



ERG (07) 53b WLA WBA BP consultation report final 080604

**ERG Report
on the Public Consultation
on the Report on ERG best practices
on regulatory regimes in wholesale unbundled
access and bitstream access**

Following the public consultation from 17 December 2007 till 25 January 2008, the report on ERG best practices on regulatory regimes in wholesale unbundled access and Bitstream access has been finalised.

The 9 contributions received from Associazione Italiana Internet Providers (AIIP), Arcor Germany, BT plc, ECTA, ETNO, France Telecom Group, Platform Belgium, Telecom Italia, and Telekomunikacja Polska do not lead to modifications of the consultation report.

Indeed, from a general point of view, operators broadly support this document and mostly agree on the three main topics relating to the success or not of wholesale unbundled access and bitstream access:

- Quality of service,
- Product differentiation and migration,
- And pricing.

Nevertheless, operators commented mainly the best practices on quality of service which they considered as a key for the success of WLA and WBA markets development. These remarks were not integrated in the final report for the following reasons:

- the idea presented by the stakeholders is already taken into account in the report;
- or the comment is too detailed for a best practice;
- or the comments contradict each other;

Quality of service (QoS) and Key Performance Indicators (KPI)

Main comments concerned the section on quality of service and key performance indicators. Most operators stress the need to have indicators on QoS and globally approve the statements.

Nevertheless some contradictory points of view emerge from incumbents and from alternative operators. Incumbents consider that the document contains partly very detailed and operational recommendations which may risk leading to arbitrary and potentially disproportionate results according to ETNO. On the other hand, alternative operators asked for more details or stronger obligations. For instance on service level agreement online delivery, ECTA requests to add the following principles *"If the service is not working e.g. due to faulty line parameters the same procedure as for failure has to be applied. In case of different procedures, the compensations need to be identical."* ERG did not change the wording in order to take into account all points of view.



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Incumbents stress the importance of taking into account the national circumstances. The report already takes into account national circumstances.

Operators (ECTA and BT for instance) would like to differentiate two markets for business market and mass market in terms of service level agreements. Actually, the report already takes into account the availability of different levels of service, to reflect differences in customer demand.

Products differentiation and Migration

ERG's Statements on bulk migration are globally welcome by both incumbents and alternative operators.

Some operators would like to go further, as Platform, which considers that the 3 hours cut off period appears to be very long and not justified. In Platform's view, such period should be of maximum 30 minutes depending on the type of migration (mass migration/single line...). ERG does not include this remark in the report, Platform being the only one requesting such a short time limit.

Telecom Italia would also like to go further. Telecom Italia agrees on the introduction of bulk migration procedures but also suggests imposing obligations on all operators to implement procedures that allow a customer to switch, in a defined time and with minimal service cut-off period, from one operator to another. This proposal has not been taken into account, the Common Position being based on a SMP designation process.

Some proposals concerning ground number portability synchronisation were not integrated in the document, being too much detailed.

Pricing

ECTA would like to strengthen the statement on margin-squeeze issues. ERG considers that the statement of the document gives already the tools allowing economic space to enable further investment in the network.

The summary of each contribution is following below.



Summary of the responses

1. Associazione Italiana Internet Providers

- General Comments

The *Associazione Italiana Internet Providers* (“AIIIP”) welcomes the opportunity to submit its comments on the WLA – WBA ERG report. The AIIIP has appreciated the analysis carried out by ERG and agrees on the three main topics relating to wholesale offers (i.e.: Quality of Service “QoS”; Products differentiation and Migration; Pricing) which have to face the regulators in order to ensure a competitive market.

Remarks provided by the AIIIP are carried out in order to enact the most efficient regulation and ensure effective competition in the provision of broadband electronic communications services.

- Quality of Service (QoS) and Key Performance Indicators (KPI)

AIIIP fully shares the arguments put forward by ERG with respect to QoS and the need to have “wholesale SLAs” with respect to “delivery time” (with shorter times than retail activation times) as well as to “delivery precision”. AIIIP agrees that such “wholesale SLAs” have to be accompanied by increasing penalties, in order to ensure efficacy of SLA, necessary to ensure QoS. Although sharing the KPIs items listed in Best Practice 4a, AIIIP stresses the need to have also indicators on QoS (e.g. as to the levels of the bandwidth supplied by incumbent to OAOs with WBA services as well as to the availability thereof, and controls on the effective compliance with non-discrimination obligation in this regard).

