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Radio Spectrum Policy – Unit B4
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Montabaur, 21.11.2018

Public consultation on the Draft RSPG Opinion on 5G implementation challenges (RSPG 3rd opinion on 5G)

Dear Madame or Sir,

1&1 welcomes the consultation on the RSPG opinion on 5G implementation challenges (RSPG18-036 Final). We share the opinion of the RSPG that the Europe-wide provision of spectrum for 5G is one of the key milestones of all national 5G strategies. However, mistakes that have been made during the introduction of 4G in Europe should be avoided.

Therefore we would like to draw attention on additional possibilities to prevent a fragmentation of the market.

We believe, strong competition will not lead to a market fragmentation and by this is putting Europe at a disadvantage when it comes to the global race for 5G. In contrary, it is competition that drives the (future 5G) market especially when it comes to consumer benefits such as a wider range of products, cheaper prices etc. However, the extent to which pro-competitive policies, legislation and regulation will continue to be pursued in the years to come is at stake. We therefore expect the RSPG to enhance a pro-competitive point of view to support and push a competitive mobile market, ultimately for the benefit of end-users. Thus, 1&1 would call the RSPG to act as a lever in enabling alternative operators such as MVNOs to continue to play their role in delivering innovative solutions, in particular in view of 5G.

I. Concerning the Defragmentation of the 3.4-3.8 GHz frequency band

In order to enable 5G in the band by 2020, national administrations can consider a number of additional options. For this reason, we encourage the RSPG to adopt a strong position by also considering the following options.

- **Withdrawal of existing mobile spectrum or re-allocation of existing allocations for the use of 5G in order to promote competition:** As the RSPG itself acknowledges, different national legacy situations and competitive landscapes are leading to different national approaches. In this context we already pointed out the need to foster competition. Regarding the 5G rollout, uniform framework conditions must be created or maintained to enable new entrants to access the network. The fast commercial introduction of 5G must take particular into account the fact that competition at both the network and the service level has so far guaranteed innovation within the telecommunications market. Rules for allocation and auctions must guarantee equal opportunities for spectrum use and must neither consolidate existing oligopolies nor create new oligopolies. New entrants must be able to get access to existing networks by national roaming or through infrastructure sharing at fair and reasonable conditions. Therefore, clear rules and guidance must be applicable for all NRAs maintaining third parties to access the network. When spectrum is not used or access obligations are not available, the NRA may withdraw existing spectrum and allocate it to the new entrants.
- **Legal requirements of the EEC:** The EEC explicitly admits the imposition of national or regional roaming in the context of spectrum allocation to strengthen competition. (Art.52):

2. When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authority or other competent authorities upon advice provided by national regulatory authority, may take appropriate measures such as: (a) limiting the amount of radio spectrum for which rights of use are granted to any undertaking, or, in justified circumstances, attaching conditions to such rights of use, such as the provision of wholesale access, national or regional roaming, in certain bands or in certain groups of bands with similar characteristics;

Here, national roaming is explicitly named as an example of conditions that could be applied to MNOs. If undue restrictions of a similar nature were to appear in EU Member States in the context of 5G, this would severely damage the innovation potential of 5G. We, therefore, ask the RSPG to include the wholesale access dimension (roaming access as well as domestic MVNO access) in its work on 5G.

II. In order to ensure connectivity for vertical industries

In order to meet the needs of the vertical industry and thus ensure the success of 5G in Europe, it is essential:

- To ensure a competitive landscape at both service and network level. In particular, effective competition requires market entry opportunities which have to be ensured by the NRA at network level and by network access at the service level. Only a wide range of offers will ultimately ensure competition of networks and competition on the networks. In particular the latter ensures a demand-oriented 5G offer for the industry.



- It is justifiable that large industrial companies request spectrum for their own to address special challenges. However, this is only true for very large companies, but does not apply to smaller SME companies, which play a central role in the European market as "hidden champions" and driver for innovation in Europe. Those SME companies rely on competition on the networks to receive suitable offers (see point above). To ensure that spectrum can be used efficiently it should be ensured to interconnect national and regional networks. In this context we believe, that a regulatory obligation for infrastructure sharing and national roaming would appropriate.

If you have any further questions, please do not hesitate to contact us.

Kind regards,



Sebastian Jorns
Expert Regulatory Affairs



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