

# Imminent reform of the General Telecommunications Act

The Cabinet, in its meeting of 13 September, has approved the referral to Parliament of the General Telecommunications Bill

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## I. Objectives of the reform

The new legislation has two main objectives:

1) Facilitate the deployment of next generation fixed and mobile networks and expand their coverage; 2) Improve the offer to citizens of innovative services, of a higher quality and at more affordable prices, driving more effective competitive conditions.

## II. Measures agreed

according to the statements of the Minister of Industry, Energy and Tourism driving the reform<sup>1</sup>, which must be ratified in the light of the bill sent to the lower House, in order to achieve the above objectives, the measures set out below have been agreed around four lines of action. A table summarising the content of the new legislation has been included at the bottom of the document.

**1. Promotion of competition and improved services to users.** To achieve this result, the following measures are provided:

- A regular analysis of the different markets;
- Clarification on the performance of public administrations in the operation of networks and the provision of telecommunications services. In this respect, the Spanish telecoms regulatory authority ("CMT") has launched a public consultation to gather ideas and opinions for an update of the circular regulating public administration activity in the telecommunications sector<sup>2</sup>;
- Improvement of telecommunications users' rights relating to personal data and privacy protection (in particular, regarding the use of cookies);
- Strengthening the Administration's inspection and sanctioning authority. In this sense, new infringements have been defined (e.g., on the fraudulent use of the radio-electric spectrum) and fines have been raised to 20 million Euros for very serious infringements;

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<sup>1</sup> <http://www.minetur.gob.es/es-ES/GabinetePrensa/NotasPrensa/2013/Paginas/npleytelecomunicaciones130913.aspx>

<sup>2</sup> [http://blogcmt.com/2013/08/13/administraciones-publicas-y-telecos-una-nueva-circular/?utm\\_source=Suscriptores+al+blog&utm\\_medium=email&utm\\_campaign=38804282be-RSS\\_EMAIL\\_CAMPAIGN&utm\\_term=0\\_e5d1656b3e-38804282be-302939581#sthash.KRN1OL7o.dpuf](http://blogcmt.com/2013/08/13/administraciones-publicas-y-telecos-una-nueva-circular/?utm_source=Suscriptores+al+blog&utm_medium=email&utm_campaign=38804282be-RSS_EMAIL_CAMPAIGN&utm_term=0_e5d1656b3e-38804282be-302939581#sthash.KRN1OL7o.dpuf)

- Creation of an Interministerial Committee on radio frequencies and health.

**2. Recovery of market unity and reduction of regulatory dispersion.** The agreed measures are:

- Adoption of mechanisms for coordination and collaboration between the State and regional and local government agencies in order to facilitate the deployment of new networks;
- Definition of public electronic communications networks as essential equipment, whose installation is classified as works for public benefit. Installation of these networks is mandatory in new developments;
- Imposition of common technical requirements for network deployment as well as common electromagnetic field emission and exposure ceilings nationwide.

**3. Administrative simplification.** Aware that administrative obstacles so far have been a major obstacle to the development of new networks, several measures have been agreed to facilitate relations between operators and the various public administrations involved. Some of these measures are listed below:

- State administrative procedures are simplified to use the radio-electric spectrum;
- Planning and environmental licences for the deployment of telecommunications networks in private property have been eliminated. The licences will be replaced by statements of compliance.

**4. Promotion of network deployment.** In addition to the simplification of administrative procedures, other measures

aim to drive the deployment of new networks:

- The deployment of fixed telecommunications networks in buildings is facilitated and the right of any user to access the ultrafast networks is guaranteed. Operators may use the common elements of apartment blocks to install such ultrafast access.
- Sharing is encouraged so that in the deployment of new telecommunications networks operators can reuse pipes, ducts and sites, publicly owned or belonging to other private network operators, in order to minimise works.

### III. TIMELINESS OF THE REFORM

The Ministry of Industry, Energy and Tourism justifies the adoption of the new legislation on the need to promote a productive sector key to the economy and to adapt the ten-year old General Telecommunications Act 32/2003 to the sector's technological novelties (deployment of ultrafast optical fiber networks, commercialization of services over 4G mobile networks) so that the benefits of the liberalisation initiated in 1998 effectively reach users.

However, considering that a new modification of the rules governing electronic communications (see Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 {COM(2013) 627 final 2013/0309. Brussels, 11/09/2013} is brewing within the EU, with objectives similar to those of the new Spanish legislation, waiting for the aforementioned EU legislation to be final would be the wise thing to do.

**Annex:**

**Table summarising the measures contained in the new Spanish General Telecommunications Act (LGTel)**

OBJECTIVES OF THE NEW LGTel	
<p>Facilitate the deployment of next generation fixed and mobile networks and expand their coverage;</p> <p>Improve the offer to citizens of innovative services, of a higher quality and at more affordable prices</p>	
LINES OF ACTION AND MAIN MEASURES	
Promotion of competition	<ul style="list-style-type: none"> <li>•Regular analysis of the different markets</li> <li>•Clarification on the performance of public administrations in the sector</li> </ul>
User Protection	<ul style="list-style-type: none"> <li>•Better personal data and privacy protection (cookies)</li> <li>•Right of access to ultrafast networks</li> <li>•Benefits of greater market competition</li> </ul>
Public Administrations	<ul style="list-style-type: none"> <li>•Strengthening the Administration's inspection and sanctioning authority: new infringements; higher fines (up to 20 million Euros for very serious infringements)</li> <li>•Creation of an Interministerial Committee on radio frequencies and health</li> <li>•Coordination between public administrations: State / Regions / Municipalities</li> </ul>
Deployment of new networks	<ul style="list-style-type: none"> <li>•Public electric communication networks = essential or for public benefit equipment --&gt; mandatory installation in new developments;</li> <li>•Common technical requirements nationwide</li> <li>•Electromagnetic field emission and exposure limits: common ceilings nationwide</li> <li>•Deployment of fixed networks in buildings: right of any user to access ultrafast networks; right of operators to use the common elements of apartment blocks</li> <li>•Incentives to shared use of pipes, ducts and sites, publicly or privately owned</li> <li>•Simplification of administrative procedures</li> </ul>
Simplification of administrative procedures	<ul style="list-style-type: none"> <li>•State: simplification of procedures to use the radio-electric spectrum</li> <li>•Regions and municipalities: elimination of planning and environmental licences for the deployment of telecom networks in private property; replacement of licences with statements of compliance</li> </ul>

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