Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2007/0249(COD)	Procedure completed
Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package' See also 2007/0247(COD) See also 2007/0248(COD) Repealed by 2016/0286(COD) Subject 3.30.03 Telecommunications, data transmission, telephone 3.30.04 Radiocommunications, broadcasting 3.30.05 Electronic and mobile communications, personal communications 3.30.06 Information and communication technologies, digital technologies 3.30.25 International information networks and society, internet 8.40.08 Agencies and bodies of the EU		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ITRE Industry, Research and Energy	PPE-DE DEL CASTILLO VERA Pilar	17/01/2008
	Former committee responsible		
	ITRE Industry, Research and Energy	PPE-DE DEL CASTILLO VERA Pilar	17/01/2008
	Former committee for opinion		
	BUDG Budgets	PSE HAUG Jutta	20/09/2004
	CONT Budgetary Control		
	ECON Economic and Monetary Affairs	PSE RAPKAY Bernhard	18/02/2008
	IMCO Internal Market and Consumer Protection	PSE HERCZOG Edit	31/01/2008
	CULT Culture and Education	PSE HEGYI Gyula	17/01/2008
	JURI Legal Affairs	ALDE BOWLES Sharon	21/01/2008
	LIBE Civil Liberties, Justice and Home Affairs	ALDE PICKART ALVARO Alexander Nuno	31/01/2008

	Former committee for opinion on the legal basis		
	JURI Legal Affairs		19/12/2007
		ALDE WALLIS Diana	
Council of the European Union	Council configuration	Meeting	Date
	General Affairs	2970	26/10/2009
	Education, Youth, Culture and Sport	2923	16/02/2009
	Transport, Telecommunications and Energy	2907	03/12/2008
	Transport, Telecommunications and Energy	2877	12/06/2008
	Education, Youth, Culture and Sport	2868	21/05/2008
	Transport, Telecommunications and Energy	2835	29/11/2007
European Commission	Commission DG	Commissioner	
	Communications Networks, Content and Technology	REDING Viviane	

Key events

13/11/2007	Legislative proposal published	COM(2007)0699	Summary
29/11/2007	Debate in Council	2835	
10/12/2007	Committee referral announced in Parliament, 1st reading		
21/05/2008	Debate in Council	2868	
12/06/2008	Debate in Council	2877	Summary
07/07/2008	Vote in committee, 1st reading		Summary
18/07/2008	Committee report tabled for plenary, 1st reading	A6-0316/2008	
02/09/2008	Debate in Parliament		
24/09/2008	Results of vote in Parliament		
24/09/2008	Decision by Parliament, 1st reading	T6-0450/2008	Summary
05/11/2008	Modified legislative proposal published	COM(2008)0720	Summary
16/02/2009	Council position published	16498/1/2008	Summary
19/02/2009	Committee referral announced in Parliament, 2nd reading		
21/04/2009	Vote in committee, 2nd reading		Summary
23/04/2009	Committee recommendation tabled for plenary, 2nd reading	A6-0271/2009	
05/05/2009	Debate in Parliament		
06/05/2009	Decision by Parliament, 2nd reading	T6-0362/2009	Summary
26/10/2009	Act approved by Council, 2nd reading		
25/11/2009	Final act signed		

25/11/2009	End of procedure in Parliament		
18/12/2009	Final act published in Official Journal		

Technical information

Procedure reference	2007/0249(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	See also 2007/0247(COD) See also 2007/0248(COD) Repealed by 2016/0286(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/6/70697

Documentation gateway

Legislative proposal		COM(2007)0699	13/11/2007	EC	Summary
Document attached to the procedure		COM(2007)0696	13/11/2007	EC	Summary
Document attached to the procedure		SEC(2007)1472	13/11/2007	EC	
Document attached to the procedure		SEC(2007)1473	13/11/2007	EC	
Committee draft report		PE404.717	17/04/2008	EP	
Amendments tabled in committee		PE406.122	16/05/2008	EP	
Committee opinion	BUDG	PE405.749	29/05/2008	EP	
Committee opinion	CONT	PE402.727	03/06/2008	EP	
Committee opinion	JURI	PE402.731	03/06/2008	EP	
Committee opinion	CULT	PE404.794	05/06/2008	EP	
Committee opinion	LIBE	PE405.770	05/06/2008	EP	
Committee opinion	ECON	PE404.779	06/06/2008	EP	
Committee opinion	IMCO	PE404.762	18/06/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0316/2008	18/07/2008	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0450/2008	24/09/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)6073	17/10/2008	EC	
Modified legislative proposal		COM(2008)0720	05/11/2008	EC	Summary
Council statement on its position		05913/2009	11/02/2009	CSL	
Council position		16498/1/2008	16/02/2009	CSL	Summary
Commission communication on Council's		COM(2009)0078	17/02/2009	EC	Summary

position					
Committee draft report		PE420.224	23/02/2009	EP	
Amendments tabled in committee		PE423.793	17/04/2009	EP	
Committee recommendation tabled for plenary, 2nd reading		A6-0271/2009	23/04/2009	EP	
Text adopted by Parliament, 2nd reading		T6-0362/2009	06/05/2009	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(2009)0422	29/07/2009	EC	Summary
Draft final act		03675/2009/LEX	25/11/2009	CSL	
Follow-up document		SWD(2013)0152	23/04/2013	EC	Summary

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

Regulation 2009/1211
OJ L 337 18.12.2009, p. 0001 Summary

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

This Communication reports on the results of Commission?s Review of the regulatory framework for electronic communications and explains the main policy changes proposed by the Commission.

