

Draft

BEREC

Work programme 2018

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I. Introduction

The Body of European Regulators for Electronic Communications (BEREC) was established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009. According to Article 5 (4) of this Regulation, the BEREC Board of Regulators shall, after consulting interested parties, adopt the annual Work Programme of BEREC before the end of each year preceding that to which the Work Programme relates. The Board of Regulators shall transmit the annual Work Programme to the European Parliament (EP), the Council and the European Commission (EC) as soon as it is adopted.

BEREC aims to ensure the independent, consistent and high quality application of the European regulatory framework for electronic communications for the benefit of Europe and its citizens. The BEREC Work Programme 2018 is based on the BEREC Medium-Term Strategy 2018-2020 and takes the following five strategic priorities into consideration:

- Responding to connectivity challenges and to new conditions for access to high-capacity networks
- Monitoring potential bottlenecks in the distribution of digital services
- Enabling 5G and promoting innovation in network technologies
- Fostering a consistent approach of the net neutrality principles
- Exploring new ways to boost consumer empowerment.

The Work Programme 2018 mirrors BEREC's commitment to serve as a body for reflection, debate and advice for the European Parliament, the Council and the European Commission in the electronic communications field. Furthermore, BEREC would like to play an important role in further improving the consistent application of regulatory rules, to enhance its working methodology and to engage cooperatively and effectively with stakeholders.

The BEREC Work Programme 2018 was discussed and agreed on at the BEREC Board of Regulators meeting in Bucharest on 5-6 October. In line with the practice of previous years and in accordance with Article 5 of the BEREC Regulation, the BEREC Work Programme is subject to consultation. The public consultation runs from 11 October to 8 November 2017, in order to increase transparency and BEREC would like to invite all stakeholders to an open discussion .

Sébastien Soriano, ARCEP

Chair 2017

Johannes Gungl, RTR

Chair 2018

II. Background

The market for electronic communication is changing rapidly in ways that pose new challenges and questions for regulators in areas such as the end-user experience, competition and investment as well as in how the digital dividend is distributed among consumers and the different players in the digital ecosystem.

These developments have been identified in the BEREC Medium-Term Strategy 2018-2020. Upon those, BEREC formulated five strategic priorities for the upcoming three years which provide the basis for the BEREC Work Programme 2018. In this sense, the Work Programme seeks to address current regulatory challenges, and to prepare for the new challenges ahead resulting from market, technological and social developments.

While BEREC's Mid-Term-Strategy lists 5 areas of strategic priorities, an important focus for the 2018 Work Programme will be on "5G": Even though the next generation mobile networks will likely not be operational until 2020, BEREC would nevertheless like to prepare itself proactively for the upcoming challenges in order to support the consistent 5G deployment across the Member States (MS). The challenges that need to be addressed range from work on standards, interoperability and new business models, to network sharing, coverage and security. The Work Programme 2018 will, within the scope of its competence, actively and closely follow the development of 5G.

A further focus of BEREC's work next year is on consumer empowerment. On the basis of its Mid-Term-Strategy, BEREC aims to play a more active role in assessing and promoting consumer empowerment and consumer protection. In this context, BEREC will, in 2018, analyse the practise of termination of contracts as well as the switching processes, will have a look at similarities of contracts and will evaluate a single European contract information sheet.

Furthermore, BEREC will also continue to contribute to a consistent application of the net neutrality rules, for example by providing a forum for national regulatory authorities (NRAs) to exchange views and experiences on the implementation of the Regulation and by implementing a net neutrality reference measurement system.

Another important topic for BEREC's 2018 work will still be the Framework Review. BEREC will continue to provide insights and advice to the European Parliament, the Council and the European Commission.

These and other areas BEREC will concentrate on in 2018 will be presented and discussed in more detail in the following sections.

In addition to the list of work-items identified in this Work Programme, BEREC will continue to follow the mandatory and annually repeating work. BEREC anticipates its continuous involvement in Article 7/7a Phase II cases, which will be addressed by delivering relevant Opinions at highest priority and within strict statutory deadlines. BEREC will also consider possible ad hoc requests for advice from the EU institutions (European Commission, Council and European Parliament) and will complete these requests appropriately and on time.

As in previous years, the implementation of the Work Programme 2018 will be undertaken by Expert Working Groups (hereinafter EWGs), comprised of experts from NRAs who participate in BEREC as members or observers. Each EWG addresses a number of topics, analyses the

relevant issues and prepares inter alia reports for discussion and adoption by the Board of Regulators (BoR). BEREC believes that this well-established “bottom-up” approach, drawing on and informed by NRAs’ on-the-ground-experience of the implementation and impact of regulation at the national level, is what makes its outputs particularly relevant and valuable. The support of the BEREC Office is of key importance for the success of the BEREC Work Programme 2018. Under the guidance of its Administrative Manager, the BEREC Office provides professional and administrative support services to BEREC and its EWGs.

Finally, BEREC will continue to follow the approach whereby NRAs work together to elaborate Common Positions (CPs), guidelines and best practices and will continue to engage with stakeholders in public consultations, industry forums and by making more and easier accessible information available (e.g. by implementing an open data platform).

