

**RULES OF PROCEDURE FOR ERG  
as proposed by the European Regulators Group<sup>1</sup>**

The European Regulators Group for Electronic Communications Networks and Services (ERG),

**Considering**

- 1) the European Parliament and Council Directive on a common regulatory framework for electronic communications networks and services (2002/21/EC);
- 2) all related Specific Measures constituting the new EC communications regulatory package;
- 3) the Decision of the European Commission No. 2002/627/EC of 29 July 2002] establishing the European Group of Regulators for Electronic Communications Networks and Services, hereafter "the Commission Decision".

**Considering** that a close co-operation as well as exchanges of information between competent regulatory authorities are essential to an effective monitoring of the European telecommunications markets and to the promotion of harmonised implementation across the EU and other European countries of the EC communications legislative framework;

**Considering** that the role and aim of the Group shall be to advise and assist the Commission in consolidating the internal market for electronic communications networks and services as well as contributing to the development of the internal market and to the application, in all Member States, of the rules set out in the new regulatory framework for electronic communications;

**Considering** that national regulatory authorities shall take all reasonable measures which are aimed at achieving the objectives set out in Article 7 of the Framework Directive 2002/21/EC;

**Considering** that the Group shall have advisory status and act independently;

**Considering** that the Group shall fully respect the prerogatives of Member States and of the institutions, and the institutional balance established by the Treaty;

**Considering** that efficient rules of procedure are necessary to achieve the above-mentioned objectives;

**Having consulted** the European Commission;

Has adopted the following rules of procedure:

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<sup>1</sup> These proposed Rules of Procedure are subject to the approval of the European Commission in accordance with Commission Decision 2002/627/EC. As agreed at the ERG Meeting of 23 January 2003, these proposed Rules of Procedure will be applied until the finalised Rules of Procedure are available.

## **Article 1 - Members of the Group and other participants**

### Members

- 1.1 In accordance with Commission Decision, Members of the Group shall comprise the heads of each relevant national regulatory authority in each Member State or their representatives. .
- 1.2 Members of the Group may be accompanied by experts, where necessary.

### Other Participants

- 1.3 Heads (or high-ranking representatives) of the independent regulatory authorities from the EFTA States and those states that are candidates for accession to the European Union shall have the right to participate as observers.
- 1.4 A high-ranking representative designated by the European Commission shall be entitled to participate in the debates.
- 1.5 The Group may invite other experts and observers to take part in its meetings.

## **Article 2 - Objectives**

- 2.1 The Group shall take all reasonable steps to carry out the role described in Article 3 of the Commission Decision. It shall foster co-operation between national regulatory authorities, to the maximum possible extent, as envisaged by Article 7, Framework Directive.
- 2.2 The Group may co-operate with regulatory authorities and Groups in other regions which have a similar role.

## **Article 3 - Chairmanship**

- 3.1 In accordance with Article 5 of the Commission Decision, the Group shall be chaired by one of its members, chosen by the Group for a period of 12 months. One or two other members shall be appointed by the Group to act as vice-Chairmen for the same period.
- 3.2 In the event of absence or incapacity of the Chairman or by delegation of the Chairman, either vice-Chairman shall be empowered to exercise the responsibilities of the Chairman.

## **Article 4 –Positions or opinions: procedure**

- 4.1 Positions or opinions of the Group shall normally and preferably be reached by consensus amongst all members.
- 4.2 On a exceptional basis, where, in the view of the Chairman a position or opinion needs to be prepared and a consensus cannot be reached, the Chairman may

determine that the matter shall be decided if at least two thirds of the members are present and support the proposed position or opinion. Any Member has the right to include its individual views in any positions or opinions of the Group. The views of any Members who do not support the position or opinion shall be included in the note referred to in Article 9.3

- 4.3 Where a matter is urgent, the Chairman may seek agreement to a position or opinion by electronic procedure. In such cases, the Chairman shall set the time-scale for comments and shall set out clearly the consequences of failure to respond within that time-scale.
- 4.4 The positions or opinions of the Group shall not be binding on its members, but members shall take the utmost account of such positions or opinions. Where national circumstances prevent individual members from applying one of those positions or opinions, their reasoning for not following that position or opinion shall be published. Otherwise, parties to a collective position or opinion would be expected to take all appropriate steps to abide by that position or opinion, except in circumstances which could not be foreseen at the time when the position or opinion was agreed.
- 4.5 When the circumstances envisaged in Article 1.6 and Article 4.3 both apply, only one authority from any State shall participate in the preparation of any position or opinion