The EU regulatory framework for telecommunications was created in the 1990s in order to open up national markets to competition, markets which, until then, where dominated by state-owned monopolies. This process culminated in the liberalisation of national markets in 1998. A further step was taken in 2002 with the adoption of the current set of rules, which take account of the convergence of technologies and apply to all forms of electronic communications.

In 2006 and 2007, the Commission reviewed the functioning of the EU framework in against its main objectives, which are to promote competition, to consolidate the internal market and to promote the interests of the citizen. In the light of technological and market developments, especially improved competition in some areas, but also continued dominance by one or a few operators on a number of key markets as well as a continued lack of a single market for electronic communications and increasing divergence of regulatory approaches in the enlarged EU, a substantial reform of the regulatory framework is considered necessary by the Commission.

The 2007 Reform Proposals of the Commission can be grouped under the three pillars of better regulation, completing the single market and connecting with citizens.

1) Better regulation for competitive electronic communications: the 2007 Reform Proposals first of all aim to simplify and improve the quality of the regulatory environment, by reducing ex-ante regulation where market developments allow and by simplifying the market review procedure. The Commission also recommends better regulation of radio spectrum by simplifying access to and use of this scarce resource and moving to a more market-oriented allocation of spectrum. The Commission?s legislative proposals strengthen the principles of technology and service neutrality, and create a mechanism to designate certain bands where, across the EU, rights acquired to use spectrum are allowed to be traded (secondary trading). Regulatory provisions to encourage licence-free spectrum use and to reinforce the coordination of conditions for spectrum authorisations are also proposed.

2) The Single Market for electronic communications: Europe does not yet have a single market for electronic communications networks or services. Implementation of the EU rules via 27 separate national regulatory systems has resulted in two major drawbacks: the artificial segmentation of markets on a national basis and a fundamental lack of consistency in the way the EU rules are applied. In order to address this lack of a single market, the Commission proposes the establishment of an independent European Electronic Communications Market Authority, which will build on the combined expertise of NRAs and improve the existing coordination mechanisms. At the same time, it is proposed to strengthen the independence and enforcement powers of national authorities, which will contribute to the effective and speedy implementation of the regulatory framework.

3) Connecting with citizens: In a rapidly changing market environment, new measures are needed in order to preserve and enhance consumer protection and user rights and ensure that consumers can reap the full benefits of a dynamic and increasingly borderless communications market. The Commission?s proposals aim, in particular, to: 1) improve the transparency of information from service providers to consumers, including information on supply conditions and on tariffs; 2) set a time limit of one working day for ?porting? (transferring) a telephone number following a change of fixed or mobile operator; 3) enhance the implementation of ?112? emergency services in the EU, in particular by

ensuring more efficient access to caller location information; 4) enable NRAs to impose minimum requirements for the quality of services based on standards drawn up at Community level. The Reform Proposals will also ensure that users with disabilities, elderly users and people with special needs are not prevented from using and accessing eCommunications services.

The Commission believes that the 2007 Reform Proposals should become law before the end of 2009.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

PURPOSE: to establish a European Electronic Communications Market Authority.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTEXT: in June 2006, the Commission presented a report to the European Parliament and the Council on the functioning of the regulatory framework for electronic communications networks and services. This extensive and comprehensive review process brought to light a number of important problems that remain to be solved, in particular the lack of consistency in the application of EU rules and the regulatory fragmentation of the internal market.

Indeed, despite the significant progress on the harmonisation of regulation in electronic communications, the inconsistent regulatory approaches by 27 national regulatory authorities ? which vary significantly in terms of competences, independence and financial and human resources ? stand in the way of technological developments and are increasingly felt by businesses as obstacles to the delivery of trans-national or pan-European services.

The independent advisory group "European Regulators Group" (ERG) was set up by the Commission in 2004 as a means of facilitating consultation, coordination and cooperation amongst national regulatory authorities and between these authorities and the Commission. The current approach within ERG, in practice, requires reaching the agreement among all 27 regulators. The Commission has therefore concluded that the tasks required could be best fulfilled by a separate entity which is independent and outside the Commission and which reinforces the powers of the NRAs by taking over the functions of the ERG and giving them a robust and transparent foundation in Community law.

CONTENT: the Commission is proposing a new independent Authority working in close cooperation with the national regulatory authorities (NRAs) and the Commission. This proposal complements two other proposals that seek to amend directives that comprise the current regulatory framework for electronic communications. (see COD/2007/0247 and COD/2007/0248).

