

Main outcomes of the 30th ERG Plenary

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The Lucerne Agenda at a glance

- **NGN Future Charging mechanisms / Long term termination issues**
- **Transition from sector-specific regulation to competition law**
- **MTR snapshot of July 09**
- **Report on the elaboration and monitoring of common positions**
- **International Roaming – Future work plan**
- **Report on Regulatory Accounting in Practice 2009**
- **Draft WP 2010**

Structure of draft CP on NGN Future charging mechanisms / Long term termination issues

- **(1) Introduction**
- **(2) Elements and application of an interconnect regime**
- **(3) Definition of BaK (Bill and Keep) and boundary**
- **(4) Empirical data**
- **(5) Issues and effects**
 - moving cost recovery to retail, regulatory costs and uncertainty, externalities, effects on retail prices, investment incentives, hot potato routing, QoS, CPS**
- **(6) Issues of practical implementation**
 - traffic from outside the BaK domain, arbitrage, migration**
- **(7) Summary and overall assessment**

Summary and overall assessment

- Efficient costs and CPNP (Calling Party Network Pays) regulated rates go down
- Moving cost recovery from an SMP wholesale to a competitive retail market *as such* is likely to create better incentives for cost minimization
- Primary effect (predicted and observed): BaK results in higher usage, lower revenue per minute (price) and seems to have little impact on handset ownership, leading to higher welfare
- Effects on operators are mixed (different impact on competitive strength of different types of operators), but not assessed to be very substantial in general
- No significant negative side effects, but points for attention are:
 - subsidy from BaK domain to CPNP domain (as such negative)
 - impact on CPS operators

Conclusions

- **BaK is more promising than CPNP as a regulatory regime for termination for the long term and based on national circumstances NRAs could set a glide path to BaK within the regulatory period related to the next market analysis they carry out for termination.**
- **However, for the short and medium term CPNP can also be an appropriate choice based on national circumstances (including legal issues), at least for the next regulatory period.**

Next steps

- **Draft CP adopted in Plenary Q3 (8/9 October)**
- **Market consultation of draft CP + questions on specific issues: mid October – mid December**
- **Workshop for stakeholders on 4th November (after Draft WP 2010 hearing)**
- **Consider consultation responses from market**
- **Final adoption in Plenary Q2 2010**

Structure of the Report on the transition from sector-specific regulation to competition law

- **Section 1: Introduction**
- **Section 2: Links between sector-specific and ex post regulation (application of the competition law rules)**
- **Section 3: Transitional issues**
- **Section 4: Issues arising during the transition period (before full deregulation)**
- **Section 5: Issues arising in the absence of sector-specific regulation**
- **Section 6: Conclusion**

Purpose of the Report

- **The role of transition** from sector-specific regulation to competition law **becomes prominent** in the current context of reduction of the number of markets susceptible to be regulated ex ante.
- **The Report explores “transitional issues”** arising:
 - During the “transition period” foreseen by the regulatory framework (progressive withdrawal of SMP obligations once effective competition has been declared on the considered market),
 - After the “transition period”, once NRA do not intervene any more on the market on behalf of SMP regulation.
- **The Report then:**
 - Provides some indicators to deal with an appropriate “period of notice”,
 - Recapitulates instruments available to NRAs to monitor (when necessary) deregulated markets.

