

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on co-ordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (Codified version)

COM(2008) 39 final — 2008/0022 (COD)

(2008/C 204/07)

On 14 February 2008, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council on co-ordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (Codified version)

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it decided, at its 443rd plenary session of 12 and 13 March 2008 (meeting of 12 March), by 125 votes with 6 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 12 March 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on the Communication from the Commission — Trans-European networks: Towards an integrated approach

COM(2007) 135 final

(2008/C 204/08)

On 21 March 2007, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission — Trans-European networks: Towards an integrated approach

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 February 2008. The rapporteur was Mr Krzaklewski.

At its 443rd plenary session, held on 12 and 13 March 2008 (meeting of 13 March 2008), the European Economic and Social Committee adopted the following opinion by 64 votes with 1 abstention.

1. Conclusions and recommendations

networks and reduce associated construction costs, unlike an approach that does not take account of the effects of possible synergy between different kinds of network.

1.1 The European Economic and Social Committee (EESC) notes that an integrated approach to trans-European networks (TENs) is one way of achieving the goal of the sustainable development of the European Union.

1.2 The EESC is convinced that an integrated approach can speed up the implementation of planned trans-European

1.2.1 In that connection, the Committee calls on the European Commission to put forward proposals to broaden the

scope of financial support for integrated approaches, in the form of an 'integrated approached fund' for trans-European networks (as a whole, i.e. including network branches), ahead of the forthcoming mid-term review.

1.3 Having assessed the conditions for successfully creating an integrated approach covering all TENs, the EESC believes convergence between sectors ⁽¹⁾ is needed if synergy is to be effectively achieved. Another of the key conditions, in the Committee's view, for a more effective integrated approach is the earliest possible completion of the basic structure of these networks.

1.4 The EESC suggests broadening the Commission communication to examine the question of the extent to which the accession of 12 new Member States has affected the possibility of adopting an integrated approach in these countries and the scope of its application.

1.5 The Committee notes that an integrated approach to trans-European networks can play a very important role, namely by:

- limiting environmental damage caused by the construction and operation of networks, and;
- reducing the number and severity of disputes sparked by conflicts of interest involving the construction and operation of networks.

1.6 The EESC considers that scientific research comprising both Community and national initiatives has a particularly important role to play in optimising the effects of an integrated approach to trans-European networks. In this connection, the Committee notes that current research is split along thematic and sectoral lines. The EESC therefore calls on the Commission and the Council to devise and implement programmes and applications throughout the area of European scientific research in connection with synergies between all the different kinds of network making up the TENs.

1.7 Given that a 'backbone' of fibre-optic networks exists in some EU Member States to meet the technological needs of certain national infrastructures (such as the electricity and rail networks), the EESC is convinced that, if an integrated approach is to be adopted, these fibre-optic networks will have to be used to a greater extent for commercial purposes (telecommunication services, transmitting information etc.).

1.7.1 At the same time, the Committee believes that, with an eye to adopting an integrated approach, the active development of local infrastructure currently under way in a large number of Member States should be used to step up development of fibre-optic access networks and construct intelligent ⁽²⁾ local infrastructure. An integral part of this infrastructure should be an integrated GIS map ⁽³⁾. This would result in an integrated

⁽¹⁾ Organisational convergence of sectors, encompassing businesses.

⁽²⁾ **Intelligent infrastructure** has attached or built-in components that are able to collect and transmit information about the state of the infrastructure to a central computer, and in some cases receive back instruction from the computer, which triggers controlling devices. (*U of T Civil Engineering — last updated: Nov. 9, 2001*).

⁽³⁾ See specific comments, point 4.2.3

approach to local network infrastructure based on an IT system (intelligent infrastructure management system — IIMS).

1.8 The Committee proposes that the Commission take account of integrated technologies for renewable natural gas and environmentally-friendly energy generation in its plans for an integrated approach to trans-European networks. These technologies, which bring electricity generation closer to the end user, can cut CO₂ emissions.

