

TELEFÓNICA RESPONSE TO BEREC MEDIUM TERM STRATEGY OUTLOOK

BoR (11) 58

- 1.1. Telefonica welcomes the opportunity to respond to the BEREC medium term outlook particularly in relation to the end user focus aspects of the strategy. Telefonica agrees that issues such as transparency and quality are important for operators and consumers in competitive markets. This is particularly the case for disabled users of telecommunications services. The framework addresses these concerns through various protection measures around contracts, quality of service and transparency.
- 1.2. The informed consumer is the objective of all; however, Telefonica has concerns that BEREC may ultimately propose solutions in search of problems. It is important for BEREC to be specific where it feels it has a role. Issues of concerns need to be clearly based on evidential consumer detriment in European markets. There are national frameworks which address consumer legislation and consumer protection initiatives and in some member states the consumer protection objective is not a function of the BEREC representative NRA. In some Member States there is significant overlap between the NRA and with the agencies that have a general consumer protection role and further uncertainty may arise here with BEREC intervention. There is a clear concern that BEREC will set consumer protection precedents and decisions which will be inappropriate to national consumer strategies and lead to inconsistencies and additional costs of doing business in member states
- 1.3. Telefonica would agree that BEREC has a role to inform and advise the Commission in relation to pan-european policy issues such as net neutrality or integrity of networks. Telefonica's concern is that NRAs do not necessarily have the competencies to address these issues. It worth noting that BEREC's predecessor, the European Regulators Group (ERG) and the Independent Regulators Group (IRG) failed to raise these consumer issues during the review process for the 2007 Directives. It is also important to note that very little output from ERG or IRG in the past few years has focused on the consumer. Correctly, the resources of ERG and the national NRAs have focused on the important economic regulatory issues which underpin the framework and support competitive markets. The consumer strategy, should be focussed on ensuring consistency of implementation by NRAs and common guidance on specific requirements. .Telefonica believe BEREC should consider its

limited resources and support initiatives where there are clear economic regulatory concerns and ensuring consistency of implementation of the framework in terms of protecting competitive markets and facilitating investment

- 1.4. Telefonica would in addition express concern at the institutional creep evident in BEREC's medium term strategy. A number of consumer protection issues raised in BEREC's paper refer to privacy and data protection concerns. These are genuine concerns for industry and consumers as technology evolves however the privacy legislative programme is broader and is dealt with in member states by separate institutions to BEREC members. Telefonica would be concerned that BEREC wish to start delivering decisions in relation to privacy or data protection as this would cause confusion and legal uncertainty in member states.