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AMENDMENTS 86 - 202

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

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 associated facilities, 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 86
Gianni De Michelis

Proposal for a directive – amending act
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) It is essential that ex ante regulatory obligations should only be imposed where there is no effective competition, i.e. in markets where there are one or more undertakings with significant market power, and where national and Community competition law remedies are not sufficient to address the problem. It is necessary therefore for the Commission to draw up guidelines at Community level in accordance with the principles of competition law for national regulatory authorities to follow in assessing whether competition is effective in a given market and in assessing significant market power. National regulatory authorities should analyse whether a given product or service market affects the whole or a part of the territory of the Member State concerned or neighbouring parts of territories of Member States considered together. In order to guarantee an accurate geographical market definition, which should ensure that regulation is based on the actual market conditions, national regulatory authorities should analyse whether geographical markets should be defined where competition conditions, and in particular, infrastructure competition, are not homogeneous enough within the national territory. An analysis of effective competition should include an analysis as to whether the market is prospectively competitive, and thus whether any lack of effective competition is durable. Those

guidelines should also address the issue of newly emerging markets, where de facto the market leader is likely to have a substantial market share but should not be subjected to inappropriate obligations. In this respect it is necessary to differentiate the regulatory approach between legacy and new networks, avoiding unnecessary regulatory obligations on undertakings providing new access networks and services, whose demand is subject to a high uncertainty and require important investments to be provided. The Commission should review the guidelines regularly to ensure that they remain appropriate in a rapidly developing market. National regulatory authorities will need to cooperate with each other where the relevant market is found to be transnational.

Or. en

Justification

The bottleneck characteristics of the legacy network elements may substantially differ across geographical areas. In the market analysis process NRAs should conduct a specific analysis aimed to identify economic bottleneck on a geographical area basis.

It is worth noting that the differentiation of the market according to geographic area with different degree of competition is a regulatory instrument that would make it possible to deal effectively with the problem of regulating networks that has yet to be deployed such the NGN. In this case, for instance, the application of the principle described above would lead NRAs to consider the imposition of obligations to provide wholesale VDSL access on dominant operators only in areas where, within the market analysis process, it is shown that NGN based services can be delivered solely over the infrastructure of the dominant operator and where operators fail to reach commercial agreements.

Amendment 87
Patrizia Toia

Proposal for a directive – amending act
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) It is essential that ex ante regulatory obligations should only be imposed where there is no effective competition, i.e. in markets where there are one or more undertakings with significant market power, and where national and Community competition law remedies are not sufficient to address the problem. It is necessary therefore for the Commission to draw up guidelines at Community level in accordance with the principles of competition law for national regulatory authorities to follow in assessing whether competition is effective in a given market and in assessing significant market power. National regulatory authorities should analyse whether a given product or service market affects the whole or a part of the territory of the Member State concerned or neighbouring parts of territories of Member States considered together. In order to guarantee an accurate geographical market definition, which should ensure that regulation is based on the actual market conditions, national regulatory authorities should analyse whether geographical markets should be defined where competition conditions, and in particular, infrastructure competition, are not homogeneous enough within the national territory. An analysis of effective competition should include an analysis as to whether the market is prospectively competitive, and thus whether any lack of effective competition is durable. Those guidelines should also address the issue of newly emerging markets, where de facto the market leader is likely to have a substantial market share but should not

be subjected to inappropriate obligations. In this respect it is necessary to differentiate the regulatory approach between legacy and new networks, avoiding unnecessary regulatory obligations on undertakings providing new access networks and services, whose demand is subject to a high uncertainty and require important investments to be provided. The Commission should review the guidelines regularly to ensure that they remain appropriate in a rapidly developing market. National regulatory authorities will need to cooperate with each other where the relevant market is found to be transnational.

Or. en

Justification

The bottleneck characteristics of the legacy network elements may substantially differ across geographical areas. In the market analysis process NRAs should conduct a specific analysis aimed to identify economic bottleneck on a geographical area basis.

It is worth noting that the differentiation of the market according to geographic area with different degree of competition is a regulatory instrument that would make it possible to deal effectively with the problem of regulating networks that has yet to be deployed such the NGN. In this case, for instance, the application of the principle described above would lead NRAs to consider the imposition of obligations to provide wholesale VDSL access on dominant operators only in areas where, within the market analysis process, it is shown that NGN based services can be delivered solely over the infrastructure of the dominant operator and where operators fail to reach commercial agreements.

Amendment 88 Herbert Reul

Proposal for a directive – amending act Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The sector-specific ex-ante regulation enshrined in the directives serves the transition from former monopolies to a competitive market for

electronic communications networks and services. As soon as markets are competitive, ex-ante regulation should be discontinued and only Community and national competition law should apply. With growing competitive dynamics on European electronic communications markets the potential benefits of sector-specific ex-ante price and access regulation decrease significantly over time. The markets for electronic communications have shown strong competitive dynamics in recent years and competition is most likely to increase even further in the coming years. To ensure a timely transition to the sole application of Community and national competition law, the provisions of this of this directive on sector-specific ex-ante regulation should expire on a defined date, unless the Commission demonstrates that continued ex-ante regulation will still be warranted after that date.

Or. de

Justification

Ex-ante regulation was supposed from the outset to be a transitional solution. However, the principle of gradually phasing out sector-specific regulation to pave the way for the application of general competition law is not explicitly mentioned in the directives. A legally binding exit mechanism must be inserted, to maintain the course towards deregulation and the transition to general competition law. This can best be achieved in the form of a review clause, leaving open the option of extending the period of regulation where necessary.

Amendment 89
Anni Podimata

Proposal for a directive – amending act
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The sector-specific ex-ante market regulation under this framework serves

the transition from former monopolies into a competitive market for electronic communications networks and services. As soon as markets are competitive, ex-ante regulation should not be continued and Community and national competition law should solely apply. With growing competitive dynamics on European electronic communications markets the potential benefits of sector-specific ex-ante price and access regulation decrease significantly over time. The markets for electronic communications have shown strong competitive dynamics in recent years and competition is most likely to increase even further in the coming years. To ensure a timely transition to the sole application of Community and national competition law, the provisions of this framework on sector-specific ex-ante regulation should end with the expiration of the BERT mandate unless the Commission demonstrates that continued ex-ante regulation will still be warranted after that date.

Or. en

Justification

Ex-ante regulation was supposed from the outset to be transitory in nature. A legally binding exit mechanism must be inserted into the Framework Directive in order to maintain the course for deregulation and towards general competition law. This can best be achieved in the form of a sunset clause with the possibility of prolonging regulation if necessary (modelled along the lines of the international roaming regulation).

Amendment 90
Paul Rübzig

Proposal for a directive – amending act
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The sector-specific ex-ante market regulation under this framework serves

the transition from former monopolies into a competitive market for electronic communications networks and services. As soon as markets are competitive, ex-ante regulation should not be continued and Community and national competition law should solely apply. With growing competitive dynamics on European electronic communications markets the potential benefits of sector-specific ex-ante price and access regulation decrease significantly over time. To ensure a timely transition to the sole application of Community and national competition law, the provisions of this framework on sector-specific ex-ante regulation should expire on a defined date unless the Commission demonstrates that continued ex-ante regulation will still be warranted after that date.

Or. en

Justification

Ex-ante regulation was supposed to be transitory in nature. However, the principle of a gradual phasing out of sector specific regulation towards the sole application of general competition law is not explicitly mentioned in the Directives. Against this background, a legally binding exit mechanism must be inserted into the Framework Directive in order to maintain the course for deregulation and towards general competition law.

Amendment 91 Nikolaos Vakalis

Proposal for a directive – amending act Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The current framework introduces technical adjustments of transitory nature in order to ensure a full transition to competition law. Therefore, it should be reviewed as to the necessity of its continuation no later than five years after

the date of its entry into force.

Or. en

Justification

Regulation was from the outset supposed to be temporary in nature and should be rolled back as competition develops on the markets. Therefore, a review clause must be introduced to finally achieve the political aim of progressive deregulation. If deemed necessary, the Commission will propose to the Parliament and the Council to prolong regulation in specific areas based on a report to be published before the review date.

Amendment 92

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Recital 3

Text proposed by the Commission

(3) The EU regulatory framework for electronic communications networks and services should therefore be reformed in order to complete the internal market for electronic communications by strengthening the Community mechanism for regulating operators with significant market power in the key markets. ***This is complemented through the establishment by Regulation [.../.../EC] of [date] of the European Parliament and of the Council of a European Electronic Communications Market Authority (hereinafter referred to as "the Authority")***. The reform also includes the definition of an efficient spectrum management strategy in order to achieve a Single European Information Space and the reinforcement of provisions for users with disabilities in order to obtain an inclusive information society.

Amendment

(3) The EU regulatory framework for electronic communications networks and services should therefore be reformed in order to complete the internal market for electronic communications by strengthening the Community mechanism for regulating operators with significant market power in the key markets. The reform also includes the definition of an efficient spectrum management strategy in order to achieve a Single European Information Space and the reinforcement of provisions for users with disabilities in order to obtain an inclusive information society.

Or. en

Justification

Establishment of the Authority (EECMA) is an unnecessary financial burden on EU Member States:

- it creates a further layer of bureaucracy;*
- it shifts power and decision making to Community level introducing legal and business uncertainty;*
- its role, functions, governance, power and interaction with the Commission and NRAs is unclear;*
- it protects the Commission from review (judicial) procedures; and*
- the existing European Regulators Group (ERG) and European Conference of Postal and Telecommunications Administrations (CEPT) are effective policy and spectrum fora in Europe.*

Amendment 93

Gunnar Hökmark, Olle Schmidt

Proposal for a directive – amending act

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The objective of the EU regulatory framework for electronic communications is to create a sustainable "ecosystem" for electronic communications, based on supply and demand: the former through effective and competitive infrastructure and service markets, the latter thanks to increasing information society developments.

Or. en

Justification

Infrastructure-based competition is a prerequisite for a well functioning telecom market in the long run and one of the primary goals of this regulation.

Amendment 94
Erika Mann

Proposal for a directive – amending act
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The objective of the EU regulatory framework for electronic communications is to create a sustainable and internationally competitive “ecosystem” for electronic communications, based on effectively competitive product or service markets and effective competition between alternative electronic communications access networks with the goal of increasing information society developments. A sustainable environment for competition and investment in the electronic communications sector relies both on incentives for new infrastructure investment and sound and proportional regulation together with a gradual phase-out of sector specific ex-ante regulation and the transition to competition law.

Or. en

Justification

It is essential to point to the goals of the new EU regulatory framework in a new environment of technological change and the necessity to provide incentives for infrastructure competition, i.e. investment into next generation networks. This should lead to a gradual phase-out of sector specific ex-ante regulation.

Amendment 95
Werner Langen

Proposal for a directive – amending act
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The key issue for the coming years is to give appropriate incentives for

investments in new high speed networks that will support innovation in content-rich internet services. Such networks have enormous potential to deliver benefits to consumers across the European Union. It is therefore vital that there is no impediment to sustainable investment in the development of these new networks, while boosting competition and consumer choice. This could entail different regulatory approaches tailored to suit a market need.

Or. en

Justification

The EU is in need of a sustainable and advanced investment in the development of new high speed networks. This has to be taken into account by the different National Regulators.

