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# **EUROPEAN REGULATORS GROUP**

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## Chapter 1 : Introduction by the Chairman

On behalf of the European Regulators Group (ERG)<sup>1</sup>, I have great pleasure in presenting the 2006 Annual Report.

2006 has been another year of rapid growth and development in the European communications market. Broadband has been growing fast in all the countries of the European Union. Investment has remained high. Competition though variable, both geographically and within the different sectors of the market, has been growing. Perhaps the most significant discontinuity has been the emergence of investment in Next Generation Networks (NGNs), particularly in the core network. NGN access investment - how to both incentivise it and regulate it - will be a major theme in 2007.

Against this background, the ERG has concentrated on its main tasks, as follows :

- to provide advice to the European Commission and to promote reflection and debate amongst its members;
- to identify appropriate regulatory instruments which promote greater harmonisation in the application of Framework; and
- to improve collaboration, mutual assistance and information exchange between NRAs and with the Commission.

The work of the ERG in 2006 was dominated by the preparation of its response to the Framework Review and the review of the Recommendation on Relevant Product and Service Markets. The ERG has also made important submissions in relation to the Commission's proposals for a regulation on international roaming, as well as undertaking a full programme of more routine work.

In the run-up to the Framework Review, (during 2005 and continuing into 2006) there was a considerable debate about the speed with which harmonisation was being achieved in Europe and whether the ERG was doing enough to promote it. The ERG welcomed this debate and has worked hard in 2006 to ensure that harmonisation and obstacles to it are better understood and to accelerate it, where it delivers the most economic benefit. As the year ends, a consultation document on the priorities of harmonisation is being considered by stakeholders; and in the Madeira declaration (the outcome of the ERG plenary in Madeira), the ERG put forward some specific proposals to progress targeted harmonisation. In addition, the ERG committed to strengthen its secretariat - with the same intention of increasing its effectiveness as an agent of harmonisation. Progress has been made and it is expected that permanent secretariat staff will be in place by the middle of 2007.

The ERG has also sought to further improve its transparency and to continue to provide opportunities for stakeholders to comment on its work. In [month]

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<sup>1</sup> The ERG consists of Heads of the National Regulatory Authorities (NRAs) of thirty four European countries

2006, it published a Manual, describing what the ERG is, what it does and how it organises itself. The ERG also initiated meetings with key stakeholder groups prior to ERG Plenary meetings, in addition to providing a full briefing on the Plenaries held afterwards. The ERG also held its first workshop between a specific Project Team and industry, (on NGNs/ IP interconnection).

At the end of 2006 a new debate has been initiated by the Commission about the future role of the ERG – should its role be extended by granting it additional powers to progress harmonisation? This is evidence that what remains a very young institution, created just over 3 years ago is becoming an accepted part of the European institutional framework.

Finally, I wish to thank Mr. Jørgen Abild Andersen (NITA) and Mr. Roberto Viola (AGCOM) for their valuable support as ERG vice chairmen. I would also like to wish my successor, Mr. Roberto Viola, every success in chairing ERG during 2007.

**Kip Meek, Chairman of ERG, 2006**

## Chapter 2 : Overview

The review of the Regulatory Framework proved to be the most important and challenging work for ERG during 2006. ERG was able to bring to bear its direct experience of implementation of the Framework in intense debates at its Plenary meetings, including a workshop with the Commission in February 2006. The ERG's detailed submission to the Commission's proposals, submitted in October 2006, made clear its view that the Framework was generally working well and delivering benefits to consumers and all stakeholders. However, there were a number of areas where it could be simplified and improved in the light of experience of its application and in the light of market developments.

The ERG also welcomed the Commission's proposal for a Regulation to tackle the problem of high prices for international roaming calls. The ERG provided advice on the detail of both wholesale and retail controls which might be applied. This issue has proved very controversial and the precise detail is still being debated, as the draft Regulation is being considered by the EC Council and European Parliament.

Having finalised the Update to the Remedies Common Position, the ERG has also sought to deliver a more practical approach to harmonisation. This has included a fundamental debate on what harmonisation actually means and when it is beneficial. The ERG agreed that it would review and keep up to date the priority areas for harmonisation and develop case studies of regulatory best practice in respect of key markets. ERG also agreed that:

- NRAs would be recommended to take utmost account of ERG Common Positions
- NRAs would commit to provide reasoned regulatory decisions by reference to the Common Positions
- The ERG would undertake to agree a way of monitoring and comparing their respective regulatory approaches across key markets.
- NRAs with relevant experience and knowledge would provide technical assistance to each other on implementation of the Framework
- The ERG would Implement future work programmes in a targeted fashion using dedicated project teams for individual work items

Other key work during 2006 related to developments in the electronic communications markets, in particular in relation to Broadband, IP interconnection, NGNs and VoIP. The ERG recognised that, in deciding how these markets will be regulated, it will be necessary to encourage new investment and innovation and maintain sustainable competition). These will continue to be important areas for ERG to review during 2007.

