

Updated press release

BEREC Papers on the review (Peer review process (Article 35) document added)

BEREC welcomes and supports the Commission's connectivity goals directed towards the deployment of VHC networks and 5G. It is also very conscious of the importance of the review of the regulatory Framework in providing market players with the best regulatory conditions to invest in the deployment of these networks. In this respect, BEREC would highlight, that empirically as well as theoretically, competition is a key driver for investment and that proportionate regulation and sustainable investment should therefore not be seen as opposed to one another.

Consequently, independent NRAs should remain able to define the most appropriate regulatory treatment of new network elements or vertically separate undertakings and any step-back of competition oriented regulation should be grounded on their market-specific assessment. At the same time, adapting the regulatory toolbox to respond to changing market structures by enabling NRAs to regulate non-competitive oligopolies, most notably duopolies, could help protect the competitive health of the sector, and ensure favorable conditions for sustainable investment.

On spectrum, it appears that mobile technologies, notably 5G, might well be game changers. As competition in these markets is likely to have a substantial impact on the sector as a whole, BEREC welcomes the Commission's proposals for the targeted role for NRAs in relation to market-shaping aspects of spectrum management. At the same time, it is important that European spectrum management is subject to flexible coordination rather than "hard harmonisation".

On the peer review, BEREC recommends either turning the Commission's proposal into a voluntary process or creating a mechanism under which the NRA draft measure would be subject to a "stress test" during a workshop opened to the relevant experts and co-organised by BEREC and the concerned NRA.

Among other topics of interest to NRAs are the proposals around NRA powers to request information from stakeholders. Accurate and timely information is a prerequisite to understand the market, including in relation to the growing role of OTTs in the sector. For this reason, BEREC strongly recommends that NRAs be given powers to gather relevant information for the fulfilment of their tasks from a wider range of market players, not just electronic communications providers.

BEREC work on the review

On 14 September 2016, the Commission published its Connectivity package, including a draft European Electronic Communications Code, a draft BEREC Regulation and two communications on the Gigabit society and 5G. Since then, discussions of the Commission proposals are moving forward in the European Parliament and the Council.

In December 2016, BEREC published a high-level opinion¹ providing its initial evaluation of the Commission's proposals, including a preliminary assessment of some key topics (the scope of the regulation, the definition of ECS, end-user provisions, access regulation and governance issues). BEREC has since then focused on carrying out a more comprehensive analysis of the proposals in order to provide its technical contribution to the legislative process.

This work is complemented by the publication of a series of short technical papers² which are aimed at providing the co-legislators with relevant technical expertise and concrete proposals for amendments. As an expert body, BEREC will continue its assessment of the evolving legislative texts, and remains fully available to the co-legislators throughout the legislative process.

¹ http://berec.europa.eu/eng/document_register/subject_matter/berec/opinions/6615-berec-high-level-opinion-on-the-european-commissions-proposals-for-a-review-of-the-electronic-communications-framework

² These papers deal with: Non-competitive oligopolies, the forced stepping-back of regulation, market analysis, symmetric regulation, co-investment, vertically separate undertakings, the double-lock veto mechanism, the duration of spectrum rights, implementing acts on spectrum, information requests (notably on OTTs), the notification process and administrative charges, the ITRE draft report on the BEREC Regulation and the BEREC paper on peer review (Article 35).