

25th Ordinary Plenary Meeting of the Board of Regulators

Hosted by Ofcom

Conclusions

Chair: Prof. Fátima Barros

President of the Board of Directors of

Autoridade Nacional de Comunicações (ANACOM)

10 December 2015, London (United Kingdom)

Main Results of the 25th Meeting of the Board of Regulators (BoR)

The BEREC BoR held its 25th ordinary plenary meeting on 10 December 2015 in London. During the meeting, the BoR discussed and agreed on the following:

1. Elections of Chair for 2017 and Vice-Chairs for 2016

The BoR endorsed the agreement reached during the 26th BEREC Office Management Committee (MC) meeting in relation to the election of Chair for 2017 and Vice-Chairs for 2016.

Consequently, **Sébastien Soriano**, President of [ARCEP](#) (France), was elected BEREC Chair 2017 and **Angelo Marcello Cardani**, President of [AGCOM](#) (Italy) and **Henk Don**, Member of the Board of [ACM](#) (The Netherlands), were elected BEREC Vice-Chairs 2016.

According to the BoR Rules of Procedure (RoP), the elected Chair 2017 (as above) and the Outgoing Chair 2015 (**Fátima Barros**, President of the Board of [ANACOM](#)), must serve one year as Vice-Chairs in 2016 to support the Chair 2016, **Wilhelm Eschweiler**, Vice-President of [BNetzA](#) (Germany), who was elected Chair 2016 at the [21st Plenary Meeting \(4-5 December 2015, Brussels\)](#).

2. Documents approved for publication

2.1. Work Programme 2016 and document related to it

- [BEREC Work Programme 2016](#);
- [BEREC Report on the outcome of the public consultation on the draft Work Programme for 2016](#);
- [Decision of the Board of Regulators on BEREC Expert Working Groups 2016](#);

2.2. Opinions

- [BEREC input and opinion on the review of the RF for electronic communications](#);
- [BEREC-ERGP Opinion on price transparency and regulatory oversight of cross border parcels delivery, taking into account possible regulatory insights from the electronic communications sector](#);

2.3. Reports

- [BEREC Report on monitoring implementation of the BEREC Common Positions on Wholesale Local Access \(WLA\), Wholesale Central Access \(WCA\) and Wholesale High Quality Access at a Fixed Location \(WHQAFL\) - Phase 2](#);
- [BEREC Report on oligopoly analysis and regulation](#);
- [BEREC Report on the public consultation on the draft BEREC Report on oligopoly analysis and regulation](#);
- [BEREC Report on case studies on IP-based interconnection for voice services in the European Union](#);
- [BEREC Report on transparency and compatibility of international roaming tariffs](#);
- [Up-dated draft BEREC Report on equivalent access and choice for disabled end-users](#);
- [BEREC Report on the outcome of the public consultation on the draft BEREC Report equivalent access and choice for disabled end-users](#);

2.4. Others

- [Summary of the outcomes of the 3rd BEREC Stakeholder Forum meeting 15 October 2015, Brussels](#).

3. Documents approved for submission to the Commission

- BEREC input to the EC request on the wholesale roaming market and fair use of roaming services, to be submitted to the Commission;

- List of termination rates benchmark internal reports (from 2005 to 2015) to be submitted to the Commission together with the remaining data required, according to the answers received from NRAs.

4. Documents approved for internal use

- Project Requirements Documents (PRDs) for the implementation of the BEREC Work Programme 2016
- BEREC Internal Report on the feasibility of quality of service monitoring in the context of net neutrality;
- BEREC Internal Report ‘Qualitative assessment of Article 7/7a Procedures’;
- BEREC Internal Report on the implementation of the Termination Rates Recommendation;
- BEREC Internal Report on the outcome of the BEREC Workshop on the implementation of the Recommendation on Relevant Markets and Common Position on geographical segmentation (28 October 2015);
- Outline of the BEREC 2015 Annual Reports.

5. Important topics discussed

The Commissioner for Digital Economy and Society - **Günther Oettinger**, delivered a key note speech to the plenary meeting, in which he addressed the need for improving connectivity throughout Europe, increasing competitiveness of the telecom sector and enhancing investment, including through increase of consistency of regulatory approaches. He thanked BEREC for the excellent work done so far and emphasised that BEREC’s role will increase in the future. In that context he invited BEREC to consider possible improvements of the organisational structure, which could meet the new functions of the NRAs and BEREC as a whole.

The BoR was also briefed on the state of preparation of:

- the draft BEREC Guidelines on net neutrality;
- BEREC’s contribution to the Commission public consultation on the review of national wholesale roaming markets, fair use policy and the sustainability mechanism.

6. Documents submitted for information

- Work Programme 2015 status update;
- Information on the electronic voting procedures since the last plenary meeting;
- Information on important initiatives of the Commission, which have impact on BEREC’s work.

The BoR was also briefed on the following topics:

- recent Chair’s activities;
- major on-going projects managed by the BEREC Office;
- BEREC international activities.

7. Next meeting

The next meeting of the BoR will take place on **25 and 26 February 2016 in Rotterdam** and will be hosted by the Dutch [Authority for Consumers and Markets](#) (ACM). The meeting will be preceded by a Workshop on net neutrality, which will take place on 24 February 2016.

Introduction and participation

The BEREC BoR held its 25th ordinary plenary meeting on 10 December 2015 in London (UK), hosted by the Ofcom.

The meeting was attended by the Heads and/or high-level representatives of the NRAs established in each EU Member State which have primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. Heads and high-level representatives of the NRAs from the EFTA States and the States that are candidates for accession to the EU, the Commission and the EFTA Surveillance Authority also took part in the meeting.

