

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 1** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 10, 210 to 214

**Proposal for a directive – amending act****Article 1 – point 2 – point c**

Directive 2002/21/EC

Article 2 – point e

*Text proposed by the Commission*

(e) "associated facilities" means those facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so, and include number or address translation systems, conditional access systems and electronic programme guides, as well as physical infrastructure such as ducts, masts, *street* cabinets, *and buildings*;

*Amendment*

(e) "associated facilities" means those facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so, and include number or address translation systems, conditional access systems and electronic programme guides, as well as physical infrastructure such as *entries to buildings, building wiring, towers and other supporting constructions*, ducts, *conduits*, masts, *antennae, manholes and* cabinets *and all other network elements which are not active*.

Or. en

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 2** by PES, EPP-ED and ALDE

replacing Amendments 215 to 221, JURI 7 and CULT 16

**Proposal for a directive – amending act****Article 1 – point 2 – point e**

Directive 2002/21/EC

Article 2 – point s

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

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(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 3** by PES, EPP-ED, ALDE and Greens/EFAreplacing Amendments 246, 253, 254, 255 to 258, IMCO 20, CULT 18, 271,272 to  
277**Proposal for a directive – amending act****Article 1 – point 6**

Directive 2002/21/EC

Article 7

*Text proposed by the Commission**Amendment**Article 7**Article 7**Consolidating the internal market for  
electronic communications**Consolidating the internal market for  
electronic communications*

1. In carrying out their tasks under this Directive and the Specific Directives, national regulatory authorities shall take the utmost account of the objectives set out in Article 8, including insofar as they relate to the functioning of the Internal Market.

1. In carrying out their tasks under this Directive and the Specific Directives, national regulatory authorities shall take the utmost account of the objectives set out in Article 8, including insofar as they relate to the functioning of the Internal Market.

2. National regulatory authorities shall contribute to the development of the *Internal Market* by working with the Commission and *the Authority* so as to ensure the consistent application, in all Member States, of the provisions of this Directive and the Specific Directives. To this end, they shall, in particular, work with the Commission and *the Authority* to identify the types of instruments and remedies best suited to address particular types of situations in the marketplace.

2. National regulatory authorities shall contribute to the development of the *internal market* by working with the Commission and *the Body of European Regulators in Telecommunications (BERT) all in a transparent manner* so as to ensure the consistent application, in all Member States, of the provisions of this Directive and the Specific Directives. To this end, they shall, in particular, work with the Commission and *BERT* to identify the types of instruments and remedies best suited to address particular types of situations in the marketplace.

3. Except where otherwise provided in implementing provisions adopted pursuant to Article 7a, upon completion of the consultation referred to in Article 6, where a national regulatory authority intends to take a measure which:

3. Except where otherwise provided in implementing provisions adopted pursuant to Article 7a, upon completion of the consultation referred to in Article 6, where a national regulatory authority intends to take a measure which:

(a) falls within the scope of Articles 15 or 16 of this Directive, Articles 5 or 8 of

(a) falls within the scope of Articles 15 or 16 of this Directive, Articles 5 or 8 of

Directive 2002/19/EC (Access Directive),  
and

(b) would affect trade between Member States,

it shall make the draft measure accessible to the Commission, *the Authority*, and the national regulatory authorities in other Member States, together with the reasoning on which the measure is based, in accordance with Article 5(3), and inform the Commission and other national regulatory authorities thereof. National regulatory authorities and the Commission may make comments to the national regulatory authority concerned only within one month. The one-month period may not be extended.

4. Where an intended measure covered by paragraph 3 aims at:

(a) defining a relevant market which differs from those defined in the Recommendation in accordance with Article 15(1); or

(b) deciding whether or not to designate an undertaking as having, either individually or jointly with others, significant market power, under Article 16(3), (4) or (5); or

*(c) imposing, amending or withdrawing an obligation on an operator in application of Article 16 in conjunction with Articles 5 and 9 to 13 of Directive 2002/19/EC (Access Directive), and Article 17 of Directive 2002/22/EC (Universal Service Directive),*

and would affect trade between Member States, and the Commission has indicated to the national regulatory authority that it considers that the draft measure would create a barrier to the single market or if it has serious doubts as to its compatibility with Community law and in particular the objectives referred to in Article 8, then the draft measure shall not be adopted for a further two months. This period may not be extended.

5. Within the two month period referred to in paragraph 4, the Commission may take a

Directive 2002/19/EC (Access Directive),  
and

(b) would affect trade between Member States,

it shall make the draft measure accessible *at the same time* to the Commission, *BERT*, and the national regulatory authorities in other Member States, together with the reasoning on which the measure is based, in accordance with Article 5(3), and inform the Commission, *BERT* and other national regulatory authorities thereof. National regulatory authorities, *BERT*, and the Commission may make comments to the national regulatory authority concerned only within one month. The one-month period may not be extended.

4. Where an intended measure covered by paragraph 3 aims at:

(a) defining a relevant market which differs from those defined in the Recommendation in accordance with Article 15(1); or

(b) deciding whether or not to designate an undertaking as having, either individually or jointly with others, significant market power, under Article 16(3), (4) or (5); or

*deleted*

and would affect trade between Member States, and the Commission has indicated to the national regulatory authority that it considers that the draft measure would create a barrier to the single market or if it has serious doubts as to its compatibility with Community law and in particular the objectives referred to in Article 8, then the draft measure shall not be adopted for a further two months. This period may not be extended.

5. Within the two month period referred to in paragraph 4, the Commission may take a

decision requiring the national regulatory authority concerned to withdraw the draft measure. The Commission shall take the utmost account of the opinion of *the Authority* submitted in accordance with Article 5 of Regulation [...../EC] before issuing a decision. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted together with specific proposals for amending the draft measure.

6. Within three months of the Commission issuing a decision in accordance with paragraph 5 requiring the national regulatory authority to withdraw a draft measure, the national regulatory authority shall amend or withdraw the draft measure. If the draft measure is amended, the national regulatory authority shall undertake a public consultation in accordance with the procedures referred to in Article 6, and re-notify the amended draft measure to the Commission in accordance with the provisions of paragraph 3.

7. The national regulatory authority concerned shall take the utmost account of comments of other national regulatory authorities and the Commission and may, except in cases covered by paragraph 4, adopt the resulting draft measure and, where it does so, shall communicate it to the Commission. Any other national body exercising functions under this Directive or the Specific Directives shall also take the utmost account of the comments of the Commission.

***8. Where a draft measure has been amended in accordance with paragraph 6, the Commission may take a decision, requiring the national regulatory authority to impose a specific obligation under Articles 9 to 13a of Directive 2002/19/EC (Access Directive), and Article 17 of Directive 2002/22/EC (Universal Service Directive) within a***

decision requiring the national regulatory authority concerned to withdraw the draft measure. The Commission shall take the utmost account of the opinion of ***BERT*** submitted in accordance with Article 5 of Regulation [...../EC] before issuing a decision. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted together with specific proposals for amending the draft measure.

6. Within three months of the Commission issuing a decision in accordance with paragraph 5 requiring the national regulatory authority to withdraw a draft measure, the national regulatory authority shall amend or withdraw the draft measure. If the draft measure is amended, the national regulatory authority shall undertake a public consultation in accordance with the procedures referred to in Article 6, and re-notify the amended draft measure to the Commission in accordance with the provisions of paragraph 3.

7. The national regulatory authority concerned shall take the utmost account of comments of other national regulatory authorities, ***BERT***, and the Commission and may, except in cases covered by paragraph 4, adopt the resulting draft measure and, where it does so, shall communicate it to the Commission. Any other national body exercising functions under this Directive or the Specific Directives shall also take the utmost account of the comments of the Commission.

***deleted***

*given time-limit.*

*In so doing, the Commission shall pursue the same policy objectives as set out for national regulatory authorities in Article 8. The Commission shall take the utmost account of the opinion of the Authority submitted in accordance with Article 6 of Regulation [.../EC], in particular in elaborating the details of the obligation(s) to be imposed.*

*9. The national regulatory authority shall communicate to the Commission all final measures which fall under conditions a) and b) in Article 7(3).*

10. In exceptional circumstances, where a national regulatory authority considers that there is an urgent need to act, by way of derogation from the procedure set out in paragraphs 3 and 4, in order to safeguard competition and protect the interests of users, it may immediately adopt proportionate and provisional measures. It shall, without delay, communicate those measures, with full reasons, to the Commission, the other national regulatory authorities, and *the Authority*. A decision by the national regulatory authority to render such measures permanent or extend the time for which they are applicable shall be subject to the provisions of paragraphs 3 and 4.

