

THROUGH THE BACKDOOR – COMMISSION STRENGTHENS INFLUENCE ON TELECOMMUNICATIONS MARKETS

CEP-REPORT ON THE REVIEW OF THE EUROPEAN REGULATORY FRAMEWORK FOR ELECTRONIC COMMUNICATION

Freiburg, September 30th 2007. In the run-up to the European Commission's legislative proposals on the review of the EU regulatory framework for electronic telecommunication, which are expected for Mid-November 2007, market-participants and parts of national politics alike have criticised the Commission's intentions. Although competition has increased significantly in recent years, the Commission plans to strengthen its regulatory competencies in the area. While it concludes that effective competition prevails on at least five retail markets, which hence do no longer require ex-ante regulation, the Commission's initiatives do not stay abreast of these developments.

In its report, the Centre for European Policy (CEP) in Freiburg (Germany) evaluates the fundamental weaknesses of the regulatory framework and demonstrates why it impedes the development of more competition in the telecommunications sector. In brief, the CEP-Report offers the following three arguments for the commission's review of the regulatory framework to be insufficient:

1. The Commission sticks to the „Three-Criteria-Test“ as basis for the decision on whether a telecommunications market needs a specific ex-ante regulation on top of existing regulation by competition law. This test is only partly based on scientific criteria for regulation and hence permits interventionism on political grounds. The test is carried out in an insufficient manner since it is not econometrically substantiated. Furthermore, it is applied to an „average EU Market“ and hence does not take account of the existing differences of the 27 national telecommunication markets.
2. The envisioned strengthening by the Commission of its regulatory competencies, amongst others by an EU Electronic Communications Market Authority and an expansion of its veto right vis-à-vis the national regulatory authorities tends to stiffen the regulation. In the end, these institutional changes may even lead to regulated companies themselves having to demonstrate that there is no longer any need to regulate their activity.
3. The functional separation between network infrastructure and telecom services proposed by Commissioner Reding reduces incentives to invest in establishing networks, hence postponing infrastructural competition. Especially in Germany, which has seen a significant increase in the level of competition in the telecommunications sector, such separation seems superfluous.

In the opinion of the Centre for European Policy, the review of the current electronic communications regulatory framework, which has been valid since 2003, is necessary as market conditions have changed substantially since and many parts of the market see a functioning competition.

Dr. habil. Lüder Gerken, Director of the CEP criticises: „The recommendations by the EU-Commission do not take account of this development and do not lead to a further deregulation of the market. On the contrary, they aim for an increase in the exertion of influence by the EU. Such political interventionism obstructs further investments in the telecommunications markets and prevents the development towards lower prices for consumers“.

A summary of the CEP-Study, as well as its full-length version are available at www.cep.eu.

PRESS RELEASE



Best Regards

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On the Centre for European Policy

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- develops strategies and concepts for the economic policy of the EU,
- monitors regulatory plans of the EU in a constructive and independent manner,
- creates transparency of and awareness for European politics and its effects on Germany.

The ordo-liberal free market principle constitutes the academic foundation of our work.