



Brussels, 11 June 2008

BACKGROUND¹
TRANSPORT, TELECOMMUNICATIONS and ENERGY COUNCIL
Thursday 12 and Friday 13 June 2008, Luxembourg
(Transport and telecommunications items only)

*The meeting will start with a session on **telecommunications and the information society** at 10.00 on Thursday 12 June under the presidency of Mr Andrej Vizjak, Slovenian Minister of Economy for the TELECOM items and Mrs Mojca Kulcer Dolinar, Slovenian Minister of Higher Education, Science and Technology for the INFISO items.*

*The Council will hold a public exchange of views on the **review of the EU regulatory framework for electronic communications networks and services**.*

*It is expected to adopt conclusions on a common approach to **using the spectrum** released by the digital switchover and on **i2010 mid term review**.*

*In addition, the Council is expected to reach, in a public deliberation, a general approach on a draft regulation extending the mandate of the **European Network and Information Security Agency**.*

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*The **session on transport** will start at 10.00 on Friday 13 June under the presidency of Mr Radovan Žerjav, Slovenian Minister of Transport.*

*The Council is aiming to adopt political agreement in a public session on the three **road transport** proposals, namely the access to the international **road haulage market**, the occupation of **road transport operator** and the international market for **coach and bus** services.*

*The Council will attempt to reach, in a public deliberation, a general approach on a proposal on **roadworthiness tests** for motor vehicles and on a proposal on the promotion of **clean and energy efficient road transport vehicles**.*

¹ This note has been drawn up under the responsibility of the press office.

*In addition, the Council will adopt decisions on a negotiating mandate for **aviation agreements** with **Australia** and **New Zealand** as well as for a **Transport Community Treaty** with the **Western Balkans**. It will also adopt Council conclusions on Multi-annual contracts for railways.*

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Over lunch on 12 June, ministers will discuss the establishment of the European Electronic Communications Market Authority. On 13 June, ministers will exchange views on the pursuit of sustainable mobility in connection to research activities in the field of road transport and the concept of integrated approach towards transport.

Press conference: 12 June: at the end of the session (± 16:45)
13 June: before lunch (± 13.00) and possibly at the end of the session (±17.00).

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TELECOMMUNICATIONS

Review of the EU regulatory framework for electronic communications

The Council will hold a **public exchange of views** on the review of the EU regulatory framework.

The Commission's telecoms reform package², adopted on 13 November 2007, aims to enable citizens, wherever they live and wherever they travel in the EU, to benefit from better and cheaper communication services, whether they use mobile phones, fast broadband Internet connections or cable TV.

Ministers will be invited to focus their discussions on the following questions drawn up by the presidency ([9849/08](#)):

- *Do you believe that the provisions in the telecoms review package give sufficient incentives for investment in high speed next generation networks, particularly in rural areas? Will member states have sufficient and appropriate tools to ensure competition and to promote access to services for citizens (e.g. shared use of existing infrastructure, establishment parallel infrastructures, functional separation, and transitional measures)?*
- *To what extent do you agree that more consistency of approach by national regulatory authorities (NRAs) would bring greater regulatory certainty and benefits to businesses and to consumers in general? How, in your opinion, could we best achieve such consistency (powers of the Commission, better coordination between NRAs and other competent authorities)?*
- *What, in your opinion, would be the best way to achieve a common vision on spectrum management in the EU?*

In addition, ministers will be invited to **take note of the presidency's three progress reports** on the work carried out so far in the Council's preparatory bodies.

²

It contains the following legislative proposals:

- a proposal for the so-called better regulation directive amending directives 2002/21/EC (framework directive), 2002/19/EC (access directive), and 2002/20/EC (authorisation directive) ([15379/07](#));
- a proposal for the so-called a citizen's rights directive, which amends directive 2002/22/EC (universal service directive), directive 2002/58/EC (personal data directive) and regulation (EC) No 2006/2004 on consumer protection cooperation ([15387/07](#));
- a proposal for a regulation establishing the European Electronic Communications Market Authority ([15408/07](#)).

- Better regulation directive

The presidency progress report ([10334/08](#)) on this proposal reflects the progress made so far at working party level and the main reactions by delegations.

