



The Consumer Voice in Europe

RELEVANT MARKETS IN THE ELECTRONIC COMMUNICATIONS SECTOR SUSCEPTIBLE TO EX ANTE REGULATION

Public consultation on the revision of the European Commission's Recommendation
- BEUC response

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Ref.: X/2013/003 - 11/01/2013

Summary

The European Consumer Organisation (BEUC) believes that the current list of relevant markets provides a sufficient basis for the upcoming European Commission's Recommendation and would oppose the removal of retail fixed telephony market from the list of markets susceptible for ex ante regulation.

BEUC also recommends a certain degree of flexibility in the drawing of the list of relevant markets, allowing for additional markets to be added on the basis of the monitoring by National Regulatory Authorities (NRAs). NRAs should also carefully assess the number and nature of consumer complaints in a specific market as an indicator of the need for ex ante regulation.

A study by the European Commission¹ confirms a high incidence of problems with internet service provision which according to estimations result in the total consumer detriment at between EUR 1.4 and 3.9 billion per annum. As telecoms markets remain of critical interest to consumers, BEUC has identified a number of challenges that need to be addressed in the upcoming Recommendation:

Competition:

Despite the liberalisation of the EU telecoms markets, non-competitive markets with only a few operators remain a reality. It is essential that the existing EU competition regime is adequately combined with robust consumer protection so that consumers have more choices of telecoms services at affordable price.

Information on service and transparency of offers:

Transparency and quality of information are essential; especially what regards tariffs, price comparison services as well as information on network coverage, speeds and customer services.

Bundled offers:

Close monitoring of bundled offers is important so that timely action can be taken. In addition, a monitoring of TV-distribution as a part of bundled offers is needed.

Switching charges:

Consumers are frequently facing high switching charges when they decide to change their telecoms provider or withdraw from the contract. National Regulatory Authorities should monitor the situation on the market, especially what regards switching penalties.

Contractual restrictions:

Consumers often face unfair terms and conditions in the contracts with the telecom service providers. Coherent and strict enforcement of existing legislation needs to be guaranteed.

Investments in ultra-fast broadband:

National Regulatory Authorities and governments should put more emphasis on the roll-out of Next Generation Access networks at the national level. Moreover, in its upcoming Recommendation on non-discrimination obligations and costing methodologies with respect to access to electronic communications networks, the European Commission should regulate the market effectively so that consumers can buy a high-quality connection at a reasonable price.

¹ Study by DG SANCO which is currently being finalised.

The European Consumer Organisation (BEUC) welcomes the revision of the Recommendation on relevant markets in the electronic communications sector susceptible to ex ante regulation² and urges the European Commission to address existing loopholes so that consumers are well-protected and can reap benefits of fast evolving technologies and services in the electronic communications sector.

Despite the EU's revised telecoms rules³, the telecoms market remains fragmented alongside national borders and the objective of establishing the EU single market for telecommunications services is still far from being a reality. For instance, roaming is a clear evidence of a non-sufficiently integrated single market and as there is no technical justification for keeping the concept of roaming itself, abolishing roaming charges should be a priority. Moreover, current telecom markets are complex and characterised by a lack of competition resulting in high prices, limited choice and often also poor quality of telecom services.

Ex ante regulation plays an important role as it can prevent abuses by incumbent operators and promote the development of innovative services so that consumers have more choices of telecoms services at affordable price. In addition, National Regulatory Authorities (NRAs) have a strategic position for the market monitoring and should ensure that all measures are correctly implemented.

In addition, consumer protection authorities have also an important role to play in order to ensure consumer protection in telecoms markets and compliance with protection law such as the Unfair Commercial Practices Directive (UCPD)⁴ and Unfair Contract Terms (UCT)⁵.

² http://ec.europa.eu/information_society/policy/ecomm/doc/library/proposals/rec_markets_en.pdf

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

⁴ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive

⁵ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts

Question 1: What are the technological developments in the electronic communications sector at the EU level as of 2007 that have an influence on how the markets should be defined in the revised Recommendation from an ex ante perspective?

