
EU Telecoms Reform Agreed: 12 Reforms to Boost a Consumer-Friendly European Single Telecoms Market

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"Through the two EU Roaming Regulations, we have treated already the most visible symptoms resulting from the lack of a single European telecoms market for consumers. The telecoms reform agreed today goes to the heart of the problem. It paves the way for a true single market for telecoms operators and consumers alike."

Viviane Reding, EU Commissioner for Information Society and Media

The following are the **12 most prominent achievements brought by the reform of the regulatory framework of the EU's telecoms markets**, agreed between the European Parliament, the Council of Telecoms Ministers and the European Commission and voted today by the plenary of the European Parliament in Strasbourg:

1. A right of European consumers to change, in 1 working day, fixed or mobile operator while keeping their old phone number. Currently in the EU it takes on average 8.5 days for a mobile number and 7.5 days for a fixed number to be changed, with some customers facing a two to three weeks wait ([MEMO/09/126](#)).

Under the new telecoms rules, citizens also will receive **better information** to ensure they can easily understand what services they subscribe to and, in particular, what they can or cannot do with those communications services. Consumer contracts must specify, among other things, information on the minimum service quality levels, as well as on compensation and refunds if these levels are not met, subscriber's options to be listed in telephone directories and clear information on the qualifying criteria for promotional offers.

2. A new European Telecoms Authority that will help ensure fair competition and more consistency of regulation on the telecoms markets. It will be called "BEREC" ("Body of European Regulators for Electronic Communications") and will replace, as from this summer, the loose cooperation between national regulators that exists today in the "European Regulators Group" with a better structured, more efficient approach. BEREC decisions will be taken, as a rule, by majority of the heads of the 27 national regulatory authorities: by a simple majority when BEREC gives opinions in the context of the Commission's analysis of remedies notified by national regulators, a two thirds majority in other cases. Such BEREC decisions will be prepared by an independent Office with expert staff.

A decision on the seat of BEREC still needs to be taken by the Governments of the 27 Member States.

The Commission's proposal to merge the existing EU agency ENISA, in charge for network security, with the new European Telecoms Authority, was not accepted by Parliament and Council. ENISA will thus continue as a separate agency until 2013, when this arrangement will have to be reviewed again. For a possible policy option, see [MEMO/09/199](#).

3. A new Commission say on the competition remedies for the telecoms markets: The new EU Telecoms Rules will give the Commission the power to oversee remedies proposed by national regulators to avoid inconsistent regulation that distorts competition in the single telecoms market. When the Commission, in close cooperation with BEREC considers that a draft remedy notified by a national regulator would create a barrier to the single market, the Commission may issue a recommendation that requires the national regulator to amend or withdraw its planned remedy.

The new rules also enable the Commission to adopt further harmonisation measures in the form of recommendations or (binding) decisions, if divergences in the implementation of remedies persist across the EU in the longer term.

4. National telecoms regulators will gain greater independence: The new telecoms rules reinforce national telecoms regulators' independence by eliminating political interference in their day-to-day duties and by adding protection against arbitrary dismissal for the heads of national regulators.

5. Functional separation as a means to overcome competition problems: National telecoms regulators will gain the additional tool of being able to oblige telecoms operators to separate communication networks from their service branches, as a last-resort remedy. This new remedy was advocated in 2007 by the 27 national regulators in a unanimous opinion. Functional separation can rapidly improve competition in markets while maintaining incentives for investment in new networks. Functional separation has already been implemented in the UK since January 2006 where it triggered a surge in broadband connections (from 100.000 unbundled lines in December 2005 to 5.5 million 3 years later). The new EU rules on functional separation will also add legal certainty for countries currently moving towards different forms of separation, such as Sweden, Poland and Italy, while ensuring overall consistency for the benefit of the single market.

6. Better management of radio spectrum for unleashing the digital dividend and providing broadband access for all: Currently, in rural areas of the EU only an average of 70% of the population can have access to a broadband network connection ([IP/09/343](#)). The reform will help in overcoming this "digital divide" by better managing radio spectrum and by making it available for wireless broadband services in regions where building a new fibre infrastructure is too costly. The reform brings a much stronger emphasis on flexibility in spectrum use, allowing operators to introduce innovative technologies and services quickly. This will bring important economic gains and has the potential to generate an estimated additional 0.1% of GDP per annum. The new flexibility will in particular allow maximised use of the "digital dividend", the radio spectrum freed as a result of the switchover from analogue to digital TV.

7. A boost to 3G mobile services: The agreement on the reform also paves the way for the swift adoption of the new GSM Directive. The new Directive will allow any service, starting with 3G and extending later to other new technologies, to operate in the GSM band which is currently reserved exclusively for GSM services. This will lead to industry savings estimated at € 1.6 billion in capital costs for a single Europe-wide network, and enable faster roll-out of full 3G coverage. This will boost the take up of 3G in the EU, from the existing 3G customer base which was estimated at over 90 million in December 2008. 3 G penetration rates are currently the highest in Italy, Austria, Sweden and the United Kingdom where they exceed 20% of the total subscribers.

