

DIF REPLY TO

Public Consultation on the Review of EU Regulatory Framework for Electronic Communications Networks and Services

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*Once completed, this document should be sent electronically to the
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COVER SHEET

Public consultation on the review of

EU regulatory framework for electronic communications network and services

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<p align="center">Category of represented organisation(s) – indicate the category which best describes your organisation or – in case of an association, the main activity of your members</p>		
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A. General comments

In this section, respondents are invited to express below their general comments on the Review of the EU Regulatory Framework for electronic communications networks and services.

DIF agrees that the original objectives of the EU Regulatory Framework for electronic communications networks and services remain valid: promoting competition, consolidating the single market and promoting the interests of the citizen.

DIF agrees with the assessment that the Regulatory Framework is basically sound and that therefore it is appropriate that changes should be evolutionary rather than revolutionary.

B. Position on proposed changes

The Commission Staff Working Document accompanying the Communication from the Commission on the Review of the EU Regulatory Framework for electronic communications networks and services summarises the changes being proposed.

In this section, respondents are invited to give comments on these specific proposals

Respondents are requested to express very clearly their position on proposed changes. Please *limit your response to no more than one page per item.*

1. New approach to spectrum management

1.1 Introduce freedom to use any technology in a spectrum band (technology neutrality)

The principle of technology neutrality is a key enabling factor to encourage innovation and DIF therefore greatly welcomes the strengthening of its legal basis. However, it must be noted that due care needs to be taken to ensure that the use of different technologies with different spectral characteristics on adjacent frequencies does not cause interference problems. DIF has expertise in this area and would be happy to provide specific advice.

1.2 Introduce freedom to use spectrum to offer any electronic communications service (service neutrality)

DIF welcomes the application of the principle of service neutrality, which could in some instances remove unnecessary constraints and hence provide spectrum users with the flexibility required to respond rapidly to the demands of European citizens by providing the most appropriate form of electronic communications service. However, due care needs to be taken to ensure that the deployment of different technologies/services with different spectral characteristics on adjacent frequencies does not cause interference problems.

1.3 Coordinated introduction of trading in rights of use

1.4 Establish transparent and participative procedures for allocation

DIF would welcome any positive steps towards increasing transparency and industry participation in the process of spectrum management.

1.5 Introduce a procedure for coordinated spectrum management at EU level (comments related to specific options identified in the Impact Assessment can also be made in section C.2. "Radio spectrum" of this template)

Better coordination at EU level may be helpful in facilitating the identification of common frequency bands in some cases, such as that of unlicensed bands. These could be used to enable the rapid deployment of new technology on an EU-wide basis, e.g. for broadband access networks. However, care must be taken to ensure that any new layer of spectrum management at EU level adopts a “light touch” approach, to avoid any increase in the overall regulatory burden.

2. Streamlining market reviews

2.1 Relaxing notification requirements for the Article 7 procedures

2.2 Rationalising the market review procedures in a single instrument

2.3 Introduce minimum standard for notifications

2.4 Require re-notifications after vetoes within a given deadline

3. Consolidating the internal market

3.1 Commission to review the timeliness and effectiveness of remedies

3.2 Making the appeals mechanism more effective

3.3 Common approach to authorisation of services with pan-European or internal market dimension

The development of services with a pan-European footprint is a natural trend as markets emerge at the pan-European level. In principle, DIF supports the introduction of measures to form a coherent and efficient regulatory procedure across the Member States, to facilitate the deployment of, for example, services that use scarce resources such as radio spectrum on a European scale. However, although present arrangements may be complex as service providers have to comply with national rules, the national regulators will know the characteristics of their local markets better than any other regulator. Care should be taken to avoid any risk of negative impact on individual national markets.

3.4 Amend Article 5 of the Access Directive: non-Significant Market Power access and interconnection

3.5 Introduce a procedure for Member States to agree common set requirements related to networks or services

DIF strongly supports continuation of the current voluntary industry-led process of standardisation in the EU. The proposed introduction of a mechanism whereby a common set of requirements are agreed at EU level and then passed to the European standards bodies for development of the appropriate technical standards risks changing the standardisation process from being industry-led to being regulation-led. A standardisation process that aims to meet regulatory need rather than market need is unlikely to encourage the industry to provide the innovation and investment needed to grow the market in electronic communications networks and services.

3.6 Broadening the scope of technical implementing measures taken by the Commission on numbering aspects

3.7 Amend Article 28 of the Universal Service Directive on non-geographic numbers

3.8 Improving enforcement mechanisms under the framework

DIF agrees that enforcement mechanisms under the framework could be improved in some areas, e.g. to facilitate action against spammers. However, DIF would advocate great care in considering any departure from a light-touch regulatory approach.

3.9 Strengthen the obligation on Member States to review and justify ‘must carry’ rules

DIF supports the proposed obligation on Member States to review and justify ‘must carry’ rules, since market and technological developments have made these increasingly inappropriate. DIF agrees that ‘must carry’ obligations of the future must be kept to the minimum necessary to achieve the general interest objective.

