

## **Commission opens in-depth investigation into the market for fixed wholesale high quality access in Greece**

Today the European Commission opened an in-depth investigation concerning Greek regulator EETT's review of the fixed wholesale high quality access market in Greece.

### **Context**

EETT finds that the market for terminating segments of leased lines in Greece is not competitive and the incumbent OTE is a Single Market Power (SMP) operator that should be subject to ex-ante regulation nationally. Terminating segments of leased lines are connections with dedicated capacity between the end user's facilities and the telco operator's exchange. The availability of these high quality connections is of high importance for businesses in order to increase their overall competitiveness. Moreover, they are key requirements for a successful digitalisation of the Greek economy.

In spite of this, the Greek regulator proposes to withdraw all the remedies, including access, from the by far largest part of the market, namely the Athens and Piraeus regions. EETT grounds its decision on different competitive geographic conditions in these regions as compared with the rest of the country, which the Commission deems to be not sufficiently proven, particularly regarding the adequate coverage of alternative networks.

OTE enjoys a retail market share for the leased lines of above 40 % in the Athens/Piraeus areas, compared to a share of above 75% in the rest of Greece. As a result, EETT proposes to withdraw the access obligation and all other remedies including price control and non-discrimination for terminating segments of leased lines for speeds >4 Mbit/s in the area of Athens/Piraeus.

### **European Commission's Reservations with the draft measure**

In recent article 7 case practice, the Commission was confronted with a number of proposals to justify a geographic segmentation of markets or remedies [Case PL/2019/2160-2161, C(2019) 4073 final; Case IT/2019/2181-2182, C(2019) 5406 final; Case UK/2019/2170-2171, C(2019) 4897 final]. Even though the selected criteria are not identical, they all determine the competitive state of a certain area based on market shares, the presence of alternative operators and importantly the effective reach of alternative networks.

In view of the established regulatory practice and having in mind the specific market situation in Greece, the Commission has serious doubts as to the adequacy of the analysis of the different geographical competitive conditions carried out by EETT and to the proportionality of chosen remedies to tackle the market failures identified in the market.

In particular the decision to de facto deregulate the largest part of the market (Athens/Piraeus areas) seems pre-mature on the basis of the data available, also given that the demand for leased lines outside of that area is very limited in Greece.

The Commission observes that the limited data available on the network coverage in Athens and Piraeus is not sufficient to examine properly the network footprint and the exact reach of alternative networks. According to the available data, it seems that these alternative networks are much less developed than OTE's network. EETT's proposals to withdraw access obligations from geographical areas of Athens and Piraeus could therefore put alternative operators at a serious competitive disadvantage.

Moreover, EETT proposes not to impose ex-ante margin squeeze control for very large public contracts with 10 000 lines or more. This would effectively allow OTE to make further volume discounts, which would not be replicable by alternative operators using wholesale access to terminating segments of leased lines. The Commission has serious doubts as to the legality of this proposal. It considers that this exemption may be detrimental to competition as it would allow OTE to unfairly undercut its rival operators in bidding procedures for some of the most important contracts in volume terms.

## Next Steps

With regard to the Commission's serious doubts about the remedies, the Commission now has three months to discuss the draft measure with EETT, in close cooperation with the body of European regulators (BEREC). At the end of the Phase II investigation period, the Commission may either lift its reservations or issue a Recommendation under Article 7a of the Framework Directive.

Find more information on article 7 procedures.

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