



## 5G AND THE GIGABIT SOCIETY

Europe is at a crossroads. With 5G comes an opportunity to empower citizens and businesses using widespread ultra-fast connectivity. The mobile industry is ready to step up and deliver 5G and the Gigabit Society. But they can't do it on their own.

**Ambitious spectrum reform will be needed**

The proposals for the review of the EU telecoms regulation (the Code) provides a unique opportunity. **To become a success, policy makers in EU capitals and Brussels should be mindful of the following:**

### Ensure greater certainty and predictability over future rights of use



#### What the code says...

Radio spectrum shall be valid for a duration of at least 25 years with a renewal window of 3-5 years prior to expiry; efficient use and avoiding service disruption and distortions to competition



#### What concerns us...

A lack of support for much needed certainty and predictability over rights of use. The result is a high investment risk due to a lack of clarity prior to renewal and poor predictability over rights



#### Recommendations

Maintain the duration for rights use to **no less than 25 years with a strong presumption of renewal** where spectrum is actively used. Prioritise, avoiding service disruption; ongoing investment over spectrum fees; and robustly test alternative uses against effective and efficient use to ensure a predictable and certain system for spectrum rights of use.

### Greater consistency among Member States over approaches to awards



#### What the code says...

NRAs to make draft measures available to BEREC, the Commission and other NRAs, so that BEREC can issue a non-binding opinion



#### What concerns us...

A lack of support for introducing mechanisms amongst European spectrum regulators to review and share best practices to help create scale, increase investor confidence and reduce poor award design



#### Recommendations

**Reduce the number of processes** subject to mandatory BEREC opinion and **underline the importance of best practice** to ensure efficient use of spectrum

## The right balance between licensed spectrum and general authorisations, and between exclusive and shared



### What the code says...

Prioritise general authorisations over individual rights and promoting shared use of spectrum



### Recommendations

Emphasise the **importance of licensed spectrum and promote shared use of spectrum** in appropriate bands and use cases



### What concerns us...

Licensed spectrum underpins the entire mobile ecosystem and will be even more important in the 5G era. Although sharing spectrum is supported by GSMA, the code is unclear on when exclusive use is superior. More detail on how to decide between sharing vs clearance and reassignment is also needed

## Predictable licence conditions



### What the code says...

Licence conditions may be amended in objectively justified cases and in a proportionate manner



### What concerns us...

Changes to licence conditions - post award - can undermine the investment case and reduce investor confidence



### Recommendations

**Ensure changes are only made by mutual agreement and protects investments** by licensees. If the possibility of imposed amendments is maintained, the need for compensation should be part of the code

## Spectrum fees limited to ensuring efficient and effective use, and reflecting extended coverage commitments



### What the code says...

Fees to promote efficient and effective use; take into account alternative uses; reflect additional costs of licence conditions; timing aligned to availability



### What concerns us...

**Reserve prices rarely align with potential revenue from alternative uses.** Rarely do they also reflect the public benefit of coverage obligations or availability. Article wording on reserve prices and payment modalities are not sufficiently strong to change this



### Recommendations

Include **safeguards against revenue maximisation policies** and ensure that reserve prices are a way to determine the minimum valuation to create optimal use and support greater certainty

## Freedom to compete and differentiate through voluntary sharing and under competition law



### What the code says...

Member States may limit the amount of spectrum; attach wholesale access/roaming obligations or reserve spectrum



### What concerns us...

While caps have a permanent role preventing dominance, wholesale access obligations and reservation of spectrum are only appropriate following the finding of market dominance



### Recommendations

**Ensure wholesale access obligations and reservation of spectrum are aligned with SMP guidelines**