



# Agreement Governing the Standing of the EWC of the Employees of Telefónica

This Agreement is made and entered into on **xxx** 2013, by and between:

1. Telefónica Europe Plc., Telefónica Global Resources Limited and Telefónica Digital Limited 260 Bath Road, Slough, Berkshire, SL1 4DX, UK;

AND

2. the Telefónica EWC representing all of Telefónica's employee's in Europe.

## I. GENERAL

### Article 1. Guiding Principles

#### Objective

The objective of this Agreement is to establish a European Works Council ("EWC") for the purpose of informing and consulting Telefónica's employees in Europe within the geographical scope of this Agreement and to promote a dialogue and an exchange of views on transnational issues.

#### Communication

This process at European level should support and enhance existing communication processes, information and consultation processes within Telefónica's employees in Europe.

#### Spirit

Central Management as well as employee representatives shall participate in a spirit of co-operation consistent with Telefónica's current values of Deliver, Disrupt and Discover.

#### Legislation

Directive 2009/38/EC is the adopted European Directive in force. The UK implementing legislation (Transnational Information and Consultation of Employees (Amendment) Regulations 2010 ("the EWC Regulations")) shall govern this Agreement.

#### Existing Arrangements

This Agreement shall not affect the competencies of central and local management, which remain exclusively responsible for their business, financial, commercial and technological decisions. This Agreement will not affect the existing consultative frameworks of national and/or local works councils and trade unions which are in place as at the date of this Agreement.

### Article 2. Definitions

- a) Central Management: The Board of Telefónica or duly nominated representatives of the Board;
- b) Consultation: means the establishment of dialogue and exchange of views between employees' representatives and Central Management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken into account within Telefónica's European based activities.



- c) Group: means all companies within which, employees of Telefónica work (within Europe) and the term “Group Companies” shall be construed accordingly;
- d) Information: means transmission of data by the employer to the employees’ representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees’ representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations within the respective consultation structure(s) within each operating business where such consultation will be taking place.
- e) Select Committee: a committee established pursuant to Article 5.4 of this Agreement;
- f) The European Works Council (EWC): is the body composed of Telefónica’s European employee representatives representing the workforce within the geographical scope of this Agreement;
- g) Transnational matters: are matters that concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States (as covered by this Agreement).
- h) The Telefónica European Forum: is the body composed of the EWC and appropriate representatives of Central Management.

### Article 3. Geographical Scope

This Agreement covers all of Telefónica’s based employees located within the European member states covered by this Agreement who are signatories. It is, however, open to all geographical areas within which Council Directive 2009/38/EC applies to join within six months of making a formal request to the EWC Chairperson and Central Management.

If Telefónica Europe acquires or establishes new companies within the geographical scope of this Agreement, where Council Directive 2009/38/EC applies, they can apply as per the above referenced process. Upon notification to Central Management, arrangements for the election and/or appointment of additional employee representatives in respect of the newly acquired company will be made, within the same timeframe as above.

The above only applies where the new acquisition has a headcount of 150 or more.

## II. COMPOSITION OF THE EUROPEAN WORKS COUNCIL

### Article 4.1. Composition of the EWC

The numbers above will be agreed for each Operating Business within Telefónica at the start of this Agreement and be subject to a two year review thereafter. Changes will be notified to the Select Committee following the two year review and will take effect immediately for all future meetings. In the event that Telefónica acquires or establishes a new business within the geographical scope of this Agreement Central Management and the Select Committee will jointly review and agree the allocation of seats with the EWC to ensure that the allocation of seats is fair and proportionally representative.

The total number of available seats and seats allocated to every member state is determined on the basis of the number of employees (headcount) and agency workers of the member state.

Each geographical entity will have seats allocated through the following formula:

- 150-2000 employees – 1 seat;
- 2001-3500 employees – 2 seats;



- 3501-5000 employees – 3 seats;
- 5001-7000 employees – 4 seats;
- 7001 or more employees – 5 seats;

The numbers above will be agreed for each Operating Business within Europe at the start of this Agreement and be subject to a two year review thereafter. Changes will be notified to the Select Committee following the two year review and will take effect immediately for all future meetings.