III. BEREC work in 2018

1. Strategic Priority 1: Responding to connectivity challenges and to new conditions for access to high-capacity networks

Very high-capacity networks have become central for end-users to enable them to enjoy the full potential of the digital ecosystem and access to some non-replicable elements is important to promote and protect competition, but the variance in the deployment of high-speed networks has led to different market conditions across Europe. The BEREC Medium-term Strategy 2018-2020 includes as a strategic priority the continuation of its work on identifying competition problems that may arise in different Member States as high-speed networks are being developed and legacy networks phased out or where markets have become mature – with the intention to increase awareness on how incentives to invest change with changing market conditions and how competition is affected. The Work Programme 2018 therefore includes the following activities that contribute to this strategic goal.

1.1. Access to physical infrastructure in market analyses

Duct and pole access have become more and more relevant in the context of increasing infrastructure competition and fixed mobile convergence, where operators need access to the fixed incumbents' ducts and poles to deploy high capacity access and backhaul networks. Additionally, the directive on measures to reduce the cost of deploying high-speed electronic communications networks (2014/61/EU) emphasizes the role of access to physical infrastructure on the deployment of new generation networks, addressing measures, such as the sharing and re-use of existing physical infrastructure, which are expected to create conditions for a more cost-efficient network deployment. Although most NRAs are including duct and pole access in their market analyses, there is currently no clear guidance from the current framework on the relevant market in which it should be included. BEREC considers it especially interesting to identify how NRAs have chosen to address access to physical infrastructure in their market analysis, whether there is a common approach among NRAs, as well as EC views on the approaches proposed by NRAs. The report to be prepared will provide a snapshot of how access to physical infrastructure is regulated among BEREC countries, EC views on NRA decisions, and will also provide an analysis of the opportunity to isolate this market in order to conduct market analyses that would be methodologically robust and consistent with the regulatory framework.

Deliverables

BEREC Report on access to physical infrastructure in market analyses
Public Consultation: No
Adoption in Plenary 4 for publication

1.2. Pricing for access to infrastructure and civil works

The Broadband Cost Reduction Directive (BCRD) is intended to reduce the cost of high speed broadband deployment by increasing transparency on and enabling access to existing physical infrastructure, including non-ECN infrastructure, deployable for high speed broadband networks, by promoting coordination of civil works between different network operators and ECN operators and finally by fostering access to existing passive in-building infrastructure.

In 2017 a report was completed on the „Implementation of the BRC“ giving an overview of the tasks appointed to NRAs and how they were implemented (where this has already been the case). One of the challenges identified in some MS relate to the price setting for access to existing physical infrastructure as foreseen in Article 3.

Since the determination of pricing terms is one of the more complex issues addressed by the BRC it will be studied in more detail in a follow-up report. Pricing terms might become relevant in all three areas of the Broadband Cost Reduction Directive (access to existing physical infrastructure, coordination of civil works, access to passive inbuilding infrastructure). Potential questions arising in this context include, but are not limited to:

- How should prices be determined in cases of Article 3 (physical infrastructure), Article 5 (civil works) and Article 9 (in-building physical infrastructure) by the dispute settlement body?
- How can consistency of pricing across different disputes be ensured? Are case-specific characteristics (e.g. differences in geographical properties or in methods used for civil works) the determining factor of individual prices or can pricing be generalised?
- How can the terminological differences regarding pricing criteria be interpreted from the viewpoint of the dispute settlement body?
- Should the differentiation between cases where the requested network operator is either a public electronic communication network (ECN) operator or a non-ECN operator as mentioned in Article 3 (5) subpara 3 also be applied to cases of Article 5?
- In the case of a non-ECN operator being requested regarding Article 3 or 5: Which cost and risk components should be considered by the dispute settlement body when determining the price?

Deliverables

BEREC Report on pricing for access to infrastructure and civil works

Public Consultation: Yes

Adoption in Plenary 3 for public consultation

Adoption of final Report in 2019

1.3. Geographical market definition

The BEREC Common Position on geographic aspects of market analysis (definition and remedies)¹ was published in June, 2014. After its publication, many of the NRAs have applied this common position in the context of market definition and remedies geographical segmentation, and in October 2014 the EC published a new recommendation on relevant markets. This report is aimed to provide an overview of experiences in NRAs applying geographical segmentation of both markets and remedies. Among other issues, the report will address issues taken into account by NRAs for the definition of subnational markets and/or differentiated remedies, as well as methodologies, tools and other relevant aspects in relation to geographical differences in competition. This report could feed into a future update of the BEREC Common Position on geographical segmentation.

Deliverables

BEREC Report on geographical market definition

Public Consultation: No

Adoption in Plenary 4 for publication

1.4. Benchmarking on technical and economic replicability assessment in the context of symmetrical access

In 2017, BEREC produced a report on NRA experiences of imposing symmetric regulation with a focus on the rationale for and scope of symmetric access interventions and the powers that were invoked to impose symmetric access. Since then, BEREC has produced a position paper to broadly support the EC's proposals to retain the existing provisions on symmetric regulation such that they are coherent with the SMP regulation and to enable NRAs to impose appropriate access obligations where operators lack access to viable alternatives to non-replicable assets. Although the relevant text (Article 59 (2) in the European Electronic Communications Code (EECC)) has not been finalised, the concept of economic and technical replicability is expected to be similar to the relevant text in the current framework (Article 12 (3) Framework Directive (FD)), which states that symmetric obligations can be imposed up to the first concentration point where "duplication of such infrastructure would be economically inefficient or physically impracticable." In this context, this report will set out NRA experiences of assessing technical or economic replicability in order to impose symmetric access requirements. The report will consider how and under which circumstances these tests have been applied, any issues/problems NRAs encountered when applying these tests, and whether further guidance is required from BEREC on applying these tests in the future.

