



Bringing it all together

BT Response to ERG Consultation on 2010 Work Programme

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BT COMMENTS ON ERG 2010 WORK PROGRAMME

BT believes that the ERG's proposals are broadly on the right track but would welcome more information and detail in some of the subject areas such as convergence. In general we believe that the ERG should be more willing to hold public consultations and should summarise its responses to the main points made in such consultations. Areas where public consultations are apparently not scheduled but will be desirable as/when significant ERG Reports are to be produced include universal service and network neutrality.

In terms of missing items, BT suggests that the issue of regulatory asymmetry needs to be addressed with respect to both telephony / cable TV and fixed / mobile networks. These asymmetries have significant potential to distort competition.

Although we mention Mobile Virtual Network Operators below in the context of international roaming, the ERG could usefully examine the general issues of wholesale access and interoperability with mobile networks and the impact of infrastructure sharing agreements on competition.

We comment in more detail below on the topics listed:

International Roaming

With respect to alternatives to price regulation, BT believes that the ERG could usefully examine the potential role of MVNOs in further increasing competition, domestically as well as internationally, and whether regulators need tools to facilitate the development of MVNO competition.

Implementation Issues related to the Commission Recommendation on NGA

BT continues to believe that the Commission is overemphasising the demand for additional "passive" remedies in Market 4 (such as duct access and cabinet sharing) and underestimating their costs. It also risks suggesting that Market 5 remedies such as bitstream may not be required where passive remedies are available. The ERG should examine the demand for passive remedies in the context of their additional costs, low uptake, and the rather different needs of B2B suppliers (see below).

Business Services Market

This is a critical area for the competitiveness of European businesses and it is essential that they have as competitive a choice of suppliers as possible. Ongoing vigilance, and in many cases further action, is required to ensure that appropriate non-discriminatory wholesale service offers are available now to B2B suppliers and remain available on NGN/NGA networks as these are deployed. This must be a key area for ERG focus in 2010.

Convergence

This is an interesting topic but one which has been poorly defined since it first emerged as a concern over 30 years ago. We would welcome further detail on the scope and timescales for this activity and suggest that a public consultation would be appropriate to help with its definition and prioritisation.

One key issue that needs to be addressed concerns access to premium content. The ERG should take a fresh look at e.g. joint selling of premium sports rights and auction structures in order to ensure more choice and lower prices for end-users.

Cross-border enforcement

There are already a number of EU measures addressing consumer rights across borders, including the Brussels and Rome Regulations. It is not clear that there is much scope for change here or that the ERG is the right agency to address the issues. We would like to see more detail of the work planned and its links with other activities by the Commission and by other regulators.

Future of Universal Service Obligation

BT notes that the ERG plans to be in a position to contribute to the debate on all relevant aspects of the proposals that emerge. We feel it would be useful to have a more detailed set of proposals from the ERG on separate work streams to cover USO scope, USO funding, assessment of net costs (and in particular a realistic approach to intangible benefits), feasibility of splitting USO elements between different suppliers, feasibility of auctioning USO elements given the requirement for only net cost (determined ex-post) to be reimbursed. Some at least of these topics would justify public consultations.

Accessibility Services for Disabled End-Users

This is an important topic arising from the current and new Universal Service and Users Rights Directive. We welcome the proposal to hold a public consultation.

Net Neutrality

As with Universal Service, this is a vitally important area for the future. It is rather disappointing that the ERG has not outlined a more detailed work programme or planned any public consultations. Key areas include the preservation of retail competition (through appropriate non-discriminatory access arrangements), flexibility for experimentation with retail business models, and appropriate controls on wholesale suppliers with SMP. The new Directives include a number of measures to address perceived problems and BT believes that there should be a pause to assess the effectiveness of these

before additional EU measures are considered. Nevertheless, any significant ERG Reports should be subject to public consultation.

Switching Suppliers

BT welcomes the proposal to hold a public consultation on this important issue. It will be important to view it in the context of the new Directives (which give more explicit consumer protections in various ways), general EU consumer law, the need to protect against slamming, and the practical feasibility of short transfer timescales when remote engineering work is required. In taking account of the possible market foreclosure risk from longer contracts, the ERG will no doubt balance the increase in the scope for slamming that easier switching processes facilitate. Contracts with a minimum term, as long as they are only of a reasonable length (eg one year), can bring benefits to consumers in enabling cheaper prices; but any switching process needs to ensure that customers are fully informed of any early termination charges from the losing provider before the transfer takes place.