GSMA-ETNO response to public consultation on the Draft BEREC Report on M2M and permanent roaming (BoR (24) 96)

The GSMA and ETNO welcome the possibility to comment on BEREC's Draft report on M2M and permanent roaming based on BEREC's call for input earlier this year. We first provide some general comments to the report followed by specific observations to the report findings including some suggestions for adjustments.

General comments to the report

Although the report's data has certain limitations, the overall picture shows a dynamic and competitive market. Various figures show that both MNO's and MVNO's have completed a significant number of wholesale roaming agreements, which are increasing over time (last paragraph page 11, and figure 7) while wholesale prices/unit are decreasing over time (figure 10). This is in accordance with the expectations set forth in the current regulation that mobile network operators are increasingly responding and accepting reasonable requests for wholesale roaming agreements on reasonable terms, and explicitly allowing permanent roaming for machine-to-machine communications.

We believe these figures strongly indicate that the market is competitive without signs of market failures and **the current framework** should not be **reviewed** at all.

As the Commission rightly emphasized in the consultation on "How to master Europe's digital infrastructure needs?", the telecoms sector is going through a period of weakened financial health and, currently facing a large investment need to meet the Digital Decade Targets.

New technologies, and notably M2M/IoT are the backbone of future productivity and competitiveness. Any overregulation of this sector will introduce further barriers to attract new investments in digital infrastructures.

Along these lines, we welcome BEREC's general statement in chapter 1.3, based on its Wholesale Roaming guidelines, recognising that "*If M2M communication services are used on a permanent basis in a visited network, for example in cases of prevailing roaming consumption and presence according*

to the Commission Implementing Regulation (EU) 2016/2286 (CIR), wholesale roaming access should be subject to commercial negotiations".

Notwithstanding the above, the report indicates various topics and proposals from certain players for regulatory intervention despite the report being a mere summary of questionnaire responses, and we believe it contains assertions that have not been sufficiently substantiated or researched. In our view, a survey should not be used to adopt recommendations to modify regulations; the objective should be limited to obtaining statistics, always considering the validity of the sample of responses in each case.

We believe that in a dynamically developing market segment such as M2M any intervention is inefficient by default, as it could impact the wider M2M/IoT ecosystem and place EU-based actors at a disadvantage compared to non-EU based actors. That also include eventual "softer measures", be it a recommendation or enhancement of the existing recitals in the Roaming regulation setting certain "red lines". However, we would like to emphasize that even "softer measures" , would still intervene into and constrain the fast development of a technologically sophisticated and innovative market segment and place competitive constraints on EU-based M2M providers

Finally, we wish to underline that if EU-based access providers are to gain presence also outside of the EU/EEAA, regulatory predictability is of paramount importance. This means that any national deviations, whether these originate from an EU-Member State or outside of the EU/EAA, will have a negative impact on the ability of the provider to grow its business.

Outside of Europe, Roaming for M2M devices and access to national IoT infrastructure, such as LPWA, are agreed upon based on technical and commercial considerations. In our experience this is quite important, as it is key for roaming providers to manage services in a way that justifies the network investments that is driven by the use of these technologies. The absence of regulated wholesale roaming also means, that providers of access outside of Europe can negotiate the terms of access to their networks. However, if wholesale roaming regulation would be further extended into M2M within the EU, the conditions of access are governed by a price book that is established by the regulator, and it is no longer determined by the commercial and technical needs determined between the two parties. It would create an imbalance between the negotiating parties (one in the EU subject to extended regulatory obligations and the other one outside the EU, being exempted from any regulatory obligations in its home market). This can have a negative impact on the ability of operators with EU presence to be able to compete against IoT deals that have an EU and a non-EU footprint.
From the perspective of the GSMA and ETNO, this potential fragmentation plays into our overall ask for more harmonisation of authorisation, numbering and related compliance and reporting requirements as being essential for the European M2M/IoT market to develop.

Specific comments to the report

Executive Summary:

In the Executive Summary the statement is being made that "*Large group MNOs on the other hand are against any relevant regulatory intervention. These MNOs argue that domestic competition from low-cost MVNOs poses challenges in the context of an expected growth in M2M traffic volumes and devices which may lead to increased signaling costs, low levels of revenue, and potentially hamper network integrity.*"

While this may be the case for some MNOs, the main contentious point is that roaming agreements are not meant to be used for national providers, whether they are MVNOs or MNOs, competing on their domestic markets. Roaming agreements do not in any way cover the costs and investments needed to build out networks nationally or cover the taxes to be paid to national authorities or any other commercial costs related to offering services at national level. In such cases, providers should not seek to conclude agreements for permanent roaming, but agreements for domestic mobile services answering to local requirements.

