IEN position on the review of the Recommendation on Relevant Markets

Overview

As regards the Recommendation on relevant markets, IEN believes that even where market analyses have been carried out by NRAs to date, these have not revealed major factual, visible market developments that would, at this point in time, justify a major overhaul of the framework, and especially not of the list of markets contained in the Annex of the Recommendation.

Regardless of the intention of the Framework Directive to begin the market reviews as a first step of the implementation process immediately after adoption of the Directives, to date, many Member States have not completed their reviews, and as stated before, some NRAs have separated market analyses from the decision on remedies. In the event that market analyses have been carried out, they have not achieved visible market developments that could deliver any outcome concerning efficiencies and practical experiences. As such, at this point in time, a general revision of the list of markets contained in the Annex of the Recommendation could not be justified. IEN especially considers a withdrawal of retail markets as premature.

IEN believes that the Recommendation of relevant markets should strengthen the existing forward-looking approach. IEN would therefore like to point out that the list in the recommendation of course does apply to new, and be they emerging markets – simply because the Framework is and should remain applicable to all markets that fulfil the 3 criteria test.

IEN dissents from the emerging markets arguments used by dominant operators who argue that investment or products should be disregarded from the scope of regulation and thus, the list of markets, because as regulation discourage investment and innovation and as such was disproportionate.

In fact, IEN holds the view that independent research suggests that effectively regulated environments where competition is allowed to flourish achieve the best outcomes in terms of innovation and investment. As such, IEN suggests for instance the adoption of Ethernet Access.

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