The new Authority, accountable to the European Parliament, will include a board of regulators comprising the heads of the national regulatory authorities of all EU Member States and will replace the European Regulators Group (ERG). It will provide expert advice to the Commission, notably to prepare regulatory decisions and to further the internal market by improving consistency in the application of EU rules. The new Authority would also take over the functions of the European Network Security Agency (ENISA).

According to the proposal the Authority would complement at European level the regulatory tasks undertaken by the regulatory authorities at national level in the following ways:

The Authority would complement at European level the regulatory tasks performed at national level by the regulatory authorities by:

- Providing a framework for national regulators to cooperate.It is proposed to improve the handling of cross-border aspects of e-communications market regulation and network integrity. The Authority will provide procedures for cooperation between national regulators, in particular as regards the exchange of information, provision of advice and technical support. The Authority would have powers to mediate and resolve cross-border disputes between NRAs. This framework will also promote cooperation between EU national regulators and third countries.
- Regulatory oversight of market definition, analysis and the implementation of remedies. The Authority would in general have an advisory role vis-à-vis the Commission as regards market regulation issues and could issue non-binding guidelines to promote good practices among the national regulators. Draft measures of NRAs would be subject to opinions as concern their potential impact on single market and compatibility with Community law, where necessary proposals for modifications would be included in the opinion. These opinions will be delivered to the Commission on a fast-track basis on the basis of a simple majority vote amongst its members.
- Definition of trans-national markets: the Authority provides for an efficient and proportional mechanism to respond to growing cross-border markets stemming from rising mobility, increased penetration of internet-based services (e.g. VoIP), satellite-based services and convergence between fixed and mobile services. The Authority will also be responsible for monitoring the development of roaming services, both voice and data.
- Advice on radio frequency harmonisation: the Authority would increase the speed and effectiveness of radio spectrum policy through on-going analysis and reporting, the identification of the potential and means for development of new services, maintenance of a register of spectrum use across the EU, advice on common procedures for granting authorisations, technical support in the selection of applications for spectrum licences, advice on withdrawal of rights of use in the case of failure to conform to licence conditions.
- Decision powers on numbering administration and advice on number portability.The Authority would be charged with the administration and development of the European Telephony Numbering Space (ETNS), i.e. numbers using a single EU-wide prefix (3883) that can be assigned to organisations wishing to establish one-stop, pan-European call-centres. In addition, the Authority would work with NRAs and Member States on European aspects of numbering and number portability, inter alia by reporting on the development of the European Emergency Number 112, the identification of numbering ranges for cross-border services, the identification of the potential and means for development of new services, and providing advice on common procedures for granting authorisations.
- Network and information security. The Authority will subsume the tasks of the existing European Network and Information Security Agency). In so doing it will reinforce the coherence between obligations to ensure network integrity that today fall on NRAs and the responsibility to create a culture of network and information security that is today the remit of ENISA.
- General informational and advisory functions. The Authority would have a role to provide an annual report on the development of the electronics communications sector (offer and penetration of new services, development of competition, review of national regulatory situation, remedies applied, information on appeals procedures, etc.). In addition it would monitor and report on interoperability and e-accessibility in Europe, with the ability to issue recommendations on measures to be taken at national level to better meet, in particular, the needs of disabled or elderly citizens.

The annual budget is estimated at 10 million EUR for the Authority?s first year of operation, reaching 28 million EUR in its third year.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

Discussions in the Council bodies on this proposal showed that almost all Member States were against the creation of the European electronic communications market authority as proposed by the Commission. Ministers also discussed the issue of the establishment of a new market authority. The presidency summarised the debate as follows:

- there was a broad consensus among the majority of Member States that there is a need to improve the consistency of functioning of the internal market for electronic communications;
- there is a need for a prior agreement on aims and tasks of the new body before the determination of its legal structure;
- the new body has to function in accordance with the principles of efficiency, transparency, independence and expertise;
- the establishment of the new body would have no affect on the existence and functioning of the European Network and Information Security Agency;
- tasks of the new body would not include spectrum management issues;
- regarding aims and tasks, the new body has to focus on economic regulation issues.

The debate also showed that there are many reservations regarding the establishment of a new body as a Community body and that there is broad support among Member States to the idea that the existing European regulators group should be enhanced.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

The Committee on Industry, Research and Energy adopted the report drafted by Pilar del CASTILLO VERA (EPP-ED, ES) amending at 1st reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council establishing the European Electronic Communications Market Authority.

The salient issues are as follows:

Body of European Regulators in Telecom (BERT): with a view to ensuring the effective and consistent implementation of a regulatory framework on electronic communications, MEPs propose to set up of a Body of European Regulators in Telecom composed of 27 national regulatory authorities, as an alternative to the European Electronic Communications Market Authority (EECMA) advocated by the European Commission. Furthermore, it shall advise the Commission and assist the NRAs in all matters within the scope of the tasks assigned to the NRAs by the Framework Directive and the Specific Directives.

