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**The Vision and Objectives underpinning the liberalisation of the  
EU telecom sector**

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I have been asked to say a few introductory words at the opening of this seminar—which takes place at the start of the review of the EU’s electronic communications framework foreseen for this year.

As some in the telecommunications community will know I have been closely associated with telecom liberalisation in Europe over the last twenty years<sup>1</sup>—even if I am now working in the field of energy liberalisation where we are facing similar challenges.

Therefore I accepted this invitation with pleasure. I will make some general remarks about the objectives in this sector—as they were set at the beginning of the process, and as I see them for the future. The details of the reform package<sup>2</sup> of the Electronic Communications Regulatory Framework published today for public consultation are outside my terms of reference—but they will of course be very much at the centre of the presentations and discussions here. Nor will I take you through the detailed history of liberalisation and the fine interplay of regulation and competition rules during that period. I refer you here to my colleagues Peter Scott and Christian Hocepiéd.

So let us take the time machine and move for a moment twenty years back. What would we see? At the time, back in autumn 1986 / spring 1987, when the EU Green Paper on the liberalisation of the European telecom sector was written, we were faced with this situation:

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<sup>1</sup> The author was responsible for the drafting of the European Commission’s 1987 Green Paper on telecommunications and subsequent development of liberalisation regulation respectively application of competition rules up to full EU-wide liberalization of the sector on 1 January 1998. The comments made in this paper reflect the views of the author and do not commit the Commission

<sup>2</sup> Communication from the Commission on the Review of the EU Regulatory Framework for electronic communications networks and services, COM(2006)334, 29 June 2006. Under public consultation.

- A telecom equipment industry that was still largely focused on the national incumbent and on national standards in most Member States—but that had also become convinced that the digitization of the technology, and the new scales needed, would require new business models to generate cash,
- Telecom incumbents—in the EU, at the time, nearly all of them still run as government departments—that liked their voice monopoly situation but that also knew that change was inevitable,
- High expectations concerning the 1992 Single Market goal, announced in 1985,
- ATT divestiture some years earlier in the US and its impact on Europe, as well as privatization of BT in Europe in the early eighties,
- An intense debate on public service, and
- Users, mostly from the business sector, that were unhappy with the services offered.

The Telecom Green Paper of 1987 set a focused number of basic objectives for the sector which have dominated the debate ever since:

- Liberalisation as an overall goal, but in a phased process: terminals and value-added services came first, full liberalisation in a second stage by 1998,

- Organizational / regulatory reforms: the requirement to separate operation from regulation fundamentally reorganized telecom incumbents and regulatory systems in the EU during the nineties,
- A Community-wide market vision to provide a sustainable growth-oriented base for the sector. The GSM-Directive of the time and the unbelievable success of the system afterwards is the best demonstration of this.

The GSM Directive laid the basis for parallel market development of the system across Europe. We got a Europe-wide system, developed on a competitive basis in a de-centralised manner that allows Europeans to talk from one end of Europe to the other. We saw a completely new communications culture develop, with the mobile phone now a major lifestyle component of Europeans. We got hundreds of millions of mobile users in the EU and well over 80% penetration, within those 20 years—unthinkable in the fragmented mobile markets of the eighties where mobile users counted in the two digit thousands in many Member States, and some had no public system at all. And, we got, within ten years, a world-leading technology—probably the most outstanding success of a European technology at world level over recent years.

But let me take a closer look at the major events from the nineties up to the full liberalisation date of 1998 and the build up of the regulatory system which led to the Electronic Communications Framework of 2002—which is now again under review.

When you look back at European telecommunications, Europe has followed essentially two different paths:

- Fixed telephony has grown over a long time period, under a regime of price regulation in the local loop,
- Mobile telephony has grown over a very short time, essentially without price regulation, leading to substantial investment incentives but also sometimes high prices—the current roaming problem is a major example.

The reform of 1987, leading up to 1998 and beyond, has been characterized by three major successes to which we have become used in the meantime but which were fundamental:

- it has brought us world leadership in mobile telephony and a huge explosion of use which the mobile Green Paper of 1994 correctly predicted—at a time when penetration was in the low one digit range,
- it has made European telecommunications ready for the Internet, allowing Europe to catch up rapidly with the US—a task which could never have been managed by the monopoly structure of the eighties,
- it has effectively taken distance out of the telephony pricing structure, with a dramatic fall of voice telephony long distance and international rates—with Voice over the Internet now at the end of this process.

But, of course not everything went well—and this defines the tasks for the current reform and for the future.

One fact still on everybody's mind is the 3G licence process of 2000/2001 which substantially dampened the growth dynamics generated by full liberalization of the sector.