Deliverables

¹

http://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/common_approaches_positions/4439-berec-common-position-on-geographic-aspects-of-market-analysis-definition-and-remedies

BEREC Report on technical and economic replicability assessment in the context of symmetrical access

Public Consultation: No

Adoption in Plenary 2 for publication

1.5. L2 WAP/advanced bitstream offers for undertakings (M4)

BEREC already analysed layer 2 wholesale access products (L2 WAP) in recent years and published a report on common characteristics of layer 2 wholesale access products (BoR (15) 133) imposed as a remedy on the wholesale local access market (market 3a) and the wholesale central access market (market 3b) and also a common position on layer 2 wholesale access products (BoR (16) 162) on these markets.

According to the EC's Recommendation on relevant product markets of 2014, the wholesale high-quality access market (market 4) includes not only leased lines (with traditional and/or alternative interfaces) but also other high-quality access products, if they fulfil certain criteria. Therefore, in recent years, several NRAs not only included high-quality access products other than leased lines, in particular advanced bitstream products, in market 4 but also imposed such products as a remedy on the SMP operator.

In order to get a deeper insight into these products and to contribute to consistent access products as well as to foster the knowledge transfer between NRAs, the project will analyse layer 2 wholesale access products imposed on market 4 with a focus on advanced bitstream products (not including Ethernet leased lines). The objectives are:

- to give an overview of layer 2 wholesale access products currently in place on market 4 based on experiences of NRAs;
- to analyse to what extent layer 2 wholesale access products in different countries have characteristics in common and to identify these common characteristics; and
- to analyse the main differences between layer 2 wholesale access products imposed on market 4 and layer 2 wholesale access products imposed on markets 3a and 3b.

Deliverables

BEREC Report on the L2 WAP/advanced bitstream offers for undertaking (M4)

Public Consultation: No

Adoption in Plenary 2 for publication

1.6. Update on Common Positions markets 3a, 3b and 4

Based on the conclusion of the BEREC Report on the assessment to consider whether there may be a need to review the Common Positions on markets 3a, 3b and 4 that will be adopted in December 2017, BEREC will organize an internal workshop to discuss potential changes arising from the EECC and its impact on the possible revision of the CPs.

Deliverables

Internal Expert Workshop

2. Strategic Priority 2: Monitoring potential bottlenecks in the distribution of digital services

Against a back-drop where the internet continues to change the ways in which digital services are delivered and consumed, where more actors are becoming involved in the digital value chain and where interaction between service and network providers is changing, the second strategic priority of the BEREC Medium-Term Strategy is to evaluate/analyse how the various digital markets evolve in the coming three years – looking particularly at how market power is distributed, the existence of potential bottlenecks to competition and how these can be best addressed. For this strategic priority, BEREC will carry out the following projects.

2.1. Data economy

The role of data becomes increasingly relevant in most sectors of the economy. The telecommunication sector is no exception, especially given its growing interactions with other sectors that are at the core of data economy (online telecommunication platforms, audio-visual content providers, etc.). Taking this into account, BEREC considers that it is important to study implications derived from data economy on the telecommunications sector.

After a global analysis of the impact this trend may have on competition (in particular in terms of barriers to entry), this prospective report will focus in particular on how it might affect the regulation conducted by NRAs at present or in the future.

Given that data economy is a wide topic covering different technologies and business models and that a variety of stakeholders are involved, BEREC plans to develop a series of activities aimed to specify the issues to be addressed. First, a heads workshop at Plenary 2 with key relevant stakeholders involved in data economy will be organised. Second, the relevant EWG will organise seminars with other organisations such as the Organisation for Economic Co-operation and Development (OECD), which has worked extensively in this area. The objective will be to identify the issues related to the transition towards a data-driven economy in Europe that might have to be taken into account by NRAs in the future.

Based on that initial feedback, BEREC will also organize a public consultation to collect different views on this topic and will publish a final report in 2019.

Deliverables

Heads Workshop at Plenary 2

Seminars with stakeholders - second half of 2018

First open public consultation after Plenary 3

Adoption of consultation Report Plenary 4

Adoption of BEREC Report on Data Economy in Plenary 2 2019

2.2. Location of the network termination point

The definition of the location of the network termination point has an impact on the freedom of end-users to choose the equipment used at their customer premises. For example, in case of an internet access service, this definition decides whether end-users have the possibility to use their own router or if they have to use the router provided by the internet access service provider. The reason is that the network termination point represents a boundary for regulatory purposes between the regulatory framework for electronic communications networks and services and the regulation of telecommunication terminal equipment. It is the NRA which has the responsibility to define the location of the network termination point according to the current regulatory framework (Universal Service Directive (USD) recital 6) and this is also foreseen in the proposal of the EC for an EECC (recital 19). The proposal of the EC for a new BEREC regulation includes that BEREC shall issue guidelines on common approaches to identify the network termination point in different network topologies (Article 2 (1e)).

