

## Report on the Public Hearing on the ERG Work Programme 2006

Location: Centre Borchette, Brussels

Date 19 October 2005, 12.00

- 1) Opening by Jorgen Abild Andersen, Chair 2005
- 2) Introduction of the WP 2006 by Kip Meek, Chair elect 2006
- 3) Discussion:

On 28 September, the ERG issued a draft 2006 Work Programme and invited comments by 21 October. In particular the following questions were posed in the consultation document:

- Are stakeholders content with the overall direction we are proposing?
- Do stakeholders agree with the priorities ERG has identified?
- Are there any other priority activities or issues which stakeholders think ERG should be addressing?
- What are the most important aspects of the Review of the Regulatory Framework that ERG should consider?
- Are there any other technical and market issues that ERG should address?
- Has ERG given sufficient weight to consumer or citizen issues? If not, what else should ERG address?

The comments of the participants are grouped along these main headlines.

### **Overall direction of the WP 2006:**

All commentators agreed with the proposed overall direction.

There were several comments on transparency. **GSM Europe** wanted more opportunity to influence ERG thinking during the creation of ERG documents. **ETNO** remarked that continuous improvements in transparency were clearly observable. However, it proposed a dialogue at all stages of the process and noted that some documents with a clear policy conclusions, eg the Broadband Competition Report, had not been consulted on. **DT** agreed that all documents with policy content should be consulted.

**ETNO** welcomed the identification of deregulation as a priority, in particular, guidance from NRAs how to reduce regulation where competition is likely to emerge. **ECTA** remarked that deregulation should not be taken as a given as there was a risk of rolling back regulation too early. Instead the establishment of an effective competitive environment should be targeted.

**BT** remarked that despite its agreement with the overall direction of the WP 2006, it proposed that ERG should also still deal with application of the existing framework

**Colt** suggested that ERG should consider how to assess impact after you deregulate.

*The Chair 2005 welcomed the comments on the overall direction of the WP 2006 and on transparency, in particular, and found them reassuring. The Chair-elect 2006 responded on the requests to consult on internal documents and reports. He remarked that there is a trade-off between effectiveness of work and transparency and that the degree of consultation*

*should be decided on a case by case basis. On deregulation, NRAs should actively look for opportunities to roll back regulation but with a clear reference to market conditions.*

**Priority issues to be addressed:**

No new priority issues were proposed by the participants other than those already mentioned above.

**Most important aspects of the Review 2006:**

**GSM Europe** queried the inclusion of joint dominance. It wondered what ERG's aim was as it is a concept of competition law and is therefore subject to the jurisdiction of the European Courts.

**ETNO** asked whether the ERG was seeking a profound review of the existing framework.

**O2** emphasised that evidence is very necessary for the Review and stressed that ERG should base its discussions with the Commission in the ERG Seminar on evidence.

*The Chair-elect 2006 responded that ERG has no interest in creating conflicting ex ante and ex post regimes, but the hurdles for establishing joint dominance does occasionally create problems for NRAs and it would be peculiar if NRAs did not examine them. The item is open ended with no predetermined output. With regards to the review of the framework, the depth of the review was down to the Cion as it was their review. ERG would review the experience of NRAs and stakeholders and this would determine whether there were fundamental concerns. The initial impression was that there would be things which need to be addressed but nothing major.*

**Other technical and market issues to be addressed?**

Several contributions addressed the regulation or otherwise of NGN and VoIP. **ETNO** believed that NGNs should not be regulated. **BT** suggested that the approach to NGNs should be considered with full involvement of the industry so that there was an openness and clarity for the market. **ECTA** stated that ERG should consider economic regulation of VoIP and an overall view of effectiveness of mobile market. They added that NGNs appear to simultaneously create opportunities and risks and effective competition should be ensured by appropriate regulation.

**Colt** considered that ERG should also look at leveraging and regulating dominance.

**NI** suggested that ERG examine IP costing methodology.

**ECTA** asked whether work on the "Ladder of investment" concept will be continued. In addition it would like to see economic regulation of VoIP and competition issues in relation to international roaming on the agenda.

**TI** asked whether spectrum decisions with regards to Wi-Max will be considered.

**O2** noted that the TV without frontiers (TWF) directive had an impact for telecoms operators.

**INTUG** suggested that the underlying reasoning for ERG's opinions on the Review 2006 should more explicitly be based on the Lisbon Agenda and economic growth.

*On NGNs, the chair-elect 2006 noted that regulation has to strike a balance between incentives to invest in NGNs and effective competition. He also observed that the issue of*

*'ladder of investment' was being considered as part of the current ERG work on updating the Remedies Common Position. The chair noted that work on broadband, VoIP and Wimax was envisaged in the Draft Work Programme for 2006 but the items would be reviewed together with all the other suggestions made after the end of the consultation.*

**Consumer/ citizen issues**

**Colt** referred to the expression "EU citizens" and reminded that it includes EU businesses as well.

**INTUG** was concerned that consultations only got responses from the telecoms industry and not the 'public' and wondered how this may be addressed.

**Closing of the Meeting:** Mr Andersen thanked the participants for their interesting and productive contributions and closed the meeting at 13.07.