

NEW REGULATORY FRAMEWORK IS BEST PACKAGE TO DELIVER EUROPE'S BROADBAND FUTURE

ECTA backs Commission plans for enhanced competition for next generation access networks

Key elements of the framework are functional separation, the extended definition of access to include fibre and the commitment to deliver a truly single market

Brussels, 13 November 2007 – ECTA today congratulated the European Commission for proposing a package which will accelerate Europe's broadband development by giving national regulators the tools to break down monopolies and deliver consistent results across the single market.

The pro-competition body, representing Europe's competitive operators, has long argued that Europe's national regulators must be fully empowered to address persistent and intransigent anti-competitive behaviour by incumbent operators, which has resulted in a wide gap within the EU in telecoms investment and broadband take-up¹.

Clear signals given against regulatory holidays on next generation fibre access and the inclusion by the Commission of Functional Separation in the Regulatory Framework, are particularly positive, according to ECTA, and come despite intense lobbying by large dominant firms. A proposed Electronics Communications Authority, bringing together Europe's 27 national regulators, could also be of real benefit in harnessing the experience of national regulators to deliver effective results across Europe.

Innocenzo Genna, Chairman of ECTA, said, "We believe this to be a strong package overall and one that will result in tangible growth in investment and competition in high speed broadband across Europe. The proposed Framework provides the tools, including Functional Separation and the extension of access markets to include fibre, to ensure the smooth roll-out of Next Generation Networks, and the sharing of the substantial costs required to deliver them."

¹ OECD 2007: Investment of US\$220 per capita in UK compared with US\$99 per capita in Germany and US\$40 per capita in Poland. European Commission 2007: Broadband penetration of 37% of Denmark, 16% in Ireland and 6% in Bulgaria

Genna added, “Europe could today have been a worldwide broadband leader if regulators had all succeeded in opening their broadband markets. And equally Europe could tomorrow fall below its more competitive global rivals if it fails to address firmly bottlenecks preventing competition in the next phase of high speed broadband services. That makes the combined approach of assessing fibre networks – and providing a tool of functional separation for regulators to address enduring bottlenecks to competition – all the more important. The future of the European telecoms industry and the businesses and consumers that depend on it is now in the hands of the Council and the Parliament, and we hope they will take note.”

ECTA’s position on the key elements of the Review:

- **Extension of access to include fibre**

In the proposed Framework, the extended definition of local loop access to include fibre access networks will provide the pro-competition operators investing in high speed broadband services with faster and more efficient access to existing ducts, fibre and other relevant infrastructures. ECTA believes that this measure will help to develop competition by preventing incumbents from building a new monopoly position based on the local fibre loop or fibre backhaul.

The European Regulators Group identified in its October Opinion that “*next generation access investments are likely to reinforce the importance of scale and scope economies... potentially leading to an enduring economic bottleneck*”. In including fibre in the ‘physical access’ market, the Commission appears to have recognised this potential and has also reinforced its case against the German Government concerning regulatory holidays with a clear and official Recommendation that should provide a warning against dominant firms that aim to remonopolise this critical market.

- **Functional separation**

Functional separation can be a critical enabler in opening up markets to competition and providing the certainty that all market players need to invest – both today and as access networks are upgraded to fibre.

There is considerable momentum behind Functional Separation as a remedy to address enduring bottlenecks in Europe. It already exists in the UK and New Zealand, and is under

review by the Italian, Swedish and Polish regulators, and in Ireland, the incumbent eircom has stated that it favours voluntary structural separation. Just last month in New Zealand, the regulator and the incumbent reached a settlement on Functional Separation. Far from stifling investment in Next Generation Networks, as is often contested by the incumbents, NZ Telecom simultaneously announced an NZ\$1.4 billion next generation investment plan for the next five years – an investment that had not been made after many years of regulatory holiday.

Since Functional Separation, the UK – previously a laggard in broadband take-up and services with high prices and low speeds – has played a catch-up game and done so very effectively. For example, it has overtaken France in broadband penetration, the average speeds of broadband offered to end users have more than doubled, and it is close to reaching the same levels of unbundled loops, a key market opening measure, in half the time it took in France – Europe’s unbundling leader.

Functional separation can play an important role in enforcing rules for broadband competition and could also provide the framework that some regulators need to ensure the market continues to evolve competitively as access networks are upgraded with fibre.

- **Institutional reform**

ECTA supports the creation of an Electronic Communications Authority as an important step in harnessing the practical experience of national regulators in applying pro-competitive measures, and as a natural evolution of the existing European Regulators Group (ERG). However, ECTA has concerns that the proposal to wrap the security agency ENISA into the new Telecoms body could undermine its independence from political involvement.

- **Spectrum liberalisation**

ECTA supports the release of unused spectrum for services such as wireless broadband, as well as the progressive introduction of technological neutrality in spectrum allocation and spectrum trading. However, care is needed in managing spectrum for certain ‘real-time’ services such as TV or voice telephony that require a high degree of quality to avoid customer services being degraded through interference. There can therefore be no ‘one-size fits all’ approach to managing spectrum resources.

As regards the proposed role for the EU Authority in managing spectrum, we support greater European harmonisation for spectrum, but would want to be sure that spectrum issues are handled by experts on spectrum matters and that work is properly co-ordinated with the existing European bodies such as the CEPT.

- **Removal of markets**

ECTA is very disappointed that the Commission has chosen the widespread removal of markets from the list that regulators must examine, and continues to believe that it is essential for regulators to closely monitor all strategic telecoms markets. There is evidence of potentially serious competitive problems in many mobile markets as well as in the provision of high speed broadband to remote areas. ECTA urges the ERG to ensure that regulators use their discretion to pro-actively continue to review these critical aspects of the sector,

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About ECTA

The European Competitive Telecommunications Association (ECTA) looks after the regulatory and commercial interests of new entrant telecoms operators, ISPs and suppliers of products and services to the communications industry.

ECTA works for a fair regulatory environment which allows all electronic communications providers to compete on level terms in order to multiply investment and innovation throughout an effective European internal market. The association represents the telecommunications industry to key government and regulatory bodies and maintains a forum for networking and business development.

ECTA member companies include operators, service providers and suppliers as well as National Associations of such which all contribute towards regulatory policy development and participate in our comprehensive range of networking events, conferences, seminars, briefings and executive meetings.