1.8.1 This approach should aim to yield results in terms of synergy, coordination and savings, possible through the development of gas and biotechnologies.

1.9 Considering the potential synergy of trans-European energy networks in the Baltic states as new EU members, the EESC believes that the integrated approach should adopt one particular measure that can be implemented quickly and construct an energy bridge to integrate the systems of the Baltic States with those of the EU. Over the longer term (2020), however, it is important that *stranded costs* ⁽⁴⁾ do not arise from existing transmission networks.

2. Introduction

2.1 Developing, connecting, better integrating and better coordinating the development of European energy, transport and telecommunications infrastructures are ambitious objectives and are referred to in the Treaty ⁽⁵⁾ and the Guidelines for growth and jobs ⁽⁶⁾ based on the Lisbon Strategy.

2.2 Articles 154-156 of the Treaty and the Guidelines for growth and jobs contain objectives for developing, connecting, better integrating and coordinating European energy, transport and telecommunications infrastructures.

2.3 These provisions in the Treaty and the above-mentioned guidelines formed the basis for the idea of trans-European transport, energy and telecommunications networks, which are the lifeblood of the EU economy.

2.4 With a view to reaping the greatest possible benefit from trans-European networks, particularly in terms of making the EU more competitive, in July 2005 the European Commission mandated a steering group especially set up for this purpose to define a common approach to better coordinate the various Community initiatives supporting work on the trans-European transport, energy and telecommunications networks.

2.4.1 The Steering Group examined the following matters in particular:

- Synergy between European networks
- Respect for the natural environment and trans-European networks

⁽⁴⁾ Stranded costs — costs of investments and commitments incurred exclusively in the past (historic costs) which have yet to be recovered by investors through the sale of electricity and other services and which cannot be recovered on the competitive market. The cut-off date is generally the date on which the energy market was established or liberalised.

⁽⁵⁾ Articles 154, 155 and 156 of the Treaty.

⁽⁶⁾ Guidelines for growth and jobs (2005-2008) No 9, 10, 11 and 16.

- Making use of new technologies in trans-European transport networks
- Funding for trans-European networks, and in that connection:
 - Combining funds
 - Funding for major priority projects
 - Using public-private partnerships (PPP) to finance trans-European networks.

2.5 The subject of the EESC opinion below is the Commission's Communication COM(2007) 135 *final Trans-European networks: Towards an integrated approach* — the result of the Steering Group's work.

3. General considerations

Current situation regarding the implementation of trans-European networks

3.1 Trans-European transport network (TEN-T)

3.1.1 Following the most recent EU enlargement in 2007, TEN-T now comprises 30 priority projects which should be completed by 2020. Furthermore, the Commission has recently underlined the necessity to extend the trans-European transport network to the neighbouring countries ⁽⁷⁾.

3.1.2 The completion dates for these major projects have fallen behind the original timetables. Despite the fact that some of these projects have been completed or are currently nearing completion ⁽⁸⁾, the pace of construction of what are considered to be priority transport routes is still too slow. The EESC own-initiative opinion ⁽⁹⁾ describes in detail the reasons for this.

3.1.3 Of these 30 priority projects, 18 are railway projects, 2 are inland waterways and shipping projects. High priority has therefore been given to the most environmentally friendly transport modes. Maps contained in a study carried out by ECORYS for the Commission ⁽¹⁰⁾ show the progress made on the 30 priority projects to date and the progress which should be made by the end of the multi-annual financial framework period in 2013. These maps show how incomplete the network still is.

3.1.4 The Commission's Communication (subject of this opinion) assesses the financial resources used to implement TEN-T during the 2000-2006 financial period and presents the financial mechanisms under the 2007-2013 multi-annual financial framework. The sum of EUR 8,013 billion was allocated directly from the EU budget for the development of the trans-European transport network in this financial period.

