

## PRESS RELEASE

### **BEREC publishes opinion on Draft Electronic Communications Code, and appoints its Board for 2017**

#### **BEREC Opinion on the draft Code**

BEREC held its final plenary meeting of 2016 in Berlin, Germany on 8-9 December, during which it adopted its [opinion on the European Commission's proposal for a draft Electronic Communications Code](#). This high level opinion focuses on three important aspects of the Commission's proposals: the scope of the framework, the access regulation and the institutional set-up. In it, BEREC welcomes the introduction of an explicit connectivity objective alongside the promotion of competition, the internal market and consumer interests, while explaining that in practice, some of the new provisions on access regulation might not help the achievement of those objectives.

It reinforces the point (expressly acknowledged by the Commission) that there continue to be significant differences in market conditions, not only between Member States but even within individual Member States, and that flexibility to address the different conditions in those markets (against a backdrop of clear EU regulatory principles) will remain key. It also notes that sectoral regulation is only one of many levers – it cannot, on its own, incentivise investment in high-capacity networks or indeed demand.

BEREC welcomes the inclusion of a range of “over the top” (OTT) services in the scope of the legal framework, and the measured approach the Commission has taken towards levelling the regulatory playing field. But BEREC is concerned that the proposal to fully harmonise consumer protection regulation will prevent regulators and Member States from responding to emerging challenges in their respective markets, or indeed from deregulating where justified.

BEREC also welcomes the proposed harmonisation of minimum competences for independent regulators, and the strengthening of the independence obligations. However, the proposal to transform BEREC into an EU agency not only risks increasing the bureaucracy and cost of European telecoms regulation, but also undermines the benefits of the proposed strengthening of independence at the national level. While there is scope for BEREC to improve its efficiency, this does not require a change to the current institutional balance, under which BEREC has successfully delivered over the last 7 years.

During the course of next year BEREC will continue to assess the draft Electronic Communications Code and will seek to provide its expert views based on an in-depth analysis on a variety of topics, including also spectrum, to the European legislators.

## **Work programme 2017 and other documents adopted**

Following a public consultation and the discussion at the Stakeholder Forum, [BEREC adopted its Work Programme for 2017](#) .

Next year, the analysis of the Commission's proposal regarding the framework review and the provision of inputs to the European institutions will be a key priority for BEREC.

BEREC will also support NRAs' efforts towards fostering connectivity. For the fixed market, the work programme encloses in particular a comprehensive assessment of the need to review common positions in the wholesale markets 3, 3a and 4 relevant to next generation access. Regarding mobile connectivity, BEREC plans to publish a Common Position on monitoring mobile network coverage, both for regulatory purposes and to empower consumers to choose their provider on the basis of their connectivity needs.

Another important area of work for BEREC will be the promotion of an open environment in the digital world. BEREC will in particular monitor the consistent and effective implementation of the newly adopted net neutrality rules. BEREC will also study the impact of content markets and devices on ECS markets.

Finally, BEREC will define its mid-term strategy for the years 2018-2020. The strategy will build upon BEREC's work to date, and takes into account the major developments that are taking place in the electronic communications field. On this topic as on others like net neutrality, stakeholders will be involved from an early stage of the process.

BEREC also [published the final of three monitoring reports on the implementation of its broadband common positions](#) , having published the previous reports in 2015 and 2014. This latest report reveals that a growing proportion of regulators are implementing "equivalence of input" (EOI), particularly in relation to NGA products, and that they are increasingly using tools other than charge controls as remedies for higher capacity products and services (e.g. margin squeeze tests). Regulators are increasingly conducting their wholesale local access market and wholesale broadband access market reviews together, given the latter's dependency on the outcomes of the former, as well as the fact that remedies in both markets share some common characteristics.

Furthermore, BEREC adopted the regular [reports on the transparency and comparability of international roaming tariffs](#) and on [European termination rates](#) .

A full list of documents adopted at the Plenary is available [here](#).

## **Elections of the Chair 2018 and Vice-Chairs 2017**

Finally, BEREC elected three new members of its Board for 2017. *Johannes Gungl*, Managing Director of Austrian regulator RTR, was elected Chair for 2018, and will serve as a Vice Chair during 2017. Two additional Vice Chairs were elected for a one-year term, *Alejandra de Iturriaga* of Spanish regulator CNMC and *Steve Unger* of UK regulator OFCOM. They will join the current BEREC Chair, who will serve as a Vice

Chair in 2017, and the 2017 Chair-elect, Sébastien Soriano, President of French regulator ARCEP.

This was the final BEREC Plenary under the chairmanship of Wilhelm Eschweiler, Vice-President of German regulator BNetzA.

13 December 2016

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Note to the editor:

BEREC is composed of a Board of Regulators consisting of the Heads of the 28 national regulatory authorities (NRAs). BEREC advises the European Commission and its member NRAs, and assists the European Parliament and Council, on issues related to the application of the EU regulatory framework for electronic communications. BEREC seeks to ensure fair competition and consistency of regulation in the internal market for electronic communications, for the benefit of European consumers. In particular, it provides expert advice on market definitions, analysis and remedies, on the definition of transnational markets, and on cross-border disputes and numbering issues. BEREC also provides expert opinions on emerging challenges including the promotion of broadband, net neutrality and converging markets, and plays an active role in public discussions on these issues.