	Technical and service neutrality: no harmonization of exceptions which serve the promotion of cultural or media policy objectives (not limited to cultural diversity and media pluralism)
12	Art. 5(2)	Authorisation Directive	Review of individual rights to use spectrum
13	Art. 6b	Authorisation Directive	Common selection procedure: limitations necessary to protect Member States' cultural and media policies
14	Annex II	Authorisation Directive	Spectrum pricing: flexibility needed with regard to specific general interest objectives

2. ACCESS RULES to APIs and EPGs

15	Art. 7(4)	Framework Directive	Measures pursuant to Art. 5(1)(b) of the Access Directive to provide access to APIs and EPGs for digital TV and radio: no stronger EC supervision
16	Art. 5(2)	Access Directive	

EBU proposal for Amendments

to the
Commission proposal for a

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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

COM(2007) 697 final

Text proposed by the Commission	Proposed Amendments
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Amendment 1

Recital 22 (Amending Directive COM(2007) 697)

<p>(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,</p>	<p>(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,</p>
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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.***

but rather grant priority so that other services or technologies may coexist in the same band insofar as possible.

Justification:

As recognized in Recital 5 of the Framework Directive, the separation between the regulation of transmission and the regulation of content should not prejudice taking into account the links existing between them, and particularly in order to guarantee media pluralism, cultural diversity and consumer protection. It must therefore remain possible for Member States to link the granting of individual rights of use with commitments related to the provision of particular content services.

Amendment 2**Recital 23 (Amending Directive COM(2007) 697)**

(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.

(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*** cultural and linguistic diversity and media pluralism in accordance with their own national law.

Justification:

This Recital is most welcome as it clarifies the competence of Member States.

However, the mere reference to "the promotion of cultural and linguistic diversity and media pluralism" is too narrow as it does not cover all general interest objectives pursued by audiovisual media policies, for example as regards social inclusion, consumer protection and the protection of minors. Recital 6 of the Framework Directive 2002/21/EC in fact recognizes that "audiovisual policy and content regulation are undertaken in pursuit of general interest objectives, such as freedom of expression, media pluralism, impartiality, cultural and linguistic diversity, social inclusion, consumer protection and the protection of minors".

Amendment 3**Recital 49 (Amending Directive COM(2007) 697)**

<p><i>(49) The introduction of the requirements of service and technology neutrality in assignment and allocation decisions, together with the increased possibility to transfer rights between undertakings, should increase the freedom and means to deliver electronic communications and audiovisual media services to the public, thereby also facilitating the achievement of general interest objectives. Therefore, certain general interest obligations imposed on broadcasters for the delivery of audiovisual media services could be increasingly met without the need to grant individual rights to use spectrum. The use of specific criteria to assign spectrum to broadcasters would be justified only where this is essential to meet a particular general interest objective set out in national law. Procedures associated with the pursuit of general interest objectives should in all circumstances be transparent, objective, proportionate and non-discriminatory.</i></p>	<p><i>deleted</i></p>
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Justification:

Recital 49 is not consistent with Recital 23 or with Article 5(2) of the Authorisation Directive. Instead of recognizing the need, as far as electronic communication and audiovisual media services are concerned, to take into account cultural and media policy objectives, it seems to imply that these objectives are best served by the market, and in particular by the principle of spectrum neutrality. Its formulation is also more restrictive than Article 5(2) of the Authorisation Directive as regards the granting of individual rights of use for broadcasting services.

Amendment 4**Recital 50 (Amending Directive COM(2007) 697)**

(50). In order to ensure equal treatment, no spectrum users should be exempted from the obligation to pay the normal fees or charges set for the use of the spectrum.

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Justification:

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

Amendment 5**Recital 59 (Amending Directive COM(2007) 697)**

(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.

(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. ***Measures which may have a negative impact on cultural and media policy objectives as defined by Member States should not be taken by the European Commission in the form of implementing measures.***

Justification

The proposed safeguard is essential with regard to extended implementing powers conferred to the European Commission, in particular those in Articles 9c and 19 of the Framework Directive, Article 6 of the Access Directive and Article 6a of the Authorisation Directive.