The ERG had meetings with a number of stakeholders during 2006, including Viviane Reding, European Commissioner for the Information Society and the Media, and Kevin Martin, Chairman of the US Federal Communications Commission.

## Chapter 3 : Main Activities

The main forum for discussing and debating key issues and managing the work of the Group is the Plenary meeting which is attended by heads of NRAs. In 2006, there were four regular Plenary meetings, two of which included workshops on specific subjects. The detailed work of the ERG is undertaken through expert Working Groups and Project Teams. They prepare draft positions for consideration by the Plenary in accordance with the Work Programme. The decisions of the ERG are then formalised in public documents which are agreed at Plenary meetings.

The main issues dealt with by the ERG in 2006 are described in detail below.

### Framework Review

The ERG work on the Framework Review included two major pieces of work, the first [Response](#) submitted in reply to the Commission's call for input in February 2006 and the second, more detailed response and contained in two different documents, [in reply to the Commission's proposed changes to the Regulatory Framework](#) and [to the draft new Recommendation on relevant markets](#).

The ERG submission focussed on four points in particular:

- the effectiveness of existing remedies to address market failures, in particular with regard to the issue of non-discrimination. In this respect, the ERG sought to express confirmation of NRA's ability to implement remedies across a number of related markets seen as critical to the development of competitive markets. In this respect I/ERG would welcome the ability of NRAs to impose a remedy of 'functional separation' on SMP operators, where appropriate.
- The bureaucratic burden associated with the Article 7 process, which the ERG argued needs to concentrate on those contentious markets where there may be issues related to the development of the internal market. The ERG also proposed that the SMP Guidelines need to be updated.
- The concern that the proposed extension of the Article 7 veto to remedies will not solve the internal market issues that the Commission is trying to address. The ERG believes that the work of the ERG (whose members are tasked, among other things, with promoting the consistent implementation of the Framework) should be supported as the appropriate mechanism for promoting harmonisation,
- Finally, with regard to the future, convergence and oligopolistic markets are increasingly seen by the ERG as creating regulatory challenges, that the existing framework is only capable of addressing to a limited extent.

## **Harmonisation**

The updated “Remedies Common Position” ([ERG \(06\) 33](#)) contains the general regulatory approach to harmonisation. In addition to this theoretical guidance, the ERG has also sought to deliver a more practical approach to harmonisation. Having recognised that stakeholders attach particular importance to significant progress on consistency, the ERG and its members have committed to review and keep up to date the priority areas for harmonisation. This has already resulted in Common Positions on broadband access markets. Further work is anticipated on termination markets and VOIP.

The ERG also agreed that:

- NRAs would be recommended to take utmost account of ERG Common Positions and to
- provide reasoned regulatory decisions by reference to the Common Positions;

The ERG would also develop monitoring of members’ performance against relevant harmonisation measures and compare regulatory approaches across key markets

## **International roaming**

The issue of high international roaming prices has been a long-standing problem in Europe and elsewhere around the world. The ERG wrote Commissioner Reding in December 2005, suggesting that (very unusually) the Framework did not give the national regulators the powers to address the underlying problem of the excessive charges for international roaming. Subsequently, the ERG has been active in promoting transparency, by, for example, the setting up of sections dedicated to consumer information on national NRAs websites. Both prior to, and subsequent to, the ERG letter to Commissioner Reding, the Commissioner has taken a lead on addressing the problem, culminating in a proposed regulation under Article 95. The ERG has actively contributed to the consultation on the proposed roaming regulation of the Commission. Subsequent to the publication of the Commission’s proposal, ERG has continued to follow developments and develop expert analyses of the various alternative proposals put forward in Council and Parliament.

## **Broadband Report**

This report, updated regularly, deals with competition in the wholesale broadband access market (market 12 in the Commission’s Recommendation on relevant markets) and its relationship to broadband penetration. The work started in 2003 with a benchmark of broadband market data (penetration, competitive situation) in EU members. Based on 15 country studies (provided by the responsible NRAs), the impact of regulatory intervention is analyzed against the background of the concept of the “*ladder of investment*”, which provides a valid explanation at least a posteriori) for recent developments in European broadband markets (and serves as a general regulatory model under the ECNS framework for the wholesale broadband access markets.