Amendment 96
Angelika Niebler

Proposal for a directive – amending act
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The key issue for the coming years is to give appropriate incentives for investments in new high speed networks that will support innovation in content-rich internet services. Such networks have enormous potential to deliver benefits to consumers across the European Union. It is therefore vital that there is no impediment to sustainable investment in the development of these new networks, while boosting competition and consumer choice. This could entail different regulatory approaches tailored to suit a market need.

Or. en

Justification

Europe is in need of a sustainable investment in the development of new high speed networks. This has to be taken into account by the different National Regulators.

Amendment 97
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The electronic communication sector is a fast-moving sector, characterised by a high level of technological innovation and highly dynamic markets. There is a need regularly to scrutinise the accuracy of regulation in changing markets and technology. To ensure that EU citizens will continue to be able fully to participate in the global information society, innovation and the roll out of high-speed next generation networks able to satisfy future customer demands for more bandwidth and more services has to be a priority in the application of this Directive.

Or. en

Justification

In its review proposals, the Commission does not actively address the issue of new fixed and mobile high-speed access networks, although the issue is of fundamental importance for Europe's competitiveness, its telecommunications industry and consumers. According to the Commission, the current framework is sound enough to cope with this issue without any further legislative proposals. But to simply carry on with the regulatory concepts of the past is not sufficient.

Amendment 98
Fiona Hall

Proposal for a directive – amending act
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Next generation networks have enormous potential to deliver benefits to businesses and consumers across the European Union. It is therefore vital that a lack of regulatory clarity does not act as an impediment to sustainable investment in the development of these new networks, and that competition and consumer choice are boosted.

Or. en

Amendment 99
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) The framework should meet the new investment and innovation challenges recognising the need to encourage both investment and competition, so that consumer choice is protected and not undermined.

Or. en

Amendment 100
Patrizia Toia

Proposal for a directive – amending act
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The regulatory framework should also encompass the additional aims of promoting consumer protection in the electronic communications sector by providing for accurate and comprehensive information, employing every possible arrangement and procedure to that end, for transparency in terms of fees and charges, and for high standards in the delivery of services; of fully recognising the role of consumer associations in public consultations; and of ensuring that the authorities or agents responsible are provided with the means enabling them to thwart possible rigging and act with the necessary effectiveness to stamp out any instances of fraud involving electronic communications services.

Or. it

Justification

The idea is to stress that the need to protect consumers should feature prominently among the aims of the harmonised regulatory framework.

Amendment 101
Erna Hennicot-Schoepges

Proposal for a directive – amending act
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) The reform of the EU regulatory framework would be best enhanced by the improved functioning and efficiency of the European Regulators Group (ERG),

the Radio Spectrum Policy Group (RSPG) and the European Conference on Postal and Telecommunications Administrations (CEPT). The advisory role of the ERG should be strengthened in areas including market regulation and spectrum policy. The advisory roles of both the RSPG and the CEPT should be reinforced in relation to spectrum policy. The functioning of the Communications Committee (COCOM) and the Radio Spectrum Committee (RSC) would benefit from greater transparency and the more active involvement of industry stakeholders in the preparation of ongoing tasks.

Or. en

Justification

See justification for the amendments to Recital (3).

Instead of creating a new institution, such as the Authority, further improvements in the efficiency of the ERG and the CEPT (as well as the RSC, COCOM and the RSPG) would be more effective.

All further references to the Authority have been deleted.

Amendment 102

Erika Mann

Proposal for a directive – amending act Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) Next generation networks have enormous potential to deliver benefits to consumers across the European Union and to strengthen European international competitiveness vis-à-vis other economies of the world. It is, therefore, vital that sustainable investment into these networks is not being impeded by prolongation of regulatory regimes which have aimed at providing access to existing

legacy networks and that investment-incentives being provided while boosting competition and consumer choice.

Or. en

Justification

The challenge of NGNs is to foster investment, in order to create facility-based competition and thus creating new products and services in order to increase benefits for the consumer and to strengthen Europe's international competitiveness in open and dynamic new markets.

Amendment 103

Catherine Trautmann

Proposal for a directive – amending act

Recital 3 d (new)

Text proposed by the Commission

Amendment

(3d) Investment in R&D is of vital importance for the development of next generation fibre optics networks and for achieving flexible and efficient radio access thereby favouring enhanced competition and innovative applications and services to the benefit of consumers. The challenge is to deliver the next generation of ubiquitous and converged network and service infrastructures for electronic communications, computing and media.

Or. en

Justification

Regulation has to favour investment in R&D for developing next generation wireline and wireless networks.

Amendment 104
Catherine Trautmann

Proposal for a directive – amending act
Recital 3 e (new)

Text proposed by the Commission

Amendment

(3e) Public policy should play a role in complementing the effective functioning of the electronic communications market, addressing both the supply and demand side to stimulate the virtuous circle where development of better content and services depends on infrastructure deployment and vice-versa. Public intervention should be proportionate and should neither distort competition nor inhibit private investment and should increase incentives to invest and lower entry barriers. In this respect, public authorities may support the rollout of future-proof high-capacity infrastructure. In so doing, public support should be attributed through open, transparent and competitive procedures, should not favour a priori any given technology and provide access to infrastructure on a non-discriminatory basis.

Or. en

Justification

Some guidelines are needed regarding national or local public authorities playing a role in the electronic communications market, may it be purely supportive or more engaged.

Amendment 105
Catherine Trautmann

Proposal for a directive – amending act
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to safeguard sustainable competition and to ensure that end-users derive the maximum benefits, national regulatory authorities should apply ex-ante regulatory obligations proportionately and in line with the real and specific competitive conditions that exist in each geographical area. If a market is competitive in a given geographical area, national regulatory authorities should encourage the deployment of competing infrastructures and allow for accessing the network of the undertaking(s) with significant market power at the deepest possible level. Where a market is not effectively competitive in a given geographical area, third parties should be able to access the network of the undertaking(s) with significant market power in a way that makes the provision by them of competitive services technically and economically viable.

Or. en

Justification

Encouraging sustainable competition is a guarantee for the consumer to get positive effects in the long run. Both infrastructure and service competition should be promoted depending on the level of competition of each geographical area.

Amendment 106
Erika Mann

Proposal for a directive – amending act
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to achieve the goals of the Lisbon agenda and to boost investment into next generation access networks (NGA-networks) in Europe for the benefit of European consumers and the international competitiveness of Europe's industry, a new regulatory regime for access to NGA-networks is essential and necessary. The goal of this new regime is to provide incentives for investment into NGA-networks and supporting competition where infrastructure competition does not exist. Due to the fact that market power in downstream emerging markets is difficult to grasp, the NGA-network access regime (NNAR) laid down in Article 12(3) and Article 13(4) and (6) of the Access Directive focuses on infrastructure competition and not on competition in downstream markets alone. This concept reflects dynamic developments in new access opportunities in the field of electronic communications. Thus the NGA-network access regime (NNAR) as such has to introduce dynamic elements and has to promote developments in next generation networks as well as in downstream electronic communications markets. It aims at giving the right incentives for all market players to innovate and to invest in new access networks and in new downstream markets.

Or. en

Justification

A new access regime for NGA-networks has to depart from static approaches which granted for access to existing legacy networks but rather has to introduce new dynamic elements in

order to provide incentives for innovation and investment not only in next generation access networks but in downstream markets as well. International competitiveness of Europe vis-à-vis other economies in the world in new downstream markets depends on its ability to attract investment into next generation networks.

Amendment 107

Lambert van Nistelrooij

Proposal for a directive – amending act

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The requirement for national regulatory authorities to make regulation as far as possible technologically neutral does not prevent the appropriate differentiation between regulation of existing copper-based networks and newly built networks such as high-speed fibre-based access networks. Asymmetric ex ante price and access regulation relates to the ownership of specific technical assets and should not automatically be extended to newly build - or still to be build - networks that no longer rely on ‘legacy’ elements stemming from the former monopoly.

Or. en

Justification

It is necessary to clarify that under the concept of technological neutrality, market analyses and subsequent remedies – if any – have nevertheless to distinguish between depreciated legacy assets inherited from the former monopoly and assets that are still to be built in a liberalised and competitive environment.

Amendment 108
Herbert Reul

Proposal for a directive – amending act
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to achieve the goals of the Lisbon agenda and to boost investment in next-generation access networks (NGA networks) for the benefit of European consumers and the international competitiveness of European industry, a new regulatory framework for access to NGA networks is necessary. The goal of this new legal framework is to provide incentives for investment in NGA networks, while supporting competition by granting access to those networks where infrastructure competition is not feasible. Due to the fact that market power in emerging markets is difficult to pin down, the regulatory framework for NGA-network access laid down in Article 12(3) and Article 13(4) and (6) focuses on access to new infrastructure and not on significant market power in downstream markets. This concept reflects the dynamic development of the market and market entry opportunities in the field of electronic communications networks. Thus the regulatory framework for NGA network access has also to introduce dynamic elements and has to promote market developments by giving the right incentives for all market players to innovate and to invest in new access networks and in new downstream markets.

Or. de

Justification

There are as yet no nationwide networks in the new access networks sector. These need to be developed in future, and so the regulatory framework should provide incentives for their development. Accordingly, regulation should permit the sharing of risks between investors

and those seeking access, while upholding the right of access to networks.

Amendment 109

Lambert van Nistelrooij

Proposal for a directive – amending act

Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Innovation and the timely and competitive roll out of high-speed next generation networks able to satisfy future customer demand for more bandwidth and more services should be a priority reflected in the Directives to ensure that EU citizens will continue to fully participate in the global information society. It is therefore necessary to differentiate the regulatory approach between legacy and new networks, avoiding inappropriate regulatory obligations on undertakings providing new services and/or networks, such as high-speed fibre access networks, which require important investments and where demand is subject to high uncertainty, in particular in areas where competitive platforms are present. A new regulatory approach to access to NGA-networks should provide incentives for investment in NGA-networks and at the same time favour competition by granting access to such networks where infrastructure competition is not viable. This reflects the ongoing dynamic development of new access opportunities in the field of electronic communications and the need for stable regulatory conditions for investment decisions, with the aim of providing incentives for all market players to innovate and invest in new access networks and new downstream markets.

Or. en

Justification

Ensuring timely investment in high-speed next generation access networks is the major policy challenge in the electronic communications sector. The regulatory regime has to be adapted to provide the incentives for those investments as well as regulatory certainty. Regulation must favour full infrastructure competition and incorporate a fair amount of risk sharing between investor and access seeker in order to facilitate investments while at the same time ensuring access where infrastructure competition cannot develop.

Amendment 110

Catherine Trautmann

Proposal for a directive – amending act Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Without prejudice to Directive 1999/5/CE of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, it is necessary to clarify the application of certain aspects of terminal equipments concerning access for disabled end-users to ensure interoperability between terminal equipments and electronic communications networks and services.

Or. en

Justification

If the access to terminal equipments is not assured for people with disabilities, they will not be able to access electronic communications networks and services neither. That is why, in order to ensure interoperability between both, a clear mention of what kind of terminal equipments, which are those concerning access for disabled end-users is required.

Amendment 111
Anni Podimata

Proposal for a directive – amending act
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In its Communication “Bridging the Broadband Gap” of 20 March 2006, the European Commission acknowledged that there is a territorial divide in Europe regarding access to high speed broadband services. Despite the general increase in broadband connectivity, access in various regions is limited because of high costs due to low density of population and remoteness. Commercial incentives to invest in broadband deployment in these areas often turn out to be insufficient and therefore a combined policy and market approach is needed.