Delegations are able to support a number of objectives put forward in the proposals, such as the need to ensure consistent application in the member states of the regulatory framework for electronic communications and the need to ensure flexible and efficient use of the radio spectrum. However, they have some doubts about the need for the proposed measures to achieve those objectives, about the proposed procedures to achieve harmonisation and about the level of detail of such harmonisation. In addition, the member states are concerned that the proposals could disturb the current balance of proportionality and subsidiarity and that a number of proposals would considerably add to the administrative burden.

This Commission's proposal aims to amend the regulatory framework for electronic communications by improving its effectiveness, reducing the administrative resources needed to implement economic regulation (the market analysis procedure) and making access to radio frequencies simpler and more efficient.

The Commission's proposal also aims at:

- reforming spectrum management and ensuring a smooth transition to the introduction of spectrum trading;
- improving the consistency of regulation of the internal market in electronic communications;
- strengthening security and integrity, for the benefit of users of electronic communications in order to reinforce the trust and confidence of business and citizens;
- creating an efficient procedure for firms needing rights of use to provide cross-European services and to make provision for the introduction of functional separation as a remedy that can be imposed by national regulatory authorities.

In addition, the progress report identifies the main issues that will need to be addressed further, in particular: radio spectrum, article 7 procedure and remedies and implementation issues.

- Citizen's right directive

The presidency's progress report on the proposal for a directive on citizen's rights can be found in [10336/08](#).

During the examination of the proposal in the working party, the delegations supported the Commission initiative in principle, agreeing that in general the amendments proposed by the Commission go in the right direction and concern important issues. The general thrust of the proposal, namely to ensure that consumers' rights remain an important focus of regulatory policy in the sector, was broadly supported, both as regards the universal service directive and the e-privacy directive.

However, the member states underlined the need to carefully examine the proposals in order to maintain an appropriate balance of proportionality and subsidiarity, as well as to avoid unnecessary burdens for both national regulatory authorities and the undertakings concerned, while ensuring competition and benefits for end-users.

The progress report also identifies the main issues that remain open. In respect of the universal service directive these issues are: provision of access at a fixed location and provision of telephone services; contracts, quality of service as well as emergency services and the single European emergency call number. As far as the e-privacy directive is concerned, the security of processing and the issue of implementation and enforcement, in particular will need further discussions.

The Commission's proposal for a universal service directive addresses the following areas, in particular: transparency and publication of information for users; improved accessibility for users with disabilities; emergency services and access to 112, and basic connectivity and quality of services.

One of the main objectives of the regulatory framework is to promote the interests of EU citizens by ensuring a high level of protection of personal data and privacy and ensuring that the integrity and security of public communications networks are maintained.

In this respect, the Commission's proposal for an e-privacy directive includes the following issues: ensuring that consumers are informed if their personal data have been compromised as a result of a breach of network security, giving operators and national regulatory authorities more responsibility with respect to the security and integrity of all electronic communications networks and services, strengthening implementation and enforcement powers for competent authorities, in particular in the fight against spam, and clarifying the application of the EU rules to data collection and identification devices using public electronic communications networks.

- Establishment of the European electronic communications market authority

The presidency progress report on the work carried out so far on this proposal could be found in [10337/08](#).

Discussions in the Council' bodies on this proposal showed that almost all member states were against the creation of a new market authority. Nevertheless, the majority of member states supported the idea of strengthening existing institutional structures in order to respond effectively to current difficulties in the electronic communications markets.

The European Parliament first reading opinions on all these legislative proposals are expected to be adopted in September.

Legal basis for the three proposals: Article 95 of the EC Treaty, votes by qualified majority under the Parliament/Council co-decision procedure.

Use of the spectrum released by digital switchover

The Council is expected to **adopt conclusions** on the Commission's communication "*Reaping the full benefits of the digital dividend in Europe: A common approach to the use of the spectrum released by the digital switchover*".

The Commission transmitted this communication to the Council in November 2007 ([15365/07](#)). It refers to the amount of spectrum which will be freed up in Europe as a result of the switchover from analogue to digital terrestrial TV by the end of 2012. This spectrum which is called "digital dividend" will result from the superior transmission efficiency of digital technology. The Commission underlines that the digital dividend is a resource of exceptional social, cultural and economic value and therefore it presents a unique opportunity to give impetus to the whole of the wireless communications industry as well as the broadcasting industry. With the purpose of focusing on how to unlock the full potential of the digital dividend, the communication proposes coordinated action at EU level from a combined social and economic perspective.

