



REGULATORY SCORECARD

**Report on the relative effectiveness
of the regulatory frameworks for electronic communications in
Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, the
Netherlands, Poland, Portugal, Spain, Sweden, the United Kingdom and United States of America**

United States

July 12, 2007



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1 Introduction

For a number of years, the European Competitive Telecoms Association (“ECTA”), in conjunction with Jones Day and SPC Network has produced a Regulatory Scorecard. The Regulatory Scorecard provides a comparison of the telecommunications regulatory authorities within the European Union (“EU”), addressing regulatory effectiveness, transparency and access to competitive markets. In 2005, COMPTTEL developed an addendum for the United States. This year, COMPTTEL has received permission from ECTA to produce a scorecard for the United States.

The purpose of the scorecard is to measure, as objectively as possible, the effectiveness of the national regulatory environment, specifically as it affects the promotion of sustainable and effective competition in the provision of telecommunications networks and services. Despite the differences in regulatory approaches between the United States and the member states of the European Union, this U.S. regulatory scorecard provides a valuable insight into the effectiveness of the U.S. Federal Communications Commission (“FCC”) and the openness of U.S. telecommunications markets. Where appropriate, the U.S. Scorecard addresses the application of both state and federal regulation.

The U.S. Scorecard provides a comparison between U.S. and European telecommunications regulation, and shows the similarities and differences on regulatory transparency and competitive access.

The U.S. Scorecard is presented in two sections with two annexes. Section 3 presents a summary of the methodology and Section 4 presents the results of the ECTA scorecard with the inclusion of the United States. Annex A is the full ECTA Scorecard with the inclusion of the United States and Annex B is the country profile of the United States.

2 Key Findings

- The United States ranks eighth among the 18 countries surveyed, and ranked behind the United Kingdom, Denmark, France, Netherlands, Sweden, Italy and Spain.
- The score for the United States, 60%, is the median for all countries in the survey.
- The United States, although performing well on the general powers of the FCC, has poorly implemented regulation.
- The United States scores particularly poorly on criteria related to dispute settlement. ILECs challenge most if not all major decisions and the dispute resolution procedure can be long and drawn out, affecting competitors' ability to enter the market effectively.
- The lack of effective accounting separation by ILECs and of effective measures against anti-competitive behavior, together with the drawn out dispute settlement process, significantly damages competitors' ability to compete, resulting in damage to consumer interests.
- The European regulatory framework is more effective than that of the United States in ensuring that competitors have access to key wholesale products on fair and equitable terms, so that they can compete effectively with incumbents at the retail level.
- In recent years, the United States has taken a backward step with regard to pro-competitive regulation. Although the United States has a good statutory framework in place, recent decisions have made it increasingly difficult for competitors to enter the market in a sustainable fashion.

3 Summary of Methodology

The document should be read in conjunction with the 2006 ECTA Scorecard, which was issued on November 11, 2006. The Methodology section sets out the rules for applying scores. The ECTA Scorecard can be downloaded from <http://www.ectaportal.com/en/basic651.html>.

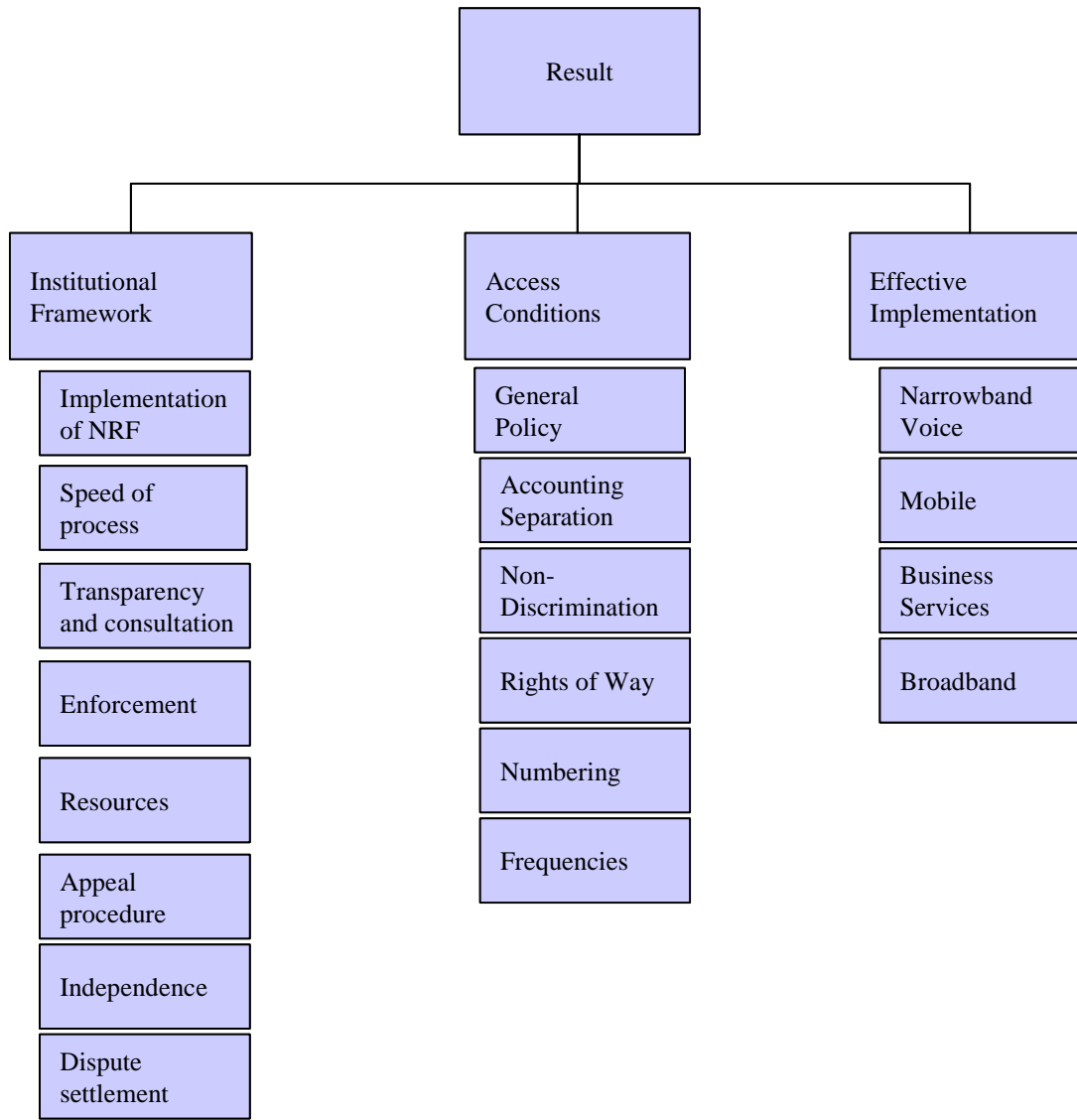
In the European Scorecard, countries are scored on 97 criteria covering three main areas: the institutional framework, general market access conditions and effectiveness of (regulatory) implementation. Five points are available for each criterion, for a total of 485 points.

Five questions covering implementation of EU Directives and five covering mobile termination are not applicable to the U.S. regulatory environment, so the total available score for the United States is 435, based on 87 criteria.

To provide comparability between the EU Member States and the United States, scores have been recalibrated to a percentage of the total available. Thus, the United Kingdom (“UK”), for example, which scores 390 out of a possible 485 receives a revised score of 80%.

The methodology for awarding points for each question can be seen in the ECTA Scorecard.

Figure 1: Scorecard Structure



4 Results

Figure 2 shows the overall results for the scorecard.

The United States, with a score of 61%, ranks eighth overall and is part of a group separated by just four percentage points including: Sweden, Italy, Spain, Hungary and Ireland. It lags far behind the four EU member states which scored highest, the UK, Denmark, France and the Netherlands. The U.S. score is equal to the median for the group of 18 countries and one percentage point above the mean.

Breaking down the scores into each of the three broad criteria groups, Figure 3 shows that the United States is one of the best countries for Institutional Framework, tying for fourth place with France and Spain. However, for General Market Access Conditions, the United States is in tenth place and for Effectiveness of Implementation, it scores eleventh. For both these latter criteria groups, the United States scores below the average for the 18 Organization for Economic Cooperation and Development (“OECD”) countries that were scored.

The strong points for the United States are sections A5 (Scale of Resources), A7 (Independence), B6 (Frequencies) and C1 (Narrowband Voice), where it ranked either first or second across the group.

Its primary weaknesses are Sections A8 (Dispute Settlement), B2 (Accounting Separation), B3 (Non-Discrimination and Margin Squeeze) and C4 (LLU/Broadband).

