



Brussels, 6 February 2007

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Subject: Reply to the Public Consultation on the Review of EU Regulatory Framework for Electronic Communications Networks and Services launched by the European Commission on 28 June 2006

Enclosed please find EENA's reply to the abovementioned Public Consultation. Point A.1 General Comments contains an explanation of the late submission.

We hope that Commission Services will use the enclosed reply to improve the implementation of the EU Regulatory Framework in order to better serve EU's citizens.

EENA will continue its action for the implementation of an efficient 112 throughout the EU, as well as for the establishment of high quality emergency telecommunications for European citizens, by intervening to all EU Institutions as necessary.

Yours sincerely,

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COVER SHEET

Public consultation on the review of

EU regulatory framework for electronic communications network and services

| | | |
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A. General comments

In this section, respondents are invited to express below their general comments on the Review of the EU Regulatory Framework for electronic communications networks and services.

1. EENA was invited to submit the present reply, several months after the expiration of the deadline for the submission of replies to the present consultation, by Mr. Francisco FRANCA, of the Private Office of Mrs. REDING during a meeting on the 23rd January 2007. EENA submits this reply although it explained during the meeting that its proposals have already been submitted again and again on various occasions to Mrs. REDING as well as to various members of the DG Information Society over the last months and years, and that one further submission, albeit after the expiration of the deadline would not necessarily be productive.
2. Furthermore, the proposed review of the Regulatory Framework has already been structured in such a way that EENA's positions could seem to be out of context as the Commission Communication of 29.6.2006 (COM/2006/334) on the Review of the EU Regulatory Framework for electronic communications networks and services (COM/2006/334), concerns the specific areas (i.e. spectrum management; reduction of the procedural burden associated with the reviews of markets susceptible to ex-ante regulation; consolidation of the single market; improvement of security and; removing outdated provisions). Only the issue of «Strengthening of consumers and user interests» was of interest to EENA, but the scope of the proposed improvements (namely better access for disabled users), was better dealt with by specialised associations.

In fact, EENA's preoccupations have little to do with the existing regulatory framework and a lot with implementation and monitoring, and these issues do not seem to be the subject of the present review.

3. However, EENA complies with the request of the Private Office of Mrs. REDING in the context of a spirit of good will, hoping that this document may have a better chance than the previously submitted ones (see EENA's site at www.eena.org for more information).
4. In this respect only the paragraphs to which EENA introduces a comment are retained.



B. Position on proposed changes

The Commission Staff Working Document accompanying the Communication from the Commission on the Review of the EU Regulatory Framework for electronic communications networks and services summarises the changes being proposed.

In this section, respondents are invited to give comments on these specific proposals

Respondents are requested to express very clearly their position on proposed changes. Please *limit your response to no more than one page per item.*

1. New approach to spectrum management

No comments

2. Streamlining market reviews

No comments

3. Consolidating the internal market

No comments

4. Strengthening Consumer Protection and User Rights

4.1 Improve the transparency and publication of information for end-users

EENA believes that this chapter should also cover (in addition to tariff transparency measures) services provided through the single European emergency call number. These should include the following:

- a. Procedures applying to the localisation of the caller. Articles 9 and 10 of the Directive on privacy and electronic communications (2002/58/EC) clearly stipulate the obligation for *«transparent procedures governing the way in which a provider ... may override ... the temporary denial or absence of consent of a subscriber or user for the processing of location data, ... for organisations dealing with emergency calls and recognised as such by a Member State, including law enforcement agencies, ambulance services and fire brigades, for the purpose of responding to such calls»*.
- b. State of implementation of the 112 in the member States. On the basis of independently verified data (not on the basis of the sole declarations of Member States) communication of updated information including:
 - Percentage of population aware of the 112 (on the basis of a standard Eurobarometer question which should measure the real knowledge of the number citizens would call when facing an emergency in another country of the EU);
 - Legal obligation for maximal response and intervention times. Some countries (UK, The Netherlands, Germany) have established such legal obligations and their citizens when traveling abroad are expecting to receive a similar level of service;
 - Existence of other emergency call numbers and ways of transfer of calls from the 112. This is important because in some countries the 112 service is run by one of the emergency services (e.g. police in Italy, fire-fighters/ambulances in Belgium, Germany, Austria) which does not always have the technical possibility to transfer a call to other emergency services (in some countries the caller is advised to call again another number);



