

ECTA's response to the public consultation on the Draft BEREC Guidance on functional separation under Articles 13a and 13b of the revised Access Directive and national experiences

Summary

ECTA welcomes the opportunity to comment on the draft BEREC guidance regarding the meaning and application of functional separation under Articles 13a and 13b of the revised Access Directive ('the BEREC Draft').

Functional separation has been introduced in the revised Telecoms Framework as an exceptional remedy to address important and persistent competition problems and/or market failures, therefore it is of utmost importance that NRAs commit to a clear cut common understanding on the meaning and correct application of functional separation according to the Better Regulation Directive.

The text of the Better Regulation Directive clearly defines functional separation as a fully equivalent access regime, where the access products provided by the separated business entity are exactly the same to all wholesale customers including its own retail arm. The Directive also requires – as a minimum – that the same access product has to be supplied on the same timescales and on the same terms and conditions, the same price and the same service level. The provisioning process must also be equivalent as it has to be via the same systems and same processes.

According to the text of the Better Regulation Directive and the statement of the BEREC Draft that under functional separation *"all the relevant access products supplied by the functionally separated division must be provided to both the incumbent's and the other operators' retail divisions on equivalent terms and conditions, within equivalent timescales, at equivalent price and quality and by means of equivalent systems and processes"* the final BEREC guidance should confirm and clarify that:

- Functional separation requires full equivalence of access;
- The concept of full equivalence as described in the Better Regulation Directive should be understood as an Equivalence of Inputs regime and cannot be understood as mere Equivalence of Outputs;
- The current implementation of separation in Italy does not meet these key elements and should not be presented as an appropriate model for functional separation.

Regarding the contents of the measure we suggest the following improvements and clarifications in order to ensure the proper implementation of functional separation in case it is applied:

- a) It would be useful for the BEREC paper to clarify that Articles 13a and 13b do not allow for a wide range of degrees of separation and provide guidelines to NRAs on how the level of separation required under Article 13a or 13b as a minimum (i.e. full equivalence to be reached by means of Equivalence of Input) is to be defined in a more detailed manner in order to ensure full compliance with that provision.
- b) The BEREC guidance should also confirm that the separation should be made in relation to the wholesale access product markets which are persistently non-competitive so that network upgrades do not result in circumventing the functional separation regime.
- c) The capability of Functional Separation to guarantee non discrimination relies to a large extent on the robustness of the governance system. Therefore the BEREC paper should provide very detailed recommendations on the list of measures that result in effective governance arrangements.
- d) We agree with the BEREC Draft that a compliance body should be in charge of investigating complaints of wholesale customers. It should be made clear, however, that the mere existence of a compliance body is not a sufficient governance arrangement in itself to ensure that the separate unit acts independently. It should also be re-confirmed that no decision adopted by the compliance body should interfere or replace the NRA's *ex-officio* powers or prevent competitors from seeking the NRA's intervention.
- e) The BEREC Draft specifies that in order to be compliant with the provision of Article 13a, the SMP operator has to take into account other operators' needs and views when designing changes to the OSS. In order to allow the effective participation of competitors in this process, the paper should suggest to NRAs the introduction of formal procedures for the definition of OSS, such as the establishment of Technical Boards with decisional power, chaired by the NRA.
- f) In order to deliver effective pro-competitive results, a robust monitoring and enforcement system needs to be established. The BEREC guidance should recommend the adoption of Key Performance Objectives (KPOs)s and the frequent publication of Key Performance Indicators (KPIs), which are designed to capture the performance of the entire "end-to-end" provisioning and assurance processes. The BEREC paper should also recommend that KPIs and KPOs always enable comparison and monitoring of performances of the processes for both internal and external customers.

Regarding the introduction of a voluntary functional separation regime ECTA agrees that unilateral modification of its separation proposal should be possible for the vertically integrated incumbent in the initial assessment period. After the public consultation, however, the proposal should be finalised and further unilateral amendments to the terms of separation should not be permitted. Only a final and confirmed voluntary functional separation proposal should be permitted to have an impact on the market analysis procedure, otherwise the possibility to propose functional separation may be misused by dominant operators.

The meaning of functional separation

Functional separation has been added to the toolbox of NRAs as a non-standard remedy that may be imposed when all other regulatory obligations have failed to prevent anti-competitive behaviour by the dominant operator. The application of functional separation therefore presupposes a market outcome where there are continuous competition problems and/or market failures which could not be addressed through the imposition of a standard non-discrimination obligation.