Amendment 6

ARTICLE 1, POINT 2

Article 2, point (s) (Directive 2002/21/EC – Framework Directive)

(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 radio communications service operating in accordance with the applicable Community or national regulations.

(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 radio communications service operating in accordance with the applicable Community or national regulations ***and taking into account internationally agreed frequency plans.***

Justification:

In view of the seriousness of interference problems between broadcasting and two-way (receive and transmit) services, it is essential for digital broadcasting services to be afforded protection against harmful interference, in line with internationally-agreed frequency plans, and particularly the ITU Geneva Plan (GE-O6). The definition of harmful interference should be amended accordingly.

Amendment 7

ARTICLE 1 POINT 9

Article 9, paragraph 3, point (d) (Directive 2002/21/EC – Framework Directive)

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

(d) comply with a restriction in accordance with paragraph 4 below, ***including those restrictions aimed at promoting cultural and media policy objectives such as cultural and linguistic diversity and media pluralism.***

Justification:

In line with their competence for cultural and media policies, Member States must have the power to make available sufficient spectrum for broadcasting services, and to restrict the principles of service neutrality and technological neutrality for this purpose.

The amendment in Article 9(3)(d) is necessary to clarify the meaning of the formulation, which is otherwise difficult to understand.

Amendment 8

ARTICLE 1, POINT 9

Article 9, paragraph 5a (new) (Directive 2002/21/EC – Framework Directive)

5a. It lies within the competence of the Member States to define the scope, nature and duration of any restrictions with a view to promoting cultural and media policy objectives such as cultural and linguistic diversity and media pluralism in accordance with their own national law.

Justification:

In line with their competence for cultural and media policies, Member States must have the power to make available sufficient spectrum for broadcasting services, and to restrict the principles of service neutrality and technological neutrality for this purpose.

The amendment in Article 9(5a) is based on the formulation in Recital 23 of the Amending Directive, as proposed by the European Commission; however, in view of the importance of this clause, it is necessary to amend it and to give it full legal force by including it in the text of the Framework Directive itself.

Amendment 9

ARTICLE 1, POINT 10

Article 9a, paragraph 2 (Directive 2002/21/EC-Framework Directive)

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 with Article 7(2) of the Authorisation Directive.*

2. *This Article does not apply to restrictions implemented by Member States with a view to promoting cultural and media policy objectives such as cultural and linguistic diversity and media pluralism.*

Justification:

As it is for the Member States to define the scope, nature and duration of any restrictions to the principles of technological and service neutrality with a view to promoting cultural and media policy objectives, the reassessment procedure in Article 9a would not be appropriate for such cases. Moreover, paragraph 2 mixes two distinct issues: the review of restrictions and the review of the rights of use itself, the latter being covered by Article 5(2) of the Authorisation Directive.

Amendment 10

ARTICLE 1, POINT 10

Article 9b, paragraph 1 (Directive 2002/21/EC-Framework Directive)

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| <p>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.</p> | <p>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. <i>However, where the transfer or lease involves frequencies which have been made available for broadcasting services by a Member State, the prior consent of the national regulatory authority in charge of broadcasting is required, to ensure, in particular, that obligations intended to promote cultural and linguistic diversity and media pluralism are maintained.</i></p> |
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Justification:

In view of Member States' competence for cultural and media policies, the European Commission should not impose spectrum trading with regard to frequencies which a Member State has made available for broadcasting services. If spectrum trading is nevertheless allowed in this area, Member States must keep the power to be put in place appropriate safeguards to ensure that their audiovisual policy objectives are not undermined.

Amendment 11

ARTICLE 1, POINT 10

Article 9c, point (d) (Directive 2002/21/EC-Framework Directive)

(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.

(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*** cultural and linguistic diversity and media pluralism.

Justification:

The exclusion of harmonization of exceptions regarding the promotion of cultural and linguistic diversity and media pluralism is most welcome but it should cover all general interest objectives pursued by audiovisual policies, for example as regards social inclusion, consumer protection and the protection of minors. Recital 6 of the Framework Directive 2002/21/EC in fact recognizes that "audiovisual policy and content regulation are undertaken in pursuit of general interest objectives, such as freedom of expression, media pluralism, impartiality, cultural and linguistic diversity, social inclusion, consumer protection and the protection of minors".

