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BEREC
Body of European Regulators
For Electronic Communications
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GasLINE Feedback on the draft BEREC Report on the regulation of physical infrastructure access

Dear Sir or Madam,

we welcome the opportunity to comment on the draft *BEREC Report on the regulation of physical infrastructure access*, BoR (24) 178 (in the following “draft BEREC report”).

GasLINE Telekommunikationsnetzgesellschaft Deutscher Gasversorgungsunternehmen is a telecommunication network owner with its own dark fibre network in Germany. Customers of GasLINE are among others telecommunications service provider.

We would like to point out the following statements as feedback to the draft BEREC report: In Germany the rollout of VHCN is not finished yet. Most of the VHCN's are built by alternative stakeholders such as GasLINE. Fundamental changes in the regulation such as the implementation further instruments of symmetrical regulation will cause uncertainty of investments at the alternative stakeholders. It is important not to devalue investments that have been made, as otherwise investments will fall massively. It is important that the fees to be paid are appropriately high and do not just cover costs.

The current regulatory framework regarding the SMP-Regulation in cases of market failure after a market review shall remain. Especially we do not see a market failure at Deutsche Telekom (SMP) concerning access to dark fibre in Germany. Furthermore, in our point of view it is not necessary to regulate the access to dark fibre as an annex access product in other regulatory orders of the NRA. The symmetrical access entitlement to ducts represents a sufficient access entitlement to the several infrastructure and as well as SMP infrastructure in order to be able to expand its own network. Access entitlements on dark fibre of SMP might lead to a situation where infrastructure of alternative stakeholders (especially dark fibre) could

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not be rented any more since everybody might be able to rent cheaper dark fibre from SMP in order to offer telecommunication services.

In summary, it is particularly important not to further expand existing access requirements, not to turn away from the existing regulatory framework and not to devalue investments made in VHCN expansion as a result, but to keep them attractive in order to further promote nationwide VHCN expansion in Germany. This includes appropriate fees for the granting of access rights.

Kind regards

GasLINE GmbH & Co. KG

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