The project has the goal to foster the knowledge transfer between NRAs and to get a deeper insight in the definitions of the location of the fixed network termination point used by NRAs in Europe. This is helpful for NRAs and for BEREC, in case it will get the above mentioned competences in the future.

The objectives of the project are as follows. Firstly, it aims to give an overview of the definitions of the location of the fixed network termination point laid down by NRAs in Europe. Secondly, it aims to identify both the main approaches used by NRAs as well as the major criteria which had an impact on their definition of the location of the fixed network termination point. The analysis will include how the different stakeholders (e.g. network operators, equipment manufacturers, consumers) were involved in the decision of NRAs as well as their position and arguments brought forward regarding the location of the fixed network termination point. The project will take into account the activities of CEPT on the topic "location of the network termination point".

Deliverables

BEREC Report on the location of the network termination point

Public Consultation: No

Adoption in Plenary 3 for publication

2.3. Internet of Things (IoT) Indicators

According to a 2015 study by the European Commission, less than 1% of objects are currently connected to the internet. Nevertheless, the number of IoT connections within the European Union (EU) is estimated to increase from approximately 1.8 million in 2013 to almost 6 billion in 2020. International organisations like the OECD and the International Telecommunication Union (ITU) have already initiated discussions on monitoring the Internet of Things. BEREC's work on the topic so far has focused on enabling IoT. Therefore, BEREC plans to assess the potential to monitor the development of IoT in Europe. The project will also take into account the activities in OECD.

As the number of internet-enabled devices, and consequently the requirements for network resources, increases, there is a need to reflect the importance of this sector in the work of BEREC. The work of this report will be to assess what type of measurement of IoT NRAs are already conducting on the supply-side and/or on the demand-side, and to assess if there is, at this stage, any common set of IoT-related indicators which BEREC could regularly collect in the coming years (possibly from 2019 onwards) in order to provide a realistic statistical overview of the IoT landscape.

The first task will be to formulate a survey for NRAs on what data is collected from the supply-side and/or the demand-side with respect to IoT. This questionnaire will look at the availability of data, examples of survey data collected by NRAs, the reasons for gathering data, and the difficulties encountered in sourcing information through surveys.

Given the relative contemporaneity of IoT, there may not be a significant amount of supply-side data available; however, the report will discuss what legal powers NRAs do/don't have with respect to gathering information on IoT from service providers. Additionally, given the work that the European Commission is doing on the area of the Internet of Things, it will be worth considering, through the questionnaire to NRAs, their views on whether IoT indicators should be benchmarked and, if so, which services, under the broad umbrella of IoT, should be considered. Questions to consider include:

- What types of data measuring IoT are necessary and of most interest to NRAs?
- What definition(s) of IoT devices should be used?
- What is the best way to measure IoT network traffic?

Deliverables

BEREC Report on IoT Indicators

Public Consultation: Yes

Adoption in Plenary 3 for publication

3. Strategic Priority 3: Enabling 5G and promoting innovation in network technologies

BEREC will make 5G a strategic priority in its Medium-Term Strategy with the aim to enable European-scale solutions that may help reap the benefits of early and coherent implementation in terms of innovation, productivity and growth in the internal market. BEREC within its competences in 2018 will actively and closely follow the development of 5G, will work in close cooperation with the RSPG to contribute to the removal of potential hurdles to a smooth and quick implementation in the Member States and will support the consistent 5G deployment across the Member States.

3.1. 5G, IoT and security

While 5G technologies are under development, European countries are preparing the award of new frequencies for their roll-out. The development of IoT, one of the cases foreseen for 5G, has multiplied the number of devices that are connected to the internet via fixed and wireless networks. Some of these devices, which may implement technologies other than mobile, may not meet the necessary level of security and, as a consequence, they may become an internal threat to internet providers and to users themselves.

The same difficulties may arise with the development of 5G and BEREC seeks to strengthen the awareness of its members about network security. To this end, in 2018 BEREC will organize a workshop on 5G, IoT and security that will gather experts from BEREC. The European Union Agency for Network and Information Security (ENISA), relevant standardization organisations and other relevant organisations such as the RSPG will attend

The objective of the workshop is to outline the security issues relating to IoT and to 5G, to consider the proportionality between the level of security and the development of new services and to highlight the potential differences between 4G and 5G with regard to security challenges.

Deliverables

Joint BEREC-ENISA workshop on 5G, IoT and security
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Timing: Plenary 1

3.2. Best practices report regarding spectrum authorization and award procedures with a view to 5G

As 5G technologies are being developed, European countries are considering the granting, amendment or renewal of frequency licences which could accommodate these technologies.

The design of the selection procedures for frequency licences and the conditions attached to these licences may have consequences on the structure of national mobile markets (either by enhancing competition or by limiting it).

NRAs could therefore benefit from an exchange on best practices with regards to the market-shaping aspects of frequency licence granting, amendment or renewal. These aspects concern inter alia the size of spectrum lots, conditionalities between lots, spectrum caps and floors, the geographical scope, attached conditions (such as provision of certain services), the selection criteria and the possible combination of bands (multiband awards).

BEREC will give an overview on the current practices with regards to market shaping aspects in a report. In doing so, BEREC will consider the work already done by RSPG on the subject and exchange with RSPG on the report. Additionally, the ongoing work within COCOM should also be taken into account.

