

To: BEREC Office
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Rome, 23 October 2014

Subject: Written contribution to the public consultation on the Draft 2015 BEREC Work Programme

Comments on the BEREC strategy and work programme for 2015

Fastweb welcomes the opportunity given by BEREC to comment on its work programme and strategy for 2015. Fastweb believes that the priorities set by BEREC rightly address the challenges ahead of the whole electronic communications sector and as an investing challenger in the broadband market. Fastweb particularly appreciates the priority given to the promotion of competition, which is recognised to be the first and most effective investment driver.

General comments

Fastweb agrees with the evolutionary – rather than revolutionary – approach taken by BEREC, however, we believe that a change is still needed in the way in which regulatory remedies are designed and implemented because the current regulatory paradigm tends to reward preferentially investments planned by incumbents.

In other words, the current regulatory paradigm, in which access fees are based on “replacement cost” of the legacy copper network, is based on the idea that vertically integrated operators are the only operators directly engaged in network renovation and in the deployment of NGA in Europe.

It is clear that if the best driver of investments is competition, in order to have strong infrastructure investments we need regulatory incentives aimed at nurturing infrastructure competition, that is, infrastructure investments from all market players.



In this context, Fastweb believes that the evolution of the regulation should entail the recognition that FTTC and FTTB investments are sustainable by alternative operators and that the right costing methodology will be key in encouraging NGA deployment by Altnets. By creating equal opportunity to invest for all category of operators, such a regulatory approach would **trigger a race to invest in fibre up to the next point of concentration** (today in most cases this is the street cabinet, tomorrow this concentration point may be closer to the building), thus fostering a facility-based competition also in the NGA context.

Moreover, for the sake of ensuring non-discrimination, while avoiding over-regulation, NRAs should better target remedies to real bottlenecks, reducing the scope of the incumbent monopoly excluding from it activation and fault reparation services.

Specific comments

3.1 Strategic Priority 1: Promoting Competition and Investment

3.1.3 Challenges and drivers of NGA roll-out and infrastructure competition

Fastweb believes that the 2015 WP description of the main challenges and trends envisaged over the coming years, should better recognise the role of Altnets as credible investors in ultra-fast broadband networks. Thus one of the needs identified in the first point should reflect specifically the importance of **creating the right incentives to trigger investment from all players**. In this context, we believe BEREC should include a thorough analysis and description of the **most effective regulatory or policy mechanisms** to enable infrastructure-based competition, also based on a benchmark of NRAs best practices. The report planned for public consultation in P4 2015 and for adoption in P2 2016 should specifically address these points.

Fastweb believes that the promotion of competition and investments would also greatly benefit from unbundling of fault maintenance and line activation services (i.e. the possibility for altnets to provide such services using their own personnel or outsourcing their provision to external contractors). This practice should be promoted as an additional ancillary remedy within market 4 and market 5 and any replacement markets going forward.

Unbundling of fault maintenance and activation services has been achieved already in Belgium by BIPT through the use of third party technicians trained and certified by the incumbent. Such a solution has proven to be very effective in Belgium.



This would enable greater competition, service differentiation and customer satisfaction while limiting the scope for discriminatory practices. It will also lead to increased network management efficiency and performance.

3.1.4 Preparing migration to “all IP networks”

Fastweb supports the willingness of BEREC to look into the regulatory consequences of migration to all-IP networks, however we believe that this report should also include a section on rapid and smooth migration practices, focusing on identifying and eventually on best ways to avoid current and possible anti-competitive practices in the migration process.

3.2.3 Legislative Evolution

Fastweb welcomes the BEREC intention to contribute to the debate on the evolution/review of the regulatory framework for electronic communications. In this respect, we stress the need to move to a new regulatory paradigm designed to reward investments from all market players. As mentioned in the general comments, recognising that not all European networks will see direct investment in FTTH, but that instead, most national networks in the EU will be slowly upgraded by replacing the legacy copper network parts incrementally with different FTTx technology cycles, it is essential for the future framework to allow these FTTx investments from all players supporting demand to do so. The access regime should then be explicitly designed to incentivise investments to the concentration point of the legacy network closest to the end-users by establishing stable physical access remedies accompanied by lower access cost levels where fibre is deployed closer to the end user, in a way to create an investment race in which all players can compete.

3.2.4 International Roaming

With respect to roaming, BEREC should start an extended review about the competitiveness of the mobile access market in light of the following trends which are now persistent and may be clearly observed throughout the EU:

- **Domestic consolidation of mobile access market:** European mobile markets are currently facing a reduction of players from 4 to 3 MNOs. Such a consolidation just happened in Austria, Germany and Ireland, while similar developments are discussed and expected in Spain, France, Italy and nordic countries (in Norway a consolidation from 3 to 2 players is already in process). Because of this changing scenario one should analyze whether the competitive landscape in the mobile market is still adequate for consumers, businesses and MVNOs. Should trend in pricing, innovation and competitive



conditions reflect a market failure, BEREC should report the European Commission and make suitable proposals.

- **MVNO as a remedy:** Mergers operations have been cleared by the European Commission in the above mentioned cases in Austria, Germany and Ireland. The authorization has been granted subject to voluntarily commitments by the resulting mobile entity to offer MVNO access at given conditions. BEREC should investigate whether that MVNO remedy has worked properly or, to the contrary, competition has been affected. In case the MVNO remedy did not work properly, BEREC should investigate the reason for that.
- **LTE:** in all Europe LTE network are rolling-out but corresponding mobile access is denied to MVNO, which are therefore struggling to replicate MNOs' data mobile offers. BEREC should investigate whether such denials are common and what will be the impact on the mobile market for MVNOs and consumers.

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About Fastweb

The main fibre-investing challenger in the Italian broadband market, Fastweb, was a pioneer in the deployment of fibre in Europe, being the first operator to deploy a FTTH network to cover 7 urban areas and more than 2.0 million customers. 15 years after its establishment, Fastweb is still the broadband operator that invests most in fibre deployment in Italy.

Where it has not been able to roll out FTTH, Fastweb has deployed its fibre up to the central office of the former national monopolist and has served its customer base through LLU, i.e. by leasing the last mile of the telecom incumbent legacy access network. This has proved to be a winning strategy because thanks to the end-to-end control of the network, Fastweb has been able to innovate introducing ever higher speeds and innovative services, in most cases well in advance of the former monopolist. In 2013 Fastweb launched a €400 million investment plan to further expand its proprietary NGA through a fibre-to-the curb (FTTC) network. Thanks to this new investment, Fastweb's NGA coverage will reach 5.5 million households before the end of 2014. Very recently, Fastweb confirmed its commitment to develop and alternative fibre infrastructure in Italy by expanding its development plans to 100 cities, reaching 7.5 million households by the end of 2016, thus significantly contributing to the achievement of the targets of the Digital Agenda for Europe.

Fastweb's history is the evidence that infrastructure-based competition is vital in delivering welfare to consumers and high fibre-based quality services to SMEs, larger corporate clients and public administrations.