Figure 2: Scorecard Results

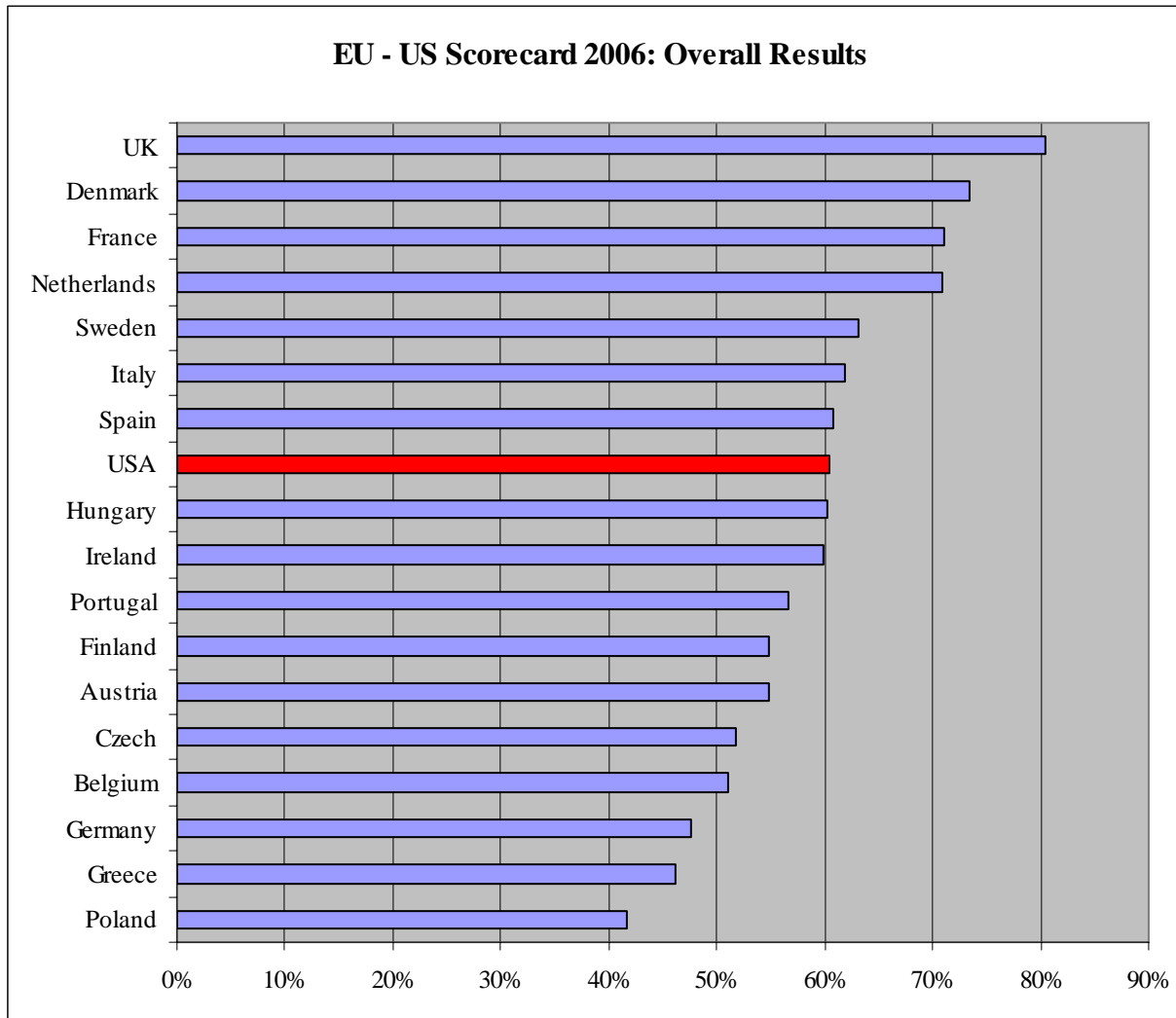
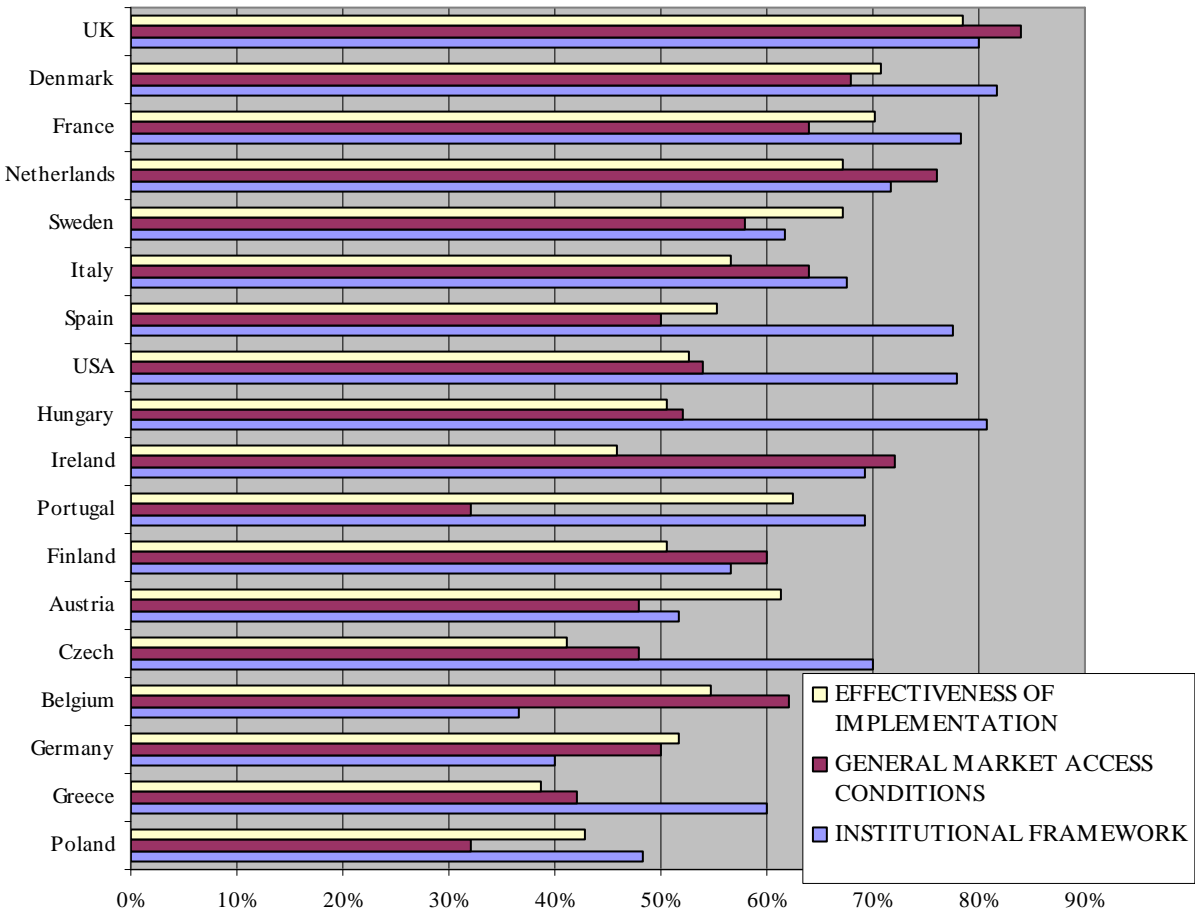


Figure 3: Scorecard by Criteria Group

ECTA Regulatory Scorecard 2006



Annex A Complete ECTA Scorecard including USA

INSTITUTIONAL FRAMEWORK

Implementation of NRF

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Date NRF adopted & in force	5/0	2.5	0.0	0.0	5.0	5.0	0.0	0.0	0.0	5.0	5.0	2.5	0.0	2.5	0.0	2.5	5.0	5.0	N/A
Have infringement proceedings been initiated	5/0	2.5	0.0	2.5	5.0	0.0	2.5	0.0	2.5	2.5	2.5	2.5	2.5	0.0	2.5	2.5	2.5	2.5	N/A
TOTAL	10/0	5.0	0.0	2.5	10.0	5.0	2.5	0.0	2.5	7.5	7.5	5.0	2.5	2.5	2.5	5.0	7.5	7.5	N/A

Speed of Process

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
No. of markets for which final decision adopted	5/0	5.0	0.0	5.0	2.5	5.0	2.5	0.0	0.0	5.0	5.0	2.5	5.0	0.0	2.5	2.5	5.0	5.0	N/A
Average duration of market analysis procedure	5/0	5.0	5.0	5.0	0.0	5.0	5.0	2.5	5.0	5.0	5.0	0.0	0.0	0.0	0.0	5.0	2.5	2.5	N/A
Average timeframe for allocation of numbers	5/0	5.0	5.0	0.0	5.0	5.0	2.5	5.0	0.0	2.5	5.0	2.5	2.5	0.0	5.0	5.0	5.0	2.5	N/A
TOTAL	15/0	15.0	10.0	10.0	7.5	15.0	10.0	7.5	5.0	12.5	15.0	5.0	7.5	0.0	7.5	12.5	12.5	10.0	N/A

Transparency and Consultation

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Is NRA required to hold public consultations	5	5.0	5.0	5.0	5.0	5.0	5.0	2.5	2.5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Timescale for responses	5	5.0	2.5	2.5	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	2.5	2.5	5.0	0.0	5.0
Is NRA required to publish all decisions	5	2.5	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	2.5
Does NRA disclose and consult on action plan	5	0.0	2.5	2.5	2.5	5.0	2.5	0.0	0.0	2.5	5.0	5.0	5.0	5.0	2.5	0.0	2.5	5.0	0.0
Are NRA costs transparent	5	2.5	0.0	5.0	5.0	5.0	2.5	2.5	2.5	2.5	5.0	5.0	5.0	5.0	2.5	5.0	5.0	5.0	5.0
TOTAL	25	15.0	15.0	20.0	22.5	25.0	20.0	10.0	15.0	15.0	25.0	25.0	25.0	25.0	17.5	17.5	22.5	20.0	17.5

Enforcement

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Is NRA entrusted to impose fines	5	0.0	5.0	2.5	5.0	2.5	5.0	2.5	5.0	2.5	0.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	2.5
Is NRA empowered to impose periodic penalty payments	5	0.0	0.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	0.0	0.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0
Is NRA empowered to suspend commercial launch	5	5.0	0.0	0.0	0.0	0.0	5.0	0.0	5.0	5.0	5.0	5.0	0.0	0.0	5.0	5.0	5.0	5.0	5.0
Has NRA ever used this possibility	5	0.0	0.0	0.0	5.0	0.0	5.0	0.0	5.0	5.0	2.5	5.0	2.5	5.0	5.0	5.0	0.0	2.5	5.0
TOTAL	20	5.0	5.0	7.5	15.0	7.5	15.0	7.5	20.0	17.5	7.5	15.0	12.5	10.0	20.0	20.0	15.0	17.5	17.5

Scale of Resources

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Total no. of qualified employees	5	5.0	0.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Recourse to outside expertise	5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Financial capability to attract suitably qualified staff	5	5.0	0.0	0.0	2.5	0.0	5.0	0.0	5.0	0.0	2.5	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0
TOTAL	15	15.0	5.0	10.0	12.5	10.0	15.0	10.0	15.0	10.0	12.5	15.0	15.0	10.0	15.0	15.0	15.0	15.0	15.0

Effectiveness of Appeals Procedure

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Does appeal suspend effects of decisions	5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
What is the applicable standard for suspension	5	5.0	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0
Percentage of decisions appealed	5	0.0	0.0	0.0	2.5	0.0	5.0	2.5	0.0	2.5	1.3	0.0	0.0	0.0	5.0	0.0	0.0	5.0	0.0
Average timeframe between appeal and final decision	5	5.0	2.5	5.0	5.0	2.5	5.0	0.0	0.0	2.5	5.0	0.0	5.0	0.0	0.0	0.0	0.0	5.0	2.5

