

Business Connectivity – Regulation of Wholesale Access Services

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Chair, Remedies PT

Public Hearing, Brussels, 29 January

Background to the Hearing

- **ERG carried out an investigation in 2009 concerning regulation of “high end” wholesale access services**
- **Published a report on activities – ERG (09) 51**
- **Consulting on nature of follow-up work for 2010**
- **Consultation closes 1 February**
- **Work to be carried forward by BEREK**

Agenda

- **Review of ERG work in 2009**

- **Proposals for BEREC work in 2010**
 - **Market definition**
 - **Monitoring of remedies**

- **Other issues**

The logo for ERG, featuring the letters 'ERG' in a bold, orange, sans-serif font. The logo is positioned on the left side of a horizontal banner that has a blue and white background with a globe and a grid pattern. The banner is set against a dark blue background with a grid pattern.

Review of ERG work in 2009

The issue

- **Are “high end” business users well served in terms of good choice, quality, price?**
- **How do we characterise “high end” users?**
 - **No very clear line dividing their needs from those of other business users**
 - **ECTA/INTUG/EVUA recommended we focus on needs of multi-site large businesses**
 - **This is a fairly well defined segment and seems to provide a reasonable proxy**

Needs of multi-site large businesses

- **Need higher specification services than those aimed at the mass market**
 - **Some services are classically sold almost exclusively to businesses (leased lines, ISDN 30)**
 - **Others (DSL-based broadband connections) may have “standard” and “high end” variants**
- **Frequent preference for purchase of national network from single supplier**
- **Users in this segment tend to need “premium” SLAs – may or may not be available**

What stakeholders say

- **Users (INTUG, EVUA) say:**
 - **There is insufficient choice of supplier**
 - **They cannot always obtain satisfaction of their specification**
 - **Above especially likely in the case of companies needing transnational networks**

- **ECTA says that the above problems caused by**
 - **Gaps in wholesale access remedies**
 - **Consequences of geographic segmentation**

What we looked at

- **NRA approaches and experiences**
 - **Approaches to business needs taken in Market Reviews**
 - **Evidence from disputes and complaints**
- **SMP remedies actually imposed**
- **Experiences of individual end users**

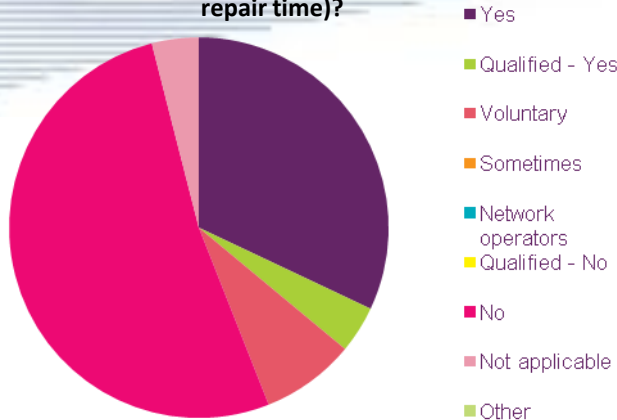
What we found – NRA experience

- **NRAs have generally not given detailed examination to special high-end business needs in conducting Market Reviews**
 - **View that large companies can look after themselves but residential consumers cannot?**
 - **View that large companies well served by range of “business only” products (leased lines, ISDN 30)?**
 - **Too complex / market data insufficient to differentiate needs of market segments?**
- **But indications from recent reviews that business user needs may be getting more attention**
- **Given stakeholder views, surprisingly few relevant complaints/disputes**

