

Geographic Aspects of Market Analysis (definition and remedies)

The regulation ex ante it's an instrument used by the regulator to promote competition, (sustainable over the time) along this lines seems to have sense be sure whether the geographic area of application of this regulation is uniform as regards to the market conditions existents all around the country. This key point is already established by the European Commission in "The guidelines on Market Analysis and the Assessment of Market Power" (2002)", where the definition of the geographic level of a market is a step which follows the definition of the product/service market.

A correct implementation of the first step of the market definition (as the Commission sets out) needs to determine the geographical level of the market. If relevant markets remain national, whilst they should be defined on a local level, it follows that the remedies will establish at national level. This generalization could be sending incorrect signals to investors in telecommunications markets.

Abertis telecom endorses, in general, the main ideas worked out in the document prepared by the ERG. In our point of view are correct the whole steps sets up for the ERG to determines if the level of the market is national or not and how to analyses the inferior markets and so to establish the conditions to regulate ex-ante or not regulate this markets.

Abertis Telecom would like to highlight the scope of the analysis that the ERG proposes in the document:

- i.- forward looking assessment;
- ii.- the use of several criteria better that only one;
- iii.- promote the analysis of impact;
- iv.- practical sense: oriented to results.

Abertis telecom would like to remark some issues of the steps sets up in the document prepared for the ERG to establish the geographic level of the market analysis.

As regard to the first step: "Investigating whether there might be a need for a disaggregate geographical approach".

Abertis Telecom considers important the proposal of implementing this point by using two methods:

1. The hypothetical monopolist test, and
2. A preliminary, forward-looking analysis that uses several variables (number of operators; market strategies etc.). It may indicate that a more detailed geographic analysis is appropriate.

Occasionally it's hard to put in practice the test of the hypothetical monopolist, so it's relevant to use a second method or if the results of the first method are not clear enough use both methods and compare the findings.

This step it's crucial as determines if it's necessary to continue with the analysis or not.

As regard to the step: "Assessing the homogeneity of competitive conditions"

Also this issue uses same aspects establish in the SMP guidelines; in Abertis telecom view it's remarkable the scope of the SMP test, the NRA should take into account *"foreseeable future developments at the time of market definition and make a forward-looking analysis"*. In the case of geographic market definition this can mean that e.g. information about future: number of operators; market shares; prices development in conjunction with quality and product attributes evolutions. and other.

In this step it should be appropriate set up some criteria (note that this is a task for the European Commission) once again to reduce differences between countries in the implementation of this issue.

As regard to the step: "Which areas should be aggregated?"

There are a lot of factors that can be relevant in practice, so it should be adequate set out several items that the different national regulators should take into account when developing the analysis.

As regard to the step: "The assessment of the possible implications"

Abertis Telecom considers this aspect as a significant step of the analysis. The assessment of this issue should take into account several aspects with a looking forward approach. It's critical that the scope of this analysis could be large with the evaluation of quantitative aspects but also qualitative.

Some relevant issues should be provided for the European Commission or the ERG in order to harmonize the application of this point crosses country (in member states).

In Abertis Telecom view it should be convenient make an extra-effort to standardize the application of each step in the analysis.