*deleted*

10. In exceptional circumstances, where a national regulatory authority considers that there is an urgent need to act, by way of derogation from the procedure set out in paragraphs 3 and 4, in order to safeguard competition and protect the interests of users, it may immediately adopt proportionate and provisional measures. It shall, without delay, communicate those measures, with full reasons, to the Commission, the other national regulatory authorities, and *BERT*. A decision by the national regulatory authority to render such measures permanent or extend the time for which they are applicable shall be subject to the provisions of paragraphs 3 and 4.

Or. en

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**Compromise amendment 4** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 17, IMCO 18, ECON 23, 265, 279, 280 to 284

**Proposal for a directive – amending act****Article 1 – point 6 a (new)**

Directive 2002/21/EC

Article -7 a (new)

*Text proposed by the Commission**Amendment****(6a) The following Article shall be inserted:******‘Article -7a******Procedure for the consistent application of remedies***

***1. Where a national regulatory authority intends to adopt a measure to impose, amend or withdraw an obligation on an operator in application of Article 16 in conjunction with Articles 5 and 9 to 13a of Directive 2002/19/EC (Access Directive), and Article 17 of Directive 2002/22/EC (Universal Service Directive) the Commission and the national regulatory authorities of the other Member States shall have a period of one month from the date of notification of the draft measure in which to make comments to the national regulatory authority concerned .***

***2. If the draft measure concerns the imposition, amendment or withdrawal of an obligation other than the obligation laid down in Article 13a of Directive 2002/19/EC (Access Directive), the Commission may, within the same period, notify the national regulatory authority concerned and BERT of the reasons why it considers that the draft measure would create a barrier to the single market or why it has serious doubts as to its compatibility with Community law. In such case, the draft measure shall not be***

*adopted for a further two months following the Commission's notification.*

*In the absence of such notification, the national regulatory authority concerned may adopt the draft measure, taking utmost account of any comments made by the Commission or by any other national regulatory authority.*

*3. Within the two-month period referred to in paragraph 2, the Commission, BERT and the national regulatory authority concerned shall cooperate closely with the objective of identifying the most appropriate and effective measure in the light of the objectives laid down in Article 8, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.*

*Within the same two-month period, BERT shall, acting by an absolute majority, adopt a reasoned opinion confirming the appropriateness and effectiveness of the draft measure or indicating that the draft measure should be amended and providing specific proposals to that end. This opinion shall be made public.*

*If BERT has confirmed the appropriateness and effectiveness of the draft measure, the national regulatory authority concerned may adopt the draft measure, taking utmost account of any comments made by the Commission and BERT. The national regulatory authority shall make public how it has taken these comments into account.*

*If BERT has indicated that the draft measure should be amended, the Commission may, taking utmost account of BERT's reasoned opinion, adopt a reasoned decision requiring the national regulatory authority concerned to amend the draft measure and providing specific proposals to that end.*

*4. If the draft measure concerns the imposition, amendment or withdrawal of the obligation laid down in Article 13a of*

*Directive 2002/19/EC (Access Directive), the draft measure shall not be adopted for a further two-month period starting at the end of the one-month period referred to in paragraph 1.*

*Within the further two-month period, the Commission, BERT and the national regulatory authority concerned shall cooperate closely with the objective of determining whether the proposed draft measure complies with the provisions of Article 13a of Directive 2002/19/EC (Access Directive), and, in particular, whether it is the most appropriate and effective measure. To that end, due account shall be taken of the views of market participants and of the need to ensure the development of consistent regulatory practice. At the reasoned request of BERT or the Commission this two-month period shall be extended up to a further two months.*

*Within the maximum period set out in the previous subparagraph, BERT shall, acting by an absolute majority, adopt a reasoned opinion confirming the appropriateness and effectiveness of the draft measure or indicating that the draft measure should not be adopted. This opinion shall be made public.*

*Only if the Commission and BERT have confirmed the appropriateness and effectiveness of the draft measure, the national regulatory authority concerned may adopt the draft measure, taking utmost account of any comments made by the Commission and BERT. The national regulatory authority shall make public how it has taken these comments into account*

*5. Within three months of the adoption by the Commission of a reasoned decision, in accordance with paragraph 3, subparagraph 4 of this Article, requiring a national regulatory authority to amend the draft measure, the national regulatory authority concerned shall amend or withdraw the draft measure. If the draft*

*measure is to be amended, the national regulatory authority shall undertake a public consultation in accordance with the consultation and transparency procedure referred to in Article 6, and re-notify the amended draft measure to the Commission in accordance with Article 7.*

*6. The national regulatory authority may withdraw the proposed draft measure at any stage of the procedure.*

Or. en

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(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 5** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 297, 298, 299, 303, 304 and IMCO 24

**Proposal for a directive – amending act****Article 1 – point 8 – point b**

Directive 2002/21/EC

Article 8 – paragraph 2 – point b

*Text proposed by the Commission**Amendment*

(b) ensuring that there is no distortion or restriction of competition in the electronic communications sector, in particular for the delivery of content;

(b) ensuring that there is no distortion or restriction of competition in the electronic communications sector, in particular for the delivery of ***and access to*** content ***and services across all networks***;

Or. en

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(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 6** by PES and ALDE

replacing Amendments 308, CULT 19, CULT 20, JURI 13, JURI 14 and IMCO 26

**Proposal for a directive – amending act****Article 1 – point 8 – point -e**

Directives 2002/21/EC

Article 8 – paragraph 4 – point g

*Text proposed by the Commission**Amendment*

(g) applying the principle that end-users should be able to access and distribute any lawful content and use any lawful applications and/or services of their choice.

(g) applying the principle that end-users should be able to access and distribute any lawful content and use any lawful applications and/or services of their choice ***and for this purpose contributing to the promotion of lawful content in accordance with Article 33 of Directive 2002/22/EC (Universal Service Directive).***

Or. en

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**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 7 by PES and EPP-ED**

replacing Amendments 22, 307, 309 to 313

**Proposal for a directive – amending act****Article 1 – point 8 – point e a (new)**

Directive 2002/21/EC

Article 8 – paragraph 4 a (new)

*Text proposed by the Commission**Amendment****(ea) The following new paragraph shall be inserted:******‘4a. The national regulatory authorities shall, in pursuit of the policy objectives referred to in paragraphs 2, 3 and 4, apply objective, transparent, non-discriminatory and proportionate regulatory principles by inter alia:******(a) promoting regulatory predictability through the continuity of remedies over several market reviews as appropriate;******(b) ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services;******(c) safeguarding competition to the benefit of consumers and promoting infrastructure-based competition wherever possible;******(d) promoting market driven investment and innovation in new and enhanced infrastructures including by encouraging investment sharing and by ensuring appropriate risk-sharing among the investor and those undertakings enjoying access to the new facilities;******(d) taking due account of the variety of conditions relating to competition and consumers that exist in the various geographic areas within a Member State;***

*(e) imposing ex-ante regulatory obligations only where there is no effective and sustainable competition and relaxing or lifting them as soon as there is.'*

Or. en

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**Catherine Trautmann**

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**Compromise amendment 8** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 23, CULT 21, 314 to 317

**Proposal for a directive – amending act****Article 1 – point 8 a (new)**

Directive 2002/21/EC

Article 8a (new)

*Text proposed by the Commission**Amendment****(8a) The following article shall be inserted:******‘Article 8a******Strategic planning and coordination of radio spectrum policy in the Union***

***1. Member States shall cooperate with each other and the Commission in the strategic planning, coordination and harmonisation of the use of radio spectrum in the Union. In so doing, they shall take into consideration inter alia economic, safety, health, public interest, freedom of expression, cultural, scientific, social and technical aspects of the EU policies as well as the various interests of radio spectrum user communities with the aim of optimising the use of radio spectrum and of avoiding harmful interference***

***2. Radio spectrum policy activities in the Union shall be without prejudice to measures taken at Community or national level, in compliance with Community law, to pursue general interest objectives, in particular with regard to content regulation and audio-visual and media policies, to the provisions of Directive 1999/5/EC<sup>1</sup> and to the right of Member States to organise and use their radio spectrum for the purposes of public order, public security and defence.***

***3. Member States shall ensure the coordination of radio spectrum policy approaches in the Union and, where appropriate, harmonised conditions with regard to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the internal market in EU policy areas such as electronic communications, transport and research and development.***

***4. Member States shall ensure the effective coordination of the EU interests in international organisations competent in radio spectrum matters. Whenever necessary for ensuring this effective coordination, the Commission, taking due account of the opinion of the RSPC, may propose to the European Parliament and the Council common policy objectives including, if necessary, a negotiation mandate.***

