

**Public consultation on draft IRG Principles of
Implementation and Best Practice (PIBs)
regarding the application of Retail Minus pricing
methodologies.**

30 November 2005

1. Introduction

Article (7) and 8(3)d of the Framework Directive¹ require the NRAs and the Commission to cooperate in a transparent manner on the consistent application of the provision of the new regulatory framework for electronic communications networks and services and, in particular, to seek agreement on the instruments and remedies best suited to address specific types of situations in the market place or, to ensure the development of consistent regulatory practice and application of the regulatory framework.

In line with this obligation to promote a consistent regulatory approach, the IRG has prepared a draft document on Principles of implementation and best practice (PIBs) regarding the application of Retail Minus pricing methodologies as a remedy (according to Art. 13 AD) for operators designated as having SMP in wholesale markets and providing, at the same time, retail services that use those wholesale products as inputs.

The IRG is publishing this draft document for comments prior to finalising the PIBs. The final version of the document may differ from the present one and will take account of the submissions received where appropriate.

In order to ensure the maximum transparency of the process involved, interested parties are hereby invited to submit their views in electronic form, before close of business on the 27 of December 2005, to the following addresses:

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|--------------------|-------------------|--|
| - Alberta Corona | (AGCOM) | a.corona@agcom.it |
| - Marco Gatti | (BAKOM) | Marco.Gatti@bakom.admin.ch |
| - Annegret Groebel | (IRG Secretariat) | Annegret.Groebel@BnetzA.de |

Comments will be made available to the IRG members and unless marked as confidential, will be published on the IRG website (<http://irgis.anacom.pt>). Comments should preferably be sent in English.

2. Structure of the draft document

The draft document is comprised of the following main sections:

- Introduction
- Definition of retail minus
- Determining the retail price, calculating the minus and other implementation issues
- Issues relating to cost accounting & accounting separation

¹ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.4.2002, p.33

3. Areas where submissions are particularly invited

In order to focus responses the ERG would particularly welcome views on the following:

Definition of the RM the PIBs

- Do you agree on the definition of the retail minus methodology as set out in section 3 of the draft document or do you think that it should be expanded/reduced? If so, please provide details.

Determining the Retail Price and Calculating the Minus

- Do you agree with a Retail Minus price calculated by subtracting from the retail price the costs saved by serving OAU's on a wholesale basis, rather than servicing retail customers, and adding any extra costs incurred by providing OAU's with the relevant products/services?
- Do you agree with the indicative list of issues identified in Section 4 which needs to be considered when setting a price control based on Retail Minus? In your opinion are there other issues which need to be considered when setting a price control based on Retail Minus? If yes, please elaborate on your response.
- Do you think that the methodology set out in the draft document provides sufficient practical guidance on how to implement a retail minus remedy for SMP operators? If not, please highlight the areas where you would wish to see more guidance provided and why.
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Issues relating to Cost Accounting and Accounting Separation

- Do you agree on the fact that a Retail minus price control may be supported by an obligation of accounting separation and cost accounting systems?

4. Other comments

Please provide a concise description of any other issues that you believe the document should address or a critique of any other aspects of the document that you consider relevant. In doing so please refer to actual or potential problems encountered in electronic communications markets, as well as to any relevant case law and/or other precedents.