- Geographic coverage of networks and «black» areas (i.e. areas with no network coverage). In many areas of the EU (e.g. islands, mountains) network availability is either poor or non-existent. Citizens entering these areas are entitled to know (through a road sign, via an SMS message or via other means) that if they need to contact the emergency services they will be unable to do so;
- Possibilities of access by disabled users analyzed by type of disability;
- Languages in which calls are answered. Modern technology, combined with common sense ensures that calls can be handled (through 3-way conferences with the help of interpreters on duty) in hundreds of languages. Citizens from all over the EU are entitled to a reply in their language;
- Legal obligation for training of operators in the proper handling of calls and level of training (e.g. in months). In some countries operators receive no training at all, in others (e.g. Finland) operators are trained for several months;
- Implementation of periodic evaluation exercises of the whole 112 service chain (on the basis of the methodology established in 2003 by Portugal) and most recent results. The real evaluation of the 112 service chain in Portugal in the context of this country's preparation for the Euro 2004 football contest showed that 20% of calls in French, 29% of calls in English and 15% of calls in Spanish and Portuguese NEVER received help on the spot of the emergency.

Another issue that is very important for end-users is the information about the existence and use of the 112. EENA reminds the Commission of the following:

- c. The recent (2006) Eurobarometer on the knowledge of the 112 in the EU clearly shows that, on average, only one in every three EU citizens is aware of the 112 as an emergency call number. In spite of the question asked to the responders of the survey was different from the one asked in the context of the similar 2002 survey, the situation is still very preoccupying, especially for countries with large numbers of outbound tourists (Germany, UK, etc.). In parallel emergency services continue to complain about fake calls to the 112 – a phenomenon that could be reduced through information campaigns on the proper use of the 112.

Informing the citizens about the existence and use of the 112 is an obligation inscribed in the Universal Service Directive and the Commission has received several complaints of the EENA against Member States who lag behind in this respect. Unfortunately, no infringement procedure was initiated by the Commission on the basis of the fact that some Member States had informed their citizens. However, as long as the percentage of population aware of the 112 remains less than 100% Member States are not implementing the legislation in force correctly. Article 26 of the Universal Service Directive provides for access to the 112 for «*all end-users of publicly available telephone services*» while according to Article 2a of the Directive on privacy and electronic communications «*user" means any natural person using a publicly available electronic communications service, for private or business purposes, without necessarily having subscribed to this service*».

- d. Furthermore the Commission announced in 2005 that when it will be «*satisfied with progress made on the operation of 112 across the EU, it will launch a communication campaign targeted at the general public at large, to further improve knowledge of the single European emergency number*». However the Commission decided not to pursue several of EENA's complaints against Member States who do not implement the 112 correctly and has never given a date beyond which it plans opening infringement procedures against Member States with a majority of citizens unaware of the existence and use of the 112.
- e. EENA also proposes to the Commission to request Member States to communicate officially the percentage of fake calls to the 112 and use this as an indicator of the implementation (or not) of the obligation of Member States to adequately inform their citizens about the use of the 112.
- f. Concerning information to the citizens EENA has repeatedly proposed to the Commission the establishment of a European 112 day (on the 11 of February or on the 1st of December). The

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establishment of such a day all over Europe could help raise awareness and ensure better information of citizens as well as better implementation by Telecoms Operators and Emergency Services of the 112.

- g. EENA is also preoccupied of the fact that the Commission has reserved the domain name «**112.eu**» (already used in the logo of the EENA long before the Commission's decision) without any indication about a date when this domain name will be used to ensure access to a proper information portal on the 112, containing information as described above - see point 4.1 b). At the same time, the 112 is dealt with in a rather non-coordinated and non transparent way by at least there separate sub-sites of the Commission's EUROPA server (Information Society, Civil protection, Free circulation of persons) something that does not help improve the knowledge of this number by EU citizens.

In fact by refusing to establish a European 112 day and a 112.eu portal the Commission continues to keep the 112 as Europe's best-kept secret, something that in October 2005 Commissioner Reding promised to abolish.