Proportion of NRA decisions being annulled	5	0.0	0.0	5.0	0.0	0.0	5.0	0.0	0.0	5.0	0.0	5.0	0.0	5.0	5.0	5.0	0.0	5.0	5.0
Have standards been applied restrictively	5	0.0	0.0	5.0	5.0	2.5	5.0	0.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	2.5	0.0	5.0	5.0
TOTAL	30	15.0	12.5	25.0	22.5	15.0	30.0	7.5	15.0	25.0	16.3	20.0	15.0	20.0	25.0	17.5	5.0	30.0	22.5

Independence

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Is NRA subject to political injunctions	5	0.0	0.0	5.0	5.0	0.0	5.0	0.0	2.5	5.0	0.0	5.0	5.0	0.0	0.0	5.0	5.0	5.0	5.0
Grounds for removal of head of NRA	5	0.0	2.5	5.0	5.0	0.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0
Duration of NRA's management office	5	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	0.0	0.0	5.0
Percentage of incumbent owned by government	5	0.0	0.0	5.0	5.0	2.5	0.0	0.0	0.0	3.8	5.0	3.8	5.0	0.0	3.8	3.8	0.0	5.0	5.0
TOTAL	20	5.0	7.5	20.0	20.0	2.5	15.0	5.0	12.5	18.8	15.0	13.8	20.0	5.0	13.8	18.8	10.0	15.0	20.0

Efficiency of NRA Acting as Dispute Settlement Body

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Can NRA adopt interim measures	5	0.0	0.0	5.0	5.0	0.0	2.5	2.5	2.5	5.0	0.0	0.0	5.0	0.0	0.0	5.0	0.0	0.0	5.0
Average timeframe for obtaining interim decision	5	0.0	0.0	2.5	5.0	0.0	2.5	5.0	2.5	5.0	0.0	0.0	0.0	0.0	0.0	2.5	0.0	0.0	0.0
Average timeframe for obtaining final decision	5	2.5	0.0	2.5	2.5	5.0	5.0	5.0	0.0	5.0	5.0	2.5	5.0	0.0	2.5	2.5	5.0	5.0	0.0
TOTAL	15	2.5	0.0	10.0	12.5	5.0	10.0	12.5	5.0	15.0	5.0	2.5	10.0	0.0	2.5	10.0	5.0	5.0	5.0

GENERAL MARKET ACCESS CONDITIONS																			
General Access and Policy Procedures																			
Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Transparent Price Rules	5	2.5	2.5	5.0	5.0	5.0	2.5	2.5	2.5	5.0	2.5	5.0	5.0	0.0	2.5	2.5	2.5	5.0	5.0
Standard procedure for non-standard interconnection agreements	5	5.0	5.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	0.0
Consultation process re NGNs	5	0.0	2.5	0.0	5.0	5.0	2.5	2.5	2.5	0.0	0.0	5.0	5.0	0.0	0.0	0.0	2.5	5.0	2.5
TOTAL	15	7.5	10.0	5.0	10.0	10.0	5.0	5.0	5.0	5.0	7.5	10.0	10.0	0.0	2.5	2.5	5.0	15.0	7.5

Accounting Separation

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Does cost accounting separation accompany non-discrimination	5	5.0	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	2.5	5.0	5.0	5.0	5.0	5.0	0.0
Is cost accounting separation methodology clearly specified	5	0.0	0.0	5.0	5.0	0.0	5.0	0.0	0.0	2.5	5.0	2.5	5.0	0.0	5.0	5.0	0.0	5.0	0.0
Are accounting separation accounts published	5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	0.0	2.5	0.0	0.0	0.0	0.0	5.0	0.0
Do separated accounts show transfer charging	5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	5.0	2.5	0.0	0.0	0.0	0.0	5.0	0.0
TOTAL	20	5.0	5.0	10.0	10.0	5.0	10.0	0.0	5.0	7.5	20.0	12.5	12.5	5.0	10.0	10.0	5.0	20.0	0.0

Non-Discrimination and Margin Squeeze

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Are there clear rules for non-discrimination in an ex ante context	5	2.5	2.5	0.0	2.5	2.5	2.5	0.0	2.5	2.5	2.5	5.0	2.5	0.0	0.0	2.5	0.0	5.0	2.5
Clear rules for price squeeze test	5	2.5	2.5	0.0	0.0	0.0	5.0	0.0	2.5	0.0	2.5	5.0	5.0	0.0	0.0	2.5	2.5	2.5	2.5
Have rules for price squeeze test been published	5	0.0	0.0	0.0	2.5	0.0	5.0	0.0	2.5	0.0	2.5	5.0	5.0	0.0	0.0	2.5	0.0	2.5	0.0

Does NRA have provisions for non-price non-discrimination	5	5.0	5.0	0.0	2.5	2.5	5.0	0.0	2.5	0.0	2.5	0.0	0.0	5.0	2.5	2.5	2.5	5.0	0.0
TOTAL	20	10.0	10.0	0.0	7.5	5.0	17.5	0.0	10.0	2.5	10.0	15.0	12.5	5.0	2.5	10.0	5.0	15.0	5.0

Rights of Way and Facilities Sharing

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Clear rules for applying for ROW	5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	0.0	2.5	5.0	0.0	5.0	0.0	5.0	0.0	5.0	2.5	5.0
Reasonable cost for ROW	5	0.0	5.0	5.0	5.0	5.0	0.0	5.0	0.0	2.5	5.0	0.0	5.0	5.0	0.0	0.0	0.0	0.0	0.0
Reasonable timescale for ROW	5	0.0	2.5	5.0	5.0	5.0	5.0	5.0	2.5	2.5	5.0	0.0	5.0	5.0	0.0	0.0	5.0	5.0	5.0
Effective mechanism for appeal	5	0.0	0.0	0.0	2.5	2.5	5.0	5.0	0.0	5.0	0.0	5.0	5.0	0.0	0.0	0.0	5.0	2.5	0.0
TOTAL	20	5.0	12.5	15.0	17.5	17.5	15.0	20.0	2.5	12.5	15.0	5.0	20.0	10.0	5.0	0.0	15.0	10.0	10.0

Numbering

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Is fixed number portability available	5	5.0	5.0	2.5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Is mobile number portability available	5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Average wholesale price for fixed NP	5	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	2.5	5.0	5.0	5.0	5.0	5.0
Average wholesale price for mobile NP	5	2.5	5.0	0.0	2.5	2.5	0.0	0.0	2.5	5.0	0.0	2.5	5.0	2.5	0.0	5.0	5.0	5.0	5.0
Proportion of fixed numbers ported in 2005	5	0.0	2.5	5.0	5.0	5.0	2.5	5.0	0.0	2.5	2.5	2.5	5.0	0.0	2.5	2.5	0.0	5.0	5.0
Proportion of mobile numbers ported in 2005	5	0.0	2.5	0.0	5.0	5.0	0.0	5.0	0.0	0.0	5.0	5.0	5.0	0.0	0.0	5.0	2.5	0.0	5.0
Restrictions on number ranges for VOIP	5	0.0	2.5	2.5	5.0	5.0	2.5	2.5	5.0	2.5	2.5	0.0	5.0	0.0	0.0	2.5	5.0	5.0	0.0
Is NP available with LLU	5	5.0	2.5	5.0	5.0	5.0	5.0	5.0	2.5	5.0	2.5	5.0	2.5	0.0	2.5	5.0	5.0	5.0	5.0
TOTAL	40	22.5	30.0	20.0	37.5	37.5	25.0	32.5	25.0	30.0	27.5	30.0	37.5	15.0	20.0	35.0	32.5	35.0	35.0

Frequencies

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Has spectrum been granted in a technologically neutral manner	5	5.0	5.0	5.0	2.5	0.0	2.5	5.0	2.5	5.0	5.0	5.0	2.5	0.0	0.0	5.0	5.0	5.0	5.0
Are rules for spectrum trading in place	5	5.0	5.0	5.0	0.0	0.0	5.0	0.0	2.5	2.5	5.0	2.5	0.0	5.0	0.0	0.0	5.0	5.0	5.0
TOTAL	10	10.0	10.0	10.0	2.5	0.0	7.5	5.0	5.0	7.5	10.0	7.5	2.5	5.0	0.0	5.0	10.0	10.0	10.0

EFFECTIVENESS OF IMPLEMENTATION

Narrowband Voice Services

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Local call termination interconnect rate	5	2.5	5.0	0.0	5.0	0.0	5.0	5.0	2.5	2.5	5.0	5.0	5.0	2.5	5.0	2.5	2.5	5.0	5.0
Single tandem call termination interconnect rate	5	2.5	5.0	2.5	5.0	0.0	2.5	5.0	2.5	2.5	5.0	5.0	5.0	2.5	5.0	2.5	5.0	5.0	5.0
Double tandem call termination interconnect rate	5	0.0	5.0	2.5	5.0	0.0	2.5	2.5	2.5	5.0	5.0	2.5	5.0	2.5	5.0	2.5	5.0	5.0	5.0
Different termination costs accounted for in charges	5	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	0.0	2.5
Is CS/CPS implemented	5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	2.5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Percentage of customers using altnet for direct access services	5	2.5	2.5	0.0	0.0	0.0	0.0	2.5	0.0	0.0	0.0	0.0	5.0	2.5	2.5	2.5	0.0	5.0	2.5
Market share of altnets in fixed voice market	5	5.0	2.5	0.0	2.5	5.0	0.0	5.0	2.5	0.0	0.0	2.5	0.0	0.0	0.0	2.5	5.0	2.5	5.0
Is WLR available	5	2.5	0.0	0.0	5.0	0.0	2.5	0.0	0.0	0.0	5.0	0.0	0.0	0.0	5.0	0.0	5.0	5.0	2.5
Value of retail price basket - residential	5	2.5	0.0	2.5	2.5	0.0	2.5	2.5	2.5	5.0	0.0	0.0	5.0	2.5	0.0	5.0	5.0	5.0	2.5
Value of retail price basket - business	5	2.5	0.0	0.0	2.5	0.0	0.0	2.5	2.5	0.0	0.0	0.0	5.0	0.0	0.0	2.5	2.5	5.0	5.0
TOTAL	50	30.0	30.0	12.5	37.5	15.0	25.0	35.0	22.5	20.0	30.0	25.0	40.0	17.5	32.5	30.0	40.0	42.5	40.0