For functional separation to be effective, a number of key elements are required in order to ensure that sufficient incentives are in place for the dominant operator to provide equal access of vital upstream inputs (while also ensuring greater transparency of activities, so that the whole market can have confidence in the effectiveness of the associated measures). If functional separation is not designed or implemented properly it will not create the right incentives for the dominant operator and will not result in vibrant competition but potentially will undermine legal and regulatory certainty at a high cost, which is ultimately paid for by the consumer without delivering the desired benefits.

Given that functional separation is a last resort remedy under the current Telecoms Framework it is of utmost importance that **NRAs have a clear cut common understanding of what functional separation means and what its key elements are** according to the revised Telecoms Framework and are committed to that common meaning.

Whilst it is useful to take stock of and analyse economic literature on the concept and degrees of functional separation **the focus of the BEREC guidance should be the EU meaning and key elements of functional separation derived from the text of the Better Regulation Directive.**

The text of the Better Regulation Directive is clear on the purpose and concept of functional separation:

*“The purpose of functional separation, whereby the vertically integrated operator is required to establish operationally separate business entities, is **to ensure the provision of fully equivalent access products to all downstream operators, including the operator’s own vertically integrated downstream divisions.**” (Recital (61) Better Regulation Directive, emphasis added)*

*“That business entity **shall supply access products and services to all undertakings, including to other business entities within the parent company, on the same timescales, terms and conditions, including those relating to price and service levels, and by means of the same systems and processes.**” (Article 13a, Revised Access Directive, emphasis added).*

The text of the Better Regulation Directive clearly defines functional separation as a fully equivalent access regime, where the access products provided by the separated business entity are exactly the same to all wholesale customers including its own retail arm. The Directive also requires that the same access product has to be supplied on the

same timescales and on the same terms and conditions, the same price and the same service level. The provisioning process must also be equivalent as it has to be via the same systems and same processes.

Against this backdrop, ECTA agrees with the definition given by the BEREC Draft that equivalence of access is the objective being pursued by applying functional separation:

“all the relevant access products supplied by the functionally separated division must be provided to both the incumbent’s and the other operators’ retail divisions on equivalent terms and conditions, within equivalent timescales, at equivalent price and quality and by means of equivalent systems and processes.”

The conclusion of the BEREC paper on the meaning of functional separation **should clarify in** accordance with the above statement quoted from the Draft **that the Telecoms Framework requires full equivalence of access**, where all the elements of service provision listed in Article 13a of the revised Access Directive must be identical externally and internally.

It should also be clarified in the BEREC paper that the current implementation of separation in Italy does not meet these key elements and should not be presented as an appropriate model for functional separation.

The BEREC guidance should also make it clear that the concept of full equivalence as described in the Better Regulation Directive cannot be understood as mere Equivalence of Outputs, which according to the Draft guidance requires that the access products are only comparable, but not equivalent and they might be provided via different systems and processes.

