

**Contribution Mr Chris Fonteijn at Telecommunications and Media
Forum 13 April 2011**

The Future of Regulation

[sheet introduction]

Ladies and Gentlemen,

First of all I would like to thank mr. Fabio Colasanti for his kind invitation; it is a great pleasure to speak to you as chairman of BEREC at this event. I trust you are all fully aware of BEREC, its objectives and its setup.

Therefore I want to take the opportunity to share with you some of the topics that are on the agenda of BEREC this year, and take a look in the future, like you will do during the sessions to come.

Relevant market developments

BEREC sees a number of important developments that will drive the developments of electronic communications markets in Europe. These are:

1. technological convergence,
2. bundling of services , and
3. the growth of mobile broadband.

1. Technological convergence:

Traditional services such as telephony and television are increasingly delivered through IP based broadband networks.

This enables the entry of traditional providers of television services into the markets for telephony through the use of IP telephony.

Vice versa traditional telephony incumbents have entered the television market through IP TV services.

This trend has its effects in particular in the countries where cable networks have a large footprint such as Belgium and The Netherlands.

2. Bundling of services:

The number of European consumers that consumes these services through bundled offers has increased significantly.

[sheet uptake of bundled services]

On this map of Europe you see that on average 38% of household consume bundles.

In some European countries (Denmark, Estonia, France and the Netherlands) already more than half of the households purchase two or more communication services from the same provider in a bundled offer. We expect this trend to continue and consider it likely that mobile services will also become part of this bundling trend.

3. Mobile broadband

A third development that will become of major importance is the growth of mobile broadband.

[sheet growth of mobile traffic]

This graph shows the projections made by Cisco on the growth of traffic on mobile networks: a very steep increase with a growth rates of over 100% year on year. It is fair to expect that some of this increase of mobile traffic will substitute for traffic from fixed devices, especially in countries with a high percentage of mobile only consumers.

[sheet mobile only]

On this graph you can see that in particular the newer Member States of the EU this percentage is high. Here fixed mobile substitution can cause a significant increase in the level of infrastructure competition. In Austria for instance, this is already happening.

So as an intermediate conclusion I can say that market developments in Europe are clearly moving in the right direction. The ongoing technological development, competition between infrastructures, competition on bundles and the growth of mobile broadband will create a situation where the European consumers have much more choice at more affordable prices.

But the figures also demonstrate that there are differences within the EU. As BEREC we need to make sure that regulation does not enhance these differences, but rather helps to overcome them. That does not mean that regulation itself should be uniform. For instance geographic reasons may require different regulatory approaches. It is a challenge and a duty for all

of us to acknowledge these differences and to respond adequately to them if we want to achieve an internal market across the EU.

There is a number of issues on the BEREC agenda that will probably be on everyone's agenda in the near future:

1. Fostering infrastructure competition
2. Facilitating investment in NGA
3. Increasing harmonization and cooperation

1. Fostering infrastructure competition

One of the goals of the current regulatory framework is fostering effective competition. The regulatory framework states that regulation should be withdrawn on markets where sustainable competition exists.

[sheet competing infrastructures]

This slide gives an indication of the intensity of competition between infrastructures in different European countries. Looking at this picture, it is fair to expect that in a number of member states sustainable competition will emerge at the horizon in the coming years. In particular in countries with intensive infrastructure competition between cable, DSL and fiber networks, the prospect of deregulation will become a real option in the next decade. Here, the regulatory question "how many networks are needed for effective infrastructure competition?" and the economic assessment of oligopoly will come at the forefront of the discussion. Furthermore, where deregulation becomes reality the need for smooth transition regimes

towards general competition law will emerge. In countries where infrastructure competition needs more time to develop, such as France, United Kingdom or Spain, access regulation specifically tuned to NGA will continue to play an important role in the future.

The impact of mobile broadband will be important for that, and thus frequency allocation. Historically, the public interest related to frequency allocation has always been the need to avoid interference. The digitalisation of the spectrum changes this. Less scarcity leads to a situation where the emphasis of the public interest shifts from 'avoiding interference' to 'market organisation'. This should be reflected in the conditions attached to frequency allocations. The emphasis in these conditions should be more and more on those conditions that are relevant for fostering the development of competition, notably infrastructure competition. Thus, the allocation of frequencies and the conditions that are attached to frequencies, become more important for NRAs and less so for ministries and frequency agencies. For the purpose of harmonisation, the allocation of the power to allocate frequencies, might be very important. This line of thinking will be tested in the research that BEREC does on fixed-to-mobile substitution this year.

2. Facilitating investment in next generation networks

The digital agenda has clear and ambitious objectives. There are several targets mentioned, referring to different stages in time. The first step is that there should be basic broadband coverage for 100% of the EU citizens by 2013. By 2020 there should be a fast broadband coverage of at least 30

Mbps for 100% of the EU citizen and 50% of all citizens should have subscriptions above 100 Mbps.

One of my first slides shows very clearly that the need for measures to reach these objectives will differ between countries.

[sheet fibre roll out in the EU]

For instance the roll out of fibre networks is most advanced in the northern parts of Europe. It is clear to me that market forces alone will not be sufficient to reach these objectives in other member states. Especially in the remote areas in Eastern Europe, the availability of broadband internet, let alone internet with speeds of up to 100Mbps, is problematic. Additional measures stimulating investment will remain necessary and we have to be willing to pay specific attention to those parts of the EU.

By allowing the inclusion of a premium for investment risk in the cost of capital, the NGA recommendation highlights the importance of facilitating investment in NGA networks. BEREC and its members are working hard to implement measures in this area. BEREC is especially looking at 3 topics: co-investment of operators rolling out NGA networks, when to remedy fibre networks and on what level should access be offered and best practices for both passive and active remedies.

Last year, BEREC has undertaken a country study focussed on the supply side of broadband developments. This year BEREC will look into the demand side as well. BEREC will give advise on how the existing instruments that are used to promote the rollout of broadband – be it on the

supply side or on the demand side – should be used in the most effective way.

3. Increasing harmonization and international cooperation

One of the main goals of BEREC is to increase harmonization by achieving more consistency in the application of legislation and regulation. Several times in this speech I have pointed at differences between countries. These differences drive the pace at which the goals of the framework are reached. As BEREC we see that there is not one internal market with similar circumstances. In this situation, uniformity in regulation across the EU might seem harmonised, but would in fact be detrimental to the objective of the internal market. Therefore, to make the valuable contribution to the internal market that BEREC does, BEREC must take account of these differences. Not by choosing for the lowest common denominator in common positions, but by paying respect to every country's position if needed with a view to real harmonisation and a real internal market in the longer term.

Summing up

In this presentation I have tried to sketch a broad picture of the future challenges in communications regulation, touching upon most of the issues that you will discuss later today. For instance: harmonisation of frequency allocation procedures and the focus on competition is essential to fully benefit from the digital dividend. I mentioned also that we need to take account of the differences between countries if we want to achieve the internal market. I pointed out that an important topic as NGA has the

special attention of BEREC, also in this respect. Predicting the future does not come with guarantees. But I *can* say that BEREC will continue to be in the forefront of the discussions and developments. By revealing some preliminary thoughts that I have on those issues – of course without prejudice to the outcome of the work that BEREC is doing – I hope that I have provided you with sufficient food for thought and discussion. I wish you all a very fruitful conference.

Thank you for your attention!