4.2 Strengthen the obligation for network operators to pass caller location information to emergency authorities

EENA fully agrees with the Commission position on strengthening the obligation for operators to transfer caller location information to emergency services in a «push» mode. However, EENA strongly believes that the Commission should consider the following:

- Transparency of the process and respect of the provisions of the Directive on privacy and electronic communications (2002/58/EC) - see above point 4.1 b);
- Capabilities of 112 call centres. In most cases 112 call centres are not equipped with the latest technological capabilities (analog centres; non availability of GIS, incompatibilities). ETSI has not yet provided the standard for a common interface to facilitate the transmission of caller location data from telecomm operators to emergency services.
- Who pays for caller location information? The Commission should clarify whether the operators would have to provide caller location information to the emergency services free of charge or apply a fee. In the first case Member States could use point A.12 of the Annex of the Authorisation Directive (2002/20/EC) concerning the conditions which may be attached to a general authorisation. In such a case however Point A.12 needs to be modified to read «*Terms of use by emergency services in view of locating caller to the single European emergency call number '112' as well as during major disasters to ensure communications between emergency services and authorities and broadcasts to the general public*». Otherwise the Commission should issue guidelines for cost evaluation and allocation (compare with US legislation on this issue namely the «Ensuring Needed Help Arrives Near Callers Employing 911» or ENHANCE 911 Act, which seeks to provide the funding for 911 call centres to upgrade their equipment and operations to receive location-capable wireless 911 calls). EENA could also support a cost allocation model which would involve the subscribers to networks through a small fee (e.g. 1 € per invoice) for the provision of services by the emergency services, on the condition that these services will be provided on the basis of high level quality standards concerning answering and handling of calls, intervention times, evaluation etc.

4.3 Separate the provision of access to public communications networks from the provision of telephone services

No comments

4.4 Remove provisions on universal directories and directory inquiry services from the scope of universal service

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No comments

4.5 Adapt 'telephone service' specific' provisions to technology and market developments

No comments

4.6 Update the provisions on number portability to ensure transfer of all relevant data

No comments

4.7 Ensure that regulators can impose minimum quality of service requirements

EENA believes that this chapter above all should cover the quality of services provided through the single European emergency call number, namely the following:

- a. Percentage of population aware of the 112 = 100% (on the basis of the fact that Article 26 of the Universal Service Directive seeks to ensure access to the 112 for «*all end-users of publicly available telephone services*» while according to Article 2a of the Directive on privacy and electronic communications «*user" means any natural person using a publicly available electronic communications service, for private or business purposes, without necessarily having subscribed to this service*»);
 - b. Maximal response and intervention times e.g. 4 seconds response time, 10 minutes intervention time in urban areas, 20 minutes intervention time in rural areas;
 - c. In case of existence of other emergency call numbers transfer of calls to these other numbers within a maximum time of 4 seconds;
 - d. Clear information about network coverage;
 - e. Possibilities of access by disabled users analyzed by type of disability;
 - f. Answering of calls in a maximum number (possibly all) of EU languages as well as other languages spoken by frequent visitors (or residents) of the areas covered by the 112 call centre;
 - g. Minimal requirements for the training of operators in the proper handling of calls;
 - h. Periodic evaluation exercises of the whole 112 service chain (on the basis of the methodology established in 2003 by Portugal).
-

4.8 Strengthen the right of disabled users to access to emergency services via the number '112'

This issue has been covered exhaustively by organisations of disabled persons. In this respect EENA fully supports the proposals of the European Disability Forum response to the present consultation (DOC EDF 06/10 EN - October 2006).

4.9 Introduce a Community mechanism to address eAccessibility issues

No comments

5. Improving Security

No comments

6. Better regulation: Removing outdated provisions

No comments



C. Comments to the Impact Assessment Report

The Impact Assessment Report accompanying the Communication on the functioning of the Regulatory Framework for electronic communications network and services identifies some broader policy issues - other than those listed in the above Section B.

In this section respondents are invited to clearly express their position on these policy options -. Please keep you response to one page per item.

