

Public consultation on the functional separation of Telecom Italia access network and on the next generation networks regulation policy

The Communications Regulatory Authority Council, chaired by Corrado Calabrò - rapporteurs Commissioners Nicola D'Angelo and Stefano Mannoni - has started today a public consultation on the functional separation of Telecom Italia access network and on the next generation networks regulation policy.

In the next sixty days, the consultation will allow to acquire operators, consumers and all interested parties' observations and comments, with particular reference to the market structural features, the networks and services technological evolution and the perspective development of relevant competitive and regulatory dynamics.

The aim of the consultation is a strategic evaluation of the regulatory options related to the evolutionary dynamics of the public fixed telecoms network in its access component to final customers.

The networks and services ongoing convergence process makes differences among networks – fixed and mobile – less marked. Nevertheless, the Authority holds that - despite the relevant competitive results obtained thanks to the current regulatory tools (such as the *unbundling*) - some important fixed network specificities still remain - particularly in the access segment - that require an overall analysis with reference to the profiles of technical, economical, competitive and regulatory nature.

The aim of solving such critical aspects has led far back the Authority to put forward the issue of a structural and special intervention already with the Annual Report of July 2006, making this way an invitation to Telecom Italia. Afterwards, at the end of September 2006 and still in the same perspective, a Task Force was started up charged with tackling technical, market and competitive issues, even in a cross-examination with Telecom Italia.

Indications on the structural nature of the problem of competition alterations linked to the fixed access network come, furthermore, from the several interventions of this Authority - aimed at solving the growing cases of conflict between alternative operators and Telecom Italia - as well as from the preliminary investigations started up and carried out by the Antitrust Authority and from the more and more frequent intervention of the ordinary Law Courts.

The access network bottleneck connotation is stressed by the passage to Next Generation Access Networks (NGAN), with the risk of a progressive final market re-concentration that is a further restriction of the limited level of competition so far granted by the regulation of an open network. Nevertheless, the pressure to evolve towards NGAN, concerns all fixed network operators - in all European countries and not only - deriving from the need for a change of business models that are linked to integration models, both between fixed and mobile networks and services and between telecoms and audiovisual sector.

The passage to next generation networks implies, therefore, further challenges and questions on the evolutionary path of the regulatory process next stages. On the one side, there is the problem of a regulatory approach which does not have to constitute any obstacle, but rather has to represent an input for investment in next generation access networks. On the other side, the need for assuring the actual non-discrimination and the equal treatment of all operators is stressed because of the emerging of converging and integrated services - in accordance with so called triple and quadruple play models - that have their convenience grounded in the scope economies that are reachable from the different supply components' combination.

On the base of such considerations, the Authority has started up a reflection on the most effective regulatory strategy, to assure an actual and stable competition in the fixed network markets, on the eve of the start up of the market analysis second round, that will have to confirm or rather change the regulation obligations in force for the incumbent operator.

First, such a reflection concerns the evaluations on the current regulatory remedies effectiveness in assuring an actual internal/external equal treatment, the upkeep and development of a competitive market and growing benefits for the consumers in terms of a wider range and quality of services offered and lower prices.

In such a sense the Authority is considering, in this consultation, the opportunity to go further ahead in the path aimed at assuring an equal internal/external treatment and the administrative separation of Telecom Italia network assets, which was already outlined since 2002 by Decision 152/02/CONS, fostering a full functional separation of the fixed access network, through the setting up of an *ad hoc* business unit.

The consultation provides for 13 measures to assure the network assets' management independence through appropriate governance policy and management independent stimulation rules. In particular, it seems to be appropriate that the supposable division dedicated to the separate function, is endowed with extensive independent powers compared to the other business functions. In the consultation, benefits and reflection reasons on a sharper company separation are outlined too, moreover with the clarification that such a model of separation goes beyond the regulatory plan, falling in the field of the company's self determinations.

Secondly, the Authority holds it necessary to evaluate which innovation to introduce on the regulatory plan, with the aim to promote the NGAN development in a competitive environment. The Authority intends to define a regulatory framework which can support companies in the realization of the necessary infrastructural investments (even shared) and, in the meanwhile, can assure the achievement of the goal of a lasting competitive context, guaranteeing legal certainty to operators.

The evaluation of the new technologies' impact affects the instruments that the Authority may make use of; such instruments refer to the access to civil works unlikely to be reproduced (ducts and pilings), the sub loop unbundling supply (that is a more infrastructured unbundling level), the optical fibre or duplex cable supply from the local station, the wholesale broadband services supply (the so called bitstream) and the backhauling services supply (which is the connection of the Main Distribution Frames to local stations).

Today, in the light of the way already walked and of the previous evaluations, the Authority, with the start up of the public consultation, intends to undertake and carry out within the end of the year, the new regulatory path.

At the end of the meeting, the President Calabrò has declared: "With this document, Italy confirms to be one of the most advanced countries in Europe with reference to the definition of rules that foster both competition and investment. Such an advanced regulatory path, pursued with the application of EU principles, aims at keeping up with the sectoral technological evolution, verifying, in the meanwhile, the benefits deriving to Italy from a system of sharp fixed network functional separation, which can assure all telephone operators an equal access in full transparency conditions. We hope a wide and qualified participation to the consultation, which can allow to fully evaluate the implications of the choices that the Authority will have to make".

Rome, 2 May 2007

On the website <http://www.agcom.it/>, are available the Decision which started the public consultation, the consultation document and the Annex on the regulatory scenarios about the access network and the perspectives on next generation networks.