Question 2: What are the changes in structure and functioning of the relevant markets (e.g. supply and demand side developments, bundles, convergence, geographic scope), which should be reflected in the revised Recommendation from an ex ante perspective?

Question 3: Can you identify any market bottlenecks which in your view cannot be addressed by ex ante regulation via a revision of the Recommendation alone? How in your view can such market bottlenecks be addressed?

I. Recent developments

Telecoms markets remain of critical interest to consumers as more and more consumers use data and mobile services (not only for the voice communication but also for content consumption, such as music streaming).⁶ In some countries, many consumers have already dropped the fixed line and are using IP-telephony as a complement to the mobile (often provided as a package together with TV subscription and broadband). Nevertheless, there are still 2% of EU households⁷ which lack both fixed and mobile telephone access.⁸

However, for the achievement of the targets set in the Digital Agenda with regards to fast and ultra-fast internet and the development of interoperable applications, it needs to be ensured that there are no barriers in the market and consumers can use new services while being sufficiently protected. Therefore, BEUC believes that addressing regulatory fragmentation and promoting more cooperation between national telecoms regulators can help overcome those barriers.⁹

As concluded by the recent Consumer scoreboard¹⁰, although the number of problems consumers face has decreased since 2011, telecommunications markets score still fairly badly on problems and complaints. Fixed and mobile phone services, internet provision as well as TV subscriptions are very often reasons of consumer complaints. A study by the European Commission¹¹ confirms a high incidence of problems with internet service provision which according to estimations result in the total consumer detriment at between EUR 1.4 and 3.9 billion per annum.

Markets are moving fast and the convergence of telecommunications sector with other sectors together with its impact must be carefully analysed. For example there is an increasing interaction between the telecoms and the content markets; in the past, these were two separate markets, based on different technologies, with

⁶ Digital Agenda Scoreboard 2012

⁷ Particularly in Romania, Bulgaria and Hungary.

⁸ Special Eurobarometer 381, E-Communications household survey, June 2012

⁹ http://ec.europa.eu/information_society/policy/ecomms/doc/library/ext_studies/cost_non_europe/im_e_com.pdf

¹⁰ http://ec.europa.eu/consumers/consumer_research/editions/docs/8th_edition_scoreboard_en.pdf

¹¹ Study by DG SANCO which is currently being finalised.

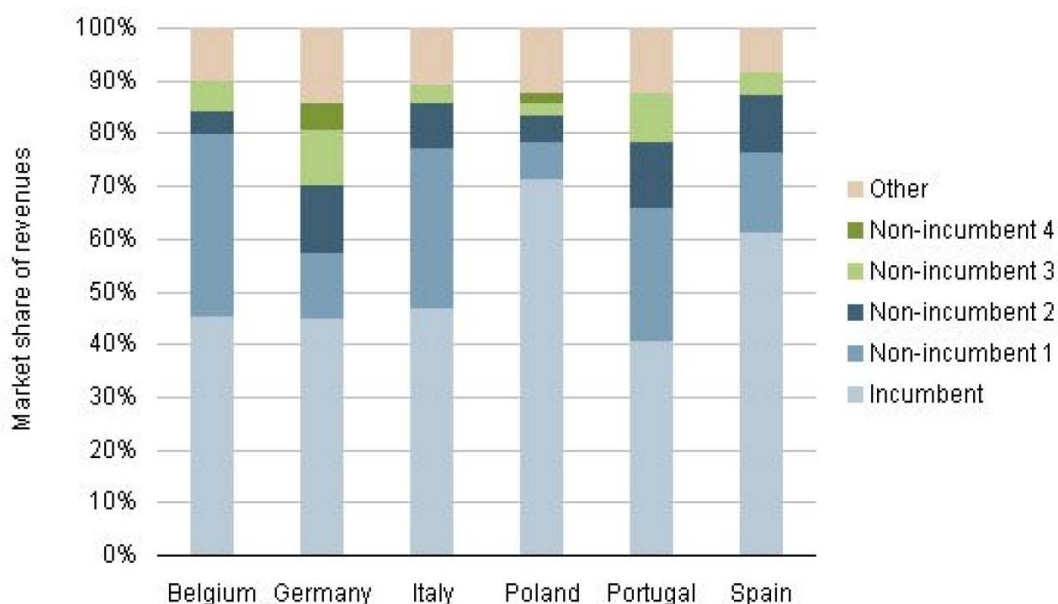
distinct governance and regulatory frameworks. Analyses of issues arising from market convergence are especially important in order to identify the regulatory challenges. The issue of net neutrality is an example where changing market structures have an impact on consumers, where the vertical integration of network providers with content providers creates the incentives of discriminating against different types of content, services and applications. In this converging environment, competition law has a role to play to ensure that consumers benefit from greater choice and service quality and that the impact on consumer welfare remains positive. However, competition law can only intervene ex post, while the relevant markets cannot be easily identified. It is therefore important that regulatory intervention occurs ex ante.

