EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2010)1927 final

Brussels, 15 September 2010

MINUTES

of the 1927th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 20 July 2010

(morning)

TABLE OF CONTENTS

Single sitting: Tuesday 20 July 2010 (morning)

The sitting opened at 9.07 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-President	Items 1 to 16 (in part)
Ms KROES	Vice-President	
Mr TAJANI	Vice-President	Items 1 to 16
Mr ŠEFČOVIČ	Vice-President	
Mr POTOČNIK		
Mr REHN		
Mr PIEBALGS		
Mr BARNIER		
Mr ŠEMETA		
Mr DE GUCHT		Items 15 (in part) to 17
Mr DALLI		
Ms GEOGHEGAN-QUINN		
Mr LEWANDOWSKI		Items 1 to 15 (in part)
Ms DAMANAKI		
Mr HAHN		
Ms HEDEGAARD		
Mr FÜLE		
Mr ANDOR		
Ms MALMSTRÖM		
Mr CIOLOŞ		

Absent:

Baroness ASHTON	High Representative/ Vice-President
Ms VASSILIOU	
Ms GEORGIEVA	
Mr OETTINGER	

The following sat in to represent absent Members of the Commission:

Mr BANNERMAN	A member of Baroness ASHTON's staff	
Mr BRUNET	Chef de cabinet to Ms VASSILIOU	
Ms FINK-HOOIJER	Chef de cabinet to Ms GEORGIEVA	
Mr KOEHLER	Chef de cabinet to Mr OETTINGER	

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	Items 15 to 17
Mr FRUTUOSO DE MELO	Deputy Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr SØRENSEN	Director-General, DG Communication	
Mr DOENS	Head of the European Commission Spokesperson Service	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr THEBAULT	Head of the Bureau of European Policy Advisers	
Ms VANNINI	Adviser in the PRESIDENT's Office	Items 15 (in part) to 17
Ms SUTTON	A member of the PRESIDENT's staff	Items 15 (in part) to 17
Mr MARTÍNEZ MONGAY	Chef de cabinet to Mr ALMUNIA	Items 1 to 16
Mr LEMAÎTRE	Chef de cabinet to Mr LEWANDOWSKI	Items 15 (in part) to 17
Mr ITALIANER	Director-General, DG Communication	Items 1 to 16

Secretary: Ms DAY, Secretary-General, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General.

1. AGENDAS
(OJ(2010)1927/3; SEC(2010)916/2)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

2. WEEKLY MEETING OF CHEFS DE CABINET
(SEC(2010)1927)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 16 July.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1926TH MEETING (13 JULY)

The Commission held over approval of the minutes of its 1926th meeting for the following week.

4. INTERINSTITUTIONAL RELATIONS
(SPI(2010)49)

The Commission took note of the record of the meeting of the interinstitutional coordinators held on Wednesday 14 July (SPI(2010)49).

It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) Preparation for the September I 2010 part-session of Parliament (point 1.3 of the record of the meeting of the interinstitutional coordinators)

Ordinary legislative procedure – Codecision – 1st reading

– Authentication of euro coins and handling of euro coins unfit for circulation (Regulation) – BINEV Report – 2009/0128 (COD)

The Commission took note of SP(2010)4847 and decided to endorse the positive vote of Parliament on the compromise text presented, with a view to adoption of the legislative act at first reading.

– Macro-financial assistance to the Republic of Moldova (Decision) – WINKLER Report – 2010/0162 (COD)

The Commission approved the line set out in SP(2010)4902 and /2.

– Implementation of the bilateral safeguard clause of the EU-Korea Free Trade Agreement (Regulation) – ZALBA BIDEGAIN Report – 2010/0032 (COD)

The Commission approved the line set out in SP(2010)4903.

Non-legislative procedure

– Conclusion of the Agreement between the European Union and Japan on mutual legal assistance in criminal matters (Council Decision) – IACOLINO Report – 2009/0188 (NLE)

The Commission took note of SP(2010)4900 and /2 and decided to endorse Parliament's approval of the above-mentioned agreement.

4.2. RELATIONS WITH THE COUNCIL

ii) Programming of Council business
(SI(2010)213)

The Commission took note of the information in SI(2010)213 on the Council meetings between 22 and 30 July.