In the event that Telefónica acquires or establishes a new business within the geographical scope of this Agreement central management and the select committee will jointly review and agree the allocation of seats with the EWC to ensure that the allocation of seats is fair and proportionally representative.

## **Article 4.2. Selection of members of the EWC**

Members of the EWC shall be selected according to the legislation or practice in their respective countries covered by the present Agreement. The composition of the membership will be reviewed by the Company and the EWC bi-annually to ensure that it adequately reflects the structure and representative frameworks operating in each contributing country. Any changes to composition as a result of this review will be made by joint agreement.

## **Article 4.3. Eligibility**

Candidates and members of the EWC must be permanent employees of Telefónica as defined by the laws and/or practices of the country of employment, and must have at least 12 months' service with Telefónica. Candidates and members of the EWC may be full or part-time employees.

In respect of newly acquired companies having a seat by virtue of Article 3, an exception shall be made and there shall be no requirement to have a minimum length of service with Telefónica.

## **Article 4.4. Deputies**

Deputy members will be selected according to the same rules as the members of the EWC. The deputy member can be present during meetings if a member of the EWC is not able to attend the meeting. There will be no separate facilities for the deputy members. There will be one deputy per country or one per each representative body within a country.

## **Article 4.5. Term of Office**

Subject to the remaining provisions of this Article, members of the EWC shall serve on the EWC for a period of four years (maximum), to ensure continuity and understanding. At the end of such four year period, members of the EWC shall be required to put themselves forward for re-election or re-selection under Article 4.2 above. In the event that the EWC member:

1. leaves the employment of Telefónica or any operating business for any reason; or
2. resigns as an EWC member by written notice to central management

A new selection can take place in the country concerned in accordance with the arrangements laid down at 4.2 above.

All change of EWC members shall be notified to central management with explanatory notes and background.

In the event that an EWC member is unable to attend a meeting of the EWC by reason of, for example, sickness, maternity or paternity leave or parental leave, their deputy shall be entitled to attend in their place.



### **III. FUNCTIONING OF THE EUROPEAN WORKS COUNCIL & THE Telefonía EUROPEAN FORUM**

#### **Article 5.1. Scope of EWC**

The competence of the EWC shall be limited to information and consultation on the matters which concern all those Group Companies within the geographical scope of this Agreement or Group Companies in at least two countries within the geographical scope of this Agreement. Issues will typically be:

- the structure of Telefonía Europe, Telefonía Digital and/or Telefonía Global Resources;
- the economic and financial situation of Telefonía Europe; Telefonía Digital and/or Telefonía Global Resources
- the probable development of activities and of production and sales;
- investments;
- substantial changes in the organisation of Telefonía Europe; Telefonía Digital and/or Telefonía Global Resources
- the introduction of new working methods or production processes;
- mergers, relocations, cutbacks or closures of Group Companies; acquisitions
- resource issues including the employment situation and trends therein; and
- social and Human Resources policy including Health & Safety, working time and equal opportunities.

The EWC will not displace consultation on matters which are the competence of the Company or trade union or works councils in a particular country. For the avoidance of doubt, the EWC will not be used as an escalation point for local (one country) issues.

#### **Article 5.2. Meetings**

##### **5.2.1. Regular**

Subject to the provisions in relation to exceptional meetings set out below, the EWC will hold a formal meeting twice a year. These meetings will be scheduled to follow, as closely as is practicable, the presentation of half year and full year results. The setting up of the formal meetings, including booking of venues (typically to be held in one of the national territories of Telefonía Europe) and hotel accommodation, will be performed by the PA to the Head of Employee Relations.

The meetings will typically begin with a preparatory meeting for employee representatives prior to the formal Telefonía European Forum meeting, and typically finish with a review meeting of the EWC. The Telefonía European Forum meetings will be chaired by a member of central management. It is expected that the meetings will take place over two days.