Role and tasks: BERT shall carry out its tasks in cooperation with NRAs and the Commission. BERT shall serve as a means for the exchange of information and the adoption of consistent decisions by NRAs. It shall provide an organisational basis for the decision-making of NRAs. It shall adopt common positions and comments. Furthermore, it shall advise the Commission and assist the NRAs in all matters within the scope of the tasks assigned to the NRAs by the Framework Directive and the Specific Directives. The Commission and NRAs shall take the utmost account of the opinion of BERT. Where BERT proposes alternative solutions in the light of different market conditions and path dependence of different regulatory approaches, NRAs shall consider which solution fits best into their regulatory approach. NRAs and the Commission shall make public the manner in which the opinion of BERT has been taken into account.

Spectrum policy: upon request, BERT shall provide advice to the Commission, the Radio Spectrum Policy Group (?RSPG?) or the Radio Spectrum Committee (?RSC?), as appropriate, in relation to matters within the scope of its functions which affect or are affected by the use of radio frequencies for electronic communications in the Community. It shall work in close cooperation with the RSPG and the RSC as appropriate.

Separation of BERT and ENISA: MEPs state that BERT should not take over tasks relating to network and information security. The Commission had originally proposed merging the existing European Network and Information Security Agency (ENISA) with the new European Electronic Communications Market Authority (EECMA). In addition, numbering issues, in accordance with the (Framework Directive) and access to numbers and services in the Community, in accordance with the Universal Service Directive are competence which should remain with the Member States.

Structure and staff: BERT shall comprise a board of Regulators Board representing 27 national regulatory authorities and a Managing Director whose term of office shall be 5 years. When carrying out the tasks conferred upon it by this Regulation, the Board of Regulators shall act independently and shall not seek or take instructions from any Member State or any public or private interest. The European Parliament may request either the Chairperson of the Board of Regulators or the Managing Director to address it on relevant issues relating to BERT's activities. The committee responsible in the European Parliament may ask the Managing Director to take the floor and to answer any questions put by its Members. The Staff Regulations of Officials of the European Communities shall apply to the staff of BERT.

Funding: the new Body of European Regulators in Telecommunications (BERT) should be funded by the Community (one third) and by direct contributions from national regulatory authorities (two thirds), according to an amendment adopted by the committee. However, the rapporteur and shadow rapporteurs agreed to review these funding provisions ahead of the plenary vote.

Report: within 3 years of the effective start of operations, the Commission shall publish an evaluation report on the experience acquired as a result of the operation of BERT. The European Parliament shall issue an opinion on the evaluation report. On 1 January 2014 a review shall take place to evaluate whether it is necessary to extend the mandate of BERT. In case an extension is justified, budgetary and procedural regulations, as well as human resources, shall be reviewed.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

The European Parliament adopted by 490 votes to 105, with 14 abstentions, a legislative resolution amending the proposal for a regulation of the European Parliament and of the Council establishing the European Electronic Communications Market Authority, also approved by the Committee on Industry.

The report had been tabled for consideration in plenary by Pilar del CASTILLO VERA (EPP-ED, ES) on behalf of the Committee on Industry, Research and Energy.

The main amendments ? at 1st reading of the co-decision procedure ? are as follows:

Body of European Regulators in Telecom (BERT): with a view to ensuring the effective and consistent implementation of a regulatory framework on electronic communications, MEPs propose to set up of a Body of European Regulators in Telecom composed of 27 national regulatory authorities, as an alternative to the European Electronic Communications Market Authority (EECMA) advocated by the European Commission. The European Commission shall consult BERT in carrying out its functions under the Framework Directive and the Specific Directives.

Role and tasks: BERT shall carry out its tasks in cooperation with NRAs and the Commission. BERT shall serve as a means for the exchange of information and the adoption of consistent decisions by NRAs. It shall provide an organisational basis for the decision-making of NRAs. It shall adopt common positions and comments. Furthermore, it shall advise the Commission and assist the NRAs in all matters within the scope of the tasks assigned to the NRAs by the Framework Directive and the Specific Directives. The European Parliament and the Council shall adopt a decision establishing an office to ensure appropriate resources for BERT.

BERT may issue opinions at the request of the European Parliament, the Commission, or on its own initiative. It shall develop common positions, guidelines and best practices for the imposition of regulatory remedies at the national level and monitor their implementation across Member States. The Commission and NRAs shall take the utmost account of the opinion of BERT. Where BERT proposes alternative solutions in the light of different market conditions and different regulatory approaches, NRAs shall consider which solution fits best into their regulatory approach. NRAs and the Commission shall make public the manner in which the opinion of BERT has been taken into account.

Spectrum policy: upon request, BERT shall provide advice to the Commission, the Radio Spectrum Policy Group (?RSPG?) or the Radio Spectrum Committee (?RSC?), as appropriate, in relation to matters within the scope of its functions which affect or are affected by the use of radio frequencies for electronic communications in the Community. It shall work in close cooperation with the RSPG and the RSC as appropriate.

