International Stakeholders Forum

Ofcom – Riverside House
5 July 2016
Agenda

1. Introduction
2. Review of the Audiovisual Media Services Directive
3. BEREC: Net Neutrality guidelines
4. Review of the EU Telecoms Framework
5. EU Spectrum work

AOB
Review of the Audiovisual Media Services Directive

Timetable

CULT Committee of European Parliament:
- Meetings with interested parties 23-29 June
- Draft report by end of Summer
- Public Hearing 26 September
- Deadline for amendments 13 October
- Vote in CULT mid-December
  ➢ Possible concerns about consumer protection elements

Council of Ministers:
- First AVMS Council Working Group 8 June (Netherlands Presidency)
- CWG meetings 4 and 15 July (Slovakian Presidency)
  ➢ Wide range of views and questions about Impact Assessment

➢ Adoption by mid/late 2017?
AVMS Directive Review: Key Themes (1)

New category for regulation: Video Sharing Platforms (VSPs):
- Services providing access to programmes or user generated videos to general public (but having no editorial responsibility).
- Subject to regulation in a single Member state (of their choice)
- Measures to ensure the protection of minors and to protect all citizens from hate speech.
- Co-regulation encouraged, some flexibility.
- NRAs responsible for implementation and enforcement.

European Works Quota for VOD & Levies to fund European production investment:
- 20% of their catalogue, and prominence requirement; exemption if not practical or appropriate.
- Member State may impose financial levies on on-demand services outside their jurisdiction if those services earn revenue from providing content in that Member State.

Liberalisation of advertising rules:
- Removal or 12 minute/hour cap for linear TV advertising
- Allowance for breaks every 20 minutes during news and films
- Relaxation and simplification of detailed rules on Product Placement, Sponsorship and Cross-Promotion.
AVMS Directive Review: Key Themes (2)

Protection of Minors:
- Single requirement to protect minors from harmful content on linear and on-demand services
- Strongest access restrictions needed for the most harmful content in both environments
- Requirement to provide information to viewers about potentially harmful content, e.g. by content descriptors

Independence of Regulators and formalisation of ERGA:
- Member States must ensure that regulators are independent, sufficiently resourced and with adequate budgets and competences.
- ERGA has formal role with additional responsibilities, for example in disputes around jurisdiction

Country of Origin:
- Mostly technical changes, some practical improvements on procedures
- Clarification of one of the criteria defining jurisdiction (“majority of workforce”)
- Same grounds to derogate from freedom of reception for linear and on-demand services

Accessibility: Provisions removed from AVMSD because proposed to be included in European Accessibility Act
BEREC Net Neutrality Guidelines

Process, aims of consultation

• BEREC tasked with providing guidance to NRAs
  - To contribute to consistent implementation across Europe
  - In close cooperation with the Commission
  - After consulting stakeholders (6 June – 18 July)
  - By 30 August (consequently, BEREC cannot take into account responses received after 18 July)

• NRAs responsible for enforcing and must take utmost account

• Consultation provides opportunity to road-test the Guidelines:
  - Learning how draft Guidelines are viewed by different stakeholders and citizens
  - Considering convincing alternative approaches to interpretation and implementation
BEREC Net Neutrality Guidelines

Content of the Guidelines

- Guidelines follow structure of the Regulation:
  - Scope of the Regulation (who enjoys the “right”; which services are in and out of scope)
  - Commercial practices (zero-rating not prohibited per se, some clearly problematic, others to be considered on case-by-case basis)
  - Traffic management (including what is reasonable and what can be done under exceptional circumstances)
  - Specialised services (the requirements that must be met to be considered a specialised service)
  - Transparency requirements (info about speeds, TM practices, redress)
  - Roles of the regulators (supervision, enforcement, reporting)
BEREC Net Neutrality Guidelines

• Interested in your views

• Encourage UK stakeholder responses to consultation - http://berec.europa.eu/eng/net/public_consultation/

• Also more detailed discussion at BSG/Ofcom event on NN rules and BEREC Guidelines tomorrow
Framework Review – update

• We are now in a **policy development phase** between consultation responses and legislative proposals
  
  – Commission continuing to develop policy internally – engaged WIK Consult to provide additional input on 3 areas: Network Access, Scarce Resources – Numbering, and Spectrum, as well as on the Commission’s own Impact Assessment
  
  – Intra-services consultation in August, legislative proposals expected September
  
  – Commission wants negotiations concluded by end 2017 – optimistic?