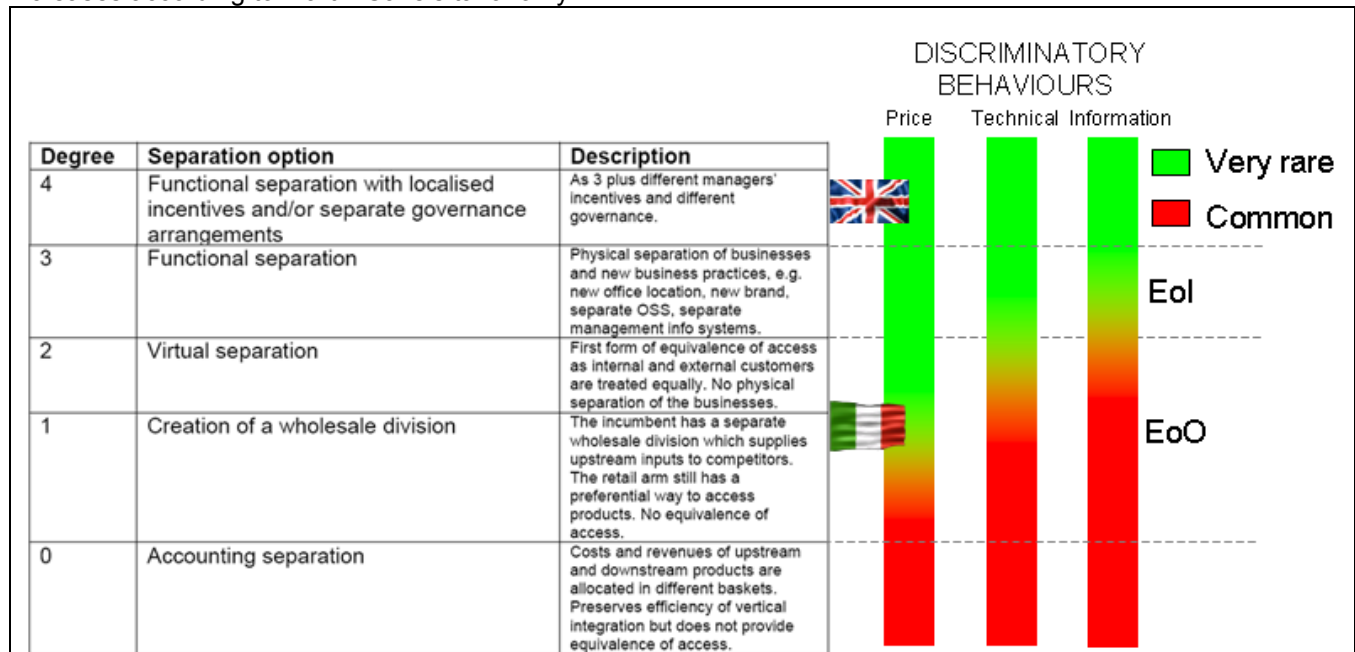
Such an understanding would be contrary to the wording of the Telecoms Framework, which clearly states that functional separation requires the provision of fully equivalent access products at the same terms and conditions and by the means of the same systems and processes, which should be understood as an Equivalence of Inputs regime.

We attach the key elements of an effective functional separation regime in accordance with the revised Telecoms Framework in Annex I.

In addition to the BEREC guidance focusing on the application of Articles 13a and 13b of the Access Directive it might also be useful to analyse the different degrees of separation taking into account academic literature perhaps in an Annex to the BEREC guidance.

In this context it could be useful to have a common understanding among NRAs as well as market players with respect to the main relevant aspects, which differentiate one degree of separation from the other both in terms of the requirements imposed on the separated entity and in terms of expected outcomes. In particular further analysis would be useful on the expected impact of the different degrees of separation on the improvement of the competitive scenario, which can be progressively reached climbing the ladder of separation.

Figure 1 Analysis of the effects on discriminatory behaviours as the degree of separation increases according to Martin Cave's taxonomy.



The contents of the draft measure

- a) *precise nature and level of separation, specifying in particular the legal status of the separate business entity*

On the basis of the text of Article 13a of the revised Access Directive we broadly agree that the legal status of the separated entity may vary from a separated business unit to a legally separated business entity:

"[a]n obligation on vertically integrated undertakings to place activities related to the wholesale provision of relevant access products in an independently operating business entity.

That business entity shall supply access products and services to all undertakings, including to other business entities within the parent company."

The BEREC guidance should clarify, however, that this does not mean that a wide range of degrees of separation are possible under Article 13a or under article 13b of the revised Access Directive. The Better Regulation Directive sets out quite precisely the minimum elements of functional separation under the Telecoms Framework and also makes it clear that the mandated separation is functional rather than structural. This does not leave a wide discretion for NRAs, therefore it would be useful for the BEREC paper **to provide guidelines to NRAs on how the level of separation required under Article 13a or 13b (i.e. full equivalence to be reached by means of Equivalence of Input) is to be defined in a more detailed manner in order to ensure full compliance with that provision.**

In our view functional separation should entail the separation of functions (separated business entity, obligation of equivalence, separation of operational support systems), the effective separation of employees, separation of information (in particular Chinese walls) and financial separation including accounting separation.

- b) *“an identification of the assets of the separate business entity, and the products or services to be supplied by that entity”*

As the BEREC Draft states, one of the most important issues when imposing functional separation is the identification of the assets separated into the new business entity and the range of services to be supplied by the entity.

The BEREC paper points out that in this context the development of technology and in particular the upgrade to NGA/NGN should be taken into account by NRAs on a forward looking basis.

Therefore, as is implied by Article 13a and 13b, the separation should – as a minimum – be made in relation to the wholesale access product markets which are persistently non-competitive so that network upgrades do not result in circumventing the functional separation regime.