ERG comments:

AIIIP would like to strengthen the obligations on QoS. ERG did not change the wording in order to take into account the different points of view.

- Mass Migration towards product based on different layers

AIIIP welcomes the statements by ERG on Bulk Migrations and an intervention of harmonization aimed at establishing the parameters for migration under Best Practice 5. AIIIP stresses that the effectiveness of such KPI provisions should be ensured by an adequate system of penalties.

- Pricing – Ladder of (efficient) investment

AIIIP agrees that the pricing system should be aimed at ensuring the maximum efficiency on the market and the system as a whole and to allow OAOs to recover their investments. However, according to AIIIP, a pricing system as suggested by ERG under Best Practices 10-11, has no value at all (and may also be detrimental for an efficient allocation of resources) if efficiency is not the main goal and if such system is not aimed at granting efficient allocation of resources. In such a context, AIIIP stresses the need to defy the myth that WBA should be secondary with respect to WLA and not necessarily priced at cost-oriented conditions in order to preserve the viability of WLA investments made by OAOs. AIIIP encourages ERG to reconsider its position on



ERG (07) 53b WLA WBA BP consultation report final 080604 pricing WLA vs. WBA and stresses that Bitstream and ULL should be available at cost-plus. According to AIIP, cost-plus bitstream offer is a precondition to assuring the efficient capital allocation to ULL. Moreover, cost-plus orientation should be pursued also for the Bitstream Naked pricing in order to avoid market distortion and to avoid discrimination against users areas of low population density. According to AIIP the public bottom-up costing model utilized in Denmark should be set as the best regulatory practice in determining Bitstream cost-plus prices.

ERG comments:

In the report, the best practises allow economic space to enable further investment in the network.

2. Arcor Germany

- General Comments

Arcor AG & Co. KG (Arcor) supports the approach to integrate the two subjects of Best Practice in WLA and Best Practice in WBA into one document and agrees that the problems of Quality of Service, migration and richness of Reference Offers, and pricing issues are of utmost importance for today's and future regulatory decisions.

- Comments on best implementation practices

- *Bulk Migration*

Arcor agrees, that migration from a downstream wholesale product to any upstream product, allowing entrants to generate higher value added, is crucial to facilitate effective competition and efficient investments. However, according to Arcor, minimum contract durations of the downstream wholesale product could easily disable such an effective migration process and subsequently investments in infrastructure. Therefore an additional best practice regarding bulk migration should be included in the Reference Offers: Provisions about contract durations should not apply if entrants change from one wholesale product to another, especially from a downstream product to an upstream product (of the same carrier).

ERG comments:

Arcor Germany agrees on bulk migration but would like to include an additional best practise. Detailed comments are not included in the report.

- *WLA - WBA Economic Space*

Arcor supports the intention of ERG to assure, that the economic space between WLA and WBA should be wide enough to avoid eviction pricing and to encourage entrants to invest in alternative infrastructure instead of relying on downstream wholesale products. However, Arcor stresses that the "economic space practical monitoring scheme" should take into account the costs of collocation that only emerge for local loop unbundling operators, the costs of collocation that only emerge by investing in access to SDF, and



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the disadvantages in economies of scale compared to the incumbent by producing WBA
due to smaller market shares.

ERG comments:

Then statement of the document gives already tools allowing economic space to enable further investment in the network.



3. BT plc

BT generally supports the approach outlined in the first section to the use of KPIs. However, it is stressed that details should be assessed and modified on a national basis. PT provides the following specific comments:

- *Best Practice 3b: Forecast*
BT believes that an error tolerance of 30-40% could cause significant problems.
- *KPIs*
According to BT, KPIs should take account of the different needs of mass market and major business customers. Best practice therefore requires an approach that systematically identifies the needs of both types of customer. Regarding the “migrations and reference interconnect offers” section BT notes the following:

ERG comments:

The report already takes into account the availability of different levels of service, to reflect differences in customer demand.

