

Market Analysis and SMP designation in Albania

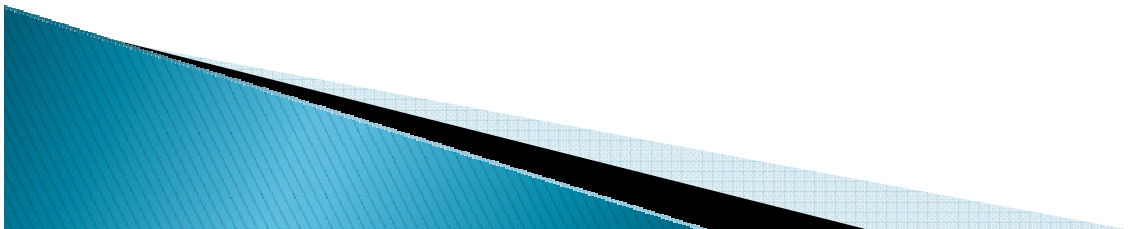
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**TAIEX Workshop on new market analyses organisation: Broadband Access on
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I. SMP and Market Analysis: Old Law

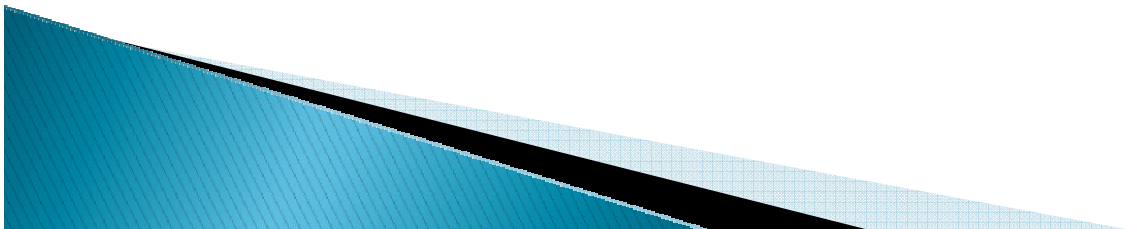
- SMP Designation (acquis 1998): *25% market share threshold.*
- TRE (former AKEP) *Regulation for SMP designation* date 16.09.2005, sets out the definition, procedure and criteria to be used for SMP designation:
 - - Market analysis shall be used for SMP designation in the relevant market
 - - Inclusion of a Consultation period with the operators
 - - Decision on SMP taken after the consultation period
 - - Criteria to be used for SMP take into account the 2002 EC directives
- - Based on the old law and regulation TRE has concluded market analysis for mobile sector (2006 and 2007) and fixed market (retail plus interconnection) in 2007.

SMP designation of Mobile Operators 2006–2007

- ▶ TRE has concluded the second market analysis procedure in 2007.
- ▶ Public Consultation: 18.06.2007–18.07.2007
- ▶ Relevant markets:
 - Wholesale level: Mobile call termination on individual mobile networks
 - Retail level: Publicly available mobile services
- ▶ September 2007, SMP decision: Vodafone Albania and AMC
- ▶ TRE Decision, market analysis (draft and final with answers to comments) available at TRE website:
www.ert.gov.al

SMP designation of fixed incumbent: 2007

- ▶ 14th of August – 28th of September: Market analysis Public Consultation
- ▶ Relevant markets:
 - Retail:
 - Access to the public telephone network at a fixed location
 - Publicly available telephone services provided at a fixed location
 - Wholesale
 - Call termination on individual fixed network
 - Call origination on all fixed networks
 - National transit on fixed networks
 - International transit on fixed networks
- ▶ November TRE SMP Decision: Fixed incumbent – Albtelecom
- ▶ TRE Decision, market analysis (draft and final with answers to comments) available at TRE website: www.ert.gov.al



Remedies

- ▶ SMP obligations set out in the primary law: no selection process
- ▶ Transparency, non-discrimination: Publication of RIO (Access and Interconnection regulation);
- ▶ Tariff Control: Tariff Regulation Methodologies for interconnection and retail tariffs
- ▶ Cost Orientation: for Interconnection services, BU LRAIC projects (int. consultancy) starting next week

Appeals

- ▶ Administrative Appeal: decisions taken to the AKEP Steering Board
 - Decision is suspended until a Steering Board decision on appeal
- ▶ Court appeal: decisions taken to first instance court
 - Decisions are not automatically suspended. Court has the right for suspension (intermediate decisions)
- ▶ Mobile Operators have appealed SMP decisions and tariff regulation methodologies
 - SMP decisions: AKEP has won the cases
 - Tariff regulation methodologies: cases in process