1. Investment and growth

No comments

2. Radio Spectrum

No comments

3. Regulatory models and the Internal market

No comments

4. Market review procedures

No comments

5. Consumer protection and universal service

No comments

6. Security

No comments

7. Other areas

EENA believes that **the most important shortcoming of the Regulatory Framework concerning the single European emergency call number is not the legislation per se but its implementation**. In this respect, Chapter 6 *MONITORING AND EVALUATION* of the Commission staff working document entitled «Impact Assessment» (SEC/2006/817) needs to be fully upgraded to include evaluations of the whole 112 service chain by independent experts as well as cross-checks and verifications of declarations of Member States concerning the implementation of the provisions of the Regulatory Framework. EENA finds UNACCEPTABLE the fact that:

- a. For years the Commission has repeatedly stated in the annual implementation reports that the implementation of the 112 was without problems, then declaring that it could not launch an information campaign because there are too many problems.
- b. The last implementation report mentioned that Belgium and France have implemented caller localisation for mobiles when several months later the respective Ministries of the Interior stated by writing that this was not the case.
- c. In spite EENA's repeated requests as well as the request of the European Parliament in 2005 for an evaluation of the 112 service chain on the basis of the methodology developed by the Portuguese consumer association DECA in 2003 with Community financing, the Commission just never conducted such an evaluation.

D. Other comments

Respondents wishing to address any additional issues/topics in relation with the Review of the EU Regulatory Framework for electronic communications networks and services are invited to express their views below.

Please keep responses short and concise.

- a. EENA notes that publicly available documents with lessons learnt from the September 11, 2001 disaster in New York, and the July 7, 2005 attacks in London, strongly underline the fact that the response of emergency services was hindered by multiple failures of communication systems and processes, as well as by technological limitations, especially non-interoperable systems. The same documents stress the fact that emergency services urgently need improvements in telecommunications and technology capabilities to be able to face efficiently such events in the future. Although the Commission finances some projects in this area through the European Security Research Programme (ESRP) and IST sub-programme of the 6th Framework Programme for R&D, legislative measures are also needed for the implementation of EU-wide interoperable systems and the migration from existing non-interoperable systems (TETRA, TETRAPOL, GSM-BOS, etc.) to the next generation of high capacity networks for emergency services.
- b. EENA also notes that in spite of a lot of talk about early warning systems for citizens in the wake of the Indian Ocean tsunami disaster, and the financing of some projects in the context of the IST sub-programme of the 6th Framework Programme for R&D, the Commission has not yet started work on a legislative proposal for the establishment of a EU-wide early warning system for citizens. EENA wishes to remind the Commission of the following:
 - Warning systems and practices vary in the different countries of the EU. Siren and other audible alarm signals are provided for in several cases (safety in the workplace, nuclear and chemical plants, wartime alerts, dam-breaking alerts, etc.) and they are not standardized or harmonized. Test arrangements for such systems also vary between Member States. Additionally, Member States and local authorities have experimented with various new systems (intelligent sirens, mobile telephones, RDS car radios) but no generalised solution has ever been proposed or implemented.
 - At the same time EU citizens are clearly concerned about early warning and alert. According to the European Commission (Eurobarometer 51.1p, 1999) a significant percentage of EU citizens (65,2%) feels unsafe when in another EU country for various reasons (they do not know the risks in the country; do not speak the language; feel that the emergency services less well organized; feel that signals and instructions are different). It is evident that special alarm arrangements are needed for non-residents in case of many types of potential accidents or disasters. Such an alarm may concern cross-border accidents or non-residents present in tourist areas. The possible risks include nuclear power plants, chemical factories (Seveso and non-Seveso), transport of dangerous goods (by highways, ports, railroads, pipelines), dams, areas prone to avalanches, landslides, floods, extreme weather conditions and volcano eruptions as well as hotels and other public places (fire risk, terrorist attack etc.). With millions of tourists from the EU visiting every year high risk areas all over the world, this issue does not only concern the EU Member States but all countries accepting large numbers of EU tourists, as well as countries outside the Union the citizens of which visit Europe every year.
 - The European Commission has already been made aware of the problems but without taking concrete action. The issue has been extensively discussed in the context of the Civil Protection activities mainly at a workshop on the technological aspects of modern warning and alarm systems (organized by the Finnish Ministry of Interior in the context of the major project on the information to the public - see MoI Finland, 2000), as well as in the context of the major project entitled From Emergency to Crisis (MoI Germany, 1999). The main conclusion from these actions was that alarm signals should not be linked with the type of the emergency (nuclear, chemical, natural etc.) but with the behaviour expected by the

population. More specifically one signal should induce citizens to «*Go indoors and stay there*» while another should incite them to «*Evacuate closed spaces*». These and other projects also concluded that warning and alert should be provided through multiple vectors (study by Volkmar Held, 2001), i.e. use of audible alarm signals and modern telecommunications networks (mobile telephones, pagers, RDS, digital radio and television, etc.) especially for people with disabilities. Supplementary information to the public could then be conveyed through classic communication channels (radio, television) or modern networks (mobile telephones, internet, etc.).