4.3. RELATIONS WITH PARLIAMENT

iii) Participation by Members of the European Parliament in international conferences
(point 3.6 of the record of the meeting of the interinstitutional coordinators)

– Fifth annual meeting of the Internet Governance Forum (IGF) (Vilnius, 14-17 September 2010)

The Commission decided to agree to the request to the PRESIDENT from Mr Jerzy Buzek, President of Parliament, concerning the attendance of seven Members of the European Parliament at the above-mentioned conference.

4.4. RELATIONS WITH THE ECONOMIC AND SOCIAL COMMITTEE, THE COMMITTEE OF THE REGIONS, THE EUROPEAN OMBUDSMAN AND NATIONAL PARLIAMENTS

iv) Action taken on opinions of the European Economic and Social Committee – First quarter 2010
(point 4.3.1 of the record of the meeting of the interinstitutional coordinators)

The Commission approved SC(2010)20/3 on the action taken by the Commission on the opinions adopted by the European Economic and Social Committee during the first quarter of 2010, for transmission to that Committee.

v) Relations with the European Economic and Social Committee – Programming of work for 2010 – List of optional opinions
(point 4.3.2 of the record of the meeting of the interinstitutional coordinators)

The Commission approved the approach set out in SC(2010)21/3, and decided to send the annexed list to the European Economic and Social Committee.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED (SEC(2010)918 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 July.

5.2. EMPOWERMENT (SEC(2010)919 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 July.

5.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2010)920 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 12 and 16 July, as archived in e-Greffe.

5.4. SENSITIVE WRITTEN PROCEDURES (SEC(2010)921)

The Commission took note of the sensitive written procedures for which the time limit expired between 19 and 23 July.

5.5. GENERAL EMPOWERMENT IN THE FIELD OF ECONOMIC AND FINANCIAL AFFAIRS CONCERNING THE EUROPEAN FINANCIAL STABILISATION MECHANISM (SEC(2010)941 AND /2)

The Commission granted the Member of the Commission responsible for Economic and Monetary Affairs the general empowerment set out in SEC(2010)941 for the adoption, in agreement with the PRESIDENT and the Member of the Commission responsible for the Budget, on behalf of the Commission and under its responsibility, of decisions concerning the award of loans and/or credit lines and the conclusion of Memoranda of Understanding pursuant to Article 3(5) of Regulation (EU) 407/2010 establishing a European financial stabilisation mechanism.

6. COMMISSION DECISION ON COMMISSION CONSENT TO A PROPOSAL FOR A COUNCIL DECISION ESTABLISHING THE ORGANISATION AND FUNCTIONING OF THE EUROPEAN EXTERNAL ACTION SERVICE (C(2010)4999)

The Commission adopted the decision set out in C(2010)4999 for transmission to the Council and, for information, to the European Parliament and the national parliaments.

7. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON PROGRESS IN BULGARIA UNDER THE COOPERATION AND VERIFICATION MECHANISM (COM(2010)400; SEC(2010)948)

The Commission adopted the report on Bulgaria in COM(2010)400 for transmission to Parliament and the Council and, for information, to national parliaments, accompanied by the technical document distributed as SEC(2010)948, the contents of which were noted.

8. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON PROGRESS IN ROMANIA UNDER THE COOPERATION AND VERIFICATION MECHANISM (C(2010)401 AND /2; SEC(2010)949)

Subject to the amendment of the second paragraph of the section "*Fight against Corruption*" on page 5 of the English language version of COM(2010)401/2, the last three sentences of which read "*At present, the Commission considers that the new law on ANI represents a significant step back in the fight against corruption and breaches commitments Romania has taken upon accession. On 19 July the Constitutional Court ruled that the revised version of the law is unconstitutional. This provides an opportunity to adopt a new law in conformity with Romania's obligations",* the Commission adopted the report on Romania in COM(2010)401/2 for transmission to Parliament and the Council and, for information, to the national parliaments, accompanied by the technical document distributed as SEC(2010)949, the contents of which were noted.