Or. en

Justification

The regulatory framework should also take into account the need for closing regional gaps in development. The specific importance of broadband roll out should be emphasised.

Amendment 112
Nikolaos Vakalis

Proposal for a directive – amending act
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In its Communication “Bridging the Broadband Gap” of 20 March 2006, the European Commission acknowledged that there is a territorial divide in Europe regarding access to high speed broadband services. Despite the general increase in broadband connectivity, access in various regions is limited because of high costs

due to low density of population and remoteness. Commercial incentives to invest in broadband deployment in these areas often turn out to be insufficient. On the positive side, technological innovation is reducing deployment costs. In order to ensure that investment in new technologies in underdeveloped regions is ensured, electronic communications regulation should be consistent with other policy measures taken, such as state aid policy, structural funds or wider industrial policy aims.

Or. en

Justification

The regulatory framework should also take into account the need for closing regional gaps in development. The specific importance of broadband roll out should be emphasised.

Amendment 113
Nikolaos Vakalis

Proposal for a directive – amending act
Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) The activities of national regulatory authorities and of the European Commission within the framework for e-electronic communications contribute to the fulfilment of broader policies in the areas of competitiveness and innovation, culture, employment, the environment, social and regional cohesion and town and country planning.

Or. en

Justification

The regulatory framework should also take into account the need for closing regional gaps in development and overall industrial policy aiming to increase innovation and competitiveness

through higher investment in all regions of the EU.

Amendment 114

Anni Podimata

Proposal for a directive – amending act

Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) The activities of national regulatory authorities and of the European Commission within the framework for e-electronic communications contribute to the fulfilment of broader policies in the areas of public policy objectives, culture, employment, the environment, social cohesion, regional development and town and country planning.

Or. en

Justification

The regulatory framework should also take into account the need for closing regional gaps in development aiming to increase innovation and investment in all regions of the EU.

Amendment 115

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The views of national regulatory authorities and industry stakeholders should be taken into account by the Commission when making decisions under this Directive through the use of effective consultation to ensure transparency and proportionality. The Commission should issue detailed consultation documents, explaining the

different courses of action being considered, and interested stakeholders shall be given a reasonable time in which to respond. Having considered the responses, the Commission should give reasons for the resulting decision in a statement following the relevant consultation, including a description of how the views of those responding have been taken into account.

Or. en

Justification

It is essential that the views of NRAs and industry stakeholders are taken into account in decisions at Community level, which decisions must be transparent and proportionate to the result to be achieved. For this to occur, full and effective consultation with national regulatory authorities and industry stakeholders is necessary.

Reference to the Commission may be replaced with ERG, see justification for the amendments to Recital (3).

Amendment 116 **Fiona Hall**

Proposal for a directive – amending act **Recital 10 a (new)**

Text proposed by the Commission

Amendment

(10a) The aim is to reduce ex ante sector specific rules progressively as competition in the markets develops and, ultimately, for electronic communications to be governed by competition law only. It may well be the case that competition develops at different rates in different markets and in different areas within Member States. In order to ensure that regulation is proportional and adapted to varying competitive conditions, national regulatory authorities should be able to (a) define markets on a sub-national basis and/or (b) lift regulatory obligations in markets and/or geographic areas where

there is effective infrastructure competition, even if they are not defined as separate markets. National regulatory authorities should also be able to require network components and associated facilities to be shared in order to facilitate the establishment of networks, including the deployment of fibre optic access networks.

Or. en

Amendment 117
Erika Mann

Proposal for a directive – amending act
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The sector specific ex-ante rules have been introduced to serve the transition from former monopolies into competitive markets for electronic communications networks and services. In a period when incumbents controlled access to monopolistic networks ex ante regulation was justified unless the problems could be solved by competition law alone. But with investment into new networks – cable networks and next generation networks – the need for ex-ante regulation will be less justified. Where access seekers have the choice between two or more access networks ex-ante regulation is no longer justified. This phase-out concept should no longer focus on effective competition in downstream markets for electronic communications service markets but on the existence of infrastructure competition (infrastructure test). If according to this test infrastructure competition exists, sector specific ex-ante regulation should not be continued and Community and national competition law

should solely be applied without taking recourse to the three criteria test, which focuses on competition in downstream markets and the choice between ex-ante regulation and competition law. The infrastructure test should apply not only to national markets but to sub-national markets in such geographic areas where infrastructure competition is feasible. National Regulatory Authorities should define such geographic sub-national markets taking into account economic feasibility of network competition.

Or. en

Justification

Whereas the transitory character of ex ante sector specific regulation as been agreed upon from the beginning actual phase-out has been extremely slow and cautious. In the light of new challenges by potentials of next generation access networks the phase-out concept has to be remodelled. Where competition between at least two alternative access networks exists – may this be on the national or on the sub-national/regional level – there is no longer need for ex ante sector specific regulation.

Amendment 118 **Erika Mann**

Proposal for a directive – amending act **Recital 10 b (new)**

Text proposed by the Commission

Amendment

(10b) Whilst the current access regime for existing legacy networks has focused on the transition from monopolistic downstream markets to markets with effective competition and to a lesser degree on promoting infrastructure based competition, a new access regime for next generation access networks (NGA-networks) is required. Such networks will only come into existence if investors are willing to engage in risky investments. Risks for such investments are stemming from the fact that consumers' preferences

and their willingness to pay higher prices for new innovative products are uncertain. Moreover, the access regime for NGA-networks has an impact on that risk as well. Thus, a new access regime for NGA-networks (NNAR) has to be introduced, which provides incentives for investment into new networks. The new regulatory environment for such networks has to be predictable and sustainable. It should promote infrastructure competition, enable competitive advantages to be derived from infrastructure investment and allow for access options for access seekers and thereby, enhance choices and improve services for consumers.

Or. en

Justification

The access regime developed for access to existent legacy networks would – if being transferred without modification to the access to NGA-networks – curb incentives to investment in such new networks. Thus, a new access regime for NGA-networks should grant access opportunities in a manner that investment incentives are not being affected. Access seekers should have to choose between risk-sharing options and options with specific risk premiums.

Amendment 119 **Erika Mann**

Proposal for a directive – amending act **Recital 11**

Text proposed by the Commission

(11) The Community mechanism allowing the Commission to require national regulatory authorities to withdraw planned measures concerning market definition and the designation of operators having significant market power has contributed significantly to a consistent approach in identifying the circumstances in which ex-ante regulation may be applied and the

Amendment

(11) The Community mechanism allowing the Commission to require national regulatory authorities to withdraw planned measures concerning market definition and the designation of operators having significant market power has contributed significantly to a consistent approach in identifying the circumstances in which ex-ante regulation may be applied and the

operators are subject to such regulation.
However, there is no equivalent mechanism for the remedies to be applied. Monitoring of the market by the Commission and, in particular, the experience with the procedure under Article 7 of the Framework Directive, has shown that inconsistencies in the national regulatory authorities' application of remedies, even under similar market conditions, undermine the internal market in electronic communications, do not ensure a level playing field between operators established in different Member States, and prevent the realisation of consumer benefits from cross-border competition and services. The Commission should be given powers to require national regulatory authorities to withdraw draft measures on the remedies chosen by national regulatory authorities. In order to ensure the consistent application of the regulatory framework in the Community, the Commission should consult the Authority prior to its decision.

operators are subject to such regulation.

Or. en

Justification

The extension of powers to the Commission with regard to remedies goes too far.

Amendment 120
Erika Mann

Proposal for a directive – amending act
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) National communication markets will continue to differ within the European Union; the competencies and knowledge of the National regulatory authorities and BERT are essential in

building a competitive European ecosystem in communication markets and services while understanding national and regional differences and respecting the requirements of subsidiarity;

Or. en

Amendment 121
Erika Mann

Proposal for a directive – amending act
Recital 13

Text proposed by the Commission

(13) Likewise, in view of the need to avoid a regulatory vacuum in a sector characterised by its fast-moving nature, if adoption of the re-notified draft measure would still create a barrier to the single market or be incompatible with Community law, the Commission, after having consulted the Authority, should be able to require the national regulatory authority concerned to impose a specific remedy within a specified time.

Amendment

(13) The review should reflect economic market analysis based on competition law methodology. The aim is to reduce ex-ante sector specific regulation progressively as competition in the market develops. However, ex-ante regulation may continue to be required because of new entry barriers arising as a result of technological development. It may well be the case that competition develops at different speeds in different market segments and in different areas within Member States. In order to ensure that regulation is proportional and adapted to the different competitive conditions, national regulatory authorities should remove regulatory obligations in those markets and/or geographic areas, even if they are not defined as separate markets, where there is infrastructure competition, or it is prospectively expected. In order to ensure that market players in similar circumstances are treated in fair and similar ways in different Member States, the Commission in co-operation with BERT should ensure a harmonised and consistent application of the provisions of this Directive. National regulatory authorities and national authorities entrusted with the implementation of

competition law should, where appropriate, coordinate their actions to ensure that the most appropriate remedy is applied. The Community and its Member States have entered into commitments on interconnection of telecommunications networks in the context of the World Trade Organisation agreement on basic telecommunications and these commitments must be respected as well.

Or. en

Justification

This recital deals with specific problems of different speeds of market developments on the national and the regional level. In order to ensure a harmonised and consistent approach in the various Member States a mechanism is being introduced which provides for co-operation of National Regulatory Authorities, National Competition Authorities, the Commission, and BERT. Furthermore the commitments vis-à-vis the World Trade Organisation have to be taken into account.

Amendment 122

Dominique Vlasto, Ivo Belet

Proposal for a directive – amending act

Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Member States should encourage stakeholders to enter into cooperation arrangements to enable online services to run smoothly and to make for a high level of user confidence. In particular, electronic communications network and/or service providers and other stakeholders should be encouraged to work together to promote lawful content and protect content online. Cooperation of this kind, extending beyond the regulatory framework without undermining it, could take the practical form of, for example, codes of conduct drawn up by, after being negotiated and

approved among, the parties concerned. Such codes are already provided for in principle in many Community instruments, including for instance the Directive on electronic commerce (Directive 2000/31/EC, Article 16), the Directive on the enforcement of intellectual property rights (Directive 2004/48/EC, Article 17), and the Directive on the protection of personal data (Directive 95/46/EC, Article 27). Cooperation among stakeholders along such lines is essential in order to promote online content, and European cultural content in particular, and to unleash the potential of the information society.

Or. fr

Justification

This recital stresses the need to encourage constructive cooperation among stakeholders aimed at promoting online content and unleashing the potential of the information society.

Amendment 123
Paul Rübzig

Proposal for a directive – amending act
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Where end-users, irrespective of type or scale, develop or purchase software applications, software applications embedded in hardware devices or traditional hardware; and make use of these to convey voice without any intervention by an external voice services provider to effectuate voice communications within an enterprise/public administration, within a closed user group or in the public sphere, with anyone else with whom the software or hardware enables voice

communication; then, the end-users are self-providing their voice communications, and no provision of an electronic communications service occurs. This is the case, even if: an enterprise/public administration self-provides one or multiple gateway(s) to the traditional voice networks or end-users, including individuals, use the Internet to reach each-other.

Or. en

Justification

Clarifies that Article 2c) of the EU Framework Directive 2002/21/EC excludes self-provision of services and that self-provided VoIP, for example by a business undertaking for its own purposes without using a service provider, is not an Electronic Communications Service.