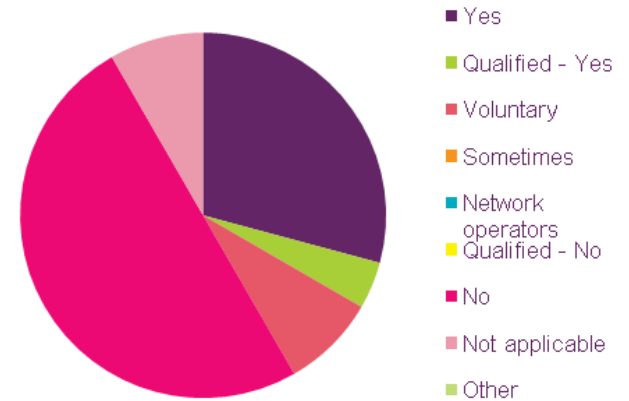
What we found – existing remedies

- **Considerable variation across Europe in application of wholesale access remedies relevant to high end business needs**
- **Potential for wholesale “gaps” to lead to softening of competition in retail markets**
- **Particular “gaps” to highlight:**
 - **Wholesale line rental**
 - **“high end” DSL services**
 - **Wholesale ethernet leased lines**
 - **Premium SLAs**
 - **Migration processes**

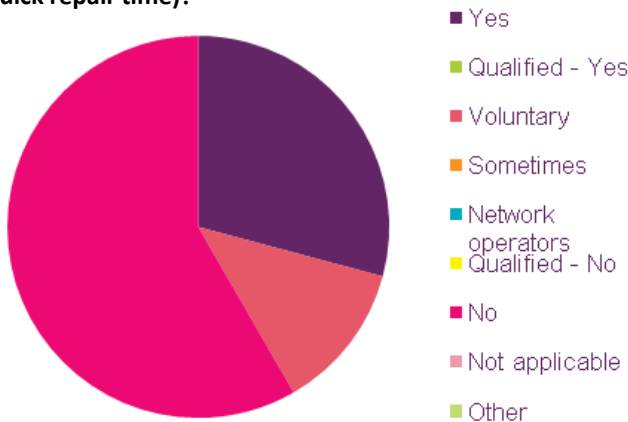
A5. Unbundled loops. Is there an obligation to offer a product with "premium" SLAs (e.g. Guaranteed quick repair time)?



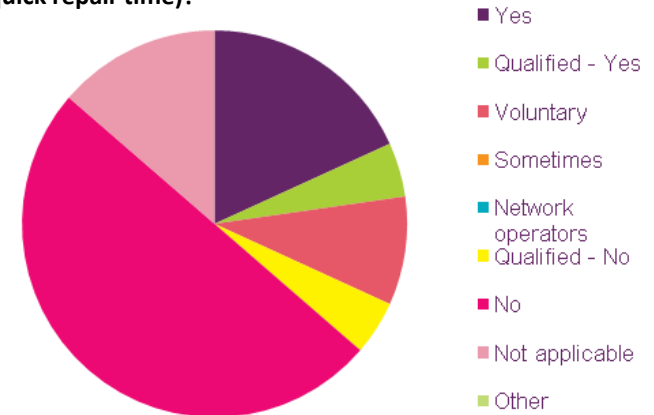
B5. Bitstream. Is there an obligation to offer a product with "premium" SLAs (e.g. Guaranteed quick repair time)?



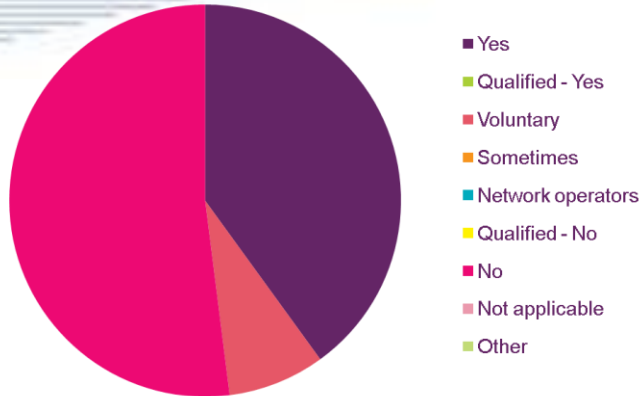
C5. Leased lines. Is there an obligation to offer a product with "premium" SLAs (e.g. Guaranteed quick repair time)?



