

## **BEREC press release on the EC proposal for the review of the telecom framework**

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15 September 2016

The European Commission has published yesterday its legislative proposal on establishing the European Electronic Communications Code, the new regulation on BEREC and a regulation on the promotion of connectivity in local communities and public spaces.

BEREC has already publicly endorsed the European Commission's high-speed connectivity goals set in the Communication on a Digital Single Market Strategy for Europe<sup>1</sup> and still believes that the current gaps in terms of widespread availability of ultra-broadband connections should be filled through different parallel initiatives – related to the electronic communication sector and adjacent areas as well.

To this end, BEREC welcomes the Commission's proposal for a Communication "Towards a European Gigabit Society", which identifies strategic objectives and relevant measures of different nature, including financial ones, to enhance high-speed broadband connectivity in a time horizon looking at 2025 and beyond.

Being convinced of the suitability to adjust the current legislative framework for electronic communications, in light of the recent market developments, BEREC takes note of the Commission's proposal bearing a European Electronic Communications Code. At the same time, BEREC expresses the need to preserve the successful approach of a framework that has ensured, in the last 20 years, the promotion of both competition and infrastructural investment, as well as a high level of end-user protection, that should not be given up at this stage of the overall digitization dynamics.

Looking at the newly introduced regulatory objectives, as already referred to in its December Opinion<sup>2</sup>, BEREC points to the fact that efficient investment in new and

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<sup>1</sup> BEREC statement of 12 May 2015, available at [http://bereg.europa.eu/eng/news\\_and\\_publications/whats\\_new/3034-bereg-welcomes-the-ec-initiative-on-a-digital-single-market-strategy-for-europe](http://bereg.europa.eu/eng/news_and_publications/whats_new/3034-bereg-welcomes-the-ec-initiative-on-a-digital-single-market-strategy-for-europe)

<sup>2</sup> BoR (15) 206 BEREC Opinion on the Review of the EU Electronic Communications Regulatory Framework of 10 December 2015, available at [http://bereg.europa.eu/eng/document\\_register/subject\\_matter/bereg/opinions/5577-bereg-opinion-on-the-review-of-the-eu-electronic-communications-regulatory-framework](http://bereg.europa.eu/eng/document_register/subject_matter/bereg/opinions/5577-bereg-opinion-on-the-review-of-the-eu-electronic-communications-regulatory-framework)

enhanced infrastructures constitutes a regulatory principle already set out by the current framework and that both BEREC and NRAs are fully committed to it.

While sharing the Commission's objectives around ultra-fast fixed broadband and 5G deployment, BEREC is convinced that, in line with the subsidiarity principle enshrined in the Treaty, the NRAs' ability to intervene where necessary at national level, taking due account of the specific market circumstances, should be preserved and, in this respect, any form of unnecessary centralization should be avoided.

Concerning the measures proposed by the Commission around access regulation, BEREC supports the proposed expansion of the NRAs' toolbox and is of the view that competitive dynamics should be maintained also in an NGA context. In this context, BEREC believes that regulation will still be necessary in non-competitive oligopolistic markets, which needs to be reflected in the framework. Furthermore, with a view to investment, the new regulatory system should ensure legal predictability and, to this end, be as simple as possible.

Regarding the changes proposed as to the sectoral institutional layout, BEREC does welcome the proposed standardization of the NRAs' institutional tasks, together with the strengthened independence provisions. Being ready to take on new duties, BEREC believes that its bottom-up structure should not be replaced – with no evidence of failure – by one which would cancel its landmark capacity to promote regulatory best practice, building on the market realities of member NRAs. We do believe that the single market cannot be successfully pursued without well-functioning national markets. Therefore it is essential that NRAs have significant roles both on national and European levels.

The winning model of a BEREC rooted in the regulatory experience of its member NRAs should hence not be disrupted, with a view to producing a regulation which should be feasibly applicable in national contexts and, while its competences should be enhanced within the European regulatory mechanisms, its standing, or the Commission's, should no way replace the NRAs' primary competence in defining remedies needed on national markets.

BEREC will now proceed to a thorough examination of the Commission's proposals and will release an extensive analysis of the relevant provisions. In the performance of its statutory duties, BEREC also remains at the disposal of the legislators, as they begin their work, for any advice that might be required.