Amendment 124 **Rebecca Harms**

Proposal for a directive – amending act **Recital 16**

Text proposed by the Commission

(16) Radio frequencies should be considered a scarce public resource, which has an important public and *market* value. It is in the public interest that spectrum is managed as efficiently and effectively as possible from *an economic, social* and environmental perspective and that obstacles to its efficient use are *progressively* withdrawn.

Amendment

(16) Radio frequencies *are the property of Member States. It is within the competence of Member States to ensure the management of radio frequencies.* They should be considered a scarce public resource, which has an important public and *economic* value. It is in the public interest that spectrum is managed as efficiently and effectively as possible from *a social, cultural, economic* and environmental perspective and that obstacles to its efficient use are *gradually* withdrawn.

Or. en

Justification

There is no doubt that radio spectrum is a scarce resource. They should belong to the member states. Both its economic and social value should be considered accordingly and in a balanced way to manage it efficiently.

Amendment 125

Herbert Reul

Proposal for a directive – amending act

Recital 16

Text proposed by the Commission

(16) Radio frequencies should be considered a scarce public resource, which has an important public and **market** value. It is in the public interest that spectrum is managed as efficiently and effectively as possible from an economic, social and environmental perspective and that obstacles to its efficient use are progressively withdrawn.

Amendment

(16) Radio frequencies **are the property of Member States. They** should be considered a scarce public resource, which has an important public and **economic** value. It is in the public interest that spectrum is managed as efficiently and effectively as possible from a social, **cultural**, economic and environmental perspective and that obstacles to its efficient use are gradually withdrawn.

Or. en

Justification

There is no doubt that radio spectrum is a scarce public resource. The original responsibility of the member states for the radio spectrum should be clarified.

Amendment 126

Ruth Hieronymi, Ivo Belet

Proposal for a directive – amending act

Recital 16

Text proposed by the Commission

(16) Radio frequencies should be considered a scarce public resource, which has an important public and **market** value. It is in the public interest that spectrum is

Amendment

(16) Radio frequencies **are the property of Member States. They** should be considered a scarce public resource, which has an important public and **economic** value. It is

managed as efficiently and effectively as possible from an economic, social and environmental perspective and that obstacles to its efficient use are progressively withdrawn.

in the public interest that spectrum is managed as efficiently and effectively as possible from a social, **cultural**, economic and environmental perspective and that obstacles to its efficient use are gradually withdrawn.

Or. en

Justification

There is no doubt that radio spectrum is a scarce public resource. The original responsibility of the member states for the radio spectrum should be clarified.

Amendment 127
Angelika Niebler

Proposal for a directive – amending act
Recital 16

Text proposed by the Commission

(16) Radio frequencies should be considered a scarce public resource that has an important public and market value. It is in the public interest that spectrum is managed as efficiently and effectively as possible from an economic, social and environmental perspective and that obstacles to its efficient use are gradually withdrawn.

Amendment

(16) Radio frequencies should be considered a scarce public resource that has an important public and market value. It is in the public interest that spectrum is managed as efficiently and effectively as possible from an economic, social and environmental perspective **and taking account of cultural goals and the objectives of media pluralism**, and that obstacles to its efficient use are gradually withdrawn

Or. de

Justification

It needs to be ensured that spectrum management will continue to take cultural and media pluralism aspects into account.

Amendment 128
Erna Hennicot-Schoepges

Proposal for a directive – amending act
Recital 17

Text proposed by the Commission

(17) Radio frequencies should be managed so as to ensure that harmful interference is avoided. This basic concept of harmful interference should therefore be properly defined to ensure that regulatory intervention is limited to the extent necessary to prevent such interference.

Amendment

(17) Radio frequencies should be managed so as to ensure that harmful interference is avoided. This basic concept of harmful interference should therefore be properly defined ***by taking account of existing internationally or regionally agreed frequency allocation plans*** to ensure that regulatory intervention is limited to the extent necessary to prevent such interference.

Or. en

Justification

This is in line with Article 2(s) of Directive 2002/21/EC. Problems of harmful interference are one of the main reasons for the need for national, regional and international frequency allocation plans. As frequencies are not limited to geographical areas, and cross the borders of the EU, international and regional binding agreements to avoid or mitigate interference must be respected.

Amendment 129
Rebecca Harms

Proposal for a directive – amending act
Recital 19a (new)

Text proposed by the Commission

Amendment

(19a) Although spectrum management remains within the competence of the Member States, coordination at Community level can ensure that spectrum users derive the full benefits of the internal market and that EU interests can be effectively defended world-wide.

Or. en

Justification

An EU coordination approach for spectrum can, while respecting subsidiarity, allow for significant economies of scale and multiplication of value.

Amendment 130
Gunnar Hökmark

Proposal for a directive – amending act
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Although spectrum management remains within the competence of the Member States, coordination and, where appropriate, harmonisation at Community level can help ensure that spectrum users derive the full benefits of the internal market and that EU interests can be effectively defended world-wide.

Or. en

Justification

Harmonisation at EU level can be helpful but it is not only way in which to derive the full benefits of the internal market and to ensure EU interests are effectively defended world-wide.

Amendment 131
Mary Honeyball

Proposal for a directive – amending act
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Although spectrum management remains within the competence of the Member States, coordination and, where appropriate, harmonisation at Community level can help ensure that spectrum users derive the full benefits of the internal market and that EU interests can be effectively defended world-wide.

Justification

Harmonisation at Community level can be helpful. However other methods, like technological innovation, can also help to generate benefits for the internal market.

Amendment 132

Erika Mann

Proposal for a directive – amending act

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Recommends holding a spectrum-summit in 2010 driven by Member States, including the European Parliament, European Commission and all stakeholders. The outcome of this summit should be to achieve clarification in the following areas:

- a) greater consistency in European spectrum policies in general;***
- b) freeing spectrum for new communication services once the digital switchover takes place;***
- c) clarification with regard to difficulties in specific sectors or for specific frequency bandwidth during the switchover period.***

Or. en

Justification

Since it looks difficult to find common understanding between all interested parties, a summit in 2010 might be the ideal time to build consensus;

Amendment 133
Rebecca Harms

Proposal for a directive – amending act
Recital 20

Text proposed by the Commission

(20) Flexibility in spectrum management and access should be increased through technology- and service- neutral authorisations to let spectrum users choose the best technologies and services to apply in a frequency band (hereinafter referred to as the ‘principles of technology- and service neutrality’). The administrative determination of technologies and services should become the exception and should ***be clearly justified and subject to regular periodic review.***

Amendment

(20) Flexibility in spectrum management and access should be increased through technology- and service- neutral authorisations to let spectrum users choose the best technologies and services to apply in frequency ***bands available to electronic communication services as identified in national frequency allocation tables and in the ITU Radio regulations*** (hereinafter referred to as the ‘principles of technology- and service neutrality’). The administrative determination of technologies and services should ***apply when general interest objectives are at stake.***

Or. en

Justification

Necessary to ensure legal consistency with the definition of service neutrality in Article 9 paragraph 4 of the Framework Directive and for an international coordinated frequency management.

Amendment 134
Ruth Hieronymi, Ivo Belet

Proposal for a directive – amending act
Recital 20

Text proposed by the Commission

(20) Flexibility in spectrum management and access should be increased through technology- and service- neutral authorisations to let spectrum users choose the best technologies and services to apply in a frequency band (hereinafter referred to as the ‘principles of technology- and

Amendment

(20) Flexibility in spectrum management and access should be increased through technology- and service- neutral authorisations to let spectrum users choose the best technologies and services to apply in frequency bands ***available to electronic communication services as identified in***

service neutrality’). The administrative determination of technologies and services should become the exception and should ***be clearly justified and subject to regular periodic review.***

national frequency allocation tables and in the ITU Radio regulations (hereinafter referred to as the ‘principles of technology- and service neutrality’). The administrative determination of technologies and services should ***apply when general interest objectives are at stake.***

Or. en

Justification

Necessary to ensure legal consistency with the definition of service neutrality.

Amendment 135 **Erna Hennicot-Schoepges**

Proposal for a directive – amending act **Recital 21**

Text proposed by the Commission

(21) Exceptions to the principle of technology neutrality should be limited and justified by the need to avoid harmful interference, for example by imposing emission masks and power levels, or to ensure the protection of public health by limiting public exposure to electromagnetic fields, ***or to ensure proper sharing of spectrum, in particular where its use is only subject to general authorisations, or where strictly necessary to comply with an exception to the principle of service neutrality.***

Amendment

(21) Exceptions to the principle of technology neutrality should be limited and justified by the need to avoid harmful interference, for example by imposing emission masks and power levels, or to ensure the protection of public health by limiting public exposure to electromagnetic fields.

Or. en

Justification

The technology neutrality concept may lead to the use of terrestrial, in particular mobile, technology in bands used for satellite services. Such use may unduly interfere and adversely affect satellite services, endangering existing services and undermining prospects for future deployment and investment in the European satellite industry.

To ensure terrestrial uses do not take priority over or unduly interfere with satellite uses, continued reliance on efficient technical regulation, technology oriented licensing and objective non-discriminatory derogations is required.

Amendment 136

Rebecca Harms

Proposal for a directive – amending act

Recital 21

Text proposed by the Commission

(21) **Exceptions** to the principle of technology neutrality should be **limited** and justified by the need to avoid harmful interference, for example by imposing emission masks and power levels, or to ensure the protection of public health by limiting public exposure to electromagnetic fields or to ensure proper sharing of spectrum, in particular where its use is only subject to general authorisations, or **where strictly necessary to comply with an exception to the principle of service neutrality**.

Amendment

(21) **Restrictions** to the principle of technology neutrality should be **appropriate** and justified by the need to avoid harmful interference, for example by imposing emission masks and power levels, or to ensure the protection of public health by limiting public exposure to electromagnetic fields or to ensure proper sharing of spectrum, in particular where its use is only subject to general authorisations, or **to comply with an general interest objective in conformity with Community law**.

Or. en

Justification

Ensure coherency with the text of the directive which – for technology neutrality - refers to “restrictions” and not “exceptions”. Restrictions should not be limited to exception to the principle of service neutrality but need to comply with general interest objectives.

Amendment 137

Ruth Hieronymi, Ivo Belet

Proposal for a directive – amending act

Recital 21

Text proposed by the Commission

(21) **Exceptions** to the principle of technology neutrality should be **limited** and

Amendment

(21) **Restrictions** to the principle of technology neutrality should be

justified by the need to avoid harmful interference, for example by imposing emission masks and power levels, or to ensure the protection of public health by limiting public exposure to electromagnetic fields or to ensure proper sharing of spectrum, in particular where its use is only subject to general authorisations, or *where strictly necessary to comply with an exception to the principle of service neutrality*.

appropriate and justified by the need to avoid harmful interference, for example by imposing emission masks and power levels, or to ensure the protection of public health by limiting public exposure to electromagnetic fields or to ensure proper sharing of spectrum, in particular where its use is only subject to general authorisations, or *to comply with an general interest objective in conformity with Community law*.

Or. en

Justification

Ensure coherency with the text of the directive which – for technology neutrality - refers to “restrictions” and not “exceptions”. Restrictions should not be limited to exception to the principle of service neutrality but needs to comply with general interest objectives.

