

Conclusions of the thirteenth plenary of the European Regulators Group

Date: May 25-26, 2005

Location: Bled (Slovenia)

Adoption of the Agenda and welcome

The agenda ERG (05) 18 was adopted.

The Chairman and the Group welcomed the Head of the Telekomünikasyon Kurumu (TK), as an observer to the Group from this plenary meeting onwards. The Chairman of TK presented his Authority and the state of play in Turkey.

The Chairman and the Secretary informed the Group about their activities since the 12. ERG Plenary in February 2005.

Wholesale international roaming (WIR) Common position

Following the presentation of the document (ERG (05) 20) by AGCOM (Italy), and a discussion the Plenary adopted the Common Position on WIR, to be published for public consultation. ERG also decided to:

- simultaneously and immediately start, to the largest possible extent, market definition and market analysis of market 17 of the Recommendation;
- establish a Project Team coordinated by AGCOM, to identify measures to be put in place in order to improve retail (international roaming) tariff transparency. The PT will submit a PRD in due time.

These decisions were welcomed by the Commission.

Wholesale broadband markets

a. Report on broadband markets

RegTP (Germany) presented a report on broadband (document ERG (05) 23). ERG decided to publish the report (plus the annex with the country studies) on the ERG website according to the Work Programme 2005.

b. VoIP issues

The Group took note that the FN WG will continue its work on the subject and present an intermediate report at the Plenary in September 2005.

Addition of a Cable bistream chapter to the Common Position on bitstream access

RegTP (Germany) presented the document ERG (03) 33rev2, adding a cable network access chapter to the Common Position on wholesale bitstream access (ERG (03) 33rev1). The document was put to public consultation earlier this year and now includes input received from interested parties.

ERG adopted the revised Common Position with some slight amendments.

ERG decided to publish document ERG (03) 33rev2 and document ERG (05) 24.

Regulatory remedies

OFCOM (UK) presented selected topics for a more detailed discussion and possible considerations for a future version of the Remedies document (ERG (03) 30rev1).

ERG decided on the following topics, to be further developed, in the update of the remedies document:

- Ladder of investment
- Replicability of assets
- Emerging markets
- Discrimination on non-price issues
- Removal of regulation.
- Market linkages.

The timetable for the delivery of the report was not changed.

Significant market power (CMT)

a. Results of the public consultation

CMT (Spain) presented the results of the public consultation and explained how the consultation comments have been taken into account. The Group agreed to publish the document ERG (05) 26

b. Revised SMP Working Document

ERG decided to ask the SMP WG to continue to work on this document and to discuss certain issues with the Commission and in particular to check the legal consistency with the guidelines. A final version of the document is expected for the Plenary in September 2005.

Experiences on market definition, market analysis and applied remedies

a. Report of the Commission on the Planning of the Review 2006 of the regulatory framework

The Commission reported on its plans for the Revision of the Regulatory Framework in 2006 and the possible involvement of ERG in this process.

In particular, following the deadlines foreseen by the regulatory framework, there will first be a consultation on the review of the scope of Universal Service (May 2005), then a call for input on the Review of the Recommendation on relevant markets by the end of 2005 and finally a Communication on the functioning of the existing framework. This will have an impact on the Work Programme 2005-2006 of the ERG (see below).

- b. ERG Report on experiences with market definition, and market analysis and applied remedies: revised project description

CMT (Spain) presented a revised ERG Project on a Report on experiences with market definition, market analysis and applied remedies. It was decided:

- to accept the revised description of the scope of the project as guidance for the SMP WG;
- to enhance coordination with art. 7 Task Force in order to exchange as much information as possible and reduce the scope of questionnaires;
- that each NRA would allocate enough resources to respond to questionnaires;
- to design an IRGISnet specific tool to ease information uploading and exchange.

Accounting separation and cost accounting

COMCOM (Switzerland) presented the Common Position on Implementation Guidelines on accounting separation and cost accounting - ERG (05) 29.

ERG decided to publish this Common Position with slight changes in Chapter one, with regard to the status and the history of the document. The publication of the CP has to be coordinated with the procedural steps (translations, CoCom approval and Commission approval) needed to adopt the Commission Recommendation on accounting separation and cost accounting systems.