II. Challenges

In order to ensure that fast evolving products and services in the electronic communications sector deliver benefits to consumers, BEUC has identified a number of challenges that need to be addressed in the upcoming Commission's Recommendation:

- **Competition**

The gradual liberalisation of the EU telecoms markets has improved choice and quality of telecommunications services to a certain extent in some countries but there are still non-competitive national markets where the number of operators remains restricted, or where there is no real choice for consumers due to concentrated practices of the operators, as demonstrated below with regards to the retail broadband market in six EU Member States.

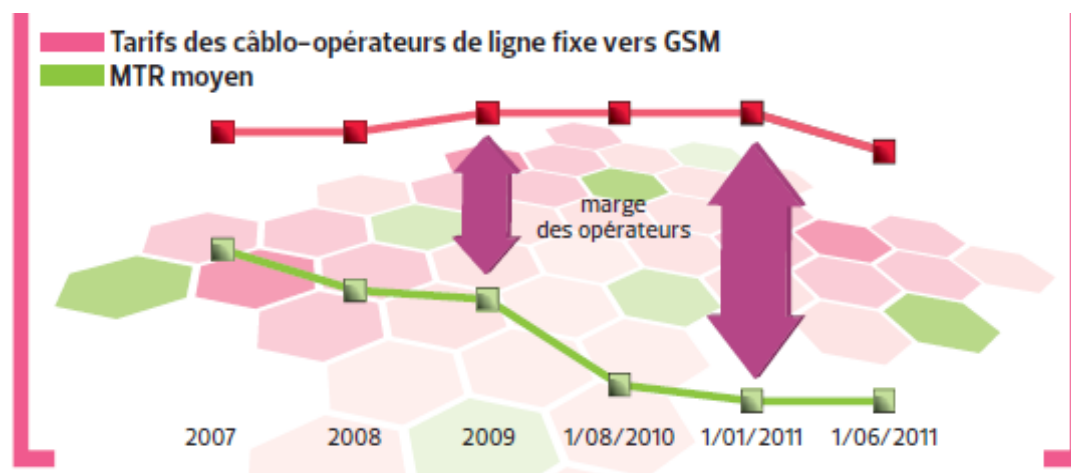


Source: Analysys Mason Research, *Europe's digital deficit: revitalising the market in electronic communications, 2010*

BEUC is also concerned about significant differences in prices of telecommunications services in different countries. For instance, according to the analysis of our Czech member, dTest, it is evident that three main mobile operators who are also active in Slovakia, Poland and Great Britain are charging Czech consumers significantly higher prices for services provided in the Czech Republic than for services provided in other markets.

Additionally, the prices for roaming services have been seen as a clear evidence of insufficient competition since prices have been clustered around the level of the regulated caps. Although roaming charges are gradually decreasing due to the regulation¹², roaming charges should be abolished as there is no justification for keeping the concept of roaming itself and it is contradicting the idea of a single EU market for telecoms. At the same time, BEUC strongly recommends to carefully monitor the prices of national telephone services as several of our members observed the paradox when consumers are paying more for sending an SMS or calling abroad while being at home than using the same service while roaming.¹³

Furthermore, mobile termination rates (MTR) remain high and operators do not pass MTR cuts on to retail tariffs for consumers. Below is the example of Belgium which clearly illustrates that MTR rates are not reflected at retail level:



Source: Test-Achats, October 2011

As also reported by our German member VZBV, calls from fixed networks into mobile networks have been disproportionately more expensive than calls from mobile to fix over a long period of time. Although the German regulator decided to reduce the mobile termination rates in 2010, retail prices of calls from fixed to mobile did not drop distinctly.