3.1.5 The ERDF and the Cohesion Fund will continue to be the main sources of Community assistance for co-funding of the

⁽⁷⁾ COM(2007) 32 of 31.1.2007.

⁽⁸⁾ The fixed link connecting Sweden and Denmark, completed in 2000, Malpensa airport, completed in 2001, the Betuwe railway line linking Rotterdam to the German border, completed in 2007 and the PBKAL project (HST Paris-Brussels/Brussels-Cologne-Amsterdam-London, completed in 2007).

⁽⁹⁾ OJ C 157 of 28 June 2005 p. 130.

⁽¹⁰⁾ *Synergies between Trans-European Networks, Evaluations of potential areas for synergetic impacts*, ECORYS, August 2006.

trans-European transport network projects during the 2007-2013 programming period. In general terms, the Community contribution to the implementation of the trans-European transport network should be concentrated on the cross-border sections and on bottlenecks.

3.1.6 The European Investment Bank will continue to provide funding for transport infrastructure in the form of loans and through a specific guarantee instrument which has a budget of EUR 500 million under the EIB's own funds and EUR 500 million under the trans-European transport network's budget (i.e. 6,25 % of the total amount available).

3.2 Trans-European energy network (TEN-E)

3.2.1 In January 2007, the Commission assessed the progress made on projects of European interest in its *priority interconnection programme*. In the case of electricity, little progress has been made — 12 out of 32 projects are on schedule, and only five are actually complete ⁽¹¹⁾.

3.2.2 As far as gas is concerned, the situation appears to be better — seven out of ten projects should be ready by 2010-2013. On the other hand, 29 LNG ⁽¹²⁾ terminals and storage facilities are behind schedule — nine projects have been abandoned, work on five has stopped.

3.2.2.1 The Commission identified the complexity of planning and other authorisation procedures as the main reason for the delays and shortcomings. Other reasons include opposition from public opinion, insufficient financial resources and the structure of vertically integrated energy companies.

3.2.3 The EU will need to invest, before 2013, at least EUR 30 billion in infrastructure (EUR 6 billion for electricity networks, EUR 19 billion for gas pipelines and EUR 5 billion for Liquefied Natural Gas (LNG) terminals), if the priorities outlined are to be fully implemented. Investment is essential not only in cross-border capacity but also generation capacity.

3.2.4 The EU budget offers financial support for TEN-E investments, which can be provided only in special and duly justified cases. Funding comes from the budget heading exclusively earmarked for trans-European networks and from the Cohesion and Structural Funds. (The funds represent over one third of the budget and their purpose is to finance regional development projects, including energy networks.)

3.2.5 Investments are also supported through other financial instruments (funds, credit). The European Investment Bank is the main source of funding for trans-European networks. From 1993 until the end of 2005 credit agreements provided a total of EUR 69,3 bn in funding for all trans-European networks, of which EUR 9,1 bn went to energy networks.

⁽¹¹⁾ Aleksandra Gawlikowska-Fryk: *Trans-European Energy Networks*, 2007.

⁽¹²⁾ LNG — Liquid Natural Gas.

3.3 Trans-European telecommunications networks

3.3.1 Of all the TEN networks, the construction of the infrastructure for telecommunications networks (eTEN) is the most advanced. Telecommunications services have been progressively opened to competition since 1988 and the impact has been dramatic. More competition has stimulated investment, innovation, the emergence of new services and a significant decline in consumer prices.

3.3.2 Nowadays, investment is concentrating on the upgrade of existing networks to next generation, the deployment of 3rd generation mobile and other wireless infrastructure, and bringing broadband to the rural areas of the EU.

3.3.2.1 Investment may involve the layout of fibre-optic networks, where civil works and indoor cabling represent 70 % of deployment costs. Construction of railway lines, roads or energy lines may facilitate the rollout of these networks in under-served areas.

