


Meeting between ETNO and Commissioner OETTINGER


At the Cabinet on 6 September 2016

BASIS Request CAB 775

I. Scene setter

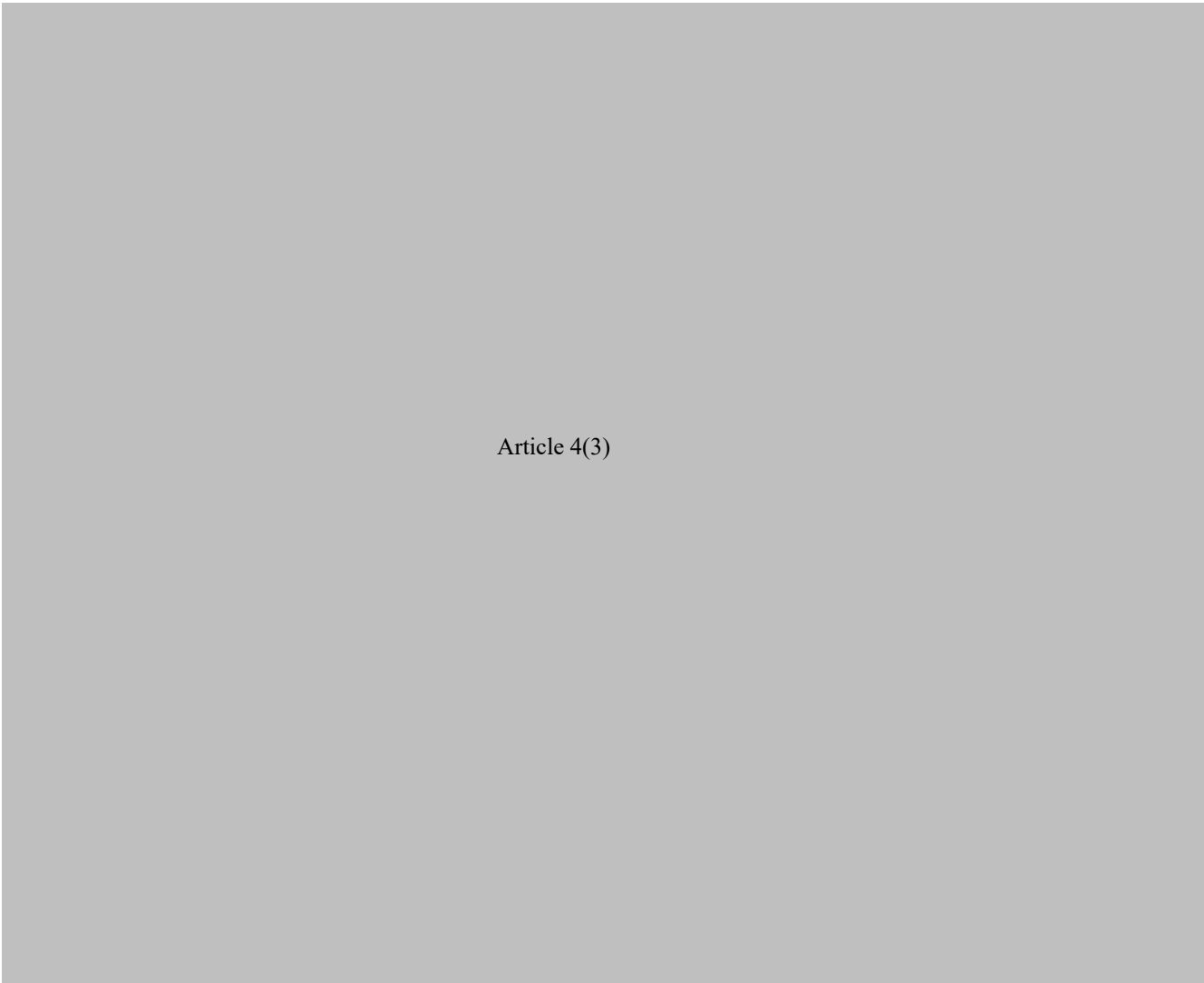
The European Telecommunications Network Operators' Association (ETNO) has 41 members and observers from Europe and beyond are mostly incumbent operators that often also hold new entrant positions outside their national markets. 

