

ETNO answer to BEREC Report on Impact of Fixed-Mobile Substitution in Market Definition



February 2012

1. Executive Summary

ETNO shares BEREC's analysis that the degree of fixed-mobile substitution varies considerably between member states. Overall, fixed-mobile substitution effects are becoming more relevant and, where present, should lead to a reconsideration of current obligations imposed on fixed network operators.

2. Remarks

ETNO welcomes the report launched by BEREC on the impact of fixed-mobile substitution in market definition. ETNO hereby submits answers to the issues that are of joint concern to its members.

- Market trends

- The BEREC draft report finds that signs for fixed-mobile substitution (FMS) increase. BEREC considers FMS across Europe as very heterogeneous judging from Europe-wide responses by NRAs to a BEREC questionnaire.
- Both from a demand- and supply side perspective, there are clear indications that the substitution between mobile broadband and the different variations of fixed broadband vary widely between member states.¹ ETNO therefore shares BEREC's finding that it is necessary to

¹ In some countries, the degree of substitution between mobile broadband and xDSL might already today be higher than the rate of substitution between cable/fiber and xDSL. On the

investigate the substitution between mobile broadband and the different fixed infrastructures.

- Convergence increasingly blurs the clear-cut borders between fixed and mobile services in many markets. Many terminals can, without the end users even noticing it, switch from a cellular mobile access to a wireless LAN that can then connect to the Internet through one of several different types of fixed infrastructure.² For the end customer, what is fixed or mobile broadband is becoming less relevant. While the impact of FMS should be regarded in a national context and varies between markets, symmetric or asymmetric fixed-mobile substitution is happening and market dynamics at supply and demand-side give various responses to this change.
- As concerns the current trend of faster growth of mobile broadband than of fixed broadband (p. 20 of the draft report), regulators and policy makers should be careful not to draw definitive conclusions on the direction the market is taking. Future improvements brought by data off-loading from mobile networks onto fixed and by the deployment of FTTx and LTE that will make the analysis more complex in terms of competition, substitutability and consumer behaviour in the near future.

- Effects on market analysis and ex-ante obligations

- Against the background of these developments, ETNO believes that NRAs should be proactive in monitoring the market and its dynamics and as a result adapt regulation where necessary. In doing so, NRAs should apply a forward-looking approach.
- In cases where fixed-mobile substitution leads to a one-sided weakening of one market party that is subject to regulation, NRAs should assess lifting regulatory obligations to ensure a regulatory level playing field between parties and take account of increasing competition.
- The effect of fixed mobile substitution on the market has until now been a loss of fixed voice and data traffic and /or subscribers. In this context, ETNO believes that it remains vital to boost growth and innovation in both mobile *and* fixed sectors.
- In order to reach the Digital Agenda broadband targets for 2020 and to boost investment in next generation access networks, a strong fixed sector is key. Being still subject to comprehensive regulatory obligations, often on both retail and wholesale markets, fixed network operators increasingly face difficulties to compete with other market players and run the risk of turning into low-revenue traffic carriers in the internet value chain.

other hand there are a number national markets with very low FMS-effects where at a shift to a single market would distort market development.

² With the introduction of 3/4G-routers a wireless LAN can also have the connection to the Internet based on a cellular mobile network.

- Market reviews are made generally once in a three-year period which can create late responses to a rapidly changing market. ETNO believes that ending the regulation of retail markets and taking appropriate steps towards the deregulation of wholesale markets will help to unleash growth, net work investment and innovation potential in Europe.
- As stated by BEREC, if FMS is sufficient to define a single retail market for fixed and mobile services, then competition between mobile and fixed network will reduce any market power of the fixed incumbent operator at the retail level.³
- ETNO agrees that even if the analysis may not lead to the definition of a joint fixed-mobile market, the competitive effects of fixed-mobile substitution should be considered when analysing significant market power (SMP) and, if SMP is found, when determining appropriate remedies. The degree of competition/substitution may well solve traditional market problems observed in fixed markets.
- We concur with BEREC that it is important to fully take into account competitive pressures at retail level from competing platforms (including cable and utility companies where present) when analysing the presence of SMP and imposing proportionate remedies on wholesale markets in case these platforms are excluded at the stage of wholesale market definition.
- According to the draft report, the BEREC questionnaire revealed that NRAs tend to use a qualitative approach when performing FMS analysis. We believe that also quantitative studies should not be neglected in assessing the market situation and that this should be highlighted in BEREC's final report.

³ We note that if the 3 criteria test and a fixed-mobile substitution analysis are performed thoroughly taking into account all major retail telecommunication services (access, voice, broadband) retail markets should be fully deregulated in most European Member States.