II. New primary legislation

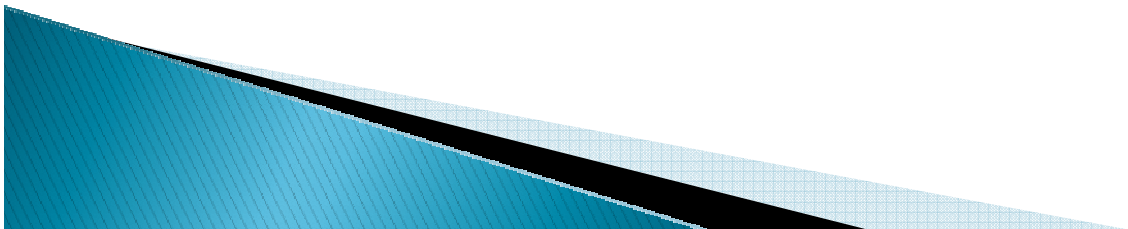
- ▶ Law 9918, date 19.05.2008 „On Electronic Communications“ in force since June 26, 2008, is consistent with EU 2003 regulatory framework.
- ▶ CHAPTER VI, REGULATION OF COMPETITION:
 - Market Definition
 - Market analysis procedure
 - SMP criteria
 - Remedies/obligations for SMP
 - Access/interconnection

SMP and New Law

- Market Analysis procedure for SMP
- Markets definition, their analysis and SMP designation is done by AKEP on the basis of a regulationand in compliance with EU relevant recommendations, periodically, but not less than every two years.
- SMP criteria, single and joint dominance: market share, market concentration, countervailing buying power, economies of scale and scope, pricing etc.
- SMP obligations/market remedies: details of obligations, selection of remedies from AKEP (at least one for SMP):
 - No SMP: previous obligations on SMP to be removed within 6 months
- Public consultation: minimum 2 months for Market Analysis (any other consultation at least 1 month)

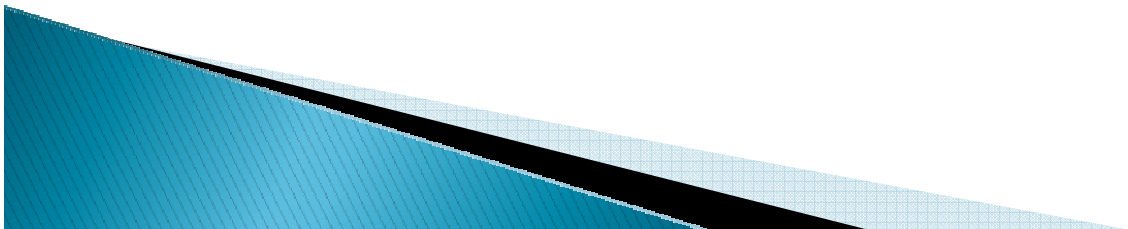
Cooperation with Competition Authority

- ▶ Law provisions:
 - In the process of market definitions and their analysis, AKEP shall cooperate with the Competition Authority....
 - AKEP and the Competition Authority shall exchange the necessary information...
- ▶ AKEP and CA have a MoU, that is under the process of amendmend.



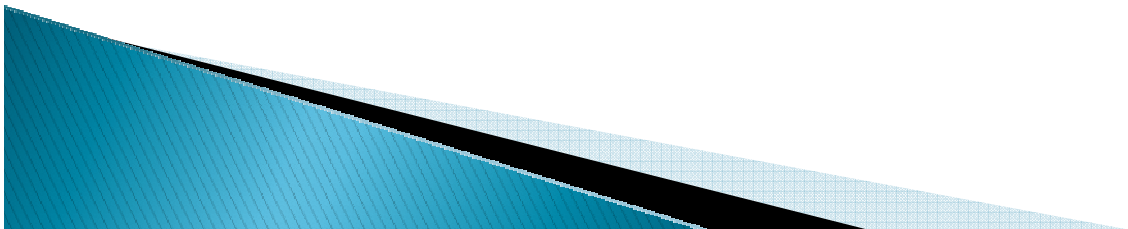
III. Regulation on Market Analysis

- ▶ AKEP Draft Regulation on Market Analysis:
 - Short and simple
 - Relevant markets: 17 markets from EC Feb 2003 Rec. plus retail Mobile
 - Market not part of EC Rec. 2007: application of three criteria test in the market analysis document (if criterias not met: no market analysis for SMP and no remedies)
 - Criteria for SMP: Primary Law plus reference to EC Guidelines on Market Analysis (2002/C 165/03)



Next market Analysis

- ▶ Leased line and broadband markets analysis to be published this month
 - Problems with data collection: quality and quantity
 - Round table before publication
- ▶ Next Round of mobile and Fixed (retail&Interconnection) markets to be concluded within 2009:
 - expiry dates for previous SMP decisions: September and November 2009



IV. Experience from MA

- ▶ Regulation and market analysis: economics, technical and legal knowledge
- ▶ At the end: decisions are legal instruments that are usually taken to court
 - Courts deal more with procedures rather than content of MA
- ▶ Data collection: problems from alternative operators
- ▶ Public consultations: limited feedback/comments from Alternative operators
- ▶ Market Analysis under the old law: Very good experience and helpful for new law procedures

Thank You for your attention

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