Amendment 12

ARTICLE 3, POINT 3

Article 5, paragraph 2, sub-paragraph 5 (Directive 2002/20/EC-Authorisation Directive)

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

*When individual rights to use radio frequencies **are** granted for ten years or more **which** may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive, **national regulatory authorities must ensure that they have the means to verify that** the criteria to grant **such** individual rights of use **remain applicable and fulfilled for the duration of the licence. If those criteria** are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice **and not before the expiry of a reasonable deadline**, or shall be made freely transferable or leasable between undertakings. **In taking such a decision, due account shall be taken of the need to allow for an appropriate amortization period for investment.***

Justification:

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

Amendment 13

ARTICLE 3, POINT 5

Article 6b, paragraph 1, sub-paragraph 1 (Directive 2002/20/EC-Autorisation Directive)

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

1. *Where the cross-border element of an electronic communications service is predominant, and without prejudice to Member States' competences for the promotion of cultural and media policy objectives such as cultural and linguistic diversity and media pluralism,* the technical implementing measure referred to in paragraph 6a(1)(f) may provide for the Authority to make proposals for the selection of undertaking(s) to which individual rights of use for radio frequencies or numbers are to be granted, in accordance with Article 12 of Regulation [..].

Justification:

It is important to ensure that Member States' competences for cultural and media policies, and particularly regarding frequencies made available for broadcasting and other audiovisual media services, are not undermined by new centralized procedures at EU level.

Amendment 14**ARTICLE 3****ANNEX II, point (d) (Directive 2002/20/EC-Authorisation Directive)**

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

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

Justification:

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

Amendment 15

ARTICLE 1, POINT 6

Article 7, paragraph 4, point (c) (Directive 2002/21/EC-Framework Directive)

(c)imposing, amending or withdrawing an obligation on an operator in application of Article 16 in conjunction with Articles 5 and 9 to 13 of Directive 2002/19/EC (Access Directive), and Article 17 of Directive 2002/22/EC (Universal Directive), and would affect trade between Member States and the Commission has indicated to the national regulatory authority that it considers that the draft measure would create a barrier to the single market or if it has serious doubts as to its compatibility with Community law and in particular the objectives referred to in Article 8, then the draft measure shall not be adopted for a further two months. This period may not be extended.

(c)imposing, amending or withdrawing an obligation on an operator in application of Article 16 in conjunction with Articles 5 *(except Article 5(1)(b))* and 9 to 13 of Directive 2002/19/EC (Access Directive), and Article 17 of Directive 2002/22/EC (Universal Directive), and would affect trade between Member States and the Commission has indicated to the national regulatory authority that it considers that the draft measure would create a barrier to the single market or if it has serious doubts as to its compatibility with Community law and in particular the objectives referred to in Article 8, then the draft measure shall not be adopted for a further two months. This period may not be extended.

Justification:

The procedures laid down in Article 7(4)-(6) of the Framework Directive are not appropriate in view of Member States' competence for maintaining media pluralism and cultural diversity in the field of digital television.

Amendment 16

ARTICLE 2, POINT 3

Article 5, paragraph 2 (Directive 2002/19/EC - Access Directive)

2. Obligations and conditions imposed in accordance with paragraph 1 shall be objective, transparent, proportionate and non-discriminatory, and shall be implemented in accordance with the procedures referred to in Articles 6 and 7 of Directive 2002/21 /EC (Framework Directive).

2. Obligations and conditions imposed in accordance with paragraph 1 shall be objective, transparent, proportionate and non-discriminatory, and shall be implemented in accordance with the procedures referred to in Articles 6 and 7 of Directive 2002/21 /EC (Framework Directive). ***The procedure in Article 7(4)-(6) of Directive 2002/21/EC (Framework Directive) shall not apply to the above paragraph 1(b).***

Justification:

The procedures laid down in Article 7(4)-(6) of the Framework Directive are not appropriate in view of Member States' competence for maintaining media pluralism and cultural diversity in the field of digital television.
