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## **New powers to shape the Telecoms Single Market: one year on**

Check Against Delivery  
Seul le texte prononcé fait foi  
Es gilt das gesprochene Wort

European Competitive Telecommunication Association (ECTA)

**Brussels, 21 May 2012**

You all know I'm committed to broadband for all: with EU-wide fast broadband coverage for everyone by 2020, and half of households having ultra-fast connections.

We need that to get every European digital. To stimulate a vibrant content market. And to make ours the connected, competitive continent.

For me, our main job as policymakers is to provide you, the sector, with the three C's. Certainty, consistency, and competition.

Certainty – so that we have an environment stable, predictable and transparent enough to let you plan your business case ahead, for the long term.

Consistency – for fairness and equal treatment between countries, to deliver all the benefits of a true Single Market. That could pay off for us all. A recent study showed that completing the internal market in telecommunications could provide us with a jackpot as high as 110 billion euros, 0.8% of GDP. That's worth having, in today's economy.

And competition – to reward those who relentlessly focus on consumer needs. You know, some say that for *investment* to happen, we need to abandon *competition*. That we need to choose between one or the other. My answer is simple: no way! Competition and investment aren't exclusive – the one promotes the other. Because in a competitive market, you have to invest for the future if you want to stay in the game.

And with those three ingredients, we'll have a market where you have the incentives to invest and innovate.

But to deliver these, we need the right tools – the right procedures – and the right spirit of cooperation. How do we ensure that?

Today, I want to focus on one particular answer to that question. On a much underestimated success story, a tool quietly helping us to deliver the consistent consumer benefits of a Single Market. This is the so-called Article 7 procedure built into our regulatory framework.

This weekend we commemorate an anniversary. It's one year since we expanded the Commission's powers to open in-depth investigations. Sometimes known as Article 7a, or "second phase" cases. In particular, we now have such powers as regards draft national remedies – a crucial way to fine-tune regulation.

How to mark such an anniversary? I want to look back at what we've learned in the past year, and what we've gained. There are four things to highlight in particular.

The first is that we now have more cases. Over the past year we have opened over 16 second phase investigations. That's about six times the rate of the years preceding. And that's not even counting the many times where national regulators agreed to withdraw draft measures before we had to formally open phase 2 investigations.

The majority of those cases, indeed 11 out of the 16, concerned mobile termination rates. That doesn't really come as a surprise: we are approaching the 2013 target date for implementation of termination rates based on efficient costs, announced in the Commission's 2009 recommendation, and lately a lot of national authorities have been notifying remedies reaching beyond that date.

The second thing I'd note is that, under the new powers, outcomes can be much more connected to goals. We don't just have to launch a recommendation and watch it sail off into the sunset, hoping that it reaches its planned destination – or to wait a few years to adopt a harmonisation decision if things do not turn out well.

Rather, we can continue to monitor and check that it's on course, that regulatory practices continue to match the original objectives. Objectives like promoting competition and benefiting end users. Like promoting efficient investment. And like developing the consistent internal market in telecoms.

Let's look, again, at mobile termination rates. Our second phase powers were not used because of mere technical differences with the NRAs. But in cases where notified remedies would have failed to achieve the objective defined in 2009: of adjusting to fairer prices in a reasonable timeframe; eliminating unjustified burdens on smaller operators; phasing out fixed-mobile cross-subsidies and so supporting investment in fixed networks; facilitating innovative bundled offers; and attaining consistent conditions within the Single Market.

For example in a number of cases, proposed action would have treated calls and texts originating abroad less favourably than national calls. And that for me goes against some very basic Single Market principles.

Likewise, we've had a few cases on next generation access networks. That's understandable, given the political importance of getting this right. There, too, we are able to match and target use of our powers to our overall objectives. To be frank – the conversation between the Commission and NRAs on how best to achieve NGA roll-out AND effective competition is a lot more complex than as regards termination rates. So we have focused on cases where we had serious concerns about obstacles to a competitive internal market extending to superfast broadband. In particular, where wholesale pricing freedom was proposed without adequate safeguards, or where we did not agree about the absence of market power (which of course implies an abstention from most regulatory remedies).

The third point is that, with our new powers, we no longer have to be a mere commentator: we have a more proactive role in determining how our concerns can be addressed during the second phase proceedings. We don't just have to leave it to the national authority to take our comments on board.

That's good news for those cases where mere appeals were not enough to persuade regulators, and where remedies then diverged without justification. Because now we are better placed to ensure consistency across the EU.

Consistency is good news for operators. For example, those who've already had to apply lower termination rates in some Member States should welcome that everyone is being treated consistently and fairly. Otherwise, geographic variations would benefit some operators at the expense of others. And the lack of clear and predictable rules would make planning harder for operators trying to set up in several Member States.

The fourth point is that we don't have to exercise these powers rigidly: we can use them cooperatively and flexibly. And we do.

Because of course, there are differences between national markets. So applying principles consistently does not necessarily always lead to identical outcomes.

We work with national regulators, and are open and flexible enough to adapt to those different national circumstances. To take the termination rates example again: we have seen a wide variety of glide paths designed to reflect specific market conditions. And we have shown a degree of flexibility to all NRAs in cases where the path to BULRIC costing of termination rates stretches into mid-2013.

In fact in nearly all our second phase cases, we've been able to find a compromise solution – without having to resort to heavier-handed enforcement. This is a remarkable outcome.

Dialogue lets us take national circumstances into account. And to find a solution much quicker, so citizens can enjoy those lower call rates sooner.

But, remember, this is neither a Commission monologue, nor a two-way discussion between a regulator and the Commission. We also benefit from the advice and input of all national regulators in the form of BEREC. That's very useful in ensuring consistency.

I'm pleased to say that, in all cases to date, BEREC experts have broadly supported our approach; and thus contributed to ensuring consistent implementation in the internal market. Of course – they won't always agree with us. But they bring an important perspective on the case. One which national regulators are often open to. And one which helps us find constructive and consensual ways forward.

We have shown that we can defend the goals of the telecoms regulatory framework. In a way that delivers quickly, cooperatively and fairly for all concerned. And that gives the market certainty you need.

That's the kind of market we've built. It provides a better deal for mobile and Internet users. New opportunities for those seeking market access. And a stable environment where you can plan a solid and stable business case to invest in new infrastructure, whether it's mobile masts or new fibre networks.

That's the kind of billion-euro benefit we can get from the power of our Single Market.

Thank you.