

EVALUATION AND FITNESS CHECK (FC) ROADMAP			
TITLE OF THE EVALUATION/FC	Review of the Recommendation on fixed and mobile termination rates		
LEAD DG RESPONSIBLE UNIT	DG CNECT – B3	DATE OF THIS ROADMAP	19/04/2016
TYPE OF EVALUATION	Evaluation (review of a recommendation)	PLANNED START DATE	Q4 / 2015
	Final	PLANNED COMPLETION DATE	Q3/ 2017
	Mixed	PLANNING CALENDAR	<a href="http://ec.europa.eu/smart-regulation/evaluation/index_en.htm">http://ec.europa.eu/smart-regulation/evaluation/index_en.htm</a>
<b>This indicative roadmap is provided for information purposes only and is subject to change.</b>			

A. Purpose
(A.1) Purpose
The evaluation will examine whether the National regulators have implemented the Termination Rates Recommendation (TRR) in a consistent way. It will also assess the impact the recommendation had on termination markets in the EU. The evaluation findings and recommendations will be the basis for assessing whether the Commission should take alternative or complementary action better suited to the present situation than the existing Recommendation, in order to best achieve the policy objectives of the regulatory framework for electronic communications networks and services.
(A.2) Justification
The Commission Recommendation (2009/396/EC) of 9 May 2009 on the regulatory treatment of fixed and mobile termination rates in the EU includes a review clause specifying that it will be reviewed no later than four years after its date of application. As the Recommendation also states that termination rates calculated according to the recommended approach should be implemented by 31 December 2012, it follows that the Recommendation should be reviewed no later than 31 December 2016.

B. Content and subject of the evaluation
(B.1) Subject area
Regulating the telecommunications markets, such as the markets for termination of voice calls on fixed and mobile telecoms networks, falls under the responsibility of National Regulatory Authorities (NRAs). National draft regulatory measures are scrutinised by the Commission (in accordance with Article 7 of the Framework Directive) to ensure the consistent application of the EU Regulatory Framework.
(B.2) Original objectives of the intervention
The objective of the TRR was to increase consistency across EU countries in the way NRAs set price caps for termination rates in order to reduce both the termination rates across the EU and the discrepancies between the rates for each fixed and mobile network. The TRR should thus serve to promote efficiency and sustainable competition, and maximise consumer benefits, in line with Art.13 (2) of the Access Directive.
(B.3) How the objectives were to be achieved
By recommending the use of a specific costing methodology, i.e. a "pure BU-LRIC model" (Bottom-up long-run incremental costs) rather than alternative methods.

## C. Scope of the evaluation/FC

### (C.1) Topics covered

The evaluation will cover the implementation of TRR across the EU, since its adoption in 2009.

It will provide an assessment of the impact of the implementation of the TRR on market developments in the telecommunications sector in the EU, including a review of different approaches to modelling fixed and mobile termination costs. Such overview should help identify the extent to which other approaches than the recommended one are still used, as well as possible divergences in how the recommended approach has been implemented. The outcome of this analysis will serve as input to identify whether further action at EU level is needed and to define the scope of such action.

### (C.2) Questions/issues to be examined

The evaluation will address the following criteria and aspects:

- The effectiveness of the recommendation in achieving its objectives. Supporting qualitative and quantitative evidence will be sought on how successful the recommendation has been in achieving its objectives. Are there any aspects that are more or less effective than others, and, if so what lessons can be drawn from this, e.g. when setting the model parameters?
- The continued relevance of the recommendation's objectives. To what extent do the original objectives of the recommendation still correspond to the issue it was designed to address? Does the issue still exist, has it disappeared or is there a different or supplementary issue which has now emerged which needs to be tackled? Will the existing measure, in terms of both legal tool (recommendation) and recommended methodology (BU-LRIC model) continue to enable the objectives set to be achieved? Is there still a need to continue to have a recommendation in this field at EU level, if so why?
- Efficiency – if the Recommendation led some NRAs to adopt the proposed costing methodology (LRIC), what have been the costs and benefits entailed (for each type of stakeholder impacted)? In particular, has the expected increase in competition and decrease in prices for consumers been observed, and if so, is it likely that it stems from this recommendation (causal link) and/or could other parallel developments/factors have been the main change drivers?
- Coherence (to what extent has the recommendation proven to be coherent with other related EU policies)?
- European added value (what is the additional value resulting from the intervention at EU level compared to what could have been achieved by Member States acting at national and/or regional levels?)

In order to address the questions above, the evaluation will examine the actual developments in the voice termination markets in the EU since the adoption of the TRR (e.g. the levels of fixed and mobile termination rates in the various EU countries, differences in these levels across EU countries, and differences between the level of fixed termination rates and the level of mobile termination rates across EU countries) and their impact on wholesale and retail prices (including tariff restructuring). The evaluation will also examine the impact of the TRR on telecommunications operators' savings/earnings, demand, competition in fixed-mobile converged services, mobile penetration and competition for voice calls from smaller fixed and mobile operators. The evaluation should assess and quantify the impact on trade in the internal market (e.g. resulting from the uneven implementation of the TRR by MS) and consequent impact on end-users. Finally, the evaluation should check whether there is a need to further specify the methodology and parameters used to derive pure BU-LRIC costs for fixed and mobile network operators, and if so, to identify how this should be done. The evaluation would thus offer a framework for assessing whether it is appropriate to maintain or amend the recommendation as a tool for achieving the main policy objectives of promoting competition and EU citizens' interest as well as developing the internal market.

### (C.3) Other tasks

*[If relevant, define other tasks to be delivered within the evaluation/FC, particularly those linked to external works, e.g. support for impact assessment, synthesis of National Reports, Stakeholders consultation report etc.]*

## D. Evidence base

### (D.1) Evidence from monitoring

Article 7 allows the Commission to follow the degree of implementation of the current Recommendation. Moreover, the European Body of Regulators (BEREC) provides regular snapshots of the level of termination rates and the degree of implementation of the recommendation. High-quality data stemming from telecoms national regulators and operators is therefore available.

### (D.2) Previous evaluations and other reports

N/A
(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)
Identical to evidence from the monitoring activity since the sources are the same.
(D.4) Consultation
The public consultation, which closes on 7 June 2016 is looking at lessons learnt and seeks views on future course of actions in this area. It seeks data on inconsistent implementation of the TRR by NRAs and on related impacts on all stakeholders concerned (mainly consumers, operators and NRAs). It also gathers views on the extent to which the currently recommended methodology is (still) appropriate, on whether there is a need for further action at EU level and on the scope of any such action.
(D.5) Further evidence to be gathered
A contract was signed with an external consultancy to gather and assess data available in order to provide a quantitative analysis of the issues listed in the last paragraph of Section C2 above. This quantitative analysis will be used by the Commission services as input for the qualitative evaluation of the Recommendation. A qualitative analysis of aspects that cannot easily be assessed quantitatively or aggregated with others could also be required.

<b>E. Other relevant information/ remarks</b>
N/A