Amendment 138 **Rebecca Harms**

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

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. *On the other hand, spectrum use may also be explicitly assigned to the provision of a specific service or through a specific technology 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. Those objectives include the promotion of *cultural and media policy objectives such as* cultural and linguistic diversity and media pluralism as defined in national legislation in

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.***

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. en

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 139 **Anne Laperrouze**

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

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. 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.***

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 *as far as possible*.

Or. fr

Justification

As is recognised in recital 5 of the framework directive, separate regulation of transmission and content must not rule out the possibility of allowing for the links between these two elements, especially when the aim is to safeguard media pluralism and cultural diversity and protect consumers. Member States should therefore continue to have the option of granting individual rights of use subject to commitments regarding the content to be delivered in specific services.

Amendment 140 Dominique Vlasto

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

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. 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.***

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.

Or. en

Justification

As recognized in Recital 5 of the Framework Directive, separation between the regulation of transmission and 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 141 **Erna Hennicot-Schoepges**

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

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 ***deal*** 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.

previously acquired rights **and the provisions of national frequency allocation plans and the International Telecommunication Union (ITU) Radio Regulations**. It should be possible for exceptions to the principle of service neutrality which require the provision of a specific service **in order to take national public policy considerations into account or** to meet clearly defined general interest objectives such as, **for example**, safety of life, the need to promote social, regional and territorial cohesion, **the efficient use of radio frequencies and the effective management of spectrum**. Those objectives should include the promotion of **national audiovisual and media policies**, 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, **or ensure that the above objectives are achieved**, 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.

Or. en

Justification

The question whether spectrum can be allocated in a service-neutral way should depend on a reasonable balance between public interest and commercial value. In practice, the Commission adheres to this approach, e.g. in its Communication on the Digital Dividend, where it proposes the allocation of specific services to specific spectrum (sub)bands.

Amendment 142
Werner Langen

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. 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, ***better access to the information society for all citizens***, or the avoidance of inefficient use of spectrum to be permitted where necessary and proportionate. ***The aim of promoting better access to the information society includes the provision of mobile broadband services in rural areas and the continuous increase in the quality and bandwidth of these services.*** 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.

Or. de

Justification

Rapid Internet access is of fundamental importance for speeding up economic growth, innovation and social welfare. An efficient broadband infrastructure in rural areas, a constant improvement of quality of the service, the availability of sufficient bandwidth and infrastructure competition are essential preconditions for guaranteeing better access to the information society for all citizens.

Amendment 143 **Ján Hudacký**

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. 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, ***better access to the information society for all citizens*** or the avoidance of inefficient use of spectrum to be permitted where necessary and proportionate. ***The aim of promoting better access to the information society for all citizens includes the supply of rural areas with mobile broadband electronic communication services and the continuous increase in the quality of mobile services and bandwidth.*** 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.

Or. en

Justification

Fast access to the internet is of fundamental importance for growth, innovation and social welfare. An efficient broadband infrastructure in rural areas, increase in service quality as well as infrastructure competition are important to ensure an access to the information society for all citizens. Therefore it should be possible to deviate from the principle of service neutrality to achieve the aim of public interest and to allocate spectrum in bands below 1 GHz for delivery of mobile services.

Amendment 144 **Alexander Alvaro**

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,

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. 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, ***better access to the information society for all citizens*** or the avoidance of inefficient use of spectrum to be permitted where necessary and proportionate. ***The aim of promoting better access to the information society for all citizens includes the supply of rural areas with mobile broadband electronic communication services and***

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.

the continuous increase in the quality of mobile services and bandwidth. 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.

Or. en

Justification

Fast access to the internet is of fundamental importance for accelerating economic growth, innovation and social welfare in Europe. An efficient broadband infrastructure in rural areas, a continuous increase in the quality of service and the availability of bandwidth as well as infrastructure competition are important requirements to ensure a better access to the information society for all citizens.

Amendment 145 **Angelika Niebler**

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

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. 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.

such as safety of life, the need to promote social, regional and territorial cohesion, **access to mobile broadband services in rural areas** 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.

Or. de

Justification

It is important to guarantee the provision of mobile broadband connections in rural areas.

Amendment 146 Rebecca Harms

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 **assignment of radio frequencies to ensure** the promotion of cultural and **media policy objectives such as** cultural and linguistic diversity and media pluralism in accordance with their own national law, **internationally agreed**

radio frequency plans and general principles of Community law.

Or. en

Justification

This amendment clarifies the EC text concerning the competence of the member states.

Amendment 147
Gunnar Hökmark

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 linguistic diversity and media pluralism in accordance with their own national law. ***In doing so, Member States may take into account the cultural relevance of certain services and systems for multimedia-based audio, video and live productions as well as the opportunities the digital dividend offers to new technologies and new operators in this perspective.***

Or. en

Amendment 148
Karsten Friedrich Hoppenstedt

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

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

promotion of cultural and linguistic diversity and media pluralism in accordance with their own national law. ***In doing so, Member States may take into account the cultural relevance of broadcasting and professional wireless microphone systems for multimedia-based audio, video and live productions.***

Or. en

Justification

Broadcasting as well as media productions in connection with cultural events, for instance events with international character like the Olympic Games, depend on reliable transmission frequencies.

Amendment 149
Werner Langen

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 linguistic diversity and media pluralism in accordance with their own national law. ***These objectives must be in line with the other public interest objectives set out in Recital 22.***

Or. de

Justification

This amendment stresses the need to strike a balance between the objectives of the promotion of cultural and linguistic diversity by Member States and the other objectives referred to in Recital 22. This is necessary if only for reasons of proportionality, one of the most essential principles of European law.

Amendment 150
Alexander Alvaro

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 linguistic diversity and media pluralism in accordance with their own national law.
These aims should be brought appropriately in line with the other aims of public interest in Recital 22.

Or. en

Justification

The promotion of cultural and linguistic diversity and media pluralism are counted among the field of responsibility of the Member States. Therefore they are undoubtedly entitled to draft exceptions to the principle of service neutrality. However, this aim is not of overriding importance to the other aims of public interest mentioned in Recital 22. The amendment clarifies the necessity for a gentle and adequate balance between these equal aims of public interest. Nothing else would be compatible with a basic principle in European law, the principle of proportionality.

Amendment 151
Ján Hudacký

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 linguistic diversity and media pluralism in accordance with their own national law.
These aims should be brought appropriately in line with the other aims

of public interest stated in Recital 22.

Or. en

Amendment 152
Erna Hennicot-Schoepges

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 linguistic diversity, ***national audiovisual and media policies*** and media pluralism in accordance with their own national law.

Or. en

Justification

Member States should have the power to define the scope and nature of exceptions to national audiovisual and media policies.

Amendment 153
Rebecca Harms

Proposal for a directive – amending act
Recital 24

Text proposed by the Commission

(24) As the allocation of spectrum to specific technologies or services is an exception to the principles of technology and service neutrality and reduces the freedom to choose the service provided or technology used, any proposal for such allocation should be transparent and subject to public consultation.

Amendment

deleted

Justification

Legal consistency with amendments concerning Article 6.1.

Amendment 154

Ruth Hieronymi, Ivo Belet

Proposal for a directive – amending act

Recital 24

Text proposed by the Commission

Amendment

(24) As the allocation of spectrum to specific technologies or services is an exception to the principles of technology and service neutrality and reduces the freedom to choose the service provided or technology used, any proposal for such allocation should be transparent and subject to public consultation.

deleted

Justification

Legal consistency for the principles of technology and service neutrality.

Amendment 155

Rebecca Harms

Proposal for a directive – amending act

Recital 26

Text proposed by the Commission

Amendment

(26) Given the effect of the exceptions on the development of the internal market for electronic communications services, the EC should be able to harmonise the scope and nature of any exceptions to the

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*principles of technology and service neutrality other than those aimed at ensuring the promotion of cultural and linguistic diversity and media pluralism, having regard to harmonised technical conditions for the availability and efficient use of radio frequencies under the Decision 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community ("the Radio Spectrum Decision")*¹.

Or. en

Justification

Ensure legal coherence with our proposal for modified Article 9c.

Amendment 156
Rebecca Harms

Proposal for a directive – amending act
Recital 27

Text proposed by the Commission

(27) For internal market purposes, it may also be necessary *to harmonise at Community level the identification of tradable frequency bands, the conditions for tradability or for the transition to tradable rights in specific bands, a minimum format for tradable rights, requirements to ensure central availability, accessibility, and reliability of information necessary for spectrum trading and requirements to protect competition and to prevent spectrum hoarding. The Commission should therefore be given power to adopt implementing measure for that harmonisation.* Such implementing

Amendment

(27) For internal market purposes, it may also be necessary *to identify* tradable frequency bands, *requirements to ensure central availability, accessibility and requirements to protect competition and to prevent spectrum hoarding. The Commission, in accordance with the Radio Spectrum Decision (676/2002/EC), should therefore be given the power to adopt implementing measure for that harmonisation.* Such implementing measures should take due account of whether individual rights of use have been granted on a commercial or non-commercial basis.

¹ OJ L 108, 24.4.2002, p.1.

measures should take due account of whether individual rights of use have been granted on a commercial or non-commercial basis.

Or. en

Justification

Necessary measures for spectrum coordination on the European level.

Amendment 157
Gabriele Albertini

Proposal for a directive – amending act
Recital 29

Text proposed by the Commission

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission should be given the power to grant the Authority specific responsibilities in the area of numbering. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to be able to reach *certain* services **by using the same recognisable numbers at similar prices in all Member States**, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, **the applicable tariff principle or mechanism**.

Amendment

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission should be given the power to grant the Authority specific responsibilities in the area of numbering **without detrimental effects to existing services**. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to be able to reach **essential services, such as directory enquiry services across borders**, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, **measures to facilitate easy cross-border access**.

Or. en

Justification

While harmonised European numbering would be of great benefit for new pan-European services, this would have a detrimental effect where, as is the case for directory enquiries, liberalization has taken place without such harmonisation having been effected.

Directory services are considered an essential access tool under Recital 11 of the Universal

Service Directive. The capability for a European citizen to travel to other Member states and be able to access its usual directory enquiry services provider, in order to obtain information in his or her national language, is essential to promoting the single market.

Amendment 158
Stefano Zappalà

Proposal for a directive – amending act
Recital 29

Text proposed by the Commission

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission should be given the power to grant the Authority specific responsibilities in the area of numbering. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to be able to reach ***certain services by using the same recognisable numbers at similar prices in all Member States***, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, ***the applicable tariff principle or mechanism***.

Amendment

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission should be given the power to grant the Authority specific responsibilities in the area of numbering ***without detrimental effects to existing services***. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to be able to reach ***essential services, such as directory enquiry services across borders***, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, ***measures to facilitate easy cross-border access***.

Or. en

Justification

While harmonised European numbering would be of great benefit for new pan-European services, this would have a detrimental effect where, as is the case for directory enquiries, liberalization has taken place without such harmonisation having been effected.

Directory services are considered an essential access tool under Recital 11 of the Universal Service Directive. The capability for a European citizen to travel to other Member states and be able to access its usual directory enquiry services provider, in order to obtain information in his or her national language, is essential to promoting the single market.

Amendment 159

Patrizia Toia

**Proposal for a directive – amending act
Recital 29**

Text proposed by the Commission

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission should be given the power to grant the Authority specific responsibilities in the area of numbering. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to be able to reach *certain* services **by using the same recognisable numbers at similar prices in all Member States**, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, **the applicable tariff principle or mechanism**.

