



Warsaw, 6 April 2020

Mr

Thierry Breton

Commissioner responsible for the Internal Market

European Commission

Dear Commissioner

Due to extraordinary circumstances being the effect of the spread of the coronavirus pandemic throughout the whole territory of the European Union, the representatives of the telco market being members of Business Europe, The Polish Confederation Lewiatan, The Federation of Austrian Industries and The Croatian Employers' Association, are forced to meet currently the challenges, both internal and external, and take appropriate measures which will allow telecommunications companies to survive this difficult moment for the world economy and its economic order and maintain the continuity of the provision of services. A simpler and preferable identification of adequate actions might be far more possible if the representatives of the telco market were not unnecessarily disturbed by the announcement of the compulsory adjustment to the forthcoming legislation on telecommunications.

In the light of the foregoing, the undersigned trade associations indicate the need to postpone the application of the EU telecoms rules, primarily the application of the laws, being the implementation of the European Electronic Communication Code. The application date should be postponed to mid-June 2021. Furthermore, based on the perception of the European entrepreneurs, also the application of other EU telecoms rules, which also require close follow-up actions, should be temporarily suspended.

The telco market in Europe currently faces the challenge of the national implementation of the European Electronic Communication Code that should be fulfilled by December this year. We would like, however, to emphasise the fact that a great number of national regulators has only recently published the initial proposed text of the draft of the law implementing the Code. What is more, in many European countries the auction of 5G frequency as well as the said implementation have coincided with the spread of coronavirus, which contributed to the delay in the legislative preparatory works at national level. Simultaneously, the date of

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application of the Code remains unchanged. It is highly probable that, as a result, there will be little time left not only for the consultation of a new law but, what is even more relevant, also for its proper implementation and successful application by companies falling within the scope of the Code. We strongly advocate a swift alteration of the date of the Code application which may be effectively made only by the European Commission by an appropriate amendment of a particular provision, namely the Article 124 of the EEC which presently stipulates that:

1. Member States shall adopt and publish, by 21 December 2020, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately communicate the text of those measures to the Commission.
2. Member States shall apply those measures from 21 December 2020.

Since the crisis caused by the pandemic has already had substantial negative impact on the operation of telecommunications companies, we postulate a prompt amendment of the above Article and a postponement of the application date referred to in paragraph 2 to mid-June 2021. This action seems to be the only way to mitigate the economic impact of the crisis as well as to protect telecommunications businesses against its most severe consequences.

Additionally, it has become apparent that it is desirable to change the date of entry into force of the Commission Implementing Regulation (EU) 2019/2243 of 17 December 2019 establishing a template for the contract summary to be used by providers of publicly available electronic communications services pursuant to Directive (EU) 2018/1972 of the European Parliament and of the Council which should also be binding as of December this year. This EU legislation indeed requires thorough preliminary work.

Moreover, telecommunications companies are obliged by the earlier roaming regulation to update additional roaming charges every year on 1 July and the intra SMS retail prices on 15 May if it results from a change in the exchange rate. It may happen that due to the current law rate the changes will end up at the very minimum level. Although the changes seem to be minor, they lead to information obligations as well as numerous system alterations. The requirement mentioned stems from the particular EU regulation, so the national regulator has only the option to refrain from compulsory control if particular telecommunications operators have failed to implement the said arrangements in a timely manner. In that case, the undersigned



organisations urge the European Commission not to push the national regulator to comply rigorously with the provisions of the regulation.

What is more, the telco market is concerned about the consequences of Brexit as it is highly probable that telecommunications companies will not be subject to the agreement governing the future relationship between the United Kingdom and the European Union. For the time being, the European Commission has been restrictive about the inclusion of the United Kingdom into RLAH as well as the fair usage policy mechanism. Due to such an approach, especially because of allowing the United Kingdom to leave the European Union without a particular agreement in this respect, the major obstacle the telco market faces is to prepare new tariffs in a very limited time frame. We would like to emphasise that it is a time-consuming as well as cost-intensive process, requiring the involvement and often physical presence on company premises of many people. Therefore, we are in favour of the provision of roaming services on the basis of current conditions where new tariffs would not be implemented on time.

Finally, we advocate the need for suspending, in this difficult period, the requirement of data collection organised by BEREC which is required by questionnaires on the roaming market and regulation.

Yours sincerely,

The Croatian Employers' Association

The Federation of Austrian Industries

The Polish Confederation Lewiatan

member of BUSINESSEUROPE



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