

Brussels, 23 April 2004

Commission welcomes agreement among European regulators on competition remedies to be used in the field of electronic communications

The European Regulators Group (ERG), which brings together the national authorities responsible for electronic communication markets, today published a "Common Position" on how they apply remedies to address competition problems in the newly opened markets for electronic communications. The EU regulatory framework sets out a 'menu' of remedies that National Regulatory Authorities (NRAs) can apply to address specific problems that may arise in markets where there is one or more operators with significant market power. The 'menu' includes obligations to provide access, non-discrimination, transparency, cost accounting and price control.

"This is an important milestone for the new regulatory framework", said Erkki Liikanen, European Commissioner for Enterprise and the Information Society. "It provides an important step towards delivering the full potential of our reforms through greater predictability, coherence and a more harmonised approach to the way markets operate across the Union. At the same time, I hope regulators in applying these rules will remember that this regulatory framework is about rolling back regulation and promoting competition. The framework must work in a way which supports and does not stifle emerging markets and services. It is now up to national regulators to abide by this Common Position and to provide a sound justification whenever they deviate from it."

In looking at the principles underlying the imposition of remedies, as outlined by the ERG, Competition Commissioner Mario Monti, who is jointly responsible for this aspect of the new regulatory framework with Commissioner Liikanen, added "I very much welcome the principles which this document establishes. In particular, I believe that the Common Position strikes the right balance between competition based on alternative infrastructure and competition based on access to existing infrastructure held by operators who have significant market power. In many cases competing on the basis of your own infrastructure makes you a sustainable and long-term competitor. But in some cases, competition is only feasible if the operator who has significant market power grants newcomers access to his existing infrastructure. In striking the right balance between competition based on access and facilities-based competition we need to see how these two forms of competition evolve in the future. I expect that the Common Position will be revised, when appropriate, in light of future experience."

The ERG Common Position published today sets out the approach that regulators will pursue and should help to ensure a more coherent and harmonised approach across the Union, helping to improve predictability in the market place. The Common Position is not legally binding on its members, but members of the ERG must take the utmost account of it. They must also substantiate and publish their reasoning if they do not follow the Common Position.

The EU's new regulatory framework entered into force last summer. It gives national regulatory authorities a key role in assessing the degree of market power that operators enjoy on defined network and service markets. In the light of that assessment, national regulatory authorities must then decide on the appropriate remedies to ensure effective competition.

Background

The application of appropriate remedies is the final step in addressing the problems associated with significant market power in the markets for communications networks and services throughout the Community. The Commission has already adopted a Recommendation¹ on markets that are susceptible to ex ante regulation and issued Guidelines² on how to analyse these markets to assess if a market player has significant market power. National regulatory authorities must then decide on appropriate remedies. In selecting these remedies, national regulatory authorities must co-operate with each other, and with the Commission, in an open manner, if we are to ensure the consistent application of the framework in all Member States. A critical part of this is the process of agreeing the remedies best suited to address particular types of situations on the market place.

The ERG Common Position is published on the ERG website - http://erg.eu.int/documents/index_en.htm – where further information on ERG can also be found.

Details of the regulatory framework for electronic communications can be found on the Europa website at:

http://europa.eu.int/information_society/topics/ecomms/index_en.htm

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¹ Commission Recommendation on relevant markets [2003/311/EC].

² Commission Guidelines on market analysis [2002/C 165/03].