List of documents

The list of documents distributed for the 25th BoR meeting and the list of final documents approved by the meeting for publication in compliance with the BEREC Regulation and the BoR transparency rules are included in Annex .

Items discussed

A short overview of the information presented under each agenda item, a summary record of the proceedings and a record of the conclusions reached by the BoR under each agenda item is presented below.

1. Opening of the meeting and adoption of the agenda

Document(s)	BoR (15) 190 Rev.1 Draft BoR Agenda
Introduction by	BEREC Chair
Information presented	The BEREC Chair presented the draft agenda and asked if the BoR members and observers had any additional issues to be raised or presented under 'Any other business' (AOB). Since none was raised, the Chair proposed that the BoR approve the meeting agenda with some changes in the order to of the agenda items due to changes in the programme of the Commissioner for Digital Economy and Society, who will be able to join the meeting only in the afternoon.
Conclusions	The BoR adopted the meeting agenda as proposed by the BEREC Chair.

2. Election of Chair for 2017 and Vice-Chairs for 2016

Document(s)	No documents
Introduction by	BEREC Chair
Information presented	<p>The BEREC Chair reminded the meeting that according to the BoR RoP at the end of each year the BoR must appoint the Chair for the year subsequent to the following year. The newly-elected Chair and the Outgoing Chair 2015 must serve in 2016 as Vice-Chairs. The BoR may decide to appoint additional Vice-Chairs for one year.</p> <p>During the 26th MC meeting an agreement was reached to elect two additional Vice-Chairs to support the Chair 2016. Sébastien Soriano, President of ARCEP (France), was elected Chair 2017 and Angelo Marcello Cardani, President of AGCOM (Italy), and Henk Don, Member of the Board of ACM (The Netherlands) were elected Vice-Chairs 2016:</p> <p>The BEREC Chair requested the BoR to endorse the agreement reached during the MC session.</p>

Conclusions	The BoR endorsed the agreement reached during the MC session, as presented above.
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3. Information from the Chair

Document(s)	No documents
Introduction by	BEREC Chair Representative of the BEREC Vice-Chair (ComReg)
Information presented	<p>The BEREC Chair informed the BoR that information on the recent BEREC communication activities, key meetings with EU Institutions, stakeholders and international partners would be circulated in writing after the plenary meeting. Amongst all events, which the Chair attended on behalf of BEREC she highlighted the bilateral meeting between BEREC and Federal Communications Commission (FCC) of the United States, which took place on 6 October 2015 in Washington. As a result of the conclusion of this meeting which BEREC and FCC organised the joint workshop on net neutrality, which took place on 9 December 2015 in London, prior to the plenary meeting.</p> <p>A representative of the BEREC Vice-Chair (ComReg) informed the BoR that following the conclusions from the previous plenary meeting the BEREC Chair and Vice-Chairs have organised several meetings with other European bodies, whose activity is directly linked or affects the digital sector, to discuss possible cooperation and/or exchange of views on topics relevant to the implementation of the Digital Single Market Strategy, as follows: Radio Spectrum Policy Group (RSPG), European Union Agency for Network and Information Security (ENISA), Article 29 [Data Protection] Working Party¹ and European Regulators Group for Audiovisual Media Services (ERGA). Meetings with the European Banking Authority (EBA) and European Securities and Markets Authority (ESMA) were organised, as well.</p> <p>The Chair recalled that the public debriefing for presenting the results from the plenary meeting would take place on 16 December 2015 in Brussels. The debriefing would be made available to the public also through live webstreaming.</p>
Conclusions	The BoR took note of the information.

4. Outcomes of the 3rd BEREC Stakeholder Forum Meeting

Document(s)	BoR (15) 193 Draft Summary of the Outcomes of the 3rd BEREC Stakeholder Forum Meeting, 15 October 2015, Brussels
Introduction by	BEREC Chair BEREC Vice-Chair (ComReg)
Information presented	The BEREC Chair expressed her gratitude to the BEREC Vice-Chair (ComReg), his team and to the BEREC Office for the excellent organisation of the event. She informed the BoR that all stakeholders have provided positive feed-back about the event format and the chosen topics, which gave all participants the opportunity to have a fruitful discussion on

¹ Set up under the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

	<p>the future challenges of the telecom sector. For these reasons the Chair concluded that this event has proved to be extremely valuable both for BEREC and its stakeholders.</p> <p>Nevertheless, the BEREC Chair expressed her regret that the event was not attended by all Heads, which could have benefitted from a face-to-face discussion with the stakeholders and invited all Heads to consider attending the 2016 edition of the Stakeholder Forum.</p> <p>The BEREC Vice-Chair (ComReg) presented the outcome of the 3rd annual BEREC Stakeholder Forum meeting, which was held on 15 October 2015 in Brussels.</p> <p>He recalled that the topics for discussion during the event included the draft BEREC Work Programme 2016, the draft BEREC report on the Internet of Things and the challenges and opportunities for Europe in the digital ecosystem.</p> <p>The EU Commissioner for Digital Economy and Society, Günther Oettinger, delivered a key note speech in which he stressed the importance of connectivity, and agreed that 'Europe needs a competitive telecom sector which invests in quality services'.</p> <p>The 3rd Stakeholder Forum was web-streamed and the recorded videos are available at the BEREC website. The document presented to the attention of the BoR summarises the outcomes of the event and is intended for publication after its approval by the BoR.</p> <p>The BEREC Vice-Chair (ComReg) took this opportunity to thank his team and the BEREC Office team who worked on the preparation of the event and who contributed to its successful organisation.</p>
Conclusions	The BoR took note of the information on the outcome of the 3rd BEREC Stakeholder Forum Meeting and approved the summary for publication.