Article 4(3)

Recently ETNO commissioned a study by Plum with recommendations for the review (DG Connect had met their consultants in December). 

Article 4(3)

ETNO views



Article 4(3)

Article 4(3)

Objective(s):

Our Position

- There is a very broad convergence of views on many key elements of the review, including the connectivity ambition.
- Stress the importance of regulatory framework providing the right incentives to rollout high-capacity networks for all operators.

II. Line to Take

Incentives for deployment and take-up of very high-capacity networks in competitive markets

- To deliver appropriate incentives, the new telecom rules will require regulators, following guidelines provided by BEREC, to map network investment intentions, enable public authorities to seek investors in under-served areas, and empower regulators to act against operators who deviate from their declared intentions in such areas.
- The new telecom rules will prioritise network access remedies that directly support competitive infrastructure deployment wherever feasible, and will reflect the retail choices already available to end users.
- The new telecom rules will establish predictable regulatory conditions to promote co-investment and wholesale-only business models, facilitating deployment of very high-capacity networks deeper into suburban and rural areas.
- The new telecom rules will clarify that long-term instalment payments for connections are consistent with end-user protection rules.

Spectrum rules for mobile connectivity and 5G

- The new telecom rules will establish key principles for spectrum assignment in Europe, new Union-level instruments to fix assignment deadlines and licence periods, and a peer review among national regulators to ensure consistent assignment practices.
- The new telecom rules will promote a consistent approach to coverage obligations, to small-cell deployment and to network sharing, thereby stimulating 5G deployment and rural connectivity.
- The new telecom rules will facilitate spectrum sharing in 5G networks, and promote end-user access to Wi-Fi-based connectivity.

Incentivising take-up through competitive markets, consumer choice and affordable tariffs

- Very high-capacity networks only produce both a return on investment and wider beneficial externalities if they are taken up by citizens and businesses. The new telecom rules will modernise end-user switching rights, including for retail bundles.
- The new telecom rules will ensure that vulnerable end-users have a right to an affordable connectivity contract so that no one should be excluded from access to basic connectivity.

Rules adapted to new communications services and to the internal market, a governance model that ensures regulatory stability and coherence.

- The new telecom rules will secure a fair internal market through maximum harmonization of the main sector-specific end-user rules, applicable as appropriate to comparable services.
- The new telecom rules will establish an efficient EU system of electronic communications regulators, with common objectives of enhancing end-users' access to and take-up of very-high capacity connectivity, of promoting a competitive internal market and of safeguarding end-users' overall interests.

Speaking points

General / Short Summary

- We have been open and transparent regarding our ambitions and intentions. We are keeping the competition focus and adjusting the framework to deal with the more diverse situation faced not only at EU level, but at individual markets level.
- We are putting an additional emphasis on competition to invest, ensuring that all market actors have equal chances to invest.
- For all of you who own your own networks, we will propose an important set of changes that will reduce the need for access regulation, for example:
 - The new "retail competition first" principle will lead to less need for regulatory intervention.
 - With commercial agreements you can now yourself reduce the need for regulatory interventions.
 - Co-investment projects will be the sustainable route to be largely exempted from regulations, and it will be your choice!
- More generally, we seek recognition of what we call the 1-2-3 principle. While some access regulation is normally necessary in monopoly situations, it should be excluded when there are three. And when there are two, commercial access agreements will be particularly important to determine whether regulation is necessary.
- But even in areas where access regulation is still necessary, the burden is lowered, for example:
 - Infrastructure mapping by NRA will lead to less national and more regionally targeted regulation only where it is still necessary.
 - Regulated access to duct infrastructures will foster infrastructure competition, NRAs will need to check whether any other form of access regulation is justified.
- We also embed in the legislative proposal the principles of stable copper prices, and of possible price flexibility for next generation networks provided an economic replicability test can be met.
- All this is of course with an very concrete and very important objective in mind, namely to ensure that we achieve the connectivity that we need for the DSM.
- I believe, here we are in agreement

