



ECTA RESPONSE

TO THE PUBLIC CONSULTATION BY BEREC AND RPSG

ON THE

DRAFT BEREC AND RSPG JOINT REPORT ON

FACILITATING MOBILE CONNECTIVITY IN

‘CHALLENGE AREAS’

BoR (17) 185

28 NOVEMBER 2017

1. Introduction

ECTA, the European Competitive Telecommunications Association, representing more than 100 challenger electronic communications operators and digital communications companies, welcomes the opportunity to comment on the draft joint report on facilitating mobile connectivity in 'challenge areas' prepared by BEREC in collaboration with the RSPG.

ECTA welcomes this collaboration as a way of creating mutual awareness of and promoting knowledge exchange on the different dimensions of spectrum and network management that is necessary to ensure that the best possible use is made of scarce spectrum resources in the interest of promoting competitive markets that generate benefits for end-users and contribute to an internal market for mobile connectivity solutions in the EU.

As ECTA has previously emphasized, in its contribution to the BEREC initiative on monitoring mobile coverage,¹ it is critical that debate on spectrum management practices, even where it concerns primarily technical questions, remains fully aware of the competitive context in which it occurs and of the competitive implications that seemingly innocuous technical decisions may have for the competitive development of EU mobile electronic communications markets. Interinstitutional dialogue as it is reflected in this draft joint report is a constitutive element for creating such awareness and should be further exploited in order to establish it as an integral feature of the means for delivering a competitive Gigabit society in the EU.

ECTA presents its detailed comments in section 2 of this response. Section 3 concludes.

2. Comments

ECTA presents its comments on the draft report in thematic clusters related to:

1. Purpose and orientation of the report
2. Scope of enquiry
3. Analytical approach
4. Presentational aspects

In this context, ECTA wishes to emphasize that while the new online consultation tool promoted by BEREC is, in principle, a desirable development to open up for collaborative work on the draft documents consulted on, it does not adequately allow for the identification and insertion of transversal points of interest as outlined above.

2.1. Purpose and orientation of the report

BEREC and the RSPG identify the purpose of the draft report as 'compiling a comprehensive and comparative assessment of initiatives to facilitate mobile connectivity in what could be described as 'challenge areas'', which will provide policy makers with a 'knowledge base for methods of enhancing mobile connectivity in challenge areas.' (at p. 2). This is to be achieved by describing

¹ Cf. *ECTA response to the public consultation by BEREC on the draft BEREC Preliminary Report in view of a Common Position on Monitoring Mobile Coverage BoR (17) 186*, 8.11.2017, available from: https://www.ectaportal.com/images/Positions/ECTA_response_to_BEREC_PC_Monitoring_Mobile_Coverage.pdf.

solutions and observed practices that have been implemented in Member States to address obstacles to mobile connectivity.

ECTA observes that the report thus combines an evaluative with an informational objective, both of which are designed to contribute to the ultimate aim of allowing mobile connectivity challenges to be successfully addressed.

ECTA considers that the draft report in its current form effectively addresses only the former of these two objectives. As the draft also in this respect still exhibits a number of limitations, which are more fully set out in subsequent subsections, ECTA would urge BEREC and the RSPG to either remove reference to assessment of the initiatives presented or to clarify what type of assessment the draft report is intended to pursue and how this is to be achieved.

As the draft report neither offers an explicit assessment of the relative merits of the different solutions identified, nor integrates any concluding observations in this respect, ECTA's comments in the following subsections focus exclusively on elements affecting attainment of the informational objective of producing a knowledge base.

At an aggregate level, ECTA considers that the approach to building this knowledge base has not been elaborated with sufficient clarity. Beyond issues concerning the conceptual scope of enquiry (subsection 2.2) and the analytical approach chosen (subsection 2.3), this notably concerns the purpose, orientation and usability of the deliverable. The report thus does not systematically address basic questions involved in the design of connectivity solutions for overcoming mobile coverage gaps.