Non-EU providers' (MNOs and MVNOs) unilateral access to EU-roaming tariffs is already disruptive for EU-based MNOs as it enables non-EU providers to provide services within the EU without having to invest in network infrastructure. EU operators do not have access to regulated roaming tariffs outside the EU and are therefore subject to fully unbalanced roaming tariffs when entering into roaming agreements with access seekers established outside the EU.

As a final remark we want to remind that it is not only MVNOs who must negotiate separately wholesale roaming access for M2M to achieve a complete footprint for their services. The same applies to MNOs.

Issues raised as access seeker:

According to section 3.6., most of the access seekers have pointed out that there are obstacles to negotiate permanent roaming for M2M within EU/EEA or outside EU/EEA (between MVNOs and MNOs). Several MVNOs also point out that M2M permanent roaming access negotiations is difficult in those Member States where MNOs from the bigger groups that have their own IoT business.

The GSMA and ETNO are of the view that this cannot be considered a general issue within the EU/EEA.

We would expect that if there was indeed a systemic challenge with negotiating such agreements, we would have seen an escalation of these cases. NRAs and BEREC would be in a central position to provide such information if there was a general challenge. Again, the responses of a survey should not be the sole grounds to recommend a regulatory action. As with the former review of the Roaming regulation it would also be relevant to take a closer look at the investment needs and at the competitive situation in the market e.g. considering the development in market shares[1] before making any conclusions. Therefore, we do not see that MVNOs are in a different competitive situation, and we believe the market remains competitive and commercially levelled up.

Moreover, we note from BEREC's report that data usage of roaming connected objects has steadily increased in recent quarters (figure 6) and the number of dedicated M2M/IoT agreements with permanent roaming has increased from 169 in 2021 to 280 in 2023.

Commercially negotiated agreements:

The draft report makes the statement that MVNOs and small MNOs have listed competition concerns where access providers / wireless connectivity providers act in competition with established access / network based wireless connectivity providers.

We want to underline that permanent roaming wholesale prices are commercially negotiated between access seekers and access providers and thus reflect the impact that the traffic will have on the access provider's network.

Access providers at the wholesale level competing with access seekers at the retail level is a well-established practice in the EU, first of all in domestic markets, where MNOs provide inputs to MVNOS. MNO/MVNO relationships have been established over the years, and MVNOs are a stable part of the national markets. There are no plausible arguments suggesting that this relationship specifically for the M2M segment should show different competitive dynamics generating objective concerns.

It is also important to note that access seekers can negotiate agreements with various providers, and the competition at the mobile wholesale markets will ensure that MVNOs and MNOs obtain

[1] *" The data on MVNOs from the International Roaming BEREC Benchmark reports seem to indicate that for most of the countries for which data is available, MVNOs have been able to broadly maintain or slightly increase their domestic market share (in subscriber numbers) (Figure 18 and Figure 19). This tends to indicate that MVNOs have overall been able to maintain their competitive position in their respective markets under RLAH."* (Commission SWD Accompanying the document Report from the Commission to the European Parliament and the Council on the review of the roaming market {COM(2019) 616 final}, p.39, available at: https://digital-strategy.ec.europa.eu/en/library/commission-report-review-roaming-market)

competitive access conditions and prices. The competitive situation of M2M/IoT roaming provision will in our view keep mirroring the competitive situation on the European mobile markets, which is strong with multiple operators in each country and therefore without ex ante regulation in the national mobile access markets.

Further, access to a mobile network for the provision of M2M services can take place in various forms. International roaming is only one of the technical options. Access can also be agreed upon through direct negotiations with the national access providers or resellers. Some EU member states provide for regulated access conditions based on specific conditions in a spectrum license or can be the outcome of a merger or antitrust commitment. These options support access seekers in addition to standard commercial negotiations and extend to access seekers in the M2M market.

In relation to the minimum financial commitments (section 4.1.), that is mentioned as a potential obstacle by certain access seekers, it should be noted that access providers have an interest in ensuring that access seekers entering the market have a credible foundation and that the wholesale access requests put forward are realistic and economically viable as in any other commercial agreement.

