

ELECTRONIC COMMUNICATIONS - NON-DISCRIMINATION OBLIGATIONS AND COSTING METHODOLOGIES FOR KEY WHOLESALE ACCESS PRICES

Public consultation

BEUC Statement

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Summary

- The gradual liberalisation of the EU telecoms markets has improved choice and quality of telecommunications services for consumers to a certain extent by stimulating competition. However, in a fast evolving telecommunication sector, competition should always be carefully monitored and stimulated through concrete regulatory and legislative actions. As networks converge, fibre roll-out takes place to replace copper lines and offers are bundled. Transparency, non-discriminatory and fair access to wholesale and retail markets as well as freedom to change supplier all become primary issues again.
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- Therefore, BEUC encourages the European Commission to adopt a clear guidance on the application of a non-discrimination obligation and a consistent cost methodology to be used by National Regulatory authorities (NRAs) across the EU to ensure that the wholesale access costs are fair and calculated according to the same standards across Europe.
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EU Single Telecoms Market: far from being a reality

Despite the EU's revised telecoms rules, the objective of establishing EU single market for telecommunications services is still far from being achieved. The telecoms market remains fragmented alongside national borders. This fact together with lack of competition in the national markets results in the situation when European consumers are still experiencing high prices, limited choice and often also poor quality of telecom services.

Access to telecommunication networks has become crucial for consumers and citizens to find employment, housing, access to services such as government services, or to communicate. However, the EU is still far behind the targets established in the EU Digital Agenda for Europe¹ and at the current tempo of investments, it is likely that those targets will not be achieved on time.

BEUC calls upon the European Commission to revise its decision² and to include access to broadband internet in a scope of universal services as this will improve people's quality of life, enable electronic communication and increase competition. All consumers (including those living in rural areas as well as those with a low income who are much less likely to access and use broadband services) should be provided with the possibility to have an access to broadband and be given a legal right ensuring a high-quality connection at a reasonable price.

Need for EU action

To foster the deployment of Next Generation Access Networks (NGAs) and to encourage market investment in open and competitive networks, BEUC encourages the European Commission to adopt ambitious recommendations ensuring non-discriminatory access for alternative operators to network infrastructure as well as a more coherent approach in terms of cost methodologies used across the EU so that the costs are calculated according to the same standards and wholesale access prices are set at a fair level reflecting the underlying costs.

BEUC has identified a number of key elements that should be reflected in the Commission's approach:

- **Competition**

For competition to be effective, the access to the network should be made at affordable prices, reflect the real costs and sanction unfair and discriminatory practices against alternative operators. The proper implementation of the revised EU telecoms rules as well as recently adopted Recommendation on Next Generation Access Networks, has the potential to foster competition by ensuring that all competitors have access to the infrastructure under fair conditions and on a non-discriminatory basis, while ensuring the quality of service provided to wholesale service providers is the same as that of the owner and operator of the network.

¹ Digital Agenda for Europe sets the objective to bring basic broadband to all Europeans by 2013 and seeks to ensure that, by 2020, (i) all Europeans have access to much higher internet speeds of above 30 Mbps and (ii) 50% or more of European households subscribe to internet connections above 100 Mbps. (<http://ec.europa.eu/europe2020/pdf/digital-agenda-communication-en.pdf>)

² Communication on universal service in e-communications: report on the outcome of the public consultation and the third periodic review of the scope COM(2011) 795 final.

- **Consumer welfare**

Effectively regulated telecoms markets are beneficial to consumers in terms of choice and affordability. Fair competition in the telecoms sector is a key to the provision of innovative, affordable services to consumers. However, when looking at the current telecoms market, the prices are rising, very often due to the increasing wholesale prices and it is sometimes very difficult for consumers to have a real choice. Thus we encourage the National Regulator Authorities (NRAs) to promote competition while ensuring that benefits in terms of choice, affordable price and quality of telecommunications service are delivered to consumers.

- **Consumer protection**

The revised EU telecoms framework³ establishes the obligation for telecom providers to provide consumers with a reasonable quality of service at affordable price as well as the clear information about the terms and conditions of providing such a service. However, in practice, consumers' rights are not protected and consumers very often experience poor quality of service, poor customer service and lock-in in lengthy contracts. Therefore, BEUC asks for the swift and full implementation of the new regulatory framework for the telecommunications sector.

- **Non-discrimination access**

Wholesale broadband access must be provided on a non-discriminatory basis while safeguarding the quality of service provided to wholesale service providers is the same as that of the owner and operator of the network. All competitors should have access to the infrastructure under fair and transparent conditions and any practice resulting in a competitive disadvantage of any operator should be prohibited. In order to ensure consistency across the EU, BEUC calls for the adoption of guidance on the implementation of the non-discriminatory provision of the revised Access Directive⁴ and NRAs to closely monitor compliance and ensure effective enforcement.

- **Wholesale access based on actual costs**

Wholesale access prices should be calculated on the basis of actual cost of the existing network and the underlying costs of providing access to the network rather than on the cost of building a new copper network. However, telecom incumbents in Germany, Italy and Spain increased the fees they are charging other operators for the wholesale access by as much as 25% over three years, while it is estimated that the EU average monthly rental per fully unbundled local loop is €8.53⁵. Similar charges are based on an outdated pricing model the sole aim of which is to increase the price of the copper network access and to maximise profits for incumbent operators.

Therefore, BEUC calls upon the European Commission to adopt a consistent model for the cost methodologies used by NRAs across the EU to ensure that the costs are fair and calculated according to the same standards. This will contribute to the development of the internal market for the telecoms services, support consistent implementation of the regulatory framework and encourage the operators to invest in NGA networks.

END

³ Directives 2009/140/EC and 2009/136/EC.

⁴ Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, as amended by Directive 2009/140/EC.

⁵ Digital Agenda Scoreboard 2011.