Communications

OECD Publishes Paper on Sub-National Regulation of Telecommunications

The Organisation for Economic Co-operation and Development (OECD) has published a paper titled, Geographically Segmented Regulation of Telecommunications. The paper appraises the case for, and developments in, the use of sub-national geographically segmented regulation for fixed telecommunications networks. This contrasts with the approach typically employed by regulatory authorities in most OECD countries, where the geographic scope of the telecommunications market is considered to be national.

OECD Releases Broadband Data for December 2009

The OECD has released a range of broadband-related statistics for 2009, organised into five main categories. The categories are broadband penetration, usage, coverage, prices, and services and speeds. The data show that there were 283 million broadband subscriptions in the OECD area in December 2009, and that the average penetration rate across the OECD has increased to 23.3 subscriptions per 100 inhabitants from 22.8 in June 2009.

Energy

Europe

UK: DECC Publishes UK Energy Statistics

The Department of Energy and Climate Change has published the Digest of United Kingdom Energy Statistics 2010 and a number of other annual statistical publications. The Digest provides comprehensive data for 2009 and an account of trends in energy supply and demand in the United Kingdom. The accompanying documents on UK energy are: the 2010 energy industry brief, 2010 sector indicators report, energy consumption trends report, and the 2009 energy flow chart.

UK: Ofgem Releases Report on the Second Year of the Carbon Emissions Reduction Target

The Ofgem has released its annual report to the Secretary of State for Energy and Climate Change on the Carbon Emissions Reduction Target 2008-11 (CERT). The CERT is the main legislative driver for improving the energy efficiency of existing households in Great Britain. The report reviews the second year of the CERT, and it found that by the end of the second year, suppliers had delivered about 80 per cent of the CERT target.
Groceries

Europe

UK: BIS to Appoint Groceries Code Adjudicator

The UK Department for Business, Innovation and Skills (BIS) will be bringing forward new legislation in order to create a Groceries Code Adjudicator (GCA), which will monitor and enforce the Groceries Supply Code of Practice (GSCOP). This follows a recommendation by the CC after its 2008 investigation into the supply of groceries in the UK, where it argued that the power of large supermarkets was having an adverse impact on suppliers and consumers. The GCA, which will reside within the Office of Fair Trading (OFT), will have the power to receive complaints about the way supermarkets interact with their primary suppliers from anyone in the supply chain at home or overseas, and deal with them anonymously.

Rail

Europe

UK: ORR Publishes National Rail Trends Yearbook for 2009-10

The UK Office of Rail Regulation (ORR) has published its national trends yearbook for 2009-10. The yearbook highlights a range of the latest rail statistics on areas including punctuality, rail usage and complaints.

Americas

US: STB Issues Report to Congress Regarding the URCS

The Surface Transportation Board (STB) has issued its report to congress regarding options for updating the general purpose costing methodology, the Uniform Rail Costing System (UCRS). This follows a direction from the Senate Committee on Appropriations, in August 2009.

INTERNATIONAL REGULATORY REVIEWS

Communications

Americas

US: FCC Seeks Public Input for Next Broadband Deployment Report

The Federal Communications Commission (FCC) has issued a Notice of Inquiry (NOI) to gather data and information for its annual report on whether broadband is being deployed to all Americans in a reasonable and timely fashion, as required under the Telecommunications Act of 1996. If it is not, the FCC is required to take immediate action to accelerate deployment of broadband by removing barriers to infrastructure investment and by promoting competition in the telecommunications market. The deadline for submissions on the NOI is 7 September 2010.

US: FCC to Remove Regulatory Barriers to Microwave Spectrum

In a Notice of Proposed Rulemaking (NPRM), the FCC has proposed to remove regulatory barriers to the use of microwave spectrum for wireless backhaul, as recommended in the National Broadband Plan. By doing so, the FCC will help to increase deployment of fourth-generation (4G) mobile broadband networks by enabling more flexible, cost-effective, and high-capacity microwave services. The NPRM explores ways to increase the flexibility, capacity and cost-effectiveness of the microwave bands below 13 gigahertz, while protecting incumbent licensees in these bands. The FCC is also requesting submissions on how it can reduce wireless backhaul costs and increase investment in broadband deployment. The deadline for submissions is early October 2010.
Europe

