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THE EUROPEAN UNION**



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2877th Council meeting

Transport, Telecommunications and Energy

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Luxembourg, 12-13 June 2008

President

Andrej Vizjak,
Minister for the Economy
Mojca Kucler Dolinar
Minister for Higher Education, Science and Technology
Radovan Žerjav
Minister for Transport of Slovenia

P R E S S

Main results of the Council

Telecommunications

The Council held a public exchange of views on the review of the EU regulatory framework for electronic communications networks and services and took note of the presidency's three progress reports on the work carried out so far in its preparatory bodies.

The Council adopted conclusions on a common approach to using the spectrum released by the digital switchover and on the i2010 mid-term review.

In addition, the Council reached a general approach on a draft regulation extending for three years the mandate of the European Network and Information Security Agency.

Transport

The Council reached political agreements on three road transport proposals, namely access to the international road haulage market, the occupation of road transport operator and the international market for coach and bus services.

The Council adopted decisions on negotiating mandates for a Transport Community Treaty with the Western Balkans and for aviation agreements with Australia and New Zealand.

The Council also reached a general approach on a proposal on the promotion of clean and energy efficient road transport vehicles.

In addition, the Council adopted conclusions on multi-annual contracts for rail infrastructure quality.

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 - Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
 - Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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PARTICIPANTS

The governments of the Member States and the European Commission were represented as follows:

Belgium:

Mr Vincent VAN QUICKENBORNE
Mr Etienne SCHOUPPE

Minister for Enterprise and Simplification
Secretary of State for Mobility

Bulgaria:

Ms Vessela Borissova GOSPODINOVA

Deputy Minister for Transport

Czech Republic:

Ms Daniela KOVALČÍKOVÁ
Mr Martin TLAPA

Deputy Minister for Transport, Legislation Section
Deputy Minister for Industry and Trade, European Union Section

Denmark:

Mr Helge SANDER

Minister for Science, Technology and Development

Germany:

Mr Wolfgang TIEFENSEE

Federal Minister for Transport, Building and Urban Development

Mr Bernd PFAFFENBACH

State Secretary, Federal Ministry of Economic Affairs and Technology

Estonia:

Mr Juhan PARTS

Minister for Economic Affairs and Communications

Ireland:

Mr Noel DEMPSEY

Minister for Transport and the Marine

Greece:

Mr Konstantinos HADJIDAKIS

Minister for Transport and Communications

Spain:

Mr Francisco ROS PERÁN

State Secretary for Telecommunications and the Information Society

France:

Mr Dominique BUSSEREAU
Mr Luc CHATEL

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Minister of State with responsibility for Industry and Consumer Affairs, Government Spokesperson

Mr Eric BESSON

Minister of State with responsibility for Forward Planning, Assessment of Public Policies and the Development of the Digital Economy

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Mr Paolo ROMANI

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State Secretary for Economic Development

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Minister for Communications and Works

Latvia:

Mr Ainārs ŠLESERS

Minister for Transport

Lithuania:

Mr Algirdas BUTKEVIČIUS

Minister for Transport and Communications

Luxembourg:

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Minister for Communications, Minister for Defence
Minister for the Environment, Minister for Transport

Mr Lucien LUX

Hungary:

Mr Akos BÓNA
Mr. Lajos CSEPI

State Secretary for Telecommunication
State Secretary for Transport

Malta:

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Netherlands:

Mr Frank HEEMSKERK
Mr Camiel EURLINGS

Minister for Foreign Trade
Minister for Transport, Public Works and Water
Management

Austria:

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Federal Minister for Transport, Innovation and
Technology

Poland:

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Minister for Infrastructure

Portugal:

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Deputy Permanent Representative

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Mr Barna TÁNCZOS

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State Secretary, Ministry of Transport

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Mr Andrej VIZJAK
Ms Mojca KUCLER DOLINAR
Mr Peter VERLIČ

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Minister for the Economy
Minister for Higher Education, Science and Technology
State Secretary at the Ministry of Transport

