Scandinavian regulators lead the way in applying SMP regulation to localised fibre networks

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Scandinavian countries have achieved significant FTTH deployment and service penetration (FTTH/FTTB subscribers/all households and business premises), thanks to both governmental and utility company efforts.

- **In Denmark,** fibre deployment has been pioneered by Denmark's regional electricity utility network companies, which have collectively pushed fibre to become the largest fixed access technology in 2019, reaching 43% penetration by 2022.

- **In Norway,** Telenor, the fixed incumbent, has trailed behind the local utility providers in terms of fibre deployment. Many of the local utility networks have banded together under a common platform (Altibox) to offer vertically integrated services, pushing fibre penetration to 59% by 2022.

- **In Sweden,** a governmental push in the early 2000s led to the formation of municipal networks (often as a part of the local, municipality-owned utility provider). The municipal networks today collectively account for more than half of all FTTH subscriptions in Sweden and are present in two-thirds of Sweden's municipalities, with most operating an open-access wholesale model. Fibre penetration had reached 70% by 2022.

Recent regulatory developments

Although the Scandinavian FTTH fixed-access markets are different, their respective national regulatory authorities (NRAs) all seem to be arriving at similar conclusions, as follows.

- In these countries, copper network services (including VDSL) are not a substitute for FTTH (or in some cases HFC cable) services. Fixed-wireless access (FWA) has been included in the market definition in Norway.

- There are smaller (sub-national) geographic markets for these ultrafast broadband services. The size of the sub-markets analysed by each of the NRAs has been pragmatic, and linked to the areas in which networks have been rolled out in those countries.

- In some, but not all, of these geographic submarkets there is an operator with a high local wholesale market share, and this operator has significant market power (SMP); in other areas, no operator has SMP (typically this situation arises from head-to-head competition via multiple, parallel, infrastructures).

- SMP operators are then subject either to ex-ante regulatory remedies or negotiated commitments.

While Denmark has completed its process (see our previous article 3b or not 3b: ex-ante regulation of wholesale FTTH in Denmark), Norway and Sweden are at intermediate stages.

Figure 1: Recent regulatory developments related to fibre deployments, by country

Country	Date of decision	Scope of relevant market analysed	Size of geographical markets analysed	Findings of SMP	Remedies and commitments
Denmark	2020	High-speed wholesale broadband market (FTTH/HFC cable)	21 regions (electricity distribution utility areas)	Yes, in 13 regions	Either (lighter remedies if wholesale-only)
Sweden	June 2023	Separate wholesale local access FTTH markets for single dwelling units (SDUs) and multi-dwelling units (MDUs)	Municipal (or sub-municipal) based on FTTH network footprints (~180 networks)	MDU FTTH market found to be competitive	Not yet determined
Norway	June 2023	One common wholesale access market including HFC, FTTH and FWA services	22 regions	Yes, in 12 of 22 regions	Not yet determined

Source: Analysys Mason

We note that in many ways these approaches mean that the FTTH market across much of Scandinavia is looking more like Finland's history of many regional telecoms monopolies, which has led to it being a forerunner in applying localised market definitions (see our article, *FTTH/FTTB in the EU: why and how local monopolies may get regulated* (2020).

Conclusion

While there will be regions with multiple parallel infrastructures in which regulation of wholesale broadband will be unnecessary, it is entirely possible that in other EU/EFTA countries there will also be regions (typically, where there is no overbuild) in which specific FTTH providers have a high local market share. Should other European consumers behave in the same ways, and NRAs follow the more mature Scandinavian fibre markets in terms of sub-national market definitions, the kinds of access network price controls that were previously only applied to incumbents may in future be applied to FTTH altnets, in cases where they have SMP in local areas. Alternatively, commitments may have to be negotiated, which will have a similar effect.

Investors and operators should therefore not be surprised if this kind of success (high local market shares) leads to regulatory remedies in the medium term. While these constraints on pricing power need to be borne in mind by investors, they are not necessarily a red flag: even if there were price controls these would allow a fair return and it has long been noted that the more profitable parts of major telcos (e.g. in terms of return on capital employed (ROCE)) are their regulated arms.

The implications for the local networks that are on the receiving end of the regulation is clear: wholesale access is likely to be required, increasing retail competition. This may require operators to adapt. In April 2023, Altibox of Norway announced it is examining options for allowing third-party access to its network. For Sweden's many small municipal networks, increasing regulation and retail competition is likely to increase interest in consolidating to achieve economies of scale.

To discuss these or similar issues, or how Analysys Mason can help, please contact Christopher Ryder (Principal) or James Allen (Partner, Head of Regulation).