

Comments on draft recommendation on relevant markets and explanatory note

The DVTM welcomes that the European Commission has published the draft recommendation on relevant markets and the accompanying explanatory note. In regard to the outstanding Workshop from BEREC we would like to express our sincere concerns about the proposed amendments.

We are very grateful having the opportunity to point out our viewpoints on the discussed amendments. For our association and our members Markets 1 and 2 have existential significance.

We do not agree with the Commissions position that Market 1 and Market 2 have no longer transitory entry barriers and having tendencies towards effective competition. Therefore we would like to emphasize the necessity maintaining Market 1 and Market 2 in the Relevant Market Recommendation or at least having a wholesale market that contains services like Carrier Selection ("CS"), Carrier Preselection ("CPS") and Wholesale Line Rental ("WLR").

The relevant data like 20 million customers who currently use WLR, CS and CPS EU wide and only in Germany 10 billion voice minutes per annum are known and stated by different comments and studies. So as not to repeat all these numbers and data's we would like to emphasize three points:

1. No discrimination because of age and place of settlement

As known in Germany and other Countries mainly older people use CS and CPS.

These people have a telephone access contract with the German incumbent Deutsche Telekom, maybe already for their whole life. These people will never change the provider. There is more than one reason: first of all, in rural regions there is probably no alternative provider. Second, especially elder people are afraid of any changes, maybe in general or because they heard what happened with other people changing their provider. Third, it is for sure, that these people would never change to VoIP telephony, broadband, satellite, cable or mobile solutions, because there are basically unable to cope the technical challenges. Even harder is the situation of older people in rural regions. They maybe don't even have theoretically the above named possibilities.

That means, when CS and CPS won't be offered furthermore, these people fall back to the conditions of the national incumbent, in Germany to the contractual conditions of Deutsche Telekom, which maybe years old.

Taking the consumer interests in mind it is simply not acceptable to bring especially elder people to such a situation. The lack of technical experience to install the necessary equipment to run the services will cause serious problems for them, which should be avoided. Especially if there is no essential need to change the actual situation.

2. Ethnic target groups

As in other European countries in Germany live many people from abroad, especially because of higher unemployment rates in other countries. These people need good alternatives and cheap possibilities to call to their home countries. Especially for these people are CS and CPS the most favourite and comfortable possibility. The meaning of international call connection becomes in the European Union more and more important as the people use their guaranteed freedom of establishment.

On the other hand CS and CPS show its importance for a vigilant concurrence especially in international call connections. Everybody knows from his own expenses for telephony that the costs per call or per minute to other European or international countries have been falling extremely during the last ten years. This was driven by CS and CPS. Until today, CS and CPS guarantee that the expenses for international calls will not rise. This is of high importance not only for persons with migration background but for users with a limited household budget.

Therefor CS and CPS should be preserved.

3. No need to eliminate CS and CPS

DVTM does not share the Commissions view of an upcoming effective competition in Market 1 and Market 2. This is the reason why these Markets are still regulated in all European member states.

We would like to emphasize that there is no need to abolish CS and CPS. We support the aim of building a connected continent and a European single market. But this aim can only be accomplished

with all proven and successful means of concurrence, as CS and CPS. The way to single market should not be to the detriment of concurrence and consumers. The discussed elimination of the *ex ante* regulation of market 1 and market 2 will not fasten the way to a single European market.

Therefor we argue in favour of maintaining Market 1 and Market 2 in the EU-market recommendation. The Commission should leave it to the national regulator to decide whether to regulate services like WLR, CS and CPS or not.

But it must be feared that the abolishment of Market 1 and Market 2 in the recommendation will result the abolishment of national *ex ante* regulation and therefore result in the cease of CS, CPS and WLR.

Therefor WLR, CS and CPS should be maintained in the recommendation, even possibly in newly defined wholesale market.

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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.