Work Programme 2005

The mid-term review of the scope and scale of the 2005 Work Programme was focused in particular on the following topics:

- 1) Voice over IP: It was decided to continue the work on VoIP in WP 2005.
- 2) Broadband/interconnection: It was decided to carry out a fact finding exercise on interconnection (PSTN-IP, IP-IP) regimes as well as a benchmarking exercise for prices of shared access, naked DSL and BSA (taking into account different qualities of BSA products) for the September Plenary. Conclusions regarding IC regimes and consistent pricing of access products will be prepared for the November Plenary.

- 3) Revised project on market definition experiences: The revised ERG Project Description on a Report on experiences with market definition, market analysis and applied remedies was discussed and approved. The work will continue.
- 4) PIBs on retail minus / PIBs on CCA: Submission of documents for consultation to the September Plenary, consultation 4Q/2005, submission of final PIBs to the 1st Plenary in 2006.
- 5) Art. 5.1 AD: the work is postponed.
- 6) Report on retail price regulation: no work should be performed in 2005.
- 7) Market Data Analysis: no further deliverable was requested by the Plenary.
- 8) It was decided to add a deliverable to the WP 2005 on transparency in relation to end user prices for international roaming services.

Work Programme 2006

ERG discussed and agreed on a list of prioritised topics that could serve as guidance in relation to the further work developing the WP 2006. Prioritised topics included:

- The 2006 Review of the regulatory framework
- VoIP
- Broadband
- NGN
- Margin squeeze
- Cross border issues (WIR)
- Interconnection of services (access to content)

At the September Plenary a draft WP 2006 will be discussed and, if approved, will then be publicly consulted (4 weeks). A final WP 2006 is expected to be decided at the December Plenary.

The Group agreed that it could be useful to organise a review of the ERG decisions and their usage by the NRA's. The group asked the ERG Secretary to prepare for this work.

Information from the European Commission

The Commission provided information on:

Cocom: The Commission reported on the items of substance on the agenda of the Cocom meetings of April 2005.

Report on Art. 7-notifications: The paper ERG (05) 33, a report with updated statistics on proposed measures notified by NRAs according to Article 7 of the Framework Directive and resulting Commission activities, was presented.

European freephone services: The Commission reported on its work with harmonised European freephone services. In particular, it seeks to reserve in all Member States the 116 number range for harmonised European freephone services with significant

public interest. An analysis document has been prepared that identifies the barriers to cross-border freephone services. The Commission mentioned a forthcoming workshop on the issue.

Revisions of the US Directive: The Commission updated the Group on the status of work with the review of the concept of USO and referred to its communication of 24 May 2005 on the review of the US Directive. Given the fact that a general two month consultation period is presently running, ERG will not be asked for an opinion in 2005.

Next generation networks: The Commission mentioned a forthcoming workshop on the issue to be held the 22 June 2005.

A.O.B.

ERG decided that the Chairman together with the former chairmen and the incoming chairman would prepare for a discussion on organisational issues including the relation IRG-ERG.

The next plenary meeting will take place in Copenhagen, Denmark, on 22-23 September 2005.

The following documents will be published on the ERG webpage:

Agenda ERG (05) 18

Draft Common Position on Wholesale International Roaming, to be consulted ERG (05) 20

Report on Broadband Markets, ERG (05) 23 + Annex A “Country Studies” + Annex B “Definitions”.

Common Position on Bitstream (including a Cable bitstream chapter) ERG (03) rev2

Results of the public consultation on bitstream access to cable networks ERG (05) 24

Results of the public consultation of the SMP Working Document ERG (05) 26

Common Position on Guidelines for implementing the Recommendation on Accounting Separation and Cost Accounting under the regulatory framework for electronic communications, ERG (05) 29 (to be coordinated with the publication of the Recommendation).

A press release focussing on the decision taken on WIR was agreed upon.

ERG Bled Seminar

The Group held a special one-day seminar in conjunction with ERG13 in Bled.

Future regulatory challenges were discussed, with a handful of specific, clearly defined sub-items such as challenges related to the development of broadband/VoIP/next-generation networks, emerging markets and wireless broadband access.