- c) *“the governance arrangements to ensure the independence of the staff employed by the separate business entity, and the corresponding incentive structure”*

The capability of Functional Separation to guarantee non discrimination relies specifically on the **robustness of the governance system**. The effectiveness of the UK separation model, for instance, strongly relies on a governance system which involves a **specific organisation** for the separate entity (although part of BT group, the entity doesn't report to other managers in the BT organisation), **personnel employed** (all 30.000 employees working on the access network have been transferred to the BU), **separate management** (the separate BU has its own chief executive, CFO, and senior managers in charge of main functions) **separate headquarters**, **separate commercial brand** (on field activities are performed by the separate entity under the commercial brand Openreach, which appears on business cards, vehicles, staff uniforms and so on) and a **separate financial statement** (Openreach publishes its own Profit and Loss statement which provides full transparency on the performances of the business unit).

Weakness of governance arrangements (as observed in Italy) prevents the staff from perceiving themselves as belonging to a separate business unit and establishing an effective system of incentives, creating no motivation for the separate entity to act independently from the rest of the company.

The Draft should be very detailed in providing a list of measures that result in effective governance arrangements, such as:

- separate management, although not legally separated, the separate unit should have its own CEO or General Director, as well as separate managers in charge of HR, commercial operations, finance, and so on;
- separate staff: the staff involved in the access network and the delivery of wholesale products should all be allocated to the new business unit with internal and external evidence;
- a separate brand should be used by the staff when performing on field activities connected with the delivery of wholesale services, in order to enhance the perception of a separate identity for the staff;
- separate headquarters, to prevent flow of information between the separate business unit and the rest of the company;
- separate operation and business support systems.

Although the governance rules mentioned above already create a reasonable guarantee of independence of the staff, other mechanisms to prevent discriminatory behaviour should be included:

- (i) Procedural rules preventing the illegitimate flow of information between the separated wholesale business entity and retail arm of the SMP operators, foreseeing effective sanctions¹.

In order to produce effective results, the draft measures should include a detailed explanation of rules preventing the sharing of confidential information as well as a description of the internal monitoring procedures put in place to detect abusive behaviour by business units and applicable sanctions.

- (ii) Financial incentive systems (or so called Management by Objectives (MbO) systems) that rely specifically on financial results of the separate entity

In order to create an incentive for the staff to operate for the profit of that business unit rather than the group as a whole, and therefore not to discriminate external customers against the internal arm, the **financial incentive (MbO) system put in place should be connected to indicators able to capture properly the performances of the separate business unit.**

It should be noted that when, as in the Italian case, the system of incentives sets targets mostly linked to **qualitative indicators not connected to financial performance**, measuring for instance “*satisfaction of end customers and operators purchasing wholesale access services*”, the system is less robust. Qualitative indicators may be easily manipulated. As an example, in order to assess Altnets’ satisfaction as wholesale customers, Telecom Italia’s Open Access asked them in a questionnaire to answer whether they had “the intention to continue to buy services from Telecom Italia” not taking into account the monopolistic nature of the services provided by Open Access and the lack of alternatives they have in acquiring wholesale access services from other providers.

¹ In the Italian experience, Group 2 of the Commitments delegates the design and the implementation of measures to prevent discriminatory practices to an internal “Code of Conduct”. The Code lacks effectiveness as the detection of discriminatory information sharing practices is delegated to Telecom Italia’s internal procedures and, most importantly, the sanctions to be applied are only those envisaged for disciplinary violations by the “Contratto Collettivo di Lavoro” of Telecom Italia’s staff and have proven to be ineffective.

The BEREC Draft should highlight how FS provides a solution only if managers have a correct and effective incentive to make profit-maximising decisions for the business unit for which they are responsible. This implies **incentives for management related to the economic and financial performance of the separated business entity only**. The lack of quantitative indicators, associated with a weak governance system, results in management of the separate business unit maintaining the incentive to maximise the profit of the vertical integrated company as a whole and to discriminate against downstream competitors. The Draft should suggest, based on experience developed in the UK, quantitative indicators to be connected to the incentive schemes.

d) *“rules for ensuring compliance with the obligations”*

We agree with the BEREC Draft that a compliance body should be in charge of investigating complaints of wholesale customers against the separated Business Unit, monitoring and reporting to NRAs of key performance indicators and making recommendations on how to improve the effectiveness of the separation. It should be made clear, however, that **the mere existence of a compliance body is not a sufficient governance arrangement in itself to ensure that the separate unit acts independently**.

