



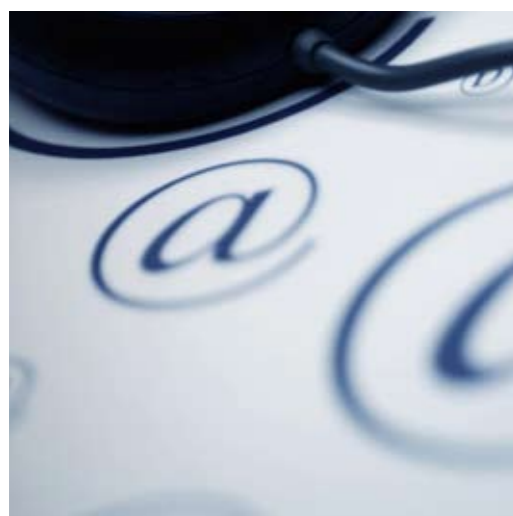
FRESHFIELDS BRUCKHAUS DERINGER

Electronic communications

Looking into the EU regulatory framework



What do the reforms to the EU regulatory framework mean for you?



'The EU telecoms reform brings about consumer choice, a new dose of competition, an effective European system of independent telecoms regulators, new investment into competitive infrastructures, more space for new wireless services and a more open internet for all citizens... by promoting effective competition and consistent rules of the game,... [opening] up new opportunities for telecoms operators, for cross-border communication services and for European private and business consumers.'

Viviane Reding,
EU Telecoms Commissioner

What does the reform do?

It updates and revises the EU regulatory rules and architecture to reflect changes in technology and market developments since 2002.

It enhances consumer rights in areas such as contracts, data protection and privacy and switching supplier (number portability).

It supports the further development of the EU single market and the roll-out of new, pan-European mobile services through improved use and trading of spectrum.

It recognises internet access as a fundamental human right, restricts cutting-off access and introduces a specific focus on universal broadband internet access for all citizens.

It will establish (in spring 2010) a new European telecoms agency, BEREC (Body of European Regulators for Electronic Communications), to ensure effective and consistent regulation.

It introduces greater Commission role and powers to regulate dominant operators and ensure competition. It will enter into force in December 2009 and must be implemented into national laws by June 2011.

Our response

The changes to the EU regulatory framework will have an impact on all companies active in the telecoms, broadcasting and internet sectors. We recognise that the impact on your organisation and the way you do business in the future will be unique, so we are therefore working with our clients individually to help them navigate the challenges and opportunities they might face. Through tailored seminars and meetings, we are able to explain in detail the changes and to identify how they might affect you. We will also explain other EU policy initiatives in this fast moving

What are the main implications?

The **formation of BEREC** – together with the Commission, BEREC will have a deep involvement in approving national measures to regulate operators with market power.

Functional separation – this 'last resort' remedy could increase possibilities to offer services over dominant competitors' networks.

Clearer consumer contracts – new rules requiring greater clarity on terms and conditions will include maximum duration, provision of more information and any restrictions on use (eg Voice over Internet Protocol (VoIP) on mobiles).

Number portability capability – operators (fixed and mobile) must be able to port customers within one day.

Use of frequencies – increased flexibility and trading will facilitate innovative new services.

Data protection and privacy – service providers must ensure network security (with appropriate protection measures) and comply with reporting rules in the event of a breach and the use of cookies will be regulated.

area (including the regulation of NGA networks and termination rates and state support for public sector broadcasting) and identify important trends in the fields of competition law, merger control and state aid.

The third edition of *Telecommunications, Broadcasting and the Internet* has been edited by Laurent Garzaniti and Matthew O'Regan, lawyers in our Brussels office. Published by Sweet & Maxwell, it will be available in spring 2010 and will provide a detailed and fully updated review of the application of both competition law and ex-ante regulation in these sectors:

Next steps

To manage the implications of the new regulatory framework you may want to take some of the steps below.

Influencing the Commission and BEREC – consider how you can influence the Commission and BEREC when regulating dominant operators.

Implementation strategy – examine how you can influence future regulation both nationally and in Brussels.

Functional separation – assess the impact that this could have on your business.

Consumer contracts and data privacy – review your consumer contracts and number portability and data privacy procedures for compliance with the new rules.

Use and trading of frequencies – carry out a strategic review of the impact on your business, particularly with the release of frequencies once analogue TV is switched off in 2012 (the digital dividend).

Next generation access (NGA) networks – consider how new rules and state support for NGA networks may affect your business.

- the legal issues applicable to the internet, such as hyperlink linking liability, data protection and internet security, domain naming and e-commerce;
- detailed analysis of all developments in EU competition law and Commission decisions in these sectors, including merger control, market conduct and state aid; and
- recent European court case law, such as *Microsoft*, *Wanadoo*, *Sony/BMG*, *Deutsche Telekom*, *TV2 Danmark* and *France Télécom (state aid)*.

Contacts

If you would like to discuss the revised EU regulatory framework with one of our team, or would like to know more about what it means for you, please contact either Laurent Garzaniti or Matthew O'Regan using the contact details below.

To download a copy of the Freshfields briefing:
www.freshfields.com/industries/telecommunications



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