

Revising the SMP Guidelines

Debating the Commission's proposals for the revision of the SMP Guidelines and implications for the Communications Code

WIK Workshop, 27 March 2018
NH Brussels EU Berlaymont

Programme

09:30-10:00 Morning coffee

10.00-11.00 **KEYNOTE INTRODUCING THE DRAFT SMP GUIDELINES**

Following an introduction from WIK's Managing Director, Anthony Whelan, Director for Communications at the European Commission, DG Connect opens the workshop with a presentation of the Commission's proposals for the revision of the SMP Guidelines and discusses the implications for the draft Electronic Communications Code. The session closes with a Q&A involving the Chair and participants.

Chair: Iris Henseler-Unger, WIK

Anthony Whelan, European Commission

11.00-12:00 **SESSION 2 INDICATORS FOR JOINT SMP: EVIDENCE FROM CASES**

In this session Peter Alexiadis from Gibson, Dunn & Crutcher and Ilsa Godlovitch from WIK will discuss developments in competition law and ex ante market analysis cases which are relevant for the interpretation of joint SMP. Based on these cases, they will outline possible indicators that may be relevant when analysing joint SMP in an ex ante context. A particular focus will be on how to analyse markets and gather evidence concerning potential joint SMP, when the market is subject to pre-existing regulation.

Chair: Alexandre de Streel, University of Namur & CERRE

Peter Alexiadis, Gibson, Dunn & Crutcher

Ilsa Godlovitch, WIK-Consult

12.00-13.15 Lunch

13.15-15:00 **SESSION 3 IMPLICATIONS OF THE GUIDELINES FOR MARKET ANALYSES**

Broadband markets in countries such as Belgium and the Netherlands are characterized by two strong infrastructure players. Remedies are imposed or proposed on both cable and incumbent networks in both cases, but the planned approaches are different. The Dutch NRA has recently proposed to find joint SMP in the market for "wholesale fixed access", while the Belgian NRA has proposed to distinguish markets for the cable and incumbent networks and apply remedies to both on the basis of individual SMP. We will cover the history of these cases, reasons for the findings, ongoing analyses and discuss whether the proposed elaboration of the SMP guidelines would have an effect on the analysis of these markets. We will then expand the discussion to consider how NRAs have handled other aspects of market analysis including analysis of geographic segmentation, chains of substitution and fixed mobile substitution.

Chair: Stefan Kramer, European Commission

Axel Desmedt, BIPT

Henk Don, ACM

Annegret Groebel, BNetzA

Johannes Gungl, RTR

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15:00-15:15 KEYNOTE **BEREC'S REACTION TO THE GUIDELINES**

The 2018 BEREC Chair Johannes Gungl gives BEREC's reaction to the Guidelines.

Johannes Gungl, Chair of BEREC 2018/Managing Director, RTR Telecom division

15:15-15:40 Break

15:40-17:00 SESSION 4 **(HOW) SHOULD OLIGOPOLIES BE REGULATED?**

The workshop will conclude with a panel in which experts and academics provide a critical analysis of the proposed guidelines, and reflect on the respective roles of competition law, SMP regulation and symmetric regulation in addressing perceived problems in concentrated telecom markets.

Chair: Ilsa Godlovitch, WIK-Consult

Peter Alexiadis, Gibson, Dunn & Crutcher
Steffen Hoernig, Nova School of Business and Economics
Richard Feasey, Fronfraith
Alexandre Verheyden, Jones Day

17:00 Closing remarks