

PRESS RELEASE

BEREC provides an update on its opinion on the Commission's draft Recommendation

At its first Plenary of 2013, BEREC agreed the headline messages of its opinion on the Commission's draft recommendation on cost orientation and non-discrimination.

Broadly shared objectives, detailed comments to come

BEREC reiterated its commitment to enhance the broadband investment environment across Europe, while continuing to promote competition. Europe's regulators share the Commission's determination to ensure a transparent, predictable, and stable regulatory environment in support of the roll out of NGA networks.

On the basis of these shared objectives, BEREC members discussed their views on the main pillars of the Commission's draft Recommendation:

- BEREC agrees with the Commission that effective non-discrimination rules are essential for competition, ensuring a level playing field between incumbents and new entrants, and that EOI is in principle the surest way to achieve this. BEREC will seek confirmation in the final Recommendation that NRAs should assess the proportionality of different non-discrimination obligations (i.e. EOI or EOO) when determining the most appropriate approach for their national market.
- BEREC agrees that (wholesale) pricing flexibility has an important role to play in supporting investment in NGA, and shares the Commission's desire to avoid any unanticipated consequences of linking the lifting of cost orientation obligations to the imposition of non-discrimination obligations. BEREC and the Commission will therefore work closely to monitor the impact of the Recommendation going forward.
- BEREC agrees with the Commission that ex ante economic replicability tests may be needed to prevent abusive pricing behaviour by dominant operators. It welcomes the Commission's clarifications during recent discussions that the appropriate test (i.e. EEO or REO) will depend on the NRA's regulatory objective and is without prejudice to the margin squeeze tests that NRAs already use.
- BEREC supports the Commission's aim of achieving predictable and stable copper prices in line with the principle of cost orientation, which will help encourage efficient investment in NGA and provide a competitive safeguard to third-party access seekers. BEREC and the Commission agree that the modelling approach used by an NRA should reflect, among other things, the network architecture being pursued, which in turn would generate prices that reflect the actual costs faced by operators in each market.

BEREC will now finalise its detailed technical analysis of the draft Recommendation, reflecting these and other points, following the very fruitful recent discussions between Commission officials and BEREC members, and will publish the full opinion shortly.

Other decisions taken

During its first Plenary of the year, BEREC also adopted its response to the Commission's questionnaire on a proposed revision to the Recommendation on Relevant Markets, available [here](#), and an opinion on the Commission's draft Recommendation on Implementing Universal Service for a Digital Society, available [here](#). BEREC also agreed a procedure for the election of its 2014 chair, which will take place at its next Plenary in June, in Athens, Greece.

The 14th BEREC Plenary meeting took place in Ljubljana, Slovenia, on 7-8 March 2013, and was the first meeting under the chairmanship of Leonidas Kanellos, president of Greek regulator EETT.

NOTE TO THE EDITOR:

BEREC is composed of a Board of Regulators consisting of the Heads of the 27 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.

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