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TDC submission: BEREC consultation on the draft BEREC Report on OTT services BoR (15) 142

TDC1 welcomes the draft BEREC Report on OTT services (the Report) as a useful instrument for the further work by BEREC and NRAs on OTT services and TDC will provide only two short comments

First TDC welcomes and agrees with the suggested taxonomy for OTT services. Also TDC supports the call for a revision of ECS definition to reflect the development of electronic communication services over the Internet and we refer in this respect to the ongoing Commission consultation on the Framework Review

Obviously a revised definition of ECS definition may make it necessary to reassess the proposed taxonomy.

Two observations on the draft report:

- **On the issue of obligations on ECS and OTT services respectively:**

In our view the advent and take-up of OTT services and in particular type OTT-1 represents a unique opportunity to withdraw the sector specific obligations currently imposed on ECS services with only two exceptions:

Emergency services: We believe as also mentioned in the draft Report that the obligations to provide call to emergency services should continue to be associated with allocation of E.164 numbers which we believe will continue to be a critical identifier not to be replaced in a medium time frame; e.g. we haven't seen the earlier projected movement to ENUM etc. materialise. This means type OTT-0 PATS enabled services should be under such an obligation whereas the various type OTT-1 services shouldn't.

To the extent the latter group of services may call PATs services through gateways it shouldn't change their status as OTT-1 services.

Thereby end-users can be confident when taking a voice service associated with E.164 numbers that this service includes the capability to call emergency services.

Number portability: Also the obligation to provide number portability should be maintained for E.164 services but should not be extended beyond these services.

¹ TDC is the leading of provider broadband services in Danish market over different technological platforms both fixed (cable, DSL and fiber) and mobile including a nationwide LTE network. TDC is also the 2nd provider CATV networks in Norway and providers of business services in Norway and Sweden .www.tdc.com

If the assumption is right that numbers also in the future will be essential identifiers a preservation of the number portability obligation will be a critical factor in maintaining competition and consumer rights.

However, maintaining the number portability obligation for E.164 numbers should not imply the imposition of a similar portability obligation on other OTT-1/2 services. Such a requirement will in world of global players and a variety of services alone for practical reasons will be extremely costly and in practice impossible to implement. Besides it may also from an end-user perspective be undesirable bearing in mind privacy issues when a huge amount of personal data should be exchanged between various operators around the world.

- **On the economical role of OTT services in the ecosystem for ECS/Internet services:**

The substantial impact of OTT services in the electronic communications markets is neither because of competition with ECS services such as voice nor because some OTT services may or may not fall under the same regulatory obligations as services today classified as ECS services.

The key point is the impact OTT services have on the economical ecosystem and which is urgently needed to take into account in particular when carrying out a market analysis under the current framework. What matters in this respect is that market analysis and derived regulatory obligations relies on an assumption that vertically integrated operators enjoy competitive advantages because of their ability to provide bundled services, typical access and content and thereby also being able to consolidate their market position generating further revenue.

What can be seen is however that this vertical integration in the value chain is being disintegrated by OTT service as can be observed when cable operators experience either cable cutting or a downgrade of sold TV packages. Similarly network operators/ISPs experience a stagnation in taking up IPTV offerings as these services are replaced by streaming/video services such as Netflix or YouTube.

Although this happens at higher level in the value chain and may not directly affect the issue of access then the market position of the vertical integrated ISPs is undermined when it comes to delivery of an access line. This because OTT provision of services increases the possibility for end-users to switch to alternative networks including mobile so the access has become a less critical issue for providers of OTT services (CAPs).

OTT services anyway call into question the financial model that should allow network operators to undertake investment in networks upgrade becomes. A network upgrade which is required not least because of the capacity burden put on networks by OTT services at the same time as OTT services challenge the network (including cable) operators' provision of services that should finance this upgrade.

In total this is positive concerning increased competition and service offerings but it will lead to serious drawbacks for investment unless it is reflected in the market analysis and the imposition of access obligation in particular with respect to the current cost+ price model and the margin squeeze control based on bundles

A substantial and forward looking analysis of these elements is thus required which should be reflected in ongoing and forthcoming market analysis and decisions. BE-REC should therefore speed up the work item in the proposed 2016 Work programme on *Economic impact of OTTs/CAPs on market definition and competition*.