

The ERG/IRG Work Programme 2006

Chairmen's Introduction

We have pleasure in presenting the work programme for the European Regulators Group (ERG) for 2006.

It may be useful to state what the ERG's role is – it is designed to offer advice and support to the European Commission on the implementation of the regulatory framework for electronic communications. In providing this advice and support, the ERG takes into account the objectives given to National Regulatory Authorities (NRAs) of promoting competition, contributing to the development of the internal market and promoting the interests of EU citizens.

In 2006 we intend to focus our efforts on a small number of the most important issues. Our main task for next year is to input to the European Commission's review of the regulatory framework for electronic communications and services. We shall also be focussing on the market developments which in our judgement have the most effect on competition and consumer interests – such as next generation networks, broadband, VOIP and Voice over Broadband (VOB) as well as specific consumer issues, including transparency of retail prices for international roaming.

We will also be putting greater emphasis on transparency – explaining what ERG is and does. We will be publishing a short document to this end early next year.

One source of confusion about our work as European regulators is the existence of two entities – the ERG and the IRG (or Independent Regulators' Group). The difference between the two groups is that IRG's membership is restricted to the regulators themselves and excludes the Commission. As our ability to offer good advice to the Commission will sometimes require us to take positions which are not identical to theirs, the existence of the IRG provides the national regulators with a useful forum. However, in the year ahead, most of the business we conduct will be managed through the ERG. Although formally this work programme is a joint ERG/IRG programme, we will normally refer to it (as above) as an ERG initiative.

In offering advice to the Commission, the ERG is obviously concerned to ensure a consistent application of the regulatory framework. Our agenda is therefore no more and no less regulatory or deregulatory than the framework itself. In essence, we review the relevant markets identified by the European Commission and where we find markets are not competitive, we will take action to protect the interests of end users. At the same time, where markets are found to be competitive (or are considered likely to become so in the near future), we will take appropriate action to reduce or withdraw from regulation.

This document reflects the results of the public consultation on the draft Working programme 2006.

Jørgen Abild Andersen
Chairman 2005

Kip Meek
Chairman 2006

Introduction

This document sets out ERG's Work Programme for 2006 and is published in the interests of transparency. The annual Work Programme provides a comprehensive view of the work of the ERG, the form of outputs planned and the timescales involved.

The scope of the Work Programme is developed based on the major regulatory challenges and issues facing NRAs and stakeholders as identified by the ERG. At the end of the year, an Annual Report will be published setting out the results of the work.

ERG / IRG

The European Regulators Group (ERG) was established in July 2002. Its members are the Heads of the National Regulatory Authorities (NRAs) for electronic communications and networks from thirty three European countries. These comprise the twenty five EU Member States, the four EFTA states (Switzerland, Norway, Iceland and Liechtenstein) and the four EU Accession/ Candidate States (Bulgaria, Romania, Turkey and Croatia). The European Commission attends and participates in meetings of the ERG.

The ERG was set up as a forum for advising and assisting the Commission in the electronic communications field. It allows cooperation between the NRAs and the Commission in a transparent manner and serves as a body for reflection, debate and advice on the implementation of the electronic communications framework as required by Article 7(2) of the Framework Directive (2002/21/EC).

The Independent Regulators Group (IRG) is a complementary organisation to the ERG. The IRG was set up in 1997 as an informal group of European NRAs. The IRG will continue to exist as a platform for discussion between NRAs. However, there is now a single Work Programme and Annual Report and for convenience only the term ERG is used in this document. The Working Groups have always been common to both ERG and IRG.

ERG Activities

NRAs are independent bodies responsible for application of the European Regulatory framework for electronic communications services and networks as prescribed in the Framework Directive and Associated Directives. In carrying out their tasks, NRAs are required to promote competition in the provision of electronic communication networks, services and associated facilities, contribute to the development of the internal market and promote the interests of the citizens of the European Union.

One major task of NRAs is to undertake market analyses of a number of markets identified by the European Commission. Where an NRA finds a specific market as being not effectively competitive it must impose obligations (Remedies) on undertakings dominant in the relevant market which balances the effect of that market power for the ultimate benefit of consumers.