Topic by topic with more details:

Connectivity

- Without connectivity there will be no DSM. It is a rather general consensus.
- I do not think a hollow "competition versus investment" controversy is useful for a debate. I want to underline that the framework is and will be based on competition law principles. None of the ideas considered would work at the expense of competition.
- However, there will be **no competition in places with where the number of very high capacity networks is in fact zero**. Such situations must be addressed by the framework if we are serious about the DSM.
- Business as usual will not achieve the DSM ambition. Rather than focusing exclusively on access-based competition, emphasis is also needed on a regulatory model that gives **sufficient space to competition to invest**.

Market Regulation, Competition & Investment

- I am a strong supporter that competition is the main driver for investments and bringing the best outcome for consumers.
- As I said on many occasions - access regulation to dominant networks will remain a central mechanism of the telecoms framework.
- However, business as usual will not help to achieve the DSM ambition. Adaptations to the regulatory model are needed if connectivity ambition is to be achieved.
- Such adaptations should ensure that every market player would then have to have equal chances to invest – or if necessary to co-invest – and those who take that chance should then also get the benefit.
- I am a strong believer in encouraging investment projects which are based on open, good faith and reasonable co-investment offers, including a **possibility for all players** to participate.
- This would ensure that **at least the current level of competition is kept** when a new high capacity network is build - by maintaining regulated access for broadband at the level that was equivalent prior to the new investment.
- However, I am of the view that investment projects which are based on open, good faith and reasonable co-investment offers, should be **accompanied by nuanced regulation of** very high-capacity networks of dominant operators for a period reflecting the most acute initial investment return risk. That way we keep the existing level of competition but also ensure sufficient scope for return of investment incentivising new network deployment.

Spectrum

- While connectivity is a central theme in the review process, network access is not the only building block of the telecoms package. The building blocks of the package are not self-standing topics - they are closely linked to the overall connectivity narrative.

- I want to build spectrum debate on a positive foundation and Article 4(3) getting Member States on board in terms of the overall connectivity ambition will facilitate spectrum debate.
- It is imperative to enhance spectrum management framework, especially as it is so important for the success of ubiquitous connectivity.
- There will be a need for a large bandwidth of radio spectrum to be used by 5G networks for various purposes. I count on ETNO's continuous support in spectrum debate and in outlining the role of wireless connectivity and its implications for the success of 5G in Europe.

Services

- High level consumer protection is a prerequisite for consumer confidence. This is best achieved if we have a serious look of what is still sector specific, regulate that and leave the rest for horizontal rules.
- We just need to find for the right instruments in ensuring a continuous protection in light of market and technological advancements.
- We are screening carefully all the existing rules to avoid overlaps. Where horizontal rules are enough, there is no need for sector specific rules.
- On the other hand, we have to be clear that when the provision of services is depended on public resources such as number, the use of these resources is subject to specific conditions. Whoever uses those resources, be they telcos or OTTs, should be subject to the same conditions.
- But there may also be areas where current sector specific protections may need to be extended to all new players.
- It is this combination which ensures that equivalent services are treated in a similar manner.
- Thus clarification and simplification is expected in the area of services. We also need to address the divergent rules at national level. The call for more harmonisation is well founded in my view.

Sector governance

- Changes to sector's governance will also be needed in order to support the substantive adaptations to the framework.
- We will need an efficient EU system of regulatory authorities to increase regulatory predictability for market players. This would necessitate reinforcing the competences of regulators and their capacity to act towards the single market in the European bodies. BEREC must have a stronger basis and commitment to work towards the DSM.

III. Defensives

How can access regulation incentivise investments in very high capacity networks? Should more focus be put on the assessment of retail competition before regulating wholesale markets? Should commercial agreement be taken into account in regulation?