Mobile Services

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Peak rate fixed to mobile termination charge	5/0	5.0	2.5	2.5	2.5	5.0	5.0	2.5	2.5	2.5	2.5	2.5	2.5	0.0	2.5	2.5	5.0	2.5	N/A
Is fixed to mobile termination subject to regulation	5/0	5.0	5.0	5.0	2.5	2.5	5.0	5.0	2.5	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	N/A
Is mobile to mobile termination subject to regulation	5/0	5.0	5.0	5.0	2.5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	5.0	5.0	5.0	N/A
Are prices required to be cost-oriented. Has glide path been applied	5/0	2.5	2.5	5.0	0.0	5.0	5.0	2.5	2.5	0.0	2.5	2.5	0.0	2.5	0.0	2.5	5.0	5.0	N/A
Is mobile operator required to show non-discrimination re: on-net rates	5/0	0.0	2.5	0.0	5.0	5.0	2.5	2.5	2.5	0.0	0.0	5.0	0.0	5.0	2.5	2.5	2.5	2.5	N/A
Market share of two largest operators	5	0.0	0.0	2.5	5.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.5	2.5	0.0	0.0	2.5	5.0	5.0
Low user price basket	5	0.0	2.5	5.0	5.0	5.0	2.5	0.0	2.5	5.0	0.0	2.5	2.5	5.0	5.0	2.5	5.0	0.0	0.0
Average user price basket	5	2.5	0.0	2.5	5.0	5.0	2.5	0.0	2.5	5.0	0.0	0.0	5.0	5.0	2.5	2.5	5.0	0.0	2.5
Is one or more MVNOs operational	5	5.0	0.0	0.0	5.0	5.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	0.0	0.0	0.0	5.0	5.0	5.0
TOTAL	45/20	25.0	20.0	27.5	32.5	37.5	27.5	17.5	20.0	22.5	15.0	22.5	17.5	30.0	22.5	22.5	40.0	30.0	12.5

Business Services

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Proportion of subscribers using an altnet for direct access	5	0.0	0.0	0.0	2.5	0.0	5.0	0.0	0.0	0.0	0.0	0.0	5.0	0.0	0.0	5.0	0.0	5.0	0.0
Are wholesale PPCs available	5	5.0	5.0	5.0	5.0	2.5	5.0	2.5	0.0	5.0	5.0	5.0	5.0	0.0	5.0	5.0	0.0	5.0	5.0
Set-up and monthly rental 2 mbit/s 5km PPC	5	5.0	0.0	0.0	5.0	5.0	2.5	5.0	5.0	5.0	0.0	2.5	5.0	2.5	5.0	0.0	2.5	5.0	5.0
Set-up and monthly rental 34 mbit/s 5km PPC	5	5.0	0.0	0.0	0.0	5.0	2.5	5.0	0.0	0.0	0.0	0.0	5.0	2.5	5.0	0.0	2.5	5.0	2.5
Is an SLA included	5	2.5	5.0	5.0	2.5	0.0	5.0	0.0	2.5	5.0	5.0	5.0	2.5	5.0	5.0	5.0	5.0	5.0	2.5

Standard migration path from leased lines to PPCs	5	5.0	0.0	0.0	0.0	0.0	2.5	0.0	0.0	0.0	5.0	0.0	5.0	0.0	0.0	0.0	0.0	5.0	0.0
Is WES available	5	0.0	0.0	5.0	5.0	2.5	5.0	0.0	0.0	5.0	0.0	5.0	0.0	0.0	5.0	0.0	0.0	5.0	0.0
Price of 2 mbit/s 200km leased line from incumbent	5	5.0	5.0	2.5	5.0	0.0	2.5	5.0	5.0	2.5	5.0	2.5	5.0	2.5	5.0	2.5	5.0	2.5	5.0
Price of 34 mbit/s 200km leased line from incumbent	5	2.5	5.0	0.0	5.0	5.0	2.5	5.0	5.0	0.0	0.0	2.5	2.5	5.0	2.5	2.5	5.0	0.0	2.5
TOTAL	45	30.0	20.0	17.5	30.0	20.0	32.5	22.5	17.5	22.5	20.0	22.5	35.0	17.5	32.5	20.0	20.0	37.5	22.5

Broadband

Question	Weight	AT	BE	CZ	DK	FI	FR	DE	EL	HU	IE	IT	NL	PL	PT	ES	SE	UK	USA
Is full LLU available	5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Is shared LLU available	5	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	0.0
Set up and recurrent charges of full LLU	5	5.0	2.5	0.0	5.0	0.0	5.0	5.0	5.0	0.0	0.0	5.0	5.0	2.5	5.0	5.0	0.0	5.0	5.0
Set up and recurrent charges of partial LLU	5	0.0	5.0	0.0	5.0	0.0	5.0	5.0	2.5	0.0	0.0	5.0	5.0	0.0	5.0	5.0	2.5	5.0	0.0
Are related facilities required to be available at cost oriented rates?	5	5.0	2.5	5.0	5.0	5.0	5.0	2.5	2.5	5.0	0.0	5.0	2.5	0.0	5.0	5.0	5.0	5.0	5.0
Number of LLU as percentage of total DSL lines	5	2.5	0.0	0.0	2.5	5.0	5.0	5.0	0.0	0.0	0.0	2.5	5.0	0.0	2.5	0.0	5.0	0.0	0.0
Do contracts for LLU include SLA	5	5.0	2.5	2.5	2.5	0.0	5.0	0.0	0.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	0.0
What connectivity options are available for ADSL bitstream	5	3.8	5.0	1.3	3.8	3.8	5.0	1.3	1.3	3.8	3.8	3.8	3.8	0.0	3.8	1.3	3.8	5.0	0.0
Percentage of DSL lines from competitors via wholesale bitstream access	5	0.0	2.5	0.0	2.5	0.0	2.5	0.0	0.0	2.5	2.5	0.0	0.0	0.0	0.0	0.0	0.0	5.0	2.5
Do wholesale broadband products include an SLA	5	2.5	2.5	0.0	0.0	2.5	5.0	2.5	0.0	5.0	5.0	5.0	2.5	5.0	2.5	5.0	0.0	5.0	0.0
Standard procedure for migration from reale DSL to LLU	5	0.0	2.5	5.0	5.0	0.0	5.0	0.0	0.0	0.0	0.0	0.0	5.0	0.0	0.0	5.0	0.0	5.0	0.0

Price squeeze test applied to wholesale DSL and LLU	5	0.0	0.0	0.0	0.0	0.0	5.0	2.5	0.0	0.0	2.5	2.5	0.0	0.0	5.0	0.0	0.0	2.5	0.0
Percentage of DSL lines end to end by competitors	5	5.0	5.0	5.0	2.5	2.5	0.0	0.0	0.0	5.0	2.5	0.0	5.0	2.5	0.0	2.5	5.0	2.5	5.0
Is naked DSL available	5	5.0	5.0	0.0	5.0	5.0	5.0	0.0	0.0	5.0	0.0	5.0	0.0	0.0	0.0	0.0	5.0	0.0	0.0
TOTAL	70	43.8	45.0	28.8	48.8	33.8	62.5	33.8	21.3	41.3	31.3	48.8	48.8	25.0	43.8	43.8	41.3	55.0	25.0

Annex B USA Country Profile

A. Institutional Framework

Sections A.1 and A.2 have not been answered for the United States as they apply exclusively to the regulatory process in the EU.

A.1 Implementation of the new regulatory framework (“NRF”)

1. At what date was the national legislative framework adopting the NRF fully completed and in force? Have infringement proceedings been initiated against your Member State for failure to implement the NRF in a timely fashion?

Not applicable

2. Have infringement proceedings been initiated against your Member State for failure to properly transpose and/or apply the NRF (other than on grounds of timeliness)? Please specify the number and grounds of such proceedings.

Not applicable

A.2 Speed of process

Section A.2 has not been answered for the United States, as it applies exclusively to the regulatory process in the EU.

3. For how many markets has your NRA adopted a final decision after having completed the consultation process (i.e., market definition, proposed SMP designation, notification to the Commission, adoption of the SMP remedies, if applicable), including decisions finding no SMP? If 90% or more of the applicable markets have been analyzed (i.e., 16 or more), please specify the date at which the 16th market analysis was adopted and applied.

Not applicable

4. What is the average (median) duration of a market analysis procedure by your NRA, starting from the launch of the process until the adoption of the final decision (as defined above)?

Not applicable

5. What is the average (median) timeframe for obtaining the allocation of numbers?

Not applicable

A.3 Transparency and consultation

6. Is your National Regulatory Authority (“NRA”) required to hold public consultations prior to deciding on issues of general interest? If not, in practice, does it hold public consultations prior to deciding on such issues?

Yes, it is a requirement in almost all cases. The FCC regularly issues notices of inquiry and notices of proposed rulemaking, in which new issues, topics, and services are addressed, as well as the reform or modification of existing regulations. The FCC also puts Petitions for Reconsideration or Clarification of their decisions, submitted by the public, out for public comment.

7. What timescale is usually given to interested parties to respond to the consultation?

The FCC is governed by the Administrative Procedures Act, which requires government agencies to permit a meaningful opportunity for public comment. As a result, the FCC generally allows a minimum of two weeks for public comment on minor actions, and usually between 30 and 60 days for comments and reply comments on rulemakings and other actions of any significance.

8. Is your NRA required to publish all its decisions upon their adoption? If not, is it common practice as a result of a self-imposed obligation?

Yes. Section 4(j) of the Communications Act requires that “[e]very vote and official act [of][sic] the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested.” In addition, section 4(m) requires “the FCC to publish its reports and decisions in such form and manner as may be best adapted for public information and use.”

However, there is no statutory or regulatory timeframe within which the FCC must initiate or conclude a rulemaking proceeding. For example, proceedings addressing special access metrics and unbundled network element metrics, which were initiated in 2001, are still open and there is no indication when the FCC will issue final rules. Moreover, in 2001, the FCC also initiated a docket to examine a “unified” system of inter-carrier compensation—for the local termination of all types of traffic—local, long distance, wireless, and Internet-bound wireline. This matter is still pending and shows no sign of resolution. Finally, a rulemaking to examine special access pricing and sales practices, initiated as the result of a Petition for Rulemaking filed in 2002, is still pending with no indication of an FCC intent to resolve the problems—even despite confirmation of many of the problems by the Government Accountability Office (the investigatory arm of Congress) only a few months ago.