***5. A Radio Spectrum Policy Committee (the "RSPC") is hereby created in order to contribute to the fulfilment of the objectives set out in paragraphs 1, 3, 4 and 5.***

***The RSPC shall provide advice to the European Parliament, the Council and the Commission on radio spectrum policy issues.***

***The RSPC shall be composed of high-level representatives from the competent national authorities responsible for radio spectrum policy in each Member State. Each Member State shall have one vote and the Commission shall not vote.***

***6. At the request of the European Parliament, the Council or the Commission or on its own initiative, the RSPC, acting by an absolute majority, shall adopt opinions.***

***7. The Commission, taking due account of the opinion of the RSPC, may submit a legislative proposal for establishing a radio spectrum action programme with regard to the strategic planning and harmonisation of the use of radio***

*spectrum in the Union or other legislative measures with the aim of optimising the use of radio spectrum and of avoiding harmful interference.*

***8. The RSPC shall submit an annual activity report to the European Parliament and to the Council.'***

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<sup>1</sup> *Directive 1999/5/EC 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, OJ L 91, 7.4.1999, p. 10.*

Or. en

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**Catherine Trautmann**

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**Compromise amendment 9** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 318 to 379

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

Directive 2002/21/EC

Article 9

*Text proposed by the Commission**Amendment**Article 9**Article 9**Management of radio frequencies for electronic communications services**Management of radio frequencies for electronic communications services*

1. Member States shall ensure the effective management of radio frequencies for electronic communication services in their territory in accordance with **Article 8**. They shall ensure that the allocation and assignment of such radio frequencies by national regulatory authorities are based on objective, transparent, non discriminatory and proportionate criteria.

1. ***Taking due account of the fact that radio frequencies are a public good that has an important social, cultural and economic value***, Member States shall ensure the effective management of radio frequencies for electronic communication services in their territory in accordance with **Articles 8 and 8a**. They shall ensure that the allocation and assignment of such radio frequencies by national regulatory authorities are based on objective, transparent, non discriminatory and proportionate criteria. ***In so doing, they shall act in accordance with international agreements and may take public policy considerations into account.***

2. Member States shall promote the harmonisation of use of radio frequencies across the Community, consistent with the need to ensure effective and efficient use thereof and in accordance with Decision No 676/2002/EC (Radio Spectrum Decision).

2. Member States shall promote the harmonisation of use of radio frequencies across the Community, consistent with the need to ensure effective and efficient use thereof ***and in pursuit of benefits for the consumer such as economies of scale and interoperability of services. In so doing, they shall act*** in accordance with **Articles 8a and 9c of this Directive, and with** Decision No 676/2002/EC (Radio Spectrum Decision)

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall ensure that all types of **radio network or wireless access technology** may be used in the radio frequency bands **open to** electronic communications services.

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

- (a) avoid harmful interference,
- b) protect public health against electromagnetic fields,
- (c) ensure maximisation of radio frequencies sharing **where the use of frequencies is subject to a general authorisation, or**
- (d) **comply with a restriction** in accordance with paragraph 4 below.

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

**Restrictions** that require a service to be provided in a specific band shall be justified in order to ensure the fulfilment of a general interest objective in conformity with Community law, such as safety of life, the promotion of social, regional or

3. Unless otherwise provided in the second subparagraph or in the measures adopted pursuant to Article 9c, Member States shall, ensure that all types of **technologies used for electronic communications services** may be used in the radio frequency bands **available for** electronic communications services **in accordance with the ITU Radio Regulations**.

Member States may, however, provide for proportionate and non-discriminatory restrictions *to* the types of **technologies used for electronic communication services** where this is necessary to:

- (a) avoid **the possibility of** harmful interference,
- (b) protect public health against electromagnetic fields,
- (ba) ensure technical quality of service,**
- (c) ensure maximisation of radio frequency sharing,
- (ca) safeguard the efficient use of radio frequencies,**
- (d) **fulfil a general interest objective** in accordance with paragraph 4 below.

4. Unless otherwise provided in the second subparagraph, Member States shall ensure that all types of electronic communications services may be provided in the radio frequency bands **available for** electronic communications **services in accordance with their national frequency allocation plans and with the ITU Radio Regulations**. The Member States may, however, provide for proportionate and non discriminatory restrictions to the types of electronic communications services to be provided.

**Measures** that require **an electronic communications** service to be provided in a specific band **available for electronic communications services** shall be justified in order to ensure the fulfilment of a general interest objective **as defined in**

territorial cohesion, the avoidance of inefficient use of radio frequencies, or, **as defined in national legislation in conformity with Community law**, the promotion of cultural and linguistic diversity and media pluralism.

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

5. Member States shall regularly review the necessity of the restrictions referred to in paragraphs 3 and 4.

6. Paragraphs 3 and 4 shall apply to allocation and assignment of radio frequencies after **31 December 2009**.

**national legislation** in conformity with Community law, such as safety of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of radio frequencies, or the promotion of **cultural and media policy objectives such as** cultural and linguistic diversity and media pluralism.

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

5. Member States shall regularly review the necessity of the restrictions **and measures** referred to in paragraphs 3 and 4 **and shall make the results of these reviews public**.

6. Paragraphs 3 and 4 shall apply to **the** allocation and assignment of radio frequencies after **[date of transposition]**.

Or. en

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**Catherine Trautmann**

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**Compromise amendment 10** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 380 to 400

**Proposal for a directive – amending act****Article 1 – point 10**

Directive 2002/21/EC

Article 9a

*Text proposed by the Commission**Amendment**Article 9a**Article 9a**Review of restrictions to existing rights**Review of restrictions to existing rights*

1. For a period of five years starting on [1 January 2010], Member States **shall** ensure that holders of rights to use radio frequencies which were granted before that date may submit an application to the competent national **regulatory** authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).

1. For a period of five years starting on **[date of transposition]**, Member States **may** ensure that holders of rights to use radio frequencies which were granted before that date **and which will remain valid for a period of not less than five years after that date** may submit an application to the competent national authority for a reassessment of the restrictions to their rights in accordance with Article 9(3) and (4).

Before adopting its decision the competent national **regulatory** authority shall notify the right holder of its reassessment of the restrictions, indicating the extent of the right after reassessment, and allow him a reasonable time limit to withdraw his application.

Before adopting its decision the competent national authority shall notify the right holder of its reassessment of the restrictions, indicating the extent of the right after reassessment, and allow him a reasonable time limit to withdraw his application.

If the right holder withdraws his application, the right shall remain unchanged until its expiry or till the end of the 5 year period, whichever is the earlier date.

If the right holder withdraws his application, the right shall remain unchanged until its expiry or till the end of the 5 year period, whichever is the earlier date.

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific

2. Where the right holder mentioned in paragraph 1 is a provider of radio or television broadcast content services, and the right to use radio frequencies has been granted for the fulfilment of a specific

general interest objective, *an application for reassessment can only be made in respect of* the part of the radio frequencies which is necessary for the fulfilment of such objective. The part of the radio frequencies which *becomes* unnecessary for the fulfilment of that objective as a result of application of Article 9(3) and (4) shall be subject to a new assignment procedure in conformity with Article 7(2) of the Authorisation Directive.

3. After the five-year period referred to in paragraph 1, Member States shall take all appropriate measures to ensure that Article 9(3) and (4) apply to all remaining assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.

4. In applying this Article, Member States shall take appropriate measures to guarantee fair competition.

general interest objective, *including the delivery of broadcasting services, the right to use* the part of the radio frequencies which is necessary for the fulfilment of *that* objective *shall remain unchanged*. The part of the radio frequencies which *becomes* unnecessary for the fulfilment of that objective *shall be subject to a new assignment procedure in accordance with* Article 9(3) and (4) *of this Directive and* Article 7(2) of the Authorisation Directive.

3. After the five-year period referred to in paragraph 1, Member States shall take all appropriate measures to ensure that Article 9(3) and (4) apply to all remaining assignments and allocations of radio frequencies which existed at the date of entry into force of this Directive.

