A Single Telecoms Market
Hearing of the Committee on the Internal Market and Consumer Protection

Kip Meek

Director of Public Policy and Regulatory Affairs, EE

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Overview

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Industry and regulatory context

Industry context

- **Massive investment requirements** to meet customer demands through continuing to develop network capacity and innovative service offerings
  - EE is investing £1.5 billion over 3 years to roll out 4G services in the UK
- Investment decisions must be assessed over **multi-year planning horizons**, with long payback periods
- Telecoms providers operate within a **highly regulated environment**, where regulation increasingly impacts upon revenue streams
- Increasingly **strong competition from players at all levels of the value chain**, who operate free from the regulation imposed on pure telecoms operators
- Telecoms operators must **constantly adapt and differentiate** their service offerings and develop new relationships across the value chain

The right regulatory environment

In order to provide an environment that encourages European telecoms investment, EU telecoms regulation should:

- Address a clearly identified problem
- Use the right tools
- Be proportionate
- Be future-proof
- Allow operators the flexibility to adapt to a changing market landscape
- Follow due process
- **Provide legal and regulatory certainty**

Assessment of the consumer protection measures of the 'Connected Continent' package

The package fails to deliver against this yardstick of good regulation:

Criteria	Assessment
A clearly identified problem	✓ A problem of under-investment identified × No clear nexus between problem and package proposed
The right tools	× Assumes one-tool-fits-all: the most rigid of regulatory instruments
Proportionate	× Many disproportionate measures
Future-proof	× Detailed & rigid definitions of future services
Flexible	× Risks stifling innovation
Due process	× Cursory Impact Assessment × No proper consultation with stakeholders by Commission
Legal/ regulatory certainty	× Cuts across several existing legislative instruments

The package fundamentally undermines regulatory certainty

New regulation should dovetail with the existing regulatory framework, rather than cut across and undermine it:

- Telecoms Framework (2002)
- Telecoms Package (2009) e.g. the Universal Service Directive
- Consumer Rights Directive (to be implemented from 1 July 2014)

It is more appropriate to:

- undertake a thorough review of the effectiveness of the existing Framework and Package;
- consider adaptations to the Framework to take due account of the changing telecoms market landscape, for example, where OTT players increasingly offer the same services as telecoms operators and yet escape regulatory scrutiny.

Assessment of specific proposals

Contractual termination

- **Right to terminate contract after six months (subject to payment for outstanding handset subsidy) (Art.28(2))**
  - Likely to increase costs and complexity for customer (where e.g. in the UK operators and independent retail channels currently offer generous handset subsidies)
  - Requires fundamental restructure of contracts and pricing across the entirety of operators' portfolios
  - Contracts will now have a higher risk profile for the operator, operators will have a range of response options, all of which will increase costs
  - Likely to result in a reduced number of tariff options available, higher retail prices and slower delivery of new technology into the hands of customers.
- **Right to terminate contract for discrepancy between actual performance and speeds/ quality parameters set out in contract (Art.28(5))**
  - Impractical to contract on the basis of <u>actual</u> data speeds and quality
  - There are a number of variables inherent in mobile networks, which affect actual data speeds

Contract switching

- **Obligation to port numbers within one day of the customer concluding a contract with a new provider (Art.30(3))**
  - The key issue for customers is continuity of service.
  - We support the idea that customers should not lose service for more than one day when switching providers.
  - However, in many Member States, it may not be practical to physically port the number within 24 hours of the **signing of contract**.
  - Member States, such as Germany, have invested significantly in IT systems to support the switching processes in the USD. These investments will be defunct if the regulatory obligations are now changed again.

International calls and SMS within the EU

- **Elimination of charges for international calls and SMS within the EU which are higher than specified domestic/ roaming rates (Art.21(3))**
  - Unjustified micro-management of a competitive market
  - The Commission has considered and rejected intervention in the market for retail fixed international calls, given the high levels of competition, meaning that it has been deregulated since 2007
  - No economic rationale for intervention

Control of consumption

- **Obligations to allow individual users to set specified financial limits to their spending and receive notifications once consumption has reached particular levels (Art.27)**
  - Operators should be allowed to offer a variety of different propositions to meet customer needs
  - Rigid measures will hinder the ability of operators to develop innovative offerings
  - Different individual limits set on a user-by-user basis will be impractical and costly to manage for operators

THANK YOU