9. Does your NRA disclose and consult on its action plan on a regular basis?

The FCC is not required to issue a "management plan" that is subject to public consultations. Like every other U.S. government agency, the FCC publishes a five-year “strategic plan” but this plan is not subject to public consultation.

The Communications Act requires the FCC to conduct a biennial review of all regulations that apply to provision of telecom services to determine their effectiveness and whether they should remain in force, be modified or be removed. All parties and members of the public may submit comments and reply comments according to the timetable established by the FCC.

10. Are the costs of operating the NRA transparent (e.g., publication of accounts)?

The FCC’s budget is publicly available. The U.S. Congress decides the size of the FCC’s budget each year through its fiscal appropriations process. The budget is contained in legislation, which must be adopted each year.

A.4 Enforcement

11. Is your NRA entrusted with the power to impose fines? If so, up to what level? Please specify whether the level of the fines are considered to have a sufficient deterrent effect.

The FCC has the power to impose sanctions and fines under the Communications Act and pursuant to its rules governing “forfeiture proceedings.” In a forfeiture proceeding, the FCC can levy fines against a telecommunications carrier of up to \$1 million for each violation of the Communications Act and the FCC’s rules. Fines vary depending on the nature and the degree of

the violation in question. For the FCC to be able to levy any fines in a forfeiture proceeding, the rules require that the proceeding be initiated within one year of the alleged violation.

Pursuant to the Communications Act, the FCC is required, in relevant part, to take into account “the nature, circumstances, extent, and gravity of the violation” in setting the amount of the forfeiture. Accordingly, fines levied by the FCC in a forfeiture action can vary significantly, depending on the circumstances. If the violation is willful or egregious, the FCC is likely to impose higher fines. However, if the company has a history of overall compliance or has acted in good faith by voluntarily disclosing the problem, the FCC may decrease any applicable fines.

Also, “if the proposed forfeiture penalty is not paid in full in response to the notice of apparent liability, the Commission, upon considering all relevant information available to it, will issue an order cancelling or reducing the proposed forfeiture or requiring that it be paid in full and stating the date by which the forfeiture must be paid.” 47 C.F.R. 1.80(f)(4).

The fining authority available to the FCC is not sufficient to deter anti-competitive behavior by large incumbent telephone companies, several of whom have paid multi-million dollar fines for serious violations which have subsequently been repeated. Congress has considered legislation to significantly increase penalty authority for the FCC, but has yet to enact the proposed changes.

12. Is your NRA empowered to impose periodic penalty payments?

The FCC may treat each day of a continuing offense as a separate offense for purposes of assessing fines. However, as noted in response to question 11, even with this cumulative fining authority, the overall level of the fines is not sufficient to deter anti-competitive behavior by large incumbent telephone companies.

13. Is your NRA empowered to suspend the commercial launch of services pending compliance?

The FCC has the authority to apply additional sanctions, such as revocation or suspension of licenses, but to date has never used this authority to control or punish anti-competitive behavior by large incumbents.

14. If the answer to any of the previous questions is positive, has your NRA ever used this possibility of imposing fines and/or period penalty payments and/or suspending the commercial launch of services pending compliance? Does it have a tendency, in practice, to do so when it establishes an infringement and the operator concerned does not comply, in particular in relation to anti- practices of an SMP operator¹ which distort the market?

As noted in questions 12 and 13 above, statutory limits on cumulative fines have resulted in those fines being insufficient to deter anti-competitive or market distorting behavior by operators with significant market power (“SMP”), and the FCC has never used its license suspension authority or its specific authority to stop an ILEC from adding customers for local service (as they can do with a Regional Bell Company with respect to its provision of long distance services) in order to punish or deter anti-competitive acts.

A.5 Scale of resources

15. What is the total number of qualified employees employed by your NRA for general regulatory issues in the electronic communications sector?

Approximately 2000 staff members to cover all functions. The general perception is that the FCC is adequately staffed. There is no publicly available break-down of Commission staff by profession.

16. Can and does your NRA have recourse to outside expertise such as consultants? Is sufficient budget allocated to enable your NRA to do so where necessary?

Yes. The FCC has used technical and economic/financial consultants on particular projects as needed.

17. Does your NRA have the financial capability to set levels of remuneration so as to attract and retain suitably qualified key staff?

¹ The concept of "significant market power" in the European Union context does not exist in the United States. If the concept did exist, the large ILECs, particularly the remaining Regional Bell Operating companies, would be deemed to have significant market power. Therefore, in answering questions relating to SMP, we have responded with regulations governing ILECs.

FCC salaries are based on the Federal Government pay scales and the budget allocated to it by Congress. The FCC has been successful at recruiting from outside government service, suggesting that salary packages are attractive compared to similar positions in other government agencies.

A.6 Effectiveness of appeal procedure

18. Does the appeal of your NRA's decisions automatically suspend the binding effects of the decisions in question?

FCC decisions can be appealed to a U.S. Court of Appeals or a party can request the FCC to reconsider its decision. Filing an appeal or a petition for reconsideration does not suspend the implementation of the decision unless the Court or the Commission stays the effect of the decision pending the completion of proceedings on appeal or review.

19. If the appeal does not automatically suspend the binding effects of the decision of the NRA, what is the applicable standard to obtain such suspension and how is it applied in practice?

A party requesting that the implementation of a FCC decision be stayed pending its appeal must show a likelihood of success on the merits of the appeal, that it will be irreparably harmed in the absence of a stay, that a stay would not cause harm to other parties, and that a stay is in the public interest.

20. What percentage of NRA decisions concerning the incumbent, taken since September 2002, were appealed by the incumbent? If you cannot provide a precise percentage, please provide an indicative figure or assessment (all, most, half, limited).

Most of the major FCC orders affecting the telecommunications industry, including orders addressing cost accounting, special access, unbundled network elements, internet regulation, forbearance and media ownership have been appealed. Every FCC order that restricts or limits the behavior of ILECs, or that grants a right to competitors, has been appealed by the incumbents.

21. What is the average (median) timeframe between the filing of an appeal and the final decision, i.e. decision against which no further appeal/judicial review is possible?

Appeals of decisions and orders of the FCC must be filed with a United States Court of Appeals. Accordingly, the timeframe for the appeal depends not only on the complexity of the issue under appeal, but also on the current docket before the Court. In general, cases brought before a court of appeals take at least 12 months, and often 18 or more months, to be decided. This time frame is extended to several years if the appellate court decision is appealed to the Supreme Court and the Supreme Court agrees to decide the case.

22. What proportion of decisions rendered on appeal (be it administrative or judicial appeals) reached since September 2002, resulted in the NRA determination being annulled or overturned? If you cannot provide a precise percentage, please provide an indicative figure or assessment (all, most, half, limited).

The FCC's orders have been overturned or annulled in a limited number of cases. In general, the courts grant the FCC considerable deference when reviewing its decisions. An entity can petition the FCC for reconsideration of its decision, but the FCC does not have to act on the petition.

23. What are the locus standi requirements (i.e., admissibility requirements) that third parties must fulfill to be allowed to intervene in the appeal proceedings involving your NRA's decisions and to challenge said decisions? Have these requirements been applied restrictively so as to prevent third parties from intervening in the appeal proceedings involving your NRA's decisions or appealing your NRA's decisions?

If a FCC decision is appealed to a U.S. court, then a third party has a right to participate if it can show an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest. A court may allow a third party to participate if the applicant's claim or defense and the main action have a question of law or fact in common.

A.7 Independence

24. Is your NRA subject to any injunctions from a political authority when performing its regulatory tasks (e.g., grants authorizations, conducts market analyses, defines SMP operators, imposes/enforces remedies)? If so, please indicate the legal basis for such intervention, or any precedent which demonstrate that your NRA's decision was influenced by political intervention.

No. The FCC is an independent regulatory agency, the decisions of which may only be challenged in a court of law or superseded by an act of Congress. Certain record keeping and reporting requirements imposed by the FCC, however, need approval from the Office of Management and Budget (“OMB”).

25. What are the grounds for removal of the head of your NRA?

Once appointed and confirmed, the FCC Chairman and Commissioners may be removed only for violation of the Communications Act, the FCC's rules, or for criminal misconduct under impeachment proceedings.

26. What is the duration of office of your NRA's management? Is there a possibility of re-appointment?

The Chairman and Commissioners at the FCC are appointed by the President of the United States, with the advice and consent of the U.S. Senate, for a term of five (5) years. Reappointment is possible.

27. What percentage of the incumbent share capital is held by the Government? Does it confer control?

None.

A.8 Efficiency of NRA acting as dispute settlement body

NOTE: Intercarrier dispute resolution and mediation, unless related to an alleged violation of the Communications Act, generally are addressed and resolved by the state public utilities commissions. In particular, the Communications Act has given authority to the states to address intercarrier disputes related to interconnection agreements, within the parameters established by the FCC governing the availability of unbundled network elements (“UNEs”) and their pricing methodology and other interconnection issues. Hence, although the state utilities commissions preside over the dispute settlement process, the FCC exercises significant influence on the scope of those proceedings. Interconnection disputes are the focus of this section.

In many states, both mediation and arbitration are possible. Generally, submission of a dispute to mediation does not compromise the legal rights of either carrier to bring subsequent legal action.

As a general note to the state-specific responses in this section of the annex, please be advised that the powers and procedures of state public utilities commissions in the resolution of intercarrier disputes may vary.

28. Can your NRA, acting as dispute settlement body, adopt interim measures prior to final settlement of the dispute?

California: Yes. The Presiding Officer over a dispute has broad discretion to adopt interim measures and take such actions as may be necessary in resolving the dispute.

Illinois: If the alleged violation has a substantial adverse effect on the ability of the complainant to provide service to customers, the Illinois Public Utilities Act provides that the complainant may include in its complaint a request for an order for emergency relief. Furthermore, the Hearing Examiner has the authority to rule upon all matters which do not result in the final determination of the proceeding (83 IL Admin Code 761.40(a)(8)).