The ERG enables NRAs to share views and experiences of implementing the framework taking into account developments in the market and technological changes. Much of the detailed work is delegated to expert working groups who having completed their work prepare draft Common Position, Opinions, and reports to the NRA Heads for approval.

The delivery of the work of the ERG is supervised by the Secretariat.

Major themes for 2006

The work programme for 2006 is organised around three themes:

- Review of the regulatory framework
- Technical and market developments
- Practical Implementation issues

Review of Regulatory framework for Electronic communications and networks

The European Commission are undertaking a review of the European regulatory framework for electronic communications networks and services during 2006 in accordance with their obligations under the relevant Directives. This Review will build on experiences of the implementation of the existing framework including the operation of the market review process and the results of the Commission's Annual Implementation Report.

The timetable for the Review is as follows.

Date	Milestone
November 2005	Public call for input on review of the regulatory framework and revision of Recommendation on relevant markets
December 2005	Communication on regulatory co-operation (Art 7 activities)
Feb 2006	Publication of 11 th Implementation report ERG / Commission Workshop on Review
By July 2006	Commission Communication to Council and Parliament on functioning of regulatory framework and launch of consultation on possible changes Publication for public consultation of a draft revised version of the Recommendation on relevant markets
End 2006	Commission proposals to Council and Parliament on amendment of Directives Commission adoption of a revised version of the Recommendation on relevant markets
2007-08	Political agreement in Council and Parliament on revised Directives

The ERG is conscious of the role that a stable and clear regulatory regime plays in creating the right conditions to encourage and safeguard investment in the electronic communications industry while promoting competition. These conditions are vital for EU end users and more widely for the competitiveness of the EU economy and to achieve the goals of the Lisbon Agenda.

The ERG welcomes this review at this time and seeks to ensure that the Regulatory Framework is adjusted where necessary in order to deliver effectively and according to its objectives.

In September 2005, the ERG set up a Project Team to begin to oversee the ERG's input to the 2006 Review which will ensure a co-ordinated response by NRAs and input to the Commission in a timely and appropriate manner. This will be a key project during 2006 and includes the review of the Article 7 notification process, a

review of the Universal service Directive provisions and a review of the list of relevant markets.

Technical and Market developments

Europe appears to be at a critical stage in the development of new and dynamic economy driven by the convergence of technologies and service innovation in electronic communications. NRAs have a vital role in encouraging and protecting investments in new technologies while at the same time encouraging competition and preventing abuse of market power by SMP operators.

During 2006, the ERG will undertake further analysis of evolving markets and technologies based on its practical experience of implementing the framework so that it can anticipate and respond appropriately to the changing environment. This work will concentrate on three main areas:

Broadband;
VOIP; and
Next Generation Networks.

Practical Implementation issues

Whilst the 2006 Framework Review will consider the development of the regulatory regime in the longer term, the ERG still has to fulfil its functions of applying the existing regime in a harmonised manner. Many NRAs are still carrying out market reviews and there are several aspects of implementation which need further study and sharing of experiences to develop a best practice approach.

In 2006, the ERG proposes to work on transparency of retail prices in particular for international roaming tariffs. The ERG will also review the approach to calculation of the weighted average cost of capital (WACC) of dominant operators.

Ongoing items and work carried over from 2005

Although the ERG organises its work programme for convenience in an annual cycle, it is not always possible or sensible to finalise items within a yearly programme, especially where they are subject to a detailed public consultation. Accordingly, a number of items are not complete at the end of 2005 but should be finalised by the time of the first ERG Plenary meeting in February 2006. As such, they have not been repeated in the 2006 Work programme. They include:

Remedies Common Position Update
Finalization of Retail Minus Implementation Principles
Finalization of Current Cost accounting Implementation Principles

Work programme

The work programme is divided into two categories. The first category relates to priority items and the second is lower priority work and includes a number of ongoing work items mainly related to provision of data/ statistical work.

