

# Vodafone Group response on the draft BEREC Report on competition amongst multiple operators of NGA networks in the same geographical region



BoR PC01 (23) 03

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We appreciate the opportunity to comment on this consultation and trust that our comments are helpful to BEREC and National Regulatory Authorities (NRAs) as well as to other stakeholders. We remain at your disposal to discuss our submission to the consultation, or any other aspect relevant in the context of the latter.

To inquire about our response please contact:

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## Geographic segmentation and wholesale regulation

*Ex ante* wholesale access regulation must strike the right balance between incentivising the deployment of VHCN by all players and safeguarding competition, which is a key driver of investment over time.

A key challenge for policymakers and regulators is to ensure that in today's diverse environment, where several players are deploying gigabit networks and asymmetries in network coverage remain, gigabit network investment by all players continues being incentivised and competition safeguarded.

EU electronic communications markets are diverse not only in terms of the level of retail and wholesale competition but also e.g. network deployment and overlap and homogeneity of competitive conditions. Regulation aimed at tackling anti-competitive behaviour needs to be tailored to the circumstances in each market.

We acknowledge the draft report's finding that more geographic market segmentation is happening as competing network roll-out is carried out. NRAs should continue taking a careful approach when defining separate geographic markets or applying differentiated remedies. In the assessment of the homogeneity of competitive conditions, diverse criteria must be considered e.g. not only the level of network overbuild/ number of networks deployed in a specific geographic area but also the SMP market share in the wholesale and retail markets, whether the operators present in a given are vertically integrated or wholesale only.

We note that wholesale regulation is still warranted in non-competitive areas and we thus caution against unwarranted deregulation which could lead to re-monopolisation in an VHCN setting.

Infrastructure based competition remains key and thus adequate access to ducts and poles remains paramount for ensuring alternative network roll-out. Deployment by all players – not only the SMP operator – must always be incentivised and safeguarded.

BEREC's considerations as to why retail pricing conditions may not differ between areas despite multiple NGA networks being present seems plausible<sup>1</sup>. The lack of differentiation does not contradict the relevance of infrastructure-based competition.

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<sup>1</sup> I.e. (i) commercial and marketing considerations, (ii) differentiation may negatively affect brand image and reputation so there is a first mover disadvantage of losing customers, (iii) although nominal prices may be the same, effective prices could be different (areas with VHCN networks may pay a lower price per unit because fibre products provide more bandwidth), (iv) NGA networks may only have been built recently with no effect yet on competition, (v) uniform wholesale pricing may lead to uniform retail pricing.