Amendment

(29) In order to promote the functioning of the internal market, and to support the development of cross-border services, the Commission should be given the power to grant the Authority specific responsibilities in the area of numbering. Furthermore, to allow citizens of the Member States, including travellers and disabled users, to be able to reach **essential services, such as directory enquiry services across borders**, the powers of the Commission to adopt technical implementing measures should also cover, where necessary, **measures to facilitate easy cross-border access**.

Or. en

Justification

While harmonised European numbering would be of great benefit for new pan-European services, this would have a detrimental effect where, as is the case for directory enquiries, liberalization has taken place without such harmonisation having been effected and significant investments have already been made on national numbering plans and, consequently, on different numbers in different Member States. The capability for a European citizen to travel to other Member states and be able to access its usual directory enquiry services provider, in order to obtain information in his or her national language, is essential to promoting the single market.

Amendment 160

Nikolaos Vakalis

**Proposal for a directive – amending act
Recital 31**

Text proposed by the Commission

(31) It is necessary to strengthen the

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.

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. ***The sharing of ducts should be extended to cover all public infrastructure (e.g. water, sewage, electricity, gas) through which electronic communications infrastructure can be deployed to create a level playing field and improve possibilities for the roll out of alternative infrastructure.***

Or. en

Justification

New generation services will not run along the current copper wires; a whole new infrastructure will be deployed, for which the bottleneck is the physical ducts through which connections will be deployed. Real duct sharing – i.e. including not only telecoms incumbents' ducts but also all public infrastructure (e.g. electricity, gas, sewage ducts) - enables more than one player to have access to infrastructure to provide their services. All ducts should be made subject to the same regulatory approach in order to create a fair playing field.

Amendment 161
Anni Podimata

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 electronic communications infrastructure for undertakings.

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. ***The sharing of ducts should be extended to cover all public infrastructure (water, sewage, electricity, gas) through which electronic communications infrastructure can be deployed to create a level playing field and improve possibilities for the roll out of alternative infrastructure.***

Or. en

Justification

New generation services will not run along the current copper wires; a whole new infrastructure will be deployed, for which the bottleneck is the physical ducts through which connections will be deployed. Real duct sharing – i.e. including not only telecoms incumbents' ducts but also, for example all public infrastructure (electricity, gas, sewage ducts) - enables more than one player to have access to infrastructure to provide their services. Ducts should be made subject to the same regulatory approach to create a fair playing field.

Amendment 162
Catherine Trautmann

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 electronic communications infrastructure for undertakings.

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 ***a fair efficient and*** 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 ***network elements and associated facilities such as*** 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, ***notably the deployment of new fibre optic access networks. In particular, national regulatory authorities should be able to impose on the operators obligations to provide a reference offer for granting access to their ducts in a fair and non-discriminatory way.***

Or. en

Justification

Additions in accordance with amendments to Article 12. New entrants should be able to access the ducts of SMP operators in a fair and non-discriminatory way. This will facilitate infrastructure competition and the transition to a full competitive market. For the deployment of new networks the sharing of network elements and associated facilities can speed up and reduce their financial and environmental impact.

Amendment 163
Nikolaos Vakalis

Proposal for a directive – amending act
Recital 32

Text proposed by the Commission

(32) Reliable and secure communication of information over electronic communications networks is increasingly central to the whole economy and society in general. System complexity, technical failure or human mistake, accidents or attacks may all have consequences for the functioning and availability of the physical infrastructures that deliver important services to EU citizens, including e-Government services. National regulatory authorities should therefore ensure the integrity and security of public communications networks are maintained. The **Authority** should contribute to the enhanced level of security of electronic communications by, among other things, providing expertise and advice, and promoting the exchange of best practices. Both the **Authority** and the national regulatory authorities should have the necessary means to perform their duties, including powers to obtain sufficient information to be able to assess the level of security of networks or services as well as comprehensive and reliable data about actual security incidents that have had a significant impact on the operation of networks or services. Bearing in mind that the successful application of adequate security is not a one-off exercise but a continuous process of implementation, review and updating, the providers of electronic communications networks and services should be required to take measures to safeguard their integrity and security in accordance with the assessed risks, taking into account the state of the art

Amendment

(32) Reliable and secure communication of information over electronic communications networks is increasingly central to the whole economy and society in general. System complexity, technical failure or human mistake, accidents or attacks may all have consequences for the functioning and availability of the physical infrastructures that deliver important services to EU citizens, including e-Government services. National regulatory authorities should therefore ensure the integrity and security of public communications networks are maintained. The **ENISA** should contribute to the enhanced level of security of electronic communications by, among other things, providing expertise and advice, and promoting the exchange of best practices. Both the **ENISA** and the national regulatory authorities should have the necessary means to perform their duties, including powers to obtain sufficient information to be able to assess the level of security of networks or services as well as comprehensive and reliable data about actual security incidents that have had a significant impact on the operation of networks or services. Bearing in mind that the successful application of adequate security is not a one-off exercise but a continuous process of implementation, review and updating, the providers of electronic communications networks and services should be required to take measures to safeguard their integrity and security in accordance with the assessed risks, taking into account the state of the art

of such measures.

of such measures.

Or. en

Justification

ENISA will continue to be solely competent concerning the security of networks and services.

Amendment 164
Nikolaos Vakalis

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 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 **ENISA** 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

Justification

ENISA will continue to be solely competent concerning the security of networks and services.

Amendment 165
Lambert van Nistelrooij

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

Giving NRAs and the proposed EU communications authority proposed implementation powers to ensure security will not provide timely and effective solutions. A cost reimbursement model should be introduced where the Commission deems it necessary to introduce technical implementing measures. It will also create appropriate incentives for industry, regulators and the Commission to develop and implement security standards through industry led self-regulatory mechanisms.

Amendment 166
Angelika Niebler

Proposal for a directive – amending act
Recital 43

Text proposed by the Commission

Amendment

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. In exceptional cases, it may be justified as a remedy where there has been persistent failure to achieve effective non-discrimination in several of the markets concerned, and where there is little or no prospect of infrastructure competition within a reasonable timeframe after recourse to one or more remedies previously considered to be appropriate. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network

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roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

Or. de

Justification

The functional separation of vertically integrated telecommunications undertakings constitutes a massive and disproportionate intervention in the rights of companies. Such a drastic instrument for ensuring competition would only be needed if regulation of the access markets hitherto had failed or was in danger of failing. But not even the Commission has been able to detect any such failure. On the contrary, the existing regulations guarantee sufficient access by competitors to the infrastructure of a network operator with significant market power.

**Amendment 167
Erika Mann**

**Proposal for a directive – amending act
Recital 43**

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation ***has*** the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. ***In exceptional cases, it may be justified as a remedy where there has***

Amendment

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation ***may have*** the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. In order to avoid distortions of competition in the internal market,

been persistent failure to achieve effective non-discrimination in several of the markets concerned, and where there is little or no prospect of infrastructure competition within a reasonable timeframe after recourse to one or more remedies previously considered to be appropriate. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

proposals for functional separation should be approved in advance by the Commission.

Or. en

Justification

Functional separation is already an accepted reality for some Member States; to impose remedies in "exceptional cases" is an interesting idea, but should be reevaluated in 2014 once the review will take place. By then, it will be better understood how functional separation will lead to more competition and at the same time allow investment into new infrastructures.

Amendment 168

Ivo Belet

Proposal for a directive – amending act Recital 43

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. ***Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. In exceptional cases, it may be justified as a remedy where there has been persistent failure to achieve effective non-discrimination in several of the markets concerned, and where there is little or no prospect of infrastructure competition within a reasonable timeframe after recourse to one or more remedies previously considered to be appropriate. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and***

Amendment

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure ***in exceptional cases where existing remedies fail to achieve the objectives set out in Article 8 of the Framework Directive***, the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. ***It may be justified as a remedy where persistent failure to achieve effective non-discrimination in several of the markets concerned has been proven, and where there is little or no prospect of infrastructure competition within a reasonable timeframe after the implementation of one or more remedies previously considered to be appropriate in line with best practice of the European National Regulatory Authorities for implementing and enforcing non-discrimination obligations. When assessing the prospect of infrastructure competition, existing infrastructure competition in certain geographic parts of an area for which functional separation would apply and technological developments that have enabled infrastructure competition in comparable circumstances elsewhere should be fully taken into account. It is moreover*** very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access

the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

Or. en

Amendment 169
Paul Rübzig

Proposal for a directive – amending act
Recital 43

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. ***In exceptional cases, it*** may be justified as a remedy where ***there has been persistent failure to achieve*** effective non-discrimination in several ***of the***

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markets *concerned*, and where there is little or no prospect of *infrastructure* competition within a reasonable timeframe *after recourse to one or more remedies previously considered to be appropriate*. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a *coordinated* analysis of *different* relevant *markets* related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

no prospect of *effective* competition within a reasonable timeframe. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires *an* analysis of *a* relevant *market* related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

Or. en

Justification

Since functional separation can provide means to simplify enforcement for NRA's, it should be possible for Regulators to make use of this measure on a forward-looking basis (for serious enduring bottlenecks) and not only after there is a long-standing failure of enforcement which means that remedies have been ineffective over an extended period (and thus competition has failed to develop). It is important to refer to 'effective' competition as some infrastructure competition could exist without being sufficient to provide and effective constraint (as in the UK).

Amendment 170

Gabriele Albertini, Aldo Patriciello, Pia Elda Locatelli

Proposal for a directive – amending act Recital 43

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. In exceptional cases, it may be justified as a remedy **where there has been persistent failure to achieve** effective non-discrimination in several **of the** markets **concerned**, and where there is little or no prospect of **infrastructure** competition within a reasonable timeframe **after recourse to one or more remedies previously considered to be appropriate**. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and

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Or. en

Justification

Since functional separation can provide a means to simplify enforcement for the Authority and regulated operator, it should be possible for Regulators to make use of this measure on a forward-looking basis (for serious enduring bottlenecks) and not only after there is a long-standing failure of enforcement which means that remedies have been ineffective over an extended period (and thus competition has failed to develop). It is important to refer to 'effective' competition as some infrastructure competition could exist without being sufficient to provide an effective constraint on the dominant operator (as in the UK).

Amendment 171 **Mary Honeyball**

Proposal for a directive – amending act **Recital 43**

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. In exceptional cases, it may be justified as a remedy where ***there has been persistent failure to achieve*** effective non-discrimination in several of the

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markets concerned, and where there is little or no prospect of *infrastructure* competition within a reasonable timeframe after recourse to one or more remedies previously considered to be appropriate. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

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Or. en

Amendment 172
Patrizia Toia

Proposal for a directive – amending act
Recital 43

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators,

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Or. en

Justification

The harmonisation measures provided for in this article, even though of implementing nature,

aim at regulating fundamental aspects of the spectrum management. It is therefore of the utmost importance to support the Commission harmonization action with a detailed assessment of the technical and operational feasibility and impacts of the said measures, which is to be carried out by the competent international technical bodies like CEPT(ECC and ETSI. Furthermore, the principles of the “better regulation” require the Commission to act in a transparent manner and to extensively consult interested market players.

