European Commission: Proposals for new telecoms package

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On 14 September 2016, the European Commission published a set of proposals in order to "overhaul" European Union telecoms rules, and "meet Europeans' growing connectivity needs". These reforms all form part of the Commission's Digital Single Market Strategy (see IRIS 2015-6/3). First, the Commission published a draft directive on establishing the European Electronic Communication Code, which seeks to create a legal framework to ensure the freedom to provide electronic communications networks and services. The draft directive would amend the four current directives that form part of a regulatory framework for electronic communications networks and services, namely the Access Directive (2002/19/EC), Authorisation Directive (2002/20/EC), Framework Directive (2002/21/EC), and Universal Service Directive (2002/22/EC) (see IRIS 2002-3/5).

The current framework was last revised in 2009 (see IRIS 2010-1/7), and "due to the convergence of the telecommunications, media and information technology sectors", it is proposed that "all electronic networks and services should be covered by a single European Electronic Communication Code". Thus, all four current directives, in addition to the amendments, should be recast into one directive, "in the interests of clarity".

The 258-page proposal contains a number of notable provisions, including the expansion of the definition of "electronic communications service" to include the new concept of "interpersonal communications service", which is a "service normally provided for remuneration that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons". In this regard, the directive proposes "that new online players who provide equivalent communications services to those provided by traditional telecoms operators are covered by similar rules, in the interest of end-user protection." Additional rules applicable to such "over-the-top communications services" will include ensuring that servers and networks are secure, disabled users have equivalent access to their services, and users can reach the EU emergency number 112. Further notable amendments include: (a) an obligation for member states to ensure affordable access of all end-users to functional broadband internet access services and voice communications at least at a fixed location; (b) strengthen the role of independent national regulators by

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establishing a minimum set of competences for those regulators across the EU and enhance their independence requirements; and (c) in relation to the assignment of spectrum to electronic communications, establish common principles and EU instruments to fix assignments deadlines and a minimum 25-year licence duration to ensure return on investment and predictability for all market players.

Second, the Commission also published a draft regulation on establishing the Body of European Regulators for Electronic Communications (BEREC). BEREC was established in 2010 under Regulation (EC) No 1211/2009 (see IRIS 2010-3/4), and under the proposed regulation; it would gain new powers such as playing a greater role in the consultation mechanism for market regulatory remedies, providing guidelines for NRAs on geographical surveys; developing common approaches to meeting transnational end-user demand; delivering opinions on draft national measures on assignments of rights of use for radio spectrum (the radio spectrum 'peer review'); and setting up one register of the extraterritorial use of numbers and cross-border arrangements, and another on providers of electronic communications networks and services.

Third, the Commission published a draft regulation on the promotion of Internet connectivity in local communities. These amendments encourage entities with a public mission, such as public authorities and providers of public services, to offer free local wireless connectivity in the centres of local public life (e.g. public administrations, libraries, health centres and outdoor public spaces). To this end, it provides financial incentives in favour of those entities who want to provide free, high capacity local wireless connectivity in public spaces within their jurisdiction or at their sites of service.

Fourth, the Commission also published a Communication entitled Connectivity for a Competitive Digital Single Market - Towards a European Gigabit Society, designed to set out a "vision for a European Gigabit society, where availability and take-up of very high capacity networks enable the widespread use of products, services and applications in the Digital Single Market". The 17-page Communication details a number of initiatives that will be taken in this regard, including (a) "5G for Europe: Action Plan": a plan for the establishment of a common timetable and a set of enabling actions for the coordinated launch of 5G networks in Europe; (b) a plan for the Commission, in cooperation with the European Investment Bank, to launch a Broadband Fund by end of 2016, and (c) a plan for the Commission to set up a Wi-Fi voucher scheme for public authorities to offer free Wi-Fi connections in the centres of community life. A 55-page Commission Staff Working Document was also published alongside the Commission's Communications.

Finally, in relation to the proposed Directive on European Electronic Communications Code, and the Regulation on establishing the Body of European

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Regulators for Electronic Communications, the Commission states in its Communication that the European Parliament and the Council will "proceed swiftly with the legislative discussions with a view to reaching political agreement by the end of 2017, and implementation in the Member States well before 2020."

European Commission, "State of the Union 2016: Commission paves the way for more and better internet connectivity for all citizens and businesses", Press Release, 14 September 2016

http://europa.eu/rapid/press-release_IP-16-3008_en.htm

European Commission, Proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast), 2016/0288 (COD), 14 September 2016

https://ec.europa.eu/digital-single-market/en/news/proposed-directive-establishing-european-electronic-communications-code

European Commission, Proposal for a Regulation of the European Parliament and of the Council establishing the Body of European Regulators for Electronic Communications, COM(2016) 591 final, 14 September 2016

http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=17198

European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) No 283/2014 as regards the promotion of Internet connectivity in local communities, COM(2016) 589 final, 14 September 2016

http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=17185

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Connectivity for a Competitive Digital Single Market - Towards a European Gigabit Society, COM(2016) 587 final, 14 September 2016

http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=17182

Commission Staff Working Document Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Connectivity for a Competitive Digital Single Market - Towards a European Gigabit Society, SWD(2016) 300 final, 14 September 2016

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