## **Article 5 - Working Procedures**

- 5.1 To meet its objective as described in Article 2, the Group shall adopt an annual work programme, having consulted interested parties on its content. The work programme shall be published. The programme shall in particular provide for the adoption of a number of decisions which shall be published after agreement by the Group.
- 5.2 The Group shall meet at least twice a year. Additional meetings may be agreed upon and organised, when it is necessary or convenient.
- 5.3 The Group shall make its best endeavours to consider a matter on which the Commission has requested an opinion according to a time-scale specified by the Commission in the light of the urgency of the matter.
- 5.4 In accordance with Article 4 of the Commission Decision, decisions of the Group may be delegated to a subgroup.
- 5.5 The Group may create expert working groups to advise it on specific issues. Membership of such groups may include representatives of other bodies.
- 5.6 European Commission representatives shall be entitled to participate in the meetings of any committee or expert working group, under the same conditions as in Article 1.5.
- 5.7 The Group may invite external experts to assist it in its work.

5.8 The Group shall adopt its agenda at the start of each meeting. Any participant shall have the right to place an item on the agenda, unless the Chairman decides that it is impractical to discuss the subject at that meeting.

5.9 The Group shall consider issues raised in the agenda and a draft of any decisions to be agreed upon. The conclusions shall be recorded in the minutes; in addition each participant shall have the right to ask to have its position recorded in the minutes.

5.10 The Commission shall inform the Group of the action, if any, it intends to take in response to its advice and recommendations.

## **Article 6 – Subgroups**

6.1 Subgroups may be created in accordance with Article 5 of the Commission Decision, in order to promote efficient working. The scope of each subgroup shall be defined.

## **Article 7 - Expert Working Groups**

7.1 In accordance with Article 5 of the Commission Decision and Article 5.5 above, the Group may create expert working groups which work on the basis of a mandate and which are discontinued once their task is accomplished.

## **Article 8 - Secretariat**

8.1 The Commission shall provide the secretariat to the Group.

## **Article 9 - Transparency**

9.1 The Group's Secretariat shall create the Group's own web-site, with a public area with access for all, and a restricted area with access for the Group's members and participants and the Commission's services only. Documents to be dealt with at each subsequent Group meeting shall be put on the restricted area for restricted distribution; all public documents mentioned above shall be put in the public area.

9.2 The Group shall publish an annual work programme, having consulted interested parties on its contents. The programme shall in particular provide for the development and maintenance of a number of decisions which shall be published after agreement by the Group.

9.3 The agenda and a note of the decisions agreed upon at the Group's meeting shall be published on the Group's web-site as soon as possible after the meeting.

9.4 The Group shall publish consultative documents to assist it in its work, statements of agreed principles, press releases, consultation procedures, summaries of responses to consultations and other documents which assist

interested parties to understand the work of the Group. Comments received in response to consultation documents shall normally be published.

9.5 The procedure for any consultation and the timescale for responses shall be made clear to the interest groups. Consultation documents shall be published on the Group's web-site. Comments shall be invited either individually or jointly to be addressed to the Group's Secretariat in written form, preferably by email. Comments will normally be made available on the Group's web-site.

9.6 The Group may decide to meet (or mandate representatives to meet) interested parties to discuss matters of common interests. As appropriate, the Chairman may represent the Group at such a meeting or nominate representatives to do so. The Chairman may, on his own initiative, describe the work or explain the views of the Group to the press or other interested parties, in response to enquiries or otherwise in cases of urgency.

## **Article 10 - Institutional Responsibility and Links**

10.1 In accordance with Article 8 of the Commission Decision, the Group shall submit an Annual Report to the Commission.

10.2 On request, the Chairman of the Group shall report to the European Parliament; he shall maintain close links with the Communications Committee [Article 20, Framework Directive] and ensure co-ordination with the Radio Spectrum Committee (in accordance with Recital 9 of the Commission Decision).

10.3 The Group may participate in other European or international committees or groups when that is necessary for the work of the Group.

## **Article 11 - Final Provisions**

11.1 When necessary, the members of the Group shall agree on interpretation of the Rules.

11.2 The Rules shall be made public.

11.3 The Group may decide to adopt additional rules or to vary its rules to facilitate its operations provided that consistency with the Commission Decision, or any successor to that Decision is maintained.

11.4 The present Rules shall enter into force the [...] 2002.