

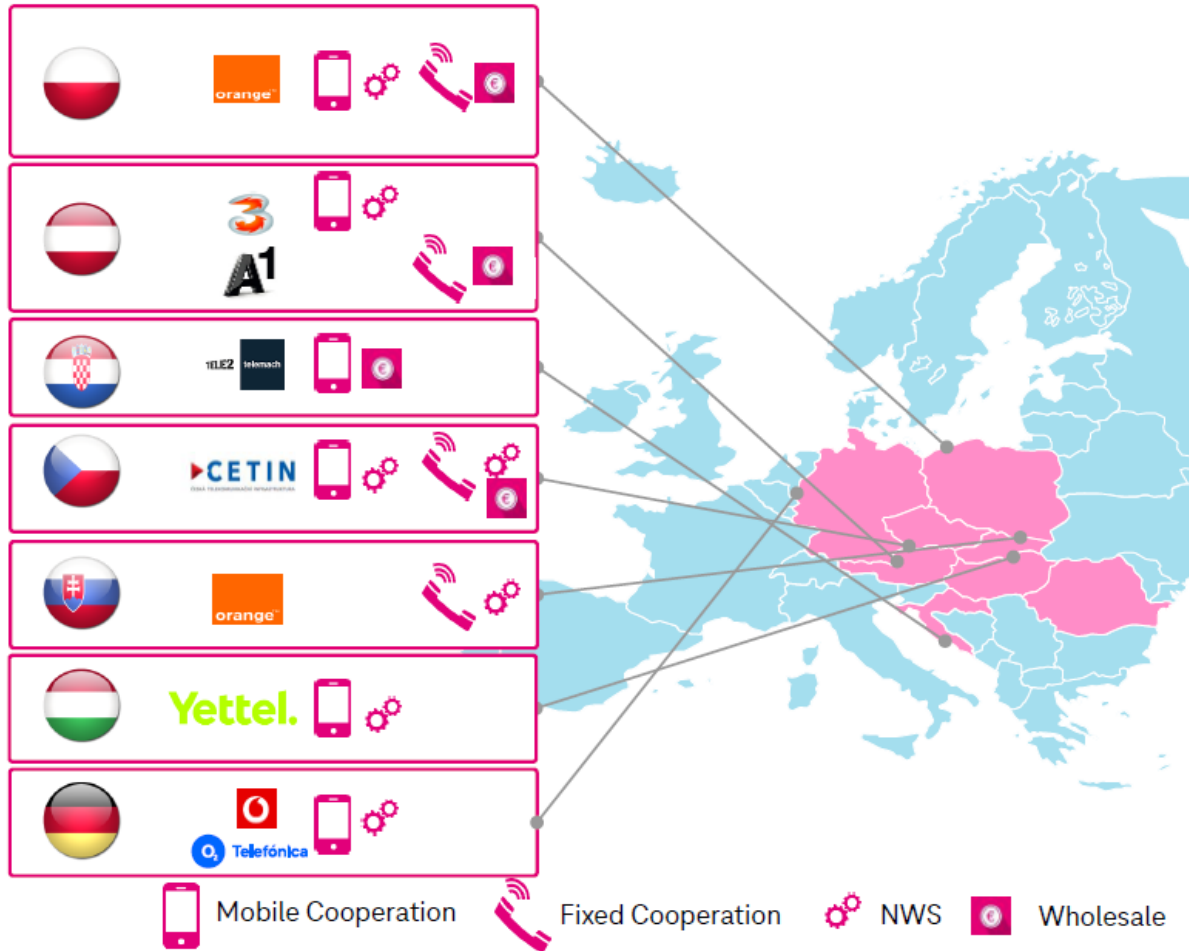
Horizontal cooperation in network industries in light of the recent CZ case and revision of the EC guidelines

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Importance of Network Sharing: Industry Perspective

Deutsche Telekom NWS Co-operations:



Growing financial constraints combined with soaring 5G investment needs are driving NWS:

- Cost savings regarding scale of investment and operating networks
- Faster network rollout
- Better service quality
- Environmental benefits
- Efficient use of spectrum as main capacity driver, which is a scarce resources

5G Architecture Changes Competitive Dynamics

Softwarization Virtualisation

With Software Defined Networks and Network Functionality Virtualisation the main network features and functionalities are determined by software, while hardware is becoming a commodity:

» **Decisive distinction: hardware vs. software, not passive vs. active RAN**

OpenRAN

OpenRAN further standardizes the access network elements and enable more supplier competition, as no longer closed ecosystem:

» **Differentiation & critical innovation on level of software applications**

Network Slicing

Slicing allows to tailor networks more flexible and brings more competition on the service level also enabling other players like MVNOs to replicate:

» **Full competitive landscape should be considered for market definition**

Para. 302 in New Draft Horizontal Guidelines

(302) „While the competitive assessment under Article 101 must always be conducted on a case-by-case basis, broad principles can be given as guidance to conduct such an assessment

- (a) **Passive sharing is unlikely** to give rise to restrictive effects...;
- (b) **Active RAN sharing agreements may be more likely** to give rise to restrictive effects ...;
- (c) **Spectrum sharing agreements are a more far-reaching** cooperation and may restrict the parties' ability to differentiatemust be examined cautiously under Article 101.

Reflecting BEREC Common Position, which already in 2019 states:

*„**These definitions are primarily retrospective** and do not preclude the emergence of any new types of sharing agreements”*

It is important that the new Horizontal Guidelines are future-proof and able to deal with constant technological developments:

» Therefore focus should not be on the technological distinctions, but rather on concepts like **incentive and ability to differentiate & innovate**

Para. 303 in New Draft Horizontal Guidelines

(303) „In conducting the assessment of whether a mobile infrastructure sharing agreement may have restrictive effects on competition, a variety of factors are relevant, including:

- (a) the type and depth of sharing...
- (b) the scope of shared services and shared technologies...
- (c) **the geographic scope** ... (for example, **densely populated areas**)
- (d) **the market structure** ...“

Geographic scope no longer decisive factor going forward:

- » Sharing may be needed precisely in densely populated areas
- » Coverage is no longer one of the main purchase criteria

Market structure/market share is inappropriate factor for assessing NWS, since the combined market share will almost always be high:

- » Less weight on market share in investment heavy industries

Beyond Mobile Access Network Sharing

TowerCo

TowerCo trend is driven by **need to free financial resources for a faster roll-out** of next generation networks

Fixed Sharing

Diverse landscape of fixed sharing, beyond co-operation among telcos, eg. JVs or FiberCos with utilities

Convergence HetNets

Convergence cross-technology with heterogenous networks and cross industries