A total cash charge of more than 120 billion € was taken out of the sector in the form of 3G licence fees at the most unfortunate time—when the European telecom sector would have needed that cash to sustain the downturn in the US market after Spring 2000. Auction proceeds got out of any economic proportion, in spite of drawings on the wall, as early as the mid-nineties, when the European Commission had warned in the Mobile Green Paper of the time that reliance on auctions as an economic tool of allocation of frequencies and licences “should not lead to an excessive transfer to the public budget.”

While the licence problem was handled in different ways in different Member States, the integration of the sector and of the financial markets has meant that all suffered, Member States, incumbents and competitors—as capital markets dried up and investment funds and banks dramatically lowered their exposure to the sector.

And all of this happened despite calls in the Commission's Mobile Green Paper that licensing of 3G should be done in a coordinated manner. Insufficient coordination in the radio frequency field and an insufficient European dimension in this area has been an Achilles heel of European telecommunications ever since the start of the process in the nineties—despite the GSM success.

However the sector's dynamics were strong enough to recover from this shock at the start of this decade and to resume healthy growth. The Electronic Communications Framework of 2002 which

consolidated the acquis and introduced more market and competition-based regulatory tools helped in this process of recovery.

Let me therefore now turn to the future and the challenges which are likely to be discussed during the forthcoming reform— with the reform proposals now on the table.

The task ahead is a fundamental transformation of our networks towards broadband—a task of similar magnitude as the introduction of mobile into voice which we faced in the nineties.

I believe it is important at this point to recall the basic convictions throughout the liberalization process:

- less regulation would allow innovation,
- we needed the right regulatory system to accompany growth—“less and better”,
- we needed a change of structure, both to break with the monopoly power of the past but also to open new options of growth for all market participants. It is a myth that monopolies generate growth opportunities and investment—competition does.

How has European telecommunications scored on these points:

1) Less regulation

I think European telecommunications has done reasonably well. The Electronic Communication Framework has introduced a market based

approach and it has the mechanism—via the Recommendations for markets to be regulated—to sunset regulation as competition develops.

The new proposals of this week demonstrate this. They maintain the basic principle and recommend a reduction of the markets subject to ex-ante regulation.

The basic trend is there—and this is not contradicted by the necessary use of regulation to prevent obvious consumer harm when competition still does not deliver, such as on roaming charges.

## 2) The right regulatory system

We have developed a strong regulatory structure with common convictions across all Member States.

But decentralization had a price. We have not achieved in all points the Community-wide dimension that was the very objective of an EU wide telecom market and the Single Market goal. Coordination in radio communications is an obvious gap, as mentioned. Also in other fields of regulation centrifugal forces are at work—regulatory remedies to be applied to the sector being one example. Again a field for work and reform identified by the proposals of this week.

## 3) Change of structure

We have had a change of regulation but not of the structure of the market in the local loop, in most Member States.

Or let me be more precise: Lack of change in the control of the local distribution network was played over during the nineties by the



emergence of competitive mobile networks—and their rapidly rising importance in the voice markets. But with the growing importance of the local fixed network as main carrier of future broadband—even if wireless will play an important role again—the inherent conflict of interest of the incumbent by insufficient structural separation of the local network could become a major break on the rapid competitive introduction of broadband.

In this regard, Europe's record in telecoms has been weak—as in other fields such as energy.

We may have been sometimes too cautious on the regulatory and competition front. We did not have early enough a real debate about structural measures that a full-scale liberalisation of the local loop may require, beyond unbundling regulations, given the monopoly heritage of the past. The nearest we came to this was the 1999 Cable Directive that ordered legal separation of the incumbents TV cable network under Article 86 of EC Competition Law. Cable separation by the incumbents has been done in too reluctant a manner, particularly in the German market—and it is not astonishing that the issue of structural separation of the local network has been raised again during recent months.

This then leads me to wrap up my presentation by summing up the main challenges for the debate now ahead, starting from the vision underlying telecom liberalization in Europe:

- not losing from sight the basic objective of reducing regulation. Competition and competition law are an effective check in a market driven environment,

- overcoming the centrifugal forces in the decentralized regulatory system that has been created during the liberalisation exercise, together with the Member States, and keeping the goal of an EU-wide market in focus.
- ensuring that the local broadband loop will be accessible to competition and access will not be hindered by unresolved structural issues resulting from powerful vertical integration still dating from monopoly times.

The latter will be vital to rapidly transit Europe into a competitive broadband world. Remember: it is not monopoly power that generates investment and new opportunities, it is the threat and incentive of competition.