France: Autorité Issues Opinion on Mobile Telephony Market

The Autorité de la Concurrence has issued an opinion (in French) relating to regulation of the wholesale call termination market on mobile networks at the request of the French telecommunications and post regulator, the Autorité de Régulation des Communications Electroniques et des Postes (ARCEP). The opinion forms part of the process by which the ARCEP determines those markets in which it will impose ex ante regulatory obligations on operators, in this case, for the 2011-2013 period. The Autorité agrees with the ARCEP’s proposal to continue regulating wholesale call termination markets, and supports continuing reductions of mobile call termination charges on mobile networks. The Autorité also invites the ARCEP to pursue its efforts to increase competition in mobile telecommunications through the development of full Mobile Virtual Network Operators (MVNOs).

UK: Ofcom Consults on Regulation of KCOM in Hull Area

The Ofcom has published a consultation aimed at addressing communications provider KCOM’s Significant Market Power (SMP) in all narrowband retail markets in the Hull area, which was identified during the 2009 review of the retail narrowband telephony markets. The Ofcom proposes to allow KCOM to bundle broadband, landline and other services, in a way that is similar to packages offered by other communications providers throughout the rest of the UK. This consultation also sets out KCOM’s proposed methodology for setting bundle prices. The deadline for submissions is 2 September 2010.

UK: Ofcom Refers Pay TV Movies Investigation to Competition Commission

The Ofcom has decided to refer the supply and acquisition of certain pay-TV movie rights and the supply and acquisition of pay-TV packages, including certain movie channels, to the UK Competition Commission (CC) for investigation. This decision follows a three-year study by the Ofcom into the pay-TV market. The CC will now carry out its own investigation to see if there are any features relating to the supply and acquisition of those rights and products which prevent, restrict or distort competition and, if so, what action might be taken to remedy them. The CC is required to report by 3 August 2012, although it will aim to complete the investigation in a shorter period. The deadline for submissions to the CC is 18 August 2010.

Oceania

NZ: NZCC Announces Indicative Process for Regulation of Mobile Termination Rates

The New Zealand Commerce Commission (NZCC) has announced its indicative process for determining mobile termination rates, following the announcement by the Minister for Communications and Information Technology, that he has accepted the NZCC’s recommendation to regulate the mobile termination access service (MTAS). The Minister’s decision is expected to take effect in September 2010. Once the necessary legislative changes come into force, the NZCC expects to commence a standard terms development process for MTAS.

NZ: NZCC Releases Draft Review of Unbundled Local Loop Backhaul Services

The NZCC has released a draft report on its review of where Telecom faces competition in the provision of backhaul services for the unbundled copper local loop, and thus where regulation may no longer be required. The draft report concludes that Telecom faces competition
on two of the links that were reviewed. Thus on those links, regulation will be removed. The draft review decision also assesses another 25 links for the first time, and on all of these links the NZCC found no evidence that Telecom is subject to competition and thus these links will be available as regulated backhaul services. The deadline for submissions is 13 August 2010.

**Energy**

**Europe**

**ERGEG Launches Public Consultation on the Assessment of CAM and CMP for Effective Access to Storage**

The regulatory framework for access to storage in gas markets will change with the Third Package coming into force in March 2011. Thus, the European Regulators’ Group for Electricity and Gas (ERGEG) has launched a public consultation on *Assessment of CAM and CMP for Effective Access to Storage and the Proposals for Amendment of GGPSSO*. The consultation document presents different proposals for capacity allocation mechanisms and congestion management procedures and discussion of how the proposal should be incorporated in the Guidelines of Good Practice of Storage System Operators. The ERGEG seeks comment on a number of specific issues related to the scope and applicability of these proposals. The deadline for submissions is 9 October 2010.

**France: CRE Publishes Consultation on Natural Gas Transmission Network Access Conditions**

The French energy regulator, Commission de Régulation de l’Energie (CRE), has published a public consultation paper on natural gas transmission network access conditions. The paper aims at collecting stakeholders' opinions on the work carried out by Concertation Gaz - the joint consultation process chaired by the two French gas transmission network operators, GRTgaz and TIGF, in preparation for the CRE’s next tariff proposal which is due in October 2010 with effect from 1 April 2011. The deadline for submissions is 6 September 2010.

