

PRESS RELEASE

Date 16th September 2014

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Subject **Europe lags US in 4G network rollout**

CMS Legal Services EEIG
Barckhausstrasse 12-16,
60325 Frankfurt a.M.,
Germany
T +49 69 71 701 500
F +49 69 71 701 550
info@cmslegal.com
www.cmslegal.com
Direct T +49 69 71 701 500
E-mail info@cmslegal.com

Europe's competitiveness weakened by mobile telecoms infrastructure regulation

Frankfurt, 16th September, 2014. Europe needs a more investment-friendly regulatory framework for mobile telecoms infrastructure operators in order to increase competitiveness, says a report from CMS, the top 10 international law firm. The report analysed 12 major cross-border mobile network sharing deals announced or signed in Europe in 2013 and the regulatory frameworks behind them.

19% of the USA has 4G network coverage, versus 2% of Europe, meaning that mobile business can be done faster and better in the States than in Europe.¹

Dóra Petrányi, Technology, Media and Telecoms (TMT) partner at CMS and author of the study, said, "With over 100 firms each operating their own mobile network in Europe versus around a dozen in the USA, it is clear that there is a huge opportunity to cut costs through economies of scale in the roll-out of high-speed European networks. The problem is that the current regulatory framework is in favour of network based competition and thus remains opposed to operator M&A. Even within the current framework, it seems that network sharing deals, which are a real alternative to traditional M&A projects, are not as extensive as they could be due to a lack of regulatory certainty."²

EU Competition Commissioner Joaquin Almunia has said that the Commission will continue to encourage network sharing deals. The new "Connected Continent" draft regulatory package also emphasises spectrum-sharing agreements.

The exponential growth in demand for mobile data will generate an ever increasing need for service provider investment in infrastructure and spectrum ownership.³ Providers have to increase their 4G coverage to maintain competitiveness and to meet obligations agreed to during the spectrum bidding; Commissioner Neelie Kroes is already encouraging companies to develop 5G infrastructure.⁴ In addition, newer generations of mobile broadband may require active equipment to be updated.

¹ http://www.gsma-mobile-wireless-performance.com/GSMA_Mobile_Wireless_Performance_May2013.pdf.
http://en.wikipedia.org/wiki/List_of_mobile_network_operators_of_the_Americas#United_States

² <https://www.etno.eu/datas/publications/economic-reports/etno-economic-report-2012.pdf>.

³ IDC expects our 'digital universe' to grow from 4 Zettabytes not to 40 Zettabytes in 2020. (<http://www.emc.com/collateral/analyst-reports/idc-the-digital-universe-in-2020.pdf>).

⁴ http://europa.eu/rapid/press-release_SPEECH-14-155_en.htm

At the same time, operators' revenues are being eroded by pure play internet companies such as eBay and Amazon and over-the-top (OTT) companies like Google, Skype and WhatsApp, which are not subject to the same regulatory burdens as the network telecommunications providers. However, some regulators in Europe are trying to level the playing field.⁵

The analysis of European network sharing deals last year carried out by CMS showed that most were in Western and Central Eastern Europe. In terms of network generation, only 25% of deals covered 4G, versus 3G (39%) and 2G (36%).

In the deals surveyed, the elements of the network most often shared were passive elements (36%) and radio access network elements (36%). Radio spectrum sharing was part of only 14% of deals, with core network elements and national roaming being included in 11% and 3% of deals respectively.⁶

Horizontal deals were more popular than joint ventures, driven partly by the lighter scrutiny from authorities that such agreements tend to attract. However, joint ventures are far more effective frameworks for collaboration than horizontal deals.

Chris Watson, Head of the CMS TMT sector group, adds, "Spectrum sharing could provide significant financial savings and is almost a technical necessity for the effective use of certain frequency bands. But almost all regulatory authorities are clearly against even the partial liberalisation of spectrum sharing; many are reluctant to give a clear message to market participants about the parameters to allow it. This lack of clarity is also inhibiting secondary trading of spectrum. The good news is that draft regulation has been circulated by the European Commission so we foresee a more liberalised environment."

"However, we need far greater movement from the authorities to encourage co-financing of infrastructure investment and this will be more challenging to achieve than the spectrum sharing solution because of the long-entrenched approach of favouring network based competition."

"There is a sense of lethargy in some countries. Very few national authorities have expressed views on network sharing and that's partly because in some cases they're still debating whether it's the role of the competition authority or the regulator. Collectively, Europe needs to wake up to the threat it will face from other jurisdictions if it does not take a more joined up approach to encouraging investment in its high-speed mobile networks."

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⁵ For example, ARCEP reported Skype to the public prosecutor for not filing as an electronic communication service provider (http://www.arcep.fr/index.php?id=8571&L=1&tx_gsactualite_pi1%5Buid%5D=1593&tx_gsactualite_pi1%5BbackID%5D=26&cHash=014dd3fb9f55d8136bcd357409d0ad14).

⁶ Passive (part of the network that service the active element, e.g. masts, towers, sites, power, air conditioning); Active/radio access network elements (e.g. antenna and connecting devices such as base stations); Radio spectrum (for terminal equipment); Core network (elements outside the access network of a mobile operator such as core 4G networks including MME (Mobility Management Entity) and SGW (Serving Gateway); National roaming (traditional network sharing).

Contact:

Isabel Scholes, CMS Head of Communications

+49 69 71701 512

isabel.scholes@cmslegal.com

Simon Barker, Cubitt Consulting

+44 (0)20 7367 5119

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