



**Intellect's response to the call for input by the European
Commission on the review of the EU regulatory framework for
Electronic Communications and Services**

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CALL FOR INPUT ON THE EP AND COUNCIL DIRECTIVES

Introduction

Intellect (the UK Hi Tech Trade Association) welcomes the opportunity to provide comments to the Commission's consultation and its call for input on the forthcoming review of the EU regulatory framework for electronic communications and services. Intellect also welcomes the opportunity to comment on the review of the relevant markets.

Comments

Intellect's immediate impression is that the review will be extremely wide ranging in scope and very ambitious. We have seen the difficulty Member States have had in implementing the EU Framework into national law and different approaches have been adopted in a number of the Member States. This may in part be due to the complexity of the Framework or it may be due in part to the different stages Member States are in, in respect of their own regulation.

Telecommunications, IT and the Consumer Electronics industries have undergone significant changes during the introduction of the Framework and the emerging "converged world" demands careful consideration by both national regulators and operators if we are to achieve the full benefits of convergence. Investment by all players is crucial to the success of Europe in this global market and maintaining comparable services to European citizens, Regulatory certainty is essential if these investments are to be made. To achieve full "convergence" requires a significant investment by operators to realise both multimedia broadband services capabilities and interworking of those converged services through the various networks both in Europe and globally. Increasing value in the infrastructure and allowing market forces to capture that value in new and improved services is critical to support the development of advanced communications services which will directly impact the economic and social development and the EU's competitiveness.

In this new world, the definition of relevant markets is changing as new telecommunication services emerge and regulatory bottlenecks are likely to emerge if we concentrate on the wrong areas or seek



to restrict these services by unintended regulation. In future it is envisaged that access to services will be via common applications interfaces and it will be for the networks to deliver the service to the user irrespective of the ownership of the networks or the access device. This means services will no longer necessarily be associated with a specific device, technology or connection.

This increased decoupling of services and infrastructure will have a profound change on the barriers to entry as it changes competitive boundaries and increases innovation with the value of software for networking and mediated services increasing.

The need to encourage competition at the services and applications end of the value chain is key, where in the short term, flexibility and forbearance may be required. Where there are bottlenecks for example in the establishment of new access networks to support higher bandwidth services, investment must be encouraged. This calls for different regulation in different parts of the value chain. In other words the ladder of investment must be made to work by allowing adequate margins for all the players delivering the services. Whilst overall the flexibility of regulatory solutions is an asset of the framework there should be greater discipline in ensuring actions such as retail price control do not remove incentives to invest for incumbents and deter new entrants.

Intellect has a concern that it may be seen that the current Framework is not working or needs to be changed in some way. It is early days and many Member States are still completing the process of implementing many of the Directives and changes suggested at this time could lead to regulatory uncertainty. There are still delays in the implementation resulting in appeals which cause a suspension and no progress. However Intellect strongly believes the existing Framework is good and should be left as is, until the market has become adequately competitive. Focus should be concentrated on the single market with definition of a common set of wholesale products. In addition agreements need to be reached to ensure there is harmonised regulation across the member states to the greatest extent possible.

There is also a need for harmonisation and modernisation in the requirements for voice services as defined in the existing EU Regulatory Framework. There must be full harmonised agreement differentiating traditional PATS voice services and the new PECS voice services. Lack of harmonisation will be evident if regulation in some countries were to require look alike PATS to provide the same features as traditional telephone services. For access to emergency services harmonisation would also be of value. Whilst it would be desirable to allow all voice services to provide access to emergency services, care should be taken where there is a requirement on a non-PATS provider to provide emergency access. It could change a valid business case and deprive consumers of innovative services.

We must also ensure the efficient and transparent management of the radio spectrum. It is important that there is flexibility to introduce technologies in accordance with market demand to enable and encourage innovation.

Intellect believes that access to spectrum that is becoming available for reassignment should be enabled in appropriate timescales and preferably as soon as possible noting the need for appropriate coexistence requirements.

Intellect is generally supportive of the progressive introduction of spectrum trading and liberalization in appropriate bands, provided regulators scrutinize competition aspects of proposed trades.

Intellect is also concerned about whether there is likely to be adequate discussion on the future of network evolution. There is significant discussion on the regulation of the current markets and networks as they exist today but the world in 2010 when any of the changes will come into effect will be very different with the emergence of Next Generation Networks and Next Generation Access



together with an enormous increase in converged services. Intellect plans to make a more substantive response later in 2006 when the formal consultation comes out.

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