

Opinion

to the ongoing Inter-Service Consultation on revision of the EU Markets Recommendation

Foreword

The DVTM **opposes considerations to cancel the recommendation for ex ante regulation for markets 1 and 2 in the revised EU market recommendation.** This idea goes back to the idea of the Commission in the proposed regulation currently being discussed, according to which a European- homogenous market for telecommunications networks and services is to be provided, which is supported only by a few pan-European companies. In this context, the proposed regulation provides a Europe-wide standardization on only a virtual bitstream wholesale product. **This paradigm shift would, however, radically reset the previously achieved competition** and be a break from the pro-competitive wholesale regulation. The regulation approach receives therefore - with the exception of the incumbents - a broad rejection of the market and earns under competitive aspects no support. Apart from the fact that the justification for this action, mentioned by the Commission, to accelerate the deployment of broadband networks, has already been refuted, the grown over the years infrastructure-based service competition by network operator and provider of information and value-added services in Germany would have no future. This would cause the german business location serious damage.

The loss of market 1 and 2 would mean:

- for the **end user a considerable step backwards**, as is the **elimination of key competitive factors can be expected with increased charges.**
- that the **value-added services market would be severely damaged**, along the primary and secondary value chain of telecommunication, media and represented around 13 Converts billion euros.
- that with **CbC / preselection an important product for ethnic audiences would get lost**, which is becoming more and more important in some member states because of the rising unemployment and the expected mobility.
- that **repeating the successes of CbC and value-added service provider would be at risk in the energy market.** During the liberalization of the telecommunications market in Germany Based on the know-how of these providers a **price reduction for the end user** within 3 years could be achieved, which could be achieved in the U.S. market only within 5 years.

Argument in favor of maintaining the ex-ante regulation of markets 1 and 2:

Therefore, the DVTM opposes to repeal the ex-ante regulation for the market 1 and 2. As regulatory measures carrier selection (call-by-call) and carrier pre-selection (preselection) can be arranged by the national regulatory authorities in these markets. These services are further essential for competition. The impressive successes in the competition achieved in the past few years must not be put at risk with regard to the benefits for consumers, choice, lower prices and competitive pressure on the German Telekom.

Facts and background to CbC / preselection:¹

- **In Germany there are up to 10 billion traffic minutes** processed via carrier selection or pre-selection. This is **11 % of the competition phone traffic**. In relation to the overall market, this is approximately 5 %, with **telecom customers even 9%**.
- For landline calls to mobiles **every 10th Minute comes over preselection and call-by -call**. In the addressable market, these are even 18%.
- For **international calls, 34% of traffic minutes** and 50 % of the addressable market can be achieved.
- From **23 million of telecom customers uses 6-7 million pre-selection and call-by -call**. If the respective main distributor of Deutsche Telekom is not developed by a competitor, preselection and call-by -call are **still the only competitive options for consumers**.
- By the abolition of ex ante regulation would **be affected every 10th User in Germany**.
- Preselection and call-by -call offer **significant savings of up to 70-80%**. In addition, price comparisons between rates of Deutsche Telekom and those in the other connection providers that are not subject to pre-selection and call- byCall commitment that preselection and call-by -call caused price competition in the network of Deutsche Telekom and thus lowering call charges of the Deutsche Telekom compared to other connection providers.

Even beyond the year 2014 the end customer will demand call-by-call and preselection in significant extent, in case these services will continue to be offered on the market. In the past the demand felt sharply, but this trend is weakening at present, so that the decline goes into stagnation.

¹ All figures below are taken from the study of wik consult: "The importance of carrier (pre) selection for competition in the telephony markets" from January 2013

The end customers using today call-by-call and preselection will do so with very high probability even in the next few years.

This proves the importance of ex-ante regulation of market 1 and market 2. Should the Commission's recommendation for a preliminary regulation of these markets account, it is very unlikely, that the national regulatory authorities will continue to regulate these markets against the Commission's recommendation.

This is important especially in the light that the Monopolies Commission has pointed out in its latest report on 16.12.2013 that in a potential elimination of market 1, this should be offset by special provisions in the market 2. In particular the Monopolies Commission stresses that ex ante regulation is to the wholesale area of vital importance.

If in the future the services call-by-call and preselection will be cancelled without replacement, the companies currently working in these areas must cease their activities. So many competitors will be edged off the market, the **competition will be massively damaged and consumers have to face higher prices, less choice or even the complete elimination of alternatives to Deutsche Telekom**. A shift to other vendors' products will not be done by these customers. End users who still use call-by-call and preselection will particularly not switch to any other broadband product. These end users are generally relatively aged and not very technophilic. These customers mostly do not want Internet services. An installation of routers and setting up a broadband product will not be done by these end users. Therefore, these end users will only use the services of the incumbent in case of a future elimination of call-by-call and preselection.

The success of 15 years of competition would thus be endangered in one fell swoop. Ex ante regulation of market 1 and market 2 must therefore remain preserved.

In addition, the **ex-ante regulation of market 2 is essential for the availability of value-added information and services**. For many years the DVTM repeatedly claimed to enforce the principle of end-to-end network. This would ensure the principle of accessibility and the access to value-added- and information services.

The envisaged abolition of the market 2 would contradict this goal, when the incumbent would not have to provide any access to information and value-added services.

The number of providers and network operators and the **numerous offers and services for private and business customers must not be sacrificed to the degradation of regulation**. The degradation of regulation is not an aim in itself. Instead, the market conditions must be regarded. It should in particular be considered that value-added- and information-services are not only an essential component of the value chain, but also offer payment options and by

phone for firms with different production sites and offices a convenient and universal accessibility for customers.

The intended deregulation to repeal the recommendation for the ex-ante regulation of markets 1 and 2 would be counterproductive and would compromise the achieved level of competition, at the expense of consumers, industry and competition.

Düsseldorf, the 12/17/2013

The German Association of Telecommunications and Media (DVTM) is the central interface of companies involved in the value chain in the converging markets of telecommunications, media and energy. These include service providers, network operators, service providers, resellers, technical services, media and publishing houses, as well as consulting and billing company. Objective of the association is to create a future-oriented, innovative and competitive market for telecommunications, media and energy in line with consumers, government and industry. The 50 members of the Association act voluntarily as part of the "German Code for telecommunications and media". The prominent advisory board accompanied by a Code Commission formulates industry standards, capable of actively shaping the market, thereby strengthening the principle of self-regulation. The DVTM was founded in 1997 as the Association of Voluntary Self-Monitoring of value-added services, FST. Impulsive, independent and innovative, the association is aimed at those who wants to know competently represented their interests in a convergent European market for telecommunications, media and energy. In February 2011, the association was renamed in DVTM.