



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 12 September 2013

**Interinstitutional File:
2013/0309 (COD)**

**13555/13
ADD 2**

**TELECOM 232
COMPET 646
MI 753
CONSOM 161
CODEC 2000**

COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 12 September 2013

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No Cion doc.: SWD(2013) 332 final

Subject: Commission Staff Working Document Executive Summary of the Impact
Assessment Accompanying the document Proposal for a Regulation of the
European Parliament and of the Council laying down measures concerning the
European single market for electronic communications and to achieve a
Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and
2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012

Delegations will find attached Commission document SWD(2013) 332 final.

Encl.: SWD(2013) 332 final



Brussels, 11.9.2013
SWD(2013) 332 final

COMMISSION STAFF WORKING DOCUMENT

Executive Summary of the Impact Assessment

Accompanying the document

Proposal for a Regulation of the European Parliament and of the Council

laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012

{COM(2013) 627 final}

{SWD(2013) 331 final}

Executive Summary Sheet

Impact Assessment on the measures concerning the European Single Market for electronic communications and to achieve a Connected Continent

A. NEED FOR ACTION

Why? What is the problem being addressed?

The Union is fragmented into distinct national markets lacking thus a genuine Single Market for electronic communications services. EU rules are implemented in diverging ways, raising barriers to entry and making it difficult and costly for operators to provide cross-border services. Fragmentation extends to all the vital sector-specific rules: authorisation to operate under consistent rules, access to key inputs for fixed or mobile business, rules on end-user protection; a major symptom is unjustified costs for communications across borders within the Union. Fragmentation is not only a sector-specific issue, it affects many other industries such as transport and cross border service providers (commerce, tourism, financial services).

European operators cannot benefit sufficiently from economies of scale and new growth opportunities. They have not fully embraced opportunities offered by the internet. At the same time, consumers have less choice, less innovative quality services, and they still pay a high price when their calls cross borders or when they use data and voice communications while travelling in the Union.

What is this initiative expected to achieve?

The objective of the initiative is to enable the completion of a European Single Market for electronic communications.

Removing the identified obstacles to the Single Market, by targeting the different types of known fragmentation in one single initiative, will foster greater competition, enable innovation in new services and applications. A Single Market will create opportunities for firms to operate on a bigger scale helping European operators to become more competitive global players and attract new market entrants.

What is the value added of action at the EU level?

Measures at EU level are necessary to tackle the current fragmentation by addressing the identified bottlenecks and enabling operators to benefit from regulatory consistency and common inputs in order to provide services on a pan-European basis.

Measures at EU level would also lead to a reduction of administrative and regulatory burden, a consistently high level of consumer protection which would promote trust and confidence and a wider choice for users.

B. SOLUTIONS

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

Option 1 aims at fostering completion of the Single Market through regulatory coordination. It addresses the identified problems using recommendations (Art. TFEU 292 and Art. 19 of the Framework Directive) and through the foreseen review of elements of the regulatory framework for electronic communications services and networks e.g. the Universal Service Directive in 2014 and the Roaming Regulation in 2016.

Option 2, the preferred option, consists of a set of integrated legislative with targeted measures to establish a complete Single Market in electronic communications services supported by enhanced EU coordination (by introducing a single EU authorisation for European electronic communications providers and provision of services on the basis of harmonised consumer protection rules, convergent regulatory remedies, access to common inputs such as spectrum, leased lines and bitstream and a single consumer space where roaming and cross-border charges are no longer an impediment and with guaranteed access to the open Internet). This option builds on the current regulatory framework, preserving its key features (e.g. market analysis, finding of dominance and imposition of *ex ante* remedies to ensure effective competition), progressively decreasing regulatory pressure if markets are proven to be competitive, and through targeted changes aims at achieving greater regulatory consistency especially for companies operating in more than one Member States and, at the same time, securing for the users the advantages of a connected Continent.

Option 3 is identical to Option 2 in terms of measures but differs in the governance structure. Under this option, a single EU regulator would be established that would have responsibility for implementation and enforcement of pan-European services, including in the area of spectrum, where appropriate in cooperation with national regulators.

Who supports which option?

There is a large degree of convergence on the urgent need to overcome the identified fragmentation of the Single Market for electronic communications services. However views differ on how best to achieve this, depending on the interests of different stakeholder groups.

Some stakeholders (notably incumbent operators) argue for far-reaching change, including greater consistency of regulatory approaches, both in fixed and mobile networks, more predictability and continuity, as well as a more significant deregulation. Some operators have expressed concerns about the impact of certain elements of these proposals, notably on roaming and international calls, on their revenues. Other parts of the industry (including access seekers) argue for better implementation and more consistency in the provision of “virtual” access products.

All telecom operators agree on the need to improve coordination in spectrum policy in order to free more spectrum for broadband service in a regulatory environment that favours stability and investments.