3.10 Adapting the regulatory framework to cover telecommunications terminal equipment, ensuring constancy with the R&TTE Directive

DIF supports the proposed relaxation of the obligations under the R&TTE Directive, in order to promote investment in innovative technologies and networks.

4. Strengthening Consumer Protection and User Rights

4.1 Improve the transparency and publication of information for end-users

4.2 Strengthen the obligation for network operators to pass caller location information to emergency authorities

4.3 Separate the provision of access to public communications networks from the provision of telephone services

4.4 Remove provisions on universal directories and directory inquiry services from the scope of universal service

4.5 Adapt ‘telephone service’ specific’ provisions to technology and market developments

4.6 Update the provisions on number portability to ensure transfer of all relevant data

4.7 Ensure that regulators can impose minimum quality of service requirements

4.8 Strengthen the right of disabled users to access to emergency services via the number ‘112’

4.9 Introduce a Community mechanism to address eAccessibility issues

DIF supports the introduction of a Community mechanism to address eAccessibility issues where this is technically feasible and where there is a proven need for prescriptive action. However, care must be taken to ensure that the introduction of this obligation does not prevent the deployment of innovative new services. DIF has considerable experience in this area and would like to request participation in the relevant Committee.

5. Improving Security

5.1 Oblige operators to take security measures, and grant powers for NRAs to determine and monitor technical implementation

DIF agrees that security is a key issue in the creation of a Single European Information Space. However, DIF would advocate great care in considering introducing any departure from a light-touch regulatory approach, such as obliging operators to take specific security measures or granting powers to NRAs to determine the technical implementation of security measures. The technical solutions to security issues are evolving very rapidly, and the industry is generally better placed than the regulators to determine the most appropriate technical solution. DIF is not aware of any evidence that regulation-led solutions to security issues would be more effective than market-led solutions.

5.2 Require notification of security breaches by network operators and ISPs

DIF does not believe that requiring notification of security breaches by network operators and ISPs would necessarily lead to improved security. Conversely, it could create greater incentive for individuals seeking to breach security.

5.3 Future-proof network integrity requirements

DIF would advocate a light touch regulatory approach to future-proofing network integrity. The trade-off between network functionality and network cost, which would inevitably be passed on to the customer, is an issue that is best left to the marketplace.

6. Better regulation: Removing outdated provisions

See comments in Section D

6.1 Delete the minimum set of leased lines

6.2 Withdrawal of of the Universal Service Directive on ETNS

6.3 Repeal of Regulation 2887/2000 on unbundled access to the local loop

6.4(a) Delete Annex I of the Framework Directive

6.4(b) Delete Article 27 of the Framework Directive

6.4(c) Delete Article 5(4) of the Access and Interconnection Directive

C. Comments to the Impact Assessment Report

The Impact Assessment Report accompanying the Communication on the functioning of the Regulatory Framework for electronic communications network and services identifies some broader policy issues - other than those listed in the above Section B.

In this section respondents are invited to clearly express their position on these policy options -. *Please keep you response to one page per item.*

1. Investment and growth

DIF believes that encouraging innovation and investment are key factors in achieving the objectives of the EU Regulatory Framework. The experience of DIF members is consistent with the observation that those countries that have implemented the EU Regulatory Framework in a pro-competitive manner have attracted the most investment, whilst conversely those countries that have implemented regulatory reform the most slowly have tended attract the least investment. DIF would therefore like to see greater effort made to ensure that best practice spreads throughout the EU.

2. Radio Spectrum

3. Regulatory models and the Internal market

4. Market review procedures

5. Consumer protection and universal service

6. Security

7. Other areas

D. Other comments

Respondents wishing to address any additional issues/topics in relation with the Review of the EU Regulatory Framework for electronic communications networks and services are invited to express their views below.

Please keep responses short and concise.

DIF believes that it is important to ensure that the Framework as a whole, and the Article 17 process in particular, remain technology neutral. Technology neutrality is a key enabling factor in giving the industry the flexibility to develop timely and cost-effective solutions matched to market needs.

Article 18 of the Framework Directive doesn't appear to be adapted to today's technical realities or those of the market place, as recognised by the Commission's conclusions in its Communication dated 2 February 2006 on reviewing the interoperability of digital interactive television services. The importance of interoperability is acknowledged by all the market players, as is the necessity to work together in order to achieve it. As the Commission itself stated in the aforementioned Communication, "A new paradigm of consensual approach and cooperation on technical interoperability has emerged in the area of High Definition TV, and this appears as a promising model for solving other interoperability issues." Consequently, DIF suggests that Article 18 of the Framework Directive be deleted.

In general, 'light touch' regulation, delivered through industry self-regulation whenever feasible, is an important step in reducing regulatory costs and uncertainty. This is a major factor in encouraging the innovation and investment needed to grow a successful European market in electronic communications networks and services.