- Migration process should be negotiated with industry and transfer should be no longer than necessary to enable the customer to be well informed about the transfer and protect against mis-selling.
- Synchronisation of FLLU and Number Portability requires actions by both parties and not only the SMP operator.
- There are numerous potential problems with duct sharing relating to availability/planning, management, control, and fault-causation.
- Naked DSL is a very complex issue which requires a more complete analysis. In particular there are issues over the extent of demand given that costs may be little different, or even in the short term higher, than combined voice/broadband service; and there are issues from the consumer’s viewpoint, for example over access to low end bandwidth if the consumer wishes to add back a traditional voice service.
The concept of synchronising number portability with naked DSL is a little unclear as there will not necessarily be a number associated with a naked DSL line.

4. ECTA

- General Comments

ECTA welcomes the ERG’s initiative to put on paper the best practices adopted by its members and appreciates in particular the fact that the proposed document contains tangible recommendations for all ERG members to adopt specific remedies that have objectively been proven to be effective.



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ECTA comments are focused on further incremental improvement of the draft document. As a matter of fact a key area where, according to ECTA, improvement is needed concerns the recognition that operators focusing on the business market (as opposed to the mass market) need to be able to deliver homogenous services throughout the national territory and often also on an EU-wide basis. Business-grade WBA needs to be accompanied by suitable SLAs. ECTA believes that that an approach which consistently differentiates the needs of these two markets (business market and mass market) should in itself be unambiguously identified as “best practice”.

ERG comments:

ECTA would like to differentiate the business market and the residential market in terms of SLAs. Actually the report takes into account the availability of different levels of service, to reflect differences in customer demand.

- Comments on best implementation practices
 - *WBA Quality of Service; Need for Business-Grade WBA*
ECTA requests that the need for a differentiated approach to enable business grade WBA is underlined in relation to each and every one of the SLA parameters mentioned in the document, and is also underlined in the context of publication of key performance indicators.
 - *SLA online delivery*
ECTA requests that the following principle be added: “*If the service is not working e.g. due to faulty line parameters the same procedure as for failure has to be applied. In case of different procedures, the compensations need to be identical.*”
 - *SLA conditions on delivery precision*
ECTA requests that the following principle be added: “*Such compensations must be identical for delay delivery and for line failure.*”
 - *SLA conditions on fault clearance time*
ECTA suggest more ambitious repair times (Standard SLA: fault clearance in less than next working day and Premium SLA: fault clearance in less than 5 working hours.)
 -
 - *Compensation*
According to ECTA exceptions terms like ‘starting-up market’ / ‘market development phase’ are not defined leading to an unhelpfully elastic notion. ECTA proposes the deletion of these concepts, or to limit their scope in the final document.
 - *Migration*
ECTA strongly argue in favour of suitable migration arrangements, however the association is concerned that the reference to “corresponding volumes” remains unspecified and could be read as an invitation to permit limits on the amount of migrations. ECTA request to specify that, in order to prevent abuse the NRA must



ERG (07) 53b WLA WBA BP consultation report final 080604 have insight in all the SMP operators' relevant processes and staffing, and can instruct the SMP operator to increase its migration capacity to achieve bulk migration within a reasonable timeframe.

- *Stand Alone Bitstream Access*
ECTA requests an additional clarification for this best practice regarding the availability of one single invoice (SMP operator charging only to the operator and not the end user).



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- *Margin Squeeze*

ECTA welcomes the attention to margin-squeeze issues, but considers the statement insufficient. Furthermore in an environment where movement is occurring towards VDSL and/or FTTH, economic space should also be allowed to enable any further investment. This mean that in setting prices for sub-loop unbundling and/or duct access for example – that these should be set with existing regulated prices in mind and allow sufficient investment space.

ERG comments:

ECTA agrees on the best practises but requests some incremental modifications of the report. In order to take into account all points of view, ERG did not change the wording.

5. ETNO

ETNO welcomes the initiative taken by ERG to address the matter of best practices in the field of wholesale ULL and BSA. Although complex and technical, ETNO stresses that the issues analysed in the consultation document are very relevant for the proportionate and effective regulation of broadband markets in Europe. ETNO has, however, major concerns and comments regarding the present consultation.