Also, as observed by the European Commission², the BEREC Draft should recall that no decision adopted by the compliance body should in any case interfere or replace the NRA's *ex-officio* powers. The NRA must ultimately be in charge of ensuring the correct implementation of this non-standard remedy. To this aim, it should be clarified that in **no way the powers and competences of the compliance body should prevent competitors from requiring the intervention of the NRA** in matters relating the compliance with the measures adopted under FS.

In order to enhance transparency, the Draft should recommend to NRAs the inclusion of the requirement for the compliance bodies to publish a report of each meeting.

e) *“rules for ensuring transparency of operational procedures, in particular towards other stakeholders ”*

The BEREC Draft specifies that, in order to be compliant with the provision of Article 13a, the SMP operator needs to take into account other operators' needs and views when designing changes to the OSS. To allow the effective participation of competitors in this process, the paper should suggest to NRAs to introduce formal procedures for the definition of OSS, such as the establishment of Technical Boards with decisional power, chaired by the NRA.

The lack of such formal procedures may result in the SMP operator not taking into account the suggestions and requirements of the external customers. In the Italian experience of separation, competitors have not been granted a sufficient degree of participation in the design of the delivery processes as Technical Boards only have consultative powers. As a result, very few of the suggestions put forward by competitors

² See letter SG-Greffe(2009) D/2188. Commission Article 7 comments letter addressed to the Italian NRA AGCOM on its draft measure on remedies in Markets 1,4 and 5.

have been taken into consideration. There is also no transparency over the Italian incumbent's technical network plans for quality improvement and the development of its access network to allow access seekers to make their own plans.³

- f) *“a monitoring program to ensure compliance, including the publication of an annual report”*

In order to deliver effective pro-competitive results, a robust monitoring and enforcement system needs to be established. The KPIs should capture the performance of the delivery and assurance processes so as to allow, no matter what the organization of the process is, comparison of the performances achieved for external and internal customers.

KPIs adopted in Italy, for instance, only measure performance within the separate business entity, not taking into account that processes are different for internal and external customers and, whereas TI retail interacts directly with Open Access, Altnets orders are first processed by TI Wholesale which in turn interacts with Open Access. As a result, the KPIs do not measure the extra leadtime required for Altnets' orders, do not allow measuring the “end-to-end” delivery and assurance processes and comparing performances for internal and external customers, making it impossible to assess whether Equivalence of Access is ensured.

The BEREC guidance should recommend that **Key Performance Objectives (KPOs) and Key Performance Indicators (KPIs) are designed to capture the performance of the entire “end-to-end” provisioning and assurance processes**, starting from the physical provision of input down to the commercial and technical interface of the SMP operator with its retail arm and its wholesale customers. Also, **the BEREC guidance should recommend that KPIs and KPOs always enable comparison and monitoring of performances of those processes for both internal and external customers.**

Finally, the publication of an annual report should be interpreted as a minimum requirement, and BEREC should encourage NRAs to publish quarterly or monthly reports on KPIs.

The minimum KPIs that NRAs should require from the separated business entity and should be published periodically in accordance with ERG best practice guidance are:

- Ordering
 - Number of orders completed;
 - % of orders rejected after having successfully passed the administrative validation step
- Delivery

³ Although TI is required by its Commitments to provide such information to the NRA, the Independent Supervisory Board and alternative operators every three months, the information it releases is so vague it does not include vital quality information such as bitstream sites, saturation and planned actions. As such, it is no or little value to access seekers making their own plans. Similar problems exist in relation to TI's NGN plans to the extent that access seekers are forced to rely upon press releases for information on TI's plans rather than that released under its Commitments.

- Average delivery time;
 - % of delivery at or before the committed date;
 - Delivery precision e.g. percentage of fault reported in the 30 days following service delivery.
- Fault repair
 - Percentage of fault under SMP operator responsibility reported per line and per year;
 - Average lapse of time for fault clearance;
 - % of fault cleared at or before the committed date.

The above KPIs should be provided separately for each specific wholesale service, including different speeds of WBA as well as for requests for active lines and non-active lines, so to allow effective monitoring on the entire spectrum of services provided by the separate business entity.

Voluntary separation by a vertically integrated undertaking (Article 13b)

With reference to Article 13b of the revised Access Directive, ECTA wishes to highlight its concerns regarding the process to be followed and the possibility for the SMP operator to withdraw from the proposed voluntary separation.