1. First Category

a) 2006 Review of Regulatory Framework for electronic communications

The Commission's Review of the regulatory framework for electronic communications, to be conducted by the Commission during 2006, is an important opportunity to reflect on its implementation and to propose any refinements and improvements. The ERG has a particular insight based on NRAs fulfilling their duties under the Directives and their interaction with the Commission and stakeholders.

The ERG needs to be proactive in considering the issues in view of the tight timetable outlined by the Commission.

The issues to be addressed include institutional arrangements, strategic issues, technological and market developments and practical implementation matters. The initial areas identified for consideration are:

- Review of the regulatory framework,
- Commission consultation on regulatory cooperation (Art. 7),
- Commission's review of the Recommendation on relevant markets
- Review of Universal Service Directive (including scope of the USD, impact of USO obligations on competition and US in Member States with low fixed penetration).

General concepts, such as dominance, triggers for interventions, desired degree of harmonisation and consumer protection will be explored through the general review of the framework. In particular, the project team will address practical aspects of implementation, including the functioning of the Art. 7 processes.

In light of notifications to date, the project team will review the Recommendation on relevant markets and the consistent application of the three criteria test.

<u>Deliverable :</u>	Opinions
<u>Deadline :</u>	Q1 2006
<u>Consultation</u>	no, but Opinions will be published

<u>Deliverable :</u>	Reply to Commission's Consultation Document
<u>Deadline :</u>	Q3 2006
<u>Consultation</u>	no, but Reply will be published

b) ERG Common Positions on Next Generation Networks

Traditional circuit switched networks are gradually migrating to IP based networks. This work item will review the effects this evolution has on interconnection regimes and also tries to develop some general principles with regard to regulatory treatment of NGNs and VOIP.

Deliverable: ERG Common Position on principles for IP interconnection
Deadline: Q4 2006
Consultation: Public consultation

Deliverable: ERG Common Position on regulatory principles for NGN
Deadline: Q4 2006
Consultation: Public consultation

c) Broadband competition between fixed and wireless access

With the advent of competitive broadband wireless access technologies such as WiMAX, which will increasingly tend to follow the “multiple services at multiple places” paradigm, new questions arise, in particular those of how to ensure competition between fixed and wireless broadband technologies. Also, there are issues of convergence and the impact fixed/wireless substitution will have on the current telephony and broadband markets definition.

The conditions for authorization and provision of WiMAX services will have to be examined with a view to the competitive effects and the interaction between fixed and wireless broadband access needs to be assessed.

Deliverable: ERG Report on the interaction between fixed and wireless broadband access
Deadline: Q2 2006
Consultation: Public consultation

The document ERG (05) 23 will be updated to include newer data and further analysis of the development of broadband market competition.

Deliverable: ERG Report on broadband market competition
Deadline: Q3 2006
Consultation: Public consultation

d) ERG Report on Broadband Quality, pricing and bundling

As one of the major goals of the regulatory framework is to create benefits for European customers, ERG is focussing on certain end user markets. With the broadband market expanding rapidly, ERG proposes to review the consumer aspects of broadband provision. This will include such issues as reviewing quality (transfer rate, billing accuracy) pricing and bundling.

Deliverable : ERG Report
Deadline Q2 2006
Consultation: Public consultation

e) Transparency of Retail Prices for International Roaming (on going from 2005)

This project relates to work to highlight and facilitate greater transparency of the prices charged for international roaming in the best interest of the European customers. This project will focus on the implementation of proposals to increase transparency made by the project team in 2005. It will take account of the initiative by the European Commission to set up a website on operator's international roaming prices.

<u>Deliverable:</u>	Report
<u>Deadline:</u>	Q1 2006
<u>Consultation:</u>	Public consultation

Second Category: regular and second priority work

The Group will continue to benchmark mobile termination rates and to regularly publish an update of a snapshot of mobile termination rates across the countries represented in the ERG. In addition, mobile access and competition effects will be considered.

In addition, the ERG will consider the consumer aspects in relation to VOIP including such issues as cross border issues, emergency services, quality aspects, security aspects and billing.

The Group will also review the calculation of the Weighted Average Cost of Capital (WACC).

In addition, the ERG will continue to act as a forum where NRAs can collect and publish data and share experiences of implementation of the regulatory framework.