- Many factors impact investments and many of them, such as overall economic environment, GDP, population density, have very little to do with regulation.
- However, regulation also has an impact on the investment environment. The investment needed to provide Europe with a future proof infrastructure for the digital age requires ensuring a sufficient return for new investments relative to risks.
- We need to increase certainty for investors. This involves setting the right conditions for investments in high-capacity networks and reducing divergences between regulatory practices.
- Regarding regulation of markets, we indeed should keep in mind that we ultimately regulate only to address market failures with a view to assuring good level of end-user outcomes. Retail market may be competitive without heavy regulatory intervention because of competing infrastructures. Infrastructure-competition often also incentivises operators often to open their networks for third parties. In this kind of settings indeed we should probably give more space for commercial access agreements, with of course necessary ex post dispute resolution safeguards by NRAs. The emphasis on addressing retail-level problems is already accepted practice by many NRAs, even if it is not directly enshrined in the Framework. However, the emphasis needs to become more central to the analysis, because the structure of networks and the dynamics of wholesale markets are becoming increasingly varied and complex.

What is the preferred method to realise high capacity networks in (often rural) areas with one infrastructure operator and no viable case for infrastructure competition? What innovative access regulation models would you find acceptable in promoting investment in these areas?

- To address the investment challenge we would start from the existing premise that competition is the main driver for investments. Access regulation has allowed market entry and a healthy level of competition, especially at retail level. However, more emphasis should be put on regulatory models that give sufficient space to competition to invest rather than focusing primarily on ensuring access-based competition. To achieve this we are considering a set of measures.
- Our starting point is that public funds can help to reach some of the most remote areas with NGA networks, but they cannot bridge the connectivity gap that we have in Europe. It is for market forces to achieve the best possible network in each area.
- Co-investments, provided they have the right conditions, can play an important role to ensure that the risk is shared between operators, including for the riskiest investments, and that the deployment of new infrastructure is not at the expense of end customer choice. We have seen examples in several Member States, which are starting to reshape the structures of NGA networks.
- In some circumstances, local initiatives aggregate demand and bring enhanced networks to areas where the market has not delivered. If other operators move in to respond to their investment, their business case may be fatally compromised. It may be necessary for legislation to intervene and place some safeguards.
- In order to target regulation to the needs of the most disadvantaged areas, national regulators must have a clear picture of the reach and economic potential for the networks that are deployed within their territory. For this reason, regulators' powers and role in mapping networks in the national territory may need to be enhanced.

Do you consider that a market structure with two or more fixed networks has a risk of causing consumer harm (less investment, higher prices, lack of product innovation and choice) without some form of access regulation? What access regulation model would you consider acceptable in these markets? What are the conditions to be fulfilled (e.g. symmetry, regulatory certainty)? Could access regulation bring risks to investment incentives in such markets?

- In the EU, we started from monopolistic market structures in our sector. The fact that liberalisation and regulation have led to oligopolistic market structures is already a great achievement for end users.
- Infrastructure competition has a positive effect on investments. Where alternative infrastructures compete for retail and sometimes wholesale customers, they have a greater incentive to improve the quality and reach of their networks.
- There is no magic number of infrastructures that makes a market effectively competitive, or not. Oligopolies may or may not lead to consumer harm and to retail market problems. This depends on many economic and technological factors, which can provide incentives for healthy competition, or rather for the opposite.
- The Framework already provides for a test to address a market with several network owners, in the case where the conditions for tacit collusion, or joint dominance/SMP, are met. Further clarity could be brought.
- As to other situations, we have to protect market dynamics and end users, but also be mindful of the risk of overregulation. Regulation should only intervene where it is necessary and appropriate, because the connectivity goals in terms of quality, choice and price are not met for end-users.
- For instance in those circumstances, ensuring access to non-replicable parts of the networks can be key to maintain sustainable competition.

Sector specific regulation for communication services

Is there a political objective to review sector-specific rules for telecom services beyond a mere technical analysis of overlap with general rules?