3.3.3 The main challenge for the European telecommunications network is 'bridging the broadband gap'. There are disparities between urban and rural areas and Member States must therefore undertake concrete actions and set targets to close the gap by 2010.

3.3.4 A greater coordination and integration of various sources of funding (Structural Funds, Rural Development Fund, TEN and national funds) is needed to develop coherent planning and complete the coverage of broadband.

Integrated approach for trans-European networks

3.4 Synergies between European networks

3.4.1 Combining road and rail networks is the first example of synergy in trans-European networks ⁽¹³⁾. The merits of this are set out in the Commission Communication on *Extension of the major trans-European transport axes to the neighbouring countries: Guidelines for transport in Europe and neighbouring regions* ⁽¹⁴⁾. The most important are: better use of space, joint construction work, lower visual impact on and less fragmentation of the landscape, measures to soften the impact of joint infrastructures (anti-noise protection, viaducts for large and small wildlife). Combined infrastructures also offer genuine scope for reducing costs and environmental damage.

3.4.2 A study has been carried out into the scope for developing other combined networks, such as passing a high-voltage line through a railway tunnel, and laying telecommunications cables — specifically fibre-optic cables — by railway lines ⁽¹⁵⁾. Technical feasibility, the impact on project costs and the complexity of the procedures have been analysed, with the following conclusions.

⁽¹³⁾ Some Member States have introduced a legal obligation to seek synergy, in particular Germany — Federal Nature Conservation Act (*Bundesnaturschutzgesetz*), paragraph 2, Bundling law (*Bündelungsgebot*).

⁽¹⁴⁾ COM(2007) 32 of 31.1.2007.

⁽¹⁵⁾ Synergies between Trans-European Networks, Evaluations of potential areas for synergistic impacts, ECORYS, August 2006.

3.4.2.1 Apart from the possibility of combining gas pipelines with other infrastructures, where technical feasibility seems difficult in view of the extent of the secure areas required, there are genuine advantages to be gained from combining other kinds of TENs.

3.4.2.2 Synergies between the telecommunications and transport networks seem to be the most promising. Every transport network can be optimised by having its own communication network which is used to manage the network. In most cases, rail and motorway networks already have such communication networks. In some cases, the surplus capacity of these networks is used for other purposes, e.g. for data communication.

3.4.2.3 It is still rare for systematic synergies to be sought between an infrastructure management network and a telecommunications network from the start of construction of the infrastructure.

3.4.2.4 Interesting solutions involving the interconnection of electricity networks and transport and telecommunications infrastructure include the following: laying high-voltage cables along the banks of canals and rivers, low-voltage interconnections (2 x 25 kV) along high-speed railway lines, more systematic interconnections of underground high-voltage lines (300 to 700 kV) along transport network paths. These suggestions do not replace the immediate need to interconnect the national high-voltage networks, but are a proposal for finer meshing of the national electricity systems over a longer time span matching the time it takes to complete the major infrastructure projects.

3.5 Integrating the environment and the trans-European networks

3.5.1 The Lisbon Strategy for Growth and Jobs calls for the TENs to be implemented in a manner which is compatible with sustainable development.

3.5.2 The majority of TEN-T priority projects are projects which promote more environmentally friendly transport modes and which consume less energy, such as the railways and waterways. The completion of the trans-European transport network will have a positive impact on the environment. If transport-generated CO₂ emissions continue to increase at the present rate, by 2020 they will be 38 % above present levels. In the Commission's opinion, completing the 30 priority projects will slow down this rise by about 4 %, equivalent to reducing CO₂ emissions by 6,3 million tonnes a year.

3.5.3 By interconnecting the national power systems and connecting the renewable energy sources to them it will be possible to optimise capacity utilisation in each Member State and thereby soften the negative environmental impact.

3.5.4 Community environmental protection legislation provides a clear framework in which these major projects have to be implemented. The Community guidelines for the development of the trans-European transport network refer to it explicitly⁽¹⁶⁾. Each new TEN infrastructure programme has to undergo a strategic environmental assessment⁽¹⁷⁾, and each project has to be assessed on an individual basis⁽¹⁸⁾. There is also the possibility of using the assessments as a framework for study to find possible synergies.

