

# Electronic communications: common regulatory framework for networks and services.

## Framework Directive

2000/0184(COD) - 11/07/2007 - Follow-up document

The Commission presents its 2<sup>nd</sup> report on market reviews in electronic communications under the EU Regulatory Framework (2nd report). The Communication gives an insight into the experience gained from the market review process and highlights some major trends and issues. It contributes to the review of the regulatory framework that the Commission will propose to the Council and the European Parliament in the second half of 2007.

The Commission reports that almost all NRAs have finalised the first round of market reviews of the 18 markets included in the Recommendation on relevant markets, with the exception of the NRAs in Bulgaria and Romania that joined the EU only on 1 January 2007. The EU consultation mechanism established under **Article 7 of the Framework Directive** has been instrumental in the promotion of competition, investment and innovation as well as for the consolidation of the internal market for electronic communications. It has ensured a consistent approach, in particular regarding market definition and SMP analysis across Europe, brought sound economic analysis to the market review process and resulted in increased transparency. Overall, this form of cooperation between the Commission and NRAs led to better regulation based on competition principles and contributed to the development of a common European regulatory culture.

Although the regulatory approaches for market definition and market power analysis have converged to a large extent, **remedies are not always appropriate to resolve the identified competition problems** and sometimes differ markedly amongst Member States in spite of similar market situations. Regarding the choice of remedies, the Commission observes less consistency across the EU than has been achieved in market definition and SMP analysis. Differences in remedies were not always justified by diverging market conditions or other notified specificities. In addition, not always the most efficient remedy was chosen. The Commission points to the following:

- remedies imposed in the retail access markets vary substantially across Member States. Such differences are not always justified by diverging market circumstances;
- in the fixed and mobile termination markets, the Commission emphasised the need to move, in principle, towards symmetric termination rates based on costs of an efficient operator and encouraged NRAs to lower rates accordingly, in particular for mobile termination. As the diverging approaches across Member States have a negative effect on the internal market, the Commission invited NRAs to work closely with the European Regulators Group (ERG) to arrive at a coherent EU-wide approach on cost calculation and on enhancing symmetry;
- sometimes the belated application of remedies in the wholesale broadband access markets impaired the effectiveness of regulation. In several cases, the points in the network at which bitstream access had to be granted were either not specified or insufficient to enable the development of competition. Price regulation was not always effective and based on different price setting methods across the EU;

Further steps need to be taken to enhance the effectiveness of regulation and to achieve greater consistency in the selection and application of remedies.

The Commission will strive to further streamline procedures and to minimise the administrative burden for market players and NRAs, in line with the Commission's strategy for better regulation. It will make corresponding proposals in the context of the review of the regulatory framework. In addition, the Commission invites Member States to contribute to the streamlining of the market review process at the national level. In particular, NRAs should avoid

- delays between the notification of draft measures and the adoption of final measures, and
- notifying market analysis and intended remedies in different steps.

The Commission is currently reviewing the regulatory framework for e-communications and its proposal will be put forward to the Council and the Parliament in the second half of 2007. The revised regulatory framework however is not expected to enter into force before 2009-2010. In the short term the Commission is reviewing the Recommendation on relevant markets and the Article 7 procedural Recommendation and the new versions of the texts will be adopted in the second half of 2007.