- The objective of the revision of sector-specific end-user rights is two-fold. First, in REFIT we are screening the scope for deregulation or adaptation either by concluding redundancy or recourse to horizontal consumer protection legislation.
- Second, we aim at addressing a level regulatory playing field between traditional electronic communications services and functionally substitutable communications services provided by online service providers (OTTs), in order to close gaps in the protection of end-users and foster fair competition.

Which rights of users of communication services are insufficiently guaranteed by general rules and therefore need sector-specific rules? Does that also apply in case communication services are supplied by OTT players?

- Our current assessment is that the level playing field and focused end-user protection is probably best achieved by a targeted mix of deregulation and application of a key, but limited, set of sector-specific rules to OTT communication services.
- While the scope for deregulation is the subject of ongoing assessment, we have identified certain areas where leaner provisions may be warranted.

- For instance we are now considering that provisions on contractual information and transparency could potentially be limited to IAS only.
- Furthermore, we aim at adapting the scope of beneficiaries to the objectives of the relevant provisions in the Universal Service Directive. The experience shown that the level of protection needed by (larger) business users is not the same as that of individual consumers and of small and micro enterprises.
- Sector specific rules for communication services appear necessary in areas where these services make use of public resources such as numbers in the national numbering plan. Therefore provisions on number portability, access to numbers or emergency calls appear still necessary. Also provisions on security and confidentiality of communications appear necessary for public policy reasons. It may be appropriate to apply those latter provisions also to OTT communications services.

Is it necessary and feasible to overhaul the structure of rules, for instance by distinguishing between digital communication services (whether provided by telcos or OTTs) and communication networks?

- Innovative online services ("over the top" ("OTT") services") are increasingly relevant for the electronic communications sector and perform a competitive constraint for traditional electronic communications providers (e.g. VoIP and IP based-messaging make inroads into traditional revenue streams such as voice and SMS). At the same time these novel services also boost demand for the provision of data services.
- The level playing field means different things to different stakeholders and the discussion often lacks clarity. If there is understanding that similar rules should apply to equivalent services it is a prerequisite to assess when different services are equivalent.
- Sector-specific rules for Internet Access Services are largely accepted, divergences exist rather regarding the exact scope of rights and obligations.
- The question of equivalence when communications services are provided in addition to or over the Internet Access is more complex.
- If the provision of a service is dependent on the use of a public resource, such as numbers, in order to ensure end-to-end connectivity there may be good, if not necessary reasons, to treat the service differently from a service which is provided on a best effort basis without recourse to such public resource. It is widely accepted that using public resources is subject to a number of conditions.
- We acknowledge, however, that there are also public policy interest which may eventually require applying certain regulatory obligations to all communications services regardless of the mode of provision or whether they use public resources or not. Security of communications and confidentiality of communications are examples of such public interests.

Author: Article 4(1)(b), CNECT B2, Article 4(1)(b)

IV. Background

1. Telecom operators - IoT & new services (5G, spectrum, connectivity)

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COM position:

- **Standardisation & Verticals:** We share the view that continued efforts in the 5G-PPP will facilitate economies of scale between different industries such as automotive, healthcare and utilities. We are co-driving the 5GPPP in this direction.
- **Spectrum harmonisation:** We share your position that appropriate spectrum is needed for 5G, to facilitate timely roll-out and maximise network investment. Where possible, it should be harmonised spectrum. We expect a larger mix of licensed and unlicensed spectrum, and this should partially answer the need for affordability that you expressed. We do not know how much additional spectrum 5G requires. Focus is now on high frequencies (>24 GHz), but also harmonised bands such as **700 MHz or 800 MHz** are potential candidates).
- **On 5G timing:** the common view is that **5G commercial services will start in 2020** (Japan and Korea earlier, but will be 'faster phones', instead of truly new connectivity). Timing will also depend on standardisation process.

