Vodafone Group response on the draft BEREC Work Programme 2020

06 November 2019

We appreciate the opportunity to comment on this consultation and trust that our comments are helpful to BEREC and National Regulatory Authorities (NRAs) as well as to other stakeholders. We remain at your disposal to discuss our submission to the consultation, or any other aspect relevant in the context of the latter.

To inquire about our response please contact:

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General comments

Vodafone is supportive of BEREC's proposed work programme overall. We believe that the three strategic objectives from BEREC's medium term strategy are the right issues to focus on, namely promotion of competition and investment, promotion of the internal market and empowering and protecting end users. These goals are also broadly aligned with the purpose of the new European Electronic Communications Code (EECC), and BEREC's work to assist and guide effective transposition into national law.

We endorse BEREC's view that access to very high capacity networks is vital for competition to continue to benefit consumers and businesses, and for the realisation of the full potential of the digital ecosystem. We therefore support that BEREC's first priority is work relating to connectivity challenges and new conditions for access to VHCN. In this sense, ensuring adequate guidelines and assistance with effective transposition and implementation of the EECC provisions is of fundamental importance to set up the Union's markets and the economy for success.

One of the objectives of BEREC's Communications Plan is to promote BEREC in the individual Member States, mainly by encouraging knowledge exchange between the communications staff of all the BEREC members, who can also act as multipliers (i.e. increase stakeholder awareness).

We support this initiative and recommend there is an explicit emphasis on the link to regulatory authorities in different industry (vertical) sectors. In particular, we propose that BEREC expand its stakeholder list to include other European sector-specific policymakers. This would address a risk that regulation may be developed in a non-technologically neutral way, potentially limiting the benefits of 5G. We have seen early examples of this in the automotive and drone sectors. We believe that as part of the work programme BEREC should commit to take a more proactive role in monitoring and responding to these policy discussions to ensure that the technology neutrality principle is guaranteed (leaving the market to decide) such that end-users benefit from the most efficient and advanced technology that meets their needs.

We hope our comments below will be helpful to identify additional areas that may need focus in the coming year. We look forward to continuing to engage with BEREC on its ongoing and upcoming consultations.

Topic specific comments

Digital Platforms

The influence of dominant platforms is determined by their ecosystem of connected services. We consider it would be important to extend the proposed areas of the work programme on digital

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platforms to include the post-2021 work on the Internet Value Chain (monitoring the effects on the internet value chain of factors such as mobile Handsets, Operation Systems and Application stores).

Net neutrality

We would propose to include testing and feedback with operators to the NRA Deployment support and sharing of practical experiences of the Net Neutrality Measurement tool. Allowing for testing and feedback with operators would ensure that the tool is accurate.

Third party payment charges

The workstream focussing on third party payment charges on mobile phone bills should consider overlaps and contradictions between telecoms and financial regulation. For example this could include restrictions on offering the ability to charge for third party services and the requirement to provide access to a directory enquiries service. The guidance from EBA suggests that when offering directory enquiry services via premium rate calling, all providers in the value chain who do not benefit from the relevant exceptions must have a payments licence.

Internet of Things

The work programme does not appears to have a reference to the "IoT indicators" study that BEREC announced earlier this year. BEREC has previously stated in the context of its earlier IoT Indicators work that "a third party study should be commissioned by BEREC on the second half 2020, prior to the deadline for the EECC transposition into national law". We think this work is of vital importance, as BEREC will be aware, given the participation in the IoT Policy event[1] that Vodafone organised in Brussels earlier this year, followed by publication of our subsequent White Paper[2]. We support that BEREC plans to organise an experts' workshop with OECD during 2020 building on the positive cooperation and ongoing communication between the two, including in the IoT space. However, we believe further action is required.

We urge BEREC to include in the work programme the IoT study prior to the deadline for the EECC transposition into national law (initially planned during Q2 2020). BEREC is the key body that can provide adequate regulatory certainty to help ensure a common regulatory approach to IoT. Clear BEREC guidelines that improve regulatory certainty and a common approach will have a significant impact in increased scale and quicker adoption of IoT across the EU.

Enterprise markets

Our experience remains that regulation is designed to resolve regulatory issues largely driven by the mass market and/or consumer side. However, there is currently still a gap in ensuring it is possible to adjust interpretations of regulation in the context of large business customer deployment. Enterprise issues tend to be dealt with as singular and atomised issues, for example net neutrality.

We propose that the work programme should include an item that aims to deep dive into ways to drive simplification of consumer driven regulation in an Enterprise context. This will also link into the transposition of the EECC and ensure that the context of business markets is adequately considered.

Database on numbering resources

EECC (Article 93) appoints BEREC to establish a database on the numbering resources with a right of extraterritorial use within the Union. We note and support BEREC's carry-over work on Database of numbering resources with a right of extraterritorial use within the European Union.

We note that this deliverable appears only to relate to the setting up of the database. In Vodafone's experience, there will also be significant practical considerations associated with the implementation of this regulatory initiative, for example, the scope of service provisions relevant to the use of

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[1] https://www.youtube.com/watch?v=e6YYv6OvLUU&feature=youtu.be
[2] https://www.vodafone.com/content/dam/vodcom/files/public-policy/iot-whitepaper/IoT_whitepaper.pdf

extraterritorial numbering). We would ask that BEREC ensures that guidance to NRAs is in place such that barriers to extra-territorial use do not arise on a day-to-day basis.

Emergency services

EECC (Article 109) appoints BEREC with the task of maintaining a database of E.164 numbers of European emergency services to ensure that they are able to contact each other from one Member State to another, where another organisation is not maintaining such a database. We note and support this carry-over work.

As BEREC may be aware, there has been significant recent discussion in relation to the use of numbering for eCall services. We propose that the scope of this platform is extended to cover eCall. Currently there are difficulties in identifying contact points for PSAPs and the carriers which connect the PSAPs in country. Hence, it would be helpful if the above database could also support the routing of E.164 numbering resources assigned by ITU TSB for eCall, by including and keeping up to-date:

a)   an inventory of fixed and mobile operators; and

b)   an inventory of PSAPs available, and related contact points.

5G

We welcome BEREC's further study of the impact of regulation on 5G. In particular, it is our observation that despite Europe's ambition to create a Digital Single Market, the terms for award of 5G spectrum across Member States to-date have been quite diverse. Governments and regulators tend to be pursuing various, and often conflicting, objectives. For example, these include raising excessive revenues for Treasury, changing market structure through the reservation of spectrum (and risking discrimination and market distortion), and the definition of extended coverage obligations (while in some markets the development of rural state subsidy solutions). While primary oversight of 5G licensing approaches lies with the RSPG, the more fundamental issues - of how licensing rules impact European investment, market structure and competition, and the availability and cost structure of 5G services required by Europe's industrial sector, and ultimately whether a single market is achieved - merit greater consideration by BEREC.