¹² The level of roaming charges has been regulated since 2007. The current roaming charges are regulated under Regulation 531/2012 on roaming on public mobile communications networks within the Union.

¹³ For instance in Belgium, many operators keep domestic prices around 0.10 € / SMS and more. The situation is even worse when one considers an SMS sent abroad. This results in a situation when the Belgian consumer pays approximately € 0.30 to send an SMS from Belgium to Italy while s/he pays the maximum price of € 0.10 by sending SMS from France to Italy.

BEUC is concerned that the ex-post competition law alone cannot address the challenges arising from converging markets and fast technological developments. Application of EU competition rules only allows for ex post intervention, thus failing to prevent interferences to the detriment of competitors and end-users. Furthermore, competition law takes effect in cases of anti-competitive agreements or cases where a company is proven to have abused its significant market power (SMP) and relies on a narrow definition and interpretation of the relevant market in which such power arises; however, in the complex and fast evolving ICT market, it is difficult to define the appropriate market.

Moreover, switching may not be possible for customers who are confronted with limited choice where only a few operators are active in a specific area. For competition to be effective, it is essential that consumers have a real choice and are able to switch operators if they do not like the way a certain provider manages network traffic or if they are not satisfied with the service or the pricing policy of their telecoms provider. However, switching is often not easy; either because of the significant costs involved or due to the contractual restrictions as it is often the case of bundled services. Switching costs may include contract cancellation fees, costs related to installation, as well as the ones related to inform third parties of the new contact information. Switching must be simple and consumers should be able to easily terminate a contract. For instance, due to new telecoms legislation introduced recently in Belgium, consumers should no longer be tied to long-term obligations and can cancel their subscription even when a long-term contract has been signed.

It is essential that the existing EU competition regime is adequately combined with robust consumer protections. We truly believe that the upcoming Commission's Recommendation should be flexible enough so that it leaves the door open to any potential regulation which may be needed in the future.

- **Information on service and transparency of offers**

Consumers have the right to receive clear, precise, complete and accurate information. The development of reliable tariff comparison tools can help in this direction. Consumer organisations play an important role as they may provide price/service-comparison on their website.¹⁴

Price comparison tools are increasingly important since markets are becoming more and more complex and consumers have difficulties with finding the best deal for them. Information overload may lead to poor decisions and have a detrimental effect on consumer welfare¹⁵.

¹⁴ For instance our Czech member, dTest, is running the tariff calculator which contains all the mobile deals offered by Telefónica O2, T-Mobile and Vodafone in the Czech Republic. It is aimed at monitoring the quality of service and enhancing transparency of all tariff conditions. The tariff calculator shows complete picture of the Czech mobile communication market to enable consumers to compare the offers on the market and to assess which offers provide the best value in terms of price, features, services, terms and conditions.

¹⁵ For example according to the *National billmonitor.com Mobile Report 2012*, UK mobile users waste £6 billion a year by being on the wrong mobile phone contract, a figure that has increased by £1.1 billion since 2011. According to Billmonitor 26 million UK mobile subscribers are on excessive tariffs, wasting an average £164 a year on allowances three times too large for them. Eight million mobile users are on tariffs that are too small which amounts to an overall waste of £1.66 billion.

For instance, as reported by our member, Consumer focus, the UK mobile market is characterised by tariff complexity, consumers' lock-in in lengthy contracts and problems related to barriers to switching that prevent consumers from reaping the benefits of what is considered a highly competitive market. According to their research¹⁶, only 20% of mobile users found it easy to navigate through the range of tariffs available, with close to 70% feeling that there are too many mobile tariffs in the market.