In addition to the scheduled regular meetings the company will agree to further meetings of the EWC and/or the Select Committee as required. A reasonable expectation is that the EWC and /or Select Committee would need to meet a minimum of twice per year in addition to the scheduled European Forum meetings. All efforts will be made by both parties to use suitable communications technology to facilitate meetings between EWC members and the company to avoid unnecessary costs.

##### **5.2.2. Exceptional**

Central Management will inform the EWC or its Select Committee as soon as possible, and before final decisions are taken (with the exception of the nature of the information or document being such that, such disclosure would seriously harm the functioning of, or would be prejudicial to, the undertaking or group of undertakings concerned)



about all exceptional circumstances or planned decisions affecting the employees' interest to a considerable extent in at least two companies of Telefónica in two countries within the geographical scope of this Agreement, for example as regards the relocation or closure of establishments.

If, following notification of an exceptional circumstance in accordance with the preceding paragraph, the EWC or the Select Committee so requests it shall meet Central Management, or another more appropriate level of management within Telefónica having its own powers of decision on the matters to be dealt with at an exceptional meeting, in order to be further informed about and consulted on the circumstances referred to. This meeting shall be held at a time at which such information and consultation is still meaningful i.e. when a final decision on the issue at stake has not yet been taken.

The EWC or Select Committee may issue an opinion within a reasonable timeframe following the meeting. Central management will respond to the opinion given by the EWC.

### **Article 5.3. Central Management**

The Telefónica European Forum meeting will be attended by the CEO or nominated representative who will be a member of the Board of Telefónica Europe. In the event that an exceptional meeting is held either, the CEO, CFO or nominated representative of central management will attend. Other managers and non-executive members of the Board can be invited to attend Telefónica's European Forum meetings on certain specific topics or projects. The overall contact for the EWC in central management is the Head of Employee Relations.

Between central management and the EWC further invitations can be extended to additional central management representatives from Telefónica Europe or other Telefónica companies, including but not limited to Telefónica Digital and Telefónica Global Resources.

### **Article 5.4. Select Committee**

The EWC will elect from amongst its number a Select Committee consisting of at least 5 members originating from at least 3 different countries. The country in which the most employees work for Telefónica, will have at least one representative in the Select Committee. From the members a chairman and a secretary will be elected. The Select Committee can liaise as often as is reasonably needed to perform their tasks. These tasks include the preparation for and follow up from meetings of the Telefónica European Forum. In the internal rules and regulations formulated in accordance with Article 6.3 the EWC will lay down the rights and responsibilities of the Select Committee.

### **Article 5.5. Agenda**

For every meeting of the Telefónica Forum, Central Management and the Select Committee will draw up and agree an agenda. The agenda for regular meetings, together with other relevant documents will be sent out in advance of the meeting. All Telefónica European Forum members can make agenda proposals.

### **Article 5.6. Minutes and bulletin**

In relation to each meeting, minutes will be taken and produced. Central Management will be responsible for providing a note taker and the preparation of minutes of the meeting, such minutes to be produced as soon as practicable (not later than one month) following the meeting in question. The minutes will be approved by Central Management and then provided to the Select Committee for their approval. In the event that the Select Committee disagrees with the content of the minutes, a statement will be attached to them setting out the reasons why the Select Committee does not agree the minutes. Central Management and the Select Committee agree that they will review the minutes within 2 weeks of them being produced.



Further, at the end of each meeting, the EWC and Central Management will agree the content of a bulletin which will be published following the meeting.

In relation to the language in which the minutes and the bulletin will be produced, this will be in accordance with Article 5.8 below.

### **Article 5.7. Experts**

Central Management will cover the reasonable costs of an expert insofar as retaining an expert is necessary for the EWC to carry out its tasks if the Select Committee requests that such an expert be retained or contracted on a long term basis and Central Management approves such retention, approval not to be unreasonably withheld. Prior to any expert attending a meeting of the EWC, they will be required to sign a confidentiality undertaking.

### **Article 5.8. Languages**

Meetings of the EWC will be held in English. The agenda, minutes and any additional information mentioned on the agenda shall be produced in English and translated into other languages as necessary. To ensure that there is a meaningful exchange of views, simultaneous interpretation facilities during meetings may be made available subject to prior request from the Select Committee. In addition the company will make arrangements for the provision of document translation services to support the work of the EWC.