- General Comment:

A lack of thorough analysis in the approach to consistent remedies implementation

ETNO believes that present document is only the latest in a series of ERG ‘best practice’ documents on remedies harmonisation which mainly aggregate regulators’ or specific market players’ priorities for the design of access regulation without sufficiently reflecting the principle of proportionality in particular.

According to ETNO, the new element in the present consultation document is that it contains partly very detailed and operational recommendations. The way these are derived risks leading to arbitrary and potentially disproportionate results.

ERG comments:

ETNO considers that the document contains partly very detailed and operational recommendations which may risk leading to arbitrary and potentially disproportionate results according to ETNO. In order to take into account contradictory points of view, ERG did not change the wording.

ETNO raises three main concerns regarding the proposed document.

- Analytical basis for the ERG to identify ‘best practices’

ETNO is concerned with the way solutions suggested have been derived, by proclaiming specific and sometimes novel solutions as ‘best practice’ without an in-depth analysis of their role in the regulatory system and without consideration of their impact on markets with different market conditions.



ETNO has the perception that in all cases new, possibly more intrusive regulatory solutions are needed for achieving a competitive situation while often an efficient and proportionate implementation by NRAs of the tools from the regulatory framework for electronic communications and services exists.

- Best practices in the light of the EU regulatory framework

According to ETNO, as in the previous ERG remedies documents, the consultation document makes extensive use of terms or concepts which are not derived from the EU Directives. For example, the principles of a “level playing field”, “avoidance of unfair first mover advantage” and countering “foot dragging behaviour” are not well-defined concepts under EU law which cannot in themselves form the basis for regulatory intervention by NRAs.

ETNO has major concerns regarding the following specific best practices (however these concerns should be considered as exhaustive and should not signal agreement with other parts of the document):

- *Passive Connectivity Solutions*
ETNO contests the claimed need for best practice regarding passive connectivity solutions. According to ETNO the issue needs more analysis and the conclusions provided in the document appears contradictory in view of the EU framework’s objective to promote efficient investment in infrastructure and encourage infrastructure based competition.
- *Order Forecast.*
According to ETNO, Order forecasts are an essential element of planning security for an investing network operator and should provide for a fairer sharing of risk than currently proposed.
- *Collocation*
ETNO states that rules for collocation of equipment need to be in line with the established operator’s requirement of network integrity. Therefore, in order to be implemented, it is essential that any system has to comply with the integrity requirements ; otherwise quality might not be guaranteed.
- *SLA*
Regarding the non-tolerance on respecting service level agreement (SLA) conditions, ETNO point out that a 100% guarantee level is non-realistic in a day-today operational reality, which deals with large numbers (several thousands) of installations.
- *Countering the risk of further increase of unwarranted regulation*
ETNO considers that the ERG approach, as developed in the ERG Common position (06) 70, has not been reconsidered in the present report. ETNO is worried that the ERG is introducing no reference to the need of an regulatory impact assessment, as



ERG (07) 53b WLA WBA BP consultation report final 080604 recommended in earlier ERG common position. From a practical point of view, ETNO maintains that such an assessment should be included in any report on any best practice on remedies implementation.



6. France Telecom Group

- General Comments

France telecom welcomes the opportunity to comment on the WLA – WBA report and recognizes that the work that has been done can contribute to the harmonization of the regulatory process in Europe. However, national particularities should be taken into consideration and NRAs final decisions on the operational, functional and economic aspects should be balanced with regards to the commercial relations between the SMP and the other operators, and take into account all the contextual parameters.

ERG comments:

ERG considers that the report collecting best practises in Europe, has been elaborated taking into account national circumstances.

France Telecom provides three general comments related to:

- a possible enhancement of the overall process thanks to the introduction of a dynamic dimension,
- the fact that best practices make the functional separation unnecessary and inconsistent, and
- the fact that the use of the ladder of investment concept is not forward looking.

As a consequence, France Telecom stresses further guidance and the issuing of an annual benchmark on the subject.

- Comments on best implementation practices

France Telecom Group has no objection to the list of provided Best Practices indicators. As far as KPIs indicators are concerned, France Telecom recommends to pay attention to the indicators' scale and extent because they vary from one country to another.