Amendment 173
Rebecca Harms

Proposal for a directive – amending act
Recital 43

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator’s own downstream divisions. Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making it easier for compliance with non-discrimination obligations to be verified and enforced. In exceptional cases, it may be justified as a remedy ***where there has been persistent failure to achieve*** effective non-discrimination in several ***of the*** markets ***concerned***, and where there is little or no prospect of ***infrastructure*** competition within a reasonable timeframe ***after recourse to one or more remedies previously considered to be appropriate***. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in

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Or. en

Justification

Since functional separation can provide a means to simplify enforcement for the Authority and regulated operator, it should be possible for Regulators to make use of this measure on a forward-looking basis (for serious enduring bottlenecks) and not only after there is a long-standing failure of enforcement.

Amendment 174 Gunnar Hökmark

Proposal for a directive – amending act Recital 43

Text proposed by the Commission

(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making

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(43) The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is to ensure the provision of fully equivalent access products to all downstream operators, including the vertically integrated operator's own downstream divisions. Functional separation has the capacity to improve competition in several relevant markets by significantly reducing the incentive for discrimination and by making

it easier for compliance with non-discrimination obligations to be verified and enforced. In exceptional cases, it may be justified as a remedy where there **has been persistent failure to achieve** effective non-discrimination in several of the markets concerned, and where there is little or no prospect of **infrastructure** competition within a reasonable timeframe after recourse to one or more remedies previously considered **to be** appropriate. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

it easier for compliance with non-discrimination obligations to be verified and enforced. In exceptional cases, it may be justified as a remedy where there **are obstacles to** effective non-discrimination in several of the markets concerned, and where there is little or no prospect of **effective** competition **by new** infrastructure within a reasonable timeframe after recourse to one or more remedies previously considered **being** appropriate. However, it is very important to ensure that its imposition preserves the incentives of the concerned undertaking to invest in its network and that it does not entail any potential negative effects on consumer welfare. Its imposition requires a coordinated analysis of different relevant markets related to the access network, in accordance with the market analysis procedure set out in Article 16 of the Framework Directive. When performing the market analysis and designing the details of this remedy, national regulatory authorities should pay particular attention to the products to be managed by the separate business entities, taking into account the extent of network roll-out and the degree of technological progress, which may affect the substitutability of fixed and wireless services. In order to avoid distortions of competition in the internal market, proposals for functional separation should be approved in advance by the Commission.

Or. en

Justification

Since functional separation can provide a mean to simplify enforcement for authorities and regulators, it should be possible for regulators to make use of this measure on a forward-looking basis (for serious enduring bottlenecks) and not only after there is longstanding failure of enforcement which means that remedies have been ineffective over an extended period (and this competition has failed to develop). It is important to refer to "effective" competition as some infrastructure competition could exist without being sufficient to provide an effective constraint on the dominant operator.

Amendment 175
Angelika Niebler

Proposal for a directive – amending act
Recital 44

Text proposed by the Commission

Amendment

(44) The implementation of functional separation should not prevent appropriate coordination mechanisms between the different separate business entities in order to ensure that the economic and management supervision rights of the parent company are protected.

deleted

Or. de

Justification

The functional separation of vertically integrated telecommunications undertakings constitutes a massive and disproportionate intervention in the rights of companies. Such a drastic instrument for ensuring competition would only be needed if regulation of the access markets hitherto had failed or was in danger of failing. But not even the Commission has been able to detect any such failure. On the contrary, the existing regulations guarantee sufficient access by competitors to the infrastructure of a network operator with significant market power.

Amendment 176
Angelika Niebler

Proposal for a directive – amending act
Recital 45

Text proposed by the Commission

Amendment

(45) Where a vertically integrated undertaking chooses to dispose a substantial part or all of its local access network assets to a separate legal entity under different ownership or by establishing a separate business entity for dealing with access products, the national regulatory authority should assess the effect of the intended transaction on all existing regulatory obligations imposed

deleted

on the vertically integrated operator in order to ensure the compatibility of any new arrangements with Directive 2002/19/EC (Access Directive) and Directive 2002/22/EC (Universal Service Directive). The national regulatory authority concerned should undertake a new analysis of the markets in which the segregated entity operates, and impose, maintain, amend or withdraw obligations accordingly. To this end, the national regulatory authority should be able to request information from the undertaking.

Or. de

Justification

The voluntary sale of networks should not be the subject of legal regulation. Any potential impact on competition should be reviewed in the light of existing national and European competition rules. The Commission's proposal at this point should be rejected.

Amendment 177
Alexander Alvaro

Proposal for a directive – amending act
Recital 45 a (new)

Text proposed by the Commission

Amendment

(45a) Operator selection and pre-selection are essential pillars of the competition which has been achieved so far, and should therefore continue to be available to end users on a technology-neutral basis. The provision conferring the power to impose an obligation to that effect has been deleted from Directive 2002/22/EC and inserted into Directive 2002/19/EC for reasons of consistency.

Or. de

Justification

In practice, if selection and pre-selection of operators ceased, even temporarily, to be mandatory for legal reasons, this would constitute an irreparable competitive disadvantage which would be accompanied by a major reduction of infrastructure investments by competitors, and dismantling of infrastructure already invested in.

Amendment 178

Patrizia Toia

Proposal for a directive – amending act

Recital 46

Text proposed by the Commission

(46) While it is appropriate in some circumstances for a national regulatory authority to impose obligations on operators that do not have significant market power in order to achieve goals such as end-to-end connectivity or interoperability of services, it is however necessary to ensure that such obligations are imposed in conformity with the regulatory framework and in particular its notification procedures.

Amendment

(46) While is appropriate in some circumstances for a national regulatory authority to impose obligations on operators that do not have significant market power in order to achieve goals such as end-to-end connectivity or interoperability of services, ***or in order to promote efficiency, sustainable competition and maximum benefit for end-users***, it is however necessary to ensure that such obligations are imposed in conformity with the regulatory framework and in particular its notification procedures.

Or. en

Justification

Currently unregulated access operators charge exorbitant prices for connecting directory enquiry calls and also impede the ability of the directory enquiry providers to set their own retail prices. There is no justification for access operators to charge any differently to other similar interconnection products which consist in the transport of traffic to and from an interconnection point. These problems need to be addressed in order to permit the benefits of competition in directory enquiry services to be fully delivered to end users and allow the removal of a regulated retail universal service for directory enquiries.

Amendment 179
Gabriele Albertini

Proposal for a directive – amending act
Recital 47

Text proposed by the Commission

(47) The Commission has the power to adopt implementing measures with a view to adapting the conditions for access to digital television and radio services set out in Annex I to market and technological developments. This is also the case for the minimum list of items in Annex II that must be made public to meet the obligation of transparency.

Amendment

(47) The Commission has the power to adopt implementing measures with a view to adapting the conditions for access to digital television and radio services set out in Annex I to market and technological developments. This is also the case for the minimum list of items in Annex II that must be made public to meet the obligation of transparency. ***In addition, the Commission should have the power to impose wholesale interconnection obligations on operators controlling access to end-users in order to ensure end-users the full benefit of competition in directory enquiry services. Such services are an essential tool in the use of electronic communications services and of particular relevance to elderly and disabled users. Wholesale measures are particularly advisable where they would facilitate the removal of universal service regulation at the retail level and allow a transition to a fully competitive environment.***

Or. en

Justification

Currently unregulated access operators charge exorbitant prices for connecting directory enquiry calls and also impede the ability of the directory enquiry providers to set their own retail prices (see, for instance, page 41 of the Commission's new Markets Recommendation). There is no justification for access operators to charge any differently to other similar interconnection products which consist in the transport of traffic to and from an interconnection point. These problems need to be addressed in order to permit the benefits of competition in directory enquiry services to be fully delivered to end users and allow the removal of a regulated retail universal service for directory enquiries.

Amendment 180
Stefano Zappalà

Proposal for a directive – amending act
Recital 47

Text proposed by the Commission

(47) The Commission has the power to adopt implementing measures with a view to adapting the conditions for access to digital television and radio services set out in Annex I to market and technological developments. This is also the case for the minimum list of items in Annex II that must be made public to meet the obligation of transparency.

Amendment

(47) The Commission has the power to adopt implementing measures with a view to adapting the conditions for access to digital television and radio services set out in Annex I to market and technological developments. This is also the case for the minimum list of items in Annex II that must be made public to meet the obligation of transparency. ***In addition, the Commission should have the power to impose wholesale interconnection obligations on operators controlling access to end-users in order to ensure end-users the full benefit of competition in directory enquiry services. Such services are an essential tool in the use of electronic communications services and of particular relevance to elderly and disabled users. Wholesale measures are particularly advisable where they would facilitate the removal of universal service regulation at the retail level and allow a transition to a fully competitive environment.***

Or. en

Justification

Currently unregulated access operators charge exorbitant prices for connecting directory enquiry calls and also impede the ability of the directory enquiry providers to set their own retail prices (see, for instance, page 41 of the Commission's new Markets Recommendation). There is no justification for access operators to charge any differently to other similar interconnection products which consist in the transport of traffic to and from an interconnection point. These problems need to be addressed in order to permit the benefits of competition in directory enquiry services to be fully delivered to end users and allow the removal of a regulated retail universal service for directory enquiries.

Amendment 181

Patrizia Toia

Proposal for a directive – amending act

Recital 47

Text proposed by the Commission

(47) The Commission has the power to adopt implementing measures with a view to adapting the conditions for access to digital television and radio services set out in Annex I to market and technological developments. This is also the case for the minimum list of items in Annex II that must be made public to meet the obligation of transparency.

Amendment

(47) The Commission has the power to adopt implementing measures with a view to adapting the conditions for access to digital television and radio services set out in Annex I to market and technological developments. This is also the case for the minimum list of items in Annex II that must be made public to meet the obligation of transparency. ***In addition, the Commission may have the power to impose wholesale interconnection obligations on operators controlling access to end-users in order to ensure end-users the full benefit of competition in directory enquiry services. Such services are an essential tool in the use of electronic communications services and of particular relevance to elderly and disabled users.***

Or. en

Justification

Currently unregulated access operators charge exorbitant prices for connecting directory enquiry calls and also impede the ability of the directory enquiry providers to set their own retail prices. These problems need to be addressed in order to permit the benefits of competition in directory enquiry services to be fully delivered to end users and allow the removal of a regulated retail universal service for directory enquiries.

Amendment 182
Rebecca Harms

Proposal for a directive – amending act
Recital 47 a (new)

Text proposed by the Commission

Amendment

(47a) Where it is necessary to adopt harmonisation measures for the implementation of the Community's electronic communications and spectrum policy which go beyond technical implementing measures, the Commission shall submit a legislative proposal to the European Parliament and the Council.

Or. en

Justification

Measures which add new essential propositions to the Regulatory Framework must be dealt with under a legislative proposal. Only non-essential elements may be subject to the Comitology Procedure.

Amendment 183
Ruth Hieronymi, Ivo Belet

Proposal for a directive – amending act
Recital 47 a (new)

Text proposed by the Commission

Amendment

(47a) Where it is necessary to adopt harmonisation measures for the implementation of the Community's electronic communications and spectrum policy which go beyond technical implementing measures, the Commission shall submit a legislative proposal to the European Parliament and the Council.

Or. en

Justification

Amendment to ensure legal consistency with Decision 1999/468/EC, Recital 7a and Article 1 para.2: Measures which add new essential propositions to the Regulatory Framework must be dealt with under a legislative proposal. Only non-essential elements may be subject to the Comitology Procedure.