Separation of BERT and ENISA: MEPs state that BERT should not take over tasks relating to network and information security. The Commission had originally proposed merging the existing European Network and Information Security Agency (ENISA) with the new European Electronic Communications Market Authority (EECMA).

Structure: BERT shall comprise a Board of Regulators representing 27 national regulatory authorities and a Managing Director whose term of office shall be 5 years. Before appointment of the Managing Director, the suitability of the candidate selected by the Board of Regulators may be subject to a non-binding opinion of the European Parliament and the Commission. When carrying out its tasks, the Board of Regulators shall act independently. The European Parliament may request either the Chairperson of the Board of Regulators or the Managing Director to address it on relevant issues relating to BERT's activities. If necessary, the responsible committee of the European Parliament may invite the Managing Director to answer questions put by its members.

Funding: BERT shall be financed by a subsidy from the Community and a financial contribution from each NRA. Each Member State shall ensure that NRAs have the adequate financial resources required to participate in the work of BERT. The Board or Regulators shall agree, at the latest, six months after the entry into force of this Regulation, the level of the financial contribution to be made by each Member State.

Report: within three years of the effective start of operations, the Commission shall publish an evaluation report on the experience acquired as a result of the operation of BERT. The European Parliament shall issue an opinion on the evaluation report. By 1 January 2014 a review shall take place to evaluate whether it is necessary to extend the mandate of BERT. In case an extension is justified, budgetary and procedural regulations, as well as human resources, shall be reviewed.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

The amended proposal adapts the original proposal on a number of points as suggested by the European Parliament.

It is recalled that the proposal aims to establish a European Electronic Communications Market Authority which is part of the EU regulatory package for electronic communications proposed by the Commission with the aim of simplifying and improving the quality of the regulatory environment, completing the single market and ensuring that consumers can reap the full benefit of a dynamic and increasingly borderless communications market.

The objective of the proposed Regulation is to establish a specialised and independent expert body to assist the Commission and the national regulatory authorities in the implementation of the EU regulatory framework for electronic communications.

The Authority would complement at European level the regulatory tasks performed at national level by the regulatory authorities, in particular by providing:

- a framework for national regulatory authorities to cooperate;
- regulatory oversight of market definitions;
- analysis and implementation of remedies;
- definition of transnational markets;
- advice on radio frequency issues;

- decisions on numbering administration and advice on number portability;
- advice on network and information security issues;
- general informational and advisory functions on issues related to the electronic communications sector.

The European Parliament adopted 164 amendments at 1st reading on 24 September 2008. In its amended proposal, the Commission accepts 75 of these amendments in their entirety. It accepts 32 in part or subject to rewording. In particular, the Commission accepts the establishment of a new body called "Body of European Telecoms Regulators" and inserts some new drafting underlying the importance of reinforcing the cooperation between national regulatory authorities.

It should be noted that the Commission rejected 57 amendments.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

The Council adopted its common position with the aim of improving and bolstering existing structures, notably the European Regulators Group (ERG). The proposed new body is intended to replace the ERG and improve its functioning so as to ensure greater transparency and efficiency in the decision-making process. The Council has opted to give the ERG formal status in a Community regulation by laying down a more precise definition of its tasks, its functioning and its relations with the Community Institutions.

Although the Council has opted for a different type of legal act from that proposed by the Commission, the common position incorporates most of the European Parliament's first-reading amendments either in full, in part or in essence.

(1) Subject matter, scope and aims: the Council agrees with the Commission and the European Parliament that a new body should be created as part of the internal market for electronic communications networks and services. The new body would have an advisory role and should:

- assist the NRAs (national regulatory authorities) and help the Commission to carry out its tasks;
- serve as a body for reflection, debate and advice for the European Parliament, Council and Commission in the electronic communications field and advise them at their request or on its own initiative;
- continue the work of the ERG, promoting cooperation between national regulatory authorities and between those authorities and the Commission, so as to ensure the consistent application in all Member States of the regulatory framework for electronic communications networks and services, and thereby contribute to the development of the internal market.

The Council shares the view of the Commission and the European Parliament that the new body's activities should come within the scope of the Framework Directive and the specific directives and should be clearly defined.

Like the European Parliament, the Council considers that the Group of European Regulators in Telecoms (GERT) should also draw up and disseminate among NRAs regulatory best practice, such as common approaches, methodologies or guidelines on implementation of the regulatory framework. It further agrees with both institutions that ENISA (European Network and Information Security Agency) should not form part of the new body, which should have no competence at European level in matters concerning network and information security.

Unlike the European Parliament, the Council considers that the name GERT (Group of European Regulators in Telecoms) would be more appropriate for the new body than BERT (Body of the European Telecoms Regulators). It feels, however, that GERT should neither have the characteristics of an agency nor legal personality. Like the European Parliament, the Council considers that GERT would provide expertise and would establish confidence by virtue of its independence, the quality of the advice it delivers and the information it disseminates, the transparency of its procedures and methods of operation, and its diligence in performing tasks.

