

TELEFÓNICA RESPONSE TO BEREC REPORT ON SPECIAL RATE SERVICES

BoR (11) 68

Executive summary:

- **Telefónica welcomes BERECs intention to offer guidance to the NRAs on the regulatory options with regard to Special Rate Services**
- **Telefónica agrees with the high-level descriptions of business models and value chains**
- **The current proposal of a specific pricing model should not be sustained as it does not take the situation in the member states into account and might lead to a prejudiced position of the NRAs**
- **The report should be extended and focused on transparency measures**

Telefónica welcomes the opportunity to respond to the BEREC REPORT ON SPECIAL RATE SERVICES.

The stated purpose of the document is to "...offer guidance to NRA's on the regulatory options available...". The report offers illustrative high level descriptions of value chains and business models which can be of help to the NRAs. BEREC identifies what it describes as the main problems with SRS, as a "low level of transparency" and "relatively high percentage of revenue" for certain links within the value chain. BEREC's proposed solution is the implementation of transparency measures and a specific pricing model ("C+S").

We appreciate BERECs intention to offer such descriptions on pricing models and value chains to

the NRAs which enable them to get a broad view on the SRS topic. We agree with the high-level descriptions and the two step regulation of (1) transparency measures and (2) deeper market regulation. We share BERECs opinion, that transparency measures are the method of choice and that further regulation can only be a last resort. Especially we agree with BEREC that price regulation is not the preferred solution to all SRS competition/consumer issues on an EU-wide basis. We propose that BEREC should underline this position in its report.

We caution that it is not appropriate to single out one method as being superior to others. BEREC should refrain from such a proposal of one specific preferred solution e.g. with regard to the pricing models to be used. There is a danger that the BEREC document could be viewed by NRA's as a mini market analysis which highlights perceived problems in markets and is a "call to action" for NRA's to regulate. Considering the fact that such a detailed market analysis has not taken place, Telefónica feels that the proposal of a specific pricing model gives a strong signal of intervention into a specific direction. Such a proposal by BEREC could hinder the NRA from looking at the issue without prejudice. We welcome that BEREC states in that context that the NRA is free to make a different judgement but we propose that BEREC takes an even more neutral position. In our opinion, BEREC should not propose a specific solution. This is especially important considering the fact that the identified "problems" are not based on facts (e.g. an evaluation) but on rather vague perceptions.

We therefore propose that BEREC extends the sections of the report that deal with transparency measures and maybe adds an overview of the transparency measures taken in the different member states. The proposal of one pricing regime as the preferred one should not be sustained in the final version of the report.