

# Public Workshop

The ANRCTI's Market Reviews  
under the EU Regulatory Framework

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‘Selecting Remedies’

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# Remedies

Stages:    Market definition  
              Market analysis/SMP  
              Remedies

# Access (wholesale) remedies

- ▣ Transparency
- ▣ Non-discrimination
- ▣ Accounting separation
- ▣ Access to, and use of, specific network facilities
- ▣ Price control and cost accounting obligations

## Transparency (Art. 9)

Disclosure of technical data relating to interfaces,  
geographical points of interconnection etc.

Publication of terms and conditions for access,  
including price

Reference interconnection offer may be required

## Non-discrimination (Art. 10)

‘Equivalent conditions in equivalent circumstances’

Covers price and quality

May apply to intra-group as well as external transactions

If so, it implicitly outlaws margin squeezes.

## Accounting separation (Art. 11)

Supporting measure for non-discrimination remedy  
and the exposure of cross subsidies

Choice of level of granularity

May be costly, especially for non-incumbents.

Is it enough to prevent discrimination?-see below.

Access to, and use of, specific network facilities (Art. 12)

Lower test for mandating access in Directives than under competition law: not 'indispensability,' but 'would hinder competition or would not be in end-users' interests'

Closely linked to overall objective of encouraging investment. Under this article, prices need not be cost based.

Price control and cost accounting obligations (Art. 1)

Remedy frequently used for persistent bottlenecks

Costs may include investment-specific cost of capital

Current debate about desirability of harmonising costing process- eg choice of model.



## Retail remedies

Consistent preference in the Framework for wholesale rather than retail remedies.

Provision for retail price controls in Universal Services Directives.

Recommendation now contains only one retail market.

A further proposed remedy: functional separation

Involves separation of business processes to prevent non-price discrimination.

To be permitted on proof of failure of other measures and subject to an impact assessment.

Developing examples of its effect-UK, Australia, New Zealand, Mongolia, Italy (agreed), Sweden(possibly)

# Key remedy issues

Scope of accounting separation.

Pricing principle for access (cost-based vs. retail minus).

Definition of emerging markets.

Next generation access networks.

Defining proportionality