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Public consultation on draft BEREC Common Position on Mobile Infrastructure Sharing

Dear Madame or Sir,

1&1 welcomes the opportunity to provide comments to the draft BEREC's Common Position on Mobile Infrastructure Sharing (BoR (18) 236).

I. Introductory remarks

We share the opinion of BEREC that sharing of mobile network infrastructure is an important feature in the European mobile market and leads to advantages both for operators and consumers.

A target orientated discussion is especially necessary against the background of the deployment of a 5G infrastructure in Europe. There is growing pressure in the competition between countries of launching 5G first. While especially policy makers of the European Commission and the European Parliament are stressing the need to speed up entering the global race to 5G and assesses 5G as one of the most critical building blocks of the digital economy and society in the next decade, we recognize that only some EU Member States have taken significant steps to lead global developments towards this strategic technology; others are falling behind and are 'lost' in national measures.

As national action of Member States are not sufficient, priority should be given to develop a common institutional framework with applicable, reliable and transparent rules to avoid repeating past mistakes made during the introduction of 4G in Europe. Especially when it comes to the allocation of spectrum for 5G we believe that sharing agreements are essential and key to boost national 5G strategies.

Rather it must be the objective to enable functioning competition in retail markets. This is why there is a trade between mobile infrastructure sharing and infrastructure competition. However if

the EU wants to become world leader in 5G, greater focus must be given to the retail market. Unfortunately it seems that Member States again failed to learn from mistakes made in the introduction of 4G.

It is therefore important that BERECs common approach describes the different criteria of mobile infrastructure sharing as close to the market as possible. In doing so, it is particularly important to examine existing and new agreements to what extent they will be able to promote competition on the retail market and for new market entrants to improve connectivity, innovation and consumer welfare. Although each case must be considered individually, future rules must ensure a maximum on planning security and transparency for market participants.

II. The role of competition

We believe that a Common Position has to provide a reasonably comprehensive framework to be considered when assessing infrastructure sharing agreements. This is an important pre-condition for NRAs when assessing infrastructure sharing agreements, as these may pursue different objectives. Here competition is of utmost importance and the only way for a global leadership in 5G. However, the extent to which pro-competitive policies, legislation and regulation will continue to be pursued in the years to come is at stake.

BEREC therefore should

- Publish a pro-competitive position supporting and pushing a competitive mobile market, ultimately for the benefit of end-users.
- Act as a lever in enabling alternative operators such as MVNOs to continue to play their role in delivering innovative solutions, in particular in view of 5G. We are therefore convinced that national roaming has to be seen as a regulatory instrument to facilitate market entry, in order to boost competition by reducing market concentration.
- Lowering barriers of market entry: New entrants must be able to get access to existing networks by national roaming or through infrastructure sharing at fair and pro-competitive prices. Clear rules and guidance must be applicable for all NRAs.

We therefore agree with BEREC that competitive pressure from competitors is the central element that drives mobile operators to permanently improve their offers, implement cost savings, make investments and pass on the cost savings and the additional benefit also to consumers. Here we also want to stress that the national regulator must also be able to impose network sharing measures to ensure that sharing is not limited to agreements between MNOs and new market entrants are excluded.

III. National roaming

1&1 is aware that there are different regulatory approaches within EU 28 and that NRAs have chosen different approaches to impose national roaming to promote and stimulate competition by facilitating the entrance of new players in the market.



But we believe that investment cannot be limited only to infrastructure-based competition and infrastructure sharing agreements like national roaming have to play a significant part to allow and boost service-based competition. We therefore call on NRA to promote infrastructure sharing agreements, by especially taking into account economic realities to respond to the specific market conditions.

Nevertheless harmonized rules must create comparable conditions within the EU Member States. Thus promoting competition by enabling or imposing National Roaming must not be limited to some countries while others protect their markets.

Here it should be noted that also the EECC explicit admits the imposition of national or regional roaming in the context of spectrum allocation to strength competition in Article 52 when granting, amending or renewing rights of use for radio spectrum.

If you have any further questions, please do not hesitate to contact us.

Kind regards



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