New York: Yes. The Presiding Officer over a dispute has broad discretion to adopt interim measures and take such actions as may be necessary in resolving the dispute.

Texas: Yes. The Presiding Officer over a dispute has broad discretion to adopt interim measures and take such actions as may be necessary in resolving the dispute.

FCC: The FCC has principal jurisdiction to address pole attachment disputes between telecommunications service providers, and disputes between a telecommunications service provider and another public utility. In pole attachment dispute proceedings, it should be noted that a cable TV operator may petition the FCC for a temporary stay of removal of its facilities from a utility pole if it can demonstrate the likelihood of irreparable harm and cessation of cable TV service in the affected area.

29. What was, over the past two years, the average (median) timeframe for obtaining an interim decision (where applicable) from the NRA acting as dispute settlement body?

For interconnection disputes, the Communications Act has established a timeframe of 270 days from the date of a request for interconnection to resolve an inter-carrier dispute. This timeframe applies to all state commissions with respect to establishing the terms and conditions of interconnection agreements. Of the states researched in this survey (California, Illinois, New York and Texas), with the exception of Illinois, there are no statistics available on the average timeframe to resolve a post interconnection

dispute. In Illinois, a complaint brought by one telecommunications carrier against another for anticompetitive practices must be resolved no later than 60 days after the complaint is filed with the Illinois Commerce Commission (“ICC”) pursuant to the Illinois Public Utilities Act. As a practical matter, however, interconnection disputes often take far longer than the statutory time frames to reach resolution, and there are no practical mechanisms for forcing state commissions, or the FCC if a state commission refuses to act, to adhere to the statutory deadlines. In one case where a state commission refused to act and the FCC was the arbitrating body, interconnection agreements between the incumbent and several large competitors took over two years to be resolved by the FCC.

- 30. What was, over the past two years, the average (median) timeframe for obtaining a final decision from the NRA acting as dispute settlement body?

See answer to question 29 above.

B. General Market Access Conditions

B.1 General access policy and procedures

- 31. Are there transparent price regulation methodological rules (provided by law or elsewhere) in place for the regulation of the various electronic communication services in the markets where SMP was established (e.g., narrowband, broadband, business services and mobile)?

There are detailed models covering some but not all regulated access services of ILECs.

UNEs: The applicable cost model is forward-looking long run incremental costs as measured by the “TELRIC” (Total Element Long Run Incremental Cost) methodology. Costs must be forward-looking (*i.e.*, the long-run costs expected to be incurred in providing the network element, not historical costs) and must be based on use of the most efficient, least cost technology available (assuming the existing locations of the ILEC’s central offices as fixed).² The basic concept of TELRIC is a per unit, average cost, based on assumptions regarding network design and efficiency. Notably, there is no “incremental cost” in TELRIC—it is not a marginal cost methodology, but rather fully compensates the incumbents for fixed and variable costs.

² 47 C.F.R. § 51.505(b).

DSL: There is no applicable cost model addressing digital subscriber line (“DSL”) services.

Interexchange access: There are two basic models cost models governing interexchange access: (1) rate-of return and (2) price cap. Under the rate-of-return model, which is used primarily by rural LECs, the ILEC calculates specific access charge rates using projected costs and demand for access service. This model allows the ILEC to recover costs plus a prescribed return on investment. The rate-of-return model is further defined under Part 69, Subpart B of the FCC's Rules, which also sets forth the model for special access charge recovery.³ This model limits the profits an ILEC may earn on interstate access.

In general, the larger ILECs employ the price cap model. Under this model, the FCC sets an annual rate adjustment cap, based on market experience, which is unrelated to the performance of the ILEC. The price cap model is further defined under Part 69, Subpart C of the FCC's Rules. Please note, however, that in major metropolitan markets, which the FCC has deemed to be competitive, the ILECs are exempt from price cap regulation and may employ "pricing flexibility." Under this standard, the ILEC may enter into more individualized relationships with its special access customers, generally at higher prices than would be required under price cap regulation.⁴

32. Is there a standard procedure (i.e., a procedure provided whether by law or elsewhere) facilitating the negotiation by market players of non-standard access or interconnection agreements with SMP operators?

ILECs are not required to publish standard reference interconnection offers except with respect to network elements and services required to be provided pursuant to Sections 251 and 252 of the Communications Act. There is no standard procedure for negotiating what is not in the ILEC’s statement of generally available terms, although commercial negotiation is possible. An ILEC must meet all reasonable requests for access to those products and UNEs as specified in the FCC’s rules. Each ILEC

³ Special access is defined as a class of local exchange carrier (“LEC”) services that provides the link from the customer's premise to an interexchange carrier (“IXC”) point of presence (“PoP”) for non-switched dedicated circuits, whereas switched access is the long distance carrier access method in which a non-local call is carried by a local exchange carrier via a Central Office trunk for the first and last part of the call's journey and on the long distance carrier's network only for the middle part of the journey.

⁴ The FCC has begun a rulemaking to examine whether pricing flexibility for special access services in these markets was granted prematurely. The rulemaking states that the ILECs have earned overall interstate special access accounting rates of return of approximately “38, 40 and 44 percent in 2001, 2002 and 2003, respectively,” while special access average investment was slightly negative over the same period. Special Access NPRM, FCC, WC Dkt 05-25 at ¶ 27.

generally has its own basic interconnection agreement and standard negotiation procedure, which, if challenged, must meet the standard of reasonableness set forth in the FCC's rules.

The remaining services are tariffed, and it is possible to seek commercial negotiation of alternative rates and terms. If the ILEC reaches a deal that deviates from its tariff, it must publish this special arrangement as an individual case basis or contract tariff.

33. Has a consultation process been established for assessing and addressing questions related to Next Generation Networks and the transition to IP interconnection in collaboration with operators (beyond the SMP-market analyses of the NRF)? Please specify.

The FCC does not have a comprehensive proceeding under way or planned to address competitive issues related to Next Generation Networks ("NGN"). Instead the FCC has proceeded piecemeal, making decisions that directly and indirectly impact the regulatory environment for NGN as part of other proceedings. The FCC has undertaken four rulemakings that directly impact the regulatory rules for NGN (*Cable Modem Order*, *Wireline Broadband Order*, *Broadband Over Power Line Order*, and *Broadband Wireless Order*), each relating to the regulatory classification of broadband Internet access services. In all four proceedings, the FCC determined that i) broadband Internet access service is an information service under the Communications Act, meaning that it is not subject to common carrier treatment under Title II of that Act, and (ii) the networks used to provide broadband Internet access services are not subject to the FCC's *Computer II* unbundling requirements (which require the network operator to offer the transmission component to competitors). In another proceeding regarding the application of the Communications Act unbundling and interconnection requirements on ILECs, the FCC has held that those rules do not apply to the incumbent's fiber network facilities, including fiber deployed as a network upgrade or in a hybrid configuration. Taken together, these orders effectively deny competitors access to incumbents' NGN.

B.2 Accounting separation

34. If your NRA has imposed a non-discrimination and/or cost-orientation remedy upon an operator, has it imposed a cost accounting separation obligation as an accompanying measure?

No. There is no accounting separation between an ILEC's wholesale and retail divisions which would give more visibility into cross-subsidization, price squeeze, and the like. The term "cost accounting separation" is not addressed, as such, in either Federal or State telecommunications regulations. However, all telecommunications carriers are required to maintain financial records

pursuant to the Uniform System of Accounts (“USOA”) as specified in the Part 32 of the FCC’s Rules. The USOA is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results within a specified accounting period. The USOA also provides the financial community and others with financial performance results. ILECs are subject to one set of procedures (“Class A”) and competitive operators are subject to different set of procedures (“Class B”).

35. Is the methodology for accounting separation clearly specified (by law or elsewhere) and subject to consultation?

See the answer to question 34.

36. Are the accounts drawn in accordance with cost accounting separation published or otherwise made publicly available?

ILECs are required to file financial and operating data with the FCC on a regular basis. The data submitted is compiled in the FCC’s Automated Reporting Management Information System (“ARMIS”) database, managed by the FCC’s Accounting Safeguards Division and available at the FCC’s web site at <http://www.fcc.gov/wcb/armis/>. The ARMIS database includes a variety of mechanized company financial and infrastructure reports in addition to quality-of-service reports. However, the database does not separate wholesale accounting data from retail accounting data. Accordingly, its value to competitive carriers and third parties in assessing compliance with cost orientation and accounting separation is somewhat limited.

37. Do the separated accounts clearly show transfer charging arrangements between SMP products and all relevant downstream markets?

No. See the answer to question 34.

B.3 Non-discrimination and margin squeeze

38. Are there clear rules and a clear methodology (provided by law, your NRA, or elsewhere) on the interpretation and application of the non-discrimination obligation in an ex ante context? If so, please elaborate your response.

Sections 201 and 202 of the Communications Act prohibit common carriers from unreasonably discriminating and require that their rates be just and reasonable. Section 203 of the Communications Act requires common carriers to file tariffs that comply

with the section 201 and 202 requirements, and declares unlawful any tariff that does not so comply. However, the FCC has prohibited all competitive operators from filing tariffs and has presumptively declared all ILEC tariffs to be valid upon filing unless the FCC chooses to suspend and investigate that tariff within five days. In practice, the FCC rarely suspends a tariff, so as a practical matter, any enforcement of a non-discrimination requirement on ILECs is done on an ex-post basis in response to a complaint.

39. Are there clear rules and a clear methodology (whether provided by law, your NRA, or elsewhere) on the interpretation and application of the price squeeze test in an ex ante context? If so, please elaborate your response.

Although the FCC has the power to apply a price squeeze test and review tariffs based on allegations of discriminatory access, this is not an effective tool from the point of view of competitive carriers. There are no equivalent cost accounting separation requirements, so the FCC has limited visibility into the extent to which price squeeze may have occurred. Moreover, as the Commission removes more services of incumbent carriers from regulation, the Commission as well as third parties lose an important source of data to determine whether the incumbent is practicing anticompetitive, or predatory, price discrimination.

