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13. Considers that, whichever alternative solution is chosen, a transitional period should be envisaged to enable all operators (carriers, shippers and other industry players) to adapt to the new regulatory framework;

14. Calls upon the Commission, within its terms of reference and on the basis of undertakings under the Code of Conduct for Liner Conferences to hold discussions with the other contracting parties before proposing amendment or repeal of Regulation (EEC) No 4056/86; believes that those discussions should seek to find the most appropriate method of adaptation for Member States (those than still have bilateral commitments under the Code of Conduct) to the possible new legal status, with a view to avoiding any adverse consequences;

International tramp vessel and cabotage services

15. Points out that the tramp sector remains overwhelmingly deregulated and operates on the basis of the rules of fair competition; supports the Commission proposal for these services to be brought within the scope of Regulation (EC) No 1/2003;

16. Considers it to be in the interests of legal certainty and clarity that the Commission should establish, in a single process, guidelines as regards the compatibility of bulk pools and specialised trades with the rules of competition, subject to the proviso, however, that it should not do so until the proposals have been published and consultations held with the circles concerned;

17. Points out that the cabotage services sector has already been deregulated pursuant to Regulation (EEC) No 3577/92; takes the view that given that these services are carried out between ports in one and the same Member State, intra-Community trade between the Member States is not affected (Articles 81 and 82 of the Treaty) and consequently there is no need or legal obligation for this sector to be brought within the scope of Regulation (EC) No 1/2003;

Purely technical agreements

18. Calls upon the Commission not to continue with the proposal to abolish the arrangements contained in Article 2 of Regulation (EEC) No 4056/86 governing the legality of technical agreements, since it believes that retaining a purely legal framework governing technical agreements will contribute to legal certainty and a better orientation for service providers;

Conflict of laws

19. Calls upon the Commission not to continue with the proposal to repeal Article 9 of Regulation (EEC) No 4056/86 which provides for negotiations to be held in the event of a conflict between Community law and the law of third countries, especially in view of the Commission's intention to revise competition law relating to maritime transport;

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20. Instructs its President to forward this resolution to the Council and the Commission.

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Electronic communications

European Parliament resolution on European electronic communications regulation and markets 2004 (2005/2052(INI))

The European Parliament,

- having regard to the communication from the Commission, entitled 'European Electronic Communications Regulation and Markets 2004' (COM(2004)0759),
- having regard to the Presidency Conclusions of the Brussels European Council of 22 and 23 March 2005,

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- having regard to the High-Level Group report of November 2004 on the Lisbon Strategy,
 - having regard to its resolution of 18 November 2003 on the eighth report from the Commission on the implementation of the telecommunications regulatory package ⁽¹⁾,
 - having regard to its resolution of 12 February 2003 on the full roll-out of third generation mobile communications ⁽²⁾,
 - having regard to Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) ⁽³⁾,
 - having regard to Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) ⁽⁴⁾,
 - having regard to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ⁽⁵⁾,
 - having regard to Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) ⁽⁶⁾,
 - having regard to the Presidency Conclusions of the Lisbon European Council of 23 and 24 March 2000,
 - having regard to the Commission Decision of 29 July 2002 establishing the European Regulators Group for Electronic Communications Networks and Services ⁽⁷⁾,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on Legal Affairs (A6-0305/2005),
- A. whereas the procedures for transposing and implementing Community law vary from one Member State to the next, a situation which is jeopardising the completion of a genuine single market in electronic communications,
- B. whereas the Commission plays a central role in the implementation and proper application of the regulatory framework,
- C. whereas the Commission may initiate infringement proceedings against Member States which fail to apply the relevant legislation or do so incorrectly,
- D. whereas, under the procedure described in Article 7 of the Framework Directive, the Commission assesses the measures which national regulatory authorities (NRAs) plan to take,
- E. whereas this provision serves as a flexible instrument enabling the regulator to intervene in the market where free competition may be under threat,
- F. whereas these aspects of regulation are valuable in enabling the regulator to intervene correctly in an evolving market where recent technological innovation will make it possible to provide new services for consumers,

⁽¹⁾ OJ C 87 E, 7.4.2004, p. 65.

⁽²⁾ OJ C 43 E, 19.2.2004, p. 260.

⁽³⁾ OJ L 108, 24.4.2002, p. 7.

⁽⁴⁾ OJ L 108, 24.4.2002, p. 21.

⁽⁵⁾ OJ L 108, 24.4.2002, p. 33.

⁽⁶⁾ OJ L 108, 24.4.2002, p. 51.

⁽⁷⁾ OJ L 200, 30.7.2002, p. 38.

