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E-mail sent to the address INFISO-NETNEUTRALITY@ec.europa.eu

**Messrs.
Policy Development Unit (B1), BU33 7/40
DG Information Society and Media
European Commission
B-1049 Brussels
Belgium**

Subject: Response to the “*public consultation on the open internet and net neutrality in Europe*”.

PosteMobile with registered office in Rome, Via Aurelia 866(hereinafter “PosteMobile”), in person of Mr. Giovanni Maria Lione Head of Legal, Regulatory and Security Department, wishes to provide its response to the above mentioned public consultation.

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PosteMobile is the Poste Italiane Group's Mobile Virtual Network Operator (hereinafter "MVNO") and it is active in Italy since 2007 by virtue of a wholesale access agreement signed with a domestic Mobile Network Operator (hereinafter "MNO").

PosteMobile provides traditional mobile communication services (e.g. voice, data and SMS) to end users at competitive rates, but differs from other mobile operators by offering a range of distinctive mobile services, including innovative services called "SEMPLIFICA", such as, for example, mobile banking and mobile payment services.

SEMPLIFICA M-finance and M-payment services have been implemented in order to be necessary integrated with Banks/Financial Institutions' services portfolio¹.

As of today, PosteMobile manages around 1.5 million SIM CARDS (corresponding to a market share estimated at 1.6% as of end of June 2010) and more than 60% of its clients has associated the SIM card to a Poste Italiane's payment tool (approx 6.6 million of transactions have been made since the beginning of this year via PosteMobile associated SIM Cards).

These figures are evidence of the success awarded by customers to the services, traditional and innovative, offered by PosteMobile.

Is in the PosteMobile strategy to continue to invest in network infrastructures in order to exploit all the advantage of a Full MVNO business model.

¹ [REDACTED]

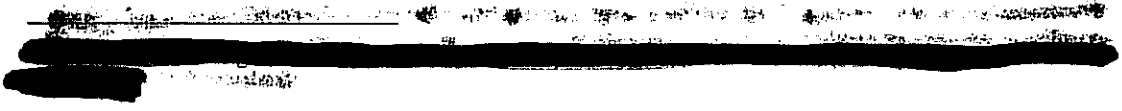
Having said that, in particular, with this document PosteMobile intends to submit to the attention of the European Commission the specific characteristics of the MVNO.

In detail: *i)* Mobile Virtual Network Operator, not having its own mobile access and transmission network², is completely different from Mobile Network Operator, *ii)* MVNO is in a position of strict dependence on Mobile Network Operator since it is not able to provide its services in an independent way so as to develop autonomously its traffic management's policy.

According to PosteMobile's opinion, such characteristics should be taken into consideration by the European Commission in analysing net neutrality and traffic management issues.

Mobile Virtual Network Operator provides mobile communication services without having its own radio frequencies and mobile network infrastructures required to provide mobile telephone service. Therefore, MVNO is obliged to use the mobile network infrastructure of Mobile Network Operator in order to provide its customers with mobile telecommunication services.

For these reasons MVNO is in a disadvantaged competitive position compared to Mobile Network Operator. Profits and financial returns of Mobile Virtual Operator mostly depend on price of wholesale traffic service applied by



MNO. In addition, MVNO needs the network facilities of the hosting Network Operator which is also a direct competitor on the retail market.

Moreover, as mentioned above, the disadvantaged position of the MVNO depends further on the low or sometimes lack of autonomy on managing its own services. As a matter of fact, services offered by MVNO are usually strictly connected to specific mobile access services and specific activities provided and implemented by MNO. It happens also with reference to net neutrality and traffic management.

However, in any case Virtual Operator will need the consensus of the MNO for managing data traffic. Although the MVNO could use capabilities of its own network elements (e.g. HLR), the MNO will always control the settlement of key parameters such as speed and allowance.

The lack of MVNO's autonomy in managing the services generates several problems on retail supply and safeguards of customers.

Moreover, another important and connected issue originates from development by MNO of new network features that could strongly affect the market and could result in high barriers for Virtual Operators in terms of economic sustainability on the data market.

As regards, Virtual Operator won't be able to use the same differentiation tools policy as the MNO, because some kinds of tools are directly connected to the Access Network Elements.

[REDACTED]

All above said, the development of new network features opens different points of discussion in terms of the retail scenario as well as the wholesale one.

[REDACTED]

According to PosteMobile, this situation might cause serious problems if the evaluation of the European Commission will not take into appropriate consideration the specific characteristics of MVNO and particularly its technical/economic dependence on the hosting MNO.

For the aforesaid reasons, PosteMobile invites the European Commission to focus its attention on the real differences between MVNO and MNO, in particular by:

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1) Taking into account the peculiar characteristics of MVNO which distinguish it amply from the Network Operator;

2) Identifying and distinguishing the obligations to be imposed exclusively to MNO from those that can be imposed to Mobile Virtual Network Operator as well, with the aim of limiting the liability of this latter to sole cases where MVNO is effectively able to manage the network. It is manifest, indeed, that it is not possible to ascribe any sort of liability to MVNO for possible traffic limitations existing on the network, when it has not been given the possibility to manage the network and, moreover, the data traffic. For such reasons it is not possible to deem as liable MVNO for have not provided its customers with the necessary information on existing traffic limitations in all those cases where MNO has not respected the principle of transparency at wholesale level towards the hosted MVNO;

3) [REDACTED]

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[REDACTED]

4) [REDACTED]

5) [REDACTED]

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[REDACTED]

In consideration of above, it is necessary, in PosteMobile's opinion, to make MVNO's end users able to access to network facility at the same level of quality and speed guaranteed to MNO's customers. [REDACTED]

[REDACTED]

As regards, PosteMobile invites the European Commission to conduct any necessary evaluation on net neutrality and traffic management, considering the peculiar characteristics of the Virtual Operator, its real disadvantaged position compared to Network Mobile Operators within the field of net neutrality and traffic management and the real competition risks connected to its specific position in the mobile telecommunication market.

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PosteMobile remains at your disposal for any possible further clarification or in-depth analysis and encourages the European Commission to send any communication to the attention of Mr. Giovanni Maria Lione (giovannimaria.lione@postemobile.it; tel 0039 06 96674846) or Mr Andrea Bellissimo (andrea.bellissimo@postemobile.it; tel. 0039 9667 4957).

Kind regards.

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Giovanni Maria Lione
Head of Legal, Regulatory
and Security Department