Slovakia:

Mr Lubomír VÁŽNY

Minister for Transport, Post and Telecommunications

Finland:

Ms Suvi LINDÉN

Minister for Communications

Sweden:

Ms Åsa TORSTENSSON

Minister for Infrastructure

United Kingdom:

Ms Rosie WINTERTON
Baroness VADERA

Minister of State for Transport
Parliamentary Under Secretary of State for Business and
Competitiveness

Commission:

Ms Viviane REDING

Member

ITEMS DEBATED**TELECOMMUNICATIONS****Review of the EU regulatory framework for electronic communications**

The Council held a public exchange of views on the review of the EU regulatory framework and took note of the presidency's three progress reports on the work carried out so far in its preparatory bodies.

The Commission's telecoms reform package¹, adopted on 13 November 2007, aims to enable citizens, wherever they live and wherever they travel in the EU, to benefit from better and cheaper communication services.

On the basis of questions drawn up by the presidency (*9849/08*), the *Ministers' debate focused* in particular on the proposal on better regulation, namely the consistent application of the regulatory framework in the internal market and the management of the radio spectrum in the EU.

The discussions provided political guidance for further work on these proposals that will continue under the forthcoming French presidency.

– ***Better regulation directive***

The presidency progress report (*10334/08*) on this proposal reflects the progress made so far at working party level and the main reactions by delegations.

This Commission's proposal aims to amend the regulatory framework for electronic communications by improving its effectiveness, reducing the administrative resources needed to implement economic regulation and making access to radio frequencies simpler and more efficient.

¹ It contains the following legislative proposals:

- a proposal for a "better regulation" directive amending directives 2002/21/EC (framework directive), 2002/19/EC (access directive), and 2002/20/EC (authorisation directive) (*15379/07*);
- a proposal for a "citizen's rights" directive, which amends directive 2002/22/EC (universal service directive), directive 2002/58/EC (personal data directive) and regulation (EC) No 2006/2004 on consumer protection cooperation (*15387/07*);
- a proposal for a regulation establishing the European Electronic Communications Market Authority (*15408/07*).

During the discussions in the Council's bodies, delegations supported a number of objectives put forward in this proposal, such as the need to ensure consistent application in the member states of the regulatory framework for electronic communications and the need to ensure flexible and efficient use of the radio spectrum. However, they have some doubts about the proposed measures to achieve those objectives, about the proposed procedures to achieve harmonisation and about the level of detail of such harmonisation. In addition, the member states are concerned that the proposals could disturb the current balance of proportionality and subsidiarity and that a number of provisions would considerably add to the administrative burden.

The progress report also identifies the main issues that will need to be addressed further, in particular: radio spectrum, article 7 procedures and remedies, and implementation issues.

– *Citizen's rights directive*

The presidency's progress report on the proposal for a directive on citizen's rights can be found in 10336/08.

During the examination of the proposal in the working party, the delegations supported the Commission initiative in principle, agreeing that in general the amendments proposed by the Commission go in the right direction and concern important issues. The general thrust of the proposal, namely to ensure that consumers' rights remain an important focus of regulatory policy in the sector, was broadly supported, as regards both the universal service directive and the e-privacy directive.

However, the member states underlined the need to carefully examine the proposals in order to maintain an appropriate balance of proportionality and subsidiarity, as well as to avoid unnecessary burdens for both national regulatory authorities and the undertakings concerned, while ensuring competition and benefits for end-users.

In addition, the progress report identifies the main issues that remain open. In respect of the universal service directive, these issues are: provision of access at a fixed location and provision of telephone services; provisions for contracts; quality of service as well as emergency call provisions. As far as the e-privacy directive is concerned, the security of processing and the issue of implementation and enforcement, in particular, will need further discussion.

– *Establishment of the European electronic communications market authority*

The presidency progress report on the work carried out so far on this proposal can be found in 10337/08.

Discussions in the Council bodies on this proposal showed that almost all member states were against the creation of a new market authority as proposed by the Commission.