Links between sector-specific and ex post regulation

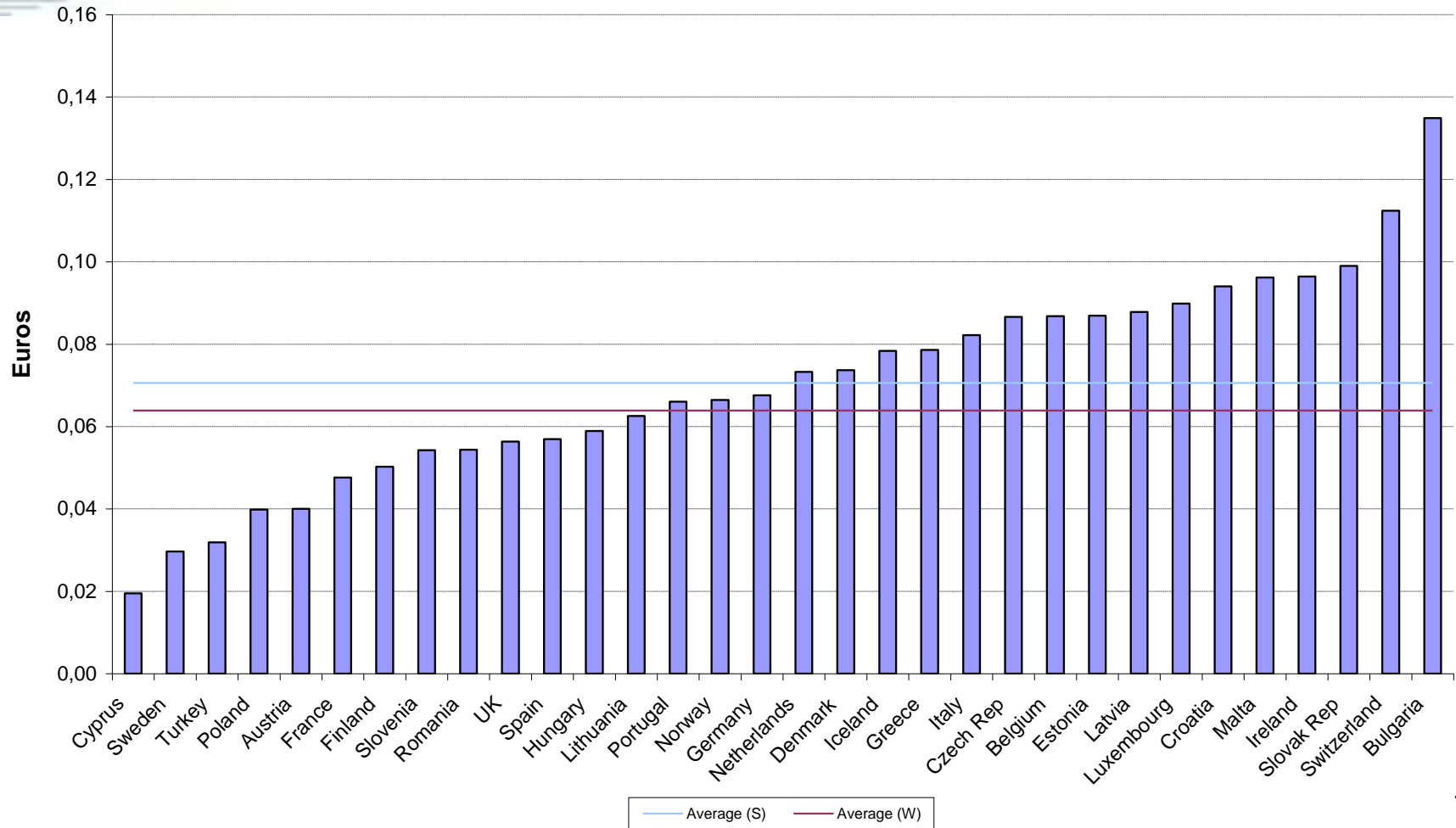
- **The Report recalls** the provisions of the regulatory framework that:
 - Point out the differences between ex ante and ex post regulation **(forward looking approach, regulatory objectives)**
 - Point out the interactions between the two types of public intervention **(specificities of co-existent regimes, complementarities)**
- **NRAs agree on** the importance of ensuring a smooth transition from the full applicability of an ex ante regime **(complementary to the competition law regime)** to the sole application of the competition law rules.
- **Some NRAs are more empowered (by national law) to intervene on behalf of ex post rules than others.**

MTR Benchmark report

- MTR snapshot provides the weighted MTR per country as of 1st July 2009
- **In comparison with the data as of 1st January 2009 the simple average has decreased 9.88% (to 0.0706 €) and the weighted average has been reduced significantly by 19.4% (to 0.0639 €)**
- Between January 2009 and July 2009 all I/ERG Member Countries have decreased their MTR.
- The following graph shows the different MTR within I/ERG Member Countries and although the difference between the cheapest and the most expensive country is still significant MTR follow a decreasing trend along time
- **As of 1st January 2010 ERG intends to publish also the MTRs per operator to increase transparency**

