

Authorisation under European Telecommunications Law

Alexander Koch

ak@AlexanderKoch.de

Public interest purposes

- By controlling market access, economic policy goals become enforceabl.
- Market access controls may be used to control the reliability and qualification of the market actors, thus averting dangers for the public interest.
- By imposing licence fees, funds for the government can be raised, e.g. in order to modernise sector specific infrastructure.
- By attaching licence conditions, anti-competitive behaviour may be restricted, universal service obligations may be mandated and, in general, policy goals may be enforced.

Private interest purposes

- By explicitly defining the rights and obligations of both parties (the licensee and the government) governmental decisions become predictable, reducing uncertainty and instability.
- In order to provide its service, the telecommunications operator might be granted special rights (e.g. access to scarce or finite resources) and/or privileges which are normally reserved to government (e.g. access to private land).

Authorisation

Any permission setting out rights and obligations specific to the telecommunications sector and allowing undertakings to provide telecommunications services and where applicable, to establish and/or operate telecommunications networks for the provision of such services.

General authorisation

Authorisation, regardless of whether it is regulated by a ‘class licence’ or under general law and whether such regulation requires registration, which does not require the undertaking concerned to obtain an explicit decision by the national regulatory authority before exercising the rights stemming from the authorisation.

Individual licence

Authorisation which is granted by a national regulatory authority and which gives an undertaking specific rights or which subjects that undertaking's operations to specific obligations supplementing the general authorisation where applicable, where the undertaking is not entitled to exercise the rights concerned until it has received the decision by the national regulatory authority.

The new Authorisation Directive

The new regime will – hopefully – simplify the whole authorisation-system by taking the lightest existing national regime as a model.

General authorisation under the new Directive

a legal framework established by the Member State ensuring rights for the provision of electronic communications networks or services and laying down sector specific obligations that may apply to all, or to specific types of electronic communications networks and services