Ministers also discussed, over lunch, the issue of the establishment of a new market authority. The presidency summarised the debate as follows:

- "there was a broad consensus among the majority of the member states that there is a need to improve the consistency of functioning of the internal market for electronic communications;
- there is a need for a prior agreement on aims and tasks of the new body before the determination of its legal structure;
- the new body has to function in accordance with the principles of efficiency, transparency, independence and expertise;
- the establishment of the new body would have no affect on the existence and functioning of the European Network and Information Security Agency;
- tasks of the new body would not include spectrum management issues;
- regarding aims and tasks, the new body has to focus on economic regulation issues.

The debate also showed that there are many reservations regarding the establishment of a new body as a Community body and that there is broad support among member states to the idea that the existing European regulators group should be enhanced."

The European Parliament first reading opinions on all these legislative proposals are expected to be adopted in September 2008.

Use of the spectrum released by digital switchover - *Council conclusions*

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION,

1. WELCOMES

The Commission Communication on "Reaping the full benefits of the digital dividend in Europe: A common approach to the use of the spectrum released by the digital switchover"¹.

2. RECALLS

- (a) The Council Conclusions of 1 December 2005 on "Accelerating the transition from analogue to digital broadcasting"²;
- (b) The Presidency Conclusions of the European Council of December 2006, stating in particular that immediate priorities include the development of spectrum allocation models meeting all objectives, the fast promotion of advanced mobile services and to the extent possible a coordinated approach of the use of spectrum capacity becoming available as a result of digital switchover³;
- (c) The Council Conclusions of 6/8 June 2007 on "i2010 – Annual Information Society Report 2007"⁴;
- (d) The Council Conclusions of 1 October 2007 on the Communication from the Commission on the ITU World Radiocommunications Conference 2007 (WRC-07)⁵.

3. TAKES NOTE OF

- (a) The Opinion of the Radio Spectrum Policy Group of 14 February 2007 on "EU Spectrum Policy implications of the digital dividend"⁶;

¹ 15365/07

² 14636/1/05 REV1 (Presse 303)

³ 16879/1/06 REV1 (para. 30, p. 14)

⁴ 10456/07 (Presse 133)

⁵ 13066/07 (Presse 203)

⁶ http://rspg.ec.europa.eu/doc/documents/opinions/rspg07_161_final_op_digdiv.pdf

- (b) The Opinion of the Radio Spectrum Policy Group of 19 November 2004 on "Spectrum Implications of Switchover to Digital Broadcasting"¹;
- (c) The reports from CEPT in response to the Commission mandates on the digital dividend, pursuant to the Radio Spectrum Decision.

4. RECOGNISES

- (a) The importance of the i2010 initiative forming part of the renewed Lisbon strategy, which emphasises the importance of ICT in delivering growth and jobs as a major driver of innovation and productivity gains;
- (b) That, following the transition to digital broadcasting transmission, existing broadcasting services may be provided in a fully digital environment by using less spectrum than historically dedicated to analogue broadcasting in the UHF band. In general, this gain in spectrum shall be termed the "digital dividend";
- (c) The principle to ensure flexibility of usage of the digital dividend notwithstanding constraints necessary to avoid harmful interference or to promote general interest objectives such as large availability of the service or media pluralism and cultural and linguistic diversity;
- (d) That, besides the extension of broadcasting services a potential of the digital dividend is to support the achievement of the Lisbon goals by inter alia increasing the availability of broadband access services to citizens and economic players throughout the EU territory, addressing the digital divide in the provision of ICT services, particularly providing, where appropriate, benefits for under-privileged, remote or rural areas;
- (e) That the ITU Geneva-06 Agreement² (RRC-06) and the Final Acts of the World Radiocommunications Conference 2007 (WRC-07) to the reorganisation of the UHF band provides the basis of the international framework within which spectrum coordination of the digital dividend can be undertaken;