Average MT Tariffs per country

Average MT Tariff per country Jul 2009



Purpose of the Report on the elaboration and monitoring of common positions

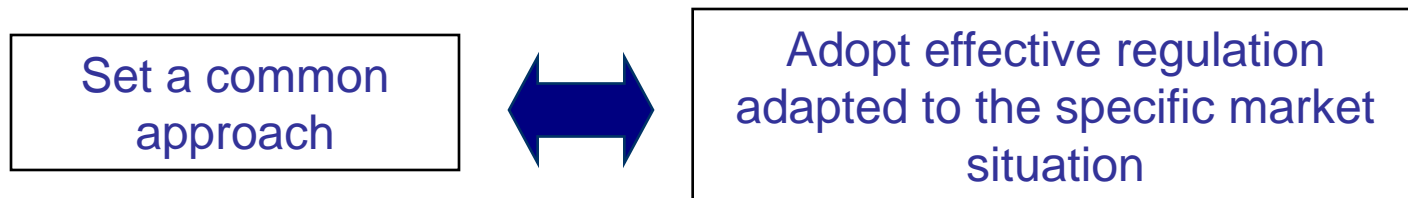
- **Report identifies best practice on the basis of past experience**
- **Sets out a model approach with the aim of making harmonisation as effective as possible**
 - Procedure to improve the elaboration of CPs
 - Procedure to maximise effectiveness of the monitoring process

Context

There is a higher pressure on ERG to produce high quality work and fulfill its role more effectively

Challenges:

- Striking the right balance between the need to:



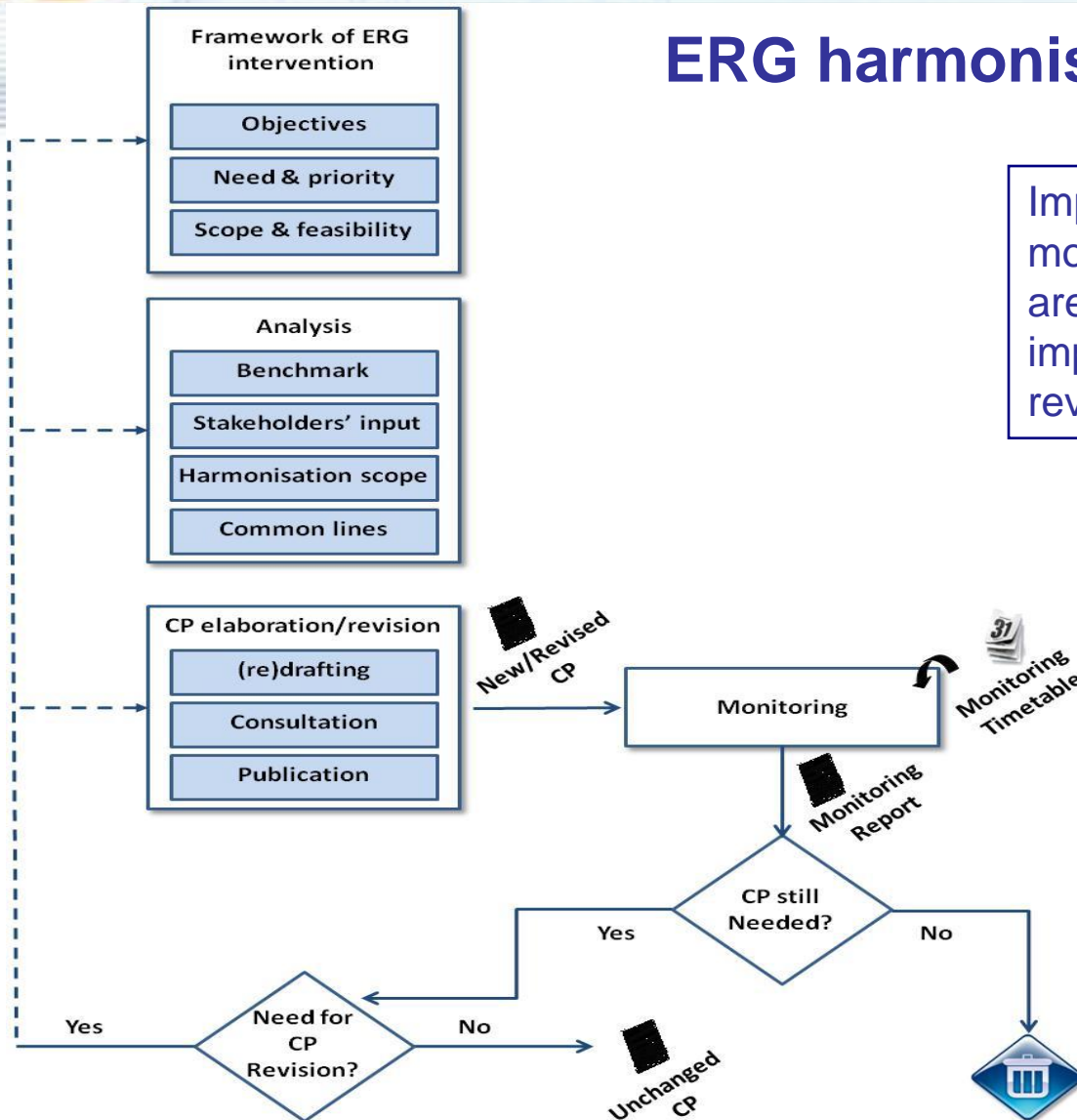
- Subjecting ERG CPs to regular review and evolution to adapt to changes in the markets