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- G. whereas this regulatory system makes it possible to adjust the application of remedies on the basis of the principle of proportionality, and to scale down the regulatory burdens when competition trends in the market justify doing so,
 - H. whereas NRAs decide quite independently to intervene in the markets and whereas the criterion on which such intervention is based is that it should be proportionate to the objectives pursued,
 - I. whereas the procedure for appeals against NRA decisions is a lengthy one, and whereas in some Member States such decisions are systematically suspended pending the outcome of the appeal,
 - J. whereas the delays in implementation and market analysis are a serious obstacle to the creation of a single market in electronic communications, creating different operating conditions for companies in the various Member States and uncertainties as regards the regulatory approach adopted during the transitional period,
 - K. whereas a clear regulatory framework will create the conditions to encourage operators to make further investments, and whereas this is vital to enable the European electronic communications industry to play a leadership role in the international arena,
 - L. whereas by interpreting and applying infrastructure regulations for electronic communications the Commission can make a substantial contribution to securing and promoting media pluralism,
 - M. whereas, despite the measures taken by NRAs to reduce excessively high roaming charges in the EU, the rates for calls to or from abroad remain too high, and noting the existing risks of anti-competitive agreements and abuse of dominant positions,
 - N. whereas a correctly regulated single market can safeguard fair service and price conditions for all consumers, by providing them with the necessary transparency and security,
 - O. whereas the legal framework helps to determine the emergence and continuance of media pluralism,
 - P. whereas the Commission states in its White Paper on services of general interest (COM(2004)0374) that the aim of creating an open and competitive internal market is compatible with that of developing general interest services, and it is therefore essential to safeguard the fair price and service conditions for consumers, such as will create a single telecommunications market covering the entire European territory, so as to reduce the digital divide, a priority aim for the European Union,
1. Shares the concerns expressed by the Commission in its abovementioned communication; fully supports the Commission in its role as a driving force for regulation, both as regards the correct interpretation of the new rules and the need to ensure their uniform application in a manner consistent with the objectives of electronic communications regulation, by means of timely and constant monitoring;

The institutional framework

2. Stresses the need to open an institutional debate aimed at strengthening and clarifying both the European institutional model in the electronic communications sector and the relevant regulatory framework, and at identifying the best ways of achieving this goal;

Commission

3. Calls therefore for the Commission's role to be strengthened and stresses that it should play a central role as the guardian of Community legislation, whereas the European Regulators Group (ERG) should continue to act as a consultative and advisory body for the Commission in accordance with Decision 2002/627/EC, with the goal of consistent and coherent application of the regulatory framework under Article 7(2) of the Framework Directive;

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4. Fully supports the Commission's activities both in bringing proceedings against Member States failing to comply and in analysing the notifications from NRAs pursuant to Article 7 of the Framework Directive; calls on the Commission to remain vigilant so as to ensure that measures relating to national markets do not jeopardise the completion of the single market in electronic communications;

ERG

5. Stresses that the composition and functions of the ERG and the Independent Regulators Group (IRG) overlap to a large extent and that it is therefore necessary to avoid any duplication of effort and unnecessary use of limited administrative resources; with this in mind, recommends that agreement be reached on the gradual merging of the ERG and IRG;

6. Stresses the need for the ERG to confine itself to consultative activities, involving all parties concerned as fully and as transparently as possible, and to pursuing activities specifically entrusted to it under the regulatory framework;

Parliament

7. Calls on the Commission to submit to Parliament its annual report on progress in implementing the regulatory framework as soon as it is adopted, together with any other reports concerning the analysis of the functioning of the electronic communications market, so that Parliament can be involved promptly in the monitoring process;

8. Welcomes the rapid increase in broadband penetration; asks the Commission to inform the Parliament of its activities in monitoring the development of the broadband sector and of the action taken in this respect;

Member States and NRAs

9. Regrets the fact that some Member States have not yet fully transposed the regulatory framework or have not applied it properly, and calls on these Member States to comply immediately with Community law on electronic communications;

10. Calls on the Member States to provide adequate support for the activities of NRAs, whose limited resources do not enable them to complete the tasks assigned to them quickly; calls also on the Member States to introduce the measures needed to speed up the timescale for appeals procedures concerning NRA decisions;

11. Urges the Member States to guarantee the total independence of NRAs and calls on the Commission to monitor the situation closely and keep Parliament informed;

12. Encourages the NRAs and the Commission to carry out better impact assessments and benchmarking concerning the obligations proposed and their efficiency and effectiveness for the markets;

13. Calls on the Member States to comply with the principles of transparency and proportionality and justify the administrative charges imposed on operators for authorisation of services, while respecting public interest concerns; and calls on the Commission to carry out checks in this area without delay;

14. Stresses the importance of adequate frequency allocation for public-interest services, open, transparent and non-discriminatory procedures, and the need for sufficient flexibility when allocating radio frequencies and granting licences;

15. Recommends that the Member States, the Commission and NRAs take account of the need for the regulatory framework to attract and safeguard investment; stresses the need to encourage investments in infrastructure, with particular reference to broadband, third generation mobile telephony and other emerging markets, while taking account of services of general economic interest;