Amendment 184

Herbert Reul

Proposal for a directive – amending act

Recital 47 a (new)

Text proposed by the Commission

Amendment

(47a) Where it is necessary to adopt harmonisation measures for the implementation of the Community's electronic communications and spectrum policy which go beyond technical implementing measures, the Commission shall submit a legislative proposal to the European Parliament and the Council.

Or. en

Justification

Amendment to ensure legal consistency with Decision 1999/468/EC, Recital 7a and Article 1 para.2: Measures which add new essential propositions to the Regulatory Framework must be dealt with under a legislative proposal. Only non-essential elements may be subject to the Comitology Procedure.

Amendment 185

Erna Hennicot-Schoepges

Proposal for a directive – amending act

Recital 49

Text proposed by the Commission

Amendment

(49) The introduction of the requirements of service and technology neutrality in assignment and allocation decisions, ***deleted***

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.

Or. en

Justification

See the justification for the amendments to Recital (21) and Recital (22)

Amendment 186
Rebecca Harms

Proposal for a directive – amending act
Recital 49

Text proposed by the Commission

Amendment

(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 **deleted**

Amendment 188
Anne Laperrouze

Proposal for a directive – amending act
Recital 50

Text proposed by the Commission

Amendment

(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. ***deleted***

Or. fr

Justification

Member States must continue to have the option of keeping to or introducing arrangements whereby the obligation of paying to use the spectrum may be replaced by the obligation of meeting general interest objectives. Arrangements of this type, which help to achieve the aims of media pluralism, are standard practice where terrestrial broadcasting frequencies are concerned.

Amendment 189
Rebecca Harms

Proposal for a directive – amending act
Recital 50

Text proposed by the Commission

Amendment

(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. ***deleted***

Or. en

Justification

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

Amendment 190
Robert Goebbels

Proposal for a directive – amending act
Recital 50

Text proposed by the Commission

Amendment

(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. *deleted*

Or. en

Justification

This concept will be difficult to implement e.g. it would force holders of satellite dishes to register them, leading to the burdensome administration of millions of registry entries. This would ultimately be to the detriment of consumers (end-users) in the EU.

Amendment 191
Erna Hennicot-Schoepges

Proposal for a directive – amending act
Recital 50

Text proposed by the Commission

Amendment

(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. *deleted*

Or. en

Justification

This concept could lead to charges being imposed for all satellite transmissions: downlink and uplink. It contradicts principles prevailing in the EU single market of license exemption, free reception, and the elimination of obstacles for satellite dishes to receive cross-border services.

This concept will be difficult to implement, will force holders of satellite dishes to register

*them and will lead to burdensome administration.
It should be possible for Member States to maintain or introduce a system where the obligation to pay usage fees is replaced by an obligation to meet general interest objectives, as is commonplace for terrestrial broadcasting frequencies.*

Amendment 192
Mary Honeyball

Proposal for a directive – amending act
Recital 50

Text proposed by the Commission

Amendment

(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.

deleted

Or. en

Amendment 193
Catherine Trautmann

Proposal for a directive – amending act
Recital 50

Text proposed by the Commission

Amendment

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

(50) Any exemption, full or partial, from the obligation to pay the fees or charges set for the use of the spectrum should be objective and transparent and based on the existence of other general interest obligations set out in national law.

Or. en

Justification

Inclusion of Guardians amendment 8. 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 general interest objectives. Such systems are commonplace with regard to terrestrial frequencies where they serve media pluralism objectives.

Amendment 194
Karsten Friedrich Hoppenstedt

Proposal for a directive – amending act
Recital 50

Text proposed by the Commission

(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.

Amendment

(50) ***Any or partial exemption, full or partial***, from the obligation to pay the fees or charges set for the use of the spectrum ***should be objective and transparent and based on the existence of other general interest obligations set out in national law***.

Or. en

Justification

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

Amendment 195
Erna Hennicot-Schoepges

Proposal for a directive – amending act
Recital 51

Text proposed by the Commission

(51) Considering its restrictive impact on free access to radio frequencies, the validity of an individual right of use that is not tradable should be limited in time. Where rights of use contain provision for renewing their validity, Member States should first carry out a review, including a public consultation, taking into account market, coverage and technological developments. ***In view of spectrum scarcity, individual rights granted to***

Amendment

(51) Considering its restrictive impact on free access to radio frequencies, the validity of an individual right of use that is not tradable should be limited in time. Where rights of use contain provision for renewing their validity, Member States should first carry out a review, including a public consultation, taking into account market, coverage and technological developments. In carrying out this review, Member States should balance the interests

undertakings should be regularly reviewed. In carrying out this review, Member States should balance the interests of the rights holders with the need to foster the introduction of spectrum trading as well as the more flexible use of spectrum through general authorisations where possible.

of the rights holders ***and consumers (taking into account investment made, investment and innovation potential and the need to ensure business certainty)*** with the need to foster the introduction of spectrum trading as well as the more flexible use of spectrum through general authorizations where possible.

Or. en

Justification

The review of existing rights for the use of radio spectrum must:

- *take account of the business models of certain sectors of the communications industry, for example satellite operators; and*
- *encourage investment and innovation in such sectors for the benefit of European industry.*

For example, several years of design and construction time are invested in a satellite system. After launch, a satellite has an expected lifetime of 15-20 years. To ensure business certainty, investment and innovation it is vital that there is a legitimate expectation of renewal of authorisation for that period.

Amendment 196 **Robert Goebbels**

Proposal for a directive – amending act **Recital 57 a (new)**

Text proposed by the Commission

Amendment

(57a) Activities pursued under this Directive should recognize the work of international and regional organizations related to radio spectrum management, e.g. the International Telecommunication Union (ITU) and the European Conference of Postal and Telecommunications Administrations (CEPT), to ensure the efficient management, and harmonisation of use of spectrum across the Community. Member States and the Commission

should recognise the content of international agreements entered into by Member States pursuant to the ITU Radio Regulations in the implementation of this Directive.

Or. en

Justification

The importance of the ITU in establishing internationally binding regulations for the efficient use of spectrum and orbit usage based on efficient, rational and cost-effective utilisation cannot be ignored. To ensure the efficient use of spectrum it is essential that operators comply with and rely on the filing and coordination procedures under the ITU to ensure that a network or system can be successfully coordinated and brought into use.

Amendment 197

Erika Mann

Proposal for a directive – amending act

Recital 58 a (new)

Text proposed by the Commission

Amendment

(58a) The Commission should monitor the developments of infrastructure competition in the electronic communications sector in co-operation with BERT. A review of sector specific ex-ante regulation should be undertaken by the Commission in January 2014 in order to evaluate the phase-out process of such regulation together with a concept of perpetuating such regulation in Member States and sub-national markets in which infrastructure competition will not yet be feasible.

Or. en

Amendment 198
Rebecca Harms

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. ***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.***

Or. en

Justification

The proposed safeguard is essential with regard to extended implementing powers conferred upon the European Commission.

Amendment 199
Mary Honeyball

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. ***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.

Or. en

Justification

Amendment 200
Angelika Niebler

Proposal for a directive – amending act
Recital 60

Text proposed by the Commission

Amendment

(60) In particular, power should be conferred on the Commission to adopt implementing measures in relation to the notifications under Article 7 of the Framework Directive; the harmonisation in the fields of spectrum and numbering as well as in matters related to security of networks and services; the identification of trans-national markets; the implementation of the standards; the harmonised application of the provisions of the regulatory framework. Power should also be conferred to adopt implementing measures to update Annexes I and II to the Access Directive to market and technological developments and for adopting implementing measures to harmonise the authorisation rules, procedures and conditions for the authorisation of electronic communications networks and services. Since those measures are of general scope and are designed to supplement these Directives by the addition of new non-essential elements, they must be adopted in accordance with the regulatory

deleted

procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. When, on imperative grounds of urgency, the normal time limits for this procedure cannot be complied with, the Commission should be able to use the urgency procedure provided for in Article 5a(6) of the above Decision.

Or. de

Justification

The power to issue guidelines by means of the regulatory procedure with scrutiny, proposed here by the Commission, significantly restricts the European Parliament's rights and should be rejected.

Amendment 201 Rebecca Harms

Proposal for a directive – amending act Recital 60

Text proposed by the Commission

(60) In particular, power should be conferred on the Commission to adopt implementing measures in relation to the notifications under Article 7 of the Framework Directive; the harmonisation in the fields of *spectrum and* numbering as well as in matters related to security of networks and services; the identification of trans-national markets; the implementation of the standards; the harmonised application of the provisions of the regulatory framework. ***Power should also be conferred to adopt implementing measures to update Annexes I and II to the Access Directive to market and technological developments and for adopting implementing measures to harmonise the authorisation rules, procedures and conditions for the authorisation of electronic***

Amendment

(60) In particular, power should be conferred on the Commission to adopt implementing measures in relation to the notifications under Article 7 of the Framework Directive; the harmonisation in the field of numbering as well as in matters related to security of networks and services; the identification of trans-national markets; the implementation of the standards; the harmonised application of the provisions of the regulatory framework. Since those measures are of general scope and are designed to supplement these Directives by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ***Given that the conduct of the regulatory procedure with scrutiny within the normal time limits***

communications networks and services. Since those measures are of general scope and are designed to supplement these Directives by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ***When, on imperative grounds of urgency, the normal time limits for this procedure cannot be complied with, the Commission should be able to use the urgency procedure provided for in Article 5a(6) of the above Decision.***

could, in certain exceptional situations, impede the timely adoption of implementing measures, the European Parliament, the Council and the Commission should act speedily in order to ensure the timely adoption of those measures.

Or. en

Justification

Harmonisation measures which add new essential proposals to the regulatory framework must be dealt with under a legislative proposal. Only non-essential elements may be subject to the Comitology Procedure.

Amendment 202 **Patrizia Toia**

Proposal for a directive – amending act **Recital 60**

Text proposed by the Commission

(60) In particular, power should be conferred on the Commission to adopt implementing measures in relation to the notifications under Article 7 of the Framework Directive; the harmonisation in the fields of spectrum and numbering as well as in matters related to security of networks and services; the identification of trans-national markets; the implementation of the standards; the harmonised application of the provisions of the regulatory framework. Power should also be conferred ***to adopt implementing measures to update Annexes I and II to***

Amendment

(60) In particular power should be conferred on the Commission to adopt implementing measures in relation to the notifications under Article 7 of the Framework Directive; the harmonisation of the fields of the spectrum and numbering as well as in matters related to the security of networks and services; the identification of trans-national markets; the implementation of the standards; the harmonised application of the provisions of the regulatory framework. Power should also be conferred ***on the Commission by the Framework and Authorisation***

the Access Directive to market and technological developments and for adopting implementing measures to harmonise the authorisation rules, procedures and conditions for the authorisation of electronic communications networks and services. Since those measures are of general scope and are designed to supplement these Directives by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. When, on imperative grounds of urgency, the normal time limits for this procedure cannot be complied with, the Commission should be able to use the urgency procedure provided for in Article 5a(6) of the above Decision,

Directives to harmonise the regulatory treatment of pan-European services, such as global telecommunications services.

Or. en

Justification

Recital 60 lists the powers to be conferred on the Commission. Among those is the power to harmonise the enforcement of the provisions of the regulatory framework. Pan-European services should be a first candidate for harmonised application of such provisions. Global telecommunications services (GTS) linking the offices of multinational companies in different European countries, and often different continents, are a prime example for pan-European services for which national regulatory provisions should be harmonised by the Commission.