5. BEREC International Activities

Document(s)	No documents
Introduction by	BEREC Chair representative Representative of CNMC
Information presented	<p>A BEREC Chair representative and the BEREC member from CNMC briefed the BoR about the recent and forthcoming BEREC international activities, as follows:</p> <p>i) Meeting with FCC</p> <p>On 6 October 2015 in Washington a BEREC delegation headed by the BEREC Chair met the FCC Chair. Both sides discussed issues of common interest, such as: NN, spectrum policy, the forthcoming review of the EU telecom framework, as well as the state of art of EU and US markets, and future areas of cooperation.</p> <p>ii) Meeting with EC consultant on BEREC's participation at the EU PanAfrica Program</p> <p>The BEREC Chair was contacted by an external consultant of the Commission in charge of a study on a support program related to the harmonization of ICT policies, legal and regulatory framework in Africa. The consultant was informed that BEREC is considering an ad-hoc / step-by-step approach, based on experts' participation, upon request. As part of the project BEREC's participation as partner of a regulatory platform of</p>

	<p>African regulators (like EMERG) could also be envisaged. It is expected feedback from the EC.</p> <p>iii) Cooperation with EaPeReg</p> <p>On 18-19 November 2015, in Brussels, ANACOM represented BEREC at the EaP event on harmonisation of digital markets.</p> <p>In that occasion, it was indicated that, pending on final approval from the BoR plenary, the most probably action to be taken next year would be the joint EWG on benchmark. On roaming, it was said that a joint EWG would most probably not go on, due to the TSM actions that BEREC must comply with. However, it was also informally said that a workshop or something similar could perhaps be envisaged (by the end of 2016).</p> <p>iv) Cooperation with Regulatel</p> <p>According to the MoU in 2016 BEREC and Regulatel may establish up to three EWGs, still to be decided. A proposal will be sent to BEREC to agree on the joint Working Groups to be set up in 2016.</p> <p>The annual high level BEREC-Regulatel summit should take place in the Dominican Republic, in late June or July, but is not yet confirmed.</p> <p>At its last plenary Regulatel held elections for the Chair for the next two years and elected as Chair 2016 the Head of the Colombian NRA and for 2017 - the Head of the Chilean NRA</p> <p>Regulatel also signed MoUs with FCC, ICANN and with the Group of NRAs from Central America.</p> <p>BEREC will be regularly informed for all BEREC-Regulatel activities.</p> <p>v) Cooperation with EMERG</p> <p>On 16-17 December 2015, BEREC and EMERG will organise, in Brussels, a joint workshop to exchange best practices in the field of accountability and transparency.</p> <p>The 2016 WP has not been drafted yet, but a joint workshop with BEREC is likely to be scheduled next year.</p> <p>At the end of the presentation the BEREC Chair emphasised that the cooperation with BEREC is very important for the organisations from third countries. In practice BEREC exports its expertise and best practices and these organisations benefit from BEREC's achievements in the field of telecom markets regulation. This cooperation has led to significant improvement of the regulatory practices in these countries, which has strengthen the competition and has brought additional benefits to the end users.</p>
Conclusions	The BoR took note of the information.

6. List of the 'A' items

Document(s)	<p><u>Approval for publication:</u></p> <p>BoR (15) 198 Draft BoR Decision on the BEREC Expert Working Groups</p> <p>BoR (15) 192 Draft BEREC Report on transparency and compatibility of international roaming tariffs</p> <p>BoR (15) 199 Draft BEREC Report on Monitoring implementation of the BEREC Common Positions on Wholesale Local Access (WLA), Wholesale Central Access (WCA) and Wholesale High Quality Access at a Fixed Location (WHQAFL) - Phase 2</p> <p>BoR (15) 200 Draft BEREC Report on the outcome of the public consultation on the draft BEREC Report equivalent access and choice for disabled end-users</p> <p>BoR (15) 201 Up-dated draft BEREC Report on equivalent access and choice for disabled end-users</p> <p><u>Approval for internal use:</u></p> <p>BoR (15) 202 Draft BEREC Internal Report on the outcome of the BEREC Workshop on the implementation of the Recommendation on Relevant Markets and Common Position on geographical segmentation (28 October 2015)</p> <p>BoR (15) 203 Draft Project Requirements Documents for the implementation of the BEREC Work Programme 2016</p>
Introduction by	BEREC Chair
Information presented	<p>The Chair presented the list of "A" items as listed above. The list of "A" items had been drawn up on the basis of the conclusions of the CN according to which BoR approval of these documents should be possible without further discussion. The Chair informed the BoR members that, if needed, they still can make statements for the minutes on any of the "A" items. If a position taken on an "A" item may lead to further discussion or if a BoR member so requests, this item should be withdrawn from the "A" list.</p> <p>The Chair first requested the consent of the BoR members for including all items in the "A" list and second, she asked the BoR to approve the "A" items.</p>
Conclusions	The BoR approved the documents included in the 'A' item list.

