



## Regulation on the doorstep of the digital era



*“Today, any service can be offered over any network and be accessed via any terminal.”* This statement, which could easily be attributed to commissioner Oettinger in 2015, dates back from 2001 and was made by the commissioner in charge of Information Society, Erkki Liikanen. Since then, the technological revolution has made this observation even more accurate. **Broadband on multiple devices** has enabled an ever growing number of consumers to access a zillion new services, forcing European regulators to react accordingly.

Indeed, the first **“telecoms package”** adopted in 2002 set a **uniform regulatory approach** at the EU level to accompany the liberalisation decided in the late 80s. In markets historically dominated by **incumbents**, the objective was to provide new entrants with fair **access conditions** to the **copper network** and to foster growing competition in the **mobile sector**. Dealing with service provision, interconnection and users’ contractual rights, the package also provided a framework for a European radio **spectrum** policy.

Its revision in 2009 to address new competitive issues raised by broadband was shortly followed by a political **Digital Agenda** which set EU priorities regarding **broadband penetration**.

With her 2013 *“connected continent”* proposal, former commissioner Neelie Kroes was looking forward to *“pushing the telecoms sector fully into the internet age”*. However, only the abolition of **roaming** fees and the **net neutrality** principle went through the decision-making process which ended last June.

Yet the regulatory evolution was underway... The shift from a telecoms sector-specific to a **holistic approach** has since been confirmed by Junker’s Commission, which ranked digital policy among its top ten priorities. The political **Strategy for a Digital Single Market** presented in May covers the whole **digital ecosystem** through sector specific regulatory reviews (telecoms,

audiovisual, spectrum, e-commerce, copyright), **horizontal initiatives** (taxation, social policy, standardisation) and support to **innovation** (big data, cloud computing, internet of things, 5G, etc.).

The public consultation on the telecoms package, which ended this month, offers a good preview of the **“360° revision”** the Commission intends to undertake next year. In addition to assessing the effectiveness and the need for improvement of current rules, the new telecoms story will have to address unprecedented issues.

A first question EU decision-makers need to answer is how to better incentivise investments into **broadband** roll-out in order to put the EU on the digital podium and to avoid a digital divide. For incumbents, **deregulation** and **market consolidation** are the ultimate solutions whereas alternative operators advocate **further competition** to boost investments and innovation.

But the debate is not only between **electronic communication services providers** (ECS) anymore. It is also about handling the economic importance of **over-the-top-players** (OTTs) which offer online services without being involved (and thus compelled to invest) in the operation of communication networks, and therefore not constrained by the same regulatory framework. Here, the challenge will be for the Commission to find a level-playing field between ECS and OTTs over the provision of services while supporting the innovation capabilities of both. The solution is more complex than just deregulating the former or regulating the latter since OTTs are usually based outside of the EU.

These choices will be all the more important since their impact will be felt far beyond the telecoms sector. The next step is a transversal approach taking into account implications in all electronic, or “e” fields: e-transport, e-health, e-government, e-commerce, etc. Nearly all aspects of the e-economy...●

## Stormy weather for the new Dutch Presidency

From January to June 2016, the Netherlands will **chair the EU Council** at a time when the EU is facing **many challenges**: migration crisis, sluggish economic growth, rising Euroscepticism and a possible Brexit.

Although the most burning political issues are dealt with in the European Council, chairing the EU Council is not a bed of roses. First of all, the presidency must ensure the smooth running of negotiations and **reach compromises** between Member States as well as with the European Parliament and the Commission on ongoing legislative initiatives. Then, the 2016 Commission work [programme](#), “No time for business as usual”, does not spare **complex issues**: tackle the refugee crisis, complete the Digital and the Single Markets as well as the Energy Union, negotiate on the labour mobility and circular economy packages.

Another very sensitive issue is the **Brexit**. British Prime Minister David Cameron would like the negotiations to be quick in order to hold a referendum in the first half of 2016. As early as 2012, Dutch Prime Minister Mark Rutte claimed in the French newspaper *Le Figaro* that the time had come to reconsider task sharing between the EU and its Member States. **The Dutch are not immune** to British arguments. It is not by chance that David Cameron started its European tour on his reform plan in the Netherlands and that, in his [letter](#) of November 10<sup>th</sup>, he referred to the Dutch position regarding subsidiarity: “*Europe where necessary, national where possible*”. However,

Mark Rutte concluded in the same *Le Figaro's* paper that he disliked special treatments and that the Netherlands' role was **to keep the British on board**.

Adding to these challenges, **Euroscepticism is growing** in the Netherlands. This is well exemplified by the rise of Geert Wilders' Freedom Party (PVV) whose four MEPs joined the “Europe of Nations and Freedom” political group created in June 2015 by Marine Le Pen. Moreover, in April 2016, a **national referendum** will be held on the EU-Ukraine association agreement, as more than 300 000 Dutch people petitioned for. Although the result will not be binding on the Dutch government, a negative answer may weaken its EU Presidency.

To tackle all these issues, **the Dutch Presidency's experience** (they have already done the job 11 times!) will be more than useful. Besides, they benefit from major assets such as the presence of **fellow countrymen in strategic positions** within EU institutions, like the Commission's Vice-president and its top civil servant Frans Timmermans and Alexander Italianer respectively. In the Parliament, 9 of the 26 Dutch MEPs are coordinators, which gives the Netherlands a significant influence. The Presidency can also rely on its Minister of Finance, Jeroen Dijsselbloem, who has chaired the Eurogroup since 2013.

The Dutch might be in the eye of the storm but, fortunately enough, their sailors are experienced.●

### Public consultations \*

Policy field	Title	Deadline
Communications	<a href="#">Geo-blocking and other geographically-based restrictions</a>	28.12.2015
	<a href="#">Regulatory environment for platforms</a>	30.12.2015
	<a href="#">National wholesale roaming markets</a>	18.02.2016
Climate Action	<a href="#">Evaluation of the car labelling directive</a>	15.01.2016
Taxation	<a href="#">Common Consolidated Corporate Tax Base (CCCTB)</a>	08.01.2016
Competition	<a href="#">Empowering the national competition authorities</a>	12.02.2016
Internal Market	<a href="#">Enforcement of intellectual property rights</a>	01.04.2016

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\* For an exhaustive list : <http://ec.europa.eu/yourvoice/>