



BEREC Stakeholder Workshop on Relevant Markets, Stockholm, 26 February 2014

INTUG was one of 6 invited panellists to BEREC's inaugural stakeholder workshop, hosted by Goran Marby, BEREC Chairman and Head of the Swedish NRA. Delegates came from NRAs, the European Commission, the European Parliament, network operators and a wide range of other industry players. In a lively debate in which arguments for (ECTA and INTUG) and against (ETNO) continuing sector-specific regulation were aired.

FTTH Europe, Cable Europe and VON were also on the panel. Goran Marby explained that this was the first such event and that BEREC were keen to continue such occasions in order to hear from all stakeholders.

Roberto Viola from the European Commission DG Connect opened the event with a short summary of "the week in Strasbourg", where the European Parliament was supposed to have voted on the Single Telecom Market proposals (known as the Connected Continent or "TSM" for short). The EP reached agreement on a Directive to reduce broadband cost (not a stronger Regulation or a weaker Recommendation). The Electronic Signature Authentication Regulation was also agreed. The ITRE vote on TSM was not, however, and was delayed until March 18 on a technicality, but will still be in time for the Plenary at the beginning of April. It seems that an unrelated regulation concerning plastic bags was held up due to availability of translated versions and this hurdle was also applied to the TSM vote. VP Kroes has said this will simply increase her energy to obtain agreement.

Anthony Whelan, Head of Cabinet for DG Connect then explained the Recommendation for Relevant Markets. 16 Relevant Markets had been defined in the Framework in 2003 and these had been reduced to 7 in 2007, by eliminating 8 and combining 2. The new Recommendation reduced the number further to 4 by eliminating Markets 1 and 2, and by combining two others. For business users, the new Market 4 is the first evidence of recognition of the special needs of business services, and is welcomed by INTUG.

Market 1 (PSTN access at fixed location) is being withdrawn because it fails the 3 criteria test (enduring barriers to entry, no trend towards competition, ineffective competition law), and because of migration to VoIP.

Market 2 (Call origination on PSTN at fixed location) is being withdrawn because it fails the 3 criteria test, there are low incumbent market shares, and because of mobile migration. However, NRAs can continue to regulate these markets if there is pressure to retain PSTN or if there is local variation in migration to substitutes.

Market 3 (Call termination on PSTN at fixed location) becomes new Market 1.

Market 7 (Voice termination on mobile networks) becomes new Market 2.

Market 4 (Wholesale physical fixed access) becomes new Market 3a.

Market 5 (Wholesale broadband access) becomes new Market 3b.

Market 6 (Wholesale Leased lines) becomes new Market 4 wholesale high quality services.

This leaves 4 markets from the original 16 and the current 7, albeit one being a "double".



The workshop then proceeded with two panel debates - one on the period 2015-2020 and the second on the period beyond 2020. There were 6 panelists:

Carolyn de Cock, Executive Director VON (Voice on the Net) Europe
Erzsebet Fitori, Director, ECTA
Matthias Kurth, Executive Chairman Cable Europe (ex German Regulator)
Daniel Pataki, Director, ETNO (ex Hungarian Regulator and ex ERG and RSPG Chair)
Hartwig Tauber, Director General, FTTH Council Europe,
Nick White, Executive Vice President, INTUG

Predictably, the representatives of the operators, ETNO and ECTA, held opposing views. ETNO argued for the elimination of ex-ante regulation, whilst ECTA said regulators must accept there is little likelihood of some bottlenecks disappearing in the foreseeable future. In particular, the assumption that PSTN was disappearing was contested as not being reflected in statistics, which show that most businesses (85%) retain PABXs and PSTN.

FTTH Europe, Cable Europe and VON (who represent organisations like Skype, Microsoft and Google) held varying views on the individual elements of the Relevant Market debate, but were generally less exercised about the detail. They predictably sought recognition for the key role their organisation played in innovation, and in development of the ecosystem.

INTUG highlighted business user concerns, advocating sector specific ex-ante regulation which aimed to improve the overall EU economy, rather than just the telecom sector, noting that business users of telecoms represent a greater proportion of the EU economy, at 8-10 times the size of the telecoms industry itself. Given experience to date on operator behaviour, business users are uneasy about a continuing reduction in the number of regulated markets as a policy objective per se, highlighting the absence of effective competition for business services, especially in mobile and wholesale broadband. The proposed Market 4 for high quality wholesale services is welcomed as an overdue recognition of a distinct business market. BEREC and NRAs need to consider how they might also review the international market. The continuing commitment to PSTN by most corporates makes withdrawal of this market premature. Innovation will always tend to go beyond first mover advantage, establishing barriers to entry which competition law alone will not remove. INTUG also mentioned short term bottlenecks that need removing, such as the hard SIM card which could not continue for M2M, and exclusive 4G operator deals for Apple iPhones which inhibit business choice. INTUG has written to VP Kroes and Almunia on this issue. The Recommendation on Relevant Markets is a minimum. NRAs should continue to review all markets where there was demonstrable lack of competition.

In the discussion on the longer term, when panelists were invited to think blue sky, to be abrasive and provocative, and to identify "the elephant in the room", there was some spiky discussion on structural separation of access (for fixed and even for mobile), given that it would never be efficient investment to duplicate NGA fibre networks at least ubiquitously. In closing the event Goran Marby noted that the unexpected could not be predicted. WhatsApp will kill the current €77k per GB SMS revenue. Some things will disappear (there are no Post Offices in Sweden). Customers will not wait for what they want!