9. DRAFT COMMISSION COMMUNICATION ON THE IMPLEMENTATION OF ARTICLE 260(3) OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION
(SEC(2010)922 TO /3; SEC(2010)924)

10. COMMISSION COMMUNICATION ON THE APPLICATION OF ARTICLE 260 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION – UPDATING OF DATA USED TO CALCULATE LUMP SUM AND PENALTY PAYMENTS TO BE PROPOSED BY THE COMMISSION TO THE COURT OF JUSTICE IN INFRINGEMENT PROCEEDINGS
(SEC(2010)923 TO /3; SEC(2010)924)

The Commission:

– approved in principle the draft Communication in SEC(2010)922/3, including the amendments to be made to the manual of infringement procedures in the annex to that document, and authorised the transmission of the draft Communication to the Member States for their comments before it was submitted to the Commission for formal adoption;

– approved the Communication in SEC(2010)923/3, took note that, as from 2010, an update of the information used would be carried out on a yearly basis by means of the empowerment granted on 8 December 2005 to the PRESIDENT, in agreement with the Member of the Commission responsible for Economic and Monetary Affairs, and authorised the Secretariat-General to publish the Communication on the Commission's website.

11. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS
(COM(2010)392 TO /3; SEC(2010)907; SEC(2010)908; SEC(2010)909; SEC(2010)915)

The Commission adopted the proposal for a Directive in COM(2010)392/3 for transmission to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments, together with the impact assessment and the related summary contained in the staff papers distributed as SEC(2010)907 and SEC(2010)908 respectively, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposal for a Regulation, as set out in SEC(2010)909.

12. COMMISSION DECISIONS ON A PROCEEDING UNDER ARTICLE 101 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 53 OF THE EEA AGREEMENT (*CASE COMP/38.866 – ANIMAL FEED PHOSPHATES*)
(C(2010)5004 TO /4; C(2010)5001 TO /3; SEC(2010)929 AND /2; SEC(2010)930 AND /2; SEC(2010)931 AND /2; SEC(2010)943)

The Commission:

– took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 2 and 16 July 2010 in SEC(2010)930 and /2 respectively;

– took note of the final report of the Hearing Officer of 14 July in SEC(2010)931/2;

- adopted, in the authentic language (English), the decision set out in C(2010)5004/2, and in the authentic language (French), the decision set out in C(2010)5001/2, finding that the companies to which the decisions were addressed had infringed Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the Agreement on the European Economic Area, requiring the parties to bring the infringements to an end and imposing fines on these companies totalling €175 647 000;

- decided that the companies concerned would be notified of the decisions in C(2010)5004/3 and /4, and C(2010)5001/3, together with the final report of the Hearing Officer;

- decided to send to the parties to the arrangement, for information, a copy of the decision addressed to the company which had decided to withdraw from the arrangement, and to the latter company a copy of the decision addressed to the parties to the arrangement;

- decided that the key parts of the decisions, together with the Advisory Committee's opinions and the Hearing Officer's final report, would be published in the official languages of the Union in the Official Journal of the European Union (with business secrets and other confidential information removed);

- decided also to publish the decisions on the internet (with business secrets and other confidential information removed).

13. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – TOWARDS A EUROPEAN ROAD SAFETY AREA: POLICY ORIENTATIONS ON ROAD SAFETY 2011-2020 (COM(2010)389 TO /3; SEC(2010)903; SEC(2010)906)

The Commission approved the communication in COM(2010)389/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments, accompanied by the staff paper in SEC(2010)903, the contents of which were noted.

14. PROPOSAL FOR A DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING THE INTERINSTITUTIONAL AGREEMENT OF 17 MAY 2006 ON BUDGETARY DISCIPLINE AND SOUND FINANCIAL MANAGEMENT AS REGARDS THE MULTIANNUAL FINANCIAL FRAMEWORK, TO ADDRESS ADDITIONAL FINANCING NEEDS OF THE ITER PROJECT (COM(2010)403 TO /3)

The Commission adopted the proposal for a decision in COM(2010)403/3 for transmission to Parliament and the Council and, for information, to national parliaments.

15. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

15.1. STATE AID – INDIVIDUAL CASES (SEC(2010)932/2; SEC(2010)855)

The Commission adopted the decisions in SEC(2010)932/2.