Regarding GERT's assignments the Council, unlike the European Parliament, feels that the Group should focus on matters concerning economic regulation of electronic communications markets and avoid pursuing tasks which have not been clearly defined in advance. The Council does not share the European Parliament's view that GERT should also provide advice for market players. The Council thinks it is right that the Group should seek to carry out its tasks in cooperation with existing groups and committees, but does not feel that it should advise them.

(2) Composition and operational arrangements: the Council agrees with the European Parliament that the new body should be composed of the heads or high-level representatives from the NRA established in each Member State with primary responsibility for overseeing the day-to-day operation of the market for electronic communications networks and services and that it should include one member per Member State. It also agrees that the Commission should have observer status and that the new body's Chairperson and Vice-Chairpersons should be elected from among its members.

The Council agrees with the European Parliament that the new body should carry out its tasks independently, impartially and transparently and take decisions on the basis of a two-thirds majority of the members. Like the European Parliament, the Council considers that the NRAs and the Commission should take the utmost account of opinions issued by GERT.

The Council agrees with the simplification of the new body's structure and tasks as proposed by the European Parliament, in particular compared with the structure proposed by the Commission and shares the European Parliament's opinion on some of the operational arrangements such as, for instance, adoption by the new body of rules of procedure or the convening of meetings. However, the Council favours a financial and organisational structurethat is les unwieldy and bureaucratic than that proposed by the European Parliament. The Council does not consider it necessary to provide for a Board of Regulators or a Managing Director post.

The Council considers that, in order to ensure GERT's independence, it should not be funded either fully or partly from the Community budget. The Council considers that, in order to ensure application of the principles of subsidiarity and proportionality, to opt for the form of a Community agency is neither necessary for, nor proportionate to, the tasks assigned to GERT. Regarding the two-and-a-half-year terms of office of the Chairperson and of the Vice-Chairpersons, the Council considers a shorter, one-year term of office more appropriate.

(3) Transparency and confidentiality: like the European Parliament, the Council feels that, where appropriate, before issuing opinions, recommending better regulatory practice or drawing up reports, GERT should consult interested parties and give them the opportunity to

comment within a reasonable period. In principle, the results of the consultation procedure should be made public and indicate any reservations issued by an NRA at its request. The Council agrees with the European Parliament that GERT should carry out its activities with a high level of transparency.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

The Commission notes that the Council?s position departs substantially from those of the Commission and the European Parliament, notably as regards the internal market mechanisms, in particular for ensuring consistent regulatory remedies, the additional remedy of functional separation, spectrum policy, and the establishment of a regulatory body. As regards the regulatory body, the Commission has particular concerns that the Council?s position raises institutional questions that constitute a substantial barrier to a satisfactory settlement.

The Commission also notes that the Council?s position diverges from those of the Commission and European Parliament on a number of supplementary issues falling under both proposals for directives to amend the regulatory framework. Nonetheless, the Commission considers that the divergences relating to the proposed Citizens? Rights Directive are not of the same magnitude as those relating to the proposed Better Regulation Directive and the proposed Regulation setting up a regulatory body.

Subject to its statement attached to the minutes of the Council of 27 November 2008, the Commission affirms its belief that its amended proposals can contribute to a balanced agreement between the institutions that represents an advance for citizens and businesses in the European single market. Accordingly, the Commission stands ready to facilitate an agreement between the co-legislators.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

The Committee on Industry, Research and Energy adopted the recommendation for second reading by Pilar del CASTILLO VERA (EPP-ED, ES) modifying, under the second reading of the codecision procedure, the Council?s common position for adopting a regulation of the European Parliament and of the Council establishing the Group of European Regulators in Telecom (GERT).

The amendments were the result of a compromise negotiated by the committee responsible with the Council Presidency.

As part of the compromise, the Body of European Regulators for Electronic Communications (BEREC) shall be established, as well as the Office to provide BEREC with professional and administrative support.

Role of BEREC: BEREC shall:

- develop and disseminate among national regulatory authorities (NRAs) regulatory best practice, such as common approaches, methodologies or guidelines on the implementation of the EU regulatory framework;
- on request, provide assistance to NRAs on regulatory issues;
- deliver opinions on the draft decisions, recommendations and guidelines of the Commission, referred to in this Regulation, Directive 2002/21/EC (Framework Directive) and the Specific Directives;
- issue reports and provide advice, upon reasoned request of the Commission or on its own initiative, and deliver opinions to the European Parliament and the Council, upon reasoned request or on its own initiative, on any matter regarding electronic communications within its competence;
- on request, assist the European Parliament, the Council, the Commission and the NRAs in relations, discussions and exchanges with third parties; and assist the Commission and NRAs in the dissemination of regulatory best practices to third parties.