4. In applying this Article, Member States shall take appropriate measures to guarantee fair competition.

Or. en

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**Compromise amendment 11** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 31, 401 to 422

**Proposal for a directive – amending act****Article 1 – point 10**

Directive 2002/21/EC

Article 9b

*Text proposed by the Commission**Amendment**Article 9b**Article 9b**Transfer of Individual Rights to Use radio frequencies**Transfer of Individual Rights to Use radio frequencies*

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

1. Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights to use radio frequencies in the bands for which this is provided in the implementing measures adopted pursuant to Article 9c, ***provided that such transfer or lease is in accordance with national procedures and national frequency allocation plans.***

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

In other bands, Member States may also make provision for undertakings to transfer or lease individual rights to use radio frequencies to other undertakings ***in accordance with national procedures.***

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies is notified to the national ***regulatory*** authority responsible for ***spectrum assignment*** and is made public. Where radio frequency use has been harmonised through the application of the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

2. Member States shall ensure that an undertaking's intention to transfer rights to use radio frequencies, ***as well as the effective transfer thereof,*** is notified to the ***competent*** national authority responsible for ***granting individual rights of use*** and is made public. Where radio frequency use has been harmonised through the application of ***Article 9c and*** the Radio Spectrum Decision or other Community measures, any such transfer shall comply with such harmonised use.

Or. en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 12** by PES, EPP-ED and ALDE

replacing Amendments CULT 31, CULT 32, 426 to 430, 32, 431 to 435, CULT 33, 33, 436 to 440, 34, CULT 34, IMCO 36, ECON 38, 441 to 449, 454, 455, 456 to 459, ECON 38, 35, 466 to 468, CULT 36, 469 to 473, 475 to 479

**Proposal for a directive – amending act****Article 1 – point 10**

Directive 2002/21/EC

Article 9c

*Text proposed by the Commission**Amendment**Article 9c**Article 9c*

*Radio Frequency Management  
Harmonisation Measures*

*Radio Frequency Management  
Harmonisation Measures*

In order to contribute to the development of the internal market, for the achievement of the principles of this Article, the Commission may adopt appropriate implementing measures to:

In order to contribute to the development of the internal market, for the achievement of the principles of **Articles 8a, 9, 9a and 9b**, the Commission may adopt appropriate **technical** implement measures to:

**(-a) apply the radio spectrum action programme established pursuant to Article 8a(7);**

(a) **harmonise the identification of** the bands for which usage rights may be transferred or leased between undertakings;

(a) **identify** the bands for which usage rights may be transferred or leased between undertakings;

(b) harmonise the conditions attached to such rights **and the conditions, procedures, limits, restrictions, withdrawals and transitional rules applicable to such transfers or leases;**

(b) harmonise the conditions attached to such rights;

(c) **harmonise the specific measures to ensure fair competition where individual rights are transferred;**

**deleted**

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

(d) **identify the bands for which** the principle of service neutrality **shall apply;**

***diversity and media pluralism.***

These measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).

***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4). In the implementation of the provisions of this paragraph, the Commission may be assisted by the Authority in accordance with Article 10 Regulation [.../EC].***

These measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).

Or. en

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**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 13** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 37, 38, 487 to 498

**Proposal for a directive – amending act****Article 1 – point 11 – point b**

Directive 2002/21/EC

Article 10 – paragraph 4

*Text proposed by the Commission**Amendment*

4. Member States shall support harmonisation ***in numbering*** within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures on this matter, which may include ***establishing tariff principles for specific numbers or number ranges***. The implementing measures may grant ***the Authority*** specific responsibilities in the application of those measures.

The measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). ***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4)***

4. Member States shall support harmonisation ***of specific numbers or numbering ranges*** within the Community where that promotes the functioning of the internal market or supports the development of pan-European services. The Commission may take appropriate technical implementing measures on this matter which may include ***ensuring cross-border access to national numbering used for essential services such as directory enquiries***. The implementing measures may grant ***BERT*** specific responsibilities in the application of those measures.

The measures designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).

Or. en

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**Catherine Trautmann**

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**Compromise amendment 14** by PES and EPP-ED

replacing Amendments 39, 503, ECON 44, ECON 46, LIBE 37, LIBE 38, IMCO 39,  
509, 510 to 515

**Proposal for a directive – amending act****Article 1 – point 13**

Directive 2002/21/EC

Article 12

*Text proposed by the Commission**Amendment**Article 12**Article 12*

*Co-location and **facility** sharing for  
providers of electronic communications  
networks*

*Co-location and sharing **of network  
elements and associated facilities** for  
providers of electronic communications  
networks*

1. Where an undertaking providing electronic communications networks has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities shall be able to impose the sharing of such facilities or property, including entries to buildings, masts, antennae, ducts, manholes and *street* cabinets.

1. Where an undertaking providing electronic communications networks has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities shall, **taking full account of the principle of proportionality**, be able to impose the sharing of such facilities or property, including entries to buildings, **building wiring**, masts, antennae, **towers and other supporting constructions**, ducts, **conduits**, manholes and cabinets **and all other network elements which are not active**

2. Member States may require that the holders of the rights referred to in paragraph 1 share facilities or property (including physical co-location) or take measures to facilitate the coordination of public works in order to protect the environment, public health, public security or to meet town and country planning objectives only after an appropriate period of public consultation, during which all interested parties shall be given an opportunity to express their views. Such sharing or coordination arrangements may

2. Member States may require that the holders of the rights referred to in paragraph 1 share facilities or property (including physical co-location) or take measures to facilitate the coordination of public works in order to protect the environment, public health, public security or to meet town and country planning objectives only after an appropriate period of public consultation, during which all interested parties shall be given an opportunity to express their views. Such sharing or coordination arrangements may

include rules for apportioning the costs of facility or property sharing.

include rules for apportioning the costs of facility or property sharing.

***2a. Member States shall ensure that national regulatory authorities are empowered to require that the holders of the rights referred to in paragraph 1 share facilities or property (including physical co-location) in order to encourage efficient investment in infrastructure and the promotion of innovation, after an appropriate period of public consultation, during which all interested parties shall be given the opportunity to express their views. Such sharing or coordination arrangements may include rules for apportioning the costs of facility or property sharing and shall ensure that there is an adequate sharing of risks between the undertakings concerned.***

***2b. Member States shall ensure that national regulatory authorities, based on information provided by the holders of the rights referred to in paragraph 1, establish a detailed inventory of the nature, availability and geographical location of the facilities referred to in that paragraph, and make it available to interested parties.***

***2c. Member States shall ensure that the competent authorities establish appropriate coordination procedures, in conjunction with national regulatory authorities, with respect to the public works referred to in paragraph 2 and to other appropriate public facilities or property which may include procedures that ensure that interested parties have information concerning appropriate public facilities or property and on-going and planned public works, that they are notified in a timely manner of such works, and that appropriate sharing is facilitated to the maximum extent possible.***

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

3. Measures taken by a national regulatory authority in accordance with ***this Article*** shall be objective, transparent, ***non-discriminatory*** and proportionate .

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**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 15** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 42 to 45, 516 to 541

**Proposal for a directive – amending act****Article 1 – point 14**

Directive 2002/21/EC

Article 13a

*Text proposed by the Commission**Article 13a**Security and integrity*

1. Member States shall ensure that undertakings providing public communications networks or publicly available electronic communications services take appropriate technical and organisational measures to safeguard the security of their networks or services. Having regard to the state of the art, these measures shall ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent *or* minimise the impact of security incidents on users and on interconnected networks.

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

3. Member States shall ensure that undertakings providing public communications networks or publicly available electronic communications services notify the national *regulatory*

*Amendment**Article 13a**Security and integrity*

1. Member States shall ensure that undertakings providing public communications networks or publicly available electronic communications services take appropriate technical and organisational measures to safeguard the security of their networks or services. Having regard to the state of the art, these measures shall ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent *and* minimise the impact of security incidents on users and on interconnected networks.

2. Member States shall ensure that undertakings providing public communications networks take *appropriate* steps to ensure the integrity of their networks so as to ensure the continuity of supply of services provided over those networks. *Competent national authorities shall hold consultations with electronic communications service providers prior to adopting specific measures for the security and integrity of electronic communications networks.*

3. Member States shall ensure that undertakings providing public communications networks or publicly available electronic communications services notify the *competent* national

authority of **any** breach of security or integrity that had a significant impact on the operation of networks or services.

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

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

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

These implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the procedure referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).

authority of **a** breach of security or **loss of** integrity that had a significant impact on the operation of networks or services.

**The rules for breach notifications shall apply in conformity with Directive 2002/58/EC of the European Parliament and of the Council of ... concerning the processing of personal data and the protection of privacy in the electronic communications sector<sup>1</sup>.**

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<sup>1</sup> OJ L ...

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

**Once a year**, the **competent** national authority shall submit a summary report to the Commission on the notifications received and the action taken in accordance with this paragraph.