7. Information from the BEREC Office

Document(s)	<p>BoR (15) 191 Information on electronic voting procedures since the last plenary meeting</p> <p>BoR (15) 197 2015 BEREC Work Programme status update</p>
Introduction by	BEREC Office Representatives
Information presented	<p>The BEREC Office presented the outcome of the recent electronic voting procedures, the implementation status of the 2015 BEREC Work Programme, the video-conference facility and the outcome of the first training session for NRAs' experts organised by the BEREC Office.</p> <p>The BEREC Office also briefed the BoR on the outcome of the recent Article 7/7a cases, and the recent state and planned developments of BERECnet and the information sharing portal.</p>

Discussion	The BEREC Chair thanked the BEREC Office for the deployment of the video-conference facility, which will facilitate many experts' participation in EWGs remotely. This is a great improvement in providing the NRAs with the opportunity to contribute to the work of the EWGs without any cost and loss of time for travel.
Conclusions	The BoR took note of the information.

8. Information from the Commission

Document(s)	BoR (15) 219 Note to the BEREC Board of Regulators
Introduction by	Commission Representatives
Information presented	<p>The Commission representative briefed the BoR on the following subjects:</p> <p>i) Roaming</p> <p>After the publication and entry into force of the TSM Regulation, the Commission has launched the formal adoption of the first implementing measure on average weighted MTRs through comitology written procedure. This should allow the Commission to adopt the implementing act before the end of 2015.</p> <p>The Commission launched a public consultation on the review of national wholesale roaming markets and the determination of detailed rules on the application of fair use policy and on the methodology for the sustainability mechanism².</p> <p>The Commission representative emphasised that the cooperation with BEREC on this subject had been and would continue to be crucial for a successful implementation of the TSM Regulation.</p> <p>ii) Review of the EU Regulatory Framework for electronic communications</p> <p>As part of the reviewing the telecoms Regulatory Framework the Commission launched a public consultation and two studies. A related Impact Assessment study will be launched in December 2015. Besides these, further evidence and advice are being collected via other ongoing studies on the scope of the universal service and on future trends and business models in communications services and their regulatory impact. BEREC's input, expected to be approved during the plenary meeting, would also form a valuable input to the whole process.</p> <p>iii) Cost Reduction Directive</p> <p>The Commission representative reminded that the deadline for transposition of this Directive is approaching. According to the information provided to the Commission many NRAs will be assigned with the task of implementation of the Directive and therefore BEREC's support for its smooth implementation will be important.</p> <p>iv) Evaluation of the Recommendation on Termination Rates</p> <p>The Commission stated the evaluation of the implementation of the aforementioned Recommendation and noted that it expects that BEREC would</p>

² On 26 November 2015 the Commission opened a public consultation on the review of national wholesale roaming markets, fair use policy and the sustainability mechanism, referred to in Regulation 531/2012 (current Roaming Regulation) as amended by Regulation 2015/2120 (the TSM Regulation - OJ L 310 of 26 November 2015). More information about the consultation can be found here: <https://ec.europa.eu/digital-agenda/en/news/public-consultation-review-national-wholesale-roaming-markets-fair-use-policy-and>. It will run until 18 February 2016.

	contribute to this process. The evaluation will assess the consistent implementation of the Recommendation across the EU and its impact on the EU telecom market and on the end-users. BEREC has also been involved in the evaluation process through the Commission's request for data provision. This process will be finalised in the second half of 2016, after the conclusion of the work on the review.
Conclusions	The BoR took note of the information.

9. Outline of the BEREC 2015 Annual Reports

Document(s)	BoR (15) 204 Draft outline of the BEREC 2015 Annual Reports
Introduction by	Representatives of the BEREC Chair and the BEREC Office
Information presented	<p>Representatives of the BEREC Chair and the BEREC Office recalled, that under its establishing Regulation, BEREC has an obligation to prepare an Annual Report of its activities and an annual report on the developments in the electronic communications sector. The Annual Activity Report has to be transmitted to the European Parliament (EP), the Council, the Commission, the European Economic and Social Committee and the European Court of Auditors (ECA) by 15 June. To increase the value added of the Report the Chair had suggested its early preparation and publication ahead of the deadline of 15 June.</p> <p>The BoR was informed that, as decided previously, these two reports will be prepared and published together. According to the proposed outline Part A of the Annual Report will describe the activities carried out by BEREC in 2015 and Part B will focus on the sector developments in 2015. Part A will follow the structure of the WP 2015 even if some items have been delayed or not addressed in 2015, such as the traffic management investigation. In such case the report will contain information about the reasoning for delaying or cancelling the deliverable.</p> <p>Part B will focus on the key developments in the sector and will have a forward looking approach.</p> <p>The first contributions to the draft report are expected by 4 January 2016. The document will be submitted for approval ideally to the 26th BoR plenary meeting (25-26 February 2016, Rotterdam) or, alternatively, by electronic voting procedure as soon as possible after the 26th plenary meeting.</p>
Conclusions	The BoR took note of the information presented and approved the report outline for internal use.

10. Roaming

Document(s)	BoR (15) 205 Draft BEREC input to the EC request on the wholesale roaming market and fair use of roaming services
Introduction by	Roaming EWG Co-Chairs (CNMC/RTR)
Information presented	The Roaming EWG Co-Chairs presented the draft BEREC input to two of the requests contained in the Commission letter of 28 July 2015 ³

³ On 28 July 2015 the Commission submitted a request to BEREC for input on:

- 1) weighted average of maximum mobile termination rates across Member States (already provided);
- 2) wholesale roaming market (deadline: end of 2015);
- 3) fair use policy (deadline: end of 2015);
- 4) sustainability of domestic charging model (deadline: June 2016).