In this regard, ECTA suggests that the functional objective of improving mobile coverage be explicitly placed in the context of the objectives of the regulatory framework. In particular, it should become clear how the improvement of mobile connectivity relates to the promotion of competition and user choice, and how promotion of these two dimensions is interrelated with the achievement of an Internal Market for mobile electronic communications services. An assessment of different approaches to enhancing mobile connectivity, either by providing it where it currently does not exist or by improving it beyond low levels, could then build, inter alia, on their relative ability of achieving these objectives. A common underlying orientation to the description of these solutions should be their competitive efficacy, i.e. the ability to promote competitive solutions and choice for end-users even under challenging circumstances.² This should be appropriately adjusted for the precise deployment context (subsection 2.2), as necessary. It is important to improve this dimension of the report, as the text currently only on two occasions explicitly refers to competitive concerns.³ Finally, the usability of the deliverable could be further enhanced by setting out for each solution its relative costs and benefits, as compared to its technical performance characteristics and observed or expected performance in terms of goal attainment.

² An example in this respect would be, in an indoor coverage context, the different accessibility of repeater- and small/femtocell-based solutions to alternative operators in function of spectrum occupancy.

³ BoR (17) 185, pp. 26 (acknowledging the role of coverage and QoS maps in promoting competition between operators), 28 (suggesting that increased access for end-users to mobile services resulting from network sharing in areas 'not commonly served by mobile networks' may offset the accompanying competition concerns).

2.2. Scope of enquiry

The draft report focuses on possible means to facilitate mobile connectivity in challenge areas. ‘Challenge areas’ are enumerated in an list at the outset of the draft report (at p. 2). It remains unclear how these areas have been identified, and notably whether BEREC and the RSPG consider this list as exhaustive, or whether a selection has been undertaken, and if so, what considerations this selection would have been based on. This means that the scope of enquiry has been delimited, but the grounds for doing so remain insufficiently clear.

ECTA observes here that the notion of ‘challenge area’ lacks analysis in terms of its competitive aspects. Particularly important in this respect is the lack of clarification regarding the relationship between challenge areas and white areas. Such analysis appears nevertheless critical considering that the contestability of challenge areas will differ inherently according to the underlying economic characteristics of different area types: Where a challenge area has the characteristics of a white area, it appears clear that sustainable mobile connectivity will be particularly difficult to achieve, whilst other challenge areas may raise particular technical or regulatory issues that set them apart from regular deployment scenarios, yet the underlying economics of such areas might be such as to render monopolisation of those areas particularly attractive in economic terms (e.g., high-value locations (tourism resorts, natural reserves)).

ECTA therefore invites BEREC and the RSPG to pay special attention to the question of how the type of challenge area being considered and the underlying economic characteristics of that area affect the availability of options to address mobile connectivity concerns and the intermediate prospects for the development of competitive service provisioning.

2.3. Analytical approach

As ECTA has been remarked above, the draft report is characterised by an important lack of clarity in several dimensions. This applies both in respect of its evaluative and its informational objective (cf. subsection 2.1).

ECTA notes that even the selection of initiatives and their description suffers from a number of important methodological limitations. Where these cannot be addressed in the finalisation process, ECTA believes they should at least be flagged to improve the usage value of the final report. The issue of non-exhaustive analysis of the limitations characterising different initiatives is briefly dealt with in the closing paragraph of this subsection.

First, the draft report appears limited in the country sample from which initiatives have been chosen for inclusion in the report. In order for potential users to be able to evaluate the relevance of this selectivity when comparing initiatives, the final report should make clear whether that sample was purposively selected or not. Second, the draft report usefully recognises that to successfully ameliorate mobile connectivity in challenge areas, solutions comprising various elements, such as regulatory and legal in addition to technical measures, may be required. Yet in portraying the relationship among these elements, the text leaves open the question whether legal and regulatory measures are examined only with regard to the specific technical solutions adopted (and to what extent), or cover also more general flanking measures. Third, by focusing on initiatives already implemented, the draft report excludes reference to recent and evolving technical solutions that have not yet seen deployment or are about to be introduced in the market.