In the draft conclusions the Council welcomes the Commission's communication and it invites the Commission in particular to:

- initiate the studies and consultations necessary to define a coherent basis for the coordinated usage of spectrum;
- facilitate a wide and open investigation, involving all concerned parties, to identify any priorities and options when considering close cooperation between member states in coordinating spectrum usage in the UHF band;
- support and assist the member states in the process of achieving close cooperation between them in coordinating spectrum usage and of reaping the full benefits of the digital dividend;
- support and assist the member states in avoidance of harmful cross-border interference among member states and between member states and third countries; and
- report to the Council by December 2008 on the results of this process and on any further steps required.

i2010 mid term review

The Council is expected to **adopt conclusions** in response to the Commission's communication on "*Preparing Europe's digital future: on i2010 mid term review*".

This communication was transmitted to the Council in April 2008 ([8696/08](#)). It is based on the results the Commission established during 2007, while reviewing the i2010 approach in the light of today's priorities for growth and jobs. The assessment of the Lisbon strategy for growth and jobs, the Single Market Review, the implementation of the Innovation Action Plan and the review of the consumer *acquis* have all highlighted the importance of ICTs. In the light of above, the Commission makes concrete proposals in its communication for re-orienting i2010 to further promote competitiveness and ICT take-up in Europe.

In the draft conclusions to be adopted by ministers, the Council welcomes the intention of the Commission to develop the long-term agenda for information society and media policies with a particular focus on achieving a fully functioning Single Market and eInclusion. It invites the Commission in particular to:

- report back in time for the 2009 spring European Council on its assessment of the overall contribution of ICT to the modernisation of European economies and societies, the performance of the EU in the Internet economy and its readiness to face future challenges;
- initiate in the autumn of 2009, in consultation with the Member States, a review of the i2010 action plan to prepare the future Information society policy; and
- develop a Broadband Performance Index, to be published together with the values observed for each of its component indicators, that will seek to compare broadband developments in the member states and their propensity to further take up advanced services and the benefits that arise from their use.

European Network and Information Security Agency

The Council will attempt to **reach, in a public deliberation, a general approach** on a proposal for a regulation amending regulation 460/2006 establishing the European Network and Information Security Agency (ENISA) as regards its duration.

The ENISA was established for a limited period of time in 2004 and its mandate will expire in March 2009. In December 2007, the Commission proposed to extend ENISA for two years ([16840/07](#)).

The text to be agreed by ministers ([10338/08](#)) provides for an extension of the ENISA's mandate for three years. This time will be used to enable further discussions on ENISA and allow reflection on the general direction of the European efforts towards an increased network and information security.

The European Parliament first reading opinion is expected to be adopted in June.

Legal basis: Article 95 of the EC Treaty, vote by qualified majority under the Parliament/Council co-decision procedure.

LAND TRANSPORT

Road transport

The Council will attempt to **reach, in a public deliberation, political agreements** on three legislative proposals³ that seek to modernise, replace and merge provisions governing road transport operators and access to the road transport markets.

Ministers will be invited to agree on the presidency compromise text ([10159/08](#)) addressing the main outstanding political questions of this legislative package. The presidency compromise focuses in particular on two main issues: cabotage and national electronic registers.

The Commission submitted these proposals in May 2007 with the aim of reducing distortions of competition and improving transport operators' compliance with the provisions of social legislation on road safety rules. The TTE Council of 29-30 November took note of progress reports on the work carried out so far within Council bodies. At the TTE Council meeting of 7 April 2008 ministers held a policy debate on this package and broadly supported the presidency compromise as a good basis for further work on and invited Coreper to pursue examination of the outstanding issues.

- Access to the international road haulage market

The proposal for a regulation on common rules for access to the international road haulage market seeks to simplify and harmonise further the current rules by consolidating and merging regulations 881/92, 3118/93 and directive 2006/94/EC on access to the road transport market.

All member states expressed their support in principle for the Commission proposal. Following discussions in the Council's preparatory bodies, certain provisions of the Commission's proposal were adapted in order to reach a consensus on most parts of the draft regulation. These modifications concern, in particular:

- scope and definitions, such as the definition of serious infringement of Community road transport legislation;
- a simplified and standardised format for the Community licence, certified copies and the driver attestation;
- the periods of validity of the Community licence and of verification of compliance;
- the chapter covering mutual assistance and penalties, i.e. the sanctioning of infringements by the member state of establishment and the host member state;
- a list of security features in order to avoid manipulation and forgery of the Community licence and driver attestation documents.