15.2. STATE AID – HORIZONTAL CASES

i) Communication of the Commission on the review of the state aid status and the aid ceiling of the statistical effect regions in the national regional state aid maps for the period between 1 January 2011 and 31 December 2013
(SEC(2010)936 and /2)

The Commission adopted the communication in SEC(2010)936.

ii) Proposal for a Council Regulation on State aid to facilitate the closure of uncompetitive coal mines

(COM(2010)372 to /3; SEC(2010)850 and /2; SEC(2010)851; SEC(2010)852; SEC(2010)855)

Mr ALMUNIA presented the proposal he was tabling on State aid to facilitate the closure of uncompetitive coal mines. He pointed out that the Regulation currently in force would expire by the end of 2010 and that, unfortunately, the situation of some mines in Europe still fell far short of being resolved. Domestic coal represented 5% of the primary energy used for electricity production in Europe and only 20-22% of this 5% received subsidies, so today's dossier related to a maximum of 1.1% of total energy consumption, although it affected 100 000 jobs, concentrated in just a few regions.

He said that the Commission had two alternatives: (i) to propose a new regulation that would enable the objective of closing the mines to be met in the next few years, or (ii) to limit to the decisions taken in the past and take no action. In his view the latter alternative would not be appropriate from any viewpoint, whether social, environmental or technical. He stressed the need to remain realistic and propose pragmatic solutions. From a strictly legal viewpoint, a new regulation of the Council, acting by qualified majority, was the only option, since the Commission did not have the power to authorise aid exceeding a very short term on the basis of guidelines. In the absence of such a regulation, nothing would prevent the Member States from applying to the Council for individual authorisations on the basis of Article 108(2) of the Treaty on the Functioning of the European Union.

He then outlined the main points of his proposal: (1) an eight-year transitional period for operating aid; (2) gradual reduction of aid by 25% every two years; (3) a strict supervisory mechanism; and (4) the obligation to recover the aid if the mines were not closed by the end of the period – a provision that did not exist in the previous regulation.

Mr ALMUNIA recognised that since the process of closing the mines was far from easy and generated considerable social problems, any proposal adopted by the Commission must be both ambitious and realistic. He concluded by pointing out that the closure of the mines would not in itself solve the environmental problems associated with the use of coal to produce electricity, since domestic coal would be replaced by imports from other producer countries.

The Commission then held an extensive debate which focused on the following aspects:

- regret that this issue, which dated back to 1992, has to be once again before it;
- concern about the effect this proposal could have on the Commission's credibility, in terms both of the decisions taken in the past and the guarantee that those decisions would be respected, and of the consistency of the proposal with other current policies such as the Europe 2020 strategy, the fight against climate change and the modernisation of economic structures;
- concern about the message that adoption of such a proposal would send to Member States that had agreed to make substantial efforts in order to comply with the existing rules, as well as those States that had not fulfilled their obligations and would see this proposal as giving them a new opportunity;
- the fact that other socially very difficult decisions had been taken in the past in other economic sectors (shipbuilding, the steel industry, the motor vehicle industry) and the need to ensure equal treatment with these sectors;
- the need to take into account the environmental and social consequences of mine closures, particularly in these times of economic crisis, even though the problem was a long-standing one and had not been caused by

the crisis;

- the wish of some Commissioners to implement the proposal through Commission guidelines rather than a Council regulation, since through the latter it would not be possible to authorise operating aid but only aid to address the social and environmental effects of the closure;

- the importance, given the budgetary difficulties of most Member States, of using public resources, including Community Structural Funds, to support forward-looking investments that opened up new possibilities for the regions concerned and for coming generations, rather than continuing to allow substantial sums to be paid out in a sector that was not economically viable and was a major source of pollution;

- questions concerning the use of coal produced by the mines in question at a very high price compared with prices in the world market;

- for some, satisfaction at the balance struck by the proposal, which presented a reasonable scenario, albeit bearing in mind that the existing difficulties would prevent any rapid progress being made, and contained all the elements needed to show clearly that the process of gradual closure was irreversible;

- the fact that the proposal would receive broader support in the event of (i) reduction of the transitional period, which if possible should not exceed the term of office of this Commission; (ii) additional clarification of the fact that the aid must be aimed at bringing this commercial activity to an end; (iii) reinforced annual reduction of the aid; and (iv) a reminder of the irreversible nature of the process;

- the suggestion that the Commission should consider withdrawing its proposal if it should be distorted in Council in such a way that the main objective of the regulation and the irreversible nature of the process were called into question.

In reply, Mr ALMUNIA thanked the Commission members for their observations and suggestions. He pointed out that the aim of the proposal was not to resolve problems relating to energy or environmental policy, but solely to address questions relating to the application of state aid control policy.

He reminded the meeting that the objective of the proposal was the closure of the mines and that aid could be considered compatible with the internal market only in a closure scenario, which had not been the case before. The sole question remaining was the timetable for closure and the arrangements for implementing it.

