

The Consumer Voice in Europe

## REFORM OF EU TELECOMMUNICATIONS RULES

BEUC preliminary views on the European Commission proposal



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In an ever more interconnected world, consumers spend increasing amounts of time and money online, connecting with others and leading digital lives.

Yet telecom markets remain an important sector of concern for all European consumers, as general satisfaction with telecom services remains low. For example, the European Commission's latest Consumer Market Scoreboard found that from all 29 surveyed markets, telecom markets (fix and mobile telephony, internet access and TV) have the highest share of consumers that have experienced problems and have suffered detriment.

The European Commission's proposed reform of Europe's telecom rules<sup>1</sup> is a good opportunity to ensure consumers' interests in the sector are protected and promoted.

## What do consumers need from the new telecom rules?

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### 1. Competition must continue to be the guiding principle

Thanks to EU rules, European consumers benefit from (a certain degree of) competition in the telecommunications market. It is thanks to EU rules that telecom markets have been liberalised and smaller, alternative operators have been able to emerge and compete with former monopolists.

European consumers need competitive telecom markets, where telecom providers of all sizes and natures continuously compete against each other to earn consumers' trust and satisfaction with high quality, affordable prices or newer services. The new telecom rules must continue to have these objectives as guiding principles throughout the entire legal framework.

The proposed reform of the EU's rules will determine the way in which telecom companies access and pay to access each other's networks through rules contained under the so-called access regulation regime. Co-legislators must therefore ensure that the reformed rules guarantee that alternative operators can get access to infrastructure at reasonable and fair prices and conditions, so they bring the necessary competitive pressure into the market.

The proposed reform also aims to regulate how different companies can team up to undertake joint investments in infrastructure as well as the powers that regulatory authorities will have when they observe anti-competitive practices. These rules will have a significant impact on the degree of competition in markets across Europe too, and therefore on the amount and quality of choice consumers will enjoy. All these new measures must therefore be built with consumers' short and long term interests in mind.

### 2. Building a consumer protection framework that will stand the test of time

Consumers use a vast range of different types of digital services to communicate – traditional telephony, messaging, and increasingly online alternatives such as WhatsApp or Skype. Many of the latter type of services do not fall under the current telecom laws, which focus solely on traditional telecom services.

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<sup>1</sup>Proposal for a Directive Establishing the European Electronic Communications Code (Recast) - 2016/0288 (COD), 14 September 2016

Horizontal consumer protection rules are insufficient to protect consumers in this area. The sector continues to need a specific legal framework which can go further and tackle sector-specific technicalities, unfair situations and switching barriers. Consumer protection rules in the sector need to be updated to today's state of markets and reinforced to address the problems that consumers have today and protect them against future abusive situations. With the proposed new rules, any service that enables real-time communications over digital networks, whether they are transmitted over the internet or not, will be addressed. This is a welcome expansion of the scope of the EU rules as it reflects the reality consumers experience in the market. It is important to carefully evaluate whether the proposed measures are sufficient and appropriate to protect consumers given the specificities of different types of communication services.

The EU's telecom laws facilitate the termination of contracts and switching between different providers – thus helping consumers to reap the benefits of competition. Since the rules were last reformed in 2009, different market practices have evolved that can constitute switching barriers for consumers, for example through the use of bundled services. It is therefore crucial that these rules are strengthened, not weakened. For example, mobile providers should not be allowed to impose penalties on consumers when they decide to terminate a contract because they are unsatisfied with the service. The Commission's proposal regarding these basic consumer rights in the sector need to be carefully analysed to ensure a high level of protection.

The mixed harmonisation nature of the European Commission's proposal needs to be carefully analysed. It is important to ensure that consumers do not lose rights granted by national legislators to address specific problems across Member States. The European Commission's proposal has inserted some targeted minimum harmonisation measures but additional or more detailed ones might be necessary.

Lastly, Europe's rules are paramount to tackling the so-called 'digital divide' and ensure that all consumers, regardless of their economic means, can play a role in the digital era. For this to become a reality, the EU rules must ensure all consumers can access basic broadband services at an affordable price.

### 3. Consumers deserve a functional Single Market for telecom services

Europe's telecom markets are still based on distinct national markets, a fact which creates tangible obstacles to the cross-border provision and consumption of services. From a consumer perspective, services such as phone calls, SMS and access to the internet should be usable seamlessly across the EU, without any geographical discrimination. This has to be possible in two situations: when the consumer is home and wants to connect with someone in a different Member State and when the consumer is travelling within the EU.

A recent market analysis by our member organisations found that the vast majority of consumers still face unreasonably prohibitive prices when they use their mobile phone to call a friend or family member in a different country. This is a market failure that the EU can resolve rather easily by setting a non-discrimination principle for telecom services, where the price of such services should not discriminate between national and international calls, except for reasonable surcharges aimed at recovering real costs for operators.

Unfortunately, the European Commission's proposal does not adequately address this issue. We therefore call on the co-legislators to make sure discrimination of prices between domestic and international calls inside the EU is addressed so consumers can, at last, get closer to enjoying a functional Single Market.

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