The BEREC Draft correctly addresses the issue of the unilateral modification of the intended voluntary separation by the incumbent, after the original proposal under the provisions of Article 13b.1 where it states that :

“Undertakings shall also inform the national regulatory authority of any change of that intent as well as the final outcome of the process of separation.”

Such modification according to the BEREC Draft is possible both:

- during the phase when the NRA evaluates whether the proposed separation is eligible to fall in the scope of Article 13b
- later in the process, (in case the intended separation passes the first assessment of eligibility by the NRA) after the ad hoc public consultation but during the market analysis procedure.

ECTA shares the view that during the preliminary phase such possibility allows for a positive negotiation between the NRA and the SMP operator on the adjustments that would be necessary in order for the proposal to fall within the scope of Article 13b.

We disagree, however, with the possibility for the SMP operator to withdraw or substantially modify its proposal once the ordinary process for imposing the obligations has already been affected (i.e. the market analysis process has been halted to wait for the final conclusion on functional separation). Such a possibility would both incentivize and empower the SMP operator to strategically propose voluntary separation under Article 13b in order to hamper the process of imposing standard obligations by the NRA, but to withdraw in the end the proposed separation without bearing any costs or consequences for such a distortive behaviour.

Accordingly, ECTA invites BEREC to modify the flow chart of the process to be followed according to Article 13b as follows:

1. SMP operator proposes voluntarily separation;
2. NRA evaluates interactively with the SMP operator whether the proposed transaction or a modified form is eligible for voluntary functional separation under Article 13b;
3. An ad hoc public consultation on the text of the proposed separation is opened;
4. After the conclusion of the public consultation the SMP operator confirms, modifies or withdraws the voluntarily separation proposed;
5. From this moment the SMP operator cannot autonomously withdraw from the proposal;
6. Only in case the voluntarily separation is confirmed in the final form under step 5 can the process of imposing and reviewing standard obligations be affected.

Annex I

The key components of functional separation

Separation of functions:

- Creation of separate business unit responsible for the supply of products in question
- Obligation to supply all operators under fully equivalent conditions (equivalence of inputs)
- Separation of operational support systems (OSS)

Separation of the brand of new business unit from rest of the company

Separation of Employees:

- Separate Management board, independent of the group (but still able to report to group CEO)
- Employees are permitted to work for separate business unit only and not in conjunction with any of the company's other affiliates
- Physically separate offices and places of work
- Pay incentives: bonuses based on the performance of the business unit and not on overall company performance
- Code of conduct, notice boards, training

Separation of Information:

- Limits to the flow of information between of the business unit and the other divisions (firewalls, Chinese walls)
- Implementation of separate access systems (information specific to the needs of the employee)
- Separation of management information systems

Financial Separation:

- Accounting Separation
- Separate Budgets
- Financial Autonomy)

Transparency requirements:

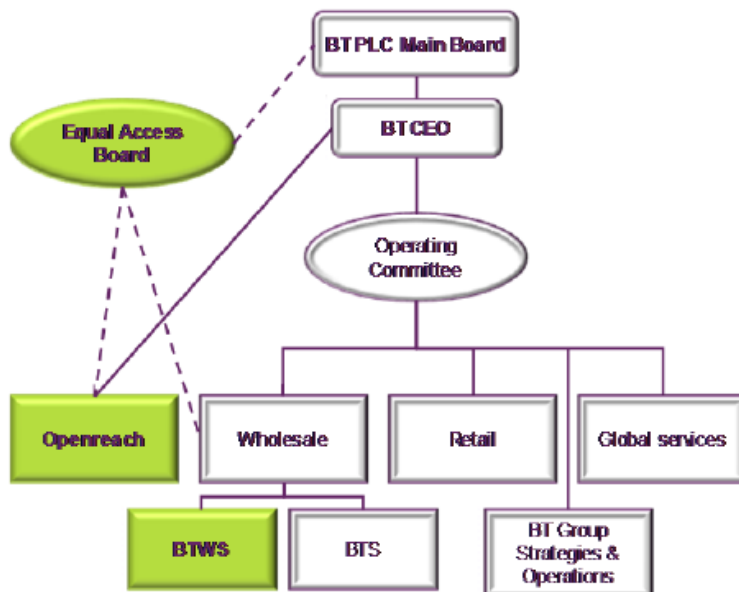
- Monitoring of compliance with obligations/performance
- System for reporting breaches (integrated/independent)
- Independent compliance handling committee
- Publication of performance indicators (by independent/third party body)
- Publication of compliance reports (by the regulator or third party)

