

Comments on the issues paper on
the preliminary findings of the
sector inquiry on new media (3G)
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General outlook

- Positive appreciation of the sector inquiry and the issues paper.
- General agreement with the analysis of the Commission on:
 - The distinction between two scenarios (DG: main concern is scenario 1)
 - Market definition (DG: markets should be defined quite narrowly because premium sport content has no substitute)
 - Platform substitutability (DG: agree with the Commission that there is little substitutability between TV broadcast and transmission over mobile networks)

Competition problems

- Exclusivity
- Cross-platform bundling of rights
- Pricing concerns
- Coverage restrictions
- Vertical and horizontal integration

Exclusivity

- The pay-TV market has shown that exclusivity creates severe foreclosure effects. The Commission has rightly intervened to limit the scope and length of exclusivity for football rights (see *UEFA* decision)
- In nascent markets such as the delivery of premium sport content over 3G, exclusivity should be limited even to a greater extent

Cross-platform bundling of rights

- Cross-platform bundling of rights should be discouraged
- The benefits of such bundling are unclear, whereas the restrictions of competition it generates are serious
- Bundling allows the acquirer of the bundled rights to become a gatekeeper, which could prevent the development of 3G services to protect its own platform or extract monopoly rents from 3G operators
- Sub-licensing to 3G operators is no equivalent to the direct acquisition of rights by such operators

Pricing concerns

- Pricing of 3G rights is an issue which will have a central impact on (i) the development of 3G services and (ii) the level of competition between providers of 3G services
- The lump sum approach should be discouraged because it creates barriers to entry. Launching 3G services is already a risky business. Forcing operators to pay large sums on an *ex ante* basis makes the provision of such services even riskier. The revenue sharing model should be privileged.

Coverage restrictions

- Such restrictions create barriers to entry and it is hard to see a proper justification for them
- The existence of technical limitations provides no justification for coverage restrictions as one should let the market decide what can or cannot be shown on 3G

Vertical and horizontal integration

- Vertical integration between content owners and pay-TV operators is a source of concern as it may create disincentives to sell rights to 3G operators, thereby affecting the development of such services
- Horizontal integration between telecommunications incumbents providing pay-TV services through ADSL and 3G operators may also be a source of concern as it could affect competition in the 3G services market. This shows again the risks of cross-platform bundling of rights

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