In principle, the incumbent must provide just and reasonable terms and conditions to the competitor for common carrier services that it chooses to provide. A competitive carrier that believes it has been discriminated against may file a complaint with the FCC's Enforcement Bureau. The Enforcement Bureau also has the authority to initiate its own investigations into anticompetitive behavior. However, the Enforcement Bureau—to COMPTTEL's knowledge—has never conducted an investigation on its own initiative. No COMPTTEL member has ever received a third party subpoena for information from the Enforcement Bureau. Unless the Enforcement Bureau issues an order or decision, it is impossible to know what investigations are carried out.

40. Have the rules and methodology for any price squeeze test as referred to above been published?

No.

41. Does the NRA have specific provisions to enforce non-discrimination on non-price terms, e.g., requirement for transparency of internal contracts, publication of internal SLAs, use of KPIs to identify differences in treatment?

No. It did in the past, but for the most part such rules have either been eliminated or expired (in the case of statutory provisions) in accordance with their terms. The FCC, however, has imposed performance metrics, as part of merger conditions, to compare the ILEC's performance in the provisioning of special access to its affiliates as compared with the incumbent's provisioning of special access to non-affiliates. However, these metrics are not publicly available.

B. 4 Rights of way and facility-sharing

42. Are there clear and non-discriminatory procedures in place enabling operators to apply for rights of way?

Yes. Section 214 of the Communications Act grants common carriers access to public rights of way. The Federal government, as well as State and local governments, charge for access to public rights of way under their jurisdiction. Governments have determined that commercial use of government property within their jurisdiction requires fair and equitable compensation. However, section 253 of the Communications Act prohibits State and local governments from imposing unreasonable or discriminatory charges for such access.

Telecommunications carriers must also pay for access to private rights of way, such as electric utility pole attachments. However, section 224 of the Communications Act requires utility companies to provide non-discriminatory access to their rights-of-way and grants the FCC authority to establish rates for access to poles and conduits.

43. In practice, is it possible to exercise these rights of way at a reasonable cost (e.g., financial charges imposed in relation to the use of the public domain for the roll-out of the networks)?

A recent report by the U.S. General Accountability Office⁵ expresses concerns with exercising rights relating to rights of way. The GAO Report notes that the cost of, and time involved in, obtaining rights of way can be increased by local government regulations, zoning requirements, extensive inquiries into planned construction activities and, demands of building owners for compensation

44. In practice, is it possible to exercise these rights of way in a reasonable timescale?

⁵ U.S. General Accountability Office, "Telecommunications: FCC Needs to Improve Its Ability to Monitor and Determine the Extent of Competition in Dedicated Access Services," GAO 07-80 (November 2006) at 27.

In general, yes, though competitors face hurdles that incumbents do not, particularly with respect to access to multi-dwelling units and office buildings. In many cases competitors have been unable to successfully offer competitive service due to delays in getting access to buildings. Some State utility commissions have sought to address the issue, but the FCC has so far declined to issue rules other than in the context of cable operator access to multi-dwelling units.

45. Is there an effective mechanism in place to appeal decisions on rights of way?

No. Carriers who feel they have been unfairly denied access to rights of way by municipalities or building owners must bring a case at either the FCC or a federal district court. Both methods of dispute resolution are very expensive, time-consuming, and uncertain.

B.5 Numbering

46. Is number portability available for fixed numbers? If so, is it available for all types of numbers (used for fixed services) or is it limited to geographic numbers?

Yes

47. Is mobile number portability available?

Yes

48. What is the average wholesale price for porting fixed numbers, if available (you may provide ranges if more convenient)?

Most carriers do not charge each other to port numbers.

49. What is the average wholesale price for porting mobile numbers, if available (you may provide ranges if more convenient)?

Most carriers do not charge each other to port numbers.

50. What proportion of fixed numbers were ported in 2005?

10.7%

51. What proportion of mobile numbers were ported in 2005?

7.6%

52. Are there any restrictions on the number ranges available for VoIP, e.g., no geographic numbers or requirement for PATS and ECS for geographic numbers?

Under the FCC's rules, only telecommunication providers may request resources from the numbering administrator. An AT&T affiliate, SBCIS, received a waiver of this requirement in 2005. We are not aware of whether any other VoIP provider has received such a waiver. VoIP providers generally get telephone numbers from LECs, usually in association with a retail telecom service such as a PRI trunk.

53. Is number portability available with local loop unbundling?

Yes

B.6 Frequencies

54. Has spectrum been granted in a technologically neutral fashion? If not, please explain.

Yes, the FCC allows licensees flexibility to decide what services to offer and what technologies to use in providing mobile services.

55. Are there rules on spectrum trading envisaged or in place?

Yes, mobile spectrum licensees are allowed to lease all or a portion of spectrum usage rights for varying lengths of time within the license term and over any geographic area encompassed by the license, subject to FCC approval, and depending on the rules regarding the spectrum in question.

C. Effectiveness of implementation

General Note on Interconnection: On December 15, 2004 the FCC approved its Triennial Review Remand Order, on remand from the U.S. Court of Appeals of the District of Columbia, governing access to unbundled network elements and other access products. Under the revised order, the FCC eliminated unbundled access to mass market circuit switching and the availability of the unbundled network element platform (“UNE-P”) and restricted access to unbundled DS1 and DS3 dedicated transport. The order set a 12 month transition for competitors losing access to mass market local switching and to unbundled DS1 and DS3 dedicated transport and an 18 month transition for those losing access to dark fiber transport.

General Note on Switched Access: Switched access has taken on increased significance with the proliferation of VoIP services. At issue is the compensation VoIP providers must pay to ILECs for originating and terminating traffic over the public switched telephone network. The extent to which switched access will be addressed in the FCC’s open proceeding on intercarrier compensation remains to be seen

C.1 Narrowband voice services

56. What is the level of the incumbent’s interconnection tariffs for call termination with interconnection at the local switch level?

Local call termination ranges from \$.0007 to \$.02 and averages \$.002. In-state access charge rates for toll traffic range from \$.003 to \$.05 and average \$.02 and interstate access charges range from \$.003 to \$.03, averaging \$.008. These ranges do not include unusual situations.

57. What is the level of the incumbent’s interconnection tariffs for call termination with interconnection at the single tandem switch level?

\$.01, which is the simple average of inter and intra state tandem routed call termination.

58. What is the level of the incumbent's interconnection tariffs for call termination with interconnection at the double tandem switch level?

Rates for traffic routed through a tandem switch to an end office for local call termination range from \$.0007 to \$.02 and average \$.004. In-state access charge rates range from \$.005 to \$.07 and average \$.025 and interstate rates range from \$.005 to \$.035 averaging \$.01. The ranges do not include unusual situations.

59. Are different termination costs taken into account for determining termination charges (e.g., higher costs for new entrants compared to established operators with a large inherited customer base)?

Yes. The averages cited above include all carriers. At the federal level (interstate traffic), the rates for new entrants must equal those for incumbents. Some state commissions have implemented similar rules, but most have not.

60. Is carrier selection and preselection implemented?

Yes. It has been mandated by the FCC for years on landline service. There is no regulation of toll carrier selection for mobile phone subscribers.

61. What proportion of customers use an alternative provider to the incumbent for direct access to telephone services (ie not relying on any part of the incumbent's access network)?

6% (or 10.687 million) of the approximately 172 million end-user switched access lines in service were provided by non-incumbent local exchange carriers using their own facilities, as of June 30, 2006. Of those 10.687 million lines, 5.969 million were operated by incumbent cable operators, who were able to build their facilities in a monopoly environment. Cable operators do not offer their facilities to other competitors on a ULL or wholesale basis. Another 7% (or 12.546 million) of the end-user switched access loops were provided by alternative providers using unbundled network elements (unbundled local loops) purchased from ILECs.

62. What is the market share (revenue) of alternative operators in the fixed voice market?

Of the 104.79 million residential access lines reported on June 30, 2006, alternative operators were reported to be providing 12.37 million of those lines, equivalent to 11.8%.

Of the 67.24 million business access lines reported on June 30, 2006, alternative operators were reported to be providing 17.41 million of those lines, equivalent to 25.9%.

63. Is wholesale line rental (WLR) available (on a commercial or regulatory basis)? What proportion of active incumbent fixed lines is wholesaled through WLR?

Yes. ILECs are required to offer local exchange services on a resale basis. About 4% (or 6.549 million) of the approximately 172 million end-user switched access lines in service, as of June 30, 2006, were provided by CLECs through resale from the incumbent operators.

64. What is the value of the retail price basket (i.e., average monthly expenditure) for residential customers?

The average residential expenditure in 2005 was \$46, of which local service comprised \$36 and long distance service \$8.

65. What is the value of the retail price basket (i.e., average monthly expenditure) for business customers?

The average business expenditure in 2005 was \$43.94 for local service only.

B.2 Mobile services

Questions 66 – 70 have not been scored due to incompatibility of the EU and U.S. charging principles for mobile termination. The answers recorded for these questions are for information purposes only.

66. What is the peak-rate fixed to mobile termination charge applied by the largest (in revenue) mobile operator in your country?

Mobile carriers are unable to charge toll carriers for termination of non-local calls (see below). Local calls are compensated at a range from \$.0007 to \$.02.

67. Is fixed to mobile termination subject to regulation? If so, please specify the regulatory conditions applied, e.g. price control, non-discrimination.

The answer to questions 67, 68 and 60 is “no” for long-distance (toll) traffic because wireless carriers are not permitted to file tariffs for access charges and thus are unable to assess access charges unless the originating landline carriers voluntarily contract to pay them, and they do not. By contrast, local mobile termination charges are subject to the FCC’s reciprocal compensation regime implementing Section 251 (b) (5) of the Communications Act, whereby an originating carrier (fixed or mobile) must compensate a terminating carrier for the use of the latter’s network to terminate local calls. Almost all of the mobile-to-mobile traffic is settled on a “bill and keep” basis involving no payments between carriers. Although some of the fixed-to-mobile and mobile-to-fixed local traffic is also settled on a “bill and keep” basis by agreement, much of the traffic involves AT&T, Verizon and Qwest and the rate for that traffic (either way) is \$.0007 a minute by FCC order. With smaller LECs, the reciprocal rate can be higher, but generally is no higher than \$.02 a minute. The amount of traffic settled at these higher rates is no more than 20 % of all reciprocal compensation traffic.

68. Is mobile to mobile termination subject to regulation? If so, please specify the regulatory conditions applied, e.g. price control, non-discrimination.

See answer to question 67.