Deliverables

BEREC Best practices report regarding spectrum authorization and award procedures with a view to 5G

Public Consultation: No

Adoption in Plenary 3 for publication

3.3. Infrastructure sharing

In promoting infrastructure sharing, NRAs have been trying to achieve a good balance between the enhancement of competition through infrastructure roll-out and a limitation of the cost and impact of the roll-out of existing mobile networks.

The future roll-out of 5G networks may multiply the number of base stations with the use of small cells and of higher frequency bands than those of existing networks. As a consequence, NRAs may have to revise the existing arrangement existing on infrastructure sharing in their respective countries.

To this end, NRAs would benefit from having a panel of existing infrastructure sharing situations. BEREC will therefore describe in a report the different existing sharing models (passive infrastructure, frequency infrastructure, etc.) and for each of them, the geographical areas in which they are applied, the technology (2G, 3G, 4G) that is used and the legal framework that enables it.

On the basis of the outcome of this report, BEREC's plan is to further continue this work with the aim of drafting a Common Position.

Deliverables

Report on infrastructure sharing

Adoption for publication in Plenary 2

Common position on infrastructure sharing

Adoption for Public Consultation in Plenary 4: Yes

3.4. Best practices report on coverage obligations with a view to 5G

In addition to the market-shaping aspects of the award procedures described above, NRAs may have to elaborate the coverage obligations that will be attached to the future frequency licences, in particular in the bands where 5G technologies will be rolled out.

In doing so, NRAs may wish to have a focus on the coverage of areas which are identified in the joint BEREC-RSPG report on facilitating mobile connectivity in ‘challenge areas’ in particular for indoor coverage and transportation ways.

The objective of this workstream is to collect existing coverage obligations in relation to each challenge area and if possible to identify best practices and to elaborate recommendations that might be helpful when taking into account 5G technologies. The result of the workstream will be compiled in a report. In doing so, BEREC will exchange with RSPG on the report.

If appropriate, this report will be combined with the best practices report regarding authorization and award procedures with a view to 5G.

Deliverables

Best practices report on coverage obligations with a view to 5G

Public Consultation: No

Adoption in Plenary 4 for publication

3.5 Carry-over and follow-up work on monitoring mobile coverage

In 2017, BEREC published a preliminary report in view of a Common Position on monitoring mobile coverage, facilitating a common understanding and fostering a consistent approach on how mobile coverage information can be made available and understandable among NRAs and to the public throughout Europe.

In 2018, further development on this workstream would allow to assess more in detail the range of current NRA practices and provide a clearer picture of the current state of mobile coverage in Europe. In particular, BEREC would explore in depth how each NRA set the metrics defining their mobile coverage and how their respective coverage maps are designed.

The work would benefit from collecting inputs from RSPG and could also take into account the Commission’s broadband mapping initiative.

Deliverables

Common position on monitoring mobile coverage

Public consultation: yes

Adoption for public consultation in Plenary 2

4. Strategic Priority 4: Fostering a consistent approach of the net neutrality principles

The fourth strategic priority of the Medium-Term Strategy is to foster a consistent approach of the net neutrality (NN) principle. Besides the deliverables described below, BEREC will act as a forum that supports national regulators in applying the Regulation in a consistent way throughout Europe. BEREC will continue its work looking at how net neutrality is affected by changes in markets and new technologies and to encourage national regulators to share experience on the practical implementation of the Regulation and the BEREC guidelines.

4.1. Development of a net neutrality measurement tool

This work item shall manage the development process of the measurement tool specified in the 2017 BEREC Report providing practical guidance regarding the technical implementation of a net neutrality monitoring system. Thus, BEREC with support from the BEREC Office shall adopt tender documents and consequently supervise the tendering process, and eventually supervise the development project of the net neutrality measurement tool consisting of the three elements: open source software, reference system and BEREC portal to be set up by the contractors. The supervision shall include technical and governance aspects in line with the 2017 net neutrality regulatory assessment methodology report.

Deliverables

Tender Specification for the development of a net neutrality measurement tool

Public Consultation: No

Adoption in Plenary 1

4.2. Implementation of the NN Regulation

In this workstream, BEREC will monitor the implementation of the net neutrality provisions. Also, BEREC will receive the annual national net neutrality reports and the answers to an internal questionnaire in order to develop an annual European-level net neutrality report. In addition, a forum is facilitated to (informally) discuss national cases and questions relating to the consistent application of the Net Neutrality Regulation, also covering cases of zero-rating. This workstream should build on the experiences from BEREC's 2017 net neutrality workstreams.

Deliverables

BEREC Report on the implementation of the NN Regulation

Public Consultation: No

Adoption in Plenary 4 for publication

4.3. Net neutrality - Input to an evaluation

The TSM Regulation, in particular Articles 3, 4, 5 and 6 (net neutrality provisions), shall be reviewed and the Commission shall submit by 30 April 2019 a report to the European Parliament and the Council, accompanied, if necessary, by appropriate proposals with a view to amending the Regulation.

BEREC will provide an Opinion for the EC in which it will evaluate the experiences with the Regulation and the BEREC guidelines. For this Opinion, BEREC will also take into account upcoming new technologies (such as 5G) and services (specialized services, IoT/Machine to Machine (M2M) services, etc). In this Opinion BEREC will in particular address the relationship between these developments and the Net Neutrality Regulation.

