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EU: Voice over the Internet (VoIP) – the regulatory landscape

This article provides an overview of the VoIP phenomena and explains the various forms of VoIP and the regulatory requirements on PATS (publicly available telephone services) providers and their application to VoIP. The article considers the significance of VoIP as regards to the convergence of voice, data, email and video services and the regulatory implications of this. VoIP services are now terminated as data rather than voice, resulting in significant changes in the way charges will be made for such calls. The article provides an overview of the regulatory issues under the EU Directives concerning interconnection of VoIP with the PSTN and mobile networks and the implications for the pricing of VoIP services.

France: Assessment of significant market power in French electronic communications markets

This article considers the conduct of market analyses in the electronic communications sector in France and in particular the assessment of significant market power ("SMP") by the relevant authorities. It examines the approach of the ART (the French regulatory authority) to identification of individual markets and of operators designated as having SMP, the opinion of the French national competition authority *Conseil de la concurrence*, with respect to this review, and, where appropriate, the imposition by the ART of regulatory obligations on those telecoms operators designated as having SMP. Notable points include the fact that, in relation to termination of calls on fixed networks, that each local loop operator has SMP. Moreover, the ART considers that the three French metropolitan mobile operators (Orange France, SFR and Bouygues Telecom) jointly hold SMP on the metropolitan market of mobile access and call origination by virtue of the adoption of common policy (and the possibility to support such policy) consisting in not proposing to existing MVNOs and to MVNO applicants, conditions for access which would allow the latter to compete significantly on the retail market. The ART is proposing obligations on mobile operators to grant network access to MVNOs.

Italy: Liberalisation of directory enquiries

In November 2004, AGCOM (the Italian telecommunications regulator) completed the implementation into Italian law of the regulatory framework for liberalising directory enquiries services. This article details the measures that AGCOM has adopted in order to bring about reform of this sector and the challenges that it still faces, in terms of development of a new database and in terms of dealing with legal actions from operators, before the new directory enquiries services become effective.

The Netherlands: Allocation of new Dutch wireless local loop frequencies

The Dutch Government is proceeding with an auction for the distribution of wireless local loop ("WLL") frequencies in the 26 GHz band. WLL is a relatively new technology enabling wireless broadband connections. This article reviews the auction process, the conditions to be applied to any licences to be granted and related competition law considerations. In particular, the Dutch competition authority has stipulated that no undertaking should be allowed to acquire half or more of the total WLL frequency space in any of the relevant bands.

Sweden: Crunch Time in the roll-out of UMTS in Swedish electronic communications markets?

The Swedish telecommunications regulatory authority is preparing enforcement action against each of the three current holders of 3G frequency licences for failure to fulfil their network roll-out requirements. Each of the winners of the licences awarded in December 2000, agreed to achieve 99.98% population coverage in Sweden by the end of 2003, subsequently extended to December 2004. However, a variety of unforeseen factors have prevented this being achieved, including delays in the granting of building permits for radio masts due to the unforeseen resistance to the erection of new masts by municipal authorities and the armed forces based on environmental and electromagnetic radiation concerns. This article reviews the history and the issues involved in these enforcement proceedings.

Sweden: Assessment of significant market power in Swedish electronic communications market

This article considers the approach by the Swedish national regulatory authority, the PTS, in the implementation of the EC Framework Directive (Directive 2002/21) which obliges it to carry out market reviews in order to identify whether any operators hold significant market power ("SMP") in a particular market and if necessary to impose conditions on their operation. The PTS has published final decisions and determined obligations for SMP operators in seven different markets, and is well advanced in the consultation process on other markets. The PTS's approach to the market review process is largely in accordance with the Commission's recommendations in this area.

UK: Spectrum Liberalisation and Trading

Spectrum trading is now made possible, as from 23 December 2004, by the Wireless Telegraphy (Spectrum Trading) Regulations, SI 2004/3154 for various types of spectrum use. Ofcom has been very active in proceeding with proposals to liberalise permitted spectrum usage under Wireless Telegraphy Act licences and has issued a steady flow of statements and consultation papers since August 2004, most recently an Implementation Plan and a statement on Spectrum Liberalisation on 13th and 26th January 2005 respectively. Ofcom plans to commence individual licence variations in 2005 and to introduce generic licence flexibility late in 2005, as regards to business radio, fixed wireless access and fixed links. Spectrum liberalisation has, overall, various positive features in enabling fulfilment of spectrum-related business plans. However, this article reviews the potential dangers to the spectrum market of Ofcom's proposals. In particular, Ofcom's apparent desire to withdraw from technical harmonisation and to reduce its involvement in dispute resolution could have a destabilising effect on the market, with adverse economic and investment consequences for the provision of spectrum-based new services and equipment. This article also explains concerns that Ofcom's proposals may be inconsistent with certain provisions of the EC Framework and Authorisation Directives and with certain duties of Ofcom under the Communications Act 2003 (s.3(4)).

UK: Update of Ofcom's strategic review of telecommunications

Ofcom is now concluding the phase 2 consultation of its Strategic Review of Telecommunications, the first comprehensive review of the UK telecommunications sector for 13 years. The phase 2 consultation is focused on the options for regulating reform and identifying the appropriate regulatory approach for Ofcom. It appears that Ofcom intends to work towards the delivery of "real equality of access" which means requiring that BT, as the incumbent, ensures equality of access to its wholesale services between its downstream businesses and independent operators. This raises a number of complex economic issues. This article reviews the main features of the options and proposals as set out in Ofcom's recent Strategic Review consultation document.

UK: Ofcom's broadband framework

The promotion of competition in broadband is a significant part of Ofcom's phase 2 proposals in its Strategic Review of Telecommunications. Broadband competition relies on access to the local loop, especially in areas of high consumer density. This article reviews the progress in local loop unbundling in the context of Ofcom's broadband objectives and also summarises the outcome of Ofcom's market assessments, under the EC Electronic Communications Directives and the Communications Act, of wholesale broadband access, in particular, asymmetric broadband origination and broadband conveyance, respectively, in the UK, in each of which markets BT is identified as having significant market power.

UK: Assessment of significant market power in the UK electronic communications markets

This article reviews the steps taken to assess the relevant electronic communications markets in the UK and to identify and impose regulatory conditions on significant market power ("SMP") operators. Such assessments and actions have been taken by Ofcom and previously (during the transitional period on the introduction of the Communications Act) by Oftel. Ofcom or Oftel have completed reviews of, and imposed SMP conditions in, the following markets: fixed narrowband retail services; fixed narrowband wholesale exchange line, call origination, conveyance and transit; fixed geographic call termination; wholesale international services; wholesale unmetered narrowband internet termination services (in the Hull area); leased lines; wholesale mobile voice call termination; wholesale broadband access and wholesale local access. Ofcom is currently conducting a market review for broadcasting transmission services. Ofcom's proposals in this sector signify a further instance of market definition by reference to (access to) individual networks, in a similar way to the approach taken by Ofcom and other national

regulatory authorities (“NRAs”) in relation to call termination on fixed and mobile networks respectively. Ofcom’s market definitions generally differ from those in the EC Recommendation, except as regards mobile markets and fixed call termination. NRAs are able to regulate markets that differ from those identified in the EC Recommendation where this is justified by national circumstances, which is the basis for Ofcom’s departures from the EC Recommendation in the UK.

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