Composition and organisation of BEREC: BEREC shall be composed of the Board of Regulators. The Board of Regulators shall be composed of one member per Member State who shall be the head or nominated high-level representative of the NRA established in each Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. The Commission shall attend as observer and shall be represented at an appropriate level. The Board of Regulators shall act by two-thirds majority of all its members. When carrying out its tasks conferred upon it, BEREC shall act independently.

The Office: to provide BEREC with professional and administrative support, the Office should be established as a Community body with legal personality and should exercise the tasks conferred on it by this Regulation. This Office should have legal, administrative and financial autonomy, in order efficiently to provide BEREC with its support. The Office should comprise of a Management Committee and an Administrative Manager.

The revenues and resources of the Office shall consist notably of: (a) a subsidy from the Community, entered under the appropriate headings of the general budget of the European Union (Commission Section); (b) financial contributions from Member States or from their NRAs made on a voluntary basis.

Evaluation and review: within three years of the effective start of operations, the Commission shall publish an evaluation report on the experience acquired as a result of the operation of BEREC and the Office. The evaluation report shall cover the results achieved by BEREC and the Office and their respective working methods, in relation to their respective objectives, mandates and tasks defined in this Regulation and in their respective annual work programmes. The European Parliament shall issue an opinion on the evaluation report.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

The European Parliament approved with amendments, under the second reading of the codecision procedure, the Council?s common position for adopting a regulation of the European Parliament and of the Council establishing the Group of European Regulators in Telecoms (GERT).

The amendments adopted in plenary are the result of a compromise negotiated with the Council.

As part of the compromise, the Body of European Regulators for Electronic Communications (BEREC) shall be established, as well as the Office to provide BEREC with professional and administrative support.

Tasks: BEREC shall draw upon expertise available in the national regulatory authorities (NRAs) and shall carry out its tasks in cooperation with the NRAs and the Commission. It shall promote cooperation between NRAs, and between NRAs and the Commission. Furthermore, BEREC shall advise the Commission, and upon request, the European Parliament and the Council. The tasks of BEREC shall be:

- to deliver opinions on draft measures of NRAs concerning market definition, designation of undertakings with significant market power and imposition of remedies, and to cooperate and work together with the NRAs;
- to deliver opinions on draft recommendations and/or guidelines on the form, content and level of details to be given in notifications;
- to be consulted on draft recommendations on relevant product and service markets;
- to deliver opinions on draft decisions on the identification of transnational markets;
- on request, to provide assistance to NRAs, in the context of the analysis of the relevant market;
- to deliver opinions on draft decisions and recommendations on harmonisation;
- to be consulted and to deliver opinions on cross-border disputes;
- to deliver opinions on draft decisions authorising or preventing a NRA from taking exceptional measures, in accordance with the Access Directive;
- to be consulted on draft measures relating to effective access to the emergency call number 112;
- to be consulted on draft measures relating to the effective implementation of the 116 numbering range, in particular the missing children hotline number 116000;
- to assist the Commission with the updating of Annex II of Directive 2002/19/EC (Access Directive);
- on request, to provide assistance to NRAs on issues relating to fraud or the misuse of numbering resources within the Community in particular for cross-border services;
- to deliver opinions aiming to ensure the development of common rules and requirements for providers of cross-border business services;
- to monitor and report on the electronic communications sector, including publishing of an annual report on the developments in the sector.

NRAs and the Commission shall take the utmost account of any opinion, recommendation, guidelines, advice or regulatory best practice adopted by BEREC. BEREC may, where appropriate, consult the relevant national competition authorities before issuing its opinion to the Commission.

Composition and organisation of BEREC: BEREC shall be composed of the Board of Regulators. The Board of Regulators shall be composed of one member per Member State who shall be the head or nominated high-level representative of the NRA established in each Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. The Commission shall attend as observer and shall be represented at an appropriate level.

The Board of Regulators shall act by two-thirds majority of its all members unless otherwise provided in this Regulation or in the Framework Directive or the Specific Directives. Each member or alternate shall have one vote. These decisions shall be made public, and shall indicate the reservations of an NRA at its request.

When carrying out its tasks conferred upon it by this Regulation, BEREC shall act independently. The Members of the Board of Regulators shall neither seek nor accept any instruction from any government, from the Commission, or from any other public or private group.

The Office: to provide BEREC with professional and administrative support, the Office should be established as a Community body with legal personality and should exercise the tasks conferred on it by this Regulation. This Office should have legal, administrative and financial autonomy, in order efficiently to provide BEREC with its support. The Office should comprise of a Management Committee and an Administrative Manager.

The revenues and resources of the Office shall consist notably of: (a) a subsidy from the Community, entered under the appropriate headings of the general budget of the European Union (Commission Section); (b) financial contributions from Member States or from their NRAs made on a voluntary basis.

Evaluation and review: within three years of the effective start of operations, the Commission shall publish an evaluation report on the experience acquired as a result of the operation of BEREC and the Office. The evaluation report shall cover the results achieved by BEREC and the Office and their respective working methods, in relation to their respective objectives, mandates and tasks defined in this Regulation and in their respective annual work programmes. The European Parliament shall issue an opinion on the evaluation report.

