



Public consultation on the draft BEREC Report on a consistent
approach to migration and copper switch-off

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Sky Ireland welcomes the Draft Report on a consistent approach to migration and copper switch-off, it is important for alternative operators to have as much clarity and guidance on what they can expect from the migration of legacy infrastructure and the copper-switch off (CSO) process.

Sky Ireland has addressed different themes outlined within the Draft Report below.

Rules

Sky Ireland agrees that it is appropriate for National Regulatory Authorities (NRAs) to set the rules for the migration process and the copper switch-off process in a market analysis procedure and that the level of granularity of that process depends on the type of CSO process that is pursued. For example, the Draft Report outlines that the MDF level is appropriate in cases where the SMP operator plans to close complete main distribution frames (MDFs), or the street cabinet level is appropriate if the SMP operator plans to close street cabinets before closing the MDF to which they are connected to.

Stakeholder involvement/Information and monitoring of the SMP Operator

With regard to stakeholder involvement, it is clear that at a minimum NRAs should publish a public consultation to engage with key stakeholders. However, stakeholder involvement and information provided to stakeholders needs to go further than this.

The NRA should ensure that alternative operators who will be impacted by the CSO process can rely on the SMP operator to provide a detailed plan and outline of proposed timelines for the process. Further engagement throughout the process is also crucial, and NRAs should seek to ensure that there is open engagement with Access Seekers through a stakeholder forum. These measures would ensure that NRAs adhere to Article 81(2) of the EECC which obliges them to ensure that there is a transparent timetable and related conditions in place for the CSO process.

It is also notable that only nine out of the thirty-two NRAs have, or intend to, monitor the migration of the CSO process. The monitoring of the process is an integral aspect of the CSO process for an NRA and should be viewed as important as the NRA engaging with stakeholders or the SMP operator providing a detailed plan for the CSO process. Under the EECC, the NRAs must safeguard competition and the rights of end users, which can only be done by monitoring the actions of the SMP operator to ensure that it is adhering to the timetable and conditions. There should also be penalties for non-compliance to act as a deterrent and to protect consumers.

Notice period

While the notice period outlined by the Draft Report suggests various timelines based on different types of products, it also notes that SMP operators suggest they require a shorter notice period in order to reduce costs, while alternative operators seek longer times to ensure that consumers and other end-users are not negatively impacted. It should be noted on the point of financial implications for SMP operators that the extraction of copper from the retired network offers the potential for a significant financial windfall to SMP operators net of extraction costs. For alternative operators, it is more important for the notice period to reflect the diversity of consumers and end-users that need to be accommodated. In particular, consumers who are using the copper line for fixed voice services only or who potentially have their copper service connected to house alarms or care alarms, and who most likely will be vulnerable customers, will need to be carefully managed. Sky Ireland believes there is no reason not to aim for 100% coverage in an exchange area before a switch-off can commence to ensure that consumers and other end-users are not negatively impacted.

Alternative access wholesale products

The Draft Report outlines that the NRAs normally impose an obligation on the SMP operator to offer certain wholesale access products independently of the copper switch-off as a “usual” remedy on a regulated market. Sky Ireland highlights that alternative products should be of at least comparable quality and comparable price, which is mandated by Article 81 of the EECC. On the point relating to comparable quality, operators should be provided with sufficient guarantees regarding non-discrimination, transparency, oversight and governance. With regard to comparable price, this needs to be guaranteed, noting that any attempt by an SMP operator to increase the price of alternative wholesale products would ultimately be to the detriment of the CSO process and to consumers and end-users.

Migration costs

It is crucial to the CSO process that NRAs impose measures to allow Access Seekers to switch to alternative products without having to incur additional costs. Similarly, in circumstances where customers are being forced to migrate to another product or service (and acknowledging that there will be cases where the customer is satisfied with the service they currently have and does not want to move) there should not be additional cost for the customer.

Key Performance Indicators

KPIs, in particular for fibre orders and installation, are a vital component of the CSO process. In order to ensure that there is minimum disruption for consumers and end users and to guarantee a smooth transition from copper to fibre, NRAs must put in place binding KPIs.

In the Irish market we have called for the introduction of KPIs, including the ability to monitor service delivery in a single appointment and accurate recording of order cancellations (for example, whether the customer requested the cancellation or whether in fact the order could not be delivered). A lack of transparency and accountability on these items results in a poor customer experience.

Service Level Guarantees are also important and should be closely monitored by the NRAs.

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