According to price comparison website uSwitch.com, in 2011 there were over 1.5 million different mobile tariffs available in the UK, see table below.¹⁷

Table 1 The tariff jungle: how your network compares

Operator	Number of handsets	Number of tariffs
Three	85	67,291
O2	152	223,743
Orange	216	686,606
T Mobile	145	165,665
Talk Mobile	72	6,525
Virgin Mobile	72	650
Vodafone	161	273,112
Tesco Mobile	34	70
Total	699	1,572,861

Source: uSwitch.com

Those figures only refer to monthly contracts, with thousands more options available on "pay as you go" (PAYG) and SIM only deals on the market. Another comparison website, MoneySupermarket, shows 1,137,389 mobile phone deals available on the UK mobile market for September 2012.¹⁸

Consumer Focus research also illustrates consumer confusion about call charges.¹⁹ For instance, less than half of respondents (45%) were aware they are charged for 0800 calls from mobiles, while almost one in five (19%) thought these calls were free. Although awareness of charges for 0845 and 0870 numbers was higher among respondents, large numbers of consumers did not know whether they were charged or not.

A similar situation with regard to 0800 call charges has been reported by our German member. In Germany, the rules for charging when calling 0800 numbers vary significantly and 0800 numbers are rarely free of charge and might even be blocked on mobiles.

¹⁶ Online survey conducted by Harris Interactive in March 2009 among 2,013 adults aged 18+, who are responsible for paying the bill for a mobile phone used mainly for personal, rather than business, purposes. A split of 66% PAYG and 34% contract customers was achieved to mirror the proportions present in the GB market.

¹⁷ <http://bit.ly/SoRORP>

¹⁸ <http://bit.ly/QzVaFX>

¹⁹ Telephone omnibus survey commissioned by ICM research, on behalf of Consumer Focus, in March 2010. Sample size 1,000

In order to enable consumers to find the best offer for them, they need clear and understandable information. Currently, more and more private comparison websites are promoted as assisting consumers in their search for the best offer, by centralizing the information available from different providers. Consumers often trust the information available on the internet and are not aware that some of this information can be biased for different reasons. Therefore, in order to promote consumer trust in these tools, it is essential that those respect specific requirements such as transparency of business model, independence, up-to-datedness, verifiability, accuracy, reliability and user-friendliness.²⁰ At the same time, regulators should proactively monitor the respect of these conditions in order to enhance consumer trust in the information provided by comparison websites and provide guidance to all private price comparison websites so that information provided to consumers is impartial, up to date and accurate.

In addition, following the European Consumer Summit 2012, the European Commission (DG SANCO) launched a stakeholder group dialogue on Comparison Websites. This multi-stakeholder dialogue will analyse the interaction between all stakeholders involved, map best practices in the comparison of products and services across different sectors, identify potential areas of improvement and could provide recommendations applicable for comparison websites operated in all sectors.

- **Bundled offers**

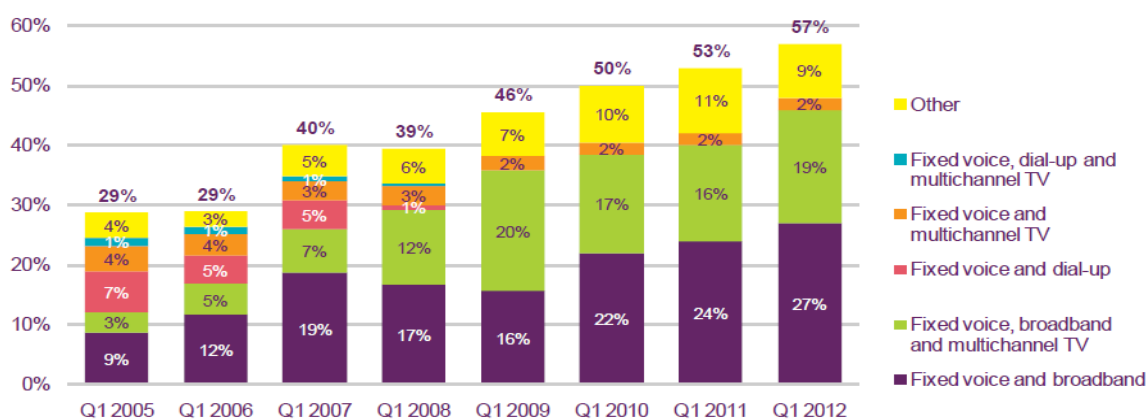
There is an increasing trend for consumers being offered to opt for bundled telecom services, with 43% of EU households buying more than one communications service from the same provider at a single price. Internet access is the most commonly bundled service (90%), followed by fixed telephony. Half of households with bundles bought television channels as part of it and the number of households is continuously increasing.²¹ While fixed and mobile has already received the attention of the regulators across Europe, BEUC strongly believes that the TV distribution market needs to be investigated.