He stressed that a specific instrument was needed for this purpose, since the other existing aid instruments could not be used to achieve all the desired objectives.

Mr ALMUNIA highlighted the specific nature of the coal industry, and in particular of the direct and indirect consequences as well as the more far-reaching consequences for the regions affected. Although certain Member States had successfully concluded this process, others, such as Germany, Spain, Hungary and Romania, had not yet carried out this task and therefore needed to have at their disposal the appropriate means to do so.

He felt that the credibility of the Commission's policies must be demonstrated at three stages: the adoption of decisions, supervision of their application, and implementation. Until now the Commission had not succeeded in achieving this third stage. However, this proposal, which was more binding than its predecessors, should enable it to do so.

In order to address the concerns raised, he was willing to reinforce the part of the text relating to the irreversibility of the mine closure process. As regards the transitional period, the most important thing was to reach an agreement that would enable the Commission to supervise the process and achieve the objectives. He reminded the meeting that the G20 conclusions also referred to a gradual closure of the mines and stressed that the priority was for the period for implementing the closures to remain a realistic one.

The PRESIDENT recognised the difficulty and importance of the decision to be taken. He, too, stressed the need to preserve the Commission's credibility with regard to the implementation of these decisions. He pointed out that despite the decisions taken in the past, some mines were still operating and doing nothing would not solve the problem.

It was necessary to reach an agreement on an orderly and gradual closure of the mines because, firstly, the social consequences of the closures could not be ignored and, secondly, mine closures were very costly processes. The PRESIDENT felt that it was up to the present Commission to take responsibility for doing something that neither its predecessors nor the Member States had hitherto been able to achieve, even if the decision taken would not be a popular one.

In conclusion, he referred to the importance of presenting this proposal properly to the outside world and called on the members to give strong support to Mr ALMUNIA, particularly in view of the brief transitional period finally agreed on to close these coal mines.

In conclusion, the PRESIDENT noted the Commission's support for the proposal for a regulation, subject to introduction of the following amendments to the English version of COM(2010)372/3:

– **Article 2(1) (page 11) reads as follows:**

  '*In the context of definite closure of uncompetitive mines, aid to the coal industry may be considered compatible with the proper functioning of the internal market if it complies with the provisions of this Regulation*';

– **Article 3(1)(a) (page 11) reads as follows:**

  '*the operation of the production units concerned must form part of a closure plan the deadline of which does not extend beyond 1 October 2014*';

– **Article 3(1)(f) (page 11) reads as follows:**

'*the overall amount of closure aid granted by a Member State for any particular undertaking must follow a downward trend, where the reduction between successive periods of fifteen months must not be less than 33 percent of the aid provided in the initial fifteen-month period of the closure plan*'.

Subject to inclusion of the above amendments and to a final general clean-up of the text, the Commission adopted the proposal for a Council Regulation in COM(2010)372/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions and to the national parliaments, together with the impact assessment and the related summary contained in the staff papers distributed as SEC(2010)850 and /2 and SEC(2010)851 respectively, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposal for a Regulation, as set out in SEC(2010)852.

16. COMMISSION DECISION AMENDING THE APPLICATION OF THE COMMITMENTS ANNEXED TO A DECISION DECLARING A CONCENTRATION TO BE COMPATIBLE WITH THE COMMON MARKET AND THE EEA AGREEMENT *(CASE COMP/M.2876 – NEWSCORP/TELEPIU*) (C(2010)4976 TO /3; SEC(2010)928)

Mr ALMUNIA presented the decision he was tabling. He started by reviewing the background to this matter, which had been referred to the Commission in 2003 in the context of the acquisition of Telepiú by the NewsCorp group and the creation of Sky Italia, the satellite digital TV platform which then held a near-monopoly of the pay TV market in Italy.

He pointed out that the commitments required at the time by the Commission to prevent market foreclosure consisted of ensuring that: (i) Sky Italia could not acquire digital terrestrial television frequencies, to ensure that other operators could access these frequencies and that competition developed in the pay TV market; (ii) Sky Italia could not offer pay TV services through digital terrestrial television or any platform other than satellite; (iii) Sky Italia must provide access to its content on a non-exclusive basis to digital terrestrial TV operators. These commitments had been intended to expire in 2011.

