

Conclusions of the Eighth Plenary of the European Regulators Group

Date: April 1 – April 2, 2004
Location: London

Welcome to new observers

The ERG welcomed the heads of the Bulgarian and Romanian regulatory authorities, CRC and ANRC, as observers to the Group.

2005 Chairman

There was consensus to elect Jørgen Abild Andersen of NITA (Denmark) as Chairman for the year 2005.

Information from the Commission

Cocom: Bernd Langeheine reported on two important discussion points at the last Cocom meeting on March 10: the Commission's draft Regulation for the .eu domain was tabled, and the renewal of GSM licenses was discussed after a presentation of the new licence conditions in France. The latter discussion is principally important since the French renewal of GSM licences will be the first of many in a number of member states. Two subgroups – for broadcasting and standardisation – were also created. The next meeting of Cocom is scheduled for May 12. The most important issue to be discussed there will be the Commission's draft Power Line Communications (PLC) Recommendation (see also below).

Recommendation on PLC: Peter Scott recalled that a regulatory workshop on PLC was held on 11 March 2004, where a preliminary draft text of a Recommendation on PLC including standardisation issues was discussed. There were differences in views on the permitted emission levels. The Commission stressed the importance of reaching an agreement so that the PLC market can start developing. Any interference problems would be addressed on a case-by-case basis.

Recommendation on leased lines: Part 1 of the Recommendation (supply conditions) is awaiting Commission adoption. A call for input relating to part 2 of the Recommendation (pricing of wholesale leased line part circuits) closed on 31 March. The next step will be for DG INFSO to submit a request for price data to Member States via Cocom.

Update on Article 7-procedures: Bernd Langeheine reported that the Finnish market for international calls had been discussed at the Cocom meeting in February. The Commission has also published comments on Ofcom's notification of the wholesale bitstream access market, in particular concerning the inclusion of cable operators and how to assess the ability of those operators to offer wholesale services. The

Commission has also published its comments on Ofcom's notification of the mobile call termination market, setting out its view that 2G and 3G call termination are in the same relevant market. It has also commented that even though Ofcom is refraining from imposing regulation on 3G call termination, it is important to monitor that part of the market sufficiently.

Update on the revised ERG decision: The Commission informed that the revised decision will follow the approach of the Cocom document circulated earlier, taking into account comments received at the Cocom meeting in February. It will have an annexed list of national regulatory authorities that satisfy conditions for membership. There will be one single member (the Head of the institution responsible for the day-to-day regulatory oversight) per Member State. A revised version of the Decision will be sent to the members of the Cocom over the next 2-3 weeks, after which the Commission intends to finalise the decision.

Remedies

The supporting document (ERG (04) 14), which outlines how the Remedies document has been changed in light of the consultation and the reasons why, was presented. This was followed by a presentation of the tabled final version of the Remedies document – ERG (03) 30rev1 – [Draft] ERG Common Position on the approach to appropriate remedies in the new regulatory framework. The presentation focused on the principal changes made in the tabled final version since the consultation.

A tour de table was held on the changes in the tabled version from the earlier, consulted version. Following a thorough discussion, touching on the practical implications for NRAs of the document, an agreement was reached by unanimity to publish the tabled version after a further proof reading and with the addition of a glossary at the end of the document. The document is foreseen to be published on the 23rd of April. The status of the document will be an ERG Common Position prepared in close cooperation with the European Commission Services.

Fabio Colasanti of the European Commission highlighted the positive reception of the document on the part of the Commission Services and their full support for the document. He stated that this support will be expressed in various ways in the future. He also expressed the extreme usefulness of the supporting document and that it should be released at the same time. There was agreement on this. Fabio Colasanti also welcomed the substantial step towards the harmonisation of the application of remedies which NRAs are taking by agreeing to rely on common principles.

Further work on the issue of remedies is scheduled for this year in the 2004 Work Programme. The work should result in reports that lay the groundwork for a subsequent development of the Common Position on remedies.

ERG Opinion on the revision of the Commission's Recommendation on Cost Accounting and Accounting Separation

The draft ERG Opinion on the revision of the Commission's Recommendation on Cost Accounting and Accounting Separation (ERG (04) 15) was presented. The plenary decided to consult the draft Opinion publicly. ComReg, the Irish regulator, welcomed the draft in broad terms while raising some issues which should be addressed in an introductory text. It was agreed that ComReg should propose text for such an introduction. The ERG Secretariat will launch the consultation in the last week of April, with a closing date in mid-June. A hearing will also be organised.

Fabio Colasanti added that it had also been previously agreed to have a read-through of the draft Opinion by an auditor after the close of the public consultation.

Common Position on bitstream access

The previously published interim document on bitstream access has through some minor changes been aligned with the final version of the Remedies document. The final version, an ERG Common Position on Bitstream Access (ERG (03) 33rev1), was presented. The Commission asked that the third paragraph on page one be brought in line with the standard formula of Art. 4.4 in the ERG interim rules of procedure regarding the publishing of an NRA's reasons for not being able to follow a (Common) position. The Group decided to publish the document, after adjusting it according to the Commission's proposal, on the ERG website at the same time as the Common Position on remedies.

Progress report on international roaming

Nils Gunnar Billinger of PTS presented a progress report with a plan (ERG (04) 16) for the ERG - Commission Services work on international roaming. The first phase of the work was explained. The ERG will seek to agree on a common position on the regulation of wholesale international roaming markets by December 2004 as indicated in the ERG/IRG Work Programme 2004.

Juergen Mensching of the Commission reported on the investigation concerning international roaming in the United Kingdom and Germany. The Commission will discuss their findings at an early stage with the international roaming working group.

3G rollout

The members from Austria, Denmark, Finland, France, Germany, Greece, Italy, the Netherlands, Portugal, Slovenia, Spain, Sweden, Switzerland and the United Kingdom presented the state of the 3G-rollout in their respective countries. Georg Serentschy of RTR, the Austrian regulatory agency, also reported on its first case of frequency trading in Austria, involving the transfer of spectrum rights from 3-G Mobile Communications GmbH (3-G Mobile) to T-Mobile Austria GmbH. The transfer is the third and last step in a procedure where 3-G Mobile was first overtaken by Mobilkom

Austria, after which frequencies were exchanged between 3-G Mobile and Mobilkom Austria. Regarding Sweden, Nils Gunnar Billinger of the PTS noted the interest there for the rollout of digital mobile services telephony in the 450 Mhz-band, following the closing of the analogue service in that band in 2007.

Jørgen Abild Andersen asked if ERG should discuss together with the Commission how to facilitate the development of new mobile services. Fabio Colasanti of the European Commission explained the related on-going initiatives at the Commission such as the papers “Blueprint for Mobile Payments” and “Connecting Europe at High Speed”, the further development of the eMoney Directive, special working groups and other efforts. He expressed that ERG should do special work, together with the Commission, on the definition and regulatory treatment of emerging markets. He offered to present a document on the impact of the eMoney Directive at the next plenary. There was general agreement that the issue of how to facilitate new mobile services in general and 3G-rollout in particular should be discussed within the ERG in some structured form.

A.O.B.

There was an intensive discussion of the question of NRAs comments to notifications in procedures according to Article 7 of the Framework Directive and of the related issue of the format of future ERG meetings. The Chair and the Secretariat will provide a summary of possible changes of the meeting format at the next plenary.

Construction is still being done on the internal section of the ERG website which will contain a complete library of ERG documents as well as other relevant documentation.

The next meeting will take place on 16 – 17 June in Luxemburg.