

Telecom Italia's response to the call for contributions "on possible existing legal and administrative barriers with reference to the provision of electronic communications services for the business segment"

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Introduction

Cross border provision of Communication Services faces today a variety of different obligations stemming from the great diversity of the administrative rules applied to the industry.

As a general remark a more harmonized set of rules regarding the obligations to notify the activities in EU countries is suitable for the development of cross border services.

We think also that the information and the burden needed to provide cross border business services can change over time within the Member States and the BEREC is in the best position to coordinate both a possible harmonization of the rules and the flow of information requested.

The harmonization should bring to the reduction of the avoidable administrative activities and therefore of the costs for the operators.

Call for input's questions

1) *Under the current authorization regime laid down by the 2002 Authorization Directive (and substantially confirmed by the 2009 review), the ECNS operators are entitled to start activities upon notification/declaration to the NRA.*

- *What is your overall experience of the practical implementation of such administrative regime in member States?*
- *Did you encounter inconsistencies or operational constraints potentially affecting the provision of cross-border business services? If yes, please provide a description.*

TI's opinion:

We believe that in order to help the companies in the notification activities, the NRAs should write and publish on their website detailed guidelines (in English) with a clear description of notification procedures and the requested information.

The guidelines should moreover specify which kind of operator is subject to the notification obligation. For instance in some countries it is not clear whether a "reseller" should notify its activities and the rule does not seem uniform across Europe.

A single set of guidelines in each Member State should clarify the legal and administrative requirements which the different categories of operators are subject to (reseller, wholesaler, network operator, etc.), especially in terms of:

- Level of the contributions to the NRA functioning;
- Exemption thresholds for the above contributions

- Contributions to the Universal Service fund;
- Reporting requirements and data collection timing: the reporting forms can be requested several times per year.

It would be also useful that in NRA's website a "contact point" would be indicated for possible request of clarification on the notification procedure and administrative obligations. The communication with the contact point should be made in English.

All the above measures would allow the companies to accomplish the requested obligations without recurring to external consultants which can represent a not negligible cost for companies that have few customers in many European countries.

Sometimes also the administrative contributions (in particular the contribution to the NRA functioning) can be an excessive burden for companies with few customers. The NRAs should provide for contribution mechanisms that do not disadvantage this kind of operators.

Also the legal/administrative requirements such as obligatory questionnaires can become an excessive burden. The NRAs should limit their requests of information to a minimum set for the operators with low turnover or few customers. The request for data collection coming from the NRAs should be also in English.

The number of mandatory reporting forms should be reduced e.g. to a single annual questionnaire which could be used by NRAs for different purposes.

2) As far as the administrative regime is concerned, can you identify some national best practice across Europe which may help in supporting the provision of cross-border business services?

TI's opinion:

UK can be taken as model for the General Authorization regime. In the UK there is currently no notification requirement. The licensing regime has been replaced by a general authorization regime with the General conditions of entitlement (that is, conditions which apply to all) and specific conditions which apply to individuals (SMP operators, providers of US, conditional access services). Communication providers are responsible for ascertaining which of the general conditions apply to them.

Obligatory submissions are made for relevant turnover for the calculation of administrative charges without burdensome questionnaires.

3) *Besides the authorization system, are there any other differences in administrative procedures in the area of telecommunications that may affect the provision of business services across Europe?*

TI's opinion:

In some countries there are specific obligations regarding the mandatory presence of a responsible person and of a stable premise in the country. We think that provision of this kind should be removed in order to reduce the costs and the burden of the operators.

4) *Do you believe that the provision of cross-border business services could be subject to a specific administrative regime?*

- *If so, for which reasons and under which legal basis?*
- *What should be the special features of such regime?*

TI's opinion:

We suggest introducing a specific “one stop shopping” regime for cross-border business services where the Company notifies its pan-European activities to the NRA of the country where the Company’s headquarters are located. It is then up to the national NRA to notify to the other NRAs an agreed upon set of information.