

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2000/0186(COD) Procedure completed
Electronic communications: access to networks and interconnection, new regulatory framework	
Amended by <a href="#">2007/0247(COD)</a> Repealed by <a href="#">2016/0288(COD)</a>	
Subject 2.60 Competition 3.30.05 Electronic and mobile communications, personal communications	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ITRE</b> Industry, External Trade, Research, Energy		22/06/2000
		PPE-DE <a href="#">BRUNETTA Renato</a>	
	Former committee responsible		
	<b>ITRE</b> Industry, External Trade, Research, Energy		22/06/2000
		PPE-DE <a href="#">BRUNETTA Renato</a>	
	Former committee for opinion		
<b>BUDG</b> Budgets	The committee decided not to give an opinion.		
<b>JURI</b> Legal Affairs and Internal Market	The committee decided not to give an opinion.		
<b>ENVI</b> Environment, Public Health, Consumer Policy	The committee decided not to give an opinion.		
<b>CULT</b> Culture, Youth, Education, Media and Sport		10/10/2000	
	ELDR <a href="#">SANDERS-TEN HOLTE Maria Johanna (Marieke)</a>		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Education, Youth, Culture and Sport</a>	<a href="#">2408</a>	14/02/2002
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2395</a>	06/12/2001
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2374</a>	15/10/2001
	Culture	<a href="#">2361</a>	21/06/2001
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2340</a>	04/04/2001
	Telecommunications	<a href="#">2325</a>	22/12/2000
	Telecommunications	<a href="#">2293</a>	03/10/2000
European Commission	Commission DG	Commissioner	
	<a href="#">Communications Networks, Content and Technology</a>		

Key events			
08/09/2000	Committee referral announced in Parliament, 1st reading		

03/10/2000	Debate in Council	<a href="#">2293</a>	
22/12/2000	Debate in Council	<a href="#">2325</a>	
13/02/2001	Vote in committee, 1st reading		Summary
13/02/2001	Committee report tabled for plenary, 1st reading	<a href="#">A5-0061/2001</a>	
01/03/2001	Decision by Parliament, 1st reading	<a href="#">T5-0111/2001</a>	Summary
21/06/2001	Debate in Council	<a href="#">2361</a>	
19/09/2001	Committee referral announced in Parliament, 2nd reading		
15/10/2001	Debate in Council	<a href="#">2374</a>	
27/11/2001	Vote in committee, 2nd reading		Summary
06/12/2001	Debate in Council	<a href="#">2395</a>	
10/12/2001	Debate in Parliament		
12/12/2001	Decision by Parliament, 2nd reading	<a href="#">T5-0677/2001</a>	Summary
14/02/2002	Act approved by Council, 2nd reading		
07/03/2002	Final act signed		
07/03/2002	End of procedure in Parliament		
24/04/2002	Final act published in Official Journal		

### Technical information

Procedure reference	2000/0186(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amended by <a href="#">2007/0247(COD)</a> Repealed by <a href="#">2016/0288(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/5/14506

### Documentation gateway

Legislative proposal		<a href="#">COM(2000)0384</a> <a href="#">OJ C 365 19.12.2000, p. 0215 E</a>	12/07/2000	EC	Summary
Committee draft report		PE297.116	11/12/2000	EP	
Committee opinion	<b>CULT</b>	PE286.729/DEF	09/01/2001	EP	
Economic and Social Committee: opinion, report		<a href="#">CES0047/2001</a> <a href="#">OJ C 123 25.04.2001, p. 0050</a>	25/01/2001	ESC	
Amendments tabled in committee		PE297.116/AM	31/01/2001	EP	