How to improve the CPs

- **Elaboration of CPs has not followed a systematic process**
- **Need robust and high quality CPs**
- **Model approach summarised below:**
 - **phase I: setting the need, scope & objectives of the ERG intervention**
 - **phase II: benchmark analysis**
 - **phase III: CP drafting and publication**

ERG harmonisation cycle

Importance of the monitoring to identify areas for CP improvement or revision



Future of Roaming regulation

- Commission needs to deliver interim report by mid 2010 and final report by mid 2011
- ERG has developed comprehensive draft work programme to allow ERG to make substantive input at each stage
- Additional research and analytical work to complement data collections is resource-intensive
- ERG works closely with Commission, adjusting work programme to avoid duplication with Commission fact-finding

Is Regulation Necessary after 2012?

- What does “competition” look like?
- Are we likely to achieve it without regulation?
 - Increased use of alternatives to roaming?
 - New services?
- Impact of regulation on wider market
- Some think regulation already too heavy
- Others think more would have been justified
- Consensus on necessity of this work module

Data collection intervals

- 6 month data collection to be replaced by 9 month data collection for next 2 reports
- Next collection exercise : operators will receive the questionnaire in November 2009, data (Q2-Q4 2009) to be provided by the end of January 2010
- Ad-hoc data collections designed and implemented to answer other questions (e.g. compliance, range of offers, quality of service)

Report on Regulatory Accounting in Practice 2009

- The report provides an up-to date factual overview of the regulatory accounting methodologies used in Europe and an assessment of the level of harmonisation achieved by NRAs. The report is prepared annually and updates the previous versions published since 2005. This year's Report contains data until June 09 based on the market analyses completed or under consultation.
- It concentrates on the markets listed in the European Commission Recommendation n. 2007/879/EC. These are markets typically more susceptible to regulatory accounting remedies and, in most countries, the market analyses have been completed and remedies implemented.

Results

- Overall there would appear to be clear and continued indicators that the trend to more consistent and harmonised approaches to regulatory accounting has been maintained.
- The analysis of the costing methodologies used by member states shows in general:
 - a trend towards CCA as the preferred cost base for wholesale markets, both fixed and mobile;
 - use of LRIC/LRAIC methodologies stabilizing at a high level;
 - bottom-up models are used much more for price control setting rather than top-down/actual cost models, which are used more often for monitoring ex-ante obligations of cost orientation and no undue discrimination.
- As some parameters are however set at different values, it could be useful to investigate in the future more in depth how far further alignment could be achievable.

Draft Work Programme 2010

- **Theme:**
Maximising internal market in electronic communications and applying institutional change
- **Priority areas:**
 - Harmonisation and benchmarking
 - Forward-looking challenges
 - Preparing for and applying revised framework
- **Build on WP of previous years**
- **Next Steps**
 - Public consultation 14 October – 6 November
 - Public Hearing 4 Nov
 - Final adoption December Plenary

SUMMARY OF APPROVED DOCUMENTS

Documents approved for publication:

| | |
|---|-------------|
| ➤ Draft CP on NGN Future charging mechanisms / Long term termination issues | ERG (09) 34 |
| ➤ ERG Report on the transition from sector-specific regulation to competition law | ERG (09) 40 |
| ➤ ERG MTR snapshot as of 1 st July 2009 | ERG (09) 35 |
| ➤ ERG Report on the elaboration and monitoring of common positions | ERG (09) 36 |
| ➤ ERG report on Regulatory accounting in practice 2009 | ERG (09) 41 |
| ➤ IRG-ERG Draft work programme 2010 | ERG (09) 42 |