

Viviane Reding

Member of the European Commission responsible for Information Society and Media

**The review of the regulatory framework
for e-Communications**

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

1st Meeting of the Centre for European Policy Studies Taskforce
on Electronic Communications

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Welcome

Ladies and gentlemen,

It is a pleasure to be with you today and to speak about the policy challenges for the rapidly evolving ICT business in Europe, at the inaugural meeting of the CEPS Taskforce on electronic communications.

In June this year, the European Commission, endorsed our agenda for this sector with the i2010 strategy. i2010 seeks to foster growth and jobs in the information, communication and media industries. It aims to do that through three policy objectives:

- to create a “common information space”, based on the strengthening of an open and competitive single market for communication and media services;
- to ensure European technological leadership by encouraging private and public research, through a stepping up EU research spending in ICT by 80% as from 2007;
- to promote a more inclusive and secure information society in Europe, by better exploiting ICTs to improve our quality of life.

To achieve the first priority, the common information space, I have two major tasks over the next months: modernising the European rules on audiovisual content and reviewing the framework for electronic communications.

I intend to ensure that we have a modern, market-oriented regulatory framework for e-Communications, able to deliver substantial consumer benefits. In particular, I want to promote the development of high-speed communication networks that will allow consumers to have speedy access to rich contents on multiple platforms. The current regulatory framework has now been in place for over two years. The Commission will be reviewing it next year, in line with its duty to report to the European Parliament and the Council by July 2006.

The aim of the review will be to see what has worked well with the current framework and what needs to be changed in order to take evolutions of technological and of economic nature on the electronic communications market. Be sure that I will have a fully open mind on the principles and the architecture of the future framework. My objective is that the EU's citizens and businesses benefit from an advanced, innovative, efficient and cost effective communications sector.

The current framework is anchored to the fact that competition is the best way to guarantee choice, new innovative services and value-for-money for consumers. With the exception of certain horizontal consumer protection measures, operators should only expect to be regulated in areas where they are dominant so that consumers fail to reap the benefits of effective competition, or that new entrants face obstacles to offer their services. The goal is to have sustained effective competition without on-going regulatory intervention; for example, to have competing companies delivering services over their own infrastructures, and not being dependent on access being provided by a stronger competitor. DSL technology was already almost a decade old when the local loop EU Regulation was put in place. Although such technologies were available there was little or no effort to deliver new services to consumers under the previous monopoly regime. It is thanks to the competition made possible by local loop unbundling, and to competition with independent cable networks that had already started to invest, that broadband has taken off so well.

The current regulation is focussed on markets, and not on networks or technologies. I firmly believe that the success or failure of new technologies should be decided in the market place, and not by regulatory fiat. At the same time, I am aware that the criterion of national markets may have limits. It is crucial in my view that the single market for e-communications becomes a reality, with companies, including SMEs, being present without hurdles in telecom markets of the country of their choice, and competing across the border on all communication infrastructures.

Another point where I wish an open discussion to take place is the regulatory treatment of next generation networks, and notably to reflect on the opportunity of a transitory regulatory memorandum. Generally speaking, it is crucial to make sure that emerging markets are not subject to inappropriate regulation, in order to encourage innovation. This will be the case for products and services markets representing a real innovation for the customers. As far as the introduction of new technologies is concerned, I note with satisfaction that national regulators increasingly share my view that Voice over IP needs to develop in a pro-competitive environment. For example, the German Regulator has made a significant move in the past weeks towards a "light touch" approach, as I had suggested. I make similar experiences with the Voice over broadband, as illustrated today with the decision taken by the Commission on a notification by the French regulator, the result of which is that this area will not be subject to additional regulation.

Ladies and gentlemen,

Implementation of the regulatory framework for electronic communications has not been as rapid in all Member States as we all hoped. I am maintaining on-going pressure on Member States in relation to fast and full implementation, including in the new Member States. The independence and powers of the national telecom regulators is not yet a reality everywhere and the first round of market analysis and notification is too slow.

The 'Article 7' procedure – whereby the Commission checks and is able to veto certain NRA decisions - has functioned smoothly, with good cooperation between NRAs and the Commission services. But I urge regulators to re-double their efforts to ensure that they focus their energies on timely completion of the first round of market analysis, knowing well that these procedures require considerable resources and place a burden on NRAs, particularly those in smaller countries.

One of the main goals of the framework is to re-focus regulation, and to withdraw regulation as competition becomes effective. In practice over the last two years, there have been – unfortunately - very few markets where the incumbent's market share has dropped below the threshold of 'significant market power'. Where this has happened, regulation has been withdrawn, for example with the international calls market in Finland.

Ladies and gentlemen,

Let me now give you all some indication of the timetable in relation to the review. My Services are working towards the publication of a Communication on the functioning of the framework, by July of next year. This will launch officially a public consultation, which will end in the autumn of 2006. My intention is to be able to come with a legislative proposal to the European Parliament and the Council at the end of 2006.

At the same time, my Services together with those of Commissioner Kroes, will be working on a revised version of the Recommendation on relevant markets. The Recommendation plays a key role. By signalling to Member States a harmonised list of markets that may justify regulation, it also signals the markets that do not warrant regulation.

As you are aware, convergence rapidly leads to a blurring of the boundaries between previously separate markets, which makes it necessary to update the Recommendation as necessary to ensure that regulation stays relevant. My services will be calling for public input on revision of the Recommendation - and on other areas - in December 2005. The plan is to release a draft revised Recommendation for public consultation by July 2006.

Let me conclude with a few words on elements and initiatives that I see as keys for a successful information society in Europe.

First: Radio Spectrum. The Commission has recently adopted two Communications setting the scene for a forward-looking EU-wide policy for the use of the radio spectrum, a critical resource of the Information Society. This policy includes the coordinated introduction of a market-based approach to spectrum management in the European Union, covering a substantial range of frequency bands, by 2010. To achieve this goal, we will need to strengthen the spectrum provisions in the future regulatory framework. This is a priority for me.

Second: consumer welfare. We care about the process of competition, not as an end in itself, but as the surest means to ensure that consumers are protected in the long run and get the best conditions for communicating over the networks.

Consumer rights are covered by the Universal Service Directive. We have recently held a public consultation on extending the scope of Universal Service. (As an aside, I can tell you that there was widespread support for the Commission's proposal not to extend the scope of Universal service to mobile and broadband for the time being. We will in due course be making a formal report on this to the EP and the Council).

We may need to strengthen user rights and interoperability as we move towards an explosion in the number and diversity of services being available on the Internet. For example, I was interested to see that the FCC has recently identified 4 basic user rights in the internet area, including the right for users to access the lawful Internet content of their choice and to run applications and services of their choice. These questions are worth further consideration in the forthcoming debate on the future framework.

In conclusion: In the next months, I expect from all stakeholders to actively contribute to the definition of the future legal framework. There is no perfect regulatory regime, and all parts of the developed world have similar debates. I have started a debate with FCC Chairman Kevin Martin on this during a recent visit to Washington. But let's try to find the best possible, in order for Europeans to have better, cheaper services, and for European industries to make better business.

Thank you.