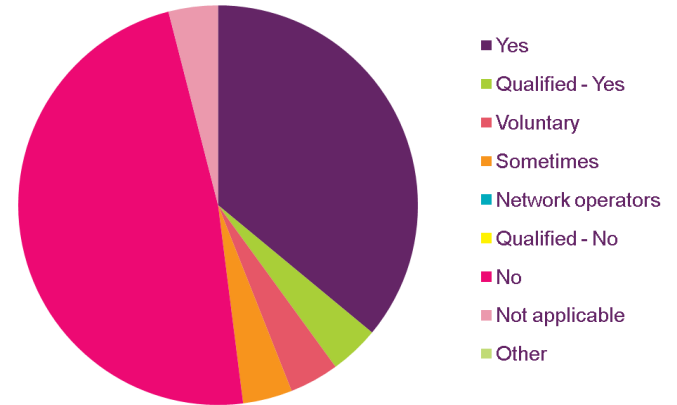
D5. Wholesale line rental. Is there an obligation to offer a product with "premium" SLAs (e.g. Guaranteed quick repair time)?



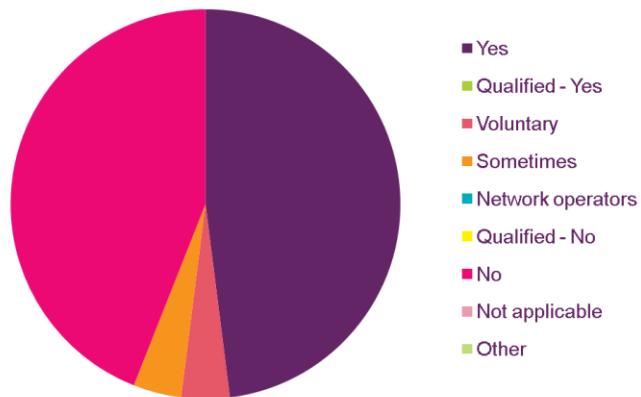
A11. Unbundled loops. Is there a formal obligation on the SMP operator to consider requests for new forms of access?



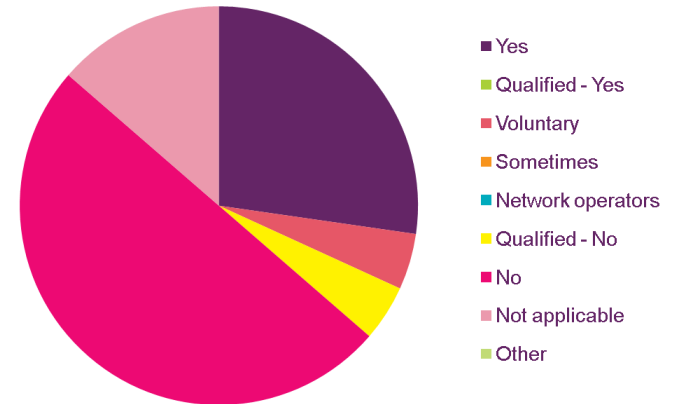
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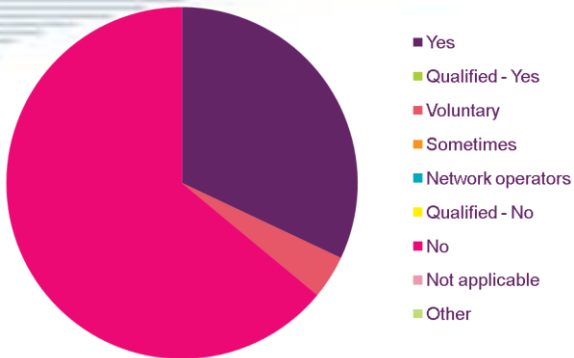
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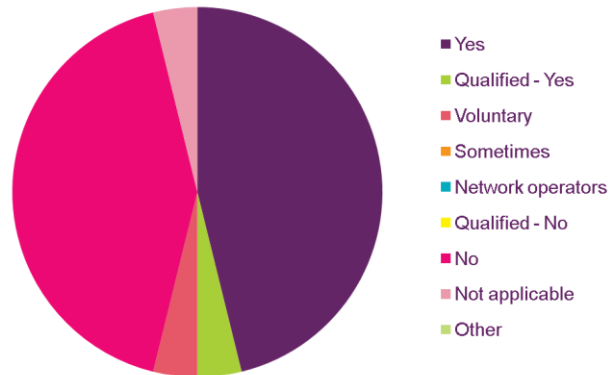
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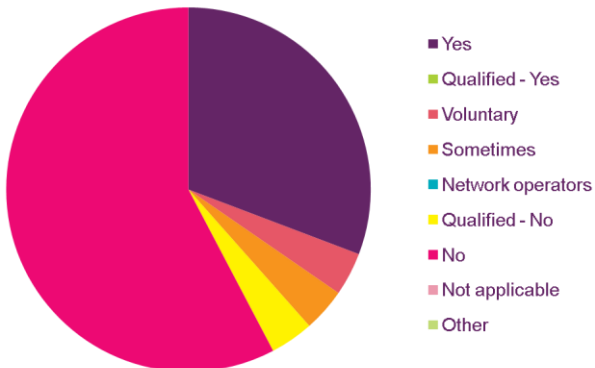
A14. Unbundled loops. Is the SMP operator obliged to provide different "grades" of service for appropriate prices?