He noted that significant changes had taken place in the market in question since 2003. In particular, it was currently planned to launch a call for tenders in order to allocate digital terrestrial television frequencies. This had led Sky Italia to ask the Commission in 2009 to revise its commitments, since it wished to take part in this call for tender. Five out of 21 frequencies would be allocated in this way. The remaining 16 would be automatically allocated to operators already present in the market.

While the proposed modification of the commitments was intended to enable Sky Italia to participate in the call for tenders, certain conditions were necessary to guarantee the development of competition on the pay TV market. These were: (i) Sky Italia could bid for just one frequency out of the five; (ii) Sky Italia was forbidden to use this frequency for pay TV broadcasting purposes for five years from the date of the decision; (iii) it had to keep the commitments relating to content.

Mr ALMUNIA referred to the analysis carried out by his services, which confirmed changes in the market. If the commitments were not modified, Sky Italia would not be able to participate in the digital terrestrial TV market before 2018, since the frequencies allocated by the public call for tenders could not be re-sold before that date. Consequently, he felt that modification was justified, subject to the above-mentioned restrictions.

The Commission then held a discussion during which the following aspects were raised:

- whether it was appropriate to revise commitments for reasons relating to commercial considerations;
- the risk that Sky Italia's market position would be reinforced, to the detriment of small operators, consumers and cultural diversity;
- the concern that would be caused by the concentration of a major media power in the hands of a single operator should Sky Italia obtain a digital terrestrial television frequency in addition to its massive presence in the digital satellite television market;
- the opinion that there was insufficient proof of the existence of the exceptional circumstances required by the Mergers Regulation to justify modifying commitments, for example a significant and permanent change in market conditions;
- the fact that the Italian authorities did not share the Commission's position on competition and telecommunications, and the opinion that the Commission should not go against the authorities' conclusions;
- the presence of Sky Italia in the digital terrestrial market through the TV channel Cielo, and the possibility that Sky Italia might subsequently also purchase other new entrants, so that the importance of its participation in the call for tenders in question should not be overemphasised.

Further points raised:

- the pre-eminently technical nature of the decision, and the competence of Mr ALMUNIA and his services to decide on a competition issue;
- the compatibility of this decision with competition policy rules;
- the significant changes that had occurred in the digital terrestrial television market since 2003;
- the presence in this market of two major operators other than Sky Italia and the

need to increase competition in the market in order to put an end to this duopoly, a need that was also recognised by the Italian competition and telecommunications authorities;

– a reminder of the efforts made in recent years to open up the Italian television market to competition, the success achieved and, given this background, the positive nature of the planned sale by auction;

– a reminder of the situation on the free-TV market, which was beginning to open up, and the consequent need to allow as many operators as possible to participate in it.

Mr ALMUNIA thanked the Commission Members for their contributions. He confirmed that the analysis carried out by his services had revealed a substantial market change with the development of digital terrestrial television, which substantially changed the way in which competition operated by increasing it in both the pay-TV and free-TV sectors.

He pointed out that the conditions for the call for tenders had not yet been finally decided and were the subject of another dossier currently in progress. He stressed that in any case it would be an open call for tenders in which new entrants could participate as well as operators already in the market, and that it was not possible to prejudge the outcome.

The conclusions of the enquiry into the market in question conducted at the request of the Italian authorities provided a useful information tool and clarified the different positions. While recognising that the independent national authorities' opinion differed from the position taken in the decision he was proposing to the Commission, he stressed that it was up to the Commission to respond to Sky Italia's request, with due regard for competition rules and on the basis of an assessment of the present market situation.

Winding up, the PRESIDENT noted the broad support for the decision proposed by Mr ALMUNIA and the agreement to adopt it.

The Commission adopted the decision in C(2010)4976/3 in the authentic language (English).

17. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2010)917/2)

ADMINISTRATIVE MATTERS (PERS(2010)95/2)

Mr ŠEFČOVIČ presented the new points included in the most recent version of the document on administrative matters following the weekly meeting of Chefs de Cabinet, as set out in PERS(2010)95/2.

Following the candidate's interview with Mr REHN on Monday evening, he proposed appointing Mr François LEQUILLER to the post of Director, National and European Accounts Directorate, Eurostat (see item 7.2).