As each wholesale agreement requires individual negotiation, implementation, and follow-up, providing wholesale access comes at a cost to the host operator acting as access provider. Each business case must be evaluated on its own merits to ensure that the product offered to the access seekers meets the specific needs of that party. To ensure healthy growth of this business to develop, the resources and extra investment made by the access providers should be duly considered[2]. Recuperating set-up and operational costs therefore require a minimum of commitment from the wholesale access seekers.

It should also be noted that if an access seeker wants to conclude an agreement for new technologies for M2M, which are not designed to be used with regular commercial roaming, such agreements may be concluded with the baseline that this is a commercial business that need to both generate a profit and cover development and investment costs.

[2] Considering also that according to BEREC's report, connected objects roaming have increased 60% (Q4-21 to Q3-23) (figure 4), while the reported avg. wholesale revenues per GB have decreased by more than 80% during the same period (figure 9).

Future development (SLA)s:

The draft report (5.2.) suggests that the provisioning of SLAs and KPIs would ensure fair and accountable provision of M2M services and promote equal treatment of own and visiting M2M devices. While the latter is already regulated by the Roaming regulation, the technological evolution could potentially warrant an SLA framework that eventually could be developed within the industry.

Any potential SLA must ensure that it does not unduly weigh on the access provider. QoS depends on many different carriers & platforms and SLAs do not exist between all carriers involved. Also, traffic is usually not differentiated and there is no need for SLAs as that would mean that M2M is more profitable and more important from the rest of the services. Imposing such a measure would demand differentiation of M2M traffic and thus further investments that should be monetized accordingly by the access seekers.

We finally underline that specific SLAs and KPIs must remain part of the bilateral discussions between access seekers and access providers.

Suggestions for adjustments

P13, 2. paragraph:
"*Several MVNOs have pointed out the use of SIM cards to roam globally based on shared mobile country code issued by the International Telecommunications Union (ITU), while MNOs have indicated that they mainly rely on direct roaming agreements*".

While both remarks may be true, they are not related and cause confusion here. As section 7.3. deals with potential issues with shared mobile country codes we suggest deleting this paragraph.

P13, 5. paragraph:
"Once a sponsored roaming agreement is in place, the using company does not have control over the quality of service and face data limitations".

Our view is that sponsored roaming potentially offers more control rather than less. The host offering sponsored roaming faces the same QoS challenges as the sponsored roaming party. However, in contrast to the host, the user can decide to swap IMSI and in effect via a different host may influence the QoS and/or data limitations.

P13, 5. paragraph:
"Sponsored roaming agreement further add complexity to the design of IoT and M2M devices – thereby increasing manufacturing cost and managing two SIM cards can increase power consumption, ……".

A fair comparison will in our view not result in additional complexity or power consumed. Sponsored roaming can take place either via the use of the identity of the MNO or by using the IMSI of the host MNO. If, however, a user of sponsored roaming changes IMSIs frequently, it will result in additional functionality used that is not available to non-sponsored roaming devices (change of identity / SR host).

P24, 7. paragraph
"In future, MVNOs, in particular, should not have to learn of M2M-service outages through customer complaints."

MVNOs have access to the same information and have the same possibilities as MNOs in their role as home operator/access seeker. Passive and active monitoring in a roaming network is possible within certain boundaries.

P26, 4. paragraph:
"Procrastinating to offer permanent roaming or blocking non-geographic IMSI range that by definition is permanently roaming: some MNOs identify them as expensive satellite numbers, which is especially an issue for IoT services provided to automotive original equipment manufacturers and which require voice services for eCall."

This relates to shared telephone numbers, not to shared IMSI ranges. Although technically true, this is confusing. MNOs use shared ranges as well for M2M and used in their home network as well. We believe that the potential blocking of ITU-numbering ranges by some MNOs is a problem, and it has been raised as an issue towards BEREC in the context of ensuring that eCalls can be made from and to vehicles supporting eCall. We ask again that BEREC engages in a dialogue with its members to ensure that ITU-numbering ranges are not unduly blocked by national MNOs within the EU.

P30, 3. paragraph:
"*Another respondent set out that certain use cases (e.g. connected cars) may need to be supported by a minimum of two access networks because of the obligation on car manufacturers to provide eCall, and suggested a need for supports for permanent roaming at national level in that case."*

We disagree with this statement. The principle that has been in place since the beginning of mobile communication is that any mobile network will accept an emergency call whether the call is originating from one of its own customers or not. This is a basic principle also applicable in roaming.
Therefore, emergency calls do not require a roaming agreement with a specific provider in each country; they are always accepted in the available network(s).