- *Best Practice 1: Implementing SLA &KPI in WLA & WBA Reference offers*

From France Telecom's experience a monthly report for Access delivery times and Fault clearance times is sufficient periodicity. For Facilities provision times, a report every three months is all right.

- *Best Practice 2: The minimal set of timers for SLA*

France Telecom provides an example of a set of timers: the related measures are communicated once a month.

- *Best Practice 2a: SLA conditions on delivery time*

According to France Telecom, concerning the time between receipt of LLU installation request and sending the done message, provided the service is working, the proposed 7 working days is acceptable. However France Telecom sustains that measuring the percentage of cases in line with this criterion is not sufficient. In such a case, it would be preferable to give the average delay and the number of accesses in breach of this commitment.

- *Best Practice 2b: SLA conditions on delivery precision*



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France Telecom accepts the principle of compensation for non compliance to commitments under certain conditions. As an example, it would be efficient that the new entrants smooth out the orders and command peaks lead to production disorganisation for all parties involved. In case this information is not available or erroneous, no compensation should be due.

- *Best Practice 2c: SLA on facilities delivery time*

According to France Telecom, facilities delivery time can be part of the “Reference offers” that is public.

- *Best Practice 2d: SLA on fault clearance time*

France Telecom supports it is important for the SLA on fault clearance time for wholesale products to be consistent with the commitments of the incumbent for its retail products. Moreover the operator proposes a deeper segmentation in expectations to be used for fault clearance time.

- *Best Practice 3a: Compensation rules*

- *Best Practice 3b: Forecast*

According to France Telecom 3a does not go without 3b: For an efficient mechanism, the client must have certain obligations in order to make the provider’s action feasible, efficient and rapid. Moreover, the forecast is needed by the supplier to adapt the necessary resources to handle the task. France Telecom provides more stringent criteria for geographical granularity, time granularity and, acceptable tolerance.

- *Best Practice 4a: KPIs the minimal set to be implemented*

- *Best Practice 4b: KPI Periodicity, Comparison criteria, Publication*

France Telecom argues that being in line with the KPIs and publishing the results is beneficial for the provider. Among the large range of possible KPIs France Telecom provides 119 indicators on its public website every month.

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- *Best Practice 5: Bulk migration process conditions*

According to France Telecom bulk migration process and conditions must be part of the Reference Offer.

- *Best Practice 6: Ground Number Portability Synchronisation*

Besides the requirement related to the unique command and the limited cut off period, France Telecom sustains that a level of obligation for concomitant delivery could be the following: in 80% of the daily cases, the synchronisation of the LLU and GNP delivery must be ensured within one day.

- *Best Practice 7: Passive connectivity solutions*

France Telecom argues that the real impact of this practice is the increase of the operator’s commercial zones and consequently the number of unbundled lines.

- *Best Practice 8: Collocation of equipments*

According to France Telecom, the list of equipments to be authorized in this context must be clear and available to the customers. For security and commercial reasons, collocation of



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equipment must be handled with care, avoiding the incumbent provider to lose control of its resources.

- *Best Practice 10: WLA&WBA Price consistency*

France Telecoms provides a general comment concerning the fact that that the text may give the impression that wholesale and retail markets are both regulated.

- *Best Practice 11: WLA-WBA Economic space*

France Telecom supports the fact that price consistency and related economic space must also be defined in order not to jeopardize the national averaging of wholesale prices.

- *Best Practice 12: Practical Scheme for WLA WBA economic space monitoring*

According to France Telecom, It is relevant to differentiate the access and the conveyance because the technologies for conveyance are diverse and the associated costs as well (IP, ATM, Ethernet).

7. Platform Belgium

- General Comments

The Platform welcomes the ERG public consultation on best practices regarding regulation of local loop unbundling and bitstream markets. Platform considers in order to be efficient and in benefit of competition, any regulation of LLU and bitstream markets has to take into account: the current and past investments of the alternative operators, the DSL market maturity and competition level and, the risks of NGN/NGA on investments and on the accuracy of regulation. Platform supports in general the best practices as described in the draft report and agrees with the facts that improvements of quality of service, of the richness of the wholesale offers as well as the set up of realistic economic space in pricing are crucial to enhance competition. However, Platform considers that this report should remind as a preamble to the detailed best practices to be imposed by each national NRA depending on the national specificities

- Comments on best implementation practices

- *SLA Timing*

Platform supports the best practice 2a under which delivery time is possible “within 7 working days”. However Platform considers that in order to be fully and fairly competitive with the SMP operator, the SLA should not be “at most equal to the average delivery time of each of the SMP downstream product” but that the wholesale timers should be inferior to the retail timers of the SMP operator. Moreover according to Platform it is extremely important that fault clearance happens within 24 hours and subject to a serious compensation from the incumbent in case of longer timer.

