



Mrs. Margrethe Vestager,
Vice-President, Commissioner for Competition

Mr. Thierry Breton
Commissioner for Internal Market

Mr. Paolo Gentiloni
Commissioner for Economy

European Commission
Rue de la Loi 200 – Bruxelles (B)

Bruxelles - Milano, 12 October 2020

Subject: Ultrabroadband connectivity in Italy – Single Network

Dear Commissioners,

Euroconsumers¹ and Altroconsumo, its Italian national associated organization, wish to express concerns about the envisaged transaction in Italy whereby TIM, the historical telecom incumbent, will take control over the new entrant Open Fiber, with the final result to create a vertically-integrated, quasi-monopolistic access network operator, the so called “Rete Unica” (Single Network).

As you probably know from public sources, on August 31, 2020 TIM signed a MoU with Cassa Depositi paving the path for the contribution of Open Fiber into AccessCo, a network company controlled by TIM itself and where the incumbent would contribute part of its access network currently hold in FiberCop, a newco recently created together with broadband provider Fastweb SpA and the US infrastructure fund KKR. While the specific details of the transaction are not known yet and, probably, still need to be finalized, the surrounding circumstances are well-known: on one side, TIM intends to put an end to the short period of infrastructure competition in Italy started in 2016 with the creation of Open Fiber, on the argument that a duplication of network investments should be regarded as a waste; on the other side, the Italian government seems to back this operation, provided that the Single

¹ Gathering five national consumer organisations and giving voice to a total of more than 1.5 million people, Euroconsumers is the world’s leading consumer cluster in innovative information, personalised services and defence of consumer’s rights. Our organisations work together with BEUC, the European Consumer Organisation, and Consumers International to ensure consumers are safe, that markets are fair and benefit from honest relations with businesses and authorities.

Network will be subject to some kind of public supervision and will accelerate the deploying of fibers in Italy.

It is worth noting to remind that in 2016 the Italian government sponsored the creation of Open Fiber by Cassa Depositi and Enel with the purpose to trigger competitive investment dynamics, so as to increase fiber investments in the country and recover the serious connectivity gap between Italy and the rest of Europe. Indeed, Italy is one of the few countries in Europe where cable TV never existed and therefore no significant infrastructure competition emerged in the market.

The industrial initiative of the Italian government produced a remarkable outcome, since in the last 4 years Italy's connectivity rank in the Digital Economy and Society Index (DESI) has substantially increased, likely due to the infrastructure competition emerged between TIM and Open Fiber. This is why we respectfully argue whether the envisaged merger constitutes the appropriate solution for the Italian connectivity issues that it is intended to fight against.

From a competition point of view, we are facing an exceptional situation and this is why Euroconsumers and Altroconsumo jointly write you: abandoning this short period of infrastructure competition and returning to a quasi-monopolistic access network could be detrimental for the market, with the ultimate price to be paid by Italian consumers and businesses, whose legitimate expectations for ultrabroadband connectivity would be finally frustrated. Moreover, the transaction at stake may create a dangerous precedent for other countries, where a return to a network monopoly could be also advocated similarly to Italy, and thus result in serious risks for European consumers in general. We therefore hope that, once the transaction will be agreed and notified to the European Commission, a severe antitrust control takes place, in the interest of all consumers across Europe.

Altroconsumo and Euroconsumers are not in principle against the creation of the Single Network in Italy but we plead the European Commission to use its antitrust powers to make sure that the Single Network operates in a neutral and non-discriminatory manner, that is to say by treating ISPs equally in order to maximize the choice for consumers. Particular attention should be paid for the ambition of TIM to maintain control over the merged company, since the existence of vertical links between the Single Network and a dominant retail operator would contradict the fundamental principles of competition. In addition, the Commission should make sure that the objectives for which the transaction has been envisaged, namely the acceleration of the coverage of the national territory in FTTH, and the simultaneous and rapid shutdown of the copper network, are properly achieved and that the public funds (Recovery Fund) eventually invested in this operation should be used exclusively for such purpose and certainly not to cover the debts of the companies participating in the newco.

All the above is of paramount importance for consumers in case this transaction is completed and authorized. Beyond that, in Italy there is also an important debate about the return and the role of the State in the telecommunications markets: while this subject is very sensitive in terms of industrial policy, from the point of view of consumers the real, important issues are those of the governance of the Single Network and the achievement of ultrabroadband connectivity objectives. The COVID emergency has brought out strengths and weaknesses of the Italian telecommunications sector: while the telecom backbones have shown to sustain efficiently the dramatic growth of data traffic, weaknesses have emerged at the level of the last mile, with families and workers struggling to be properly connected during the emergency time. Because of that, the Single Network operation must be carefully scrutinized and should not become an accident causing further delays to the rapid diffusion of ultrabroadband connectivity in Italy.

Best regards,

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