Deliverables

Input to the Review of Regulation 2015/2120

Public Consultation: No

Adoption in Plenary 4 for publication

5. Strategic Priority 5: Exploring new ways to boost consumer empowerment

The focus of increasing consumer empowerment and engagement is to ensure that consumers have the information and tools to make informed choices and engage effectively with the market. In the past, BEREC has preliminary focused on ‘market shaping’ activities that encourage investment and which promote competition and connectivity. BEREC in its Medium-term Strategy aims to complement this work by prioritizing a more active role in the coming three years with assessing and promoting consumer empowerment and consumer protection.

BEREC in 2018 will contribute to this strategic priority by analysing switching processes by having a look at contracts and evaluating a single European contract information sheet.

5.1. Report on termination of contracts and switching of provider

The report will analyse the different aspects that have an impact in the change of a provider considering number portability procedures but also the identification of other matters that may facilitate or hinder switching. A particular focus will be put on bundles (e.g. different legal frameworks of the elements included in a bundle such as electronic communication and audiovisual bundles or switching between heterogeneous bundles) and the practicalities in switching of internet products. This workstream will cover notice periods, data portability (e.g. user profiles), treatment of failures in the process, technical developments (e.g. e-SIM), early termination compensations, contract durations, loss of service during the switching process etc.

On the termination of a contract, after or during the initial commitment period, BEREC will examine the obligations that end-users might have in relation to the termination of such a contract in terms of financial compensations regarding special offers or receiving a terminal equipment.

Deliverables

BEREC Report on termination of contract and switch of provider
Public consultation: Yes
Adoption in Plenary 4 for public consultation

5.2. Report on best practices for ensuring equivalence of access and choice for disabled end-users

One of BEREC’s strategic priorities is empowering and protecting end-users. Under this principle, BEREC recognises the need to take account of the interests of vulnerable consumers, including those with disabilities. In this context, BEREC envisages a fresh look at the provision of electronic communications services for disabled end-users across Europe, in particular focusing on best practices to promote equivalent access and choice.

In line with the previous workshops held by BEREC and the report on the equivalent access and choice for disabled end-users and as a move forward, BEREC will provide a report about best practices of measures and initiatives that have been carried out in this context by the relevant stakeholders (NRAs, equipment manufacturers, providers of electronic communication services, application and content providers, consumer associations and associations representing disabled end-users).

Deliverables

BEREC Report on best practices for ensuring equivalence of access and choice for disabled end-users

Public Consultation: No

Adoption in Plenary 1 for publication

5.3. Report on contractual simplification

In today's electronic communication markets, contracts between providers and end-users take different forms and cover different categories of information. It is important that such contracts provide clear and relevant information helping end-users to take informed and correct decisions when acquiring electronic communication services.

With the end-users being in the centre of its actions, BEREC constantly addressed these issues in its work programmes in the previous years. In order to continue the work in this direction, BEREC will provide a benchmark report on contractual simplification, covering in particular a simplified information sheet – comparing the applicable rules and formats, the monitoring procedures, the costs incurred, the benefits achieved and the developments in the market in general. This work will constitute the basis for developing a "single" European contract information sheet.

Deliverables

BEREC Report on contractual simplification including a single European contract information sheet

Public consultation: Yes

Adoption in Plenary 3 for publication

5.4. European Benchmark of the pricing of bundles

In the context of convergence and an increasing number of fixed-mobile mergers, markets are evolving towards convergent products. Following this trend, in more and more countries, the most competitive prices are set for triple, quadruple and quintuple bundles, with fixed voice usually included in fixed broadband services.

Therefore, stand-alone benchmarking cannot reflect the actual real prices faced by customers in a convergent world and the price for stand-alone services is no longer a good proxy on how prices are evolving. A benchmark to collect data on the prices of different products typically consumed in a household is needed.

This benchmark would allow for a realistic comparison of the expenses for telecommunication services faced by consumers. The benchmark would utilise empirical evidence to allow price checking, should the arguments raised by operators for much cheaper bundle prices actually hold.

A key requirement for this project is a database of tariffs based on pricing information from all 28 EU Member States. Given that this project involves the contracting of an external service provider, its completion is foreseen in 2019. This project is split into two separate phases:

- Phase 1: Definition of the questionnaire/fields to be collected by the external service provider for the purpose of comparing prices and prepare the tender specifications. This will be presented at P2 2018.
- Phase 2: Supervision the tendering process and definition of a methodology to compare bundle prices (to be completed in the second half of 2018); make the comparison based on the defined methodology and using the database of tariffs. The final benchmarking report will be presented at P2 2019.

Deliverables

Report on European Benchmark of the pricing of bundles (Phase 1)

Public Consultation: No

Adoption in Plenary 2 for publication

6. BEREC obligatory work and stakeholders engagement

Framework Review

6.1. Inputs to the legislative proposals in the context of the EC Regulatory Framework and the e-privacy directive

The Review of the Regulatory Framework will remain a key priority in the Work Programme 2018 since the discussions on the Review of the Framework will still be ongoing next year. BEREC is carrying out further investigations on additional themes and in 2018 intends to keep monitoring the ongoing legislative process and the relevant positions progressively consolidating at the European Parliament and the Council. BEREC would provide its expert input on the subjects at stake.

