



## **Liberty Global response to the European Commission's public consultation on the preliminary report of the ongoing competition Sector Inquiry into the consumer Internet of Things (IoT)**

Liberty Global welcomes the opportunity to comment on the European Commission's *preliminary report of the ongoing competition Sector Inquiry into the consumer Internet of Things* (preliminary report).<sup>1</sup> Liberty Global strongly supports the European Commission's continued commitment to engage with stakeholders on issues that are relevant to them, particularly in the rapidly evolving and impactful domain covered by the EU's digital strategy. Liberty Global is convinced that such engagement will help further achieving a Europe fit for the digital age, by ensuring that this transformation will, indeed, work for both people and businesses.

### **Introduction**

#### **A better understanding of the consumer IoT sector**

For the European Commission, the main objective of the Sector Inquiry and the preliminary report appears to be 'to gain a better understanding of the consumer IoT sector, its competitive landscape, developing trends and potential competition issues'. Liberty Global generally supports this objective, in light of the significant growth expected in this sector and the fact that – as the preliminary report rightly recognizes – the use of consumer IoT products is 'increasingly becoming part of everyday life' for EU citizens.

#### **The importance of stakeholder engagement**

Liberty Global commends the European Commission for engaging over 200 stakeholders active in that sector in the process leading up to the adoption of the preliminary report and for allowing others, such as those active in adjacent sectors (like Liberty Global) to respond to the current public consultation. In light of the Sector Inquiry's aim, Liberty Global recommends the European Commission to continue this broad level of stakeholder engagement in the next steps of the Sector Inquiry and in the potential adoption of forthcoming measures.

### **Substantive appreciation of the preliminary report**

Generally speaking, Liberty Global agrees with several of the key findings of the preliminary report.

#### **Key preliminary findings – apps**

Firstly, Liberty Global finds that smart mobile applications (apps) are the most used user interface to access smart home and wearable devices and consumer IoT services. In that sense, smart mobile devices and their operating systems play an important role in the consumer IoT sector. Liberty Global points to the existence of a flourishing app economy, across several platforms.

---

<sup>1</sup> European Commission, Staff Working Document, Preliminary Report – Sector Inquiry into consumer Internet of Things, Brussels, 9.6.2021, SWD(2021) 144 final



### **Key preliminary findings – interoperability and standardisation**

Secondly, Liberty Global subscribes to the importance of interoperability and standardization, like in other sectors. Whilst Liberty Global acknowledges a lack of interoperability in the Consumer IoT sector due to technology fragmentation, a lack of common standards and the prevalence of proprietary technology, Liberty Global understands those respondents who welcome the development of proprietary technologies, provided they are well documented and allow for interoperability.

As the preliminary report rightly concludes, the market for “isolated”, standalone smart devices is limited. Therefore, the integration of stand-alone technologies into ecosystems is a natural progression of these markets. Moreover, in order to ensure the security of such ecosystems and to be able to provide a consistent end-user experience, proprietary technologies are often a necessity.

### **Key preliminary findings – pre-installation, default-setting and prominence**

As regards practices concerning pre-installation, default-setting and prominence, Liberty Global observes that these may, under circumstances, impact the discoverability, visibility and findability of a consumer IoT service. At the same time, these are standard and legitimate business practices – both in the online and offline economies, which should thus not be treated as suspect by default. Any regulatory restrictions on such practices should therefore respect the principles of appropriateness and proportionality.

## **Policy recommendations**

### **Interventions should be firmly based on EU competition law**

Liberty Global believes that potential regulatory interventions pursued in the wake of the current Sector Inquiry should be based on established competition law principles and practice. EU competition law principles are sufficiently flexible and have long proven their ability to address market imperfections and the types of potentially anti-competitive practices identified by the preliminary report. Similarly, EU competition law has been designed to minimise intervention whereby markets and market practices are assessed on a case-by-case basis (including with regard to potential benefits of certain practices), and remedies designed to address the identified harm.

A departure from these existing competition law principles and practice – and the underlying economic principles – would create significant legal uncertainty and have significant negative effects on investment and innovation across the whole of the EU. Intervention in line with existing competition law and practice is therefore integral to ensuring continued innovation and investment in the digital sector, and to ensuring the competitiveness of European businesses and markets.

### **Measures should be proportionate and appropriate**

The role of policy makers and regulators is to ensure that market players do not interfere with the normal functioning of the market through engaging in anti-competitive practices. Liberty Global warns



against policy makers and regulators taking up the role of market maker as this would distort competition.

This applies equally to European digital markets, including markets such as consumer IoT products & services and adjacent markets for a wide variety of products and services. Any intervention in the digital sector must be appropriate and proportionate to the identified harm. It is also essential that the benefits of intervention are properly balanced against the costs and impact on investment and innovation.

### **Overlap with the telco SMP regime should be avoided**

Telecommunications operators are already subject to strict asymmetric market regulation under the 'significant market power' (SMP) regime. In this regard, overlap between the ex ante regime for telecoms operators and any potential ex ante measures adopted following the current Sector Inquiry, should be avoided. It is therefore appropriate that providers of electronic communications services and electronic communications networks are clearly excluded from scope under such measures.

### **Significant wisdom can be drawn from the telco SMP regime experience**

This is not to say that the telecoms sector has no relevance in the context of the Sector Inquiry. The telecoms sector in Europe has been subject to an ex ante regulatory regime for many years. The SMP regime was designed as a temporary tool to develop effective, sustainable competition in telco markets, to a point at which ex post competition law could take over.

This regime has proven remarkably successful, effective and flexible, paving the way for significant deregulation in the sector. Over the past 20 years, the European Commission decreased the list of telco markets susceptible to ex ante regulation that national regulators must examine from 18 markets in 2003 to two markets in 2020.

We consider there are significant learnings to be taken from the telco regime in the potential adoption of measures following the Sector Inquiry. As an example, the telco regime places great emphasis on sound regulatory principles and practices, such as the principle of technology neutrality. This principle not only ensures Union law is applied in a technologically neutral fashion in the adoption of regulatory measures, but also safeguards the right of operators to design and manage their own networks, thus promoting innovation and investment.

Liberty Global – as a telco operator – stands ready to share knowledge and experience on the operation of such regimes in practice.



## **About Liberty Global**

Liberty Global is a world leader in converged broadband, video and mobile communications services. We deliver next-generation products through advanced fiber and 5G networks that connect 85 million subscribers across Europe and the United Kingdom. Our businesses operate under some of the best-known consumer brands, including Virgin Media-O2 in the UK, VodafoneZiggo in The Netherlands, Telenet in Belgium, Sunrise UPC in Switzerland, Virgin Media in Ireland and UPC in Eastern Europe. Through our substantial scale and commitment to innovation, we are building Tomorrow's Connections Today, investing in the infrastructure and platforms that empower our customers to make the most of the digital revolution, while deploying the advanced technologies that nations and economies need to thrive.

Liberty Global Ventures, our global investment arm, has a portfolio of more than 50 companies across content, technology and infrastructure, including strategic stakes in companies like Plume, ITV, Lions Gate, Univision, the Formula E racing series and several regional sports networks.