



## *Autorità per le Garanzie nelle Comunicazioni*

### **SUMMARY OF AGCOM DECISION ON THE WHOLESALE BROADCASTING TRANSMISSION SERVICES MARKET**

#### **SECTION 1 – MARKET DEFINITION**

##### *1.1. Relevant product / service market*

The wholesale broadcasting market includes all broadcasting transmission services offered via radio and television via all transmission platforms (terrestrial, cable/IP, satellite).

The substitutability analysis provides evidence to separate radio and television broadcasting services, and to separate local from national services.

Demand side and supply side analysis show that, in the case of broadcasting television services, the degree of substitutability at wholesale level is limited among the three platforms examined (terrestrial, cable/IP and satellite). As a consequence, there is no evidence to include such services into the same product market.

With regards to broadcasting television services technology, both demand side and supply side substitutability analysis, and the different business model adopted, which, in the digital case allow independent broadcasters (content providers) to provide services through the usage of MUX transmission capacity, support the separation between analogue television broadcasting services and digital television broadcasting services. This separation is confirmed also by the recent Italian legislative framework which has been defined “ad hoc” for digital terrestrial television.

Satellite market has not been included due to its trans-national nature, and the IPTV market has been considered still emergent.

##### *1.2. Relevant geographic markets*

The geographic markets are considered as national.

##### *1.3. Summary of the opinion of National Competition Authority*

Not applicable, proposal currently submitted to National Competition Authority.

##### *1.4. Results of the public consultation*

AGCOM has carried out an initial consultation by publishing the consultation document on february 22<sup>th</sup> and has conducted eight hearings at the end of march 2006. AGCOM has received fourteen answers from the following fifteen undertakings: RAI-Radiotelevisione Italiana, Fastweb e Wind (jointly), Gruppo Telecom Italia, Associazione Italiana Internet

Providers (AIIP), Vodafone, Associazione AERANTI-CORALLO, Consorzio VOIPEX, Associazione Produttori Televisivi (APT), RTI-Reti Televisive Italiane, H3G, Gruppo Editoriale l'Espresso, Radio Nazionali Associate (RNA), SKY Italia and Federazione Radio Televisioni (FRT).

Most respondents have mainly agreed with both the relevant product market and the geographic market definition. RTI and RAI have reached different conclusions about the segmentation of the markets based on the different transmission platforms and on the separation of the television markets based on analogue and digital transmission techniques.

Many respondents agreed with the designation of RAI and RTI as having collectively significant market power in the national analogue terrestrial television market.

Some respondents claimed that a single or collective significant market power is present also in the national digital terrestrial television market.

Almost all the respondents agreed with the AGCOM decision of not designating any operator having significant market power in the national terrestrial radio broadcasting market.

### *1.5. AGCOM final proposal*

AGCOM has proposed to define the following three relevant markets:

- 1) national analogue terrestrial television broadcasting market;
- 2) the national digital terrestrial television broadcasting market;
- 3) the national terrestrial radio broadcasting market.

## **SECTION 2 – DESIGNATION OF UNDERTAKINGS WITH SIGNIFICANT MARKET POWER**

### *2.1 – Criteria for SMP designation*

For each relevant market AGCOM has followed the European Commission criteria for assessing SMP by computing in first place the market shares.

In the national analogue terrestrial television broadcasting market RAI holds about 46%, and RTI holds about 36% market share. RAI and RTI have a cumulated market share of more than 80% on the analogue terrestrial television transmission services.

In the national digital terrestrial television broadcasting market RTI holds 46%, and HCSC holds 23%. The remaining operators (TI Media, RAI and GRUPPO L'ESPRESSO) hold the rest of the market.

In the national terrestrial radio broadcasting market, RAI has 25% market share, and there are several other operators.

Furthermore, Agcom has considered other characteristics for each of the relevant markets, such as:

- a) Control of infrastructure not easily duplicated;
- b) Vertical integration;
- c) Barriers to market entry and potential competition;
- d) Economies of scale and scope;
- e) Switching costs for end users;
- f) Economic conditions to financial markets.

Moreover, in the case of the national analogue terrestrial television market, AGCOM has analysed the other criteria and conditions regarding collective dominance assessment outlined in the Commission guidelines on market analysis and the assessment of significant market power under the Community Regulatory Framework for electronic communications networks and services. In particular, AGCOM has analysed the criteria set by the Commission guidelines (point 96 of the EC guidelines), the 3 criteria set by EC for joint dominance (see Airtours case), and the additional criteria (see point 97 of the EC guidelines).

AGCOM has individuated an SMP (collective) position only on the national analogue terrestrial television market.

In the national digital terrestrial television broadcasting market, at least at present, AGCOM has not defined any SMP due mainly to the evolutionary character and to the dynamics of such market. However, AGCOM recognizes the risk that the SMP owned by the undertakings in the national analogue terrestrial television market, and in particular that of RTI, could replicate to the digital market.

In the case of the national terrestrial radio broadcasting market, all the SMP criteria assessed by AGCOM have not shown any dominance feature.

#### *2.2 – Undertakings designated as having significant market power*

The broadcasters RAI and RTI have a joint dominance position in the wholesale market for analogue terrestrial television transmission services.

### **SECTION 3 – REGULATORY OBLIGATIONS**

To be defined. Eventual draft measures will be notified to the Commission .

### **SECTION 4 – COMPLIANCE WITH INTERNATIONAL OBLIGATIONS**

#### *4.1 – Imposition, amendment or withdrawal of obligations provided for in Article 8(5) of Directive 2002/19/EC (Access Directive)*

Not applicable.

#### *4.2 – Name(s) of the undertaking(s) concerned*

Not applicable.

#### *4.3 – International commitments that need to be respected*

Not applicable.