Deliverables

Inputs to the legislative proposals

6.2. Ad-hoc work: Inputs to the European Commission

The European Commission is working on the review of the TR Recommendation and on the SMP Guidelines. BEREC will continue to actively participate in this process and provide its inputs and opinion. The deliverables will be adapted depending on the process finally chosen and followed by the European Commission. In addition, the European Commission, by the end of 2018, according to the Roaming Regulation has to provide an interim report about the summarising the effects of the abolition of retail roaming surcharges. BEREC, as done in the previous years, will provide its input to the Commission.

The deliverables will be adapted depending on the process finally chosen and followed by the European Commission.

Deliverables

Tbd

Roaming

6.3. International Roaming BEREC Benchmark Data Report

In accordance with Article 19 of the Roaming Regulation, BEREC shall regularly collect data from NRAs on the development of retail and wholesale charges for voice, SMS and data roaming services. These data have to be provided to the European Commission at least twice a year. On the basis of the collected data, BEREC shall also regularly report on the evolution of pricing and consumption patterns in the Member States both for domestic and roaming services and the evolution of actual wholesale roaming rates for balanced and unbalanced traffic between roaming providers.

BEREC will continue to monitor the Roaming Regulation's functioning, the provider compliance, compiling information on trends in traffic volumes and pricing at retail and wholesale level for both domestic and roaming services, and producing two benchmark reports covering the periods April 2017-September 2017 (20th Benchmark Report) and October 2017-March 2018 (21st Benchmark Report).

Deliverables

20th International Roaming BEREC Benchmark Data Report

Adoption in Plenary 1 for publication

21st International Roaming BEREC Benchmark Data Report

Adoption in Plenary 3 for publication

6.4. Transparency and Comparability of Roaming Tariffs Report

In accordance with Article 19 of the Roaming Regulation, BEREC will collect information from NRAs on the transparency and comparability of different roaming tariffs offered by operators to their customers. The information gathered from NRAs and operators will be used to prepare the 5th Report on Transparency and Comparability of Roaming Tariffs, which seeks to identify issues that need to be addressed, in particular with respect to new Roam-like-at-Home offers, the Fair Use Policies implementation and the roaming surcharges application to ensure the operators' sustainability.

Deliverables

Report on Transparency and Comparability of Roaming Tariffs

Public Consultation: No

Adoption in Plenary 4 for publication

6.5. Input to the EC on weighted average MTRs

According to Art 6e (2) of the Roaming Regulation as amended by Regulation 2015/2120, the European Commission has to review the Implementing Acts setting out the weighted average of maximum mobile termination rates every year in accordance with the same procedure. BEREC needs to give input to the European Commission on this matter once a year.

Deliverables

Input to the EC

Adoption by Electronic Clearance in October 2018

Quality and efficiency (Benchmarking)

6.6. Termination Rates at European level

In 2018, BEREC will continue to produce semi-annual benchmarks on mobile and fixed termination rates as well as on SMS. The Termination Rates (TRs) data collected from BEREC members and Observer States aims to monitor the evolution of TRs and the cost model/methodology adopted for the calculation of TRs. These benchmarks have reached a satisfactory level of maturity and have proved extremely useful, not just for monitoring consistency but also in the regulatory process.

Deliverables

Report on Termination Rates at European level
Public Consultation: No
Adoption in Plenary 2 and Plenary 4 for publication

6.7. Regulatory Accounting Report

The Regulatory Accounting Report will be updated again in 2018 with data collected from NRAs, with the intention to assess the degree of consistency in regulatory accounting across the EU and to identify differences among Member States which may have arisen as a result of different implementations of the same regulatory approach.

In 2018, emphasis will continue to be given to consistency in regulatory accounting with respect to key access products (incl. e.g. fibre) and will seek to increase the detail and the in-depth analysis of the methods covered to identify communalities and reasons for differences. The report aims at investigating more in depth how far further alignment among Member States could be achievable starting from the conclusions of the latest report, as well as covering the motivation behind NRA choices of the regulatory accounting and costing methodologies linking both to find patterns (maybe in the form of a matrix). The analysis will also aim at distinguishing whether differences in the results are due to differences in the application of the method or are an expression of differences in the value of parameters due to national circumstances.

Moreover the report will continue to collect data on the methodology and input parameters used to calculate the rate of return on capital employed and look into the impact of both on the result.

Furthermore, the report will also include an overview of the costing methodologies applied with a view to the Recommendation on Consistent Non-Discrimination Obligations and Costing Methodologies (2013/466/EU) of 11 September 2013.

The overview with regard to the actual implementation of the Termination Rates Recommendation 2009/396/EC of 7 May 2009 and the costing methods applied for the purpose of determining TRs will be continued. Currently the Commission is reviewing the TRR which may lead to an adjustment of the RA Report in the future.

Deliverables

<p>Report on Regulatory Accounting</p> <p>Public Consultation: No</p> <p>Adoption in Plenary 4 for publication</p>
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6.8. Response to the Commission's consultation on WACC calculation

The European Commission plans to run a consultation by the end of 2017/beginning of 2018 on "Guidance on the WACC calculation". BEREC will be required to respond to the consultation and provide input to the Commission's thinking.

