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IRIS 2017-5/5

European Commission: Consultation on significant market power guidelines

On 27 March 2017, the European Commission launched a public consultation on reviewing the Commission's 2002 Guidelines on market analysis and the assessment of significant market power (SMP) under the regulatory framework for electronic communications networks and services (Framework Directive 2002/21/EC) (see IRIS 2002-9/10). The purpose of the consultation is to review and update the Guidelines to coincide with the implementation of the proposed new European Electronic Communications Code (see IRIS 2016-10/4). The update of the guidelines shall take into account changes in the telecoms markets and recent developments in regulatory and competition law.

Article 15(2) of the Framework Directive requires that the Commission publish the Guidelines, and that the Guidelines are addressed to national regulatory authorities, which must take the "utmost account" of the Guidelines when defining relevant markets and assigning telecommunications operators with significant market power. This is with a view of imposing on the operators appropriate regulatory obligations to redress competition problems.

In the Consultation, the Commission is seeking to update several sections of the Guidelines. First, the Consultation asks a number of questions concerning the section of the Guidelines on market definition, including the main criteria for defining the relevant product market and whether there should be updated or additional guidance. Second, the Consultation examines Section 3 of the Guidelines, on the criteria for assessing significant market power, including on collective dominance. This is the largest section in the Consultation, and has detailed questions on recent Court of Justice of the European Union case law. Third, the Consultation considers Section 4 of the Guidelines, on the imposition of regulatory obligations on SMP operators by national regulatory authorities. Finally, the Consultation seeks input on a number of procedural issues under Section 5, concerning powers of investigation and cooperation procedures for the purpose of market analysis; and under Section 6 for consultation and publication of National Regulatory Authorities decisions.

The Consultation is open until 26 June 2017, and the Commission states that the responses will provide guidance to the Commission in the review process of the 2002 SMP Guidelines, in time for the implementation of the new European Electronic Communications Code.

- European Commission, Public Consultation on the Review of the Significant Market Power (SMP) Guidelines, 27 March 2017

<http://merlin.obs.coe.int/redirect.php?id=18477>

DE EN FR CS DA EL ES ET FI HU IT LT LV MT NL PL PT SK SL SV HR

- European Commission, Commission launches public consultation on the review of the Significant Market Power Guidelines, 27 March 2017

<http://merlin.obs.coe.int/redirect.php?id=18480>

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