



WIND contribution for the

Public consultation on BEREC medium term strategy outlook



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Company Overview

Founded in 1997, WIND Telecomunicazioni SpA is one of the few operators in Europe to offer integrated fixed and mobile telecommunication services and Internet services.

WIND is the third largest Italian mobile operator, with 20.8 million subscribers as of September 30, 2011.

WIND is also the leading alternative provider of fixed-line services in Italy with more than 3.09 million voice customers, of which 2.35 million direct subscribers, and 2.07 million broadband customers as of September 30, 2011.

WIND was the first Italian operator to launch MMS and video over GPRS handsets: one of the earliest services to be made available was the first ever pocket news broadcast via videostreaming. WIND was the first in Italy to launch a trading on line service via WAP. New technologies such as WAP and GPRS, UMTS, make a substantial contribution to the creation of new services and applications. WIND offers a particularly wide range of data transmission and Internet services, capable of satisfying the needs of all segments of the corporate market.

In February 2001, WIND became the first alternative operator of fixed-line telephony in Italy to provide access to local loop unbundling, offering the possibility to make fixed-line calls without the need to pay any form of line rental. WIND was the first Italian operator, in May 2002, to launch Number Portability, enabling customers to switch operator whilst keeping their existing telephone number.

In fixed-line telephony, WIND confirmed its status as the leading alternative to the former incumbent for the activation of a new telephone line. By directly choosing Infostrada as their operator, without involving Telecom, from November 2005 users have been able to set up a new line at a highly competitive price.

In 2006 WIND expanded its convergent fixed-Internet product offering, with the introduction of Libero Absolute ADSL, offering bundled domestic calls with only a call-set up charge and a broadband Internet connection for a flat monthly rate. In October 2005 WIND launched the ADSL2+ access network, a new technology offering a considerable increase in connection speed and quality and, consequently, a marked improvement in the fruition of services, especially of the multimedia type, such as audio and video applications.

The WIND Group has a best in class network: more than 21,000 kilometers of optical fibre backbone to 4,440 kilometers of MAN. The company also boasts an extensive and innovative mobile network consisting of more than 12,598 radio base stations and more than 9,000 Node B related to the UMTS coverage. Coverage outside Italy is provided by more than 450 roaming agreements.



Introduction

Since its institution, the BEREC increases its presence in the development of the internal market and there is no doubt that especially within the scope of the new regulatory framework its role will continue to be central also in the coming years, assuring a level playing field for market players setting those right regulatory tools to enhance competition and consumers welfare as well.

Wind Telecomunicazioni S.p.A. ("Wind"), the largest Alternative operator in Italy, is one of the few operators in Europe to offer integrated services of fixed telephony, mobile telephony and Internet. Wind is the third Italian mobile operator, with over 20.8 million customers and continues to be the leading alternative operator on the Italian fixed market with over 3.09 million voice customers.

Wind welcomes this public consultation in order to forward its view on the BEREC's medium term strategy, considering the BEREC as a crucial institution to improve harmonisation and consistency in the application and enforcement of the Regulatory Framework in EU countries.

WIND COMMENTS

In the coming years one of the main object to foster developments in the internal market will be to provide continuity and regulatory certainty for investors. Wind believes that BEREC's focus on its role under the new regulatory Framework (Article 7/7a procedures) and BEREC's interest in main topics such as Next generation networks, consumer empowerment, service-related developments and NRAs approaches among member states seem mostly appropriate.

Despite of these paramount points, we believe in the need to continue working on competition, with the specific goals and projects listed in the European Digital Agenda.

In this view we welcome the introduction in BEREC's strategy of the investment and development of NGN, capable to preserve consumer's interest and promote innovation. Moreover, in term of consumer protection, we would stress the usefulness to share among NRAs the existing best practices, such as the example of the Italian 'joint conciliation' which has been acknowledged by the European Parliament as a possible best practice model¹ for the Out of Court Dispute Resolution.

