

Commission updated the Recommendation on Relevant Markets

The Commission has adopted a revised version of the Commission Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex-ante regulation.

The new Recommendation will replace the 2014 Recommendation on Relevant Markets, as required by the European Electronic Communications Code ('the Code').

The Recommendation is an important regulatory and harmonization tool, which helps to focus ex-ante regulatory intervention to those product- and geographic markets in which significant market failures persist while allowing lifting ex-ante regulation where it is no longer needed. The Recommendation sets out a list of markets, which still warrant ex-ante regulation at EU level, in order to promote and safeguard competition and maximize consumer benefits.

The new list includes two wholesale connectivity markets, i.e. the market for wholesale local access and the market for wholesale access to dedicated connectivity. The markets were defined on the basis of competition law principles and with regard to the overall technological, regulatory and market trends in the Union. The market for wholesale local access will ensure access based competition in the broadband mass market. The market for wholesale dedicated connectivity will be instrumental to ensure access based competition for business grade connectivity.

Both markets were included in the previous Recommendation and will continue to be recommended for regulation under new Recommendation. The previously recommended markets (in the 2014 Recommendation) for wholesale central access as well as fixed and mobile voice call termination are no longer listed as markets susceptible to ex-ante regulation.

National Regulatory Authorities are required to regularly review the market listed in the Recommendation. National Regulatory Authorities can always regulate markets, which are not listed in the Recommendation based on national circumstances and provided that the three-criteria test is met. The three criteria test is met if the market meets all of the following criteria: (i) high and non-transitory barriers to entry, (ii) a structure that does not tend towards effective competition and (iii) competition law alone is insufficient to adequately address the identified market failures.

With the progressing deployment of alternative networks, competitive conditions can vary significantly between different areas of the same country (for instance between urban and rural areas) and could require a more targeted regulatory approach. Therefore, the draft Recommendation includes guidelines on the geographic market assessment.

Background

The new Recommendation comes in time of the legal deadline set by the Code and replaces the 2014

Recommendation on Relevant Markets. The review of the Recommendation was supported by a stakeholder workshop, a study in 2020 and a targeted consultation in 2019.

The Recommendation is accompanied by a Staff Working Document.

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