M. ŠEFČOVIČ referred also to the addition to the "summer package" of amendments to organisation charts of a decision on the reinforcement of staffing levels at the Economic and Financial Affairs DG in order to meet the considerably increased workload resulting from the economic crisis (see item 7.1).

Lastly, he mentioned the item concerning the approval of short-lists of candidates in the 2010 rotation of heads of delegation, referring to the procedure approved by the Commission whereby Baroness ASHTON, after drawing up these short-lists and receiving the Commission's approval, would then make the selection and appointments to senior and middle management posts with a view to setting up the European External Action Service (see item 7.3).

At the end of this presentation, the Commission held a brief discussion in which it also referred to the reasons for the absence of a shortlist for the post of Head of Delegation in Brazil; the importance of ensuring, as far as possible and while respecting the overriding criterion of merit, an appropriate balance of candidates from "old" and "new" Member States, as well as gender balance; the procedures for checking the candidates' financial management skills; and the composition of the short-lists for certain important posts.

17.1. DG HUMAN RESOURCES AND SECURITY – AMENDMENT OF ORGANISATION CHARTS – SECOND 2010 SUMMER PACKAGE (SEC(2010)944/2; SEC(2010)945; SEC(2010)946; SEC(2010)947)

Having noted the information in point 1 of PERS(2010)95/2 and SEC(2010)944/2, the Commission approved the amendments to the organisation charts of DG Economic and Financial Affairs (including increasing staff numbers to address the economic crisis) (with effect from 16 September 2010), DG Environment (with effect from 1 September 2010), DG Enterprise and Industry (with effect from 1 September 2010) and DG External Relations (with immediate effect), as set out in SEC(2010)945, SEC(2010)946, SEC(2010)947 and SEC(2010)944/2.

17.2. EUROSTAT – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2009)131 TO /6)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) and Article 29(2) of the Staff Regulations for the post of Director, National and European Accounts Directorate, Eurostat (PERS(2009)131 to /4).

The Commission took note of the opinions of the Consultative Committee on Appointments of 10 June and 1 July (PERS(2009)131/5 and /6).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr REHN, it then decided to appoint Mr François LEQUILLER to the vacant post.

This decision would take effect on 16 September 2010.

17.3. *DG EXTERNAL RELATIONS – 2010 ROTATION OF HEADS OF DELEGATION (PERS(2010)98)*

The Commission took note of the information in point 3 of PERS(2010)95/2 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Baroness ASHTON, decided to approve the lists of candidates in PERS(2010)98, on the basis of which Baroness ASHTON would make the appointments, as the appointing authority and authority empowered to conclude contracts of employment.

This decision would take effect immediately.

17.4. *DG ECONOMIC AND FINANCIAL AFFAIRS – INTERNAL AND EXTERNAL PUBLICATION OF A VACANCY NOTICE FOR AN AD15/16 DEPUTY DIRECTOR-GENERAL (PERS(2010)96)*

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr REHN, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) and Article 29(2) of the Staff Regulations, of the vacancy notice in PERS(2010)96 for the post of Deputy Director-General of the Directorate-General for Economic and Financial Affairs.

This decision would take effect immediately.

17.5. *DG REGIONAL POLICY – INTERNAL PUBLICATION OF VACANCY NOTICE FOR AN AD 15/16 DEPUTY DIRECTOR-GENERAL (PERS(2010)97)*

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr HAHN, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notice in PERS(2010)97 for the post of Deputy Director-General of the Directorate-General for Regional Policy.

This decision would take effect immediately.

17.6. *DG FISHERIES AND MARITIME AFFAIRS – APPOINTMENT OF AD15 DIRECTOR*

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Ms DAMANAKI, the Commission decided to fill the post of Director, Mediterranean and Black Sea Directorate, DG Maritime Affairs and Fisheries, by transferring in the interest of the service under Article 7 of the Staff Regulations Ms Monique PARIAT, AD15 official and currently Director, Shared Resources Directorate, DGs Home Affairs and Justice.

This decision would take effect on 1 October 2010.

17.7. *INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE STAFF REGULATIONS*

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations with respect to an AD15 official.

17.8. *SECRETARIAT-GENERAL – ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE (SEC(2010)939)*

The Commission approved the communication in SEC(2010)939 concerning the activities planned by Ms KUNEVA after leaving the Commission. It concluded that these activities were compatible with the second paragraph of Article 245 of the Treaty on the Functioning of the European Union.

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The Commission's other discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 12.11