**IP Interconnection and NGN Regulatory Principles**

The ERG has undertaken work on IP (Internet Protocol) Interconnection and Next Generation Networks (NGNs). A dedicated project team has elaborated two separate papers. The first, on IP interconnection, has been publicly consulted and should be adopted in early 2007. The second, providing regulatory guidance to NRAs when dealing with NGN-related developments, should be finalised in the second part of 2007.

**VoIP**

The ERG has published a report on VoIP consumer issues. As the report has outlined significant differences in regulation across Europe, ERG members have committed to work together on practical usage issues, with a view to enhance consistency for the future.

**PIBs on WACC**

The ERG has continued its practice of harmonisation with regard to regulatory accounting by publicly consulting on benchmarking of the methodologies for the calculation of the cost of capital of SMP operators. The document, to be adopted in early 2007, provides guidance and detailed indications to NRA dealing with the issue of WACC (weighted average cost of capital methodologies).

## Chapter 4 : Organisational developments

### ***New members***

1. The ERG consists of full members (the twenty-seven EU member States) and observers from EU Accession/ Candidate States and EEA States. In 2006, ERG welcomed the Former Yugoslav Republic of Macedonia (FYRM) as an observer to the ERG. FYRM, as an EU candidate country, is entitled to obtain ERG observer status.

### ***The ERG secretariat***









2. To support and provide more professional resource for ERG, it was agreed to set up a permanent Secretariat with a full-time dedicated staff which will be directly answerable to the Chair. Details, including their location, are in the process of being finalised, but it is intended that initially, the Secretariat will consist of two to four secondees from National Regulatory Authorities (NRAs). There will be an annual budget which will be funded by NRAs.

### **Working Practices of ERG**

3. The ERG also agreed to a set of Working Practices. These cover such matters as the role and election of Officials and the types of Documents to be delivered. They also cover decision-making, providing that where a consensus cannot be reached, the matter shall automatically be decided by a vote. The ERG will continue to review its organisation and efficiency during 2007.

## Annex A : Meetings

The Group held four Plenary Meetings in 2006. The agendas and conclusions are available on the ERG's website. (The table below provides links to the agendas and conclusions of the meetings).

DATE	LOCATION	AGENDA	CONCLUSIONS
9-10 February	Paris		
18-19 May	Vienna		
5-6 October	Madeira		
7-8 December	Bratislava		

## ANNEX B

### Information from the Chairman and the Secretary on their Activities in 2006

Date	Attendee	Subject	Location
11 <sup>th</sup> January	ERG Secretariat	ERG Secretariat meeting	Bruxelles
12 <sup>th</sup> January	ERG Chair/ Secretariat	Public hearing on the update of the “Remedies” document	Bruxelles
20 <sup>th</sup> January	ERG Chair	Heads / Experts Steering Group on the Framework Review 2006	Bruxelles
23 <sup>rd</sup> January	ERG Chair	ETNO – Framework review	Bruxelles
23 <sup>rd</sup> January	ERG Chair	TWF meeting with Ruth Hieronymi MEP	Bruxelles
24 <sup>th</sup> January	ERG Secretariat	Commission public hearing on the Call for input on the Review 2006	Bruxelles
26 <sup>th</sup> January	ERG Chair	Foreign Policy Centre:	London
26-27 January	ERG Secretariat	ERG Contact network	Rome
3 <sup>rd</sup> February	ERG Chair / Secretariat	Pre ERG Plenary meeting with Fabio Colasanti, DG Info Soc	Bruxelles
8-10 <sup>th</sup> February	ERG Chair / Secretariat	ERG Plenary & Seminar	Paris
23 <sup>rd</sup> February	ERG Chair / Secretariat	ERG Debrief - press and industry briefing	Bruxelles
27 <sup>th</sup> March	ERG Chair	Committee of the Regions - Building the EU Knowledge Economy (conference)	Bruxelles
27 <sup>th</sup> March	ERG Chair	Craig R. Barrett, Chairman of the Board, Intel Corporation	Bruxelles
28 <sup>th</sup> March	ERG Chair	Commission’s press release with Viviane Reding	Bruxelles
4 <sup>th</sup> April	ERG Chair	ECTA 13th Annual Spring Conference	Barcelona

