

Commission blocks Swedish regulation of fibre networks, requesting detailed analysis of geographic markets

Following a two-month in-depth investigation, the European Commission issued a veto decision today, blocking Swedish regulator, PTS, from adopting its market review decision. With this decision, the Commission objects to PTS's finding of a national market for wholesale local access to fibre networks, concluded by PTS despite very significant variations in competitive conditions across Sweden.

In Sweden, there is strong demand for high-speed broadband connections. By 2022, around 80% of Swedish households are expected to have broadband subscriptions with speeds above 100Mbit/s. Such speeds cannot be served using copper networks. Based on this, PTS concludes that there is a separate market for broadband via copper and broadband via fibre. The Commission did not question this finding.

The Swedish fibre access market is fragmented with a multitude of fibre network operators. The traditional telecoms incumbent Telia has the largest fibre network, with a share of under 40% of all fibre connections. Over 60% of the fibre connections link to municipal networks. Networks owned by municipalities focus on connecting homes within their respective geographic boundaries. Thus, they tend to have very high market-shares in their municipality and usually no presence beyond it.

Typically, fibre networks in Sweden do not overlap geographically; only limited numbers of larger apartment buildings are connected to more than one network. Prices for wholesale access are often different across the country, depending on the provider and other conditions such as density. There is no evidence of either demand or supply substitutability between operators.

For these reasons, the Commission considers that competitive conditions are not sufficiently homogeneous across the entire country to conclude on one, national market.

PTS's conclusion on the national scope of the market leads to the designation of Telia, the incumbent, as having 'significant market power' and, consequently, the imposition upon Telia of regulatory obligations throughout the entire territory of Sweden. The Commission considers that the ability of Telia to exercise market power is not the same across the country, particularly in areas where it is barely present. The national market definition in effect leads to the underestimation of the potential market power of other operators, within the area of their network footprint.

PTS has to revisit its findings in light of the Commission's objections and re-notify the market review once completed. The Commission calls upon PTS to undertake a more detailed and granular assessment of the geographic market. In the meantime, the current regulation will remain in place.

On 9 December 2019, the Commission informed PTS of its serious doubts on the compatibility of the draft measure with EU law and opened an in-depth investigation. On 10 January 2020, the Body of European Regulators for Electronic Communications (BEREC) issued its opinion on the Commission's serious doubts. Concerning the geographic market assessment, BEREC agreed with the Commission that PTS did not sufficiently demonstrate the national scope of the geographic market.

The Commission decision is published on CIRCABC.

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