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AT&T Comments on BNetzA's Consultation on Draft Numbering Plan for International Mobile Subscriber Identity (IMSI) Codes

AT&T is pleased to provide the following comments on BNetzA's draft *Numbering Plan for International Mobile Subscriber Identity (IMSI) Codes* and the associated documents and orders published for consultation in Official Gazette Notice No. 982/2015 dated 26 August 2015. AT&T had provided comments on BNetzA's earlier *Consultation Regarding a Future Numbering Plan for International Mobile Subscriber Identity (IMSI)* published in Official Gazette Notice No. 819/2014 dated 20 August 2014.

AT&T welcomes BNetzA's intention to introduce more flexibility in its IMSI assignment and usage policies. At the same time, as described below, AT&T believes that BNetzA's proposals to give effect to these policy changes in draft regulations can be sensibly streamlined in a number of respects, in ways that can further promote competition and innovation in the German mobile market, as well as the emergence of new business models for machine-to-machine (M2M) services. These changes can be made in ways that maintain efficient and effective administrative oversight by BNetzA.

I. BNetzA's Proposed Notification Requirement for Use of Foreign IMSIs in Germany can be Streamlined

With regard to the draft order *Extraterritorial Usage of Foreign International Mobile Subscriber Identity Codes in the Federal Republic of Germany in the Context of Machine-to-Machine Communication*, AT&T welcomes BNetzA's decision to explicitly permit foreign IMSIs that are either permanently installed in a telecommunications network in Germany or are used by way of permanent roaming. At the same time, AT&T is concerned by BNetzA's proposal to make such extraterritorial usage subject to multiple notification requirements. Specifically, AT&T understands that BNetzA intends to require providers deploying a foreign IMSI to file a notification for each distinct M2M deployment for which that foreign IMSI may be used. The draft form *Notification of an Extraterritorial Usage of Foreign IMSIs for M2M Communication* requires the notifying party to specify the "purpose of the usage" detailing "for which kind of M2M communication" the foreign IMSI will be used. The notification form also requires a detailed description of the supply chain for the provision of the specific M2M service.

AT&T believes that requiring providers to furnish this level of detail for each individual customer whose M2M services are delivered via the same foreign IMSI could become unduly burdensome and disproportionate. The process can be streamlined, without diminishing BNetzA's policy goals. AT&T notes that a single customer conceivably may have multiple M2M deployments while several customers may be covered by one M2M deployment. It is therefore not entirely clear in which circumstances a notification requirement might be triggered. This lack of clarity could prove problematic for providers and BNetzA alike. For example, a foreign mobile operator may have dozens of M2M service provider customers today that offer cargo tracking devices, all of which use the same IMSI range from the foreign

carrier (Mobile Country Code (MCC) /Mobile Network Code (MNC)). AT&T respectfully submits that it would not be efficient or particularly useful for the foreign carrier to submit, or for BNetzA to receive, dozens of these redundant notifications. This would also create a substantial administrative burden on BNetzA to meaningfully review such a volume of notifications.

AT&T therefore urges BNetzA to reconsider this proposed approach and to substantially streamline the notification requirement for using foreign IMSIs in Germany. In this regard, AT&T commends to BNetzA the recent approach adopted by the Belgian regulator, BIPT. In August 2015, BIPT published a summary¹ of conclusions to its 2014 public consultation on the future of the Belgian numbering plan and confirmed its recommendation to formally introduce more flexibility in extraterritorial use of numbering resources.² For M2M services in particular, BIPT calls for Belgium's Royal Numbering Decree to be amended to expressly authorise the permanent use of Belgian numbers abroad and of foreign numbering capacity in Belgium.³ Contributing to BIPT's decision is industry consensus that there is market demand for the extraterritorial use of numbering resources⁴ and, importantly, that the proposition does not pose any significant problems.⁵ Crucially, BIPT's approach does not involve any requirement for notification. The U.S. Government has also confirmed⁶ that it places no conditions on the use in the United States of M2M devices containing SIM cards/IMSIs from other countries, and that

¹ *Summary and further analysis answers to the consultation at the request of the BIPT Council of 25 November 2014 on reviewing the policy regarding the numbering plan management of 28 July 2015* ("BIPT Summary") at <http://www.bipt.be/en/operators/telecommunication/Numbering/regulation/summary-and-further-analysis-answers-to-the-consultation-at-the-request-of-the-bipt-council-of-25-november-2014-on-reviewing-the-policy-regarding-the-numbering-plan-management-of-28-july-2015> (French and Dutch)

² BIPT's conclusions will need to be implemented via amendments to the Royal Numbering Decree. The revised legislation is expected to come into force in 2016.

³ Article 8 of the Royal Numbering Decree will be amended to include the following statement: "The use on a permanent basis of Belgian numbers abroad and vice versa of foreign numbering capacity in Belgium is authorized for M2M applications." ("L'utilisation sur une base permanente de la capacité de numérotation belge à l'étranger et vice versa de la capacité de numérotation étrangère en Belgique est autorisée pour les applications M2M.") BIPT Summary (French version) section 10 at page 35.

⁴ "A majority of respondents indicate the following items: 1) there is a market demand for the extraterritorial use of numbering resources; 2) there are no significant problems except for calls to emergency services." ("Une majorité de répondants indiquent les éléments suivants: 1) il y a une demande du marché pour l'utilisation extraterritoriale des ressources de numérotation; 2) il n'y pas de problèmes significatifs sauf pour les appels vers les services d'urgence.") BIPT Summary (French version) section 10, number 86 at page 29.