• Proposals to cover **four main areas**:
  
  – Network Access, Investment and Competition
  
  – End User Issues – services and the scope of the Framework
  
  – Spectrum
  
  – Institutional set-up
Framework Review – policy areas

Commission focus on connectivity
• a new “overarching” objective?
• a bigger toolbox?
• forbearance?
• regulation of uncompetitive oligopolies
• flexibility on market review cycles
• a preference for fibre – “the end of technology neutrality”?

End user issues
• “unfair” competition from OTTs argued to be hitting revenues, investment
• bring OTTs into scope? If so, on what basis?
• sector-specific vs horizontal rules
• clarify “ECS” to incorporate recent case law and reduce divergences in national interpretations?
• switching and bundles
Framework Review - Spectrum and Institutional set-up

Commission focus is on “bold overhaul”
- Increased **harmonisation of spectrum management**, 
- **Greater role for Commission** in the formulation of spectrum policy including in relation to technical co-ordination, interference management and international negotiations
- More significant role for EC in relation to spectrum awards and associated issues (e.g. licence conditions)
- Potential changes to the **Institutional set-up** including the role of RSPG

Ofcom’s views:
- **problem definition** – scale of problems?
- Would be concerned by proposals mandating conditions of spectrum awards
- Technical coordination **works well**, enables economies of scale and interoperability
- Potential for more effective sharing of best practices and strengthening role of RSPG
Framework Review - Institutional changes to BEREC

EC focus is on broadening and improving BEREC functions

- Against the background of “connectivity”, new “areas of pan-European relevance”
  e.g.
  - Coordinating the mapping of network infrastructures
  - Monitoring the quality of IAS, conditions for the provision of cross-border business services, development of “wider markets for communications platforms or services”
- Are NRA resources enough? Alternatives?

Ofcom’s views:

- BEREC interested in (other) new roles/powers (Art 7/7a, Art 19)
- Argument around “Europeanising” NRA thinking
- Harmonised NRA competences
- NRA resourcing, operational independence
- In any event, “form follows function”
EU spectrum update

• RSPG 40\textsuperscript{th} Plenary in Brussels was held on 8 June
  – Draft Opinion on 5G
  – Framework Review/DSM strategy
  – Report on WRC-15
  – Good Offices role in 700 MHz clearance
  – New work item on PMSE
EU spectrum update

• 5G is a priority area for RSPG: expedited timetable
  – An early opinion will input to European Commission 5G Action Plan and guide industry generally
  – Next step is public consultation - open for six weeks before the summer
    – 3.4-3.8 GHz primary band: aim to put Europe at the forefront of 5G
    – Releasing 700 MHz band to enable nationwide and indoor coverage for mobile broadband
  – Ensure all mobile bands ready for 5G
  – Identify bands above 24 GHz as soon as possible – and narrow this down
700 MHz – European Developments

RSC Decision concluded March 2016
- Harmonised measures for ECS in for 2x 30 MHz
- Centre Gap & Guard Bands – national flexibility of use – ECS / PMSE / PPDR / IoT
- Protection of DTT and PMSE in sub 700MHz band

European Parliament and Council Decision
• Telecoms Council Agreed General Approach – 26 May 2016
  - 694-790 MHz - ECS by 30 June 2020 (+ 2 yrs.)
  - Coverage obligations – “high-quality level of coverage, 30 Mb/s, indoors and outdoors”
  - Ensure availability of terrestrial TV / PMSE, “based on national broadcasting needs”
  - Sub 700MHz other services permitted – no interference to neighbouring Member State

• European Parliament –
  - ITRE Committee Debate on amendments proposed by ITRE members – 4th July 2016

• Indicative Schedule
  - EP ITRE Committee Vote – early October
  - EC / EP and Council Tri logue - October 2016
  - Final Decision – December 2016
Radio Spectrum Committee (RSC) July / Oct 2016

• Transport - GSM-R
  – Continued ongoing work within CEPT on national experience and practice of co-existence between GSM-R and MFCN
  – Inaugural Joint RSC / Rail Interoperability Safety Committee (RISC) Meeting – 6th July

• 2.3 GHz
  – Interim results of JRC study on interference on 2.4GHz presented RSC July 2016
  – Final Report due Dec 2016
  – Italian LSA Trials - Italian Ministry Workshop – Sept 2016

• 2.7 – 2.9 GHz
  – EC examining availability of PMSE shared use with civil / military radar systems
  – Mixed view across Member States on both feasibility and demand
  – Commission is seeking views from Member States on viability of an RSC Decision
  – Likely that coordination procedures would need to be nationally defined
Feedback & Close

Next meeting: Wednesday 26\textsuperscript{th} October, 2pm to 4pm