2. Competition & long-term consumer welfare (broadband roll-out & services)

Article 4(3)

COM: We need significant investment in next generation networks. This requires ensuring a sufficient return for new investments relative to risks, while maintaining effective competition. Efficient investment refers to investment that responds to present and upcoming consumer demand for higher speeds and better quality.

Effective competition drives investment and better market outcomes (e.g. prices, quality). In competitive markets, operators are in a race to provide better and more affordable services. This gives them an incentive to invest and innovate. Competition also facilitates consumer adoption of new products.

We also need increased certainty for investors; by

- setting the right conditions for investments and reducing divergences between regulatory practices in different Member States,
- while ensuring that "access seekers" have equivalent opportunities to invest in networks so that competition is not compromised (i.e. co-deployment models).

3. More space for innovation, specifically for EU telecoms

Article 4(3)

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COM:

- We are aware of the changing landscape in telecoms, especially the rise of ‘novel’/ Over-The-Top (OTT) communications services. We are assessing the need for changes in the rules. We want a level playing field and to address current and future problems for end-users, rather than those associated with past business models.
- For consumers, technological differences between traditional electronic communications and OTT services seem increasingly irrelevant. This also follows from responses to our public consultation and our on-going studies: OTT services are functional substitutes for traditional telecoms services in important respects.
- But we should not forget to weigh the relevance for end-users of remaining differences, such as use of numbers or different quality-of-service levels.
- We are assessing to what extent the existing framework needs to be adapted to these developments. We intend to lessen regulatory burden by considering the appropriate level of harmonisation (i.e. maximum harmonisation brings significant simplification) and clarifying the scope of beneficiaries of end-user protection rules.
- We intend to:
 - close any gaps in the protection of end-users;
 - ensure fair competition with a level regulatory playing field functionally substitutable services.
- Our current assessment is that the level playing field and focused end-user protection is probably best achieved by a targeted mix of deregulation and application of a key, but limited, set of sector-specific rules to OTT communication services.

If raised, we have noted your position that

Article 4(3)

The new **net neutrality rules** will allow the offer of specialised services that are innovative and of higher quality, as long they are not supplied at the expense of the quality of the Internet.

4. The investment gap and ways to fill it

DG CONNECT' performed in 2014 an estimate of the investment gap that needs to be plugged if Member States are to reach the last two DAE 2020 broadband targets: (i) universal coverage at 30 Mbps, for which the costs of full coverage by FTTC is assumed to be a proxy and (ii) the

subscription of at least 50% of households to 100Mbps, which we assume would require urban households to be covered by FTTP or equivalent. The estimate is based on available external studies, and on the current state of regulatory enforcement, technological capacities and business practice (all of which are developing fast).

According to these estimates **Europe needs EUR 34 billion to reach the target of 100% coverage at 30 mbps, and EUR 92 billion to credibly enable reaching the third target (use of offers at 100 mbps by 50% of household)**. European Structural and Investment Funds for broadband (not including other digital and ICT themes), currently estimated at EUR 5.5 billion, can help plugging such gaps by approximately 20.8% or 7.7% respectively. Further impact can be expected from leveraging EUR 150 million dedicated to broadband under the Connecting Europe Facility and by additional national and local funds.

Since the current efforts at the EU level are clearly insufficient to close the investment gap, stepping up efforts in policy, funding and regulation will be necessary. Furthermore it will be important to create a platform to strengthen demand for digitally enabled solutions which emerge from local and regional players and build the credible pitch for more investment in high-speed broadband. The Juncker Plan, the Connecting Europe facility and the Structural Funds are all catalysers of investment.

5. Telecom Review

The public consultation on the evaluation and the review of the regulatory framework for electronic communications networks and services ended on 7 December 2015. 244 contributions were received online and around 30 contributions through other sources. A wide array of stakeholder groups replied, with the majority of contributions coming from the telecom players. Wider digital economy and traditional non-telco industry players were also active. On 3 March 2016, the results of the consultation were published on the DSM website.