Consumer organisations argue for removing artificial costs (e.g. for roaming) arising whenever consumers use services when they cross borders. Many service providers (transport, navigation, logistic) also argue in favour of the end of roaming charges in order to develop innovative business models.

They also insist on removing discrimination resulting from blocking and throttling of services. Industry users, large as well as SMEs, including web entrepreneurs and start-up's, stress the importance of access to high-quality connectivity for competitiveness,

allowing them for example to reap the benefits of cloud computing and machine-to-machine communications services applications.

Growing concerns are voices about the lack of broadband coverage and congestion of mobile networks.

In a policy debate held in the Transport, Telecommunications and Energy Council of 6 June 2013, a considerable number of Delegations supported the objective of completion of a Single Telecoms Market, with an emphasis i.a. on ensuring vigorous competition, promoting better choice for consumers, addressing net neutrality, tackling roaming in a proportionate way, ensuring greater regulatory consistency, avoiding regulatory arbitrage and ensuring closer coordination of national spectrum approaches. A large number of delegations expressed concerns about centralising policy through a single European regulator and/or central EU authorisation and assignment of spectrum.

The European Parliament has already held three meetings to discuss the forthcoming proposals. MEPs in particular highlighted the need as part of a true Single Market for electronic communications services to eliminate roaming, to introduce clear and stringent rules on net neutrality and ensure a high level of consumer protection. MEPs have also stressed the need for realism and for assessing new proposals in terms of expectations and time constraints.

C. IMPACTS OF THE PREFERRED OPTION

What are the benefits of the preferred option (if any, otherwise main ones)?

The major direct benefit of a Single Market for electronic communications services is estimated to be of the order of €10bn p.a. Moreover, the positive spill-over effects on other sectors are expected to be several tens of billions of potential gains p.a. The benefit of the preferred option, relative to the others, is that it builds upon existing legislation and governance and that it is focused on the essential aspects of the identified problems of fragmentation, without undue centralisation, and is therefore a realistic approach to achieving these benefits more rapidly and more surely than the other options. The preferred option is a pragmatic answer to compelling problems in particular with regard to spectrum ensuring timely availability to avoid congestion or the collapse of networks.

Firstly, directly related sectors such as telecoms equipment manufacturing, application developers and content industry are set to immediately benefit from a more dynamic European telecoms market.

Secondly, sectors like the automotive industry, the logistics sector or the energy sector will benefit from enhanced connectivity in the Single Market and productivity gains through e.g. ubiquitous cloud applications, connected objects and possibilities for integrated service provision for different parts of the company.

Thirdly, public administrations and general services such as in particular the health sector are also due to benefit from wider availability of eGovernment and eHealth services. E-Health in particular has the potential to deliver better quality care at much lower costs.

Finally, European consumers would benefit from more choice, more innovative and better quality services. The preferred option can attain the desired objective without creating new administrative burdens.

What are the costs of the preferred option (if any, otherwise main ones)?

The proposed simplified regulatory regime would not generate regulatory and administrative costs to companies; on the contrary it would lower them.

Some measures may result in a reduction of some revenue stream for operators. If roaming and intra-EU calls were provided at the level of domestic rates, an annual revenue loss of 1.650 million EUR resulting from loss of roaming revenues and a 700 million EUR decrease on revenue linked to international calls is estimated in a worst case scenario (i.e. when no account is taken of effects of price elasticity or reasonable use criterion for roaming). Therefore in reality the impacts are likely much smaller. In addition, a loss of operator's revenues would have taken place anyway, notably as a result of the roaming regulation (which requires that the difference between national and international roaming approaches zero by 2016) and of increasing competition as well as technological change (for example, Voice over IP). On the other hand, the framework will enable new sources of revenue to be tapped, better conditions to use spectrum and economies of scale to be exploited.

How will businesses, SMEs and micro-enterprises be affected?

The preferred option – by removing obstacles to such connectivity – enhances productivity and provides new business opportunities to all. Under the new rules it will be much easier for web services providers to purchase the suitable quality of connectivity fitting for the services provided, whilst the overall quality of access to the internet will improve in Europe serving all suppliers and users of internet based services.

Will there be significant impacts on national budgets and administrations?

The choice of a Regulation as legislative instrument would not imply any transposition or implementation costs for public authorities. For administrations, the long term impact of the proposed measures would also be generally beneficial as higher revenues from spectrum will increase tax income over time. However, there might be some shortcomings in case best practices are not followed.

Enhanced regulatory co-ordination between authorities is unlikely to require additional resources.

Will there be other significant impacts?

A Single Market for electronic communications services underpins the digital Single Market and therefore the positive effects will spill over into the wider digital economy.

D. FOLLOW UP

When will the policy be reviewed?

The Commission will evaluate, after four years, the impact of the proposed measures, with a view to proposing appropriate adjustments, if necessary.