

The graphic features the letters 'ERG' in a bold, orange, sans-serif font. The letters are positioned on the left side of a horizontal band. This band is composed of a thin yellow line on top, a thicker dark blue line in the middle, and a white line on the bottom. The background of the graphic is a teal color with a faint, stylized world map. Below the horizontal band, there are several horizontal white lines of varying lengths, creating a sense of motion or a stylized horizon.

ERG

Main outcomes of the 28th ERG Plenary

Matthias Kurth, I/ERG Chair

Brussels, 5 March 2009

The logo for ERG, consisting of the letters 'ERG' in a bold, orange, sans-serif font. The logo is positioned on the left side of a horizontal banner that features a stylized globe and a blue and yellow color scheme.

FOREWORD

The Berlin Agenda at a glance

- “ Framework Review
- “ NGA
- “ Consumer empowerment
- “ Convergence
- “ Annual Report 2008

FRAMEWORK REVIEW

In its 2nd statement on the ongoing review discussions I/ERG strongly urged the European institutions to reach a fast and effective agreement on the telecom package during the 2nd reading. I/ERG firmly supported an independent system of European regulators and was pleased that both Parliament and Council shared this key objective. I/ERG also supported the Council common position of 27 Nov 2008 on the Art. 7 Framework Directive procedure as a balanced means of improving consistency.

The I/ERG strongly favours the two-tier approach on the basis that it guarantees the independence of the advisory body from all European institutions. The new system would comprise an advisory body without legal personality consisting of the independent European NRAs and managed by their Heads. It would be assisted by a separate Secretariat for administrative support with a legal personality. In addition to advisory functions, the ERG/its successor would continue to elaborate and disseminate among NRAs regulatory best practice on the implementation of the regulatory framework

NGA investment incentives

ERG continued the discussion on recent developments of NGA networks in Europe:

“ The ERG found the current framework provides the necessary instruments to encourage investment in next generation network infrastructure while at the same time maintaining the level and balance of infrastructure competition.

“ The ERG emphasized that non-discrimination and avoidance of margin squeeze must continue to be ensured to avoid compromising the level of competition achieved so far through the application of existing regulatory tools as well as competition rules.

“ Regulation can incentivise infrastructure investment as well as promoting competition as correctly applied regulatory and competition law intervention will reinforce the realization of the two objectives

“ Above all, the national regulators agreed it is important to provide a stable and predictable environment for investors.

Consumer empowerment

**The ERG adopted the
Report on Ensuring Transparency of Tariff Information**

Objectives of the report:

- “ Analyse the end-user transparency problem (in particular regarding tariffs)
- “ Draw an inventory of the practices used to inform end-users (in particular on tariffs)

Adjustment of work plan regarding consumer empowerment:

- “ The ERG will focus the work on the scope of Universal Service, including the question on whether or not broadband should be included in the US
- “ It will postpone the work on tariff transparency until the final provisions in the Universal Service Directive are known

The logo for the European Regulatory Group (ERG) is displayed in large, bold, orange capital letters. It is set against a background of a stylized globe with a grid of latitude and longitude lines, overlaid with a blue and white wave pattern. A horizontal yellow line runs across the middle of the globe graphic.

Convergence

The ERG adopted 2 reports on convergence:

- **Report on Fixed-Mobile-Convergence**
- **Report on the discussion of the application of margin squeeze tests to bundles**
- **Both dealing with questions related to the change of market situations and competitive dynamics due to convergence**

Fixed-Mobile-Convergence

- This report presents a preliminary guidance on the different implications of fixed to mobile convergent products.
- The report describes currently available convergent products and provides an overview on the current regulatory situation in the European countries.
- The paper goes one step ahead into the study of the commercial and regulatory consequences of convergence, that represents a critical phenomenon because of the key implications it has in the telecom sector.
- The following aspects are addressed:
 - FMC products description
 - Overview of the competition framework
 - Competition issues identified regarding MVNOs and mobile VoIP

Application of margin squeeze tests to bundles

- “ Bundling is challenging current regulatory practices - in particular where ex ante margin squeeze (MS) obligations exist on some retail market.
- “ Convergence will make the analysis of MS on bundles more relevant.
- “ MS at wholesale-retail level, not between wholesale services.
- “ Ex ante MS tests. Ex post practice is expressly excluded of the scope of the report.
- “ MS applied to bundles. Practice on individual services as a starting point for analysis.
- “ Anticompetitive horizontal effects of bundling is only considered with reference to MS tests.

Contents of the MS Report

- “ Provides information on current practices of European NRAs, describing their methodologies to assess MS in an ex ante framework.
- “ Describes the current regulatory framework in relation to MS.
- “ Identifies when is MS more likely and when an ex ante MS assessment is needed.
- “ Discusses the pros and cons of MS assessment methodologies in relation to bundling
- “ Discussion will continue and be developed further

Monitoring CP time table

ERG committed in 2006 to monitor the compliance of NRAs to the ERG common positions to ensure a consistent application of the regulatory framework

Therefore ERG updated its timetable regarding the monitoring of CP for 2009:

Subject	Proposed timescale for monitoring
Action Plan for conformity with the VoIP Common Position	In preparation. Publication of results planned for the end of Q1/2009
Update of Action Plan for conformity with CP on symmetry of termination rates	To be started after publication of Rec. on TR. Publication planned in Q3 / 2009
Monitoring of conformity with Broadband CPs taking into consideration the Best practice for WBA/WLA (and bearing in mind work on NGA wholesale products)	Start 2 nd quarter 2009, after completion of current round of Market Reviews
Action Plan for conformity with Wholesale Leased Lines CP	Start 3 rd quarter 2009, after taking into consideration the work on business services
Practical implementation issues regarding geographic differentiation (related to CP on geographic aspects of market analysis)	Planned for 2 nd half 2009 (WP item 3.6)

ERG has discussed the amendments to the Roaming Regulation proposal and is willing to provide technical input to the ongoing discussion

In the context of Roaming, ERG also discussed more long term issues regarding exit strategies to Roaming regulation

ERG has adopted its Annual Report 2008 stating:

- **Active advisory role on the Review and Roaming providing technical advice based on professional assessment and analysis**
- **A decisive voice on key regulatory policy dossiers focusing on improving consistency further through the bottom-up approach of following the same regulatory principles**
- **A more effective and coherent organization, also creating IRG as an ASBL with a private law secretariat and an office in Brussels financed by the membership contributions of its 34 members**

SUMMARY OF APPROVED DOCUMENTS

Documents approved for publication:

➤ I/ERG Statement on the Review	
➤ ERG Updated Timetable for Monitoring CP	ERG (09) 05
➤ ERG Report on Tariff Transparency	ERG (08) 59_final
➤ ERG Report on Fixed-Mobile-Convergence	ERG (09) 06
➤ ERG Report on the Discussion on the application of margin squeeze tests to bundles	ERG (09) 07
➤ ERG Annual Report 2008*	ERG (09) 08

The documents will be available on the ERG website at: <http://erg.ec.europa.eu> and the IRG website at: <http://www.irg.eu>.

* The Annual Report 2008 will be made available after it has been transmitted to the European Parliament and Council