Annex II Comparative analysis of the UK and Italian regimes

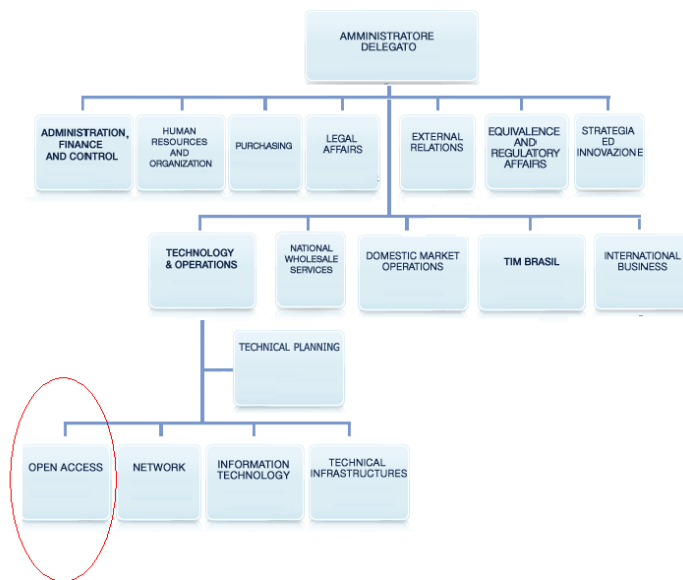
Governance

- Open Access is not separated and placed outside the organization reporting directly to the CEO and/or external board (like Openreach) but functionally reports to the BU Technology and Operations, which is in charge of other network elements and assets that are functional to TI activities. It is evident how the Manager of Technology and Operation has interest in maximising the results of the vertical integrated company rather than the Open Access BU, therefore giving direction consistently with this interest.

Openreach within BT organizational structure



OPEN ACCESS within TI organizational structure



- Open Access has no separate management: whereas Openreach has its own HR, Strategy Head, CFO, and Commercial Director, enhancing the identity of the organization and making sure that its strategies and objective are taken independently from the rest of the organization, those functions for **Open Access are performed by the same managers in charge for the vertical integrated company**. It is clear how **Open Access is a purely technical BU, not separate from the rest of the organization and in charge of practical implementing decisions taken in Telecom Italia**.

Altnets, whose orders have to be processed by TI Wholesale first, before being sent to OpenAccess for the activation of the delivery process.

- There is **no evidence of the wholesale products being provided internally and externally at the same price**. Unlike the UK where Openreach has its own provisioning/billing system tracking all the transactions (internal and external) and allowing a transparent identification of the quantity of products sold and the prices at which they are sold, **OA doesn't have a billing system. Only TI wholesale tracks transactions and access products sold for external customers**, whereas there is no evidence of the prices and quantities of product purchased by TI retail and TI wholesale from Open Access. As access products are provided internally through OSS which don't keep track of the specific transactions and prices applied, "transfer charges" have to be identified and reconstructed ex-post, based on regulatory accounting⁴.
- **No effective monitoring system in place**: KPIs only measure lead-time within OA, not taking into account that Altnets have an additional lead-time connected to the order being processed first by TI wholesale. No KPI measuring and comparing end-to-end lead-time is available. As the delivery processes are different for internal and external customers, KPIs are not able to effectively compare other elements of performances either. For instance, whereas in case of technical resources not being available in a specific local exchange, the Altnets' order gets rejected (technical KO), OA doesn't reject orders from TI retail but simply holds the order in the queue until de-saturation or resolution of the technical problem.

Transferred assets

- **no indication of the perimeter of the asset has ever been provided** in the voluntary undertakings and assessed by the NRA. As recalled, Open Access (OA) is the result of an internal reorganization, falling outside the scope of the undertakings, in which the NRA was not involved. As a result there is no transparent and public information on the assets transferred to the business unit;