69. Where price regulation is applied, are prices required to be cost-oriented? Has a glide-path been applied, and if so, at what date are prices projected to reflect the value arrived at as a result of the cost analysis?

See answer to question 67.

70. Where non-discrimination is applied to fixed to mobile and/or mobile to mobile offnet rates, is the mobile operator required to demonstrate that it is not discriminating with respect to its own ‘internal’ onnet rates?

See answer to question 67.

71. What are the market shares (by revenues) on the retail market of the 2 largest mobile operators?

We estimate Cingular (now AT&T) to have about 23% and Verizon Wireless to have about 24% of the retail wireless market by revenue. Cingular is wholly owned by AT&T, the largest fixed line telephone operator in the United States, and Verizon Wireless is majority owned by Verizon, the second largest fixed line operator in the United States (Vodafone is the minority shareholder).

72. What is the price of the basket for low users of mobile retail services?

\$30 for 200 minutes.

73. What is the price of the basket for average users of mobile retail services?

\$50 for 500 minutes.

74. Is one or more mobile virtual network operator ("MVNO") operational? If so, what is the MVNO market share of mobile revenues (or subscribers)? Is MVNO access subject to regulation?

Yes, there are more than 24 MVNOs operating in the United States, accounting for about six percent of all mobile phone subscribers as of the end of June 2005. The FCC does not regulate MVNO access.

C.3 Business services

75. What is the proportion of subscribers using an alternative (i.e., non incumbent) provider for direct access?

About 26% (or 17.409 million) of the 67.244 million business end-user switched access lines were served by competitive local exchange carriers (this figure includes carriers providing service through their own facilities, UNEs, and resale), as of June 30, 2006. Of this amount, no more than 4.7 million of those 17.4 million business end-user lines (7%) were provided over CLEC owned facilities (i.e., at least 12.7 million of those switched access lines were provided using UNEs or resale).

A recent GAO Report noted that, for dedicated access, facilities-based competitive alternatives are not widely available. Data on the presence of competitors in commercial buildings suggest that competitors are serving, on average, less than 6 percent of the buildings with demand for dedicated access in areas evaluated by the study. For buildings with higher levels of demand, 15 to 25

percent have competitive alternatives, depending on the level of demand. These numbers, however, overstate the true level of access market competition, as access is typically bought and sold on a customer-specific versus location-specific basis.

76. Are there any wholesale partial private line offers (“PPCs”) in your country?

Yes. PPCs or special access service offers are available from the ILECs and are tariffed services. Tariff rates, and terms and conditions vary from jurisdiction to jurisdiction, depending in part on the application of the telecommunications regulations of the state in which the services are offered. Many of these tariffs contain “individual case basis” language which gives the ILEC flexibility when pricing these services. ILECs employing the pricing flexibility model with regard to switched access services also have complete discretion in their master service agreements.

77. What is the price of set-up and monthly rental for a 2Mbit/s, 5km PPC?

The nearest equivalent to this is a special access DS-1 (1.544 Mbps) for a one mile length. The prices vary by carrier, geographic region, zone, term commitment and volume commitment. For example, under Verizon’s FCC Tariff No. 1 the recurring monthly charge for a one-mile special access line ranges from:

\$263 per month in rate zone 1 to
\$375 per month in price band 6

78. What is the price of set-up and monthly rental for a 34Mbit/s, 5km PPC?

For a DS-3 (44 Mbps) circuit of three miles, non-recurring set-up costs are about \$1500 and the recurring monthly rental is on average \$3500

79. Do the leased line wholesale and PPC products include a Service Level Agreement including delivery and restoration times and financial penalties for failure to meet targets?

Dedicated circuits purchased from competitive carriers routinely come with service level agreements, standards for performance, and often liquidated damages for failure to meet performance targets. On the other hand, the ILECs are “permissively” allowed to

file tariffs which limit their performance to best efforts and limit their financial liability as well. However, for the very high capacity circuits where the ILEC may occasionally face competition, the tariff terms are more favorable to the customer.

80. Is there a standard procedure for the migration from leased lines to PPCs?

To the best of COMPTTEL's knowledge, each ILEC publishes its own procedures for various types of "migrations." Some are merely migrations from one billing database to another, with the customer being served using the same ILEC circuit. Others are actual migrations from one carrier to another. The problem with these migrations is that while the procedures are fairly common, each large customer migration is a special project and the incumbent has no performance standards/measures/or penalties for poor performance. As a result, the incumbent has no incentive to accomplish a good or quick migration, because the new carrier is generally blamed for any service disruptions (and must compensate the customer) anyway.

81. Is a Wholesale Ethernet Service (WES) available? If not, is it under consideration by your NRA?

There is no requirement for incumbents to make this service available, and the FCC has not indicated any intention to require such service to be made available. The FCC's decisions to classify broadband Internet access services as an information service (including the underlying transport) makes it unlikely the FCC would undertake a proceeding to require wholesale Ethernet service. While some incumbents do make Ethernet service available to competitors, the service is not designed with prices, terms, and conditions that are particularly attractive to wholesale competitors. Nonetheless, competitive carriers increasingly need access to Ethernet service, but must buy it on uneconomic and inconvenient retail terms.

82. What is the price of a 2Mbits/s, 200km leased lines from the incumbent?

For a DS-1 (1.544 Mbs) circuit for 125 miles, the non-recurring set-up costs are about \$500 and the recurring monthly rental is on average \$2400.

83. What is the price of a 34Mbit/s, 200km leased line from the incumbent?

On average, between \$12,000 - \$14,000 per month.

C.4 Broadband

84. Is full local loop unbundling available?

Unbundling obligations vary by loop type, capacity levels and customer market. For example, the FCC does not require ILECs to provide unbundled access to their hybrid fiber-copper loops or loops that consist of fiber-to-the-home facilities for broadband services. Generally, requesting carriers can get access to whole copper loop for residential customers and access to the entire loop transmission functionality (transmission from customer premise to incumbent wire center, including fiber facilities) for commercial customers.

85. Is shared ULL access available?

The FCC reversed its prior decision in the *Line Sharing Order*, and no longer requires the high frequency portion of the loop to be separately unbundled. It also does not require the low frequency portion of the loop to be unbundled. If one competitor takes full local loop unbundling from the incumbent, the FCC's rules permit that competitor to provide shared access to that loop to another competitor. However, the incumbent is under no obligation to provide shared ULL access to competitors (i.e., the competitor must take the full loop or not at all).

86. What is the set-up and recurrent tariff charged for full ULL, (please provide annual charge for a two year period)?

Rates are set by State commissions and vary by state and zone. The following are indicative monthly rates for an unbundled local loop in different metropolitan areas:

Miami	\$8.30 per month
Seattle	\$11.26 per month
San Francisco	\$9.48 per month
New York City	\$7.70 to \$11.31 per month

87. What is the set-up and recurrent tariff charged for shared ULL access (please provide annual charge for a two year period)?

Because the FCC no longer mandates shared ULL access, such arrangements, if any, are covered by privately negotiated commercial agreements.

88. Are facilities associated to ULL, such as co-location and backhaul, required to be made available at cost-oriented rates? Has the NRA intervened to specify the rates and terms for the supply of these services?

Yes. Co-location for interconnection and access to ULL are required to be made available by the incumbent local exchange carrier at rates that are just, reasonable, and non-discriminatory. There are also cost based rules for transport (backhaul) associated with the provision of local exchange services. However, many transport services are not considered local exchange services. For example, all transport that terminates traffic outside a local exchange area, such as transport from cell sites for mobile carriers to regional or national networks is excluded and therefore not covered by the cost-oriented rules. In addition, the FCC has limited the availability of ULL in recent proceedings. Where ULL, associated co-location, and local transport are still available under the FCC rules, State commissions arbitrate disputes according to rules established by the FCC.

89. What is the number of unbundled lines and shared access as a percentage of total DSL lines?

As of June 30, 2006 non-ILECs reported providing approximately 4% of the approximately 23 million ADSL and SDSL lines served. Shared access was eliminated by the FCC, so the amount of shared access being provided, if any, is not known.

90. Do contracts for ULL and associated facilities include a SLA including delivery and restoration times and financial penalties for failure to meet targets?

There is no regulatory requirement to provide Service Level Agreements. An ILEC cannot provide service in an unreasonably discriminatory manner but this has never resulted in a requirement for the ILEC to meet certain service levels. If there are service levels, they are agreed upon as part of a commercial negotiation.

91. What connectivity options (according to ERG classification) are available for ADSL bitstream?

The FCC has eliminated any mandatory requirements for incumbent local exchange carriers to provide bitstream access (called UNE-P in the United States) of any type to competitors.

92. What percentage of DSL lines are provided by competitors on the basis of wholesale bitstream access as a proportion of total DSL lines (at wholesale level)?

As of June 30, 2006, there were 8.443 million UNE-P lines reported by incumbent local exchange carriers. However, these are legacy UNE-P (bitstream) lines that are being provided under contracts that are rapidly expiring and are not being renewed as the FCC has eliminated the requirement for incumbent local exchange carriers to provide UNE-P. The number of those remaining UNE-P lines used for DSL is not known.

93. Do the wholesale broadband products include a Service Level Agreement including delivery and restoration times and financial penalties for failure to meet targets?

No, not unless provided for in private commercial arrangements.

94. Is there a standard procedure for the migration from a resale ADSL offer to a bitstream offer to fully unbundled or shared loops?

No.

95. Is a price squeeze test applied by your NRA in relation to wholesale DSL products and LLU? If so, does your NRA apply the test across the whole value chain, e.g., between different wholesale products in addition to between wholesale and retail?

No.

96. What percentage of broadband lines are supplied end to end (i.e., without use of the incumbent's fixed network) by competitors (by alternative non-mobile access networks)?

As of June 30, 2006, there were 64,614,000 broadband access lines in the USA of which 50.5% (32,631,000) were provided by ILECs using exclusively their own facilities.

97. Is naked DSL available? If not, is it under consideration by your NRA?

The FCC has eliminated the requirements for ILECs to provide line sharing, and has also pre-empted any state commission requirements that an incumbent must provide DSL unbundled from voice services. In a few cases the FCC has accepted naked DSL as a voluntary and temporary commitment in merger proceedings. It is not considering a requirement to provide naked DSL at this time, nor it is it expected to do so in the future.