

*Public Workshop on  
The “Electronic Communications Consultation Mechanism”  
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*Competition and Regulation in the new  
Framework*

**I. INTRODUCTION**

Ladies and Gentlemen,

Thank you for being here. And thanks to my esteemed colleague, Commissioner Liikanen, for having so effectively conveyed the importance of this moment. I am delighted to take part in this workshop. And I am even more delighted to be able to say that the seeds which have been sown quite a long time ago are today finally starting to take root. The process which started back in 1999 with the Review of the « old » regulatory package, and which has already benefited users of all electronic communications products and services across the Union, is now reaching a new, crucial stage. The Art. 7 consultation mechanism will be soon starting to receive notifications, and to manage the consolidation of the electronic communications markets across the EU.

I would like to stress that the Commission in general, and DG Information Society and DG Competition in particular, have achieved this together. The reason for this close collaboration is not only that the trend of technological convergence, which has been so much talked about in the last 15 years, is finally becoming a reality. We have also reached the stage at which ex ante regulation in the electronic communications sector and the application of antitrust instruments are based on the same set of competition law concepts. And the tools which are at the heart of the consultation mechanism are taken directly from standard competition law theory and practice. As a matter of fact, concepts such as “relevant markets” and “single” or “joint dominance” are the « daily bread » of competition case-handlers.

It is true, the new consultation mechanism will be difficult to cope with for all stakeholders. It requires a lot of efforts from regulatory authorities, competition authorities, companies and, last but not least, from the Commission services involved. However, it is also necessary and enables all parties concerned to adapt quickly to the new philosophy underlying any future sector-specific regulation.

## **II. REGULATION IS BASED ON COMPETITION PRINCIPLES**

Some observers have always been slightly hesitant (and perhaps at times not so without maliciousness) about the apparently unusual combination of regulation and competition which is embodied in the new regulatory Framework. I would like to stress that the essential point is not whether there is more or less regulation, but what type of regulation is needed.

In the past, regulation has sometimes been considered as a synonym for a fragmented and inconsequential set of norms, which might eventually

lead to a situation where the development of competition is held back rather than supported. We should not forget that in the electronic communications area, as much as in gas, electricity, railways, water, and terrestrial broadcasting, just to cite the most obvious examples, a Member State used to have not only a different regulatory framework to another Member State, but also a totally different framework from one sector of the economy to the other.

This is now radically changing. The analytical framework behind regulation has been constantly evolving in the last 15 years and has grounded regulatory intervention on much more solid foundations than was the case earlier. We have by now firmly moved to an approach which envisages that regulation is essentially economic regulation. Economic regulation is based on the perspective that intervention on the market is necessary and beneficial only when it offers the solution to certain sorts of market power, and in particular to market failures which derive from formerly monopolistic market structures.

The evolution of the analytical framework for regulation has gone hand in hand with the evolution of market structures, from state-owned monopolies to increasingly liberalized and pro-competitive environments. At the same time, the same type of industrial economic analysis has become the common denominator between the economics of competition and the economics of regulation. Both approaches now share a focus on applied microeconomics, industrial organization and the economics of incentives.

Despite these developments, it is, however, clear that we have not reached market conditions yet which would allow for ex ante regulation

to be abandoned. Compared to other economic sectors, we are still in a transition period where we need to apply both, competition law instruments and sector-specific regulation. There is still a considerable lack of a proper functioning of electronic communications markets. As long as problems such as unjustified impeded access to basic networks exist, ex ante regulation remains necessary. However, this admittedly heavy type of intervention into the market-place is now based on competition law principles, and is thus consistent with the application of antitrust instruments. And, no doubt about it, as soon as market conditions allow for doing away with regulation, the new Framework enables us to apply competition law alone.

This is the reason why I believe that the perceived antagonism between competition and regulation is destined to disappear. From my point of view, competition is already shaping regulation: it is the latter which is adapting itself to suit the philosophy and the approach of the former. In the electronic communications sector we have now clearly moved from a mainly administrative approach to regulation, to a regulatory perspective entirely based on, and therefore clearly compatible with, competition analysis, law and practice. Regulatory policy cannot be seen anymore as independent of competition policy: it must be seen as a part of a broader set of tools of intervention on the economy based on competition analysis principles.

### **III. COMBINING REGULATORY AND COMPETITION TOOLS**

Since regulation has been increasingly determined by a competition policy perspective, using both regulatory and competition tools cannot be seen as inconsistent. This is the reason why in this sector I regard

competition instruments and regulatory tools as complementary means. They deal with a common problem and try to achieve a common aim. The problem is high levels of market power and the likelihood of it being abused, and the aim is putting the end user at the centre of any economic activity. Only through a combination of both tools can we ensure that market power does not distort and hamper the development of competition in the communications markets. This in turn allows end users to drive and steer such development, as well as to benefit the most of it.

There is nevertheless a crucial difference between competition and regulatory instruments: while competition instruments of course already are and always will be applicable, regulatory instruments are needed only in so far as competition is not sufficiently developed. The results of antitrust action are in front of all of us, even in this sector, characterised, as it is, by a high degree of technological complexity and by the heavy burden of past legacies. We have recently taken important decisions. Certain to ensure that incumbent players do not abuse their dominant positions, such as the one against Deutsche Telekom. Others provide legal security for important investment decisions, such as the one on network sharing in the UK. And I can assure you that more actions are in the pipeline, not less, and that more resources, not less, are being invested in these actions.

We are therefore not interested in sterile debates and purely ideological conjectures: we are interested in results, and in a prudent and wise exercise of power. The priority should always be ensuring that the long-term goal of the development of competition in the interest of the final consumer is sustainably met. As long as regulation is solidly based on competition rules, it cannot be detrimental to the development of

competition, it can only be conducive to it. And I remain firm in my conviction that the development of competition is the best way to ensure that electronic communications markets can prosper and be an important engine for the Union's economic development.

And I also see something perhaps even more important than an achievement in a single sector of the economy. I see a consistent regulatory framework, solidly grounded on competition analysis principles, becoming the model for regulation of any sector of the economy still in need of regulatory intervention. I see the term "sector-specific regulation" becoming obsolete: because the same set of tools, the same competition-based philosophy and the same concerns may soon govern regulatory intervention in all sectors where some form of economic regulation can still be useful. This is perhaps one of the greatest achievements of the new framework, and my hope is that time will prove me right.

#### **IV. CONCLUSIONS**

As a result of antitrust actions, and with the support of the new framework, competition is relentlessly establishing itself on the European electronic communications markets.

To achieve this, the EU is relying on a network of independent competition and regulatory authorities, the powers and responsibilities of which have increased substantially, and which experience ever increasing degrees of collaboration with each other. Power and responsibility must be met with judgement and composure. I am confident that national competition and regulatory authorities in each Member State, which I consider my most important partners and am particularly glad to meet

here today, will take firm action not only to consolidate competition, but also to achieve harmonisation. It is thanks to the joint action of these Authorities and of the Commission that we now have, in most of the Member States, more than 200 operators delivering national and international calls, providing more choice and quality to European citizens. And of course the simplest but most evident benefit to end users is the reduction in prices, with an average fall of 45% in the last three years for the most traditional electronic communications services, that is, fixed line telephone calls.

These are the results which matter to European citizens. With this type of results in mind we embark on this new endeavour, the Art. 7 consultation mechanism. Together with our partners, I am confident that concerted, harmonised and effective regulatory and competition actions will make life better for the European citizen.

Thank you very much for your attention.