### **Article 5.9. Confidentiality**

Meetings of the Telefónica European Forum will be deemed “open” unless information is identified as “confidential” by Central Management. In this case, the members of the EWC and any internal or external experts shall be bound by a duty of confidentiality and will not be permitted to disclose such information to any third party or make use of it in any way. For the avoidance of doubt “third party” means any person, firm or other legal entity not party to this Agreement. This obligation shall continue to apply without limit in time. Where the Company asks for confidentiality they will clearly indicate the timelines and content of the confidential information and for what reason the information is confidential. The EWC representatives have the right to share confidential information with employee representatives at their national level subject to such employee representatives being bound by confidentiality provisions equivalent to those set out in this clause.

### **Article 5.10. Withholding of information**

Central Management shall not be bound, under the conditions and limits laid down by the legislation covering this Agreement, to disclose confidential information, when such disclosure would seriously harm or be prejudicial to Telefónica or any Group Companies or would contravene stock market regulations or other legislative requirements. Where the company finds it necessary to withhold information from the EWC, it will at the point where the information can be shared, explain fully to the EWC the reasons to suspend its obligations of information and consultation under the directive.

### **Article 5.11. Training**

It is the intention of Telefónica that the members of the EWC are properly trained to take an effective part in the EWC and in meetings of it. For this reason members of the EWC shall be provided with training paid for by Telefónica without the loss of wages. The Select Committee will contact Central Management to organise training sessions to improve the functioning of the EWC, for example legislation update/new member training. For practical reasons these training sessions will, as far as possible, be combined with regular meetings of the Telefónica European Forum.



## **Article 5.12. Facilities**

Members of the EWC will be provided with reasonable facilities and time at the workplace to carry out their duties and responsibilities as members of the Telefónica European Forum. Local management will be informed about these facilities. The EWC members will have appropriate facilities to communicate with all relevant employees within their country or constituency. In addition central management will work with the EWC to ensure that appropriate communication tools are put in place to allow the EWC to transmit to the employees in the member states the outcomes of information and consultation.

## **VARIOUS ITEMS**

### **Article 6.1. Protection of members of the EWC and prospective members**

Members of the EWC and deputy members shall, in exercising their functions, enjoy the same protection and guarantees as provided for employees' representatives by the national legislation and/or practice in force in their respective country of employment.

The Company is committed to the principle that the members and deputy members of the EWC will not be disadvantaged in employment or career development, as a result of participation in the Telefónica European Forum.

### **Article 6.2. Costs**

Travel and accommodation costs for effectively operating the Telefónica European Forum shall be determined and borne by Telefónica Europe subject to such costs complying with Telefónica Europe's prevailing travel and accommodation policy. Also, the costs for experts, training, and other facilities reasonably needed to perform the EWC tasks will be borne by Central Management as provided for above. The EWC and Central Management will discuss further procedures on the way in which the costs of the EWC will be budgeted.

### **Article 6.3. EWC internal rules and regulations**

Once the EWC has been put in place, it will establish its own internal rules and regulations. These regulations are only binding for the EWC members.

## **FINAL PROVISIONS**

### **Article 7.1. Applicable Law**

This Agreement shall be governed and interpreted in accordance with English law.

### **Article 7.2. Duration and evaluation of the Agreement and Procedure for Renegotiation**

- a) This Agreement shall continue for a period of four years unless Telefónica and the Select Committee agree otherwise, for instance to merge existing EWC's in the event of a takeover or merger of the company. After the expiry of this Agreement, this Agreement can be terminated by either Telefónica Europe serving on the Select Committee or the Select Committee serving on Telefónica six months' notice. It is expected that any intention to terminate the Agreement would be the subject of an exceptional meeting at which the reasons for termination would be discussed and explained. Any papers relating to the reasons for termination would be issued in advance so that the responding party has an opportunity to prepare an appropriate response.