Note that this proposal is part of the ?telecom package? which includes the revision of the electronic communications framework and the citizens? rights directive. Given that MEPs could not reach a compromise with the Council on the framework directive and that all three proposals are interlinked, it is likely that the whole package will go to conciliation in the next legislature.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

At its Plenary Session of 6 May 2009, the European Parliament adopted a number of amendments negotiated with the Council to the Council's common position with a view to securing adoption in second reading. These amendments concern essentially the following elements:

The Regulation as amended by the European Parliament establishes a two-tier structure:

1. the Body of European Regulators for Electronic Communications (BEREC), composed of a Board consisting of the 27 national regulators, would have advisory powers but no legal personality;
2. the Office, comprising a Management Committee (27 + 1 member representing the Commission) and an Administrative Manager, would have a support role, and would be a Community body with legal personality.

BEREC would assist the Commission and the national regulators with expert advice in the range of their responsibilities under the EU regulatory framework for electronic communications.

The Office would provide the professional and administrative support services required by BEREC to fulfil its tasks and would be financed by a Community subsidy and financial contributions from Member States or NRAs made on a voluntary basis to finance specific items of operational expenditure.

The Commission accepts the European Parliament's amendments as being in line with the overall purpose and the general characteristics of the proposal.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

PURPOSE: to establish the Body of European Regulators for Electronic Communications (BEREC) and the Office, in view of the need to ensure the development of consistent regulatory practice and the consistent application of the EU regulatory framework in this area.

LEGISLATIVE ACT: Regulation No (EC) No 1211/2009 of the European Parliament and of the Council establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office.

CONTENT: following an agreement reached with the European Parliament at second reading, the Council adopted a regulation establishing the Body of European Regulators for Electronic

Communications (BEREC), a new independent authority working in cooperation with national regulatory authorities and the Commission.

This Regulation constitutes part of the ?Telecoms Package? which also includes the reform of the EU?s regulatory framework for electronic communications networks and services and the Directive on users? rights.

The Regulation establishes a two-tier structure:

1. the Body of European Regulators for Electronic Communications (BEREC) composed of a Board consisting of the 27 national regulators, would have advisory powers but no legal personality;
2. the Office, comprising a Management Committee (27 + 1 member representing the Commission) and an Administrative Manager, would have a support role, and would be a Community body with legal personality.

BEREC would assist the Commission and the national regulators with expert advice in the range of their responsibilities under the EU regulatory framework for electronic communications. It should provide expertise and establish confidence by virtue of its independence, the quality of its advice and information, the transparency of its procedures and methods of operation, and its diligence in performing its tasks. BEREC should also serve as a body for reflection, debate and advice for the European Parliament, the Council and the Commission in the electronic communications field.

The Office would provide the professional and administrative support services required by BEREC to fulfil its tasks and would be financed by a Community subsidy and financial contributions from Member States or NRAs made on a voluntary basis to finance specific items of operational expenditure.

Evaluation and review: within three years of the effective start of operations of BEREC and the Office, respectively, the Commission shall publish an evaluation report on the experience acquired as a result of the operation of BEREC and the Office. The evaluation report shall cover the results achieved by BEREC and the Office and their respective working methods, in relation to their respective objectives, mandates and tasks defined in this Regulation and in their respective annual work programmes. The European Parliament shall issue an opinion on the evaluation report.

ENTRY INTO FORCE: 07/01/2010.

Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

This Commission Staff Working Document responds to the requirement, under Article 25 of the BEREC Regulation, for the Commission to publish an evaluation report on the experience acquired with the operation of the Body of European Regulators for Electronic Communications (BEREC) and its Office within three years of the effective start of operations. BEREC was established as a result of the review of the EUs e-communications regulatory framework in 2009.

The report also examines how efficiently, based on the experience so far, BEREC has succeeded in its role and thus contributed to the development of the internal market for electronic communications. It thus assesses, in particular, the working practices, as well as the organisation of BEREC and its Office, as well as its remit and, where appropriate, makes recommendations for improvements.

The reports main conclusions are as follows:

Whilst BEREC is a recently created Body, the report already contains some insights and suggestions on how further to improve its role and efficiency. It will therefore be a valuable input to the Commissions forthcoming reflections on how to deepen the internal market in this area.

- Overall positive verdict on BERECs functioning: the report considers that BEREC is functioning well overall. This is particularly the case through its opinions under the Article 7/7a procedure (of Directive 2002/21/EC the Framework Directive on a common regulatory framework for electronic communications networks and services).
- The report also credits BEREC for providing useful input on international roaming, which was instrumental for the successful negotiations on the Roaming Regulation, as well as for the work it has undertaken on net neutrality.

Nevertheless, the evaluation also shows that there is still room for improvement in the BEREC set-up: whereas BEREC is making efforts to

improve the functioning of the internal market, the fact that it is composed of National Regulatory Authorities means that aligning European objectives with national views and considerations can prove challenging.