³

- Proposal for a regulation on common rules for access to the international road haulage market (recast) ([10092/2/07](#));
- Proposal for a regulation establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator ([10114/1/07](#));
- Proposal for a regulation on common rules for access to the market of coach and bus services ([10102/2/07](#))

The main issues to be addressed at ministerial level and which will be part of the presidency compromise package are the principle of cabotage, the rules applicable to cabotage operations and the date of the Commission report.

- The occupation of road transport operator

The draft regulation on access to the occupation of road transport operator aims to rectify certain shortcomings identified in the Commission's impact assessment and public consultation and replaces the existing directive 96/26/EC.

All delegations support in principle the Commission's proposal agreeing to revise the current rules on market access in road transport to enhance the clarity and enforceability of these rules and to better regulate the existing regime.

In order to reach an overall consensus on this legislative proposal, the Council made amendments to the following, compared to the Commission's original text:

- subject matter, scope and definitions;
- requirements and conditions for becoming a transport manager;
- exemption from examination to become a transport manager;
- establishment of a risk based checking system;
- mutual recognition of certificates and other documents;
- the list of the most serious infringements.

The presidency compromise to be presented to ministers focuses on the issue of the setting up of national electronic registers.

- Access to the international market for coach and bus services

A draft regulation on common rules for access to the international market for coach and bus services is aimed at revising and consolidating the current legislative framework (regulations 684/92 and 12/98) by clarifying the scope, simplifying procedures and establishing a uniform format for the Community license and the certified copies.

All member states welcomed this Commission's proposal and agreed on the need to simplify and further harmonise the current rules by eliminating legal uncertainty, reducing administrative burden and improving the exchange of information.

Compared to the Commission's initial proposal, the Council's preparatory bodies adapted certain provisions to allow an overall consensus on this draft regulation. This consensus concerns, in particular:

- scope and definitions, such as the definitions of "international carriage" and "cabotage operations";
- a simplified and standardised format for the Community licence and certified copies including a list of security features in order to avoid their manipulation and forgery;
- access to the market;
- implementation issues.

The modified texts of all three proposals can be found in the addenda to the presidency report: [10159/08 ADD1](#), [10159/08 ADD2](#) and [10159/08 ADD3](#).

The European Parliament adopted its first reading opinion in May 2008 on the proposals on the access to the international road haulage market and on the occupation of road transport operator and in June 2008 on the proposal on the international market for coach and bus services.

Legal basis for the three proposals: Article 71 of the EC Treaty, vote by qualified majority under the Parliament/Council co-decision procedure.

Roadworthiness tests for motor vehicles

The Council will seek to **reach a general approach** on a draft directive on roadworthiness tests for motor vehicles and their trailers, which codifies directive 96/96/EC⁴ currently in force. The opinion of the European Parliament is still pending.

The directive is aimed at harmonising the rules on roadworthiness tests, preventing distortion of competition between road haulers and guaranteeing that vehicles are properly checked and maintained.

The draft directive codifies and adapts the legislation in force to the new comitology procedure with scrutiny⁵ for measures of general scope designed to amend non-essential elements of a basic instrument adopted in accordance with the co-decision procedure. The Council also decided to incorporate in the draft directive a recent judgment of the Court of Justice on the establishment of so-called secondary or derived legal basis. All the modifications are of a technical nature and aim at making Community law more readable.

The European Parliament first reading opinion is expected to be adopted in July 2008.

Legal basis: Article 71 of the EC Treaty, vote by qualified majority under the Parliament/Council co-decision procedure.

Multi-annual contracts for rail infrastructure quality

The Council is expected to **adopt conclusions** on the Commission communication "Multi-annual contracts for rail infrastructure quality", issued in February 2008 ([6295/08](#)).

The communication recommends that the owners of the rail infrastructure (mostly member states) and infrastructure managers conclude multi-annual contracts with duration of at least three years, with the aim of improving the continuity of financing of railway infrastructure and the freeing up of additional funding for maintenance.

⁴ OJ L 46, 17.2.1997, p. 1. directive as last amended by regulation 1882/2003 (OJ L 284, 31.10.2003, p. 1)

⁵ The regulatory procedure with scrutiny was introduced by Decision 2006/512/EC, which amended Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission.