4. The Commission, taking the utmost account of the opinion of **ENISA**, may adopt appropriate technical implementing measures with a view to harmonising the measures referred to in paragraphs 1, 2, and 3, including measures defining the circumstances, format and procedures applicable to notification requirements. **The technical implementing measures shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in paragraphs 1 and 2.**

These implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the procedure referred to in Article 22(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).

Or. en

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(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 16** by PES, EPP-ED, ALDE and Greens/EFAreplacing Amendments 51, 52, 53, 55, 56, 584 to 602, JURI 24, JURI 25, JURI 26,  
IMCO 46, IMCO 47**Proposal for a directive – amending act****Article 1 – point 20**

Directive 2002/21/EC

Article 19

*Text proposed by the Commission**Amendment**Article 19**Article 19**Harmonisation procedures**Harmonisation procedures*

1. Without prejudice to Article 9 of this Directive and to Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by national regulatory authorities of the regulatory tasks specified in this Directive and the Specific Directives *may create* a barrier to the internal market, the Commission may, taking the utmost account of the opinion of *the Authority*, if any, issue *a recommendation or* a decision on the harmonised application of the provisions in this Directive and the Specific Directives in order to further the achievement of the objectives set out in Article 8.

1. Without prejudice to Article 9 of this Directive and to Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by national regulatory authorities of the regulatory tasks specified in this Directive and the Specific Directives *creates* a barrier to the internal market, the Commission may, taking the utmost account of the opinion of *BERT*, if any, issue a decision on the harmonised application of the provisions in this Directive and the Specific Directives in order to further the achievement of the objectives set out in Article 8.

*2. Where the Commission issues a recommendation pursuant to paragraph 1, it shall act in accordance with the procedure referred to in Article 22(2).*

*deleted*

*Member States shall ensure that national regulatory authorities take the utmost account of those recommendations in carrying out their tasks. Where a national regulatory authority chooses not to follow a recommendation, it shall inform the Commission, giving the reasoning for its position.*

3. The decision mentioned in paragraph 1 designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). ***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 22(4).***

4. Measures adopted pursuant to paragraph 1 may include the identification of a harmonised or coordinated approach for dealing with the following issues:

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services;

(b) Numbering, naming and addressing issues, including number ranges, portability of numbers and identifiers, number and address translation systems, and access to 112 emergency services;

(c) Consumer issues, ***including*** accessibility to electronic communications services and equipment by disabled end-users;

(d) Regulatory accounting.

***5. The Authority may on its own initiative advise the Commission on whether a measure should be adopted pursuant to paragraph 1.***

3. The decision mentioned in paragraph 1 designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3).'

4. Measures adopted pursuant to paragraph 1 may include the identification of a harmonised or coordinated approach for dealing with the following issues:

(a) Consistent implementation of regulatory approaches, including regulatory treatment of new services, ***of sub-national markets and of cross-border business electronic communications services;***

(b) Numbering, naming and addressing issues, including number ranges, portability of numbers and identifiers, number and address translation systems, and access to 112 emergency services;

(c) Consumer issues ***not included in Directive 2002/22/EC (Universal Service Directive), in particular*** accessibility to electronic communications services and equipment by disabled end-users;

(d) Regulatory accounting, ***including the calculation of investment risk.***

***deleted***

Or. en

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 17** by PES, EPP-ED, ALDE and Greens/EFA**Proposal for a directive – amending act****Article 1 – point 24 – point-a (new)**

Directive 2002/21/EC

Article 22 – paragraph 1a (new)

*Text proposed by the Commission**Amendment****(-a) The following new paragraph shall be added:******"1a. By way of derogation of paragraph 1, for the adoption of measures pursuant to Article 9c, the Commission shall be assisted by the Committee established by virtue of Article 3(1) of Decision 676/2002/EC ("the Radio Spectrum Committee")."***

Or.en

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 18** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 57 and 604 to 610 and 710

**Proposal for a directive – amending act****Article 3a (new)***Text proposed by the Commission**Amendment***Article 3a****Review procedure**

***"1. The Commission shall periodically review the functioning of this Directive and of Directives 2002/21/EC (Framework Directive), 2002/19/EC (Access Directive) and 2002/20/EC (Authorisation Directive) and report to the European Parliament and the Council no later than three years after the date of application referred to in Article 5(1). In its report, the Commission shall assess whether, in the light of developments in the market and with regard to both competition and consumer protection there is continued need for the provisions on sector specific ex-ante regulation laid down in Articles 8 to 13a of Directive 2002/19/EC (Access Directive) and Article 17 of Directive 2002/22/EC (Universal Service Directive) or whether they should be amended or repealed. For this purpose, the Commission may request information from the national regulatory authorities and BERT, which shall be supplied without undue delay.***

***2. If the Commission finds that the provisions referred to in paragraph 1 need to be amended or repealed it shall submit without undue delay a proposal to the European Parliament and the Council."***

Or. en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 19** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 60, 615 to 620

**Proposal for a directive – amending act****Article 2 – point 1**

Directive 2002/19/EC

Article 2 – point a

*Text proposed by the Commission**Amendment*

(a) “access” means the making available of facilities and/or services to another undertaking, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services **or delivering** information society services or broadcast content services. It covers inter alia: access to network elements and associated facilities, which may involve the connection of equipment by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop); access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support systems; access to number translation or systems offering equivalent functionality; access to fixed and mobile networks, in particular for roaming; access to conditional access systems for digital television services; access to virtual network services.

(a) “access” means the making available of facilities and/or services to another undertaking, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services, **including the delivery of** information society services or broadcast content services. It covers inter alia: access to network elements and associated facilities, which may involve the connection of equipment by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop); access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support systems; access to number translation or systems offering equivalent functionality; **access to the necessary subscriber information and to mechanisms for reverting sums invoiced to end users for the provision of directory services;** access to fixed and mobile networks, in particular for roaming; access to conditional access systems for digital television services; **and** access to virtual network services.

Or. en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 20** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 621 to 625

**Proposal for a directive – amending act****Article 2 – point 1 a (new)**

Directive 2002/19/EC

Article 2 – point e

*Text proposed by the Commission**Amendment**(1a) In Article 2, point (e) is replaced by the following:***"(e) "local loop" means the physical circuit connecting the network termination point [...] to a distribution frame or equivalent facility in the fixed public *electronic communications* network."**

Or. en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 21** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 61 to 63, 625 to 641

**Proposal for a directive – amending act****Article 2 – point 3**

Directive 2002/19/EC

Article 5

*Text proposed by the Commission**Amendment*

**1. National regulatory authorities shall, acting in pursuit of the objectives set out in Article 8 of Directive 2002/21/EC (Framework Directive), encourage and where appropriate ensure, in accordance with the provisions of this Directive, adequate access and interconnection, and interoperability of services, exercising their responsibility in a way that promotes efficiency, *sustainable competition, investment and innovation*, and gives the maximum benefit to end-users**

**In particular, without prejudice to measures that may be taken regarding undertakings with significant market power in accordance with Article 8, national regulatory authorities shall be able to impose:**

**(a) to the extent that is necessary to ensure end-to-end connectivity *or fair and reasonable access to third-party services such as directory services*, obligations on undertakings that control access to end-users, including in justified cases the obligation to interconnect their networks where this is not already the case *or to make their services interoperable including through mechanisms for reverting sums invoiced to end-users, on fair, transparent and reasonable terms.***

**(b) to the extent that is necessary to**

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

**ensure accessibility for end-users to digital radio and television broadcasting services specified by the Member State, obligations on operators to provide access to the other facilities referred to in Annex I, Part II on fair, reasonable and non-discriminatory terms.**

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

*When assessing the proportionality of the obligations and conditions to be imposed, national regulatory authorities shall take into account the different competitive conditions existing in the different areas within their Member States.*

Or. en

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(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 22** by PES and EPP-ED

replacing Amendments 67 to 69, 649 to 669

**Proposal for a directive – amending act****Article 2 – point 8**

Directive 2002/19/EC

Article 12

*Text proposed by the Commission**Amendment*

**1. A national regulatory authority may, in accordance with the provisions of Article 8, impose obligations on operators to meet reasonable requests for access to, and use of, specific network elements and associated facilities, inter alia in situations where the national regulatory authority considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, or would not be in the end-user's interest.**

**Operators *will* be required inter alia:**

**(a) to give third parties access to specified network elements and/or facilities, including unbundled access to the local loop;**

**(b) to negotiate in good faith with undertakings requesting access;**

**(c) not to withdraw access to facilities already granted;**

**(d) to provide specified services on a wholesale basis for resale by third parties;**

**(e) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services;**

(f) to provide co-location or other forms of

(f) to provide co-location or other forms of

facility sharing, including the sharing of ducts, buildings or entry to buildings, antennae or masts, manholes *and street* cabinets;

facility sharing, including the sharing of ducts, buildings or entry to buildings, antennae *towers and other supporting constructions*, masts, manholes, cabinets *and other network elements which are not active*;

*(fa) to provide third parties with a reference offer for the granting of access to ducts;*

**(g) to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks;**

**(h) to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;**

**(i) to interconnect networks or network facilities;**

(j) to provide access to associated services such as identity, location and presence capability.