⁵ BIPT concluded that "[t]he approach to allow the unconditional use of extraterritorial numbering resources on a permanent basis for M2M applications, both for the E. 164 [and] that for the E. 212, has no impact on the emergency services." ("L'approche pour permettre l'utilisation extraterritoriale inconditionnelle de ressources de numérotation sur une base permanente pour les applications M2M, tant pour les E.164 que pour les E.212, n'a pas d'impact sur les services d'urgence.") BIPT Summary section 10, number 91 at page 31.

⁶ Neither does the U.S. collect information on the number of active M2M connections. U.S. Response to Questions 8 and 9 of the recent CITEI (Comisión Interamericana de Telecomunicaciones) M2M Questionnaire refers (CCP.I-TIC/doc. 3622/15 dated 28 May 2015).

such devices are not subject to roaming requirements or regulations any different from other types of mobile devices.

As a matter of policy, AT&T supports the position by BIPT. AT&T does not believe that BNetzA needs a specific notification that a foreign IMSI is being used in Germany in order to ensure oversight of matters relating to public safety and consumer protection. In all cases, the foreign IMSI will either be permanently installed or permanently roaming on a German network, which will be duly notified as a public electronic communications network and subject to BNetzA's jurisdiction for all public safety and similar matters. In its recent proceeding, BIPT adopts a general principle⁷ for addressing policy issues arising from extraterritorial use of numbers, specifically that the regulatory authority of the country where consumption takes place should be responsible for regulating that consumption, except for numbering, where the authority whose numbering plan is being used remains competent. AT&T believes that distinguishing between regulation of numbering and regulation of other consumer protection matters is a sound policy approach.

In the event that BNetzA does not wish to completely forego a notification requirement, AT&T recommends a substantially streamlined approach, by which the notification should be amended and clarified so that it is possible to file a single, general notification covering all the customers and M2M applications for which a particular MCC+MNC combination might be used.

AT&T further suggests that, if BNetzA retains a notification requirement for use of foreign IMSIs in Germany for M2M services, there should also be clarification on who bears the obligation; e.g., the foreign mobile operator to whom the IMSI is assigned, the German mobile operator on whose network the IMSI is used or installed, or the M2M service provider/customer.

II. BNetzA's Proposed IMSI Assignment Criteria for MVNOs and MVNEs are Overly Prescriptive in Detail and not Future-Proof Due to Technology Evolution

AT&T welcomes BNetzA's decision to amend its assignment rules to permit IMSI to be assigned directly to Mobile Virtual Network Operators (MVNOs), and Mobile Virtual Network Enablers (MVNEs), in addition to mobile network operators. AT&T believes that allowing MVNOs and others to obtain their own IMSIs directly will promote competition in the German mobile market and encourage more differentiated product offerings by new market entrants.

⁷ "We could establish the following general rule: the authority of the country where consumption takes place is responsible for regulating consumption, except as regards numbering, where the country whose numbering plan is used is responsible." ("L'on pourrait établir la règle générale suivante: c'est l'autorité du pays où a lieu la consommation qui est compétente pour la réglementation de la consommation, sauf en ce qui concerne la numérotation, pour laquelle c'est le pays du plan de numérotation qui est compétent.") BIPT Consultation (French version) at page 25.

However, AT&T believes that BNetzA's proposed prerequisites for assignment to MVNOs and MVNEs are unduly prescriptive. Specifically, BNetzA's draft numbering plan requires⁸ that MVNOs and MVNEs must have a core network comprising a Home Location Register (HLR), a Visitor Location Register (VLR), a Mobile Switching Center (MSC), an Authentication Center (AC) and an Equipment Identify Register (EIR).

AT&T's view is that, while an applicant for an IMSI will necessarily have to make use of certain network infrastructure elements, an IMSI applicant should not be required to have all the elements listed in the draft Numbering Plan. Network technology is evolving rapidly, with an increasing amount of functionality being virtualized through Software Defined Networking. There is a risk that the proposal is not future-proof, in that some of the prescribed network elements in this proposal might not be required at all in the future. Thus, rather than focusing on a requirement for specific network elements, BNetzA should identify more general responsibilities or capabilities they require from an IMSI applicant. AT&T again wishes to highlight the recent decision by BIPT, wherein the regulator confirms its view that IMSI eligibility criteria should be amended to remove the requirement to have network infrastructure elements. Instead, the intention is to modify the Belgian Royal Numbering Decree so that MNCs may be granted to *"enterprises who prove that they have entered into negotiation with a mobile network operator and have a realistic intention of operating a service capable of using this numbering capacity in a useful manner."*⁹ Furthermore, BIPT recommends an amendment to the Decree to state that once 70% of the MNCs allocated to Belgium by the ITU have been adopted, BIPT should adopt additional conservation criteria to avoid exhaustion of MNC reserves. AT&T recommends this progressive approach to BNetzA.

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AT&T commends BNetzA for proposing the liberalisation of Germany's IMSI assignment and usage policies. AT&T urges BNetzA to consider the further refinements proposed above to ensure the trajectory and promise of mobile communications, in particular M2M services.

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⁸ Draft Numbering Plan at 4.2.1 (a) (iii) and (iv)

⁹ BIPT Summary (French version) section 8 at page 22 (*"aux entreprises qui prouvent qu'elles ont engagé des négociations commerciales avec un opérateur de réseau mobile et ont une intention réaliste d'exploiter un service capable d'utiliser cette capacité de numérotation de manière utile."*)