



Comments of Telenor Serbia on Draft BEREC Common Position on Mobile Infrastructure Sharing (BoR(18) 236)

January 18, 2019

Telenor Serbia would like to commend BEREC for providing the opportunity for interested parties to submit their comments to the draft Common Position on Mobile Infrastructure Sharing. From the perspective of non-EU operator but soon to be in the EU, our comments are directed towards future technologies and we consider the role of BEREC to be essential in this process. BEREC's position in tailoring the rules on mobile infrastructure sharing need to be strengthened as much as possible because the direction set by BEREC will be a guidance to majority of NRAs not only for the EC aspect but also from the competition side of the infrastructure sharing solutions. Thus, we believe that more attention should be paid to this Draft and needs be analysed and developed by BEREC in greater detail. With this regard, Telenor Serbia would like to contribute to the process of public consultations by providing constructive feedback and comments from the industry perspective and relevant hands on experience.

Introduction section

This section provides the overview of the documents and its structure, listing stakeholders to whom is being addressed to and what it should provide in terms of guidance. However, in our view what is unclear from the introductory part as well as from the overall Draft i.e. what BEREC wants to achieve with this document, whether it actively supports various models of infrastructure sharing or primarily addresses competitive concerns with infrastructure sharing agreements. Bearing in mind that from the industry perspective mobile infrastructure sharing is becoming a very desirable business model and its benefits to the consumer side are yet to be recognized, in our opinion, BEREC's support to the mobile infrastructure sharing development should be emphasized and clearly stated in the Draft.

Background section

2.1. Legal framework

The focus of the legal framework of the background section is on the competences of the NRA's and main principles prescribed in the EC Code. In our view, this section does not make clear distinction between competences of the NRAs in terms of *ex ante* regulation on one side and their jurisdiction over mobile infrastructure sharing agreements on the other side. The confusion between these two in the Draft might result in the lack of proper guidance to the NRAs in dealing with mobile infrastructure sharing agreements and giving inadequate and overcomplicated treatment. Moreover, bearing in mind that national legislation on electronic communications and competition should also be taken into consideration when assessing the mobile infrastructure sharing agreements by NRAs as well as the regulatory framework on the EU and BEREC's position, from our experience the outcome would be a very complex and rigid procedure of NRAs overlooking mobile infrastructure sharing agreements.

2.1.1. The objectives given by the European telecommunication regulatory framework

The objectives mentioned in this subsection are relevant and should be taken into consideration by NRAs when tackling with mobile infrastructure sharing agreements. However, our main comment refers to the lack of recognizing innovations, investments and new technologies. Mid 2018 Member states approved EU-wide telecoms reform when EU ambassadors approved a comprehensive set of new rules for the European electronic communications sector. The main reform will bring changes such as swift and extensive roll-out of 5G and other next generation technologies throughout Europe. In addition, during the Telecommunications Council in 2017, 2020 goal for 5G spectrum was upheld and ministers agreed that it was imperative to create the right conditions for the swift and extensive roll-out of 5G networks in Europe. Bearing in mind the level of

investments for the operators going towards 5G, the development and support to mobile infrastructure sharing models is crucial. Thus, we believe that this should be emphasized in the Draft in the subsection on objectives given by the European telecommunication regulatory framework.

2.1.3. Role of general competition law

In this subsection main competition principles are being mentioned. Although we recognize the importance of the competition in mobile infrastructure sharing implementation, NRAs competences in terms of competition are in a way limited by the electronic communications code and are predominantly in the area of *ex ante* regulation and only partially *ex post*. In our opinion, in order to make this document more straightforward and achieve its goal of providing the guidance to the NRAs when tackling with mobile infrastructure sharing agreements it would be better not to mention to this great extent general competition principles. Furthermore, National Competition Authorities (NCAs) are the competent authorities for overlooking at the competition aspects of telco market as any other market and therefore, dealing with mobile infrastructure sharing agreements too if needed.

Bearing in mind abovementioned, we propose Appendix 1 to be excluded from the Draft.

2.2. Benefits and drawbacks related to sharing agreements

In our view, this section is central part of this Draft since it focuses on the main positive and negative sides of infrastructure sharing agreements and thus, it should be much more consistent with clear messages BEREC wants to convey.

2.2.1. Potential benefits of infrastructure sharing

The benefits defined in this subsection are very general and high level. Later on in the Common position part of the Draft different models of mobile infrastructure sharing are being described. In relation to this, our main comment is that this section on benefits should correspond and reflect benefits provided for each models of mobile infrastructure sharing in order to ensure consistency of the document.

For example, greater coverage as one of the main benefit of mobile infrastructure sharing should be described in the Draft not only through the cost reduction parameter but also as a benefit on the consumer side.

The benefit addressing enhancing consumer choice very scarcely describes the benefits for the end users. In our view, this should encompass also enhanced competition of operators on the end user side. Due to the cost savings that operators will achieve with infrastructure sharing, operators will invest more either in developing of new services or by lowering the prices for the end users.

Moreover, in our opinion introduction of new technologies such as 5G should definitely be more reflected in the Draft in the section on benefits. Network roll-out for 5G will require much more dense deployment of base station especially in the urban areas in order to provide to the users all benefits of this new technology. The amount of investments into the network for 5G will be significant and here mobile infrastructure sharing agreements are crucial so as to ensure the optimal level of investments for every operator in one market.

Benefits on improved efficiency (with respect to administrative costs and efficient use of spectrum) should be defined to a greater extent in the Draft bearing in mind the amount of spectrum needed for the implementation of 5G. In our opinion, the main precondition for the introduction of 5G is actually the utilization of mobile infrastructure sharing agreements.

Benefit number 3 on consumer choice should also be considered in the light of 5G and all new services, better quality and higher broadband speeds. In order for all these benefits to be enabled, mobile infrastructure sharing opportunities have to be explored and utilized to its maximum.

In the end, the time saving component that mobile infrastructure sharing solutions bring should also be mentioned in the Draft since it is of paramount importance for the introduction of new technologies.

2.2.2. Potential drawbacks of infrastructure sharing

In this section described drawbacks on different models of mobile infrastructure sharing are often overlapping and do not reflect potential drawbacks for each model. Thus, it should be defined much more precisely.

In our opinion, the drawback on reduced investment incentives is not accurate. For example, the introduction of 5G will require greater development of fiber network and its connection to the base stations so that it can support the capacities needed for 5G. Currently mobile infrastructure sharing solutions are not utilized to a great extent in majority of the markets and still fiber networks are on a low level. Bearing in mind this, we believe that actually mobile infrastructure sharing solutions will enable the shift investments to the fiber network development allowing the introduction of 5G.

Furthermore, active RAN sharing agreements are being interpreted as the model of infrastructure sharing that impedes the competition the most on the infrastructure side. In our opinion this is not true since active sharing agreements results in faster rollout and launch of new technologies. Thus, these results are in contradiction with the decreasing investment incentive drawback.

Drawback on reduced ability to compete is not properly defined. This drawback relies on the statement that network architecture will exactly or closely match that of other participating parties, meaning that factors such as coverage and quality of service are likely to be closely aligned. In our opinion, this can be interpreted only for some infrastructure sharing models such as roaming but not for the others. As mentioned in the section on benefits, mobile infrastructure sharing agreements will, in our opinion, boost the competition on the user side since it will allow operators to get faster to the customers and much better respond to customers' needs.