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CMS Network Sharing Study 2016

Sharing gathers pace

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Foreword

CMS is delighted to be presenting the second edition of its study on the sharing of communication networks in the EU and around the world. The first edition was highly influential and received a great deal of interest; the second edition goes into the topic in even greater detail and covers several more countries. Consequently, this second edition of the study is further-reaching and allows the drawing of more detailed and important conclusions about the structures and mechanisms for the sharing of telecoms networks.

This is of particular significance as the fifth generation of communications technology begins to be rolled out with all its potential for the internet of things.

Viable commercial and legal structures are essential as is clear regulatory guidance; this study and its thought leadership content represent a very important and valuable means of providing both objectives.

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Introduction

In 2014, we published a survey studying the main characteristics of network sharing deals concluded during the calendar year 2013.[1] We came to a number of interesting and sometimes surprising conclusions. The report was well received and we have been asked to prepare a second edition, which now covers the calendar years 2014 and 2015. The European Commission has asked us to consider an additional issue which they found of particular interest – whether there was geographic differentiation of sharing within countries. We have also gone into further detail on some other topics including spectrum sharing with electronic communications providers.

In the intervening period we have observed a number of regulatory decisions, both in relation to mobile spectrum availability and mergers of mobile operators. These decisions have had repercussions for the sharing of networks, voluntarily, and in some instances, compulsorily. We have also seen an increased appetite from investors from the financial sector for whom shared networks represent an attractive investment target.

For these reasons, and because a number of new deals have been identified and a significant number of the previous deals have been extended in scope or geography, this second edition of the network sharing study is a more substantial document than its predecessor. We have also included input from countries outside the EU where it seemed of particular interest.

What much of this is showing is that the drivers for network sharing are not those which were originally envisaged. In particular, the newest technologies are the subject of network sharing, because of the significantly higher costs of rolling out 4G and 5G networks as compared to 2G and 3G – these effects are driven by the propagation characteristics of the frequencies involved. Also, margins in the mobile sector are increasingly tight as roaming is regulated and more sites become increasingly difficult and expensive to identify. All of this has led to some degree of consolidation among mobile operators and therefore inevitably to a greater degree of commonality as to the networks being used.

Equipment manufacturers are seeing the opportunity and have created technology and equipment which is increasingly sophisticated in terms of shared access; this again makes network sharing more economically attractive, as well as practically effective.

Taking all these factors into consideration, we do not expect that this edition of the study will be the last.

We hope that you find this second study helpful in reviewing and analysing this innovative section of a market which is undergoing rapid change.

[1] The study also comments on deals that were completed very close to 2013. These are included in this report within 2013 data.


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About CMS

We are one of the market leaders in the communications sector, having advised on the earliest network sharing deals completed in 2002 in the UK and Germany as well as on the deals completed in 2013 in Spain, Romania, Poland and Albania plus providing advice to clients in several other countries during 2014.

Our specialist lawyers are recognised experts in this space and are regularly asked to speak at industry leading events; most recently we held a successful workshop on Network sharing for ECTA, (the European Competitive Telecommunications Association).

More broadly, our dedicated Telecoms and Spectrum team, made up of recommended individuals, have the specialist skills to cover all legal aspects of the telecoms sector and its convergence with the technology and media sectors.

We regularly advise in relation to all aspects of communications projects: commercial/transactional, regulatory, corporate/M&A, finance, competition, intellectual property, dispute resolution, real estate and tax. As part of a fully integrated service the team works closely and draws upon the telecoms sector expertise within the firm's corporate, finance and commercial practice areas.

Our clients include regulators and Government bodies, mobile operators, wireless and fixed network operators; and leading domestic and international communications service providers and customers. Our experience extends across all types of network and platform – fixed, mobile, satellite, VPN, NGN, terrestrial broadcasting, cable TV and the internet.

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