- On the other hand, several pieces of EU legislation cover the obligation for the provision of warning and alarm. Unfortunately, they fall under the responsibility of different policy areas and consequently their implementation remains uncoordinated. They include :
 - a. Directive 92/58/EEC on safety and health signs at work, in the policy area of Employment and Social Affairs. Annex VII provides for a continuous acoustic signal for evacuation¹, while Annex I provides for regular check of the signalling devices. As the leisure area of one person can be considered to be the work area of another, this directive could be applied in general for the warning and alarm of people in public places.
 - b. Directive 96/82/EC (Seveso II), applies to a subset of chemical plants and falls in the policy area of Environment. Annex II provides for the inclusion of the organisation of alert and intervention around the so called Seveso installations. Annex IV provides that emergency plans should include arrangements for early warning of incidents, alert and call-out procedures, as well as arrangements for providing the public with specific information relating to the accident and the behaviour which it should adopt.
 - c. Directive 89/618/Euratom, (adopted after the Chernobyl nuclear disaster), falls within the policy area of Energy. It provides for the information of the public in case of radiological emergencies. Annex I provides for information about emergency measures envisaged to alert, protect and assist the general public in the event of a radiological emergency.
 - d. The Authorisation Directive (2002/20/EC) provides that Member States may establish specific terms for operators concerning the use of networks “*during major disasters to ensure communications between emergency services and authorities and broadcasts to the general public*”.
- Consequently, the EU may use these acts as a solid legal basis for a European initiative in the field of early warning and alert. Such an initiative would establish a legal obligation to warn, alert and inform citizens, in their own language, in case of an imminent disaster, by all available telecommunication means (radio, TV, GSM, siren, etc.). Information in this context would also cover the issuing of instructions about expected behaviour in all possible cases of major disasters (nuclear, chemical, natural, terrorist, ...) even the obligation to ensure (simple and comprehensive) training well before the disaster. Finally, the initiative could ensure the implementation of quality criteria for the service provided.
- Additional justification for such an initiative may be provided by the widening perception of the terrorist threat, the natural risks present in the European region (floods, storms, avalanches, etc.), the numerous EU citizens moving around feeling unsafe, the need for the approximation of legislations and the conclusions of several projects financed by the Community budget in the fields of Civil Protection, Research, Information Society, etc. The initiative may aim at the generalised use of the two existing audible signals (one for evacuation, one for confinement), the testing of warning systems all over the EU on the same day (e.g. on the 11th of February which links with the single European emergency call number 112), the implementation of multilingual capabilities in special dissemination systems (RDS and digital radios, digital TV’s, cell broadcast of messages), the coordinated use of communication networks for warning and alert of people with disabilities and the follow-up information of populations concerned. It could also provide for specific measures for tourists and other non-residents as well as for the collaboration with broadcasters and

¹ However, this is in contradiction with the ISO 8201 standard (Acoustics - Audible Emergency evacuation signal) which provides for a three pulse temporal pattern followed by an off phase.



NGOs (environmental, search and rescue, medical, etc.) who play a key role in warning and informing the public. The initiative could be periodically evaluated in view of taking further actions at Community level.

- Of course, launching such an initiative means that several Commission services need to pull their act together and think in a creative way with their priorities aimed at serving the citizens. Maybe this is easier said than done – but the political clout of such an action would certainly be very important for the college of the Commissioners, especially as this idea is now supported by a large majority of the European Parliament (see debate and voting record for the adoption of European Parliament legislative resolution on the proposal for a Council decision establishing a Community civil protection mechanism (recast) dated 24 October 2006 - P6_TA-PROV(2006)0434 -A6-0286/2006).