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16. Stresses the need to safeguard regulated services even though technology is changing, especially when it comes to the access network; hence, considers it important to maintain the possibility to give alternative operators access to the new infrastructure on fair and reasonable terms;
17. Points out that regulatory intervention should focus on eliminating distortions that prevent fair competition, taking into account in particular the need to encourage the development of emerging markets and equal opportunities for market participants;
18. Points out that the development of third generation mobile telephony is sometimes hampered by national and local provisions as regards authorisations to establish infrastructures and strict criteria for the granting of licences; calls therefore on the competent authorities to remedy the situation and remove obstacles to the full development of 3G communications;
19. Calls on the Member States to ensure that the sites for installations intended to support the mobile telephony network are selected with due regard for health and the environment and in accordance with transparent urban planning procedures; calls on the Commission to monitor these activities and report on them regularly to the European Parliament; stresses the need for information on radiation values to be made public;
20. Welcomes the voluntary codes to protect users from unsolicited commercial communications and calls for EU-wide transposition of the opt-in rules;
21. Stresses the importance of data privacy in relation to the growing number of requests for data retention, and notes the long-established cooperation by e-communications operators with law-enforcement authorities within a clear legal framework and on a case-by-case basis; recognises that mandatory data-retention obligations would be detrimental to civil liberties and give rise to significant costs for operators; concludes that the introduction of any data-retention rules should be by way of codecision with the European Parliament;

Industry and consumers

22. Stresses that the information and communications technology (ICT) sector serves as an engine for the European economy, contributing significantly to growth and job creation;
23. Points out that European legislation on electronic communications seeks to promote competition among firms, while at the same time ensuring a high level of protection for consumers;
24. Calls on the Commission to carry out and present to Parliament, with the aim of protecting users' rights, studies on a regular basis, in which, as a minimum, the following parameters are analysed: transparency of invoicing, contract guarantees and trends in prices and markets, for broadband and fixed and mobile telephony;
25. Welcomes the increase in unbundled local loops, but stresses that there must be further development in order to ensure competitive markets for customers;
26. Calls on telecommunications services providers to take account of the interests of disabled users as regards choice, price and benefits in terms of quality and accessibility of telecommunications services, and calls on the regulatory authorities to consult disabled people's representatives when assessing service provision;
27. Calls on 3G service providers to devise price-to-service ratios permitting broadband to be received by as many people in as many places as possible, thus putting an end to geographical borders for broadband;

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28. Stresses that it is vital for operators to adopt transparent pricing practices and for consumers to be fully and clearly informed about the services offered and the prices charged, particularly as regards costs; concerning international roaming services, is carefully following the recent procedures of the Commission as regards the rules on abuse of dominant position (Article 82 of the Treaty) and the Statement of Objections; calls on the Commission and the Member States to analyse which structural changes are needed in order to ensure adequate and transparent roaming charges; furthermore, urges the Council to instruct the Commission to draw up an action plan and timetable that will enable consumers to benefit from international roaming at the best possible cost and as soon as possible, throughout European territory, with continuity of service;

29. Calls again on the Commission and NRAs to strive to ensure that further progress is made with regard to number portability, both for fixed and mobile telephony, and charges for call termination on networks;

30. Points out that a functioning mobile number portability system is vital to healthy competition between mobile operators and stresses, therefore, that the charges for transferring numbers should be set at a low level, or at zero, in all Member States, and that the time required for transferring numbers should be shortened in some Member States;

31. Calls on the Commission to take action to lower the charges for termination of mobile-phone contracts, which remain high in many Member States and should be linked to the costs incurred;

32. Points out that in its White Paper on services of general interest the Commission stated that the goal of creating an open and competitive internal market was compatible with that of developing accessible, high-quality and affordable general interest services and regulatory intervention should therefore take both into account;

33. Awaits the conclusions of the study into the ways in which Member States interpret the general interest objectives when imposing must-carry obligations;

34. Welcomes the Commission's initiative on transparency in the international roaming sector, which will provide consumers with useful information on retail tariffs applied by different mobile telephony operators in the various EU countries, and calls, in particular, on service providers to reduce roaming charges, so that economic and social cooperation between the Member States is not restricted by high charges; calls on the Commission to develop new initiatives in order to reduce the high costs of cross-border mobile telephone traffic, so that a real internal market for consumers with affordable roaming charges for mobile telephony can soon be realised;

35. Points out that all European citizens must have access to the services of the information society, and that this means using consumer-friendly regulation to reduce the digital gap, particularly for disabled and older people; takes the view that supporting an open European standard to establish interoperability in services, transmission platforms and terminals will make a vital contribution to achieving that aim;

36. Calls on the Commission to investigate how to proceed in order to develop the different national markets in this sector into an internal market without borders and with common legislation and regulations, allowing operators to act and compete in a single market;

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37. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the European Regulators Group and the relevant national regulatory authorities.