¹ http://rspg.groups.eu.int/doc/documents/opinions/rspg04_55_op_dig_switch.pdf

² COM (2005) 461 on "EU spectrum policy priorities for the digital switchover in the context of the upcoming ITU Regional Radiocommunication Conference 2006 (RRC-06)"

- (f) The potential benefits of a coordinated EU approach in allocating the digital dividend to other electronic communication services than the broadcasting services, while taking into account the principle of subsidiarity and general interest objectives of the EU and of the Member States, such as cultural diversity and media pluralism, as well as individual national situations and time plans for the switchover;
- (g) That in many Member States plans for switchover are either highly developed or being implemented, while in a few switchover has already taken place.

5. UNDERLINES

- (a) The need to make the best use of the digital dividend taking into account all the potential social, cultural and economic benefits, while considering also the different national circumstances in Member States;
- (b) The potential use of the digital dividend as an opportunity both to extend broadcasting services and to provide for example a better picture and audio quality as well as to introduce new communication services such as wireless broadband communications, additional terrestrial broadcasting services and mobile multimedia services;
- (c) The genuine right of Member States to determine the amount of spectrum from the digital dividend to be used for the achievement of general interest objectives in conformity with Community law, including broadcasting services;
- (d) The need for close cooperation between Member States in coordinating spectrum usage in the EU in order to enhance its more efficient use and to avoid harmful cross-border interference among Member States and between Member States and third countries;
- (e) The potential benefits of identifying the parts of the UHF bands for non mandatory use by uni – and bidirectional networks in the interest of achieving more efficient spectrum use; in order to facilitate the emergence of innovative and successful national or cross-border services the radio interference potential arising from the co-existence of uni – and bidirectional networks in the same band as well as existing authorisations should be taken into account;

- (f) The potential benefits of close cooperation between Member States in coordinating spectrum usage in the EU in terms of economies of scale;
- (g) The benefits of ensuring flexibility of usage of the digital dividend with the exception of services of general interest, including those serving cultural and linguistic diversity and media pluralism, while taking into account constraints necessary to avoid harmful interference and to safeguard efficient spectrum use;
- (h) The need to take into account different situations regarding current uses of spectrum in the UHF band in different Member States, as well as differences in national plans regarding the digital switchover when coordinating usage of spectrum in the UHF band;
- (i) The desirability of Member States releasing their digital dividends as quickly as possible after the switchover, depending on national switchover dates, allowing European citizens and consumers to benefit from the deployment of new, innovative and competitive services.

6. INVITES THE MEMBER STATES TO

- (a) Actively engage in the debate and help define the shared objectives and the elements for close cooperation between Member States for coordinating spectrum usage in the UHF band;
- (b) Work together for identifying the relevant parts of the UHF bands which could be made available for services using uni – and bidirectional networks respectively, on a non-exclusive, non-mandatory basis, without prejudice to subsequent agreements between Member States;
- (c) Facilitate cross-border spectrum coordination based on the results of the RRC 06 and the WRC 07;
- (d) Use the UHF radio spectrum in accordance with the provisions adopted at ITU level (RRC 06, WRC 07).

7. INVITES THE COMMISSION

- (a) To initiate the studies and consultations necessary to define a coherent basis for the coordinated usage of spectrum on a non exclusive, non mandatory basis, notably including the technical aspects, the cost analysis and the socio-economic impact of different options and the regulatory conditions for accessing spectrum;
- (b) To facilitate a wide and open investigation, involving all concerned parties, to identify any priorities and options when considering close cooperation between Member States in coordinating spectrum usage in the UHF band in line with the results of the WRC 07;
- (c) To recognise previous advice by both the RSPG and CEPT that harmonisation of a sub-band of UHF for mobile communications is feasible provided that it is on a non-mandatory basis;
- (d) To support and assist the Member States in the process of achieving close cooperation between Member States in coordinating spectrum usage and of reaping the full benefits of the digital dividend;
- (e) To support and assist the Member States in avoidance of harmful cross-border interference, if and when appropriate, without prejudice to existing bodies;
- (f) To report to Council by December 2008 on the results of this process and on any further steps required."

i2010 mid term review - Council conclusions

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION,

1. WELCOMES

- (a) the Commission communication of 17 April 2008 on "Preparing Europe's Digital Future: i2010 Mid-term review".

