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– CROATIA –**

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Subject : EUROPEAN UNION COMMON POSITION
Chapter 10: Information Society and Media

EUROPEAN UNION COMMON POSITION
(revised version of CONF-HR 17/07)

Chapter 10: Information Society and Media

This position of the European Union is based on its general position for the Accession Conference with Croatia (CONF-HR 2/05), and is subject to the negotiating principles endorsed by the Accession Conference (CONF-HR 5/05), in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial agreements - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;

as well as to the requirements set out in points 13, 16 and 26 of the Negotiating Framework.

The EU underlines the importance for Croatia of compliance with the Stabilisation and Association Agreement as well as the Accession Partnership, which constitute basic elements of the pre-accession strategy.

The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and enforcement, and in general develop, already before accession, policies and instruments as close as possible to those of the EU.

The EU notes that Croatia, in its positions CONF-HR 5/07 and 28/08, accepts the *acquis* under chapter 10 as in force on 1 September 2008, and that Croatia declares that it will be ready to implement it by the date of its accession to the European Union.

Electronic communications

The EU takes note of the entry into force on 1 July 2008 of the new Electronic Communications Act which is aligned with the 2003 EC framework. The EU notes significant progress in adopting the necessary implementing legislation.

The EU finds that Croatia has developed sufficient administrative capacity to enforce the *acquis* in the field of electronic communications. The Croatian Telecommunications Agency (HAKOM) has enhanced its capacity and organisation, among other things through the creation of a new Section for Consumer Protection and Network Security in November 2007. Since July 2008, after a merger with the Postal Services Council, it operates as the Croatian Post and Electronic Communications Agency. While transparency in enforcing regulations for securing competitive safeguards to alternative operators, including cost accounting and accounting separation obligations imposed on dominant operators, has been lacking, measures have been taken recently in order to increase the level of transparency of the work of the regulator and improve the accessibility of relevant information to the public.

The EU notes that Croatia can demonstrate a satisfactory track record of enforcing obligations of operators with significant market power and the rights of new entrants to the electronic communications market, including rights of way, co-location and facility sharing, by imposing remedies under the 1998 framework and sufficient penal sanctions.

The EU encourages Croatia to further strengthen its administrative capacity in key relevant bodies. In particular, the EU encourages Croatia to continue to strengthen its overall administrative capacity in order to fully meet its commitment to secure equal treatment of new entrants to the electronic communications market, and invites Croatia to keep it regularly informed of the developments and steps undertaken in this regard.

The EU takes note of the information provided by Croatia on the designation of the universal service provider, the costs and financing of universal service, as well as the must-carry provisions, as regulated by Chapter VI of the Electronic Communications Act.

The EU takes note of the information provided by Croatia on the processing of personal data and the protection of privacy in the electronic communications sector, as regulated by Chapter XII of the Electronic Communications Act.

The EU also takes note of the information provided by Croatia in the area of organisation and management of the Internet, in particular the entry into force in July 2007 of the Information Security Act.

In view of the above considerations, the EU considers that Croatia has met the requirements of the first and second closing benchmarks as set out in the EU Common Position (CONF-HR 17/07).

Information society services

The EU takes note of the amendments to the Electronic Commerce Act and the Electronic Signatures Act which bring these laws into line with the relevant directives. The EU notes that Croatia intends to further amend Article 4 of the Electronic Commerce Act in order to bring it into line with the wording of the Annex to Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market. This last remaining amendment is scheduled for the first half of 2009 and will enter into force on the date of Croatia's accession to the EU. The EU invites Croatia to keep it informed of the steps undertaken in this respect.

The EU notes that Croatia has participated in the ICT component of the Competitiveness and Innovation Framework Programme since May 2008 and will seek full participation in the Safer Internet Programme 2009 – 2013 in the course of 2009.

The EU also takes note of the ratification in 2007 of the European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access.

In view of the above considerations, the EU considers that Croatia has met the requirements of the first closing benchmark as set out in the EU Common Position (CONF-HR 17/07).

Audiovisual policy

The EU notes that Croatia has completed the review of its media legislation and that the remaining amendments to the Law on Electronic Media adopted in March 2008 have brought the law into line with the Television without Frontiers Directive. The amendments to the Law also introduced improvements in the regulatory framework, including some safeguards against political interference and the promotion of self-regulation in the media. The EU notes that Croatia launched a public consultation on its media legislation in spring 2008, which concluded that the present legislative framework provides for a professional and independent functioning of the HRT Programme Council and the Electronic Media Council.

The EU notes that Croatia has been fully participating in the Media 2007 programme since May 2008, and that the premises, equipment and professional staff for the operation of the MEDIA Desk Department have been provided. The EU also notes that the administrative capacity of the Electronic Media Council has been further strengthened by the establishment of the Electronic Media Agency, tasked with the supervision and regular monitoring of the implementation of legal provisions, and by the extension of its regulatory powers.

The EU takes note of information provided by Croatia on the alignment with the *acquis* on film heritage, in particular the ratification of the European Convention for the Protection of the Audiovisual Heritage in January 2008.

In view of the above considerations, the EU considers that Croatia has met the requirements of the third closing benchmark as set out in the EU Common Position (CONF-HR 17/07).

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In view of all the above considerations, the EU notes that, at this stage, this chapter does not require further negotiations.

Monitoring of progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above with a view to ensuring Croatia's administrative capacity to implement the *acquis* on information society and media. A final assessment of the conformity of Croatia's legislation with the *acquis* and of its implementation capacity can only be made at a later stage of the negotiations. In addition to all the information the EU may require for the negotiations in this chapter and which is to be provided to the Conference, the EU invites Croatia to provide regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis*.

In view of all the above considerations, the EU will, if necessary, return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 1 September 2008 and the conclusion of the negotiations.