Amendments tabled in committee		PE297.116/AMC	09/02/2001	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0061/2001</a>	13/02/2001	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0111/2001</a> <a href="#">OJ C 277 01.10.2001, p. 0017-0072</a>	01/03/2001	EP	Summary
Modified legislative proposal		COM(2001)0369 <a href="#">OJ C 270 25.09.2001, p. 0161 E</a>	04/07/2001	EC	Summary
Council position		<a href="#">10418/1/2001</a> <a href="#">OJ C 337 30.11.2001, p. 0001</a>	17/09/2001	CSL	Summary
Commission communication on Council's position		SEC(2001)1409	18/09/2001	EC	Summary
Committee draft report		PE309.059	14/11/2001	EP	
Amendments tabled in committee		PE309.059/AM	20/11/2001	EP	
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A5-0434/2001</a>	27/11/2001	EP	
Text adopted by Parliament, 2nd reading		<a href="#">T5-0677/2001</a> <a href="#">OJ C 177 25.07.2002, p. 0082-0155 E</a>	12/12/2001	EP	Summary
Commission opinion on Parliament's position at 2nd reading		<a href="#">COM(2002)0075</a>	07/02/2002	EC	Summary
Follow-up document		<a href="#">COM(2003)0715</a>	19/11/2003	EC	Summary
Document attached to the procedure		<a href="#">SEC(2006)0817</a>	29/06/2006	EC	
Follow-up document		<a href="#">COM(2006)0334</a>	29/06/2006	EC	Summary

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Directive 2002/19](#)  
[OJ L 108 24.04.2002, p. 0007-0020](#) Summary

## Electronic communications: access to networks and interconnection, new regulatory framework

**PURPOSE** : to establish a new regulatory framework for dealing with issues to the access to, and interconnecton of, electronic communications networks and associated facilities. **CONTENT** : this proposal for a directive is one element in a new regulatory framework which seeks to ensure that the electronic communications sector continues to develop as a competitive market delivering benefits to all companies and individuals in the Community that use these services. (Also refer to COD/2000/0183; COD/2000/0184; COD/2000/0188; COD/2000/0189). This proposal for a Directive will establish a new regulatory framework for dealing with issues of access to, and interconnection of, electronic communications networks in the Community. It will ensure that, during a period of converging technologies and services and strong market growth, the market for electronic communications services continues to develop in a manner that stimulates innovation, competition and user choice. It also provides legal certainty for market players by establishing clear criteria for regulatory intervention, and clear limitations on what obligations concerning access and interconnection can be imposed in which circumstances, whilst at the same time allowing for sufficient flexibility to allow regulatory authorities to deal effectively with new market problems that hinder effective competition. Furthermore, the proposal aims to harmonise the way in which Member States regulate the market between suppliers of communications networks carrying publicly available communications services. In summary, the regulatory framework set out in the proposed Directive for access and interconnection will be characterised by: - priority given to full commercial negotiations between parties to agree on the terms and conditions for access and interconnection, subject to compliance with Community law; - a defined framework for national regulatory authorities to address issues of access and interconnection; - continuity with the current regulatory framework, with obligations for national regulatory authorities to review and when possible roll back certain obligations on operators with significant market power; - possibility for national regulatory authorities to intervene to address identified market failures, acting in accordance with the principles of transparency, objectivity and proportionality.?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

The committee adopted the report by Renato Brunetta (EPP-ED, I), amending the proposal under the codecision procedure (1st reading). The committee felt that it needed to be made clear that NRAs should require operators with significant market power to provide interconnection and comply with reasonable demands for access. Such operators should provide interconnection to other public network operators on transparent, fair, reasonable and non-discriminatory terms. On the other hand the committee wanted the principles of light regulation and proportionality to be observed. The obligations that could be imposed by NRAs in order to avoid distortions of competition should be proportionate to the aim pursued, with due regard for the principle of minimum regulation. NRAs should not impose obligations where they were satisfied that there was effective competition. The committee wanted NRAs to ensure that operators used information acquired from another operator during the process of negotiating access or interconnection arrangements solely for the purpose for which it was supplied. Confidentiality of information should be respected. The information should not be passed on to any other party for whom such information could provide a competitive advantage. NRAs should be granted powers to impose penalties in such cases. The committee argued that both the terminology and the implementation arrangements of the directive should be clarified. It wanted a more precise definition of "access" than that used by the Commission and said the directive should cover both international roaming and national roaming. As research by both the Commission and Member States showed that charges for international roaming were too high, the Commission and the NRAs should require operators to make the retail prices of international roaming both transparent and cost-based. Operators should be required to inform or display the price per minute of an international roaming call on the screen of the handset in real time. Lastly, the NRAs should be allowed to impose price controls in situations where a market analysis indicated that a potential lack of effective competition had led to prices being sustained at an excessively high level. The committee emphasised that this must be done only if the prices had remained high over the long term. Price controls by the NRA must not adversely affect competition in the long term nor discourage investment in alternative infrastructures. ?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