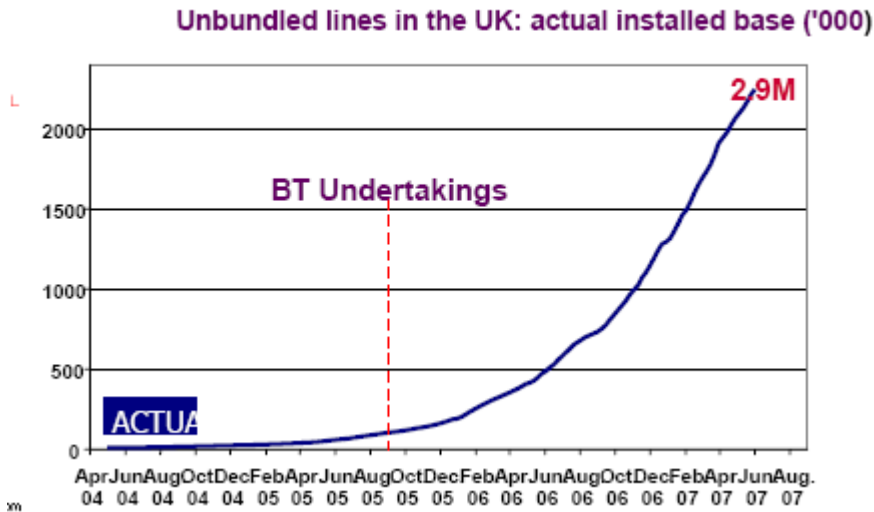
Impact of the regime introduced in the market

In the UK the results of functional separation became visible after a relatively short period of time following its introduction. LLU took off exponentially and there were 3 million additional lines unbundled within only 2 years.

In Italy, the retail market share of the separated incumbent in DSL lines has decreased rather moderately, by 3 %, which might or might not be attributed to the undertakings of

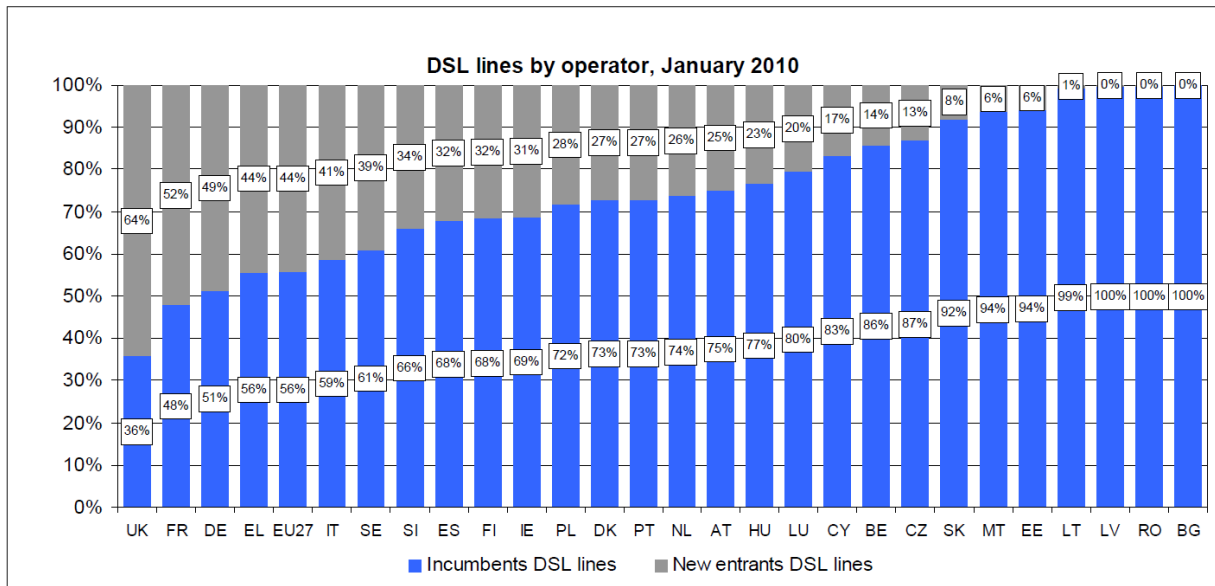
⁴ Based on the information acquired by the Italian Competition authority in a case against TI for discrimination and technical boycotting opened in 2010, there is no formal contract in place between TI retail and OA establishing the prices/transfer charges at which Ti retail acquires the wholesale access products.

Telecom Italia. We have not seen in any case a breakthrough effect on competition as was the case in the UK.



Updated chart for 1 Jan 2010 below

Figure 96: DSL access lines per operator (January 2010)



As a result, broadband retail prices have significantly dropped, speeds increased and broadband penetration has swiftly increased. We have not observed any similar impact in Italy. There has been an increase in retail prices due to the increased LLU prices and

the level of broadband penetration is still below the EU average according to the 15th Implementation Report.