**UK: Utility Regulator and CER Launch SEMO Price Control Consultation**

The Northern Ireland Authority for Utility Regulation (Utility Regulator) and the Commission for Energy Regulation (CER) have published consultation proposals on the revenue that SEMO (Single Electricity Market Operator) should be allowed to recover from market operator’s charges over the period October 2010 to September 2013, to cover its costs as the Wholesale Energy Market Operator. The consultation paper includes proposals on the form of SEMO regulation, the allowed revenue for SEMO and all associated tariffs. The deadline for submissions is 3 September 2010. A decision paper on this issue is due to be published by the Utility Regulator and the CER in late September 2010.

**UK: Utility Regulator Publishes Consultation on EC Gas Regulation**

The Utility Regulator has released a consultation paper on the ‘relevant points’ of a gas transmission system for the purposes of Article 6(4) Gas Regulation (EC) No 1775/2005 (the Article). The Article requires national authorities to approve, after consultation, the ‘relevant points’ of a transmission system for which certain information must be published. Currently, Northern Ireland’s transmission system operators publish information for a number of points on the network, in line with the requirements of the Regulation. However, the Utility Regulator has not formally designated these points as ‘relevant points’. It now proposes to do so as well as designating Gormanston on the South-North pipeline as a relevant point. The deadline for submissions is 3 September 2010.
UK: Ofgem Assesses Wholesale Electricity Market Liquidity

The Ofgem has issued a consultation document setting out a framework for assessing the liquidity of Great Britain’s wholesale electricity market. It follows a consultation document in February 2010 which identified a number of problems with market liquidity. This document sets out an assessment framework tailored to the areas of concern identified in the February consultation, and then examines market performance, as of summer 2010. The Ofgem’s assessment of the market shows that liquidity for short-term and medium-term products meets the needs of most market participants. However, it found weaknesses in longer-term liquidity and that price transparency has not improved. Consequently, independent market participants can find it difficult to hedge their customers’ demand or generation output over a longer period. The Ofgem is therefore developing potential regulatory interventions that could be put in place if the performance of the market in this area does not improve. The Ofgem will conduct a further assessment toward the end of the year to judge whether industry initiatives are addressing the issues identified. The deadline for submissions on the current consultation is 10 September 2010.

UK: Ofgem Consults on Gas Distribution Price Control Review 2

The Ofgem has issued an open letter to stakeholders setting out the key issues and overall timetable for Gas Distribution Price Control Review 2. The letter sets out the Ofgem’s thoughts on: the key issues for the review, the outputs the companies should deliver over the next price-control period and how the Ofgem proposes to develop output measures, the approach the Ofgem proposes to take to stakeholder engagement, the high-level timetable for the review, and how it will apply the principle of proportionate treatment. The deadline for submissions is 30 September 2010.

UK: Ofgem Consults on the Certification of Transmission System Operators under the Third Package

The Ofgem has released a consultation document seeking views on the new requirement under the European Third Package of energy legislation for Great Britain's gas and electricity transmission networks to unbundle from gas production, electricity generation and supply interests. If the Ofgem is designated as the national regulatory authority it will be required to certify transmission system operators as being in compliance with the full ownership unbundling requirements or one of the alternative unbundling models set out in the Third Package. The Ofgem must have certified all transmission system operators as being in compliance by March 2012. This consultation seeks views on the arrangements of the transmission system operators and their compliance with the unbundling requirements. The deadline for submissions is 23 September 2010.

UK: Ofgem Invites Submissions on its Corporate Strategy for 2011-16

The Ofgem has published an open letter inviting submissions on its five-year strategy for 2011-2016. The letter discusses the future strategy and priorities for the Ofgem, and summarises its major accomplishments over the past year. The deadline for submissions is 17 September 2010.

UK: Ofgem Issues Update Letter Regarding the Review of its Procedure for Determining Disputes

The Ofgem has issued a letter setting out its decision to amend the procedure for determining disputes and provide an update on the associated review. The Ofgem hopes that the amended procedure will streamline the dispute-resolution process, assist parties and encourage them, wherever possible, to resolve matters amongst themselves. The letter also announces the Ofgem’s intention to consult in September.
2010 on the principles and approach that will be applied when deciding to recover some determination costs from parties.