2. RECALLS

- (a) the Council Conclusions of 1 December 2005 on "i2010 – A European Information Society for Growth and Employment", including the eAccessibility conclusions;
- (b) the Riga Ministerial Declaration on eInclusion of 11 June 2006;
- (c) the Council Conclusions of June 2007 on the "i2010 – Annual Information Society Report 2007", inviting the Commission to develop policies regarding future trends, in particular for the future of networks and the internet, the internal market and the users' perspective;
- (d) the Ministerial Declaration of Lisbon of 19 September 2007 on eGovernment;
- (e) the Conclusions of the Spring European Council of March 2008, inviting Member States to aim to make high-speed internet available to all schools by 2010 and to set ambitious national targets for household access as part of their National Reform Programmes.

3. ACKNOWLEDGES

- (a) the strategic importance of ICTs in EU policies for growth and jobs as highlighted recently in the assessment of the Lisbon strategy, the Single Market Review, the implementation of the Innovation Action Plan, the Information communication technologies Policy Support Programme, and the review of the consumer acquis;

- (b) the progress towards the Internet economy and the significant achievements in implementing comprehensive information society policies, both in the Member States to support the structural reform of national economies, and at the EU level to promote convergence, to strengthen research and innovation, to improve the delivery of public services and to make the information society more inclusive.

4. UNDERLINES

- (a) the need to develop European Information Society policies that improve competitiveness and address the gaps in performance, thus countering fragmentation within Europe in areas such as research and innovation, broadband developments, digital literacy, delivery of interoperable public services, and ICT take-up by businesses, with particular attention being paid to SMEs;
- (b) the need to identify trends and obstacles emerging in the progress towards an ubiquitous information society and assess how they challenge current policies;
- (c) that promoting market-driven investment and innovation in the field of ICTs, and a Single Market for the Information Society and media, including through the review of the regulatory framework for electronic communications, remains one of the main objectives of the i2010 initiative;
- (d) that the Single Market requires to promote the free movement of knowledge and innovation - the 'fifth freedom', encouraging inter alia open access to knowledge and open innovation - by removing the barriers which prevent the EU from further developing and exploiting ICT on a pan-European scale;
- (e) that ICT has a role to play to close major gaps in the Single Market, streamline procedures and reduce the administrative burden for citizens and businesses, notably through eGovernment, e-inclusion and cross-border and pan-European interoperability of public services with continuous effort given to the definition and broader uptake of open technical standards and publicly available specification;
- (f) that ICT is an important driver for innovation and its role in this respect could further enhance existing lead market initiatives for eHealth, pre-commercial public procurement, using ICT to address climate change and energy efficiency, or promote the role of eInfrastructures in the global research environment;

- (g) the need to provide the privacy and data protection in innovative ICT products and services (such as RFID) to increase user awareness, trust and confidence in order to promote and ensure broad acceptance and use;
- (h) the need to develop appropriate measures to improve e-skills and the uptake of ICT in order to contribute to innovativeness, productivity and employability and to better respond to global challenges;
- (i) the European i2010 initiative on eInclusion as a strategic framework to boost the effective participation of groups at risk of exclusion, improve the quality of life through the use of ICTs, and address major EU challenges such as the ageing population, employment and equal opportunities;
- (j) the need for a long term agenda to address users' expectations and concerns regarding interoperability, the use of and access to online services, copyrighted and user-created content, content quality, information accuracy, the integrity of information, privacy and the protection of minors;
- (k) the importance of broadband coverage of the population for the inclusion in the information society;
- (l) the strategic importance of the development of fixed and mobile very high speed broadband networks. This development is a condition for European competitiveness, disruptive innovations and next generation services.

