



EUROPEAN COMMISSION
Information Society and Media Directorate-General

Brussels, 25 November 2005

CALL FOR INPUT

on the forthcoming review of the

EU regulatory framework for electronic communications and services

including review of the

Recommendation on relevant markets

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BACKGROUND

In keeping with the principles of 'better regulation', the five European Parliament (EP) and Council Directives that make up the EU regulatory framework for electronic communications have to be reviewed periodically, with first time review taking place before July 2006.

The five directives are:

- Framework Directive (2002/21/EC)¹
- Authorisation Directive (2002/20/EC)²
- Access Directive (2002/19/EC)³
- Universal Service Directive (2002/22/EC)⁴
- Directive on Privacy and Electronic Communications (2002/58/EC)⁵

During 2006, the Commission also intends to review the Commission Recommendation on relevant markets⁶ that complements the above mentioned Directives. The Recommendation identifies 18 markets that may be susceptible to ex-ante regulation, upon which national regulatory authorities conduct their market analyses under Article 16 of the Framework Directive. Further information about this procedure can be found in the Commission Communication on Market Reviews under the EU Regulatory framework⁷.

Article 8 of Directive 2002/77/EC is also being reviewed as part of this exercise⁸.

¹ OJ L108, 24.4.2002, p.33-50

² OJ L108, 24.4.2002, p.21-32

³ OJ L108, 24.4.2002, p.7-20

⁴ OJ L108, 24.4.2002, p.51-77

⁵ OJ L201, 31.7.2002, p.37-47

⁶ OJ L114, 08.05.2003, p.45. See also the Explanatory Memorandum at http://europa.eu.int/information_society/policy/ecomm/doc/info_centre/recomm_guidelines/relevant_markets/en1_2003_497.pdf

⁷ COM(2005)....(to be published)

⁸ Interested parties are invited to give their views on whether, if applicable in their Member State, the requirement to maintain a legal separation between the operation of cable TV networks and other public electronic communications networks owned by the same undertaking remains necessary or whether there is sufficient competition in the provision of local loop infrastructure. On the basis of the views gathered, the Commission will examine whether there is a need to review Article 8.

CALL FOR INPUT ON THE EP AND COUNCIL DIRECTIVES

The Commission Services invite interested parties to give their views on application and functioning of the five directives that constitute the current EU framework for electronic communications.

The following general and specific issues should, in particular, be considered.

1. General Topics

- What are the strengths and weaknesses of the framework?
- To what extent has the framework achieved its objectives?
- What impacts has the framework produced to date?
- How can the framework be improved?
- How can the framework contribute further to the Lisbon goals of growth and jobs?

2. Specific Topics

Scope and objectives

Do changes in technology, markets and society call into question the scope of the EU regulatory framework as set out in the Framework Directive? Do the current objectives need to be changed or prioritised?

Convergence and technological development

Does the regulatory framework allow technological development and convergence to be adequately accommodated (bearing in mind the current review of the Recommendation on relevant markets)? What adjustments to the framework could be made?

Single market aspects

Would deepening or strengthening the single market aspects of the framework contribute to investment in, and growth of, the sector? What are the remaining barriers towards consolidating the single market in eCommunications?

Article 7 procedures (Framework Directive)

What are the strengths and weaknesses of the current Article 7 consultation procedures, under which NRAs notify to the Commission the results of their market analyses? To what extent has this procedure served to improve harmonisation of the way in which markets are regulated? What could be improved?

Spectrum management

What are the changes required to the current regulatory package concerning the management of the radio spectrum in the Community, so as to consolidate

the internal market for wireless electronic communication services and equipment and to optimise the use of this resource?

Competition and access regulation

The current framework requires national regulatory authorities to promote competition in networks and services, and to encourage efficient investment in infrastructure. Should there be any changes in the provisions of the Directives that deal with access and related regulation, in order to achieve these objectives?

Authorisations and rights of use

Is the current system of national authorisations an appropriate model going forward? Is there a need for further harmonisation in the management of numbering, naming and addressing and radio spectrum resources? To what extent does the existing model affect the emergence of trans-national, European-wide services?

Consumer protection, citizens' interests and users' rights

Should the existing provisions on consumer protection and users rights be extended or strengthened in any areas, in particular with regard to disabled users? Do foreseeable market and technological developments (eg next generation networks) threaten or enhance freedom of choice for users?

Privacy and security

Do current provisions provide an adequate legal framework to protect citizens' privacy and security, and to promote consumer trust and confidence in the information society while contributing to the development of the internal market? What improvements could be made?

Standards and interoperability

To what extent does the process in Article 17 of the Framework Directive, whereby the Commission publishes a List of Standards in the OJ, serve to promote interoperability of services and freedom of choice for users? Are there better ways to secure interoperability?

Leased Lines

Should the minimum set of leased lines (see Art 18 of the Universal Service Directive) be retained, modified, or withdrawn?

Institutional aspects

Are the mechanisms designed to ensure harmonisation between the Member States (Communication Committee, Radio Spectrum Committee, Radio Spectrum Policy Group, European Regulators Group) working efficiently with respect to the development of the Internal market? What could be improved?

The above list of issues is not exhaustive and respondents are invited to comment on any other aspect of the framework.

The views gathered will provide input to a Commission Communication planned for mid 2006 on the functioning of the EU regulatory framework for eCommunications, which will also launch a public consultation on possible changes.

It is expected that legislative proposals resulting from this review would be adopted by the Commission and submitted to the EP and the Council at the end of 2006. Any new legislation will only come into force after the conclusion of the legislative process and the transposition of any new provisions into national law. This could take two to three years and respondents should bear this timescale in mind in proposing any changes.

CALL FOR INPUT ON THE RECOMMENDATION ON RELEVANT MARKETS

This 'Call for input' also invites interested parties to give their views on possible changes to the Recommendation on relevant markets and in particular on the following topics:

- Are there markets listed in the Recommendation which should be withdrawn or modified?
- Are there markets which should be added to the list in the Recommendation?
- Should the 3 criteria, which are used to determine which markets may warrant ex ante regulation, be adjusted?

The views gathered will provide input to a revised version of the Recommendation, which will be published in draft form in mid 2006 for public comment.

It is anticipated that the revised Recommendation will be adopted by the Commission around the end of 2006. Unlike changes to the Directives, which will take some time to agree and implement, changes to the Recommendation on relevant markets will have immediate effect.

PUBLIC WORKSHOP

A public workshop is provisionally planned for Tuesday 24 January 2006 in Brussels. The workshop will be open to all interested parties, but prior registration is required. Details can be found on the Europa website, at http://europa.eu.int/information_society/policy/ecomms/info_centre/documentation/public_consult/index_en.htm

ADDRESS FOR RESPONSES

Contributions should be sent before 31 January 2006 in electronic format to:

info-b1@cec.eu.int *(note that the “1” is the number one)*

marked “2006 Review” in the subject line.

All comments will be published unless confidentiality is specifically requested.

Please give the name of a contact person in your organisation for any questions on your contribution.

Normally a notification of receipt of contributions will be sent by email within 2 working days. In the absence of such a receipt, please contact:

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