- *Compensation mechanism*

Platform supports the best practice 3 according to which compensation is due for ALL cases where the SMP operator does not comply with the SLA. However all orders have indeed to be done within the SLA without exception and any violation of such SLA should give right to



ERG (07) 53b WLA WBA BP consultation report final 080604 compensation according to Platform. It cannot be acceptable that some order, even 1%, would not be delivered in due time and would not give right to any sanction.

- *Forecasts*

Platform considers that forecasts and their respect by the alternative operators cannot be a condition for the compensation mechanisms. Any disrespect of SLA must give right to compensation even if forecasts could not be accurate mainly through under performance or over performance of a promotional campaign and end-users decisions.

- *Migration process from Bitstream to LLU*

While fully supporting the need for migration process between the different wholesale offers in particular between bitstream and LLU, Platform considers that the 3 hours cut off period appears to be very long and not justified. Such period should in our view be of maximum 30 minutes depending on the type of migration (mass migration/single line..).



ERG comments:

Platform is the only one requesting such a short time limit. This detailed comment has not been taking into account.

- *Information of the end users in case of migration*

Platform considers that the ERG report has not addressed an important issue relating to migration, which is the way to inform the end users. In order to avoid abusive practice, Platform suggests ERG to also mention in its report that NRA have to ensure in case of migration that SMP operators do not impose to their competitors unjustified form and content of any information to the end users.

- *Collocation of equipments*

Platform considers that in any case (even if collocation is not possible because of lack of place in the street cabinet), NRA should ensure that the SMP operator rapidly offers an alternative solution and on a cost oriented basis. This is to take into account the launch by some SMP operators of VDSL network which implies collocation at street cabinet instead of LEX.

- *Pricing Issues*

With regard to the economic space between LLU and bitstream pricing, Platform believes that this should not be a goal per se. In rural areas, competitors will always need to complement their ULL network with WBA. Such WBA must remain affordable in order to allow end-users in rural areas to benefit from competitive services.

8. Telecom Italia

- *Best Practice 1*

Implementing SLA & KPI in WLA & WBA Reference Offers

Telecom Italia agrees with this Best Practice. The Best Practices must ensure, however, that the incumbent can cover the costs incurred. Furthermore, the Best Practices must be consistent with the actual incumbent operational capabilities.

- *Best Practice 2*

The minimal set of timers for SLA

Telecom Italia agrees with the criterion that once the SMP player has sent the done message the service must be working, even if some errors can be done in the whole process. But Telecom Italia believes that it is an unnecessary complication to include intermediate steps, as a monitor, because they are not useful to qualify the whole performance of the provisioning time.

- *Best Practice 2a*

SLA conditions on delivery time

Telecom Italia agrees with the criterion that under the non discrimination obligation, average delivery time of any wholesale product should be at most equal to the average delivery time (mdt) of each of the SMP downstream products.

- *Best Practice 2b*



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SLA conditions on delivery precision

Given that the errors in the processes there can be and that is appropriate to have a reasonable policy to encourage the reduction of these errors, Telecom Italia believes that the objective can be achieved by introducing a dedicated SLA which limits the maximum number of cases of errored provisioning.

- *Best Practice 2c*

SLA on Facilities delivery time

Telecom Italia agrees with this Best Practice.

- *Best Practice 2d*

SLA on Fault Clearance time

Telecom Italia agrees with this Best Practice.

- *Best Practice 3a*

Compensation rules

While agreeing with this criterion Telecom Italia believes that it is too much costly to make quarterly compensations and on a regional basis. They should be made annually and on a national basis

- *Best Practice 4a*

KPIs: the minimal set to be implemented

Telecom Italia agrees with this criterion but estimates that the errors in the processes can not be completely eliminated. A cooperation between the SMP Operator and the OLOs should therefore be established in order to improve the processes.