	<p>concerning the wholesale roaming market and the fair use of roaming services.</p> <p>The BoR was informed that the input is mainly in the form of individual data received from operators and NRAs and will be made available to the Commission through BERECnet. Given the confidentiality of some of the data, it will be presented in an anonymous way, both in terms of countries and operators.</p> <p>BEREC's reply contains also a description of the methodology for calculating the wholesale roaming costs and of the cost reallocation approach for call origination.</p> <p>The Roaming EWG Co-Chairs also referred to the Commission's public consultation on the review of national wholesale roaming markets, fair use policy and the sustainability mechanism. They informed the plenary that the EWG is preparing a Report on the wholesale roaming market, which will be submitted for approval to the BoR during its 26th plenary meeting. If the BoR agrees, this report will be BEREC's contribution to the Commission public consultation.</p> <p>The BoR was also informed that on 28 January 2016 the Commission will organise a workshop with its consultant (TERA Consultants) to discuss the assessment of the cost of providing wholesale roaming services in the EEA. NRAs are invited to take part in the workshop</p>
Conclusions	<p>The BoR discussed the BEREC input to the EC request on the wholesale roaming market and fair use of roaming services and approved it for submission to the Commission.</p> <p>The BoR agreed with the proposal of the Roaming EWG Co-Chairs to use the Report on the wholesale roaming market (currently under preparation) as BEREC's input to the on-going Commission public consultation on roaming.</p>

11. Net Neutrality (NN)

11.1. Feasibility of quality of service (QoS) monitoring in the context of NN

Document(s)	BoR (15) 207 Draft BEREC Internal Report on the feasibility of QoS monitoring in the context of NN
Introduction by	NN EWG Co-Chairs (Nkom/Ofcom)
Information presented	<p>The NN EWG Co-Chairs presented the draft feasibility study on monitoring of QoS in the context of NN, prepared in line with the requirements of the BEREC WP 2015.</p> <p>They started their presentation by recalling the fact that the 2009 Regulatory Framework already requires the NRAs to provide QoS monitoring. In that respect in 2012 BEREC adopted Guidelines on monitoring the QoS in the context of the NN. This assignment has been further enhanced in the TSM Regulation, which requires the NRAs to "<i>closely monitor and ensure compliance</i>".</p> <p>The current feasibility study identifies appropriate regulatory monitoring methodologies and assesses the feasibility of quality monitoring systems.</p>
Conclusions	The BoR discussed the feasibility study and approved it for internal use.

11.2. Oral up-date on the state of play of the BEREC Guidelines on NN

Document(s)	No documents
Introduction by	NN EWG Co-Chairs (Nkom/Ofcom)
Information presented	<p>The NN EWG Co-Chairs briefed the BoR on the approach and planned activities for the development of the BEREC Guidelines on NN, as required by the TSM Regulation⁴, which have to be in place by 30 August 2016. BEREC has to approve them after consulting stakeholders and in close cooperation with the Commission. Therefore the NN EWG suggested to BEREC to consult the stakeholders, during dialogue meetings with EU umbrella groups to take place on 15 and 16 December 2015 and through a formal public consultation to be organised in June 2016.</p> <p>To prepare the document for public consultation the NN EWG suggested:</p> <ul style="list-style-type: none"> - organising a workshop on NN prior to the 26th plenary meeting (25-26 February 2016, Rotterdam) - submitting draft Guidelines for approval by the BoR for public consultation during its 27th plenary meeting (1-3 June 2016, Vienna). <p>The final NN Guidelines should be adopted by the BoR either by electronic voting procedure or at an extraordinary plenary meeting by 29 August 2016.</p>
Conclusions	The BoR discussed the next steps in the preparation of the BEREC Guidelines on NN and approved the proposals of the NN EWG Co-Chairs.

12. Next Generation Networks (NGN)

Document(s)	BoR (15) 196 Draft BEREC Report on case studies on IP-based interconnection for voice services in the European Union
Introduction by	NGN EWG Co-Chair (RTR)
Information presented	<p>The NGN EWG Co-Chair (RTR) presented the draft report “Case Studies on IPvIC in the EU”, which has the objective to provide a deeper insight into the IPvIC already in place.</p> <p>The document provides a general overview of the status of IPvIC in Europe on a general level based on information from 32 European countries. Additionally the report presented more detailed information about 13 specific cases from 10 countries (Bulgaria, Croatia, Denmark, Finland, France, Germany, Italy, Slovenia, Spain and Sweden), which covers IPvIC offered by fixed network incumbents (FNI, 8 countries), other fixed network operators (OFNO, 3 countries) and mobile network operators (MNO, 2 countries), i.e. in total thirteen cases.</p> <p>The high level analysis of the status of the IPvIC in Europe shows that the type of operator which most often offers IPvIC is the OFNO followed by the FNI and the MNO. NRAs imposed the obligation to offer IPvIC most frequently on FNI (13 countries) followed by OFNO (11) and MNO (5).</p> <p>The BoR was informed that the document has descriptive character and does not aim at being normative or recommend a best practice.</p>

⁴ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.310.01.0001.01.ENG&toc=OJ:L:2015:310:TOC

Conclusions	The BoR took note of the report and approved it for publication.
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13. Keynote speech by EU Commissioner Gunter Oettinger⁵

