

BITS

Access regulation session

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Positions of the speaker
may not be those of Orange

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Market situation: general and mobile

No increase of market power in European telecom markets:

Decreasing telecom revenues & profits vs. increasing volumes

European telecom a unique digital case worldwide:

not general telecom business model issue

a specific European telecom problem.

Negative effects on investments:

limits volume growth and customer surplus

Shared political concern.

Mobile recent mergers:

Correct artificial fragmentation induced by aggressive regulation
incompatible with investment required to operate with best
technology

In France severe fall of mobile investment in 2014

Market situation: fixed and convergence

- From monopoly to duopoly in fixed access, asymmetric regulation:
 - Distorts infrastructure competition - main driver of investment and undermines investment incentives
 - No solid legal basis for access in case of duopoly for FM convergence.

- FM convergence
 - from voice to data + smartphones and tablets: complementarity on demand side
 - technical integration on supply side
 - pro competitive and pro consumer

- Pure MNOs risk exclusion from convergent market absent secure - efficient access in case of fixed duopoly

Fixed access regulation; symmetry as the priority approach

- Asymmetric SMP framework inefficient for current fixed access challenge
- Symmetric approach to fixed access regulation appropriate:
 - do not distort fixed infrastructure competition & support co-investment
 - secure fixed access in case of duopoly
 - when proportionate to meet efficient competition objective: below three competing undertakings owning or co-owning fixed infrastructure
 - fair and reasonable access / no abusive discrimination
 - imposed to all fixed infrastructures
- In case of SMP from a single undertaking
 - Complementary asymmetric remedies strengthening symmetric access obligation if appropriate:
 - non-discrimination
 - price regulation

Symmetric regulation of fixed infrastructure in FW Directives

- Art.12 FWD basis for fixed infrastructure sharing
 - in NGA Recommendation as basis for symmetric regulation used in several MS for symmetric FTTH regulation
- To be reinforced:
 - proportionality of symmetric access vs. framework objectives
 - harmonisation - notification to EC to support Single Market
 - framing access obligations mandated pursuant symmetric regulation
 - the process by which national authorities review symmetric regulation

Restricting the scope of SMP regulation in the FW

- Asymmetric remedies for SMP undertakings:
 - only applicable to fixed access infrastructure
 - may only strengthen remedies on symmetric access obligations
- Irreversible exclusion of mobile access from SMP regulation:
 - consistent with substance of existing regulation.
 - mobile access subject to spectrum license obligations
 - positive political deregulatory signal compliant with FW logic
- Interconnection issues better addressed outside SMP

A new access regulatory framework

- Balanced:

symmetric regulation of owners of fixed infrastructures
↔
mobile operators subject to spectrum licences obligations

- Efficient, focussed and forward looking

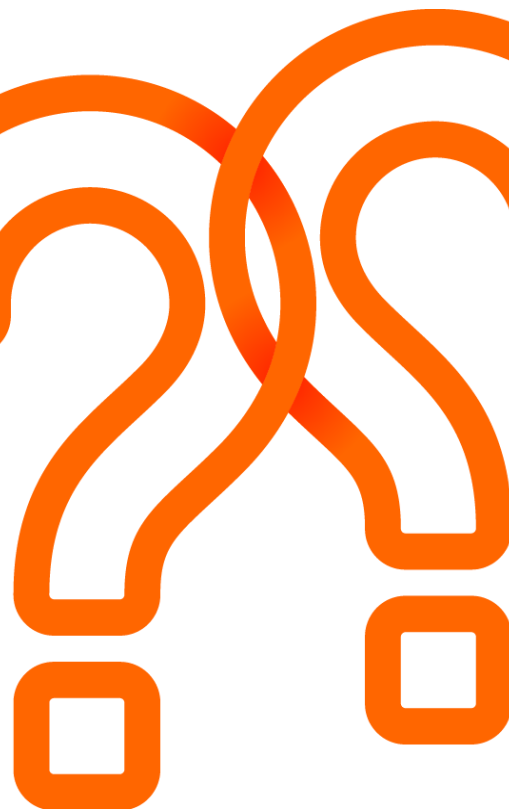
specific tools to address enduring sector specific issues
irreversibly limiting scope of general purpose market analysis to residual cases of SMP situations

- Ambitious and responsible

bold formal step towards end of transitory sector specific regulation
no disruption in substance of regulation itself.

- FW objectives in article 8 of the FWD also need be rethought

thank you



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