8. Encouraging competition and investment in next generation access networks: The new rules bring legal certainty for investment in next generation access (NGA) networks. NGA networks, based on new optical fibre and wireless network technologies, are the way forward, replacing inefficient traditional copper-wire networks. The new regulations will reaffirm the importance of competition in this new sector while at the same time preserving incentives to

invest by taking into account the risks involved in allowing access to NGA networks and allowing for various cooperative arrangements between investors and access-seeking operators. In this way, the new rules will also ensure telecoms operators receive a fair return on their investments. The Commission started the public consultation on NGA networks in September 2008 ([IP/08/1370](#)); and this will soon be followed by a second public consultation.

The rules governing the sharing of network elements, such as ducts or in-building wiring, between operators are also updated. Besides improving competition and services for businesses and consumers, this will also help lower the overall financial costs for operators of deploying NGA networks.

9. Towards a more open and more "neutral" net for the consumer: The new telecoms rules will ensure that European consumers have an ever greater choice of competing broadband service providers available to them. Internet service providers have powerful tools at their disposal that allow them to differentiate between the various data transmissions on the internet, such as voice or 'peer-to-peer' communication. Even though traffic management can allow premium high-quality services (such as IPTV) to develop and can help ensure secure communications, the same techniques may also be used to degrade the quality of other services to unacceptably low levels. That is why, under the new EU rules, national telecoms authorities will have the powers to set minimum quality levels for network transmission services so as to promote "net neutrality" and "net freedoms" for European citizens.

In addition, thanks to the new transparency requirements, consumers will be informed – even before signing a contract – about the nature of the service to which they are subscribing, including traffic management techniques and their impact on service quality, as well as any other limitations (such as bandwidth caps or available connection speed).

10. Recognition of the right to internet access: The new telecoms rules recognise explicitly that internet access is part of fundamental rights such as the freedom of expression and the freedom to access information. The rules therefore provide that any measures taken regarding access to or use of services and applications through electronic communications networks must respect the fundamental rights and freedoms of natural persons, including in relation to privacy, freedom of expression and access to information and education, as well as due process. The new rules also clarify that the final word on this important matter of internet access must be with an independent and impartial tribunal established by law and acting in accordance with Article 6 of the European Convention for the protection of Human Rights and Fundamental Freedoms.

11. Consumer protection against personal data breaches and spam

European citizens' privacy is a priority of the new telecoms rules. Names, email addresses and bank account information of the customers of telecoms and internet service providers, and especially the data about every phone call and internet session, need to be kept safe from accidentally or deliberately ending up in the wrong hands ([IP/09/571](#)). Operators must respond to the responsibility that comes with processing and storing this information. Therefore, the new rules introduce mandatory notifications for personal data breaches – the first law of its kind in Europe. This means that communications providers will be obliged to inform the authorities and their customers about security breaches affecting their personal data. This will increase the incentives for better protection of personal data by providers of communications networks and services.

In addition, the rules concerning privacy and data protection are strengthened, e.g. on the use of "cookies" and similar devices. Internet users will be better informed about cookies" and about what happens to their personal data, and they will find it easier to exercise control over their personal information in practice. Furthermore, internet service providers will also gain the right to protect their business and their customers through legal action against spammers.

12. Better access to emergency services, 112

The new telecoms rules will ensure that European citizens gain better access to emergency services by extending the access requirements from traditional telephony to new technologies,

strengthening operators' obligation to pass caller location to emergency authorities, and by improving general awareness of the European emergency number '112'. In addition, provisions on access to electronic communications services for Europeans with disabilities have been strengthened so that they can benefit from the same usability of services as other citizens, but by different means. For the first time, the EU telecoms rules will include a provision on the availability of terminal equipment offering the requisite services and functions for users with disabilities.

Annex

Mobile penetration

[Figures and graphics available in PDF and WORD PROCESSED]

Status of broadband take-up in the EU

(Broadband means an always-on internet connection with a bandwidth capacity of at least 144 kilobits per second)

[Figures and graphics available in PDF and WORD PROCESSED]

Fixed number portability – days required to port number

[Figures and graphics available in PDF and WORD PROCESSED]

Mobile number portability – days required to port number

[Figures and graphics available in PDF and WORD PROCESSED]

Single Market Procedure for assessing new market definitions and significant market power findings proposed by national telecoms regulators (Article 7 of the Framework Directive 2009)

[Figures and graphics available in PDF and WORD PROCESSED]

* BEREC - Body of European Regulators for Electronic Communications

Single Market Procedure for assessing regulatory remedies proposed by national telecoms regulators (Article 7a of the Framework Directive 2009)

[Figures and graphics available in PDF and WORD PROCESSED]

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