Document(s)	No documents
Introduction by	Commissioner for Digital Economy and Society
Information presented	<p>The Commissioner for Digital Economy and Society delivered a speech to the BoR plenary meeting in which he emphasized the importance of the digital single market for ensuring growth and competitiveness of the EU economy. He pointed out that to reap full benefits of the digital economy, Europe needs a competitive telecoms sector which invests in high-performing networks. To enhance investment the EU needs to ensure consistent regulatory conditions for a true single market, as in the view of the Commissioner there are still barriers, which prevent new innovative solutions reaching their full potential.</p> <p>The Commissioner also stressed the need of ensuring universal connectivity, taking into account current and future needs of citizens, businesses and the public sector.</p> <p>The Commissioner acknowledged the good work done by BEREC and the NRAs over the past years. In his opinion BEREC's contribution on reaching agreement on the TSM Regulation showed that BEREC can play an important role. He expressed his conviction that BEREC's role will only get more important in the future, in particular in the context of the rules on NN and roaming.</p> <p>Remembering the Commission's recent public consultation on the review, the Commissioner noted that its services were now analysing all contributions, which will be used as the Commission's fundament for the modernisation of the EU telecom rules. The Commissioner noted that in that process BEREC's advice will be very valuable, since the very beginning, and therefore he had the intention to send to BEREC the analysis of the results of the public consultation.</p> <p>In the view of the Commissioner, it is more important than ever that the various institutional actors on the regulatory stage work together and cooperate with a common European mind-set. However, in his view the current system has not delivered satisfactorily results and the existing governance structure needs adjustments.</p> <p>Therefore the Commissioner urged BEREC to look at its institutional set-up by considering all various actors (NRAs, BEREC, Commission) as one eco-system and to think how this system could be strengthened as a whole (instead of looking into individual institutions in isolation), including in terms of strengthening the independence of NRAs at national level. He also pointed out that additional tasks and competences for BEREC are likely to require additional resources. In order to carry out these functions efficiently and effectively and to pursue the development of the digital single market both the NRAs, and BEREC as a whole, must have permanent access to the necessary pool of expertise and adequate resources.</p>

⁵ The full text of the speech of available on the Commission website at: https://ec.europa.eu/commission/2014-2019/oettinger/announcements/speech-berec-board-regulators-meeting-telecoms-review_en

	<p>And last but not least, the Commissioner shared his view that the structure of any European body bestowed with such important tasks as BEREC should be adequate to meet the needs.</p> <p>At the end of his speech the Commissioner thanked again BEREC for the good work and invited its members to be more ambitious in the interest of the telecom sector, the wider European economy and, most importantly, of the European citizens.</p>
Conclusions	The BoR took note of the key note speech of the Commissioner and discussed some of the items raised.

14. Remedies (REM)

14.1. Qualitative Analysis of Article 7/7a cases

Document(s)	BoR (15) 208 Qualitative assessment of Article 7/7a procedures
Introduction by	Drafting Team Leader (AGCOM)
Information presented	<p>The Drafting Team Leader (AGCOM) presented a summary of the quantitative and qualitative analysis of Article 7/7a phase II cases undertaken by the REM EWG. For the quantitative aspect a comprehensive database of all phase II cases was established and used for the identification of common themes of all phase II referrals. For the qualitative analysis, the team collected feedback from rapporteurs and drafters of phase II cases. Selected case were further discussed during an internal workshop.</p> <p>In the views of the rapporteurs and drafters interviewed the Article 7/7a process has largely worked well. Most respondents felt satisfied with the guidance and support received from BEREC and the BEREC Office and with the quality and consistency of opinions.</p> <p>The survey also highlighted some room for improvement in the following three substantive areas:</p> <ul style="list-style-type: none"> – the evaluation of materiality relating to potential barriers to the creation of an internal market. – how to tackle cases where national law and case law may constrain NRAs' room for manoeuvre. – how to deal with information that is provided to the case team that is not part of the original case documentation. <p>Addressing these issues in the views of the REM EWG opens some questions about BEREC's role, which go beyond BEREC's role in Article 7/7a procedure and could be part of a wider assessment of BEREC's role in the framework review.</p>
Conclusions	The BoR discussed the qualitative assessment of Article 7/7a procedures and approved the Report for internal use.

14.2. Termination Rates (TRs)

Document(s)	BoR (15) 209 Draft BEREC Internal Report on the implementation of the TRs Recommendation
Introduction by	REM EWG Co-Chair (ARCEP)
Information presented	The REM EWG Co-Chair (ARCEP) presented the draft Report mentioned above, which focussed on the implementation of the TR Recommendation

	and more generally on the price control remedies imposed on SMP operators in fixed or mobile termination markets.
Conclusions	The BoR discuss the Internal Report on the implementation of the TRs Recommendation and approved it for internal use.

14.3. BEREC Answer to the EC questionnaire for evaluation of the Termination Rates Recommendation

Document(s)	BoR (15) 210 List of termination rates benchmark internal reports (from 2005 to 2015)
Introduction by	REM EWG Co-Chair (ARCEP)
Information presented	<p>On 15 October 2015 the Commission requested BEREC to provide some data collected from the NRAs, which includes the data collected in 2014 by the Remedies EWG on retail offers including cross-border voice calls, the data used in the draft BEREC internal report on the implementation of the TR Recommendation and the BEREC TR snapshots and internal reports. The data will be transmitted to the Commission external consultancy (TERA Consultants) hired to undertake a study assessing the impact of the current implementation of the TR Recommendation on market developments in the EU telecoms sector.</p> <p>As this data was gathered either for internal reports or for the calculation of average benchmarking indicators, it may be confidential. In compliance with the provisions of Article 20 of the BEREC Regulation neither BEREC nor the BEREC Office are allowed to publish or disclose to third parties information that they process or receive for which confidential treatment has been requested.</p> <p>Therefore the BEREC Office, under the guidance of the REM EWG Co-Chair (ARCEP), asked NRAs to verify whether the data could be used for the purpose mentioned above and if there is any confidential data, which should be eliminated.</p> <p>The REM EWG Co-Chair informed the BoR about the results of the consultation with the NRAs and pointed out that 10 NRAs have not yet replied to the questions. Following the receipt of their replies, and in accordance with them, the documents, together with the remaining data required, could be submitted to the Commission for submission to the Commission consultant, under a non-disclosure agreement.</p>
Conclusions	The BoR took note of the information presented and approved the list of documents for submission to the Commission. Those NRAs' which have not provided their input were invited to do so by 17 December 2015 with a view to preparing the document for submission to the Commission by 22 December 2015.

