



## GSMA and ETNO response to the BEREC draft report on the impact of Artificial Intelligence solutions in telecommunications sector on regulation

February 2023

The GSMA and ETNO welcome the publication of the BEREC report on the impact of AI solutions in the telecommunications sector. We support the ambition to ensure the development of human-centric AI systems in Europe, and agree that these developments are promising for the sector, particularly regarding network planning, traffic management and upgrades to fraud detection and prevention.

We consider that the six use cases described in the report are well chosen, pertinent and specific to the telecoms sector. What is evident from this overview is the fundamentally low risk nature of the use cases at hand, whereby network operators are not deploying AI in a manner which executes or influences decision making in a manner likely to impinge on the fundamental rights of EU citizens, or undermine their safety or wellbeing. The use cases outlined in the report primarily deal with the optimisation of network performance which reflects the current situation. In these cases there is no risk for users' safety nor for fundamental rights, as operators validate overall networks QoS parameters without impacts on users' privacy and often relying on embedded solutions, therefore not having an active role. In such situation, CE marking well covers the limited risks and there is no need for additional certifications.

Before considering any regulatory intervention, it should also be considered that AI tools in the telecommunication sector are already fully covered by the provisions of the sectoral regulations especially concerning security and integrity of networks and that the AI Act will also apply. Moreover, AI system may not be fully in the control of telecommunications providers as they may be embedded in the network hardware, as stated in the report. Finally, the processes that frame the exploitation of AI tools in the telecom sector very often include operational interventions under human supervision.

In further releases of BEREC's report we suggest including processes before suggesting any specific policy intervention.

Concerning the other specific issues discussed in the report, please find below our remarks.

## **1. Digital divide could be exacerbated**

The report describes cases in which there could be different levels of data availability in urban areas compared with rural areas, leading to an unequal level of AI models maturity, thus contributing to exacerbating the digital divide. Suggested remedies include the introduction of a transparency measure about the weights and trade-offs included in the AI algorithms.

**The GSMA and ETNO questions the efficacy of such provision as the outline use case show that sector use of AI tools is very specific.**

## **2. AI intensiveness**

The report observes that the development and deployment of AI systems is very resource intensive if not properly managed.

**As responsible operators, the GSMA and ETNO members will rely only upon those AI technologies that really contribute to reduce the cost of deployments and carbon emissions and we understand the need to monitor AI resources intensiveness. We do not see need for a regulatory intervention as inefficient tools do not have an economic rationale.**

## **3. Sharing AI data with municipalities and other telecommunication providers**

The report describes situations where stakeholders other than traditional operators may be involved in networks roll-out explaining that for example in the case of fiber optics networks roll-out municipalities may benefit of having access to telecom operators' data and models to achieve similar savings. The report also considers the sharing of data with other telecommunication providers as a remedy for the lack of access to sufficient amounts of reliable data in use case Networks and Capacity Planning and upgrades.

**AI tools are very specific and can only act in the environment in which they have been trained. The GSMA and ETNO recommend to further assess the efficacy of such a measure before any regulatory intervention.**

## **4. The relationship between vendors and users of AI systems**

It is important that users can effectively assess the compliance, complexity and fairness of an AI Model provided by an external vendor. In the current situation there is a risk that this assessment cannot take place in good order. For example, AI systems cannot be tested properly by the user before deployment when a release calendar is not in control of user and new updates are pushed by the vendor.

Furthermore, there is a general concern that due to possible asymmetrical relations between vendors and users, users are dependent on the willingness vendors to provide insights in the inner workings of a model. This is however needed for an effective risk assessment. This of course can possibly result in liability discussions.

## 5. Definition of artificial intelligence

The report acknowledges that the definition of artificial intelligence remains under decision by legislators and therefore subject to change. However, we might suggest updating the AI definition in this report to the current working definition, which is significantly different from the original one currently copied in the report. We appreciate the disclaimer in the report about the original definition, but think it is better to update this, whilst maintaining the disclaimer.

## 6. Critical digital infrastructure

The report observes that co-legislators are currently debating the inclusion of critical digital infrastructure (or some formulation thereof) in the final text, but notes that this issue is not within the scope of the present report. As such we will not present further arguments in the context of this report, but note that the information here could be very helpful to our members as further evidence of how we are using AI and why we believe these systems should not as a rule be categorised as high risk under the AI Act.

## 7. Alleviate spectrum regulation to allow dynamic sharing

The report provides a limited perspective on focusing cognitive radio and unlicensed spectrum access – the GSMA and ETNO believe that it is important to consider the realistic services, use cases, their demands for spectrum, and sharing approaches that are feasible for them. **While we agree that various technical components are needed to enable more efficient spectrum use and sharing, we do not agree with the BEREC conclusion on “the realization of dynamic spectrum access with cognitive radio largely depends on the willingness of the regulators to open the spectrum for unlicensed access”.**

**We would like to highlight that mobile operators already have implemented various spectrum sharing approaches and are continuously looking for possibilities to use the scarce resources efficiently. Dynamic Spectrum Sharing (DSS) feature is in use for 4G/5G in-band sharing, for providing both 4G and 5G services in the same frequency band based on the actual traffic demand. In addition, network sharing between operators, various roaming agreements, MVNOs, and network slicing are also about sharing spectrum and network resources and using them more efficiently.**

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