(j) to provide access to associated services such as identity, location and presence capability.

**National regulatory authorities may attach to those obligations conditions covering fairness, reasonableness and timeliness.**

**2. When national regulatory authorities are considering whether to impose the obligations referred in paragraph 1, and in particular when assessing whether such obligations would be proportionate to the objectives set out in Article 8 of Directive 2002/21/EC (Framework Directive), they shall take account in particular of the following factors:**

**(a) the technical and economic viability of using or installing competing facilities, in the light of the rate of market development, taking into account the nature and type of interconnection and access involved, including the viability of other upstream access products such as access to ducts;**

**(b) the feasibility of providing the access proposed, in relation to the capacity**

3. When imposing obligations on an operator to provide access in accordance with the provisions of this Article, national regulatory authorities may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access where necessary to ensure normal operation of the network. Obligations to follow specific technical standards or specifications shall be in compliance with the standards and specifications laid down in accordance with *Article 17(1)* of Directive 2002/21/EC (Framework Directive).’

**available;**

**(c) the initial investment by the facility owner, bearing in mind *any public investment made and the risks involved in making the investment, including an appropriate risk-sharing among those undertakings enjoying access to these new facilities;***

**(d) the need to safeguard competition in the long term, *in particular infrastructure-based competition***

**(e) where appropriate, any relevant intellectual property rights;**

**(f) the provision of pan-European services.**

3. When imposing obligations on an operator to provide access in accordance with the provisions of this Article, national regulatory authorities may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access where necessary to ensure normal operation of the network. Obligations to follow specific technical standards or specifications shall be in compliance with the standards and specifications laid down in accordance with *Article 17* of Directive 2002/21/EC (Framework Directive).’

Or. en

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**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 23** by PES and EPP-ED

replacing Amendments 70, 515, 672 to 681

**Proposal for a directive – amending act****Article 2 – point 8a (new)**

Directive 2002/19/EC

Article 13 – paragraph 1

*Text proposed by the Commission**Amendment**(8a) Article 13(1) is replaced by the following:*

**1. A national regulatory authority may, in accordance with the provisions of Article 8, impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned might sustain prices at an excessively high level, or apply a price squeeze, to the detriment of end-users. National regulatory authorities shall take into account the investment made by the operator and allow him a reasonable rate of return on adequate capital employed, taking into account the risks involved *and their appropriate sharing among the investor and those undertakings enjoying access to the new facilities, without prejudice to Article 19(d) of Directive 2000/21/EC (Framework Directive), differentiated short-term and long-term risk sharing arrangements.***

Or. en

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**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 24** by PES, EPP-ED and Greens/EFA

replacing Amendments 682 to 708

**Proposal for a directive – amending act****Article 2 – point 9**

Directive 2002/19/EC

Article 13a

*Text proposed by the Commission**Amendment**Article 13a**Article 13a**Functional separation**Functional separation*

1. A national regulatory authority may, in accordance with the provisions of Article 8, and in particular the second subparagraph of Article 8(3), impose an obligation on vertically integrated undertakings to place activities related to the wholesale provision of access products in an independently operating business unit.

1. A national regulatory authority may, in accordance with the provisions of Article 8, and in particular the second subparagraph of Article 8(3), impose, **as an exceptional measure**, an obligation on vertically integrated undertakings to place activities related to the wholesale provision of **fixed** access products in an independently operating business unit.

That business unit shall supply access products and services to all undertakings, including other business units within the parent company, on the same timescales, terms and conditions, including with regard to price and service levels, and by means of the same systems and processes.

That business unit shall supply access products and services to all undertakings, including other business units within the parent company, on the same timescales, terms and conditions, including with regard to price and service levels, and by means of the same systems and processes.

2. When a national regulatory authority intends to impose an obligation for functional separation, it shall submit a request to the Commission that includes.

2. When a national regulatory authority intends to impose an obligation for functional separation, it shall submit a **proposal** to the Commission that includes:

(a) evidence that the imposition of appropriate obligations amongst those identified in Articles 9-13 to achieve effective competition following a coordinated analysis of the relevant markets in accordance with the market analysis procedure set out in Article 16 of Directive 2002/21/EC (Framework Directive) has failed and would fail on a persistent basis to achieve effective

(a) evidence that, the imposition **and enforcement over a reasonable timeframe** of appropriate obligations amongst those identified in Articles 9-13, **taken due account of regulatory best practice**, to achieve effective competition following a coordinated analysis of the relevant markets in accordance with the market analysis procedure set out in Article 16 of Directive 2002/21/EC (Framework

competition and that there are important and persisting competition problems/market failures identified in several of these product markets;

(b) an analysis of the expected impact on the regulatory authority, on the undertaking, and on its incentives to invest in its network, and on other stakeholders including in particular the expected impact on infrastructure competition and any potential entailing effects on consumers;

***(c) a draft of the measure being proposed.***

3. The ***draft measure*** shall include the following elements:

(a) the precise nature and level of separation, ***specifying in particular the legal status of the separate business entity***;

(b) identification of the assets of the separate business entity, and the products or services to be supplied by this entity;

(c) the governance arrangements to ensure the independence of the staff employed by the separate business entity, and the corresponding incentive structure;

(d) rules for ensuring compliance with the obligations;

(e) rules for ensuring transparency of operational procedures, in particular

Directive) has,, failed and would fail on a persistent basis to achieve effective competition and that there are important and persisting competition problems/market failures identified in several of these ***wholesale*** product markets ***analysed***;

***(ab) evidence that there is little or no prospect of infrastructure-based competition within a reasonable timeframe***;

(b) an analysis of the expected impact on the regulatory authority, on the undertaking, ***in particular on its workforce***, and on its incentives to invest in its network, and on other stakeholders including in particular the expected impact on infrastructure competition and ***notably*** any potential entailing effects on consumers;

***(ba) an analysis of why this obligation would be the most efficient means to enforce remedies aimed at addressing the competition problems/market failures identified***;

***delete***

3. The ***national regulatory authority shall include in its request a draft of the measure being proposed which*** shall include the following elements:

(a) the precise nature and level of separation;

(b) identification of the assets of the separate business entity, and the products or services to be supplied by this entity;

(c) the governance arrangements to ensure the independence of the staff employed by the separate business entity, and the corresponding incentive structure;

(d) rules for ensuring compliance with the obligations;

(e) rules for ensuring transparency of operational procedures, in particular

towards other stakeholders;

(f) a monitoring programme to ensure compliance, including publication of an annual report.

4. Following the Commission's decision on the draft measure taken in accordance with Article 8(3), the national regulatory authority shall conduct a coordinated analysis of the different markets related to the access network in accordance with the procedure set out in Article 16 of Directive 2002/21/EC (Framework Directive). On the basis of its assessment, the national regulatory authority shall impose, maintain, amend or withdraw obligations, in accordance with Articles 6 and 7 of Directive 2002/21/EC (Framework Directive).

5. An undertaking on which functional separation has been imposed may be subject to any of the obligations identified in Articles 9–13 in any specific market where it has been designated as having significant market power in accordance with Article 16 of Directive 2002/21/EC (Framework Directive), or any other obligations authorised by the Commission pursuant to paragraph 3 of Article 8.

towards other stakeholders;

(f) a monitoring programme to ensure compliance, including publication of an annual report.

4. Following the Commission's decision on the draft measure taken in accordance with Article 8(3), the national regulatory authority shall conduct a coordinated analysis of the different markets related to the access network in accordance with the procedure set out in Article 16 of Directive 2002/21/EC (Framework Directive). On the basis of its assessment, the national regulatory authority shall impose, maintain, amend or withdraw obligations, in accordance with Articles 6 and 7 of Directive 2002/21/EC (Framework Directive).

5. An undertaking on which functional separation has been imposed may be subject to any of the obligations identified in Articles 9–13 in any specific market where it has been designated as having significant market power in accordance with Article 16 of Directive 2002/21/EC (Framework Directive), or any other obligations authorised by the Commission pursuant to paragraph 3 of Article 8.

