

## Highlights from 25 Member States

# EU Telecom rules: Where are we now?



EU Member States have completed transposing the EU Telecom Rules into their national legislation. Member States are now focusing on implementing the legislation. National highlights from the 12<sup>th</sup> Report on the Electronic Communications Regulation and Markets 2006 are below. Bulgaria and Romania, as new Member States, have only just started the process.

**Belgium:** Despite late transposition, Belgium carried out most of its market reviews and started implementing the first remedies. However, the efforts of the National Regulatory Authority (NRA) have not always appeared very effective and appeals are systematically lodged against them. It was also taken to the European Court of Justice for late transposition of the Rules.

**Czech Republic:** Regulatory developments were dominated by intensive efforts to complete the market analyses and impose remedies based on the market reviews. The NRA has analysed all markets. As the remedies started very recently, their market impact remains to be seen.

**Denmark:** The NRA was very active in regulating and preparing new legislation. The appeals procedure has been improved. While three markets have yet to be notified, specific remedies have been revoked due to market developments. There are concerns about possible amendments to the Danish legislation and about a recent decision by the Telecommunications Appeal Board.

**Germany:** The NRA completed important market analyses, such as those for the mobile call termination and wholesale broadband access markets. However, some significant market analyses were delayed. The Commission launched fast track infringement proceedings against Germany for amending its Telecommunications Act to exempt new markets from regulation and so granting a regulatory holiday to Deutsche Telekom.

**Estonia:** The first round of market analyses is still incomplete, causing considerable regulatory uncertainty. Competition has not developed properly in the absence of effective remedies targeting, principally, the traditional incumbent's networks.

**Ireland:** Although the NRA's proactive approach addresses a broad range of issues, effective implementation of remedies, especially on fixed and broadband markets, remains an issue.

**Greece:** Taken to court for late transposition, it was the last country to transpose the Telecom Rules. The NRA worked hard to catch up on market reviews and has issued regulations as part of its new legal obligations. Legal uncertainty remains in several areas due to ongoing disputes and the time needed to appeal decisions.

**Spain:** The initial market reviews were completed in about one year and currently the main challenge ahead is effective implementation. Regulatory mechanisms, such as unbundling or number portability, already have made a significant impact on competition on the market. Overall, consumers have benefited from falling prices, growing diversity of offers, and improved users' rights.

**France:** The NRA submitted detailed market analyses and is trying to resolve emerging market problems. It has lifted remedies in line with competitive developments. In specific cases, mobile TV or the switchover to digital broadcasting, the government has taken legislative initiatives. France was also taken to the court for its mechanism to designate the universal service provider.

**Italy:** The reorganised NRA has managed to notify all markets, but continues to be slow in taking some important regulatory measures. It has dealt with regulatory challenges resulting from convergence (e.g. voice over IP, integrated fixed-mobile services, bundled retail offers) and there have been persistent problems with ineffective emergency services. The Commission launched an infringement proceeding regarding a law addressing digital switchover which the government is currently amending.

**Cyprus:** All markets, except for wholesale international roaming, have been analysed and products to enhance market competition introduced. Their impact, however, still needs to be seen.

**Latvia:** Up to January 2007 the NRA had completed all but one market analysis, after having completed none this time last year.

**Lithuania:** Completing virtually all market analyses, and the lower number of decisions suspended while under appeal, have created prospects for the rapid implementation of remedies. The main concerns include difficult relations between alternative operators and the incumbent, and the absence of an effective 112 caller location service.

**Luxembourg:** It was taken to court for late transposition. The NRA lagged behind in carrying out market reviews, generating legal uncertainty. However, this substantially improved in late 2006.

**Hungary:** The principal regulatory progresses are due to the first round of market analyses, particularly the reduction in fixed-line interconnection fees, wholesale broadband service prices, mobile termination rates, the monthly rental fee for local loop unbundling and the related one-off charges. The second phase of market analysis, started in 2006, shows the slow market maturation.

**Malta:** Market review delays and the practical application of remedies appear to hinder market developments. The incumbent operator signed the first interconnection agreement with the cable operator, whose network potentially accesses almost every household.

**The Netherlands:** The Netherlands was 2006's leading country in broadband penetration. The NRA's regulatory steps are effective, although some uncertainty has arisen due to systematic appeals against market review decisions. While the broadband and the cable markets have been consolidating, attention is shifting towards the next regulatory challenge, i.e. the incumbent's intention to convert its network to an IP-based next generation network by 2010.

**Austria:** The National Regulatory Authority (NRA) has begun the second round of market analyses, having completed the first round for all but one market in the reporting period. Although the NRA imposes general adequate remedies where necessary, several have not yet been implemented, since clarifications are needed in the NRA's dispute-settlement procedures. In many cases market players meanwhile preferred to stick to old agreements established prior to the market reviews.

**Poland:** After initial delays there was significant progress on market analyses. While the new regulator, established in January 2006, is actively trying to resolve market problems, there are concerns over its independence, impartiality and some of its decisions. Moreover, various pieces of the regulatory toolkit are still missing, e.g. a market analysis-based access and interconnection regime.

**Portugal:** The NRA's efforts to increase the limited market competition, in the face of the incumbent operator owning the main networks, started to have some impact. Alternative operators increasingly invested in local loop unbundling. However, the NRA has not yet completed the initial market reviews and the implementation of some measures was delayed. Issues of concern include universal service designation, directory services, and caller location information for mobile calls to 112.

**Slovenia:** Following the NRA's completion of all relevant market analyses and its attempts at rigorous supervision of remedy implementation, the telecom market now seems to be on the right track, except for the fixed telephony market which remains largely non-competitive. It seems, however, too early for the NRA to reduce market regulation.

**Slovakia:** Although significant progress was made in market reviews, remedies were lacking in many markets. Partial implementation of some of those is likely to delay their full potential impact in improving competition and in creating a broader range of service offers. Basic tools to foster competition are also not yet applied in practice. The Commission also proceeded with an infringement proceeding for the lack of separation of the Ministry's regulatory functions and the control of State ownership of market players.

**Finland:** The Commission took Finland to court for not providing the NRA with powers to regulate prices on all wholesale mobile call termination. Amendments to the Communications Market Act should give the NRA more power. The NRA started the second round of market reviews.

**Sweden:** The regulatory environment remains relatively unchanged from a year ago. The NRA completed the first market analysis round – resulting in Sweden being the Member State with the fewest regulated markets – and is starting the second round. The number and length of appeal procedures and suspensions is still the most important issue. A government-appointed commission proposed measures to improve this situation.

**United Kingdom:** The fixed incumbent has operationally separated its local access network from its other businesses in accordance with its undertakings to the NRA, implementation of which is still ongoing. There has also been a continued trend for the fixed incumbent to offer voluntary commitments to the NRA as a way of satisfying regulatory concerns without the need for regulation. The NRA has begun the second round of notifications, covering two markets so far.

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