The European Parliament adopted the report by Mr Renato BRUNETTA (EPP/ED, I) which seeks to harmonise the way in which Member States regulate access to, and interconnection of electronic communications networks and associated facilities. (Please refer to the previous document). ?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

The Commission presented an amended proposal giving an explanation of the main amendments. The proposal incorporates those that improve technical provisions and further clarify the respective rights and obligations of undertakings regarding access and interconnection. The amended proposal incorporates all these proposals that improve legal certainty for market players when negotiating access and interconnection. It also includes those that provide further criteria for the national regulatory authority to justify regulatory intervention and imposition of obligations or withdrawal on them when the market becomes competitive. The main amendments that could not be accepted include: - those that may over-regulate the market. These include the amendments imposing generic access obligations and those calling on the ad hoc imposition of obligations for call termination and roaming charges to be cost oriented. - those that are intended to extend the regulatory regime on conditional access systems and associated facilities such as electronic programming guides (EPGs), application programming interfaces (APIs) and other facilities necessary for interactive digital TV services. These amendments demand the introduction of major regulatory requirements that will impact current developments in the digital TV market. The Commission considers that the best way to deal with technological and market developments in this rapidly changing field is by the comitology procedure with adequate consultation with market players and the Communications committee, and keeping informed the relevant Parliamentary committees. ?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

The Council supports the approach and aims proposed by the Commission. Some changes to both the wording and the substance of the Commission's text were nevertheless made. For the most these changes aim to provide greater guarantees to users in terms of end-to-end connectivity and to create flexibility regarding the future development of obligations on access to digital television. Concerning 'Obligations to interconnect', the common position grants NRAs specific powers to interconnect undertakings controlling access to end-users. This is in addition to the possibility of imposing such obligations on operators with significant market power under Article 12. Concerning 'Conditional access obligations', the Council considers the Commission proposed approach too rigid. It therefore introduces a new sub-paragraph whereby Member States will have the freedom to include requirements for other facilities (APIs and EPGs). The common position also allows for a provision of 'rolling back' the regulation on condition that access systems as markets become more competitive - provided that the accessibility of specified 'must carry' broadcasts is maintained. Concerning 'Certain limitations to public networks', the Council has decided to follow the broad scope of the originally proposed Directive. Certain provisions are amended however in order to clarify that they apply to public networks only. On 'local loop unbundling' the Council has decided to add a number of detailed provisions with the objective of carrying over into the new framework the obligations laid down in the recently adopted regulation on local loop unbundling.?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

Voting unanimously, the Council adopted a Common Position which, according to the Commission, reflects many of the key amendments of the European Parliament whilst remaining faithful to the structure and substance of the amended proposal of the Commission. The Commission therefore fully endorses the Common Position of the Council and urges the rapid adoption of the Directive considered an essential part of the new regulatory framework of electronic communications networks and services in the Community.?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