Or. de

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 25** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 717 to 721

**Proposal for a directive – amending act****Article 3 – point 2 a (new)**

Directive 2002/20/EC

Article 3 – paragraph 2 – subparagraph 1a (new)

*Text proposed by the Commission**Amendment****(2a) In Article 3, paragraph 2, the following subparagraph is added:******"Undertakings providing cross-border electronic communications services to undertakings located in several Member States shall be treated similarly in all Member States and be subject to no more than a simplified notification."***

Or. en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 26** by PES, EPP-ED and ALDE

replacing Amendments 72 to 77, 722 to 769

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

Directive 2002/20/EC

Article 5

*Text proposed by the Commission**Amendment**Article 5**Article 5**Rights of use for radio frequencies and numbers**Rights of use for radio frequencies and numbers*

1. Member States shall ***not make the use of radio frequencies subject to the granting of individual rights of use but shall include the conditions for usage of such radio frequencies in the general authorisation, unless it is justified to grant individual rights in order to:***

(a) avoid ***a serious risk*** of harmful interference; ***or***

(b) fulfil other objectives of general interest.

2. ***Where it is necessary to grant individual rights of use for radio frequencies and numbers***, Member States shall grant ***such*** rights, upon request, to any undertaking ***providing or using networks or services under the general authorisation***, subject to the provisions of Articles 6, 6a, 7 and 11(1)(c) of this Directive and any other rules ensuring the efficient use of those resources in accordance with Directive 2002/21/EC

1. Member States shall ***facilitate the*** usage of radio frequencies ***under general authorisations. Member States may*** grant individual rights in order to:

(a) avoid ***the possibility*** of harmful interference,

***(aa) ensure the technical quality of service;***

***(ab) ensure the efficient use of spectrum;***

(b) fulfil other objectives of general interest ***defined in national legislation in compliance with Community law;***

***(ba) comply with a restriction in accordance with Article 6a;***

2. Member States shall grant ***individual rights of use***, upon request, to any undertaking, subject to the provisions of Articles 6, 6a, 7 and 11(1)(c) of this Directive and any other rules ensuring the efficient use of those resources in accordance with Directive 2002/21/EC (Framework Directive).

(Framework Directive).

Without prejudice to specific criteria ***defined in advance*** by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive). ***The procedures shall also be open, except*** in cases where the granting of individual rights of use for radio frequencies to the providers of radio or television broadcast content services can be shown to be essential to meet a particular obligation defined in advance by the Member State which is necessary to achieve a general interest objective in conformity with Community law.

When granting rights of use, Member States shall specify whether those rights can be transferred by the holder of the rights, and under which conditions. In the case of radio frequencies, such provisions shall be in accordance with ***Article 9b*** of Directive 2002/21/EC (Framework Directive).

Where Member States grant rights of use for a limited period of time, the duration shall be appropriate for the service concerned in view of the objective pursued ***and defined in advance***.

***Any individual right*** to use radio frequencies ***that is*** granted for ten years or more and that may not be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive ***shall, every five years and for the first time five years after its issuance, be subject to a review in the light of the criteria in paragraph 1***. If ***the*** criteria to

Without prejudice to specific criteria ***and procedures adopted*** by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law, such rights of use shall be granted through ***open***, objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 9 of Directive 2002/21/EC (Framework Directive). ***Proceedings may, exceptionally, not be open*** in cases where the granting of individual rights of use for radio frequencies to the providers of radio or television broadcast content services can be shown to be essential to meet a particular obligation defined ***and justified*** in advance by the Member State which is necessary to achieve a general interest objective in conformity with Community law.

When granting rights of use, Member States shall specify whether those rights can be transferred by the holder of the rights, and under which conditions. In the case of radio frequencies, such provisions shall be in accordance with ***Article 9 and 9b*** of Directive 2002/21/EC (Framework Directive).

Where Member States grant rights of use for a limited period of time, the duration shall be appropriate for the service concerned in view of the objective pursued, ***taking due account of the need to allow for an appropriate period for amortisation of investment***.

***Where individual rights*** to use radio frequencies ***are*** granted for ten years or more and cannot be transferred or leased between undertakings as allowed by Article 9b of the Framework Directive, ***the competent national authority shall ensure the means to enable it to verify that the criteria to grant individual rights of use are still being applied and respected for***

*grant individual rights of use* are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice *of not more than five years from the conclusion of the review*, or shall be made freely transferable or leaseable between undertakings.

3. Decisions on rights of use shall be taken, communicated and made public as soon as possible after receipt of the complete application by the national regulatory authority, within three weeks in the case of numbers that have been allocated for specific purposes within the national numbering plan and within six weeks in the case of radio frequencies that have been allocated for electronic communications within the national frequency plan. The latter time limit shall be without prejudice to any applicable international agreements relating to the use of radio frequencies or of orbital positions.

4. Where it has been decided, after consultation with interested parties in accordance with Article 6 of Directive 2002/21/EC (Framework Directive), that rights for use of numbers of exceptional economic value are to be granted through competitive or comparative selection procedures, Member States may extend the maximum period of three weeks by up to three weeks.

With regard to competitive or comparative selection procedures for radio frequencies, Article 7 shall apply.

5. Member States shall not limit the number of rights of use to be granted except where this is necessary to ensure the efficient use of radio frequencies in accordance with Article 7.

6. *National regulatory* authorities shall ensure that radio frequencies are efficiently and effectively used in accordance with *Article* 9(2) of Directive 2002/21/EC (Framework Directive). They shall also

*the duration of the license*. If *these* criteria are no longer applicable, the individual right of use shall be changed into a general authorisation for the use of radio frequencies, subject to prior notice *and after a reasonable time has elapsed*, or shall be made freely transferable or leaseable between undertakings.

3. Decisions on *the granting of* rights of use shall be taken, communicated and made public as soon as possible after receipt of the complete application by the national regulatory authority, within three weeks in the case of numbers that have been allocated for specific purposes within the national numbering plan and within six weeks in the case of radio frequencies that have been allocated for electronic communications *services* within the national frequency plan. The latter time limit shall be without prejudice to any applicable international agreements relating to the use of radio frequencies or of orbital positions.

4. Where it has been decided, after consultation with interested parties in accordance with Article 6 of Directive 2002/21/EC (Framework Directive), that rights for use of numbers of exceptional economic value are to be granted through competitive or comparative selection procedures, Member States may extend the maximum period of three weeks by up to *a further* three weeks.

With regard to competitive or comparative selection procedures for radio frequencies, Article 7 shall apply.

5. Member States shall not limit the number of rights of use to be granted except where this is necessary to ensure the efficient use of radio frequencies in accordance with Article 7.

6. *Competent national* authorities shall ensure that radio frequencies are efficiently and effectively used in accordance with *Articles 8(2) and* 9(2) of Directive 2002/21/EC (Framework Directive). They

ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights. ***For such purposes, Member States may take appropriate measures such as reducing, withdrawing or forcing the sale of a right to use radio frequencies.***

shall also ensure competition is not distorted as a result of any transfer or accumulation of radio frequencies usage rights.

Or. en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 27** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 78 to 81, 771 to 804

**Proposal for a directive – amending act****Article 3 – point 5**

Directive 2002/20/EC

Article 6a

*Text proposed by the Commission**Amendment**Article 6a**Article 6a**Harmonisation measures**Harmonisation measures*

1. ***In order to achieve the objectives set out in Article 1, and*** without prejudice to Article 5(2) of this Directive, the Commission may adopt implementing measures:

1. Without prejudice to ***Article 5(1)*** and (2) of this Directive ***and Articles 8a and 9 of Directive 2002/21/EC (Framework Directive)***, the Commission may adopt implementing measures:

(a) to identify radio frequency bands the use of which is to be made subject to general authorisations ***or individual rights of use for radio frequencies***;

(a) to identify radio frequency bands, the use of which is to be made subject to general authorisations;

(b) to identify the numbering ranges to be harmonised at Community level

(b) to identify the numbering ranges to be harmonised at Community level;

(c) to harmonise procedures for the granting of general authorisations or individual rights of use for radio frequencies or numbers;

(c) to harmonise procedures for the granting of general authorisations or individual rights of use for radio frequencies or numbers ***to undertakings providing pan-European electronic communications networks or services***;

(d) to harmonise the conditions specified in Annex II relating to general authorisations or individual rights of use for radio frequencies or numbers;

(d) to harmonise the conditions specified in Annex II relating to general authorisations or individual rights of use for radio frequencies or numbers ***to undertakings providing pan-European electronic communications networks or services***;

***(e) to provide for the amendment or withdrawal of authorisations or rights of use and the procedures relating to point (d)***;

***deleted***

***(f) to lay down procedures for the selection of undertakings to which***

***deleted***

***individual rights of use for radio frequencies or numbers shall be granted by the national regulatory authorities, where appropriate in accordance with the provisions of Article 6b.***

***The measures listed in points (a) to (d) and (f), designed to amend non essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14a(3). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 14a(4).***

2. The measures referred to in paragraph 1 may, where appropriate, provide for the possibility for the Member States to make a reasoned request for a partial exemption and/or a temporary derogation from those measures.