Results of the public consultation

Connectivity is broadly recognised as the underlying driving force for the digital society and economy, underpinned by technological changes and evolving consumer and market demands. Indeed, good connectivity is perceived as a necessary condition to achieve the Digital Single Market. Many respondents pointed to the need for policy measures and possible adjustments to current policy and regulatory tools to support the deployment of infrastructure in line with future needs.

A number of inputs asserted that the current regulatory framework does not much advance the internal market. There is a general perception that the regulatory framework needs to be adjusted to the current market dynamics. Many respondents however acknowledged the achievements ushered in by the liberalisation of the telecom markets, in particular in terms of end-user benefits and competition within most national markets.

On spectrum, the importance of wireless connectivity and wireless broadband are acknowledged. In general, industry is supportive of a more co-ordinated approach and seeks additional certainty for investments and possibilities to develop throughout the EU new wireless and mobile communications including 5G.

Member States' authorities generally underline the achievements in the field of technical harmonisation, and the need for additional coordination to be bottom-up and voluntary; some of

them call for a better balance between harmonisation and flexibility. There is general recognition of the importance of a more flexible access and use of spectrum in the future.

While administrations of several Member States, the regulatory community and consumer organisations still see a need for a sector-specific end-user protection based on high-level minimum harmonisation, the telecom sector calls for more reliance on horizontal legislation and full harmonisation, especially for services. The telecom sector in general but also some administrations argue that the same rules should apply to similar services while other administrations, so-called "Over-the-top" players, software and equipment vendors, cable operators and some broadcasters are of the view that the concept of electronic communications services as currently defined has proven itself.

While the continuing role of national regulatory authorities and spectrum management authorities is widely acknowledged, a large group of respondents highlight that the institutional set-up at EU level should be revised to better ensure legal certainty and accountability.

Policy options/issues in the review

We consider that the framework review should pursue one overall regulatory objective, articulated in terms of outcomes: widespread access to and take-up of very high-performance connectivity. It would be made clear, that the current three policy objectives i.e. promotion of competition, of the internal market, and of citizen interests, as well as the regulatory principles relative to investment and innovation, are at the service of this overriding objective.

Network access

Our future proposals on network access will aim at responding to the objective of the DSM strategy to incentivise investment in very high-capacity broadband networks and to the overall ambition to enhance connectivity, while maintaining a pro-competitive approach. To this end we are working on a set of measures which provide necessary safeguards for access-based competition, while limiting regulation to what is necessary and increasing incentives for incumbents and alternatives to roll out very high-capacity networks and (where feasible) competing infrastructures.

To address the investment challenge we would start from the existing premise that competition is the main driver for investments. Market analysis and appropriate remedies, would remain central tools. However, more emphasis should be put on regulatory models that give sufficient space to competition to invest rather than focusing primarily on ensuring access-based competition.

To achieve this we are considering a set of measures which aim for (1) the simplification and geographic focus of access regulation, (2) Value the well-designed access programmes to the civil infrastructure (ducts, poles, etc.), (3) Improving the investment environment for very high-performance networks of SMP operators (4) Clarifying regulatory treatment of wholesale-only models (5) The legal regime on symmetric access to non-replicable assets could be clarified and (6) To enhance competition in the provision of cross-border business services.

To equip the NRAs with sufficient tools to address the connectivity challenge, in particular in rural areas, the competences and tasks of independent regulators may need to be reinforced, e.g. as regards the powers of NRAs to map broadband investment plans across their national territory.

Spectrum

Spectrum is a core enabler for the deployment and development of current and next generation mobile and fixed wireless networks (e.g. 5G). In addition to affecting deployment, the manner in which spectrum is assigned and the conditions attached to spectrum assignment and usage, are also major determinants of mobile competition, which in turn influence quality of service, prices, speed of roll-out and take-up of mobile broadband. At the same time, fixed-mobile and telecommunications-broadcasting convergence are blurring the distinction between traditional telecommunications markets, which will lead to significant change in the nature of competition for products and services.

