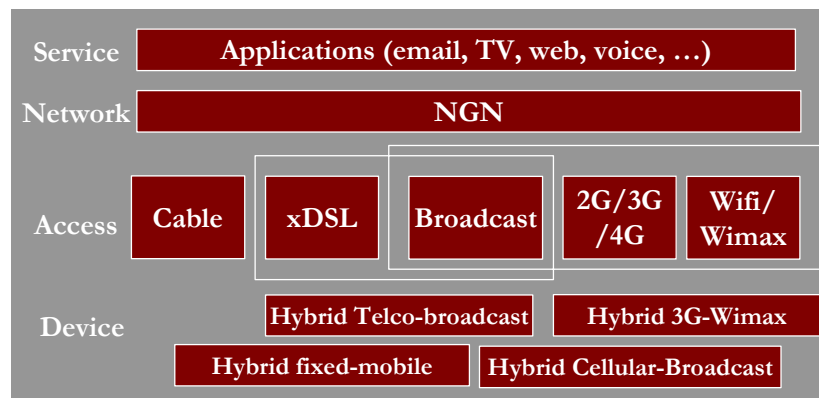


**INNOVATIVE REGULATORY APPROACHES IN A CONVERGENCE WORLD  
CONSIDERED AS ESSENTIAL TO STRENGTHEN THE FOUNDATION OF A  
GLOBAL INFORMATION SOCIETY**

Comisión del Mercado de las Telecomunicaciones (CMT, Spain)

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CMT agrees on the importance of convergence trends at several levels (network, service, terminals) as key drivers changing the competition paradigm in the electronic communication sector, affecting a wide range of players, including all kind of telecom operators (PSTN, OLOs, mobile, broadcasting), ISPs, content providers and final users.



In the CMT view, the role of the regulation authorities in the convergent world should be centred on promoting competition among market players, ensuring that the evolution towards convergent networks and services configures a dynamic market where the different players compete in an effective way.

CMT plays an active and proactive role in this arena, both in the national level, and in the international level. In the framework of the European Regulators Group (ERG), CMT chairs the Convergence Project Team (Convergence-PT) where, in collaboration with other European NRAs, the key aspects regarding the regulation of convergent services and markets is being analyzed and regulatory recommendations on these issues are drawn. As today, the Convergence-PT has addressed the following issues:

- Convergence: Challenges for regulators (ERG (08) 08rev1 Convergence Report for internal use)
- Fixed-Mobile Convergence: Implications on competition and regulatory aspects (document ERG (09) 06).
- Application of margin squeeze test to bundles (document ERG (09) 07).
- Regulatory practices on replicability of bundles (work in progress).

All the public documentation from ERG related with convergence issues can be found at the ERG website ([http://erg.ec.europa.eu/documents/docs/index\\_en.htm](http://erg.ec.europa.eu/documents/docs/index_en.htm)).

From the CMT point of view, the innovative regulatory approaches to be considered in a convergence world include the following points:

- **Convergent regulators** (Electronic Communication Services & Networks + Audiovisual contents): the convergent market evolution points to regulatory issues that should be addressed in a coordinated way from the ECSs point of view and the contents point of view. As an example, in Europe triple play offers (fixed voice + broadband Internet Access + pay TV) supported on IP networks are increasingly acquiring a relevant market share. In this case, access to premium contents as sports is a key competitive advantage for TV services, and operators enjoying exclusive access to these premium contents are in a position to extend its privileged position to other markets bundling TV services with other services. It should also be considered that pay TV services are evolving to be supported on IP fixed networks and cellular networks, raising regulatory issues related to both the audiovisual contents subsector and the ECSs subsector.
- **Addressing bundling potential anticompetitive practices:** The implementation of convergent networks is reinforcing the bundling practices trends. When operators enjoying a SMP position for a service bundles it with other services, there is a risk that the SMP operator of extending market power to other markets leveraging their dominance position based on margin squeeze practices or the inability of alternative operators to replicate SMP operator bundles due to the lack of network infrastructure or wholesale offer from SMP needed to full replicate the bundle. Regulatory agencies must develop and apply sound methodologies to analyse and prevent the potential negative impact of anticompetitive bundling practices, as well as to apply effective and proportionate remedies to enable the development of convergent bundled services while promoting competition among market players.
- **Flexible models on spectrum assignment and use:** CMT considers that spectrum management is a key issue for strengthen competition on wireless convergent services. Convergent wireless services development needs more spectrum availability for different type of operators (specially in wireless data services) that should be assign and managed in a flexible and dynamic way.
- **Fixed-mobile convergence:** the recent developments on wireless technologies (evolution to mobile IP networks based on 3G/4G, WiMax, 802.11n, femtocells, etc.) enable new convergent services combining traditional fixed telephony with mobile telephony. Regulatory issues on obligations for fixed-like telephony provided on top of wireless networks, as well as numbering for these services are relevant topics to be addressed.

- **New Generation Networks:** NGNs supporting multiple services and decoupling transport and service management aspects, are at the core of the new convergent panorama. The NGN concept allows for multi-vendor and (possibly) multi-operator environments making functional interoperability on the various levels a key issue. As stated in the ERG Common Statement on Regulatory Principles of IP-IC/NGN (ERG (08) 26 final NGN IP-IC CS 081016), the evolution to NGN core networks raise important regulatory questions on interconnection points at both transport and service layers, QoS aspects, charging mechanisms, etc.
- **Numbering resources access and portability:** E.164 numbering use is a key aspect in the evolution from PSTN traditional telephony services to IP-based services. VoIP services in their different flavours should benefit from a flexible scheme and simple procedures to use E.164 numbers to be used not only at a national level, but also at an international coordinated level. In order to allow a effective market entry for new players, flexible and fast portability models are also a key issue related to convergence market evolution.
- **Network neutrality:** The debate on network neutrality is intimately related with convergence trends. Application providers operating on top of the Internet are innovative actors for the development of new convergent services that should not be restricted by limitations imposed by traditional telecommunication operators not justified in sound reasons. Although by now network neutrality issues have not been relevant in the market dynamics, in the future regulatory agencies must develop the adequate provisions both in the fixed and the mobile Internet access services regarding network neutrality.

CMT is especially interested in collaborating with ITU in the aspects related with regulation issues regarding bundles of services. In this topic, CMT applies a comprehensive and proven methodology for analysing bundles offers from the SMP operator<sup>1</sup>, and, as told before, is directly involved in the ERG work in convergence issues, being the work and conclusions drawn till now focused on these bundling regulation issues. CMT will be pleased to present and share our experience and conclusions in the 2009 GSR.

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<sup>1</sup> Document available at

[http://www.cmt.es/cmt\\_ptl\\_ext/LanguageChange.do?tipo=pdf&detalles=090027198004cc22&nav=busqueda\\_resolucion\\_es&hcomboAnio=2007&hcomboMes=7&sesion=0&pagina=2&categoria=todas](http://www.cmt.es/cmt_ptl_ext/LanguageChange.do?tipo=pdf&detalles=090027198004cc22&nav=busqueda_resolucion_es&hcomboAnio=2007&hcomboMes=7&sesion=0&pagina=2&categoria=todas)