6 <sup>th</sup> April	ERG Chair	South East Europe Observatory Conference	Croatia
20-21 <sup>st</sup> April	ERG Chair	Meeting with Agcom Board	Rome
26 <sup>th</sup> April	ERG Chair	Meeting with Reinaldo Rodriguez, CMT	Barcelona
26-27 <sup>th</sup> April	ERG Secretariat	ERG Contact network	Luxembourg
2 <sup>nd</sup> May	ERG Chair	EIPA: Prof Nicolaides and Dr Mihalis Kekelekis re: Development of European Regulators Group	London
4 <sup>th</sup> May	ERG Chair	CRA, Republic of Lithuania - 5th anniversary	Lithuania
5 <sup>th</sup> May	ERG Chair / Secretariat	Pre ERG Plenary meeting with Fabio Colasanti, DG Info Soc	Bruxelles
8 <sup>th</sup> May	ERG Chair / Secretariat	ETNO -ERG Plenary agenda	Bruxelles
8 <sup>th</sup> May	ERG Chair / Secretariat	ECTA ERG Plenary agenda	Bruxelles
8 <sup>th</sup> May	ERG Chair / Secretariat	ECCA, GSM Assoc & EuroISPA ERG Plenary agenda	Bruxelles
4 <sup>th</sup> May	ERG Secretariat	Mini Hearing on Roaming – EP	Bruxelles
7 <sup>th</sup> May	ERG Secretariat	ERG Secretariats meeting	Bruxelles
11 <sup>th</sup> May	ERG Chair	GSME re: Roaming price transparency	London
18 <sup>th</sup> -19 <sup>th</sup> May	ERG Chair / Secretariat	ERG Plenary & Seminar	Vienna
23 <sup>rd</sup> May	ERG Secretariat	IP Interconnection PT meeting	Paris
24 <sup>th</sup> May	ERG Chair	IIC Brussels Telecoms and Media Forum 2006	Bruxelles
24 <sup>th</sup> May	ERG Chair / Secretariat	ERG debrief	Bruxelles
31 <sup>st</sup> May	ERG Chair / Secretariat	Rudolf Strohmeier – European Commission re: International Roaming	Bruxelles
31 <sup>st</sup> May	ERG Chair / Secretariat	ITRE committee re: ERG work and priorities in the field of electronic communications	Bruxelles
7 <sup>th</sup> June	ERG Secretariat	ERG Secretariat meeting	Bruxelles
8 <sup>th</sup> June	ERG Secretariat	VOIPEX Conference	Rome
13 <sup>th</sup> June	ERG Chair	Mobile Regulations & Competition Law Conference	Bruxelles
15 <sup>th</sup> June	ERG Chair / Secretariat	Visit of H.E. the minister of CIT of Egypt	Bruxelles
19 <sup>th</sup> June	ERG Chair /	Steering Group re: ERG	London

21 <sup>st</sup> June	Secretariat	Development	
22 <sup>nd</sup> June	ERG Secretariat	Communications Committee	Bruxelles
	ERG Secretariat	NGN – IP interconnection meeting	Bruxelles
26 <sup>th</sup> June	ERG Chair	UK-German Self & Co Regulatory Roundtable	London
5 <sup>th</sup> July	ERG Secretariat	Remedies/harmonisation meeting	Bonn
6 <sup>th</sup> – 7 <sup>th</sup> July	ERG Chair	ERG (mini) Plenary	Athens
13 <sup>th</sup> July	ERG Secretariat	Review 2006 Workshop	Bruxelles
19 <sup>th</sup> July	ERG Chair	Maxime Bernier - Canadian Industry Minister	London
21 <sup>st</sup> July	ERG Chair / Secretariat	2nd Steering Group Meeting re ERG Development	London
26 <sup>th</sup> July	ERG Chair	Fabio Colasanti, DG Info Soc and Roberto Viola	Rome
27 <sup>th</sup> July	ERG Chair	Luigi Gambardella and Riccardo Perissich - Telecom Italia	Rome
27 <sup>th</sup> July	ERG Chair	Sir John Mogg, Ofgem	London
28 <sup>th</sup> July	ERG Chair	BT meeting re EU Framework Review and Commission proposal for a veto	London
3 <sup>rd</sup> August	ERG Chair	Martin Selmayr and Roberto Viola	London
15 <sup>th</sup> August	ERG Chair	Vice Minister, Mr Jiang, Chinese Ministry of Information Industry	London
23 <sup>rd</sup> August	ERG Secretariat	NGN IP Interconnection Meeting	Den Haag
29 <sup>th</sup> August	ERG Chair	Dr Mihalis Kekelekis, EIPA - re: ERG Study	London
6 <sup>th</sup> September	ERG Chair	West African study tour	Bruxelles
6 <sup>th</sup> September	ERG Secretariat	ERG Secretariat meeting	Budapest
7 <sup>th</sup> September	ERG Secretariat	Remedies/harmonisation PT meeting	Bruxelles
13 <sup>th</sup> September	ERG Chair / Secretariat	3rd Steering Group Meeting re: ERG Development	London
25 <sup>th</sup> September	ERG Chair / Secretariat	Pre ERG Plenary meeting with Fabio Colasanti, DG Info Soc	Bruxelles
25 <sup>th</sup> September	ERG Chair / Secretariat	ETNO pre ERG Plenary meeting	Bruxelles
25 <sup>th</sup> September	ERG Chair / Secretariat	ECTA pre ERG Plenary meeting	Bruxelles
25 <sup>th</sup> September	ERG Chair / Secretariat	GSM Assoc pre ERG Plenary meeting	Bruxelles