²⁰ BEUC position paper on Comparison Website, available at <http://bit.ly/13IMFDJ>

²¹ Special Eurobarometer 381, E-Communications household survey, June 2012

According to the UK telecoms regulator, Ofcom, 57% of UK Households purchased Telecom services as part of a bundle and this practice is growing²²:

Figure 1: Take-up of bundled communications service over time



Source: Ofcom technology tracker, Q1 2012. Base: All adults aged 16+ (n=3772)

However, switching may be more complicated and time consuming with regards to bundled offers, thus deterring consumers from doing so. According to a Eurobarometer survey²³, the main reasons preventing switching refer to contractual restrictions, the time required, the absence of alternative providers in their area and the fear of losing service during the switchover.

Due to the prevalence of bundled deals, BEUC calls for a simple and consistent switching process. Additionally, BEUC strongly believes that close monitoring of bundled offers is essential so that timely action can be taken. Furthermore, considering the increased role of TV distribution, BEUC asks for a close monitoring of TV-distribution as a part of bundled offers and an assessment of the role of TV-distribution within telecom services in general.

- **Switching charges**

Consumers are very often facing high switching charges when they decide to change their telecoms provider or withdraw from the contract.

For instance, as reported by our Italian member, Altroconsumo, the Italian law abolished all penalty clauses requiring consumers to pay when they withdraw from the fixed telephony contract or switch to another operator already in 2007. However, the same law allows the operators to charge their customers *'justified costs of withdrawal'*. As a result, Italian consumers pay more or less the same amount of money as five years ago with the only difference being that the penalty has a different name.

²² Figure 1.10, Communications Market Review 2012, Ofcom

²³ Special Eurobarometer 381, E-Communications household survey, June 2012

- **Contractual restrictions**

Consumers often face unfair terms and conditions which may result in consumers getting 'locked-in' in lengthy contracts. Unability to end contract is also one of the main sources of consumer complaints. Lengthy 'lock-in' contracts are the result of complicated contractual terms and lack of consumer information which then lead to low switching rates. Offers when consumers sign a long term contract to receive subsidised equipment may be interesting in terms of reduced price but, at the same time, the lack of flexibility prevents consumers from switching.

For example our UK member, Which?, recently submitted a complaint²⁴ to the UK telecoms regulator, Ofcom, in respect of 'hidden' contract clauses arguing that the current advertising and terms & conditions of mobile phone operators potentially mislead consumers and distort competition by:

- advertising offers that give a strong impression they are fixed, particularly for price, when they are not and only the duration of the contract is fixed;
- supplying imbalanced contracts which lock in consumers for a fixed term and only allow consumers to cancel contracts without penalty if price rises are of *'material detriment'*.

Since September 2011, UK consumers have seen a series of price rises, or cuts to data allowance (a de facto price rise) from three UK suppliers representing nearly 60% of the market share. Although this issue relates to contracts, it fundamentally affects competition: the prices advertised and the quality of the product are not fully disclosed, thus distorting choice. The findings in the Which? complaint also indicate a degree of parallel behaviour. The risk is a 'race to the bottom' as operators with significant (albeit not dominant) market share attempt to lock consumers into 2 year contracts on terms that do not reflect the actual bargain. Since the complaint was submitted, all 5 Mobile Network operator brands have announced price rises to their fixed contracts.