In this regard, ECTA believes that it would be particularly valuable for the final report to include reference also to such alternatives in order to maximize awareness and choice among available connectivity solutions. This appears also justified in view of the explicit recognition in the introduction of the report that ‘the technical ... solutions to coverage challenges are fast evolving...’. Fourth, the report appears to suggest that mobile connectivity, even when understood as non-stationary connectivity, at base remains a purely mobile network-centric problem when new network architectures, e.g., in the domain of fixed wireless access, may evolve to create a mobile connectivity experience without a microcell network. Also under this heading, ECTA considers that the principle of technology neutrality and a pro-competitive orientation for the envisaged knowledge base requires no unnecessary limitation in the portrayal of possible solutions, but also, more generally, in the portrayal of mobile connectivity *per se*. It is therefore appropriate for the report to clarify this dimension of what is at stake when mobile connectivity challenges and their solutions are being considered. Fifth, the report does not include reference to the role of mobile backhaul availability, which should however be included in order to ensure that this critical aspect, which may be particularly salient in challenge areas where availability may be subject to special limitations, is taken account of when devising connectivity solutions.

Finally, the limitations to the solutions included in the draft report are not systematically dealt with. ECTA regrets the approach chosen by BEREC and the RSPG in this regard. While it is clear that a report like the present draft cannot aspire to provide a detailed discussion of all possible implementation problems, it would seem appropriate to at least provide an indicative qualitative assessment of different solutions along a standardised set of parameters to enhance comparability among them. ECTA therefore recommends to include an annex in the final version of the report to reflect key dimensions of potential concern and illustrative questions to be considered, to enhance the report’s usage value, especially for policy-makers.

2.4. Presentational aspects

In presentational terms, ECTA notes with concern that BEREC and the RSPG have considered it appropriate to include illustrations in the draft report that include specifically identifiable logos of individual companies and their brands. ECTA considers that since inclusion of these brand identities is wholly unnecessary to illustrate the technical solutions being presented, these graphical elements should be removed from the final version of the report.

ECTA furthermore urges both BEREC and the RSPG to abstain from any further such illustrations in the future, as these are prone to reinforce existing brand images and thereby prejudice the competitive standing of operators not being represented.

Such illustration appears more inappropriate still when considering that the identity of companies providing concrete examples of the implementation of technically innovative solutions that are not yet widely available, is not stated in the report despite its awareness-raising object (e.g., multi-operator femtocell solution developed for the UK market, referenced at p. 10; deployment of pGSM/pLTE networks, referenced at p. 11 et seq.). ECTA therefore encourages BEREC and the RSPG to develop an editorially coherent line on the inclusion of operator-related information in the reports that they draw up.

3. Conclusions and follow-up work

As ECTA has pointed out above, the draft report in its present form does not achieve the evaluative objective of providing an assessment of the different solutions to the connectivity challenge in particular areas. ECTA recommends in this regard that systematic comparative assessment should be left to future enquiry, while introducing basic indications for all solutions identified in comparative form in an annex to the final report to reinforce its knowledge base character and facilitate use thereof, notably by policy-makers.

ECTA would further underline the close interconnection between the subject of the present draft report and BEREC's draft report on the monitoring of mobile coverage, on which ECTA has provided a separate response.⁴ Subject to the qualifications set out in that response, ECTA wishes here notably to recall the pro-competitive potential of appropriately publicized information on connectivity performance in all parts of Member State territories. Based on the present draft report, ECTA believes that special reporting on challenge areas, notably as regards in-building coverage, may be an important element in enabling end-user choice.

In addition to the precise proposals for amendments and analytical elaboration set out throughout this response, ECTA wishes to reiterate that the need to consider competitive aspects of mobile connectivity solutions is highly salient in challenge areas, where notably the economics of connectivity provisioning can be challenging and the risk of monopolisation may be particularly pronounced. The final report should avoid suggesting that challenge areas by definition are conceived of as being non-competitive because of the underlying economics.

To facilitate this need being met, ECTA stands ready to engage constructively with BEREC, the RSPG and NRAs on issues relating to mobile connectivity in the types of challenge areas discussed in the draft report.

While recognising the usefulness of this work in pursuance of a Gigabit society that will ultimately include mobile connectivity also in difficult to reach areas, ECTA emphasizes that this should never detract from the thorough, diligent and unfettered discharge of NRAs' core task of ex ante market regulation.

⁴ Cf. note 1 above.