The Commission shall assess the justification for the request, taking into account the specific situation in the Member State, and may grant a partial exemption or temporary derogation or both provided this does not unduly defer the implementation of the implementing measures referred to in paragraph 1 or create undue differences in the competitive or regulatory situations between Member States.

3. In implementing the provisions of this Article, the Commission may be assisted by the European Electronic Communications Market Authority (hereinafter referred to as 'the Authority'). The Commission shall take the utmost account of the opinion of the Authority, if any, submitted in accordance with Article 11 of Regulation [ ].

***These*** measures, designed to amend non essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14a(3).

2. The measures referred to in paragraph 1 may, where appropriate, provide for the possibility for the Member States to make a reasoned request for a partial exemption and/or a temporary derogation from those measures.

The Commission shall assess the justification for the request, taking into account the specific situation in the Member State, and may grant a partial exemption or temporary derogation or both provided this does not unduly defer the implementation of the implementing measures referred to in paragraph 1 or create undue differences in the competitive or regulatory situations between Member States.

***deleted***

Or. en

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 28** by PES, EPP-ED, ALDE and Greens/EFA**Proposal for a directive – amending act****Article 3 – point 11**

Directive 2002/21/EC

Article 14a – paragraph 1a (new)

*Text proposed by the Commission**Amendment*

***(-a) The following new paragraph shall be added:***

***"1a. By way of derogation of paragraph 1, for the adoption of measures pursuant to Article 6a (1), points (a), (c) and (d), the Commission shall be assisted by the Committee established by virtue of Article 3(1) of Decision 676/2002/EC ("the Radio Spectrum Committee")."***

Or.en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 29** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 711 to 716

**Proposal for a directive – amending act****Article 2 - point 10 a (new)**

Directive 2002/19/EC

Annex II,

*Text proposed by the Commission**Amendment**Annex II**Annex II*

*Minimum list of items to be included in a reference offer for **unbundled access to the twisted metallic pair local loop** to be published by **notified operators***

*Minimum list of items to be included in a reference offer for **wholesale network infrastructure access, including shared or fully unbundled access at a fixed location** to be published by operators **with significant market power (SMP)***

For the purposes of this Annex the following definitions apply:

For the purposes of this Annex the following definitions apply:

(a) "local sub-loop" means a partial local loop connecting the network termination point *at the subscriber's premises* to a concentration point or a specified intermediate access point in the fixed public *telephone* network;

(a) "local sub-loop" means a partial local loop connecting the network termination point to a concentration point or a specified intermediate access point in the fixed public *electronic communications* network;

(b) "unbundled access to the local loop" means full unbundled access to the local loop and shared access to the local loop; it does not entail a change in ownership of the local loop;

(b) "unbundled access to the local loop" means full unbundled access to the local loop and shared access to the local loop; it does not entail a change in ownership of the local loop;

(c) "full unbundled access to the local loop" means the provision to a beneficiary of access to the local loop or local sub-loop of the *notified operator authorising* the use of the full *frequency spectrum of the twisted metallic pair*;

(c) "full unbundled access to the local loop" means the provision to a beneficiary of access to the local loop or local sub-loop of the *SMP operator permitting* the use of the full *capacity of the network infrastructure*;

(d) "shared access to the local loop" means the provision to a beneficiary of access to the local loop or local sub-loop of the *notified operator, authorising* the use of *the non-voice band frequency spectrum of the twisted metallic pair; the local loop*

(d) "shared access to the local loop" means the provision to a beneficiary of access to the local loop or local sub-loop of the *SMP operator, permitting* the use of *a specified part of the capacity of the network infrastructure such as a part of the*

*continues to be used by the notified operator to provide the telephone service to the public;*

A. Conditions for unbundled access *to the local loop*

1. Network elements to which access is offered covering in particular the following elements:

(a) access to local loops;

*(b) access to non-voice band frequency spectrum of a local loop, in the case of shared access to the local loop;*

2. Information concerning the locations of physical access sites(1), availability of local loops in specific parts of the access network;

3. Technical conditions related to access and use of local loops, including the technical characteristics of the twisted *metallic pair in the local loop*;

4. Ordering and provisioning procedures, usage restrictions

B. Co-location services

1. Information on the *notified* operator's relevant sites(2).

*frequency or equivalent;*

A. Conditions for unbundled access

1. Network elements to which access is offered covering in particular the following elements *together with appropriate associated facilities*:

(a) *unbundled* access to local loops *and local subloops*;

*(b) shared access at appropriate points in the network permitting equivalent functionality to unbundled access in circumstances where such access is technically or economically infeasible;*

*(ba) duct access enabling installation of access and backhaul networks;*

2. Information concerning the locations of physical access sites including *street cabinets and distribution frames*(1), availability of local loops *and subloops, ducts and backhaul* in specific parts of the access network *and availability within ducts*;

3. Technical conditions related to access and use of local loops *and subloops and ducts*, including the technical characteristics of the twisted pair *and/or optical fibre and/or equivalent, cable distributors, ducts and associated facilities*;

4. Ordering and provisioning procedures, usage restrictions

B. Co-location services

1. Information on the *SMP* operator's *existing* relevant sites(2) *or equipment locations and planned update thereof*..

*Reminder of the Annex unchanged*

Or. en

**Draft report**

(PE398.542v02)

**Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 30** by PES, EPP-ED, ALDE and Greens/EFA

replacing Amendments 2, 88-91, 116, 117, LIBE 1, LIBE2, ECON 1.

**Proposal for a directive – amending act****Recital 3 c (new)***Text proposed by the Commission**Amendment*

*(3c) The aim is to progressively reduce ex ante, sector specific rules as competition in the markets develops and, ultimately, for electronic communications to be governed by competition law only. While the markets for electronic communications have shown strong competitive dynamics in recent years, it is essential that ex ante regulatory obligations should only be imposed where there is no effective and sustainable competition. Ex-ante regulation should be reviewed as to the necessity of its continuation no later than three years after the date of transposition of this directive.*

Or. en

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 31** by PES and EPP-ED

replacing Amendments 105, 121, 86 and 87

**Proposal for a directive – amending act****Recital 3 ca (new)***Text proposed by the Commission**Amendment*

***(3ca) In order to ensure a proportional and adapted approach to varying competitive conditions, national regulatory authorities should be able to define markets on a sub-national basis and/or lift regulatory obligations in markets and/or geographic areas where there is effective infrastructure competition, even if they are not defined as separate markets.***

Or. en

**Draft report****(PE398.542v02)****Catherine Trautmann****(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))****Compromise amendment 32** by PES, EPP-ED, ALDE and Greens/EFAreplacing Amendments 106, 118, 102, 108, 107, 109, 95, 96, IMCO 2, 98, 3,  
ECON 2, 99**Proposal for a directive – amending act****Recital 3 d (new)***Text proposed by the Commission**Amendment*

*(3d) A key issue for the coming years in order to achieve the goals of the Lisbon Agenda is to give appropriate incentives for investments in new high speed networks that will support innovation in content-rich internet services and strengthen European international competitiveness. Such networks have enormous potential to deliver benefits to consumers and business across the European Union. It is therefore vital to foster sustainable investment in the development of these new networks, while safeguarding competition and boosting consumer choice through regulatory predictability and consistency.*

Or. en

**Draft report****(PE398.542v02)****Catherine Trautmann**

(COM(2007)0697 - C6-0427-2007 - 2007/0247(COD))

**Compromise amendment 33** by PES, EPP-ED, ALDE and Greens/EFA**Proposal for a directive – amending act****Recital 18a (new)***Text proposed by the Commission**Amendment*

***18a. The switchover from analogue to digital terrestrial television should, as a result of the superior transmission efficiency of digital technology, free up a significant amount of spectrum in the European Union, the so-called "digital dividend". Member States should release their digital dividends as quickly as possible, allowing citizens to benefit from the deployment of new, innovative and competitive services. To this end the obstacles existing at national level for the efficient (re)allocation of the digital dividend should be removed and a more coherent and integrated approach to the allocation of the digital dividend in the Community should be pursued.***

Or. en