25 <sup>th</sup> September	ERG Chair / Secretariat	ECCA- pre ERG Plenary meeting	Bruxelles
25 <sup>th</sup> September	ERG Chair / Secretariat	EuroISPA pre ERG Plenary meeting	Bruxelles
26 <sup>th</sup> September	ERG Chair	Jude Arthur - Chairman of Ghana Regulator - NCA	London
27 <sup>th</sup> September	ERG Chair / Secretariat	Harmonisation workshop	Bruxelles
3 October	ERG Secretariat	OECD Workshop on NGNs	Budapest
4-6 <sup>th</sup> October	ERG Chair / Secretariat	ERG Plenary & Seminar	Madeira
11 <sup>th</sup> October	ERG Chair	CEPT conference	Berlin
11 <sup>th</sup> October	ERG Chair	ESOA (European Satellite Operators Association)	Brussels
12 <sup>th</sup> October	ERG Chair / Secretariat	ERG Debrief	Brussels
16 <sup>th</sup> October	ERG Chair	European Regulators lunch – held by Execution Limited	London
19 <sup>th</sup> October	ERG Secretary	Speech at the Westminster e- Forum	London
24 October	ERG Secretary	FN WG – PT on NGN	Brussels
24-27 <sup>th</sup> October	ERG Chair	CASBAA Convention 2006. Regulatory Keynote: How to love your regulator	Hong Kong
30 October	ERG Secretary	Remedies/harmonisation PT	Paris
8 <sup>th</sup> November	ERG Chair	4th Steering Group Meeting re: ERG Development	London
14 November	ERG Secretariat	Meeting with Croatian delegation	Brussels
23 <sup>rd</sup> November	ERG Chair	Paul Ruebig and representatives from European Commission, the ITRE Secretariat and Mr Kirk from Vodafon	Brussels
23 <sup>rd</sup> November	ERG Chair	ITRE Commission: international roaming and the collective views of NRAs	Brussels
27 <sup>th</sup> November	ERG Chair	Meeting of ERG Troika	Brussels
28 <sup>th</sup> November	ERG Chair	Commissioner Reding: informal exchange of views with the Commissioner on the Review 2006	Brussels
28 <sup>th</sup> November	ERG Chair	Pre-ERG meeting with stakeholder: Eirini Zafeiratou, GSME	Brussels
28 <sup>th</sup>	ERG Chair	Pre ERG Plenary meeting	Brussels

November		with Fabio Colasanti, DG Info Soc	
29 <sup>th</sup> November	ERG Chair	ETNO Pre-ERG Plenary meeting	Brussels
29 <sup>th</sup> November	ERG Chair	ECTA Pre-ERG Plenary meeting	Brussels
29 <sup>th</sup> November	ERG Chair	ECCA Pre-ERG Plenary meeting	Brussels
29 <sup>th</sup> November	ERG Chair	Eurospa Pre-ERG Plenary meeting	Brussels
29 <sup>th</sup> November	ERG Chair	France Telecom re: EU telecoms review	Brussels
30 <sup>th</sup> November	ERG Secretary	Meeting with EPRA Chair to discuss Joint ERG/EPRA meeting in 2007	London
4 <sup>th</sup> December	ERG Secretary	Presentation of ERG activities in the context of the Review	Bruxelles
6 <sup>th</sup> December	ERG Chair	MEDA meeting	Bratislava
7-8 <sup>th</sup> December	ERG Chair	ERG Plenary	Bratislava
14 <sup>th</sup> December	ERG Chair / Secretariat	ERG Debrief	Brussels
15 <sup>th</sup> December	ERG Chair	ITSPA Council re: conditions and principles of the ERG	London