

Presentation to DTI EU Review Public Stakeholders Meeting

Ofcom view on EU electronic communications Framework

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Scope of Commission proposals and main issues

The top two priorities for the Commission

- Implementing a new policy approach to spectrum management
- Reducing the procedural burden associated with regulation of markets

Other stated priority areas earmarked for change:

- consolidating the single market
- strengthening consumers and user interests
- improving security
- removing outdated provisions

Spectrum Management

- A market-based approach which is to be welcomed. Key proposals:
 - Service and technology neutrality: remove unnecessary constraints on the technology used or on the service that can be provided in spectrum bands
 - Promote spectrum trading: generally welcome provided there is sufficient flexibility in terms of bands identified and approach to be followed (for example doesn't constrain Member States to moving forward at the speed of the slowest)
 - Coherent authorisation for pan-European services: may have merit in specific bands (e.g. mobile satellites) but wary of broad application
- In its Regulatory Impact Assessment the following options were identified for institutional reform:
 - Option 1: the creation of a EU Spectrum Agency;
 - Option 2: the status quo with more EU defined criteria;
 - Option 3: existing framework
- The RIA favoured option 2. Nonetheless, some evidence that the Commission may be seeking to extend its responsibilities in the field of spectrum management - we will need to watch such moves carefully

Reducing the procedural burden associated with regulation of markets

- A mixed bag of limited proposals including:
 - reduced information requirements for 2nd round market reviews
 - single regulation proposed for all related instruments associated with the Article 7 market notification procedure
 - less flexibility over timing for market analysis

Consolidating the single market

- Overall, Commission proposals amount to significant increase in centralisation of regulation of the ECS sector, specifically:
 - Extend Article 7 veto to remedies: worth noting that during negotiations the last time around, this was considered the main remaining hurdle to be overcome before the 2002 package could be finally adopted.
 - EU-level standards setting
 - common conditions for pan-European services
 - increased harmonisation of national numbering plans
- Measures to reduce use of appeals as delaying tactic
- Improve incentives to comply by making penalties regime more effective

Strengthening consumers and user interests

- Universal Service reform:
 - green paper on the scope of USO for 2007
 - Removal of Directory Enquiry from USO
- Other initiatives:
 - tariff transparency initiatives for consumers
 - improving caller location obligations related to emergency services
 - more initiatives for disabled users including ensuring better access to 112 emergency services and creating an EU-level mechanism to help “enhance eAccessibility in practice”.

Improving security

- Proposal to substantially extend powers in relation to 'security incidents', on the basis that the market has failed to deliver.
- The Commission also proposes that it should be able to adopt 'technical implementing measures' in order to avoid distortions of the internal market. The likely effect appears to be that operators and ISPs in all countries face the same (increased) burden.
- In relation to network integrity requirements there is a proposal to extent existing network integrity obligations to all types of network. Important to ensure the obligations are proportionate.

Recommendation on relevant markets

- Retail Markets – all retail markets removed except for Access to the public telephone network at a fixed location for residential and non-residential customers (which is now combines residential and business)
- Wholesale Markets remain, however:
 - SMS included in the market for wholesale mobile termination
 - Wholesale national market for international roaming on public mobile networks.

And views requested specifically on these two markets:

10. Access and call origination on public mobile telephone networks
12. Broadcasting transmission services, to deliver broadcast content to end users

Commissioner Reding's Bitkom Speech

Prior to the formal launch of the public consultation, Commissioner Reding called for:



- an independent European telecom regulator that would work together with national regulators in a system, similar to the European System of Central Banks
- spectrum management agency needed because national management was increasingly inefficient in a world where electronic services are not restricted by national borders & to ensure that spectrum use was both service and technology neutral.
- No to regulatory holidays
- “structural separation” (a.k.a functional separation of incumbent operators to separate their infrastructure operations from their service provision)

Initial Ofcom reactions

Commission knows best?

- Thin justification for significant centralisation of decision-making in Brussels
- Individual proposals may be justifiable
 - Need your help to identify which

Best practice on remedies

- Commission has expertise and sufficient resources to judge appropriateness of remedies?
- National regulation decided ultimately by prevailing political winds in Brussels – surely not a positive development?
- Veto will not force an inert regulator to act!
- Stakeholder demand for NRAs to increase efforts to disseminate best practice
 - Major programme of ERG development activity
 - Need chapter and verse to aid prioritisation – which problems, which markets, which countries?

Competition methodology

- Joint SMP not a very practical criterion for intervention – but no Commission proposal for reform
- No big concerns, per se, on new list of markets but
- Commission unclear on cross-market issues – e.g. wholesale-retail margin squeeze
- The “3 criteria” need clearer guidance, 2nd criterion (dynamic effects) in particular

Article 7 process

- Little benefit to Ofcom from streamlining
- Any concerns from stakeholders active in other countries?
- Proposals on timescales etc seem over-rigid
- Need to avoid setting processes in concrete

Other issues

- Watching with interest reactions to the Bitkom speech
- Proposals on appeals and on compliance seem sensible
- A number of other proposals very vague
 - Need stakeholders help to get to the bottom of these

Questions?

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