**UK: Ofgem Publishes Consultation on Advancing TPCR5**

The Ofgem has published an open letter consultation setting out its thinking on key areas for taking forward Transmission Price Control Review 5 (TPCR5). The letter highlights key issues, the proposed approach for developing outputs, guidance on business plans, key elements of stakeholder engagement, and a high-level timetable for the review. The deadline for submissions is 30 September 2010.

**Oceania**

**NZ: NZCC Releases Starting Price Adjustment Consultation Paper**

The NZCC has released a consultation paper on its proposed framework for making ‘starting price adjustments’ under a default price-quality path applied to regulated electricity distribution businesses and to gas pipeline businesses. The NZCC is required to set starting prices for each supplier at the beginning of a regulatory period to establish the cap on its prices or revenues. The consultation paper sets out a proposed framework for making starting price adjustments and the components of that framework, including the determination of those components. The paper also discusses the proposed treatment of certain efficiencies in the context of the starting price, including those arising from merger or acquisition. The deadline for submissions is 10 September 2010.

**Rail**

**Americas**

**Canada: CTA Consults on Limited Distribution Tariffs**

Under the Canada Transportation Act, shippers can only move commodities by rail under public tariffs or confidential contracts. However, the Canadian Transport Agency (CTA) is aware that a hybrid mechanism, limited distribution tariffs (LDTs), has emerged. Thus the CTA has issued a letter that explains that, in order to gain a better understanding of the current and future use of LDTs and the role they are playing in the marketplace, the CTA will consult on the use and forms of LDTs and whether their use is permitted within the current regulatory regime.

**Europe**

**UK: ORR Consults on Stations and Depots Criteria and Procedures**

The Office of Rail Regulation (ORR) has launched a consultation on its ‘criteria and procedures’ documents for stations and depots access. The purpose of the documents is to set out the criteria and procedures the ORR will follow in dealing with station and depot access. The documents collate and update the various existing policy and guidance documents, clarifying the requirements of station and depot access applicants, and the role of the ORR. The deadline for submissions is 29 October 2010.

**Water**

**UK: Competition Commission Confirms Small Price Rise for Bristol Water**

The UK CC has issued its final determination to the Ofwat, confirming that Bristol Water plc can make a small increase in the prices it charges its customers above the five-year price limits
previously set by the Ofwat. The Ofwat referred an appeal from Bristol Water to the CC in February 2010, following Bristol Water’s rejection of the Ofwat’s final determination on price limits for the period 2010 to 2015. The Ofwat will publish the CC’s final determination at a later date.

AUSTRALIAN REGULATORY REVIEWS

Energy

AEMC Publishes Final Report for the Review of the Effectiveness of NEM Security and Reliability Arrangements in light of Extreme Weather Events

The Australian Energy Market Commission (AEMC) has published the final report for the Review of the Effectiveness of National Electricity Market (NEM) Security and Reliability Arrangements in light of Extreme Weather Events to the Ministerial Council on Energy (MCE), in accordance with the revised MCE terms of reference for the review. The final report was provided to the MCE on 31 May 2010.

AEMC Publishes First Draft Report for the ACT Retail Review

The AEMC has published its first draft report for the ACT Retail Review, in accordance with the Ministerial Council on Energy (MCE) request for advice. The AEMC’s draft finding is that competition in the ACT electricity retail market is not effective. The deadline for submissions on the draft report is 27 August 2010.

AEMC Publishes Issues Paper for the Review of the Reliability and Emergency Reserve Trader (RERT)

The Reliability Panel of the AEMC has published an issues paper for the Review of the Reliability and Emergency Reserve Trader (RERT) for consultation. The deadline for submissions on the issues paper is 17 September 2010.

Rail

ACCC Grants Interim Approval to Wiggins Island Coal Producers

The Australian Competition and Consumer Commission (ACCC) has granted interim authorisation to allow various coal producers to commence collective negotiations with QR Network for access to its Moura and Blackwater rail systems. Access to these systems is necessary to transport coal to the new Wiggins Island Coal Export Terminal to be built in the Port of Gladstone, Queensland. This decision allows producers and QR Network to accelerate current negotiations to secure rail capacity, which is also likely to facilitate the timely construction of the new terminal. Interim authorisation is granted in relation to stage one negotiations only and is conditional upon any access agreement entered into containing a condition precedent that final authorisation be granted by the ACCC.