The committee adopted the report by Renato BRUNETTA (EPP-ED, I) amending the common position under the codecision procedure (2nd reading). It retabled a number of amendments adopted by Parliament at first reading and also adopted a number of new amendments. In particular, it reiterated Parliament's demand at 1st reading that NRAs should require operators with significant market power to provide interconnection to other public network operators on transparent, fair, reasonable and non-discriminatory terms and comply with reasonable demands for access. The report made a number of references to digital interactive television services and the need for interoperability between different systems, and amended the proposal accordingly. Moreover, it pointed out that application programme interfaces (APIs) and electronic programme guides (EPGs) also needed to be regulated at EU level to ensure that third parties were given non-discriminatory access to them and that consumers were given a wide choice. The committee also retabled an amendment calling for the obligations that could be imposed by NRAs to be proportionate to the aim pursued and said that the imposition of price controls should not negatively affect competition in the long term. Lastly, it called for the Commission and the NRAs to make regular assessments of whether prices for international roaming and the prices of calls from fixed to mobile phones were based on the principles of fair competition. ?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

The European Parliament adopted the recommendation by Renato BRUNETTA (EPP-ED, I) on the draft directive to harmonise the way in which Member States regulate access to, and interconnection of, electronic communications network. Parliament adopted a few compromise amendments to the common position. It asks the Commission to conduct a review of the market in order to reduce ex-ante sector specific rules progressively as competition in the market develops. Parliament said this should also take account of transitional problems in the market such as those relating to international roaming. The Parliament believes that in order to ensure that the transnational electronic communications market is effective and efficient, the Commission should monitor and publish information on charges which contribute to determining prices to end-users. ?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

The European Parliament adopted 7 amendments, and the Commission can accept all of them in full. In particular, Parliament introduced new text to highlight the need for monitoring by regulatory authorities and/or the Commission, with regulatory action to be taken where appropriate on a number of key issues. Those concern in particular the interoperability of services for end users, charges which contribute to tariffs for end users, the need for market analysis on international roaming, and possible adverse effects of new infrastructure on the environment and the landscape. The Commission can accept these amendments since they clarify the regulatory supervision powers included in the relevant provisions of the Council's common position. ?

## Electronic communications: access to networks and interconnection, new regulatory framework

---

**PURPOSE :** to harmonise the way in which Member States regulate access to, and interconnection of, electronic communications networks and associated facilities. **COMMUNITY MEASURE :** Directive 2002/19/EC of the European parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive). **CONTENT :** within the framework set out in Directive 2002/21/EC (Framework Directive), this Directive harmonises the way in which Member States regulate access to, and interconnection of, electronic communications networks and associated facilities. The aim is to establish a regulatory framework, in accordance with internal market principles, for the relationships between suppliers of networks and services that will result in sustainable competition, interoperability of electronic communications services and consumer benefits. This Directive establishes rights and obligations for operators and for undertakings seeking interconnection and/or access to their networks or associated facilities. It sets out objectives for national regulatory authorities with regard to access and interconnection, and lays down procedures to ensure that obligations imposed by national regulatory authorities are reviewed and, where appropriate, withdrawn once the desired objectives have been achieved. The term "Access" in this Directive does not refer to access by end-users. Member States shall ensure that there are no restrictions which prevent undertakings in the same Member State or in different Member States from negotiating between themselves agreements on technical and commercial arrangements for access and/or interconnection, in accordance with Community law. The undertaking requesting access or interconnection does not need to be authorised to operate in the Member State where access or interconnection is requested, if it is not providing services and does not operate a network in that Member State. Operators of public communications networks shall have a right and, when requested by other undertakings so authorised, an obligation to negotiate interconnection with each other for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of services throughout the Community. Member States shall require that undertakings which acquire information from another undertaking before, during or after the process of negotiating access or interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. The received information shall not be passed on to any other party, in particular other departments, subsidiaries or partners, for whom such information could provide a competitive advantage. 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, and gives the maximum benefit to end-users. **ENTRY INTO FORCE :** 24/04/2002. **IMPLEMENTATION :** 24/07/2003. ?