Deliverables

<p>Input to the Public Consultation of the EC and publication</p> <p>Adoption in Plenary 1 or Plenary 2</p>

Communication and Cooperation

BEREC in its Mid-term Strategy commits itself to continue to engage cooperatively and effectively with stakeholders and enhance its cooperation with the EU institutions and international fora. The following activities are contributing to reach this goal.

6.9. BEREC Annual Reports

According to Article 5.5 and Article 3.1 (n) of BEREC Regulation (EC) 1211/2009, BEREC is required to present an Annual Report of its activities every year, as well as an Annual Report on developments in the electronic communications sector. BEREC will continue to publish these two reports together as Part A and Part B of a single document.

Whereas the Annual Report on BEREC activities focuses on the outcome of the work of its EWGs and ad-hoc teams based on the Work Programme, the Annual Report on developments in the electronic communications sector summarises BEREC's view on the past year as well as a perspective of future developments and challenges in the sector.

Deliverables

<p>BEREC Annual Reports 2017</p> <p>Public Consultation: No</p> <p>Adoption in Plenary 2 for publication</p>
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6.10. Development of an Open Data platform

BEREC collects various data from NRAs and operators, which are currently published in several reports (Termination Rates, International Roaming Benchmark Report, etc.). As these reports are only published as PDF, it is quite difficult for external bodies to analyse and further process the data where necessary. Therefore, the project aims to offer stakeholders the non-confidential data on the BEREC website in an easily accessible, functional and usable format (“Open Data”).

The first task will be to assess what the relevant (non-confidential) data collected are and which data BEREC may wish to make public. Additional steps will include tendering for a consultant to develop the platform, which will require an elaboration of tender specifications.

Deliverables

Internal Report on feasibility and potential next steps

Adoption in Plenary 1

6.11. Stakeholders' Forum

Building upon the very positive experiences BEREC has made in the previous years, the 6th Stakeholders' Forum will continue to provide a platform for strategic dialogue, which will enable participation by all members and key stakeholders and ultimately increase transparency.

The feedback received in this context will be an important complement to the written inputs received through public consultations and other discussions that take place, and will reflect on key developments and future challenges for the sector as well.

Deliverables

BEREC Stakeholders' Forum in Q4/2018

6.12. Cooperation with EU institutions and institutional groups

BEREC will continue to engage with the European Commission, the Council and the European Parliament, providing advice and opinions on draft decisions, recommendations and guidelines, and taking on any questions related to electronic communications that fall within the scope of its competence. In 2018, the continuation of this fruitful cooperation with the EU institutions will be a key factor and of crucial importance for a successful review of the legal framework of the electronic communications sector and a successful Digital Single Market Strategy.

In addition to carrying out its advisory duty for all EU institutions, BEREC will also promote in 2018 thematic exchanges with other European regulatory cooperation platforms and bodies,

operating both in adjacent and different economic sectors, such as RSPG, ENISA, ERGA², ERGP³ and ECN⁴. Furthermore we will intensify our cooperation with the OECD⁵:

Based on the European Commission's eventual legislative proposals, BEREC will identify specific lines of cooperation with the relevant EU regulatory platforms.

6.13. International cooperation

Each year it becomes ever more necessary for BEREC to engage in a dialogue with NRAs based outside the EU, as well as with international regulatory networks, policy makers and institutions involved in electronic communications matters.

The increasing volume of electronic communications flowing in and out of the EU and the globalisation of the communication industry (just as with other industries) means that policies, legislation and regulations have to be seen from beyond just the European perspective, taking into account the global perspective. BEREC will need to closely follow international trends in technology and changing business models, so that it retains the capacity to address challenges swiftly and effectively as they arise.

Additionally, regions outside the EU regulators' networks have been expressing great interest in the European regulatory approach.

In 2018, BEREC will continue to develop and strengthen contacts with international regulatory authorities and organisations, such as the FCC⁶ and ITU, and with regional regulatory networks (EMERG⁷, EaPeReg⁸ and Regulatel⁹), in accordance with the BEREC Regulation and in cooperation with the EU external action services.

² European Regulators Group for Audiovisual Media Services

³ European Regulators Group for Postal Services

⁴ European Competition Network

⁵ Organisation de Coopération et de Développement Économiques

⁶ Federal Communications Commission (United-States)

⁷ Euro-Mediterranean Regulators Group

⁸ Eastern Partnership Electronic Communications Regulators Network

⁹ Latin American Forum of Telecommunications Regulators

Abbreviations

BCRD	Broadband Cost Reduction Directive
BEREC	Body of European Regulators for Electronic Communications
BoR	Board of Regulators
CP	Common Position
EC	European Commission
ECN	Electronic Communication Network
ECS	Electronic Communication Services
EECC	European Electronic Communications Code
ENISA	European Union Agency for Network and Information Security
EP	European Parliament
EU	European Union
EWG	Expert Working Group
FD	Framework Directive
IoT	Internet of Things
ITU	International Telecommunication Union
M2M	Machine to Machine
OECD	Organisation for Economic Co-operation and Development
QoS	Quality of Service
RSPG	Radio Spectrum Policy Group
TCPI	Technical and Commercial Practices Investigation
TR	Termination Rates
USD	Universal Service Directive