



Cable Europe

Body of European Regulators for
Electronic Communications (BEREC)
Z. A. Meierovica Bulv. 14
Riga LV-1050,
LATVIA

November 4, 2011

Dear Sir or Madam,

Re: Cable Europe response to BEREC draft work programme 2012

Cable Europe would like to thank BEREC for consulting the industry on its draft work programme for 2012.

We have carefully examined the proposed programme and have no major comments to make. We would however take this opportunity to highlight the fundamental importance in BEREC taking an appropriate, proportionate and considered regulatory approach - not just in finalizing its programme of work but in undertaking the specific elements of it.

In particular we consider it vital for BEREC where possible to exercise restraint, to maintain regulatory rigor and consistency, and to have due regard to regulatory best practice and proven approaches. This is particularly important at the current time against the backdrop of the challenging economic climate and the growing pressure to stimulate and accelerate the deployment of NGA networks.

In this regard, Cable Europe believes it is vital that both BEREC and NRAs continue to promote infrastructure based competition. Infrastructure-based competition is a key driver for growth and productivity and the beneficial consequences that it delivers for end users have been widely proven. For example history has shown that where cable operators have invested other providers have been incentivized to follow suit, leading to cyclic waves of counter investment and innovation by competing infrastructure providers. We believe therefore that BEREC should hold as a principal objective the realization of the full potential of privately funded, infrastructure based competition - and that this philosophy should be the default approach pursued in the first instance by all NRAs.

We would highlight also the risk that mis-targeted regulatory intervention poses to existing (and future) investments. As a case in point we would remind BEREC of the benefits that cable operators have brought to the market. Cable Europe members reinvest, on average, 23% of their turnover in their networks - a figure



far in excess of other market players. Of particular note is the role that this has enabled cable to play in the achievement of the Digital Agenda objectives. Within their network footprints, cable operators have already satisfied two of the broadband targets, with strong progress being made towards the third.

We welcome therefore the reference made under point 3.6 NGA – Access, regarding the proposal to examine in more detail the relevance of cable competition as well as BEREC’s intention to publish a report on the different mechanisms to promote broadband adoption. Enclosed we are happy to provide a copy of a report commissioned to Solon: “Broadband on Demand - Cable’s vision for 2020”

With respect to the revision of the state aid guidelines, we would encourage BEREC and its members to take a more active role in the mapping of broadband coverage across the Union and within Member States given their evident knowledge and experience in their respective territories, this we believe will reduce the risk of inappropriate publicly funded broadband infrastructure projects emerging on the basis of incomplete or inaccurate supply side evaluations.

We would in addition highlight the importance of taking a technology neutral approach. A restricted technology focus on, for example, Fttx as the principal technology for delivering the Digital Agenda broadband target is not realistic and could be potentially misleading to ongoing policy debates and subsequent decision making. Moreover it could lead to the distortion of competition and investment incentives. Cable Europe therefore calls for national regulators and BEREC to support - without any priority – the various technologies that are capable of delivering high speed broadband services to European citizens.

With respect to BERECs work on net neutrality we underline that transparency and consumer understanding is a critical component in ensuring that end users are sufficiently informed in order to be able to make their own choices about the service they require. We also note that the continued growth in traffic will simply not be able to take place without consumer-experience focused traffic management to ensure a robust and efficient functioning of the network – which is, after all, a finite, shared resource; finally we do not support co-regulation in a market where self regulation and self-sanctioning act as much swifter corrective tools for increasingly demanding consumers who have many public avenues to address grievances.

We welcome the opportunity to respond to this consultation, and we look forward to engaging with BEREC as it progresses its programme of work over the coming year.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Caroline Van Weede', written in a cursive style.

Caroline Van Weede
Managing Director