



## **GSMA – ETNO response to BEREC Call for input about the Review of the Intra-EU Communications Regulation**

*9 December 2022*

### **Introduction**

The GSMA and ETNO would like to use the opportunity to contribute to the future BEREC opinion analysing the measures on intra-EU communications.

In our contribution we reflect on the work done by BEREC collecting the inputs for three consecutive “Intra-EU communications BEREC Benchmark Reports”, and on our own experiences with the market development.

We would like to point out, first and foremost, that regulation of intra-EU calls is in many ways unprecedented. It covers domestic services, it came in the form of a direct price-cap set at EU level (“BEREC Regulation”)<sup>1</sup> and it was not based on any analysis of individual national markets or considering the adequacy of competition law to resolve the perceived bottlenecks. In our view, the intervention should have been preceded and justified by a proper market assessment to avoid unintended and negative consequences. There was for example no proper reflection on the competitive impacts of the variety of tariff options for intra-EU communications offered by providers of number-based interpersonal communication services; the existence of offers enabling access to the services of alternative operators over the number-based interpersonal communication service, such as call-by-call, pre-select and call-through; or the availability and extensive use of web-based interpersonal communication services provided over the internet (NI-ICS (whatsapp like services)).

Further, data gathered by BEREC has consistently demonstrated vigorous price competition far below the “safeguard caps” set by the EU rules, and so the rules in themselves did not bring any step change in the state of the market. In our view this strongly indicates that the intervention in

---

<sup>1</sup> Regulation (EU) 2018/1971 of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009

this market has not been warranted, as the same results would have been achieved in the absence of any EU rules.

**We are therefore convinced that there is neither a need to prolong nor to modify the current rules beyond their expiration date, as competition on intra-EU communications is proven.**

### **Current state of the market**

The three consecutive BEREC reports covering the period from April 2019 till March 2022, were invariably highlighting three key conclusions:

1. *“According to the data collected, the introduction of Intra EU communications regulation has not changed substantially the international communication market.”<sup>2</sup>*
2. Prices were deep below the “safeguard cap” of 0,19 EUR/minute,
3. Through every reported period, prices for mobile communications consistently declined by approx. 12-15%.

It is important to note that these price reductions are broadly comparable with the overall decline of the ARPU value in Europe. Therefore, there is no evidence that intra-EU communication were priced above competitive levels before the new rules took effect, but rather that they follow the general downward trend in telecom revenue.

**The limited price elasticity in the intra-EU communication services market is the result of a market that is already highly competitive.**

The continuous trend of price reduction is to be attributed to vigorous competition between operators but also in OTT services exercising a strong competitive pressure on European telecommunications providers.

There is an abundant of data showing how widespread and accessible OTT services are, providing readily available alternative ways of communication and services also for intra-EU communications. The immediate proxy for this accessibility is the high degree of social network usage in the EU. Based on Eurostat data, one of the most common online activities in the EU-27 in 2019 was participation in social networking.<sup>3</sup> More than half (54 %) of individuals aged 16 to 74 used the internet for social networking (for example, using sites such as Facebook, Twitter, Instagram or Snapchat). These ways

---

<sup>2</sup> BoR (20) 156, 01 October 2020 Intra-EU communications BEREC Benchmark Report April 2019 – March 2020, p.6, BoR (21) 116 30 September 2021 Intra-EU communications BEREC Benchmark Report April 2020 – March 2021, p.5, BoR (22) 130 6 October 2022 Intra-EU communications BEREC Benchmark Report April 2021 – March 2022, p 5.

<sup>3</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Digital\\_economy\\_and\\_society\\_statistics\\_-\\_households\\_and\\_individuals#Internet\\_access](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Digital_economy_and_society_statistics_-_households_and_individuals#Internet_access)

of communication are alternatives to intra EU calls and SMS and should therefore be treated as substitutes.

**These facts and especially the conclusions made by BEREC's own reports strongly support our conviction that neither rules for intra-EU communications laid down in the BEREC Regulation, nor any other intervention, are necessary. Prices for intra-EU calls are significantly below the regulated caps and they are driven by competition also from providers of substituting products and not because of the regulation.**

### **Concluding remarks**

The GSMA would like to point out that our observations above have been prepared within an unusually short consultation period for the collection of stakeholder feedback by BEREC. To respect internal governance rules and approval processes in GSMA and ETNO, only high-level feedback from members have been collected at this stage.

Therefore, we kindly ask BEREC for a further bilateral dialogue on this topic, during which, we will be able to provide more evidence and argumentation in support of our viewpoints.

For further questions, please contact Maarit Palovirta, Senior Director Regulatory Affairs, ETNO ([palovirta@etno.eu](mailto:palovirta@etno.eu)) or Xhoana Shehu, Policy Manager, ETNO ([shehu@etno.eu](mailto:shehu@etno.eu)) and Lotte Abildgaard ([labildgaard@gsma.com](mailto:labildgaard@gsma.com)), Director Public Policy, GSMA.