



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2013)

Opinion

Title DG CNECT - Impact Assessment on Measures to complete the European single market for Electronic communication services

(draft version of 4 September 2013)*

(A) Context

The EU's single market has given consumers competition and choice, helped businesses innovate and invest. In electronic communications, Europe liberalized the sector and over time fostered more harmonization among national markets and better and more competitive services for consumers. However, as a first step to reap the benefits of a broader digital single market, Europe needs a genuine single market for electronic communication networks and services, in which operators can freely offer services throughout the EU and consumers can enjoy them wherever they are based. The 2013 Spring European Council conclusions stressed the importance of the digital single market for growth and noted the Commission's intention to present concrete measures to establish a Single Market for Telecommunications in time for the October European Council. The current report considers policy options to foster the creation of a genuine internal market for electronic communication networks and services.

(B) Overall opinion

The report has been improved to a fair extent along the lines of the Board's recommendations. However, further work in a number of respects should still be undertaken. First, the report should better explain how the list of regulatory shortcomings has been identified. It should explain realistically what this initiative can achieve in terms of completing a genuine single market given the effect of other factors (economic crisis, cultural diversity, divergence in wider regulatory issues). Second, the report should better explain and present the detailed measures contained in the preferred option, thus better demonstrating the alignment with the legislative proposal. Third, the report should present in a more focused way the impact on different categories of operators (and their investments), of the proposed changes to Roaming III e.g. the incentive to enter collective roaming agreements. It should present better its assessment of the overall impact on investment incentives arising from the introduction of standard European access products, better explaining how such incentives may differ from the status quo. Finally, despite the absence of an open consultation, there is still scope to better integrate stakeholders' views on some aspects e.g. the changes to BEREC's governance structure.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted
Commission européenne, B-1049 Bruxelles - Belgiam. Office: BERL 6/29. E-mail: impact-assessment-board@ec.europa.eu

(C) Main recommendations for improvements:

(1) Further improve the problem definition and clarify the overall objective. The report should still better explain how the list of regulatory shortcomings has been identified and should substantiate further how such regulatory shortcomings affect supply and demand for cross-border services. It should justify the level of ambition by explaining what this initiative can realistically achieve in terms of a genuine single market given the effect of other factors (economic crisis, cultural diversity, divergence in wider regulatory issues).

(2) Better describe the content of the preferred option. The report should better present the detailed measures contained in the preferred option in full alignment with the legislative proposal. In particular the report should clarify what is meant by the Commission's 'greater power' to review consistency of remedies. It should also still further clarify how exactly the proposed standardised virtual access products differ from existing access remedies. It should better explain the nature of the proposals to ensure the protection of consumers, including those to resolve disputes in their own country and how these would be implemented consistently across different Member States.

(3) Improve the assessment of impacts. The report should still consider the risk of unintended consequences that may arise from the new possibility to sign collective roaming agreements, taking into account the consequences for different categories of operators and their investments. For example it should explain if smaller operators could be placed at a disadvantage given the possible greater difficulty in entering collective roaming agreements with sufficient pan-European coverage. It should deepen its assessment of the overall impact on investment incentives arising from the introduction of standard European access products better explaining how such incentives may differ from the status quo. It should discuss what the impact of such measures might be in terms of competition on the relevant markets and on the structure of the European telecommunications sector. The report should make a better attempt to assess possible costs for market players of implementing the proposed consumer protection and transparency measures and consider whether the risk of systematic divergence of approaches remains. Similarly, it should strengthen its analysis of possible impacts on national authorities' budgets arising from changes proposed in spectrum assignment and differentiate between Member States. The report should then set out how the proposed options could realistically deliver on the main policy objective of 'completing the single market'. As many of the key elements of these measures will be decided via implementing or delegated acts, the report should clearly indicate for which of these measures significant impacts will be expected and whether separate impact assessments will be carried out for them.

(4) Better incorporate stakeholders' views. The report should still better indicate the views of incumbent and alternative operators' about roaming agreements or wholesale virtual products as well as Internet Service Providers' concern about proposals regarding traffic management practices. When their views are divergent or conflicting, it should explain how their concerns have been taken into account and/or balanced against each other. Furthermore, given their key advisory and implementing role, the report should better integrate the views of NRA's for instance in relation to the proposed changes to BEREC's governance.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation.

The report should present the specific measures proposed in a more structured and comprehensible form (e.g. a table).

(E) IAB scrutiny process

Reference number	2013/CNECT/004
External expertise used	No
Date of IAB meeting	Written procedure. Two earlier versions of this report were submitted to the IAB, the first in June and the second in August 2013, for which the Board issued its opinions on 19 July and 29 August respectively.