- b) Following the meeting to discuss the serving of notice, the party wishing to terminate the Agreement will offer a minimum of three meetings within the six month notice period in order to discuss a new Agreement. Both parties agree to use their best endeavours to reach a new Agreement before the end of the notice period. In the unlikely event of an Agreement not being reached at the end of the six month notice period, the arrangements in this Agreement will lapse. There will then be a further period of one year to reach a new Agreement. During this year, and beyond, if no agreement can be reached, the subsidiary requirements in the EWC Regulations will apply.
- c) The parties also agree that before the fourth anniversary of this Agreement they will review the operation of the EWC and the Telefónica European Forum with a view to scheduling a series of meetings to re-negotiate a new Agreement to commence from the end of the existing one.
- d) The provisions of this Agreement may be amended at any time, without affecting the whole of this Agreement or its validity, by Telefónica together with a majority of the EWC members.
- e) Should any clause or annex to this Agreement prove to be invalid for any reason, it shall not affect the validity of this Agreement in total. Such invalid part shall be treated as separate from this Agreement and may be updated/amended/deleted without affecting the whole of this Agreement or its validity.

### **Article 7.3. Status and interpretation**

It is the intention of the parties that:

- a) this Agreement shall be legally binding and shall have the standing of an Agreement under Directive 2009/38/EC “the EWC Regulations”;
- b) without prejudice to their legal rights and remedies, the parties to this Agreement will endeavour to resolve any disagreement on the meaning and/or execution of this Agreement through discussions between the Select Committee and Central Management; and
- c) the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement. No Third Party shall be entitled to enforce the benefits conferred on it by this Agreement. The consent of a Third Party shall not be required for the variation or termination of this Agreement, even if that variation or termination affects the benefits conferred on any Third Party. For the purposes of this Agreement “Third Party” shall mean any person, firm, or other legal entity not party to this Agreement.

### **Article 7.4. Binding text**

The English text is the only binding instrument.

### **Article 7.5. Transfer of rights and obligations**

The employees’ representatives in the Special Negotiating Body formally acknowledge that at the date of its first meeting, the EWC shall take up all rights and obligations exercised until then by the Special Negotiating Body which shall then automatically dissolve. The EWC shall henceforth be solely competent in particular to agree with Telefónica on the execution, amendment, review, extension, termination, etc. of this Agreement.

### **Article 7.6. Adaptation clause**

Where the structure of the undertaking or group of undertakings changes significantly, for example due to a merger, the EWC(s) needs to be adapted. This adaptation is carried out between the Select committee(s) and central management within one year of the restructure. EWCs will continue to operate, possibly with adaptations,





until a new agreement is reached. This clause (Article 13 of Directive 2009/38/EC) applies to all situations if no agreement can be made by the Select committee(s) and central management.

**DATE AND SIGNATURES:**

**On behalf of Telefónica on:**

\_\_\_\_\_  
Eva Castillo  
Chairperson & CEO

\_\_\_\_\_  
Date

On behalf of the Telefónica EWC on:

\_\_\_\_\_  
Steven Roberts  
EWC Chairman, Telefónica UK

\_\_\_\_\_  
Date

\_\_\_\_\_  
Marc Poole  
Telefónica Ireland

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lubomír Vinduška  
Telefónica Czech Republic

\_\_\_\_\_  
Date

\_\_\_\_\_  
Pavel Herštlík  
Telefónica Czech Republic

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christoph Braun  
Telefónica Germany

\_\_\_\_\_  
Date

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Michal Sirny  
Telefónica Slovakia

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Date

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Imke Blumenthal  
Telefónica Germany

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Date

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Mathias Meyer  
Telefónica Germany

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Date

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Peggy Steichler  
Telefónica Germany

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Date



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Josef Krčmář  
Telefónica Czech Republic

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Date

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Jiří Trupl  
Telefónica Czech Republic

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Date

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Dušan Stareček  
Telefónica Czech Republic

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Date

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Rod Fraser  
Telefónica United Kingdom

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Date

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Gerry McArdle  
Telefónica United Kingdom

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Date