In Sweden, a discussion has been raised by the Consumer Ombudsman that mobile contracts should never be longer than 1 year but our member has not noticed any changes in this respect until now.

Being recently contacted by many consumers, our French member, CLCV, reviewed the general conditions of the major mobile operators. This review has identified that many clauses are unacceptable. In order to protect the public interest and the rights of consumers, CLCV decided to sue 10 mobile operators for their general contract terms and conditions.²⁵ Four most frequent problems identified were:

- Unclear contract terms and conditions,
- Operators limiting their responsibility in case of low quality of service (so it is difficult for consumers to get any compensation),
- Consumers being required to pay for service which has not been delivered,
- Inaccurate billing.

²⁴ <http://www.which.co.uk/documents/pdf/the-marketing-of-mobile-phone-fixed-term-offers-which-complaint-290997.pdf>

²⁵ <http://www.clcv.org/nos-actions-en-justice/la-clcv-assigne-10-operateurs-de-telephonie-mobile-en-justice.html>

In the Czech Republic, the majority of the offered deals are of long-term duration while specific problems have been reported for the mobile sector, where there is a lack of deals for consumers who ask for lower number of free minutes (80 minutes per month and less). This group of consumers is in fact forced to use post-paid services with average prices over 20 cents per minute and almost 30 cents per minute if one takes tariffication (60+60 or 60+30 in majority of cases) into consideration.

Our Greek member, KEPKA, reported that the unilateral change of tariff is a common practice among operators. For instance in 2010, many Greek consumers complained that the mobile telephony company, which they had a contract with, increased the minimum charge time from 30 to 45 seconds. Consumer organisation investigated the case and discovered that all three mobile operators had increased the minimum charge time from 30 to 45 seconds. At the same time, mobile operators were arguing that they were entitled by the terms of the contracts signed by consumers to change their tariffs and that consumers had the right to switch providers if they did not agree with the increase. The fine was consequently imposed on these three mobile phone operators.

Finally, the Universal Services Directive as amended in the 2009 telecom package²⁶ provides in article 20 that 'Member States shall ensure that subscribers have a right to withdraw from their contract without penalty upon notice of modification to the contractual conditions proposed by the undertakings providing electronic communications networks and/or services'. However, according to the feedback received from our members, the implementation of this provision varies across Europe and it often does not achieve the objective of enabling consumers to easily switch their telecoms provider. Moreover, we are concerned that this may set even lower standards compared to consumer protection legislation in relation to the unfairness of contract in certain countries. Therefore, we strongly recommend that the provision should be looked at to ensure its coherent and strict application. In addition, enforcement in this area, for instance the use of injunctions proceedings brought by designated bodies (consumer organisations or public entities) should be encouraged.

- **Investments in ultra-fast broadband**

The EU needs to ensure ultra-fast broadband markets are competitive by allowing new technologies to be developed and innovation to be promoted to the benefit of consumers. In this respect, NRAs and governments should put more emphasis on the roll-out of Next Generation Access (NGA) networks at the national level as the successful roll-out of new NGA networks will significantly enhance consumer choice. Moreover, for competition to be effective access to the network should be made at affordable prices, cost-based, on a transparent basis and discriminatory practices should be forbidden between operators or co-investors.

The proper implementation of the revised EU telecoms rules as well as the recently adopted Recommendation on Next Generation Access Networks, have 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

²⁶ Directive 2009/136/EC

ensuring the quality of service provided to wholesale service providers is the same as that of the owner and operator of the network.

In view of the upcoming European Commission's Recommendation on non-discrimination obligations and costing methodologies with respect to access to electronic communications networks, BEUC urges the European Commission to regulate the market effectively and choose the right approach of setting the wholesale access costs. The wholesale prices have a direct impact on final prices paid by consumers, and the European Commission must make sure that the right way forward is chosen. The Recommendation must promote competition, stimulate innovation and ensure investments in ultra-fast broadband networks so that consumers can buy a high-quality connection at a reasonable price.