- *Best Practice 4b*

KPI: Periodicity, Comparison criteria, Publication

According to Telecom Italia, ensuring KPI calculation on a monthly periodicity is too much costly. Semi-annual periodicity should be a good periodicity.

- *Best Practice 5*

Bulk Migration process conditions

Telecom Italia agrees on the introduction of bulk migration procedures but also suggests imposing obligations on all Operators to implement procedures that allow a customer to switch, in a defined time and with minimal service cut-off period, from one Operator to another.

ERG comments:

Telecom Italia agrees on the introduction of bulk migration procedures but also suggests imposing obligations on all operators to implement procedures that allow a customer to switch, in a defined time and with minimal service cut-off period, from one operator to another. This proposal has not been taken into account, the Common Position being based on a SMP designation process.

- *Best Practice 6*

Ground Number Portability synchronisation



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Telecom Italia agrees with the introduction of Geographic Number Portability synchronisation.

- *Best Practice 7*

- Passive connectivity solutions*

- Telecom Italia agrees to support that the market analysis should carefully take into account the national circumstances highlighted by ERG (geographic and network topology constraints; state of development and coverage of LLU based competition; existence of alternative fibre networks and so on).

- *Best Practice 8*

- Collocation of equipments*

- Telecom Italia agrees with the general ERG address.

- *Best Practice 9*

- Stand-alone bitstream access (St-WBA)*

- Telecom Italia agrees with the general guidelines and best practices envisaged by ERG. However, it's relevant to highlight that such a growth could cannibalize the LLU market, if the price control chosen by the NRAs doesn't leave enough space between the price of St-WBA and the price of providing LLU services.

- *Best Practice 10*

- WLA & WBA Price Consistency*

- Telecom Italia agrees with the need for consistency between prices of all SMP player's products available along the chain of DSL. However, a particular attention should be paid by NRAs in the definition itself of "which" wholesale and retail products available along the chain of DSL should be controlled in terms of consistency. Telecom Italia believes that any consistency should not create a distortion, as it were the case if price eviction between retail and wholesale services were based on both WLA and WBA.

- *Best Practice 11*

- WLA & WBA Economic Space*

- Telecom Italia agrees with the best practices envisaged, while not completely agreeing with the item of relevant differences in economies of scale between incumbent and new entrant proposed by ERG in the rationale.

9. Telekomunikacja Polska

- *SLA conditions on delivery time (WLA & WBA)*

- Telekomunikacja Polska (TP) recommends that delivery time and other factors related to maintenance and technical parameters of wholesale services should be equal to conditions of retail services delivering by SMP player. TP understands that ERG's proposal of 7 days affects delivery of active loops only. In case of non-active loops (in Poland non-active loops are defined as loops without termination on subscriber's premises) delivery time should be defined as minimum 21 days. Realization of delivery process of non-active loops within 7 days is not possible in current condition in Poland.



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- *SLA conditions on delivery precision (WLA & WBA)*

According to TP in case a done message is sent and the service requested is not working, it can be caused by meantime problems which occurred between sending done message and checking if the service is working. In this case additional time to repair the problem should be given before compensation will be paid.

- *Compensation on failure to fulfill the agreed SLA (WLA & WBA)*

TP stresses that proposed forecast conditions (with 3 months period and 30% of tolerance) are insufficient creating a potential threat for proper preparation of network development to fulfill other operator needs. In addition, such high tolerance can cause some problems according to TP. TP argues moreover that proposed tolerance 30% and 40% is not acceptable on market, because in each year operator has possibility to make mistake about 185% and 284%. In TP's opinion there is no reason to differentiate level of tolerance between "starting-up" and "maturity", because each effective operator must be able to cope with risk on market.

- *Collocation of equipments (WLA)*

According to TP, collocation should be used for regulated services only. For non regulated services are other "collocation" services, which are offered on commercial base, alternative operators have always possibility to choose regulated or commercial collocation.

ERG comments:

If the comments are very detailed and only one stakeholder requests it, the remark is not included in the report.