15. Benchmarking

Document(s)	BoR (15) 211 Draft BEREC Benchmarking Report on TRs at European level
Introduction by	BEREC Office Representative
Information presented	A BEREC Office Representative presented the draft Report on TRs at European level, which contains an overview of FTRs, MTRs and SMS TRs, as of 1st July 2015. The purpose of the document is to provide comparison of the level of FTRs, MTRs and SMS TRs in the BEREC countries, their

	<p>variations and the cost models adopted for the definition of TRs.</p> <p>It also contains information about the average wholesale termination revenues and includes a section devoted to the analysis of the future evolution of MTRs.</p> <p>The current draft Report provides for the first time information only about the EU averages for FTR and MTR [previously the reports contained averages for all respondents - EU and non-EU countries (in total 36)].</p> <p>The Report data is also presented in a more user friendly format.</p> <p>The BoR was informed that the BEREC Office has received some requested for up-dating the data for individual NRAs, which will be taken into account in the final version of the document.</p>
Conclusions	The BoR took note of the Report and approved it for publication.

16. Market and Economic Analysis

Document(s)	<p>BoR (15) 194 Draft BEREC Report on the public consultation on the draft BEREC Report on oligopoly analysis and regulation</p> <p>BoR (15) 195 Draft BEREC Report on oligopoly analysis and regulation</p>
Introduction by	MEA EWG Co-Chairs (CNMC/ARCEP)
Information presented	<p>The MEA EWG Co-Chairs (CNMC/ARCEP) made a short historical overview of all initiatives carried out by BEREC in the field of oligopoly analysis and regulation.</p> <p>Afterwards they presented the outcome of the public consultation on the draft BEREC Report on oligopoly analysis and regulation which was held in the period from 10 June to 1 August 2015.</p> <p>During the public consultation BEREC received 20 contributions. The Co-Chairs presented a short overview of the contributions received and information how they were taken into account in the revised draft BEREC Report.</p> <p>The BoR was also informed that the MEA EWG has proposed continuation of the work on oligopolies, in particular by focusing on:</p> <ul style="list-style-type: none"> – structural criteria to identify tight oligopolies and the market effects of such tight oligopolies; – possibilities and limits of a transposition of the SIEC test and potential other tools to ex-ante regulation; – sufficiency of the existing non-SMP based remedies to tackle the issues raised by tight oligopolies; – conditions that should be met in order to apply the exceptions and/or the transitory period raised by the Commission in its consultation; – other issues concerning oligopolistic competition that might arise during 2016.
Conclusions	The BoR discussed the draft Reports mentioned above and approved them for publication (including the individual contributions received during the public consultation, subject to confidentiality requirements, if any).

17. Regulatory Framework (RF)

17.1. Oral up-date on the RF EWG Work Streams - cancelled

17.2. BEREC input and opinion on the review of the RF for electronic communications

Document(s)	BoR (15) 206 Draft BEREC input and opinion on the review of the RF for electronic communications
Introduction by	RF EWG Co-Chair (NMHH)
Information presented	<p>On 22 July 2015 the Commission submitted a request to BEREC for input in evaluating the functioning of the current EU RF for electronic communications (covered by the questionnaires presented in annexes 1 and 3 to the Commission letter) and for an opinion on those provisions, which may require review (covered by annex 2).</p> <p>At the 24th plenary meeting (1-2 October 2015, Riga) the BoR provided some initial views on those issues, which required high-level steering.</p> <p>Prior to the 25th plenary the NRAs held a workshop to further discuss the remaining open issues. The input from the workshop was taken into account in the last version of the document, which was presented to the plenary. The presentation made by the RF EWG Co-Chair (NMHH) focused only on the changes introduced after the workshop.</p> <p>The package of documents presented to the plenary included:</p> <ul style="list-style-type: none"> – BEREC Opinion on the review of the EU RF for electronic communications (Annex 2) (intended for publication); – Executive Summary of the BEREC Opinion on the review of the EU Electronic Communications RF (intended for publication); – BEREC responses to questionnaire on the evaluation on the current RF (Annex 1) (internal – not for publication). <p>Additionally the FR EWG Co-Chair suggested to BEREC to provide the Commission with all individual responses of the NRAs to the questionnaires of the Commission presented in annexes 1 and 3 to the Commission request, subject to the confidentiality requirements contained in the original contributions.</p>
Conclusions	The BoR took note of the documents mentioned above and approved them for submission to the Commission and for publication (the opinion and the executive summary).

18. BEREC Work Programme (WP) 2016

Document(s)	BoR (15) 212 Draft BEREC Report on the outcome of the public consultation on the draft WP for 2016 BoR (15) 213 Draft BEREC WP for 2016
Introduction by	Incoming BEREC Chair (BNetzA)
Information presented	The Incoming BEREC Chair presented the outcome of the public consultation ⁶ on the BEREC WP for 2016 and the revised WP.

