

Vodafone comments on draft IRG/ERG Work Programme 2009

Vodafone welcomes the opportunity to comment on the proposed Work Programme before it is adopted. In general, we believe the work that is proposed for 2009 is important and relevant, and properly identifies most of the challenges which the industry and its regulators face in the next period. Our comments are therefore brief:

Approach to industry consultation and input

We find that the ERG has become better at soliciting input from non-NRA interests in recent years, but that the process of developing ERG positions still remains relatively impenetrable. It is often unclear why external inputs have been ignored and difficult to understand how the ERG arrives at particular conclusions on an issue. We urge the ERG to continue to work at providing external parties with greater visibility into the process by which it arrives at common positions. This may involve greater direct contact with industry participants on individual issues – not simply when providing feedback on ERG decisionmaking.

We are also concerned about the growing use of 'informal' bi-lateral exchanges between the Commission and the ERG, during which neither party publishes official documents at the time of the exchange. The ERG should insist on full transparency in these matters.

New content provisions (1.3)

It is not clear to Vodafone what this item will address. However, we expect the Framework Review to produce (ambiguous) text relating to network quality of service and other 'net neutrality' matters which will require significant further practical guidance from the ERG in the coming years.

This is an area of significant complexity where there may be legitimate concerns but where there is also a high risk that regulation will impede innovation and harm consumers. It is also an area where there is a risk of overlap and tension between ex ante and ex poste interventions, and between national and European institutions. The ERG could and should aim to agree clear and practical principles in this area.

Next Generation Networks – Access (2.1.1)

Vodafone believes that there is much more work to be done by regulators in understanding the cost/benefit trade offs of different NGA architectures – technology does make a difference to the competitive outlook in this case. Our position is explained in our submission to the Commission on the draft NGA Recommendation.

Although we welcome ERG interest in developing a common approach active wholesale products, we believe that this is in fact one of the most critical work items for the ERG in the next period. Aside from the UK, we currently see very little activity being undertaken on this subject – yet it is an essential safeguard for effective competition in the transition to NGA. Most people recognize that such regulated products need to be available from the outset, but there are rarely any timetables,

commitments or processes to ensure that they will be. This is a complex but vitally important area which we urge the ERG to prioritise.

NGN Charging mechanisms (2.1.2)

Vodafone has itself proposed that the ERG consider alternative interconnection charging models and broadly supports the intent of this item. We believe, however, that the emphasis upon the migration to IP and the reference to Bill and Keep as the alternative model to CPNP is unhelpful. There are many drivers behind possible changes in interconnection arrangements, of which the transition to IP is only one and not obviously the most important (for example, the convergence of mobile and fixed network architectures is, in our view, more important). Similarly, there are many alternative interconnection models, of which Bill and Keep has been applied historically in a rather limited range of conditions.

We believe that the ERG project should also consider whether existing IP charging models are sustainable and whether they promote efficient investment. A full understanding of the drivers of the economics of the public internet would assist in determining whether these models could usefully be applied to other infrastructures.

Overall, a more open-ended framing of the topic would be likely to produce a better output.

Issues omitted from the programme

Vodafone continues to believe that confusion continues to surround the question of whether (or rather, in what specific circumstances) on-net/off-net retail price differentials inhibit competition and what, if anything, regulators should do about it. Different ERG members take different views on this issue and it remains an area where existing ERG guidance (in the Remedies document) is inadequate.