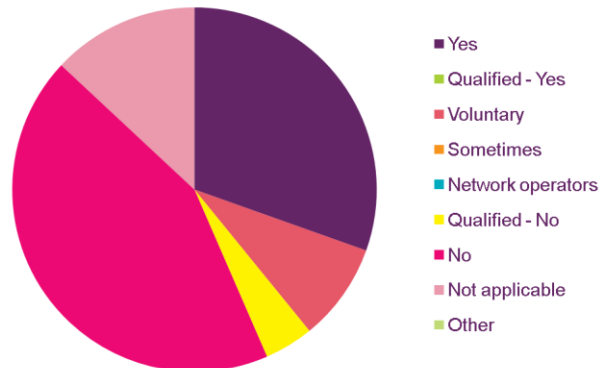
B14. Bitstream. Is the SMP operator obliged to provide different "grades" of service (e.g. Guaranteed assured rate bandwidth, quality of service, higher upstream speed) for appropriate prices?



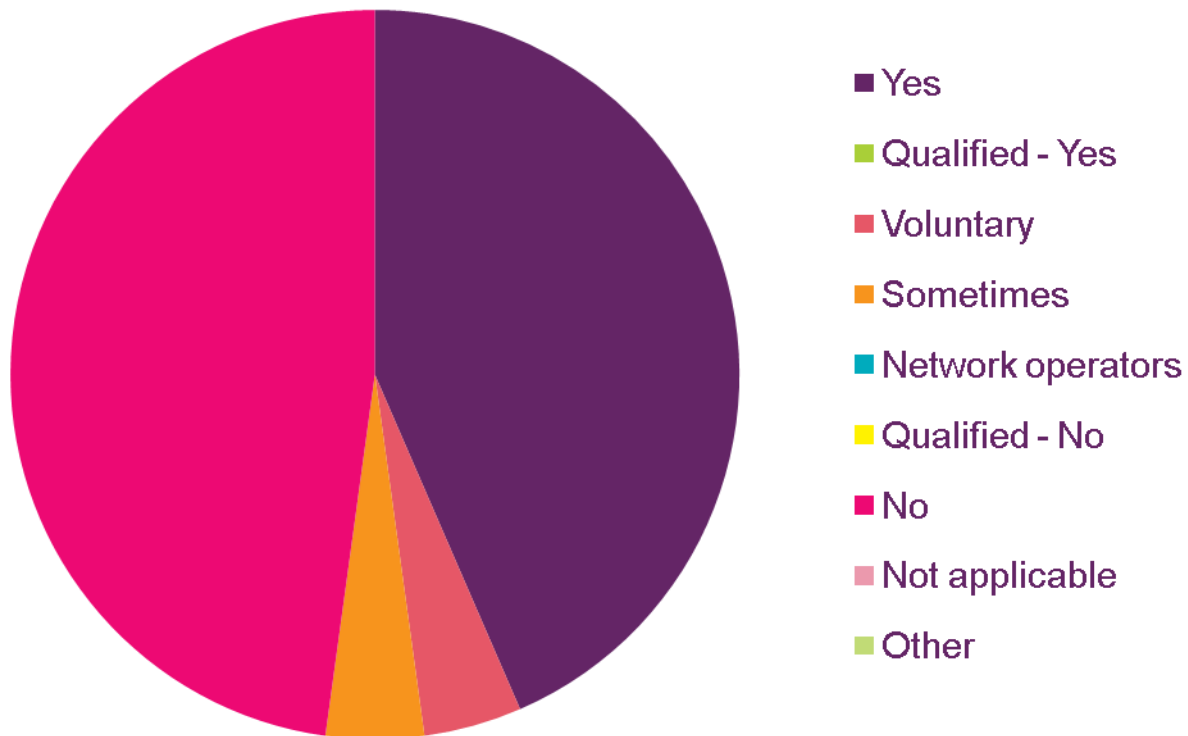
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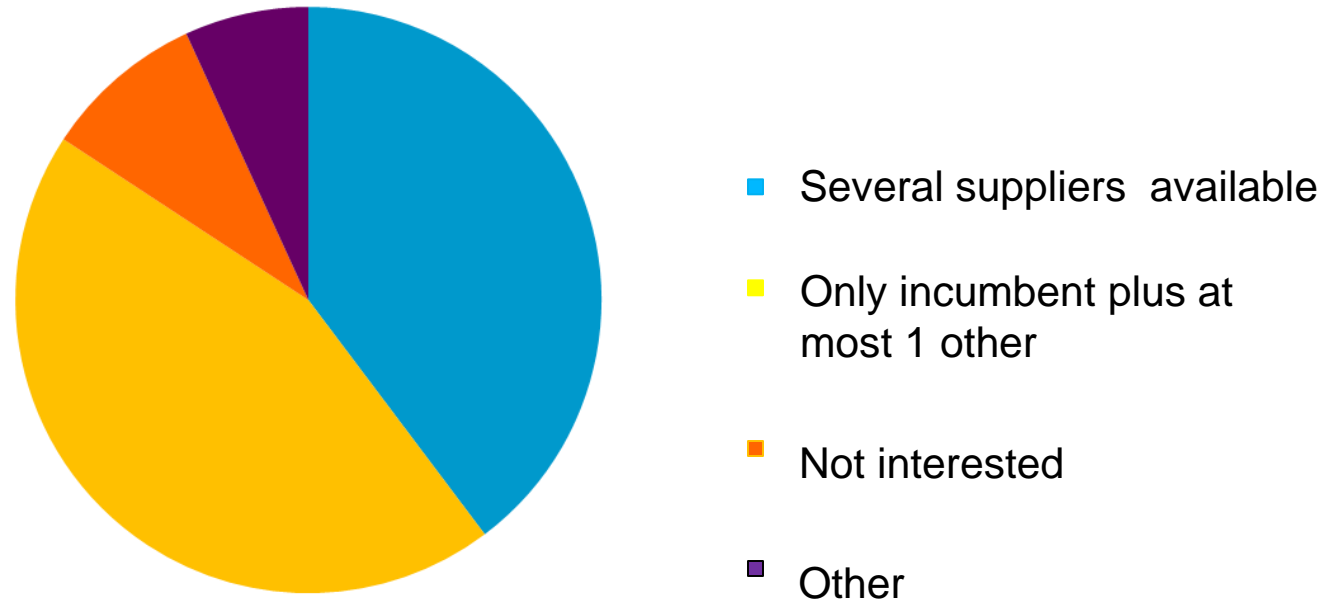
C18. Is there an obligation to supply ethernet leased lines on a wholesale basis?



