

PRESS RELEASE

CNMC notified the draft measures concerning the review of the wholesale market for access to mobile networks (former market 15) to the European Commission

- On 16 February 2017 CNMC adopted a draft regulatory measure whereby the wholesale market for access mobile networks would be deregulated. This would mean lifting the existing ex ante obligation to provide access to third parties (namely mobile virtual network operators –MVNOs) at reasonable prices imposed on Telefónica Móviles, Vodafone and Orange that were designated as having joint SMP in the previous analysis back in 2006.
- The proposed measures envisage a period of six months to allow market players to adapt themselves to this new scenario where no ex-ante obligation will be in place.
- CNMC finds that former market 15 no longer meets the three cumulative criteria for ex ante regulation because this wholesale market tends towards effective competition and Competition Law would be sufficient to address any competitive concerns that might arise. Therefore, 2nd and 3rd criteria are not met.

Madrid, 2017.02.21.- The EC is to assess whether the proposed measure is compliant with Community law within a one-month “phase one” procedure after which it may choose to approve and/or comment on such measures. If this were the case CNMC could adopt the notified measures by taking utmost account of the comments made by the EC, if any. On the contrary, if the EC considers that the draft measure is contrary to Community law or creates a barrier to the Single Market, it begins an in-depth review lasting up to three months.

After the in-depth investigation, in close cooperation with BEREC, the Commission may:

1. withdraw its reservations, if its serious doubts are no longer justified;
2. issue a "veto" decision requiring the NRA to withdraw its proposals, when a notified draft measure defines a relevant market or designates/does not designate an SMP operator;
3. issue a recommendation asking NRA to amend or withdraw a measure if it relates to the remedies; if the NRA decides to go forward with its proposal and not comply with the recommendation without a thorough reasoned justification, the

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Commission may consider undertaking further legal steps, including possible infringement proceedings.

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