3.5.5 Each individual project has to comply with Community legislation on noise, water and the protection of flora and fauna⁽¹⁹⁾.

3.5.6 If none of the alternatives to a project declared to be in the public interest is considered to be an optimum solution and in line with Community legislation, compensatory measures may be adopted which will allow the project to be carried out while at the same time compensating for any negative impact.

3.6 Integrated approach for financing trans-European networks

3.6.1 Combining funds for the implementation of TEN has led to major problems and even disputes. The question of cumulation of Community funding of various financing sources on the same project has been a constant preoccupation of the Commission. The Court of Auditors has highlighted this issue in its reports on the Commission's implementation of the trans-European networks.

3.6.2 In the Communication, which is the subject of this EESC opinion, the Steering Group concludes that there must be no possibility of cumulation of subsidies from several Community funds. In order to ensure budgetary transparency and proper financial management, the Financial Regulation and/or basic sectoral acts adopted or in the course of adoption rule out the cumulation of different Community financial instruments for one and the same action.

3.6.3 The key point in the Communication, which has major consequences for combined TEN investments, is that expenditure within a project that is part of an operational programme receiving financial assistance from the Structural Funds and/or the Cohesion Fund cannot benefit from other Community funding.

3.6.3.1 It follows that when expenditure, for example for ERTMS equipment or electrification of a railway line, is not receiving financial assistance from the Structural Funds and/or the Cohesion Fund, it could benefit from TEN-funding. The

⁽¹⁶⁾ Article 8 of the abovementioned Decision No 884/2004/EC.

⁽¹⁷⁾ Strategic Environmental Assessment (SEA) Directive (2001/42/EC) for plan and programme assessment.

⁽¹⁸⁾ Environmental Impact Assessment (EIA) Directive (85/337/EEC as amended by Directives 97/11/EC and 2003/35/EC) for project assessment.

⁽¹⁹⁾ Birds Directive (79/409/EEC), Habitats Directive (92/43/EEC) and Water Framework Directive (2000/60/EC).

actual construction of the railway line could be funded by the ERDF or the Cohesion Fund. Projects could also be divided into geographical sections, which could be co-financed either by ERDF/Cohesion Fund or TEN-funding.

4. Specific comments

4.1 Integrated approach to developing energy networks: electricity and gas

4.1.1 The development of gas-powered generation technologies (combi technologies⁽²⁰⁾, cogeneration⁽²¹⁾) is making investment in electricity networks a riskier proposition (transmission of electricity is being replaced by transport of natural gas and development of gas-powered cogeneration at local level, small-scale cogeneration, micro-cogeneration).

4.1.2 The development of new technologies for transporting gas is making investment in gas networks a riskier proposition (network transmission of natural gas is being replaced by sea and road transport, made possible through use of CNG⁽²²⁾ and LNG technologies).

4.1.3 The convergence of the electricity and gas sectors (companies in these sectors), i.e. convergence in terms of ownership, management and organisation, is a prerequisite for an integrated technological approach to use of natural gas, and electricity and heat generation. There is therefore an urgent need to break down the sectoral divide (move away from the mutual isolation of the electricity and gas industries). It is particularly important to speed up convergence of the electricity and gas sectors in the new EU Member States of Central and Eastern Europe, while taking account of the inevitable social consequences in the Member States concerned, both 'old' and 'new'.

4.2 Integrated approach to developing fibre-optic networks

4.2.1 In some Member States, including several new members (e.g. Poland), major fibre-optic networks have been constructed to meet particular technological needs (electricity⁽²³⁾ and rail⁽²⁴⁾). Although use of these networks for commercial purposes is increasing⁽²⁵⁾, the significant potential for integration has yet to be exploited. This untapped potential is still present, for example, in the gas industry. However, the main potential lies in integrating the technical fibre-optic networks of various infrastructures (electricity, rail) with the telecommunications network to form an efficient access network.

