

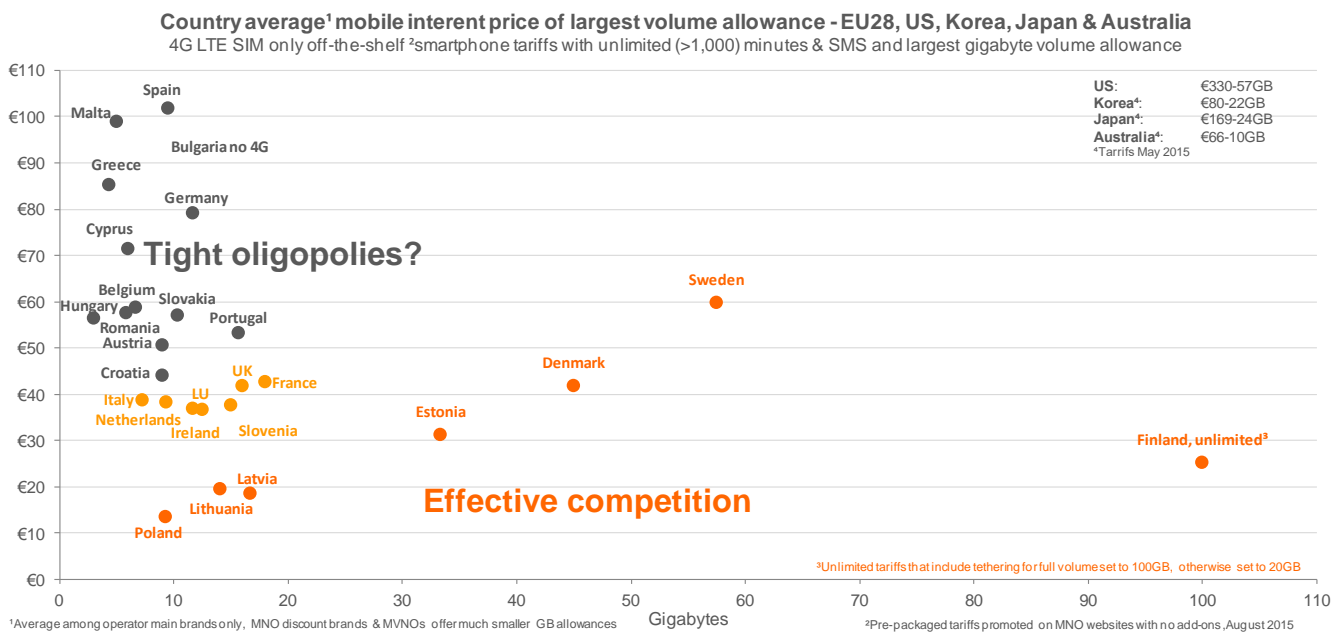
Tight oligopolies and the need for ex ante regulation – Why BEREC is right and ETNO is wrong

- BEREC published in June 2015 a draft report on the future regulatory treatment of oligopolies in the context of ex ante regulation
- There are substantial empirical market evidences supporting the notion that close to half of EU's mobile markets exhibit tight oligopoly non- or sub-competitive market outcomes
- In 2012 Rewheel used for the first time empirical market evidences such as mobile internet access prices and type of operators present (E5 or independent challengers) to characterize effective competition in EU's 28 national markets
- In 2013 and 2014 we published research backed by empirical market evidences on three non-coordinated potentially anti-competitive tight oligopoly effects a) protecting fixed broadband revenues from mobile broadband b) protecting group wide revenues across the European footprint c) favouring own services with price discrimination (zero-rating)
- During the 4th quarter of 2015 Rewheel will publish "**tight oligopoly index**" rankings based on empirical market metrics

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In June 2015, BEREC, the Body of 28 European Regulators for Electronic Communications, published¹ a draft report on oligopoly analysis and regulation. According to BEREC, the published draft report can be considered as a starting point to structure BEREC discussion on the future regulatory treatment of oligopolies in the context of ex ante regulation. In its draft report BEREC explained that while the current regulatory framework applies the concept of joint dominance, which covers tacit collusion in line with competition law, neither the current European ex ante regulation framework nor the ex post competition framework explicitly address tight oligopolies. BEREC considered that not all oligopolies raise competition issues and therefore oligopolies are not necessarily always problematic. It further explained that *"...according to economic theory, oligopolistic outcomes can range from competitive, effective oligopolistic competition in which no super-normal profit is made, to non- or sub-competitive market outcomes. These outcomes may be the result of tacitly colluding oligopolies (joint dominance) or of tight oligopolies where coordination does not occur but the market structure is not conducive to effective competition."*

Empirical market evidences, presented² in the Digital Fuel Monitor, show that the intensity of effective competition in mobile internet access markets varies greatly across EU28 & OECD. In the exhibit below we present the latest price benchmark, August of 2015, of smartphone plans with largest off-the-shelf gigabyte allowances in EU28, US, Korea, Japan and Australia.



¹ http://berec.europa.eu/eng/events/berec_event_2015/83-23rd-berec-plenary-meeting-in-bergen

² <http://dfmonitor.eu/>