



VODAFONE: AN OPERATOR'S PERSPECTIVE ON THE PROPOSED DIGITAL SINGLE MARKET REGULATION

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Ladies and gentlemen

- I am pleased to be with you this morning to give an operator's view of the proposed Digital Single Market package. Like many others attending this conference, I will make particular mention of the deeply flawed net neutrality proposals recently approved by the European Parliament.

Genesis of the Digital Single Market package

- Let us remind ourselves what triggered the development of the Digital Single Market package. There were two key drivers for change:
 - Firstly, the understanding that more has to be done to create **consumer confidence** in the telecoms industry through more transparency; and
 - Secondly, the understanding that something needs to be done to **revert the unprecedented decline** of the European telecoms industry.
- This decline is partly due to Europe's economic weakness. Industry statistics reveal that European mobile EBITDA declined by 22% in the past year in Italy for example, and 11% across all of Europe. Revenues declined by around 9% over the same period.
- But over **50% of the decline in revenue in Vodafone's European markets is due to the impact of regulation on the mobile industry** (MTR and roaming - for further information please see page 71 of our 2013/14 [half year results presentation](#)). This can be extrapolated to all of Europe.

European Commission approach

- When the first drafts of what was then called the Digital Single Market package and which is now the Connected Continents package leaked in early summer 2013, we could see that the **Commission was trying very hard to find the right balance between industry recovery and consumer transparency**.
- The Commission's use of language at this time was revealing, with Commissioner Kroes acknowledging that stakeholders would find different elements of the package '**sweet or sour**'. This implies that an antagonistic relationship exists between consumers and industry, and that measures that are pro-consumer are automatically bad for investors, and provisions that encourage investment in infrastructure are bad for consumers.



- This is a slightly warped view of reality. But what is more important is that the Commission's proposals were broadly going in the right direction.
- There was understanding that, in the light of the ongoing balkanisation of consumer and net neutrality legislation across the EU, there was a **need to find a harmonised framework**.
- There were some 'sweet' proposals:
 - It was very laudable that the Commission attempted to define standardised access products to create a truly single market for **pan-European enterprise products** – an area where there is great demand for harmonised input products;
 - The industry is also very much in favour of **harmonisation of spectrum allocation rules** as the last round of 4G auctions led in too many cases to a disproportionate transfer of telecom operators' cash into stretched national budgets rather than into the speedy deployment of next generation infrastructures;
 - Telecom operators were under no illusion about where **retail roaming rates** were going – and not only due to regulatory pressure but also because of the commercial pressure of a myriad of competitive retail offers mainly triggered by high data roaming demand; but
 - It was good to see that the Commission acknowledged that, when retail roaming rates trend towards zero, the currently applicable wholesale regime needed to be changed if not suspended.
- But there were also concerns, and Vodafone was amongst those who voiced **concerns about the process and also the mechanics of some of the proposals**. This included criticism of the lack of a proper consultation process, the concern that a number of the roaming proposals might have fallen foul of competition law, and the incompatibility of the new proposals with the Roaming III regulation that was only passed 18 months earlier and is still being implemented by the industry at a cost of hundreds of millions.
- There was another fundamental concern that we voiced at that time – we worried that with such a starting point for the **long drawn-out negotiation process** with a pre-election Parliament and the Council, only very little will remain of the pro-industry elements of the package.
- The voicing of these concerns were wrongly - or maybe conveniently – misinterpreted as wholesale opposition to the package overall.
- But the current outcome shows that our concern was entirely justified: we have slowly migrated from a pro-consumer / pro-industry package in the summer and autumn of 2013 to a pro-consumer package and now, following the vote of the European Parliament on 3 April, **we have finally arrived at an anti-industry and anti-consumer package**.



European Parliament approach

- So what happened during the parliamentary process?
- The Parliament acknowledged the need to go beyond proposing further harmonisation of **spectrum** allocation rules, suggesting that spectrum licenses should be extended to 30 and then 25 years.
- But as member states will never accept any intervention that could affect their ability to generate spectrum revenues, further harmonisation of spectrum allocation rules will have very little chance of support.
- Also concerning was that the Commission's **roaming** proposal was narrowed down to the abolition of retail roaming without addressing the wholesale conundrum.
- But what really surprised the industry was the extreme position the Parliament took on **net neutrality** which, in my view, completely overshot the target and has now not only become anti-industry but also anti-consumer. Let me explain why.
- The original Commission proposal on net neutrality established three core principles:
 - 1) Operators are encouraged to develop new innovative quality services which should be offered to both retail and wholesale customers;
 - 2) Discrimination of competing services will be outlawed; and
 - 3) Consumers have to have sufficient transparency for making choices.
- The new Parliament proposal also contained the transparency and non-discrimination provisions but went two crucial steps further:
 - Firstly, the Parliament voted on **limiting the provision of new innovative and quality differentiated services** to those that do not impact basic internet service – but this would mean that operators would have to build two separate infrastructures, one for basic services and one for specialised services. This is because every specialised service – such as high quality health care applications – has the potential to impact other services especially at times of network congestion, even though this would be imperceptible to other customers.
 - But even more worryingly, the proposal also **outlaws basic forms of network management** as such management is only permitted in exceptional and temporary instances. This means that telecoms operators cannot offer basic quality management for services that are optimised for the sole purpose of guaranteeing a viable quality level. This includes IPTV, VOIP, content compression or the optimisation of videos for various screen formats. This is the normal traffic management that happens every day to ensure consumers have a good end-experience: the Parliament's proposal to ban this shows a worrying ignorance of how telecom networks actually work today.
- The impetus of this presentation is to discuss the impacts of the Digital Single Market regulation on the industry. But at the same time, we need to start asking the question if



we shouldn't worry more about the impacts on our **customers** and whether we are being led back to the digital dark ages by this anti-consumer and anti-innovation framework?

- And when I speak about customers I also mean the **enterprise** customers who have a particular demand for quality managed services to meet the demands of their customers.
- To add insult to injury, **OTT** players are completely unaffected by this prohibition of network management and the provision of specialised services. They can continue to offer compression and encryption of their content and the use of CDN storage for example.
- I am not advocating that OTTs should face the same draconian measures as we operators do because there is obviously pent-up demand for such services. But there must be a recognition that European customers are going to lose out if European operators are actively prevented from innovating their networks and helping to close the innovation gap between other regions and Europe – especially the US.

What next?

- Given the flawed state of the package it is almost secondary when and even whether the package is adopted: **it is not fit for purpose and does not address the pressing consumer and industry issues it set out to tackle** so the process needs to start again.
- We will need to work very hard with the next Commission on a much more forward looking vision for the future of the industry.
- This vision will need to include **a new approach to spectrum allocation, the right level playing field between access providers and OTTs, and a clear view about consolidation of the currently over fragmented telecoms market.**
- But we also **need to be ambitious about the role that European operators can play** in the field of innovation. It will not be enough to just accept the European operators should not be prevented from innovating their services – and unfortunately we are currently nowhere near achieving that objective – but there needs to be an understanding that the European industry needs to catch-up with its peers, and needs to be allowed to develop new services that will excite our customers and get Europe back to growth again.

Thank you.

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