We also propose to elaborate the concept of sustainability of NGAN competition to improve completeness of BEREC's mid-term strategy, in fact we are strongly convinced that where competition is granted and works well, topics such as innovation, consumer interests and fair prices are consequently preserved.

We welcome the BEREC's approach on NGN topics, which is at the heart of its ongoing work, but would like more emphasis on outcomes and on a forward-looking view of infrastructure, namely competition and enhanced services which in turn enhance consumer welfare.

¹ EP Resolution A7-0343/2011 - Rapporteur: Diana Wallis

In this view **we want to stress that alternative operators are still facing a widespread discriminatory behaviour of dominant operators caused by the divergent approach of Regulators**, so there is an high possibility that these conducts continue also in the NGN context. Various studies have documented the strategic behaviour of dominant operators to engage in a range of tactics designed to give advantage to their own downstream operations to the detriment of competing operators who are their wholesale customers. **Fort this reasons we propose to continue on working to the non discrimination principle and recommendation².**

Competition reduces end user prices, which in turn boosts the take up of high speed broadband services and services for Europe's businesses and administrations. It also improves product quality including speeds, stimulates innovation and choice. Discriminatory behaviour by dominant operators holding on average 80% of the fixed wholesale access market has a detrimental impact on competition, which NRAs have been addressing with varying success.

Competition concerns can be also addressed by adopting and implementing the equivalence of input principle (opposite to *equivalence of output*), which has a predominant role because is the only allowable regulatory principle (with Key Performance Indicators as the most effective tool to **measure** the effectiveness of detailed non discrimination obligation) capable to pursue, structurally, an effective implementation of the non discrimination principle without adopting forms of separation

Moreover it is also relevant to foreseen regular maintenance of detailed description of the non-discrimination obligation implementation in order to cope with the forms of discrimination raising with the introduction of new technologies or infrastructures, like the new NGA networks, where experience in non discrimination practices is still very limited. **In this view a valuable contribution can be reached with BEREC as a knowledge centre where exchange best practices by NRAs.**

Furthermore we propose to emphasize another aspect of the BEREC's strategy focus on NGN investments, that is a particular view on the open character of this infrastructure and on how to regulatory approach the period of migration from copper to fiber, pursuing the above mentioned principle of non discrimination coupled with an appropriate pricing regulation which can facilitate the copper switch off.

Moreover we want to highlight that the importance of the above mentioned Recommendation/guidance on non discrimination and costing methodologies is remarked by market trends, as a matter of fact incumbents plan closed networks which rely on legacy technologies with unworkable access solutions, so **we see the needs to put much more emphasis on where access is granted (i.e., aggregation points – Wind believes that In order to grant the development of a competitive market, network arrangements enabling efficient, pro competitive and future proof solution like the FTTH P2P should be incentivized** providing a proportionate higher risk premium. FTTH

² For more details see Wind's contribution to the EC public consultation on Non discrimination obligation:

http://ec.europa.eu/information_society/policy/ecomm/doc/library/public_consult/non_discrimination/26_WIND_TLC.pdf and its annex

http://ec.europa.eu/information_society/policy/ecomm/doc/library/public_consult/non_discrimination/26_WIND_TLC_Annex1.pdf



GPON networks could only be awarded with a lower risk premium and only if “fairly built” meaning that first access aggregation points should group at least 3.000 – 5000 customers)

On top of the above consideration, regarding the **NGN “core networks”, the transition from switched to IP interconnection should be managed carefully, especially for what concern the “termination” regime and we suggest that this should be also examined by BEREC.**

For what concern current trends of content and telecoms services bundling, it can be noted that they may also create concern from a competitive point of view and NRAs should follow their development.

Finally, **we want to stress that the increased relevance of the s.c. Over the Top Players**, especially in the internet scenario, **should be carefully considered**. In fact, all BEREC efforts towards NGN and Net Neutrality seem to be focalized mainly on the Telco side of the communication/internet value chain, without considering that the development of new business model cannot be considered regardless the role of OTT, namely their market power and quality needs, so any kind of regulatory discussion or intervention, especially within the net neutrality debate, should be managed very carefully.