



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, xxx
SEC(2007) 1475

AVIS DU COMITE DES EVALUATIONS D'IMPACT

Commission proposal for a Directive of the European Parliament and the Council amending European Parliament and Council Directives 2002/19/EC, 2002/20/EC and 202/21/EC

Commission proposal for a Directive of the European Parliament and the Council amending European Parliament and Council Directives 2002/22/EC and 2002/58/EC

Commission proposal for a Regulation of the European Parliament and the Council establishing the European Electronic Communications Markets Authority

{COM(2007) 697
COM(2007) 698
COM(2007) 699
SEC (2007) 1472
SEC(20007) 1473}



Brussels, 26 July 2007
D(2007) 7006

Opinion

Title **Title: Impact Assessment on: revision of the regulatory framework for electronic communications and services (Draft of 4 July 2007)**

Lead DG **DG INFSO**

1) Impact Assessment Board Opinion

(A) Context

The EU's regulatory framework for electronic communications networks and services was adopted in 2002 and entered into force in Member States in 2003. In 2006, the Commission undertook a review of the framework, and published a communication (accompanied by an impact assessment report) which outlined the main proposals for changes in the five Directives of the framework. Those documents were subject to a public consultation. The current proposals for revision of the regulatory framework build on and follow-up on the Communication.

(B) Positive aspects

The impact assessment report contains a generally well balanced mix of quantitative and qualitative analysis. The IA presents a reasonable number of policy options, even if their interaction needs to be further clarified (see below). The summary tables presenting main impacts are useful, although some presentation issues could be corrected (see below).

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted to the author DG.

General recommendations: The IA report proposes a range of actions in a number of policy areas; interactions between these and in particular changes in the regulatory environment need to be clarified. The environmental impacts and simplification net effects deserve more attention in the report. These recommendations, and more detailed written comments and recommendations reflecting the exceptional size of this IA, have been

largely accepted by DG INFSO in its very informative written response to the Board. Given that the results of the ongoing study on the cost and benefits of a European Authority were not available for examination together with the IA report, the IAB notes that the draft submitted to the Board failed to satisfy the minimum requirements of the Financial Regulation, and that therefore a separate ex ante evaluation needs to be carried out.

(1) The IA report needs to explain better the changes in the regulatory environment that the new initiative is to bring. In particular, changes to Commission powers, and/or changes to procedures regarding Commission instruments in the field of privacy and security need to be clarified. Similarly, changes to the current functioning of the national regulatory authorities regarding the infrastructure (section 5 and 7) and the spectrum management (section 6 and 7) could be better explained.

(2) The relation between the actions proposed in the 5 main problem areas needs to be clarified. Should there be no trade-offs or synergies between them, it must be explained why they are bundled together in one impact assessment report.

(3) Environmental impacts should be better analysed. Whereas it might not be feasible to assess in detail environmental impacts for all policy options, their analysis should be improved. Discussion about consequences for waste generation and energy consumption on the one hand and replacing transport and travel with e-communication services on the other hand needs to be added to the IA report.

(4) The simplification resulting from proposed changes requires further clarification. Some of the elements (such as disclosure of security breaches) seem to create additional obligations for operators, whereas others (decrease in the number of markets) seem to aim at their reduction. Since the initiative is part of Simplification Rolling Programme, overall simplification effects need to be made more explicit. The report should state more clearly whether an assessment of the impact on the administrative burden will be carried out at a later stage, during the implementation process.

(5) The impacts of the various options (in the relevant sections) should be compared to the respective baseline scenario(s), in line with the IA guidelines¹. Therefore, the baseline scenarios in the comparison tables should not be marked with impact qualifiers (+/-); but only indicate the effect of the proposed changes with the baseline scenario as benchmark.

(D) Procedure and presentation

It appears that the necessary procedural elements have been generally complied with. However, it needs to be noted that results of two ongoing studies (on cost/benefit of an EU authority and on digital dividend) will be added to the IA report only at a later stage. Moreover, the IA was submitted to the Board while the work was still in progress, including important steering group meetings that were still taking place. Therefore, any changes that might have been introduced to the draft IA after its submission to the IAB were not examined by the Board.

¹ The baseline/business as usual scenario "is the scenario against which the impacts of policy options will be compared and assessed. This comparison is obviously easier the more specific you are in defining the baseline." P. 18, SEC(2005) 791

2) IAB scrutiny process

Reference number	2007/INFSO/001 Priority initiative
Author DG	INFSO – B.1
External expertise used	No
Date of Board Meeting	Written procedure
Date of adoption of Opinion	26 July 2007

