

**Bridging the Regulatory Gap in  
the Euro-Mediterranean Region  
GSR14**

**Regulatory Associations Meeting**

**Presentation of the report on “*Enforcement and  
Judicial review of the NRAs’ decisions*”**

Bahrain, June 2<sup>nd</sup> 2014

Antonio Preto  
Commissioner, AGCOM

# Intro

---

New technologies



New global challenges for regulators

Exchange of information and best practices

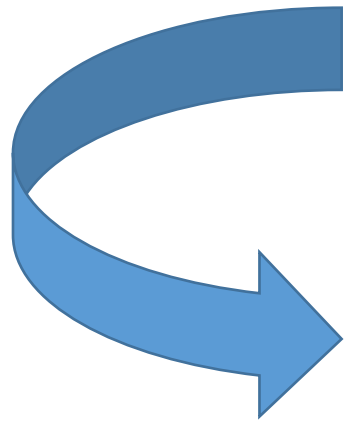


Beneficial to all parties

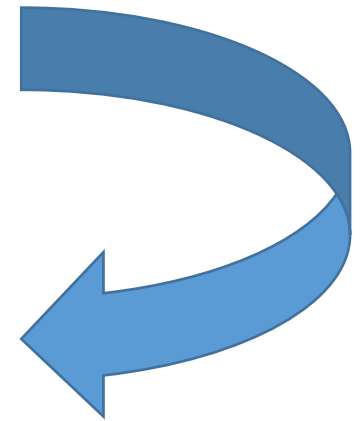
# The Report

---

- Findings of a questionnaire sent to all EMERG members
- Workshop in Brussels organized by EMERG and BEREC



- Comparing the instruments that NRAs may adopt in order to enforce their decisions
- Exploring to what extent the Judiciary power can intervene and overturn the NRAs' decisions



# Analysis 1. The enforcement powers

---

- EU regulatory framework requires effective enforcement systems to ensure compliance with the regulatory obligations resulting from the framework
- Multi-purpose system of enforcement:
  1. Protection of the rights of market players and consumers
  2. Effectiveness of the regulatory regime
  3. Efficiency of the enforcement and review process
- EU toolbox for NRAs:
  1. Participation mechanisms
  2. Remedies (sanctioning procedures and fines)
  3. Judicial review measures

# Findings 1. The enforcement powers

---

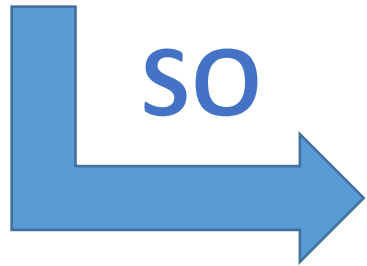
- The enforcement instruments available in the regulatory system of MENA countries differ from EU approach
- Some non-EU NRAs have to refer to the Tribunal in order to enforce their decisions
- Almost no MENA country has set out a secondary legislation identifying the steps for a sanctioning proceeding in order to grant transparency and participation
- Possible lack of trust on NRAs

# Analysis

## 2. Judicial review of NRAs' decisions

---

- EU Framework Directive states that EU members are required to ensure the effectiveness of the appeal mechanism, including the possibility to review the merits of a case



The appeal body must have appropriate expertise and, pending the outcome of an appeal, the NRAs' decision should stand unless the appeal body decides otherwise

# Findings 2. Judicial review of NRAs' decisions

---

- In MENA countries, in some cases the decision of a NRA could not enter into force before the last stage of appeal has been completed, differing from the European best practice
- Lack of expertise of the review Courts
- In many cases the appeal automatically suspends the enforcement of NRA's decision
- Not always all parties are allowed to stand and to intervene into an appeal
- Review proceedings often take too long

# Recommendations and Conclusions

---

- I. Enforcement power
- II. Secondary legislation
- III. Nature of review Court
- IV. Effectiveness of NRAs' decisions during appeal proceedings
- V. Standing and third party intervention
- VI. Length of proceedings



Thank you for your  
attention

Antonio Preto  
e-mail: [a.preto@agcom.it](mailto:a.preto@agcom.it)

