

**Implementation of the Directives Stakeholders Group Meeting
11 November 2002
OfTel**

Attendees

Consumer and Industry Reps

Alistair Roberston, SACOT
 Claire Milne, PUAFA
 Mike Fox, BT
 Scott Broadley, BT (EU regulatory team)
 Bernhard Tute, AOL
 Camille de Stempel, AOL Time Warner
 Jacqui Brookes, FCS
 Ashley Mirfin, Association of Communication Services Providers
 Alan Penney, Telia
 Karen Wray, Cable and Wireless
 Merel Kolfshoten, Centrica
 Aydin Kurt-Elli, edNET
 Miriam Ogurcak, Nortel Networks
 Natalia Basterrechea, Hutchinson 3G
 Hamish Macleod, Orange
 Sonia Hilton, Orange
 Mike Corkerry, AT&T
 Philip Auld, Virgin Mobile
 Phil Dymond, Virgin Mobile
 Vicky Sandrey, BskyB
 Simon Pitts, ITV Networks
 Helen Morgan, Energis
 Gulistan Moledina, T-Mobile
 Alex Blowers, NTL
 Sara-Jane Amey, NTL
 Spyros Karageorgis, France Telecom
 Nancy Cox, Kingston Communications
 John Blakemore, O2
 Julian McGougan, BBC
 Marion Bormann, Marconi
 Sonya Arora, Vartec
 Andrew Gorton, Vodafone

OFTEL

Vincent Affleck
 Elaine Axby
 Frank Phillips
 Andrew Walker
 Chris Hadley
 Neil Patterson
 Paul Lonsdale

DTI/ITC/RA/DCMS

Guy Nesdale, ITC
 Mary Tait, DTI
 Paul Redwin, RA

Agenda Item 1 - Introduction

Vincent Affleck (Of tel) welcomed speakers and delegates to the 5th meeting of the Implementation of the New Directives Stakeholders Group and introduced the morning's topics of discussion.

Agenda Item 2 – Market Reviews update

Elaine Axby (Of tel) provided an *update on the EU Market Reviews.*

General Discussion

SACOT enquired if broadband markets would be divided into geographic markets. **Of tel** responded that no such decision could yet be made but historically the UK prefers national markets.

ACSP enquired if ATM and Frame Relay would be included in the Broadband review. **Of tel** responded that although the Commission had not identified Frame Relay and ATM as markets, Of tel will need to consider the competition issues in these areas as part of the Broadband Review.

Agenda Item 3 - Dispute Resolution Between Undertakings

Andrew Walker (Of tel) explained the *proposals for New Dispute Resolution procedures between undertakings.*

General Discussion

Cable and Wireless enquired how many of the cases reviewed met the criteria for ADR. **Of tel** replied that a review of cases in the last two years that have been referred to Of tel suggests that about 10% of these disputes would have been suitable candidates for ADR.

Another provider enquired what the definition of a dispute was under the new Directive. **Of tel** said that what constitutes a dispute is contained within Art 20 of the Framework Directive i.e. a dispute can arise from any of the Directives in the new Regulatory Framework. NRA's have an obligation to either resolve all such disputes or decline the dispute where ADR is more appropriate.

Another provider considered that as Of tel is the only body authorised to see confidential data then such disputes could not be candidates for ADR. **Of tel** responded that if operators felt that there were issues of confidentiality then Of tel would use this in its decision on whether to accept or decline the dispute.

SACOT enquired at which point in the dispute resolution process does the four-month period actually start. **Of tel** responded that the period starts as soon as

Oftel makes the decision to either accept or decline the dispute, not when Oftel initially receives the dispute. It is therefore important for parties to provide clear and comprehensive information in order to ensure that Oftel is able to make a quick decision on whether to accept or decline.

BBC was concerned that the option for ADR could mean that operators could be forced into negotiation on occasions when it should be for Oftel to resolve. **Oftel** said it is certainly not about Oftel wanting to avoid resolving disputes. In Oftel's experience there has been a small number of cases where operators could have resolved the dispute themselves. However, there will be an appeals procedure if operators do not agree with an Oftel decision to decline.

Vodafone enquired who would carry out the ADR mediation. **Oftel** responded that this was entirely up to the parties involved but Oftel can provide information about companies that provide arbitration and mediation. However, Oftel could not agree or disagree with the form of ADR, as Oftel could not step into a dispute within four months once it has gone to ADR.

Agenda Item 4 – Guidelines on Interconnection under the Access Directive

Frank Phillips (Oftel) explained *proposals for the Interconnection guidelines*

General discussion

ACSP commented that under the new Framework, the definition of interconnection is much broader than under the existing Framework. **Oftel** agreed and explained that what is proposed is interconnection being the linking of Public Electronic Communications Networks (PECN) where Electronic Communications Networks (ECN) are provided by the conveyance of signals.

Another provider considered the guidelines needed to be strengthened, for example, to prevent a network provider providing services to only one company of which it may be a subsidiary. A solution was required possibly akin to the service providers obligation in mobile licences where operators can only provide service to service providers which demonstrate that they have resold or will resell not less than 80% of telecommunications services to others outside that service providers group. **Oftel** responded that strengthening this part of the guidelines may have to be considered but it could not be made a concrete obligation.

Vodafone enquired how operators would be able to be registered on any Annex II replacement list of communications providers of PECNs which would be maintained under the new regime. **Oftel** commented that information provided in the notification procedure would in itself be sufficient to demonstrate PECN status. Also the notification procedure does not allow the challenging of information so inclusion on the list would offer a spurious authenticity. Ofcom

would maintain any list on a purely voluntary basis and it would not be a prerequisite for interconnection.

Agenda Item 5 – Guidelines on Access under the Access Directive

Chris Handley (Of tel) provided an overview of Of tel's Access Guidelines under the Access Directive

General Discussion

Of tel commented that although these are the final version of the Guidelines they are still moveable and are not binding. They have been published in advance of the of the Access Directive so operators are aware in advance what will be happening.

Orange enquired what the constituents of the Retail Minus are and how it is calculated. **Of tel** explained that retail minus consists of setting the maximum charge for a wholesale service equal to the retail price (set by the SMP operator) less the costs incurred by the retail activity of the SMP operator, or of its subsidiaries. The way it is calculated in practice is on a product by product basis.

Agenda Item 6 – Directive on Privacy and Electronic Communications – update on timetable

Mary Tait (DTI) provided an update on the Directive on Privacy and Electronic Communications and how it will be implemented and explained the key features, timetable for implementation and the issues likely to feature in consultation.

General discussion

Cable and Wireless enquired if MS have a choice on whether to allow reverse searching. **DTI** responded that all MS must allow reverse searching, however, subscribers must be allowed to vet their Directory information.

PUAF asked for an explanation of what constitutes Value Added Services. **DTI** explained that Value Added Services were any kind of service based on traffic and location data.

Agenda Item 7 – General Discussion Q&As

This was covered in agenda items 1 to 6

Agenda Item 8 – AOB

Of tel informed the meeting that updates on Of tel's proposals to implement the New Directives is on Of tel's website at:

http://www.oftel.gov.uk/publications/eu_directives/index.htm

The next meeting has been planned for Thursday 12 December commencing at 2:00 pm