

Regulation 4.0

Prof. Fátima Barros
BEREC Chair 2015

ECTA Regulatory Conference 2015
16-18 November | Brussels Marriott Hotel



18 November 2015

- BEREC significantly contributes to enhance regulatory harmonization in Europe
 - Active player in the telecoms market regulation
 - Promotes coherent regulation & competition

Strong commitment to identify

- Best Practices within its Common Positions
- Relevant check of NRAs compliance with CPs
- BEREC's advisory function within article 7/7A proceeding has ensured NRA's adherence to the objectives of RF.


#DigitalSingleMarket

TSM

- ✓ Input on the weighted average of maximum MTRs
- ✓ Fair use policy & the sustainability of the abolition of retail roaming surcharges
- ✓ Assess the wholesale roaming market
- ✓ Lay down guidelines - implementation of NRAs' obligations (supervision, enforcement and transparency measures for safeguarding open Internet access).

- Increasing complexity of market conditions
 - New players
 - New business models

- Use of smart devices & video streaming consumption
 - Explosion of mobile broadband demand and data traffic

- No explosion in fixed broadband demand
 - No game change application yet
- 
- But once it comes onto the market
 - Speeds-up consumer's willingness to pay
 - Increases take-up
 - Further investment in fixed broadband to meet demand

ACROSS EUROPE

Fixed



Wireless



High-speed broadband networks roll-out requires substantial investments

BEREC's view: effective & sustainable competition drives efficient investment

- **But**

- Requires clear and predictable regulatory regime

- **ONE SOLUTION:** longer market review cycles for more stable markets

DEMAND SIDE

■ Crucial for:

- Sustainable business case
- Customers subscribe high-speed broadband
 - If they enjoy innovative services
- demand for services & roll-out of NGA must be synchronized

Competition + Demand = Drives for investment

How to achieve connectivity overall goals?

■ Universal Service:

- To meet social objectives of access
 - Basic broadband
 - Basic services
- Independently of geographical location

■ State Aid:

- Contributes to achieve convergence in remote areas where private investment will not occur
- State Aid rules need to be coherent with ex-ante regulatory framework
 - Avoid inconsistency and conflict between two regimes

STATE AID CHALLENGES

- Need for a granular analysis of eligible areas
- Need for coordination to exclude geographical areas where private investment can occur
- Technological neutrality to be considered when mapping different areas
- Impact of state aid remedies on adjacent markets should be taken into account
 - Avoid competitive distortion

- **EU**
 - Heterogenous infrastructures
 - Different markets maturity levels
- **Harmonisation is desirable but**
 - **Increasing complexity** of markets conditions + need to respect **principle of proportionality**



More flexibility + Differentiated regulatory toolbox



Allowing NRAs to adapt regulatory access networks to national conditions

- Migration to NGA networks
 - Bottlenecks to broadband access networks persist

SMP regulation remains important tool in many members states

Mandated access to the incumbent fixed networks

- Reduces entry barriers
 - Enables new business models
 - Fosters innovation
- **SMP regulation** is still appropriate to several markets

■ However

- Some markets might face local bottlenecks structures
- General access obligations may not be appropriate to ensure effective competition
- Symmetric access obligation on all operators, irrespective of SMP, could be a more effective regulatory tool
 - Impact on investment?
 - Innovation incentives?

One size does not fit all!!



- Framework needs to be able to address oligopolistic scenarios
- **EU telecoms market:**
 - Uptake of bundle services
 - Consolidation of markets – M&A
- **Oligopolistic telecoms market:**
 - No single SMP operator
 - Non-competitive outcome
- **BEREC report**
 - Whether current regulatory toolkit and/or practical application is adequate
 - Provide initial assistance to NRAs (analysis & regulation of oligopoly markets & review different outcomes)

Distortion of the level playing field among different players?

- ✓ The EC correctly focuses on situations of competing services.
- ✓ New business models and changes in the internet value chain.



- ✓ BEREC welcomes DSM holistic approach
- ✓ **DSM:** opportunity tackle challenges of technological & market developments
- ✓ **NRAs:** willing to monitor market developments (impact of new players/business models) on the telecom markets



All players, same proportional rights & obligations

BEREC Report on OTT

- Relation between OTT & communication services
- Analysis on OTT (definition & impact)
- NN not addressed – covered in specialised reports
- Definition ECS
- **CONCLUSION:**
 - ✓ The range of services to which any specific obligation should apply, must be considered in light of the goals of the obligation and the proportionality of that obligation.

CONCLUSION

- BEREC's view: effective & sustainable competition drives efficient investment
- Connectivity is the sum of all parts: competition + state aid + universal service + demand
- Harmonisation but one size does not fit all
- Update regulatory toolbox (flexibility in access regulation, oligopolies)
- Proportional level playing field

Fátima Barros
bereg2015@anacom.pt