The Framework review will be a major building block of the 5G strategy. The objective is to have spectrum rules fit for 5G success and for supporting efficient investments, thereby contributing to the overall objective of deployment of very high-capacity networks throughout Europe. Our proposals would focus on (1) a more efficient timing between allocation and assignment; (2) predictability and consistency for market investors in the next generation of wireless broadband networks regarding the main conditions for assigning or renewing national spectrum rights of use and (3) regulatory clarity on additional needs for 5G beyond spectrum.

Regardless of the question as to what extent the above-mentioned issues should be dealt with exclusively at the national level or co-ordinated at the EU level, it is clear that all of them have a direct impact on the market functioning at the national level and would benefit from greater consistency. Therefore we are reflecting on the right balance of competences between various national authorities, including the role of NRAs acknowledging that, at present, all of them do not have competences in spectrum matters, and on the appropriate setting in which such peers can contribute at EU level alongside the Commission to general policy guidance and to peer-review of specific national proposals, so that the market knowledge is appropriately taken into account in establishing national award procedures, conditions for renewals and main conditions attached to spectrum usage rights.

Services

The objective of revised sector-specific end-user rights is two-fold. First, in REFIT we are screening the scope for deregulation or adaptation either by concluding redundancy or recourse to horizontal consumer protection legislation. Second, in order to close gaps in the protection of end-users and foster fair competition we aim at addressing a level regulatory playing field between traditional electronic communications services and functionally substitutable communications services provided by online service providers (OTTs).

While the scope for deregulation is the subject of ongoing assessment, we have identified certain areas where leaner provisions may be warranted. For instance, the provisions on contractual information and transparency could potentially be limited to IAS only; horizontal rules on alternative dispute resolution and online dispute resolution may have made sector-specific rules redundant. Furthermore, we aim at adapting the scope of beneficiaries to the objectives of the relevant provisions in the Universal Service Directive. The experience and feedback in applying the current framework has shown that the level of protection needed by (larger) business users is not the same as that of individual consumers and of small and micro enterprises.

As regards the level playing field discussion, sector-specific rules for Internet Access Services (IAS) are largely accepted; divergences exist rather regarding the exact scope of rights and obligations. The question of equivalence when communications services are provided in addition to (or over) Internet Access is more complex. If the provision of a service is tightly linked to network operation and is dependent on and benefits from the use of a public resource, such as numbers, in order to ensure interoperability and end-to-end connectivity via the network, such a

service may not be in all respects comparable to a service which is provided on a best effort basis without recourse to such a public resource.

It may thus be opportune, for the purposes of further discussion, to reflect on a possible distinction between (1) rules applicable only to communications networks, and to communications services that include provision of connection to the network as a key feature of the service, and which may use public resources to this effect, and (2) a subset of rules also applicable, according to need, to other communications services. Services that could be considered to provide a connection to the network could include POTS telephony, IAS provision, provision of managed services, or provision of any other services using public numbers (in or out).

Governance

We consider that an adequate and efficient institutional set-up is key to ensuring a positive outcome for the overall regulatory framework, and also that an efficient EU system of regulatory authorities is critical for the "connectivity" based digital single market. NRAs and BEREC have been, and should continue to be, at the core of the telecoms regulatory system.

A critical aspect of the governance system is the distribution of competences amongst the different institutional stakeholders (at national level: independent NRAs and other national authorities; at EU level: BEREC, RSPG, Commission...). Another critical aspect is how to efficiently ensure the independence of NRAs, including that they should be adequately resourced to perform their core tasks and to fully participate in BEREC.

In view of market and technological developments, there are areas of pan-European relevance where BEREC could play a (greater) role, such as coordinating the mapping of network infrastructures, monitoring the quality of Internet services or the conditions for provision of cross-border business services, monitoring the development of wider markets for communications platforms or services, and developing as appropriate technical guidance or prerequisite preliminary specifications for standardisation. In co-responsibility with the Commission, BEREC could play a stronger role as repository of regulatory experience.

CVs

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Article 4(1)(b)

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