

## IIC Europe Chapter Webinar

# Incentivizing Investment

Tuesday 30 June 2020

Hosted by the IIC [Brussels Chapter](#), under the auspices of the [Europe Chapter](#) initiative, this webinar considered what is the right regulatory framework to incentivise investment in very high capacity networks (VHCNs), with specific regard to co-investment and network sharing.

At least €500 billion of investment will be required to achieve the European target of 100% coverage of gigabit capable networks by 2025, most of which will come from the private sector. In support of this, the European Commission has approved the European Electronic Communications Code (EECC) with various supporting measures to assist the industry investment efforts. These measures include the ability for national regulatory authorities to impose or encourage network sharing or co-investment in VHCNs, subject to certain conditions aimed at disentangling the potential efficiencies from the potential anti-competitive effects arising from co-investment and network sharing.

With Governments around Europe working on transposing the EECC into national law by the end of this year, this event brought together regulators (ComReg and BEREC), telco operators (BT and Fastweb) and practitioners (BRG, Oxera and Squire Patton Boggs) to discuss the challenges that lie ahead.

The EECC encourages network sharing and co-investment. In particular, national regulatory authorities may impose under the EECC network sharing to promote effective and efficient use of the spectrum, coverage, the rapid deployment of networks, effective competition or the environment, public health, public security or to meet town- and country- planning objectives. National regulatory authorities may also require or encourage co-investments in VHCNs. Co-investment in this context includes co-ownership, long-term risk sharing, co-financing and purchase agreements giving rise to specific rights of a “structural character”. National regulators may encourage co-investment by refraining from imposing (or rolling-back) cost-oriented access regulation. The conditions for the rolling back of network access regulation for co-investment are that: the co-investment offer is fair, reasonable and non-discriminatory; it is open to any co-investor for the lifetime of the network; and provides for access for non-co-investors to legacy capacity and, over time, to more advanced capabilities of the network.

Against this background, the panellists discussed how financial markets see network sharing and co-investment as a “second best” option compared to further consolidation in the sector, given the challenges inherent to their implementation. However, despite the recent [annulment](#) of an EU prohibition decision against the attempted consolidation of the UK mobile network market, regulators remain sceptical about further consolidation of already highly concentrated markets. Therefore, network sharing and co-investment present a solution that is more palatable for regulators as long as certain inherent implementation challenges are mitigated. These challenges may be economic and legal. From an economic perspective, the key is that investors should be allowed the opportunity to earn returns to compensate for downside risks (i.e. that there is a fair bet). The timing of regulatory intervention is also critical. A period of pricing flexibility may be required for uncertainty to play out. From a legal perspective, network sharing and co-investment will often come with certain strings attached to ensure compliance with the EECC and EU competition rules, especially when they concern parties with high combined market shares and high cost commonality. The panellists discussed various examples of network sharing and co-investment in Italy and the UK; and how each of these models (vertical agreement, horizontal agreement or full joint venture) presented some trade-offs between costs and benefits. Reference was made to the [CERRE study](#), as a recent and comprehensive comparison study of network sharing and co-investments in 12 countries within the EU.

The debate was lively and in-depth – a lot of material to cover in just 1.5 hours! All panellists agreed that further dialogue is required between all stakeholders (regulators, telecom operators, their investors and advisers) to come to a common ground on many of these issues. The IIC continues to provide an ideal platform for such dialogue.

A copy of the slides are available here:

1. [IIC Europe Chapter Incentivizing Presentation](#)
2. [Felipe Florez Duncan, Oxera, Presentation](#)