⁽²⁰⁾ 'Gas/steam units each capable of generating between a few dozen and 200 MW' Jan Popczyk, 'What next for electricity?', Monthly magazine of the Polish Electricians Association, VI 2000.

⁽²¹⁾ See footnote No. 25.

⁽²²⁾ CNG — compressed natural gas (20-25 MPa).

⁽²³⁾ An example is the Polish fibre-optic network *TelEnerg*.

⁽²⁴⁾ An example is the Polish fibre-optic network *Telekomunikacja Kolejowa — Grupa PKP*.

⁽²⁵⁾ An example of this in Poland is the merger of *TelEnerg* and *Telbank*, which led to the creation of *Exatel*, a modern company in the telecommunications and IT services market.

4.2.2 Many EU Member States, particularly the new members, are currently taking active steps to build up local infrastructure, such as waterworks and sewage systems, co-financed from EU funds, mainly the Regional Development and Cohesion Funds. This represents a unique opportunity to integrate this infrastructure into fibre-optic access networks and would be a huge step forward for rural areas and small towns in Europe. This integration could be supported by introducing incentives in connection with EU funding for local infrastructure development, such as promoting the construction of integrated infrastructure.

4.2.3 The fibre-optic access network could provide the basis for constructing intelligent local infrastructure, covering (technical) control of various (intelligent) infrastructure components (waterworks, sewage systems, transport, heating networks, public safety) and their management (in terms of technical supervision and in the services market). An integral part of intelligent local infrastructure should be an integrated GIS map (administered by the commune/district and accessible to infrastructure companies operating in the local area). The GIS map currently offers the greatest potential for integration of local infrastructure networks.

4.3 *The integrated approach and the issue of renewable natural gas and environmentally-friendly energy production*

4.3.1 Renewable natural gas technologies (small-scale, cogeneration technologies⁽²⁶⁾, which gasify biomass produced on large farms) make it possible to limit expansion of electricity networks and the losses they entail and to make better use of primary energy sources, thereby cutting CO₂ emissions.

4.3.2 A very important category of integrated technologies are environmentally-friendly technologies (environmentally-friendly/cogeneration) which are designed to generate energy

(electricity and heat) and to utilise waste (use of municipal waste, agricultural waste and waste from food processing).

4.4 *Integrated approach to financing infrastructure networks through public/private partnership*

4.4.1 The aim of integrated financing of infrastructure through public-private partnerships is to make more effective use of EU funds for infrastructure development, particularly in the new Member States.

4.4.2 Public-private partnerships in the old Member States (EU-15) have been used to finance major infrastructure projects. In the new Member States of Central and Eastern Europe, these partnerships should be used to finance small-scale infrastructure investment at local level. For this reason, it is becoming increasingly important to apply the experience of partnerships in the old Member States to the new members. However, it is important to bear in mind that direct transfer of experience is not possible, as direct parallels cannot be drawn between financing major one-off infrastructure projects and funding a large number of small projects).

4.4.3 As a result of the availability of EU funds, local authorities in some Member States including Central and Eastern European countries often allow overinvestment in infrastructure, especially water and sewage works, while not exploiting the potential for sectorally integrated investment. This is a serious cause for concern because opportunities to reduce expenditure on infrastructure investment are being missed (less effective use of EU funds) and local authorities are increasingly being saddled with the unjustified future costs of operating this over-invested infrastructure (increase in ongoing costs of using this infrastructure, borne by local residents). The use of private capital to finance infrastructure is an effective way of exploiting the potential for integration and curbing the risk of overinvestment.

Brussels, 13 March 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

⁽²⁶⁾ **Cogeneration** (also combined heat and power) is a technical process which involves simultaneously generating electricity and useful heat in a power station.