

Rechtsanwälte Piepenbrock • Schuster, Achenbachstr. 73, 40237 Düsseldorf

Via e-mail

European Regulators Group

Info-A1@cec.eu.int
salonso@cmt.es

Need for harmonisation measures in EU Telecommunications Policy
Our Ref: 051-2002-016/

Dear Sirs,

we have been informed about the first meeting of the European Regulators Group (ERG) on October 25th 2002 and about the task this group is planning to fulfil in the coming years under the new European regulatory framework.

On behalf of our client, 01051 Telecom GmbH, we are taking the opportunity as requested in the press information IP/02/1553 of October 25th, to make suggestions as to which policy areas in the European Union needs stronger harmonisation measures in the telecommunications market. We would like to point out that 01051 Telecom GmbH is an alternative carrier in Germany, offering its services via Call-by-Call selection to several million customers thereby offering national calls, calls to mobile phones, international calls and calls to service numbers. In the near future, 01051 Telecom GmbH is also planning to enter the local Call-by-Call market after the German legislator finally opened up also the local market to carrier selection, almost three years behind the deadline set by the EU for this measure.

There are two concrete suggestions we would like to make with respect to harmonisation measures needed in the European telecommunications market as of today:

Rechtsanwälte
Hermann-J. Piepenbrock♦
Dr. Fabian Schuster
Dr. Martin Geppert
Dr. Peter Schmitz
Mirjam Mann LL.M.
Birgit Kemper
Dr. Ralf Oliver Schlegel LL.M.
Marc Schütze
♦ zugelassen beim OLG Düsseldorf

Diplom-Ökonom
Dr. rer. pol. Ernst-Olav Ruhle♦
♦ nicht als Anwalt zugelassen

Achenbachstraße 73
40237 Düsseldorf
Telefon 0211 ▶ 687888-0
Telefax 0211 ▶ 687888-68

Ihr Ansprechpartner:
Dr. Ernst-Olav Ruhle
eor@ra-ps.de

EOR/ws/


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- 1. Calls to mobile phones** are still very expensive due to the pricing of mobile termination. The reason for this is a significant difference in the approaches taken by EU member states as to whether and how to regulate mobile termination rates. As the 7th implementation report of the EU Commission published in December 2001 showed, the fifteen countries adopt a variety of nine different approaches. A significant impact in this matter is the assessment of mobile operators with respect to significant market power on the mobile (retail) and the interconnection market. The different policies taken by the member states are one of the major reasons for the huge differences in mobile termination rates. They differ between approximately 0,10 € per minute (Sweden) and 0,22 – 0,25 € per minute (in UK and Greece). Neither the different levels of rates nor the differences in approaches to this issue can be accepted. Therefore, we would like to suggest to the European Regulators Group to focus on his subject in its work in order to come forward with a harmonised regulation of mobile termination rates within the EU. Due to the imperfect competition in these markets, we strongly support a regulatory approach which would be based on the analysis of significant market power and a regulation which happens accordingly to the achieved market position. In this context we would like to point out that the draft recommendation of the EU Commission on the relevant product and service markets contains a market called “termination on individual mobile networks”. We believe that this could be the right path towards dealing with mobile termination rates in order to avoid that the current subsidisation of mobile operators by fixed network operators which pay too high mobile termination rates is continued. Another approach would be to collect and to publish the rates for mobile termination from the member states and to develop a “best current practice” approach as in the fixed network from 1997 to 2001. This could help certain countries to get in line with the EU benchmarks in this area. As could be demonstrated, there is a strong need for harmonisation in this area.
- 2. Competition in mobile markets today is far from perfect.** Consumers have a limited choice once they have signed up for a mobile supplier. Although competition might increase due to the introduction of mobile number portability which is now obligatory according to article 30 of the Universal Service Directive (2002/22/EU), we believe that competition could further be increased if there was an obligation to introduce **carrier selection also in mobile networks**. Again, we would like to point to the draft version of the recommendation on the relevant product and services market which contains carrier selection in mobile networks as one of the candidate markets for ex ante-regulation. In our view it is very important that this market remains in the recommendation despite the fact that the draft version of the recommendation mentions that the EU Commission believes that it will not be contained in further (revised) versions of the recommendation. Customers are increasingly looking for a broader offering of mobile services and carrier selection in mobile networks as an obligation to operators would be the right tool in order to bring retails prices further down in these markets. Therefore, also due to the fact that some countries already have taken regulatory steps in order to allow the entry of other operators via carrier selection in mobile networks, we see a strong need for harmonisation in this area and would

like to suggest to the European Regulators Group also to put this topic on the agenda for its work in 2003.

If you should have any further questions, please feel free to contact us, as we are willing to supply you with more information on these matters and also would like to learn how the European Regulators Group is planning to approach these two issues mentioned in our suggestions.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'E. O. Ruhle', is centered on the page. The signature is written in a cursive, flowing style.

Dr. Ernst-Olav Ruhle
(Economist)