Question 4: In your opinion, is the three criteria test, as defined in the Recommendation, an appropriate instrument in defining the relevant markets susceptible to ex ante regulation or would alternative means to identify relevant markets be more suitable?

Question 5: Should, in your view, criteria be added or removed from the list or should the criteria be formulated in a different manner? Should additional guidance be given to the existing criteria?

Question 6: How, in your view, can legal certainty be best ensured in identifying the markets susceptible to ex ante regulation?

Although BEUC supports all three criteria when identifying the markets susceptible to ex ante regulation, we are concerned that such an approach is short-sighted what regards consumer-related aspects. National Regulatory Authorities should also focus on the assessment of consumer complaints and the level of consumer protection provided in a specific market, as well as the degree to which consumers really access benefits the market is offering.

Question 7: In your opinion, should the scope of any relevant market(s) identified in the Recommendation be changed? If yes, please explain why, referring to the relevant market(s) concerned.

Question 8: If the answer to the previous question is yes, please specify the qualitative and quantitative impact of such changed scope on consumers (users), competition, and development of the internal market. Please provide separate reasoning for each market subject to a new scope.

In our view, all issues described above (Q1-3) should be taken into consideration when analysing the scope of each relevant market and changes should be made accordingly.

Question 9: On the basis of the three criteria test carried out at EU level, should any of the markets listed in the Recommendation be removed from the list in the revised Recommendation? If yes, please provide comprehensive reasoning thereof.

Question 10: If the answer to the previous question is yes, please specify the qualitative and quantitative impact of such removal of markets on consumers (users), competition, and development of the internal market. Please provide separate reasoning for each market you propose to delete from the list.

In general, the current list of relevant markets provides a sufficient basis for the upcoming Recommendation and BEUC would oppose any attempt to remove the retail fixed telephony market from the list of markets susceptible for ex ante regulation, since this market remains problematic and not sufficiently competitive.

Given the rapid developments in the electronic communications sector, BEUC recommends a certain degree of flexibility in the drawing of the list of relevant markets. National Regulatory Authorities should monitor all currently relevant markets so that they can identify also additional markets where an investigation is needed.

Question 11: On the basis of the three criteria test carried out at EU level, should any of the markets regulated by NRAs on the basis of national circumstances (such as SMS termination or broadcasting transmission services) be added to the list in the revised Recommendation from an ex ante perspective? If yes, please provide comprehensive reasoning thereof.

Question 12: If the answer to the previous question is yes, please specify the qualitative and quantitative impact of adding those market(s) on consumers (users), competition, and development of the internal market. Please provide separate reasoning on the impacts for each market you propose to add to the list.

N/A

Question 13: On the basis of the three criteria test carried out at EU level, can any other markets be identified that should be added to the list in the revised Recommendation, from an ex ante perspective? If yes, please provide comprehensive reasoning thereof.

Question 14: If the answer to the previous question is yes, please specify the qualitative and quantitative impact of the relevant market(s) you propose to add on consumers (users), competition, and development of the internal market. Please provide separate reasoning on the impacts for each market you propose to add to the list.

Please, see BEUC's response to Q9. In addition, we encourage the European Commission to thoroughly analyse the current situation and problems as described above (Q1-3) so that consumers are well-protected and have more choices of

telecoms services at affordable price. In particular, BEUC recommends that special attention should be paid to bundled offers and TV market in particular.

At the same time, BEUC believes that the development of mechanisms for the overview of interventions by NRAs in the electronic communications sector will also help to identify existing loopholes and contribute to discussions on potential relevant markets.

Question 15: On the basis of the three criteria test carried out at EU level, can any transnational market(s) be identified in the revised Recommendation, from an ex ante perspective? If yes, please provide comprehensive reasoning thereof.

Question 16: If the answer to the previous question is yes, please specify the qualitative and quantitative impact of the relevant market(s) you propose to introduce on consumers (users), competition, and development of the internal market. Please, provide separate reasoning on the impacts for each market you propose to introduce.

N/A

END