

Comments relating to the BEREC consultation on facilitate switching

Telenet NV submission - 2 July 2010

General remarks

The abovementioned consultation refers to a number of surveys that have been conducted already some time ago across the European Union.¹ In addition, BEREC sent out a questionnaire to NRAs in the EEA to which almost all regulators replied.

A few remarks can be made about this process. The reports and subsequent results on which this consultation is based are not recent², which for such rapidly evolving and markets like telecoms may lead to incorrect conclusions. As an example one could refer to the fact that only since 2009 (telecoms) bundled offerings have been allowed in Belgium. It is also unfortunate that the precise questions and answers given by NRAs in the BEREC questionnaire are not available. This is all the more important since it remains unclear in many instances on which grounds the answers from NRAs are based. We would thus suggest that BEREC provide more transparency concerning their questionnaire.

When reading the two reports referred to in this consultation is it difficult to conclude that switching costs/barriers are a major problem in the telecoms sector in Europe. The Flash Eurobarometer concludes that switching takes place above average in telecoms compared to other sectors.³ This leads us to believe that switching in general is not a major hurdle to take in telecoms. Both reports contain important pieces of empirical evidence, that is at times contradictory, that needs to be enriched with more recent data and more in depth analysis.

Furthermore, it is often forgotten that various characteristics of a service in telecoms makes up the full product proposition towards the consumer. Not only the price is relevant. Low churn rates may also indicate that operators are providing a high quality product. This is in particular the case for more complicated products such as Internet.

Switching

The main reason for switching providers is believed to be receiving better value for money.⁴ At the same time, telecoms services are considered to offer the highest value for money compared to the other sectors questioned.

¹ Eurostat in its Flash Eurobarometer 243 and the 2nd Consumer Markets Scoreboard from the European Commission.

² The Flash Eurobarometer is based on survey conducted in June – July 2008. The 2nd Consumer Markets Scoreboard is composed of data from 2008 and older.

³ “Next in the list were the telecom services: Internet (22%), mobile phone (19%) and fixed-line telephone services (18%). This made the telecom sector the most prone to provider switching, with an average churn rate of 20%.”

⁴ According the Flash Eurobarometer.

Although switching providers in telecoms is not considered very difficult it is clear that improvements can be made, in particular in light of the 2009 European telecoms package. This package foresees to implement stronger transparency measures by mid 2011 in order to better protect and properly inform consumers.

Information (comparability)

We believe that the information provision coming from telecoms providers can be harmonized further and made more transparent. The Netherlands and France are planning or have already set-up appropriate measures to create uniform terms and conditions cards for telecom providers. The Flash Eurobarometer already indicates that telecom services are easily comparable.⁵ However, still still be improved further.

Providing more details about the product characteristics – transparency – should be emphasized further. According to us, for Broadband services this should also include a clear identification of the average actual speeds received compared to the advertised speeds and other parameters.⁶ Most regulators, inter alia the Belgian NRA, already dispose of the appropriate measures to implement both suggestions.

Full, correct and simple product information towards consumers is crucial.

Forced selling and other illegal selling practices

One of problems identified which may cast a very negative image on all sectors is forced selling.

A proposal which could minimize this problem is to create a European “*I do not want to be called/contacted*” list to which all direct marketers in Europe. A number of these lists exist at Member State level and already prove to be effective.⁷ However, due to the decrease in cross-border telephony prices it is noted that ever more foreign companies who do not need to comply with these lists continue contacting consumer that have registered.

Proportionate regulation

Over the last decade Belgium has become a frontrunner when it comes to creating consumer protection regulation in the field of telecoms. This is why telecoms in Belgium has become one of the most heavily regulated sectors.

A non-exhaustive list of provisions is provided below:

⁵ This “ease of understanding” ranking was topped by the offers from Internet1 service providers. They were considered to be the easiest type of offer to compare (regarded as such by two-thirds – 67% – of EU consumers), followed by offers concerning third-party liability car insurance and mobile phone services (both 64%).

⁶It is often observed that strong discrepancies exist between the actual speeds and the advertised speeds. For Broadband speed testing see: <http://www.speedtest.net/>

⁷ For instance <https://www.bel-me-niet.nl/>

- Number portability in 2 days porting,
- Free anti-spam/ anti-virus malware on Broadband access services,
- No contract beyond two years and mentioning of tacit renewal on the consumer invoice,
- Mentioning of each fixed contract period on consumer invoice,
- Tariff comparison website created by the NRA,
- Sector wide social tariff provisions for telephony services,
- Wide cancellation provisions when an operator increases prices or lowers product specifications,
- Email forwarding or continued availability of email-account for 6 months after cancellation,
- Mention on the invoice of the possibility to receive detailed best tariff information,
- Specific legislation against slamming for telephony and Broadband services.

This is why we urge regulators and lawmakers to cautiously assess, in terms of legal, technical and financial consequences, whether and which measures are necessary in the context of switching in the European telecoms market.

Proposals

- 1. To ensure a more in-depth analysis of data available,**
- 2. To use more recent data regarding switching in the telecoms market,**
- 3. To communicate the BEREC questionnaire and the answers provided by NRAs,**
- 4. To stimulate the creation of uniform product specification information,**
- 5. To set-up a European “*I do not want to be called / contacted*” list**