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ANACOM Conference

"20 Years later: Why regulate?"

OPENING REMARKS (*)

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

(*) All views expressed are those of the author

Lisbon, 30 September 2009

Dear Minister,

Dear Chairman,

Ladies and Gentlemen,

It is an honour to be at this important conference today and on behalf of the European Commission I would like to congratulate ANACOM on its 20th birthday. I think the title of today's event is quite appropriately chosen since after twenty years of (de)regulating telecoms markets, we have to ask ourselves where we stand today and what needs to be done over the coming years. So let me briefly recall where we are coming from and what the new challenges are.

The liberalisation and deregulation of the former telecom monopolies was above all based on EU directives adopted by the European Commission. Some of you will remember that when the first Commission Directive attacked the State monopoly on telecom terminals five Member States went to Court to challenge this as an unjustified limitation of their competences. The judgment of the European Court of Justice of March 1991 largely upheld the directive and it can be regarded as a key

element in opening the former telecom monopolies to competition.

What followed was a gradual opening of all market aspects culminating in the full liberalisation of 1998. Today, telecom regulation is a normal and uncontested element of economic regulation at the European and the national level. All EU Member States have national regulatory authorities and there is a solid legal framework at the EU level and the Member States level. The dismantling of the telecom monopolies was not an end in itself but has brought palpable results for all European citizens.

The success of telecoms regulation in Europe is shown by a number of impressive figures of which I will only quote a few today: a national long distance call over a fixed line today only costs about a third of what it was in 1998. The same is true for mobile telephony where, for example, the prices for an average user have dropped by about a third over the last five years alone. And these are only EU averages – in some cases the reductions have been much more dramatic. At the same time, average broadband penetration has gone up to about 23 % and we have 20 % more mobile phones/ SIM cards in the EU

than we have citizens. All this is due to the creation of competitive markets with a large number of vibrant and innovative players. There are about 1,500 fixed telecom operators in the EU today and almost 100 mobile network operators.

As regards mobile telephony, I think it is fair to say that Europe is leading the world and this is due to the fact that we have managed to create a large degree of commonality as far as technologies and the use of frequencies are concerned. All citizens can use their mobile phones wherever they are in Europe and that at rates which are not so different anymore from what they pay at home.

Even though the ground work for this success was laid at the European level, I would like to underline firmly that all this would not have been possible without the hard and unrelenting work of national telecom regulators. It is not the European Commission which has to deal on a daily basis directly with sometimes powerful companies and, in some cases, with political interference – this burden is on national regulators like ANACOM who have to find fair and effective solutions in sometimes difficult circumstances to complex legal and economic problems.

In this context it deserves to be mentioned that the work of ANACOM has been very successful. It is a pleasure for me to quote some figures for Portugal from our latest annual Implementation Report. Penetration rates for mobile phones and, more importantly, mobile broadband usage are well above the European average. Prices for the unbundling of local loops or shared access, which are key drivers of competition, are amongst the lowest in Europe. And what is most important: investment in 2008 was almost 1.2 billion Euros which is a 52% increase compared to the previous year and represents about 16% over revenues.

The work of ANACOM has also been successful as far as the European context is concerned, and here I mean the coordination of national measures with other regulators and the EU Commission in the context of so-called Art. 7 proceedings. There have so far been 23 notifications by ANACOM of which only 10 called for comments by the European Commission. There were no cases that have raised any serious doubts as regards their compatibility with EU law.

I mention this in detail to point out again the importance of close cooperation between the European Commission and the national authorities. We have already laid a solid basis for this in the context of the European Regulators Group and we are optimistic that this will be further improved with the creation of the new Body of European Regulators for Electronic Communications (BEREC). This body was established in order to strengthen the ability of national regulators to contribute together to consistent and effective telecom regulation across Europe. It is my firm believe that this aim can only be achieved if the European Commission and the national regulators work together in a spirit of mutual trust and confidence. And I hope that this spirit will also prevail in the cooperation which is necessary in the setting up and organisation of BEREC and, in particular, the BEREC office.

The creation of BEREC should, however, not be seen as a sign that we will have more regulation in the future. I think that the trend of extending regulation has already been reversed with the new Recommendation on Relevant Markets of 2007. There are now only seven markets left (out of the original 18) which could in principle be subject to regulation and these are markets where we still see bottlenecks in almost all Member

States. For the rest, regulation has largely been cut back and this will allow us to focus our efforts on better and more efficient regulation of the remaining bottlenecks. Apart from termination markets with their inherent monopoly problems, these are mainly the markets for local loop unbundling and wholesale broadband access. It is possible that we will see more competition through new technological developments such as mobile broadband but at the same time we need to be vigilant so as not to lose competition where new fibre infrastructures are installed which in some cases may leave competitors stranded.

Apart from economic regulation in the traditional sense, which was mainly access and price regulation, we may have to deal in future with issues that are related to the internet as the ubiquitous all-purpose infrastructure which touches upon all parts of our daily live. I am not only thinking of traffic management and access to applications, but also of security breaches and privacy issues. Here national regulators will already be given a stronger role once the EU telecoms reform is adopted by Council and Parliament. The first preparatory meeting for the Conciliation between the EP and the Council took place

last night and I am hopeful that we will have a good result within a few weeks.

Overall my conclusion therefore is that, even though regulation has been cut back considerably, we will still be faced for some time with issues that may need regulatory intervention in one way or another. But the emphasis of regulation may shift with technological developments, and we need to be creative and innovative also in our regulatory approaches. The Recommendation on Next Generation Access Networks which we are presently preparing will be the first test case. Keeping the right balance between encouraging investment and safeguarding competition will remain a constant challenge. We from the European Commission look forward to meeting this challenge in cooperation with strong and independent national regulators. I am sure that the discussions at today's conference will provide us with further valuable insights and new ideas.