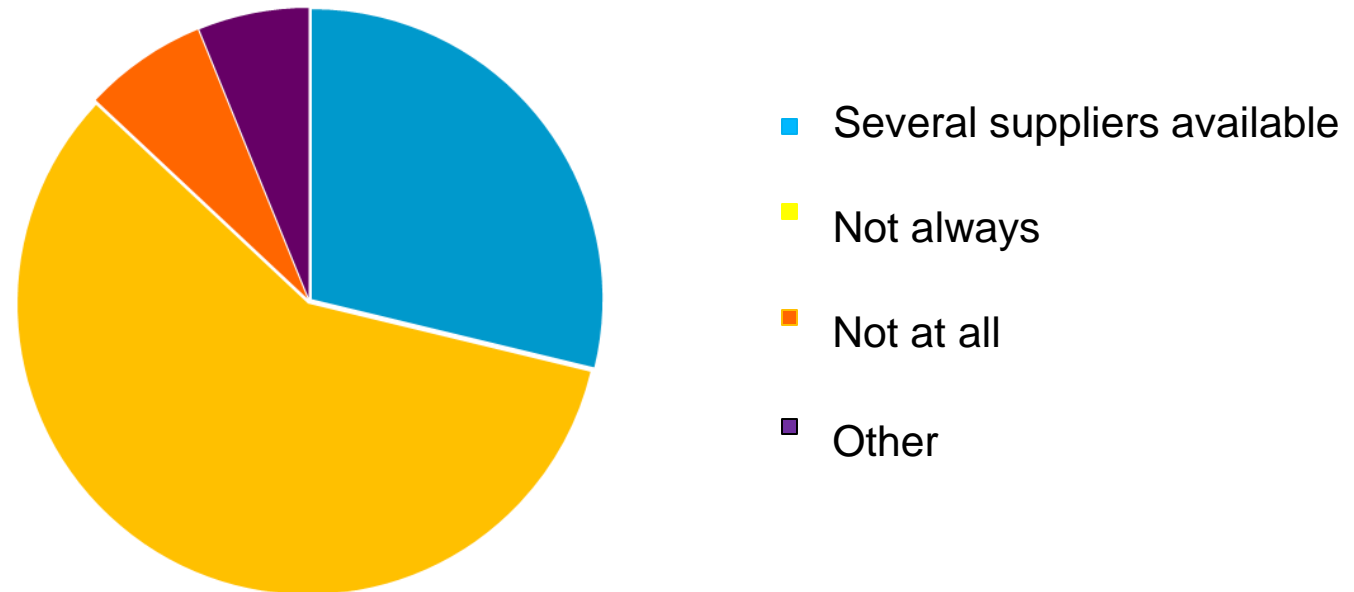
What we found – retail market experience

- Slight majority prefer single supplier**
- 154 responses but results indicative only**
- Less than half report they have more than 2 credible suppliers of fit-for-purpose services**
- Over half rely on incumbent for majority of their services**

3. Availability of multiple suppliers to make fit for purpose offer – single supplier preferred



4. Availability of multiple suppliers to make fit for purpose offer – several suppliers preferred



Proposed BEREC work for 2010

Proposal – market definition

- **Worth further investigation of following aspects:**
 - **Case for product market segmentation to reflect differences between “high end” and “standard” needs**
 - **Practical considerations in defining market boundaries**
 - **Interaction between product and geographic market definition**
- **Ability to impose “high end” remedies in the context of an unsegmented market**

Proposal – choice of remedies

- ERG Members willing to commit to pay special attention to competition in supply to high end customers in forthcoming Market Reviews in defining relevant markets and formulating SMP remedies**

- Annex 1 to report provides rationale for various high-end remedies, many of which are missing from the set of remedies imposed by many NRAs**

Proposal – future monitoring of conformity with CPs

- Plan to monitor conformity with 3 ERG CPs on broadband and wholesale leased lines remedies delayed to take account of this report**
- Monitoring exercises should now go ahead in 2010, taking into account lessons learned so far in this work on business connectivity**

Proposal – ERG policy discussion

- **Potentially fundamental difference of approach between different NRAs:**
 - **Some limit scope of wholesale regulation to list of services supplied by incumbent to itself**
 - **Others have no such restriction, remedies limited only by need for objective justification and proportionality**
- **Why the difference? Legal constraint or difference in philosophy?**
- **Do both fit equally well with the Framework?**
- **Does the difference have any material impact?**

Next steps

- **2010 draft Work Programme currently reflects proposals outlined above**
- **Will be amended as necessary to reflect comments received during this consultation**
- **Consultation closes 1 February!**

The logo for ERG, featuring the letters 'ERG' in a bold, orange, sans-serif font. The letters are set against a circular, metallic-looking background with a blue and white gradient. The background of the slide is a teal and blue abstract design with a grid pattern and a yellow horizontal line.

*Thank you
for your attention*