5. WELCOMES THE INTENTION OF THE COMMISSION TO

- (a) develop the long-term agenda for information society and media policies with a particular focus on achieving a fully functioning Single Market and eInclusion, the user's needs and their roles in the ubiquitous information society, and further advancement of knowledge on ICTs and their use;
- (b) assess the overall contribution of ICT to the modernisation of European economies and societies, the performance of the EU in the Internet economy and its readiness to face future challenges;
- (c) further develop the Internet of Things through appropriate initiatives.

6. INVITES THE COMMISSION TO

- (a) promote the necessary measures to create appropriate conditions and to identify the policy challenges, in cooperation with Member States, to ensure that future developments in networks and Internet continue to benefit the economy, improve EU's competitiveness and serve the needs of citizens;
- (b) report back in time for the 2009 Spring European Council on its assessment of the overall contribution of ICT to the modernisation of European economies and societies, the performance of the EU in the Internet economy and its readiness to face future challenges;
- (c) initiate in the autumn of 2009, in consultation with the Member States, a review of the i2010 action plan, to prepare the future Information society policy, decisions and actions to reach the future Lisbon Strategy Objectives;
- (d) develop, in consultation with the Member States a Broadband Performance Index, to be published together with the values observed for each of its component indicators, that will seek to compare broadband developments in the Member States and their propensity to further take up of advanced services and the benefits that arise from their use.

7. INVITES THE MEMBER STATES TO

- (a) strengthen their efforts to increase the contribution of ICTs to economic structural reforms as part of the national reform plans in the context of the Lisbon strategy for growth and jobs;
- (b) contribute to reducing disparities in information society developments across the EU by promoting market-driven investment, in particular through rapid implementation of relevant national programmes, aimed at increasing broadband coverage and multiplatform access, and speeding ICT R&D and take up, making use, where appropriate, of EU structural funds, in line with the Community legislation;
- (c) stimulate research in ICT to close the gap with the main competing regions in the world and to contribute to more integrated and effective innovation systems;

- (d) create the appropriate conditions for the rolling-out of infrastructures for very high speed access (fixed and mobile), which are strategic for European competitiveness;
- (e) define ambitious targets for broadband penetration at the national level, with a view to reaching, by enhancing competition, an EU average broadband penetration of 30% compared to the 2007 level of 20%, and a national penetration level of at least 15% by 2010;
- (f) implement an eInclusion strategy, which will enable to meet the Riga declaration objectives and commitments;
- (g) promote the adoption of IPv6 and the strategic need of developing and adopting sensor based networks, including those based on RFID;
- (h) keep momentum in the implementation of eGovernment in order to improve service delivery, reduce administrative burdens for business and citizens, and to increase participation.

8. INVITES ALL STAKEHOLDERS TO

- (a) develop and promote user-friendly products and services for improved accessibility;
- (b) develop innovative and interoperable ICT applications, standardisation and increase reliability and security, in order to maximize the benefits of ICT to business productivity;
- (c) identify new business models and innovative technological solutions, which can promote competition and strengthen consumer trust on the use ICT products and services."

European Network and Information Security Agency

The Council reached a general approach on a proposal for a regulation amending regulation 460/2006 establishing the European Network and Information Security Agency (ENISA) as regards its duration (10338/08).

Ministers agreed to extend the ENISA's mandate for three years. This time will be used to enable further discussions on ENISA and allow reflection on the general direction of the European efforts towards an increased network and information security. The Commission was invited to contribute to these discussions.

The ENISA was established for a limited period of time in 2004 and its mandate will expire in March 2009. In December 2007, the Commission proposed extending ENISA for two years (16840/07).

The ENISA was set up to enhance the capability of the EU, the EU member states and the business community to prevent, address and respond to network and information security problems. In order to achieve this goal, it is a centre of excellence in network and information security and is stimulating cooperation between the public and private sectors.

The European Parliament's first reading opinion is expected to be adopted in June.