⁶ The public consultation was held from 2 to 30 October 2015 with an oral hearing at the [Stakeholder Forum in Brussels on 15th October 2015](#)

	<p>The BoR was informed that the stakeholders consider that in 2016 BEREC should have an important role to play in the forthcoming review of the Regulatory Framework, which clearly demonstrates that the topics chosen for the WP 2016 are relevant.</p> <p>Some suggestions for additional items have been made (e.g. new numbering framework, provider switching, software license management, framework rules on online purchases), but often outside BEREC's mandate or covered within other items.</p> <p>The topics which generated the biggest interest are NGA challenges, oligopolies (controversial views), OTT, NN and the revision of the universal service obligation.</p> <p>The text on the Common Position on layer 2 of wholesale access products has raised some concerns amongst some stakeholders and for that reason it was proposed a revised version of the text.</p> <p>On the NN Guidelines all stakeholders expressed their interest to be involved in the work. Therefore a public consultation on the subject will be run.</p> <p>Most of the stakeholders expressed the view that no trade-off between competition and investment should be made. Competition should continue to be the main driver for the development of the telecom sector. The stakeholders have suggested a reassessment of the existing obligations must be undertaken, which should take into account the end-users' needs. Some stakeholders have suggested including in the review safeguards to prevent undue burden for the telecom sector and have argued that the cost for the provision of the universal service obligation should not be supported by the telecom sector anymore but should be compensated by public funding.</p> <p>At the end of the presentation the Incoming Chair pointed out that in addition to the changes resulting from the public consultation some minor changes to the WP had been introduced after the CN due to comments of the CN members and the BEREC EWG Co-Chairs in order to align the WP with the PRDs.</p>
Conclusions	<p>The BoR took note of the outcome of public consultation on the draft WP for 2016 and approved the consultation Report and the BEREC WP for 2016 for publication, together with the individual contributions, subject to confidentiality requirements.</p> <p>As required by Article 5 (4) of the BEREC Regulation, the WP will be transmitted to the EP, the Council and the Commission, as soon as possible.</p>

19. e-Commerce and Cross-Border Parcels Delivery

Document(s)	BoR (15) 214 Draft BEREC-ERGP Opinion on price transparency and regulatory oversight of cross border parcels delivery, taking into account possible regulatory insights from the electronic communications sector
Introduction by	Ad Hoc EWG Co-Chair (ANACOM)
Information presented	The Ad Hoc EWG Co-Chair (ANACOM) presented the draft joint opinion of BEREC and the European Regulators Group for Postal Services (ERGP) on price transparency and regulatory oversight of the cross-border parcels markets, taking into account possible regulatory insights from the electronic communications sector.

	<p>The Ad Hoc EWG Co-Chair presented in detail the work undertaken for the preparation of the draft opinion, the main possible issues affecting cross-border parcels delivery for e-commerce purposes and the possible measures to be undertaken in terms of price transparency and regulatory oversight.</p> <p>The draft Opinion has identified 3 groups of potential measures to address those possible issues, as follows: regulatory oversight measures, price transparency measures and other measures.</p> <p>The BoR was informed that the draft Opinion had been already approved by the ERGP plenary on 3 December 2015.</p>
Conclusion	The BoR discussed the joint BEREC-ERGP Opinion and approved it for submission to the Commission and for publication.

20. AOB

Next meeting of the BoR (25-26 February 2016, Rotterdam)

Document(s)	No documents
Introduction by	Representative of the meeting host (ACM)
Information presented	<p>Representative of the meeting host, ACM, provided information on the logistics for the next BoR meeting, which will take place 25-26 February 2016 in Rotterdam.</p> <p>The meeting will be preceded by a Workshop on net neutrality, which will take place on 24 February 2016.</p>
Conclusions	The BoR took note of the information.

LIST OF DOCUMENTS
approved at the 25th BoR plenary meeting and subject to publication in compliance with the BEREC Regulation and the BoR transparency rules

Document number	Document title/hyperlink
BoR/2015/03	Decision of the Board of Regulators on BEREC Expert Working Groups 2016
BoR (15) 193	Summary of the outcomes of the 3rd BEREC Stakeholder Forum meeting 15 October 2015, Brussels
BoR (15) 192	BEREC Report on transparency and compatibility of international roaming tariffs
BoR (15) 194	BEREC Report on the public consultation on the draft BEREC Report on oligopoly analysis and regulation
BoR (15) 195	BEREC Report on oligopoly analysis and regulation
BoR (15) 196	BEREC Report on case studies on IP-based interconnection for voice services in the European Union
BoR (15) 199	BEREC Report on Monitoring implementation of the BEREC Common Positions on Wholesale Local Access (WLA), Wholesale Central Access (WCA) and Wholesale High Quality Access at a Fixed Location (WHQAFL) - Phase 2
BoR (15) 200	BEREC Report on the outcome of the public consultation on the draft BEREC Report equivalent access and choice for disabled end-users
BoR (15) 201	Up-dated draft BEREC Report on equivalent access and choice for disabled end-users
BoR (15) 206	BEREC input and opinion on the review of the RF for electronic communications
BoR (15) 211	Termination rates at European level July 2015
BoR (15) 212	BEREC Report on the outcome of the public consultation on the draft Work Programme for 2016
BoR (15) 213	BEREC Work Programme for 2016
BoR (15) 214	BEREC-ERGP Opinion on price transparency and regulatory oversight of cross border parcels delivery, taking into account possible regulatory insights from the electronic communications sector

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