The main objectives of a strategy on multi-annual contracts are the following:

- to help rail be competitive vis-à-vis other modes of transport;
- to shift towards a more cost-effective form of rail infrastructure maintenance which is better geared to users' needs;
- to create the conditions for infrastructure managers to attain financial stability and management independence.

In the draft conclusions the Council invites the member states to consider setting up agreements with the infrastructure managers and invites infrastructure managers to step up their efforts in the provision of rail infrastructure of high quality in accordance to meet the demand from their customers. The Commission will be invited to regularly monitor the implementation of multi annual agreements and the progress made in their application and to develop measures to foster effective and consistent application of best practices in this field.

INTERMODAL QUESTIONS

Promotion of clean and energy efficient vehicles

The Council will attempt to **reach a general approach** on a draft directive on the promotion of clean and energy efficient road transport vehicles. The European Parliament first reading opinion is still pending.

This proposal was transmitted to the Council in January 2008 ([5131/08](#)). Its aim is to promote the market for clean and energy efficient vehicles and improve the transport sector's contribution to fulfilling the EU's environment, climate and energy policies. The directive will require authorities and public passenger transport operators to take energy consumption, CO2 emission and other pollutant emissions into account when purchasing a vehicle.

The Council's preparatory bodies made several changes to the Commission's proposal in particular to the scope, options for fulfilling the requirements to take energy and environment impacts into account and the methodology for the calculation of lifetime costs.

The Commission proposed that authorities and operators apply one single harmonised method of calculation of lifetime costs when vehicles are purchased. The text to be approved by the Council ([10257/08](#)) provides for more flexibility than in the Commission proposal by allowing several options for taking into account energy and environmental impacts. More flexibility will make it possible to reflect the diversity of local environmental issues and priorities.

The European Parliament is expected to adopt its first reading opinion in July 2008.

Legal basis: Article 175(1) of the EC Treaty, vote by qualified majority under the Parliament/Council co-decision procedure.

Transport Treaty for the Western Balkans

The Council is due to **adopt a mandate** for the Commission to open negotiations on a treaty establishing a Transport Community with the Western Balkans.

The treaty will promote cooperation in the field of transport between the states in the region and aim at establishing an integrated market for infrastructure and land, inland waterways and maritime transport and to align the relevant legislation in the Western Balkan region with EU legislation.

The Transport Community would accelerate the integration of the transport systems in the region as well as integration with those of the EU. It would also provide operators and investors in the transport sector with legal certainty, thus stimulating investment and economic development.

Legal basis: Article 300 of the Treaty, vote by qualified majority.

AVIATION

External Relations

Air transport agreements with Australia and New Zealand

The Council is due to **adopt two decisions** authorising the Commission to open negotiations with Australia and New Zealand on comprehensive air transport agreements.

The Commission requested this mandate in 2005. These agreements will bring economic benefits to air carriers, airports, passengers, the tourism industry and the wider economy both within the EU and in both countries. In addition, it will aim at a reciprocal opening of market access within a framework that ensures fair competition and high standards of safety, security and environmental protection.

Legal basis: Articles 80(2) and 300(1) of the Treaty: vote by unanimity (mixed agreement).

Other business

- (a) Proposal for a decision of the European Parliament and of the Council on the selection and authorisation of systems providing **mobile satellite services** (MSS)
 - Information from the Presidency
 - (b) Commission Communication "Advancing the Internet-Action plan for the deployment of **Internet Protocol version 6 in Europe**"
 - Information from the Commission
 - (c) **Finalisation of the Ireland / UK Functional Airspace Block**
 - Information from the Irish and UK delegations
 - (d) **Reduce CO₂ emissions from light-duty vehicles**
 - Information from the Presidency on the state of play
 - (e) **Indicators on the broadband internet access**
 - Information from the Portuguese delegation.
 - (f) Lithuanian initiative to host the **1st ASEM Ministerial Meeting** on Cooperation in Transport (Vilnius, October 2009)
 - Information from the Lithuanian delegation
 - (g) **Informal ministerial meeting of transport Ministers** (Brdo, 6 May 2008)
 - Information from the Presidency
 - (h) The European Union and South East Europe: A common vision for connecting people – **Transport Conference on the Western Balkans** (Belgrade, 7 May 2008)
 - Information from the Presidency
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