

Public consultation on the draft report on Article 28(2) Universal Service Directive: a harmonized BEREC cooperation process

Run from 5 October to 16 November 2012

The 2009 EU regulatory framework has introduced a new version of Article 28(2) of the “Universal Service Directive”¹ (hereafter referred to as “USD”). The revised provision establishes the requirement for EU Member States to “ensure that the relevant national authorities are able to require undertakings providing public communications networks and/or publicly available electronic communications services to block, on a case-by-case basis, access to numbers or services where this is justified by reasons of fraud or misuse and to require that in such cases providers of electronic communications services withhold relevant interconnection or other services revenues”. Neither of the terms “fraud” nor “misuse” were specifically defined within the USD. As a consequence, when adopting the relevant national legislation transposing EU law, different countries use different definitions for each of these concepts, and this complicates a harmonised European application of this measure, in particular as regards cross-border cases.

Therefore in compliance with its Work Programme 2012 on 27 September 2012 discussed and approved for public consultation a [draft report on Article 28\(2\) Universal Service Directive: a harmonised BEREC cooperation process](#). The consultation was run from 5 October to 16 November 2012 with the objective to provide BEREC with valuable feedback from all interested parties. In the period of the consultation BEREC received 13 individual contributions from: [The Telecommunications United Kingdom Fraud Forum-TUFF](#); [Vodafone](#); [eircom Group](#); [France Telecom – Orange](#); [GSMA Europe](#); [Cable & Wireless Worldwide \(CWW\)](#); [VERIZONE](#); [Telecom Italia](#); [Federation of Communication Services \(FCS\)](#); [BT](#); [ETNO](#) and [Telekom Austria](#).

Following the consultation process, BEREC approved a [Guidance paper](#), which highlights the background to fraud or misuse and its potential impact on end-users through falling foul of instances of fraud or misuse, or for example through a potential lack of confidence in the integrity of numbers.

The Guidance was approved by BEREC during the 14th meeting of the Board of Regulators, held in Ljubljana on 7 and 8 March 2013. It should be read in conjunction with the comments received by the respondents during the consultation process, as provided above (with the exception of the confidential ones), and the [Consultation Response Analysis Report](#).

¹ “Universal Service Directive”, Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009, amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services.

List of all documents related to the consultation

Reg. №	Document Title or Name of Contributor
Document subject to consultation:	
BoR (12) 85	Article 28(2) Universal Service Directive: a harmonised BEREC cooperation process - Consultation paper
List of all individual contribution received by BEREC:	
BoR PC 11 (12) 02	The Telecommunications United Kingdom Fraud Forum – TUFF
BoR PC 11 (12) 03	Vodafone
BoR PC 11 (12) 04	eircom Group
BoR PC 11 (12) 05	France Telecom – Orange
BoR PC 11 (12) 06	GSMA Europe
BoR PC 11 (12) 07	Cable & Wireless Worldwide (CWW)
BoR PC 11 (12) 08	VERIZONE
BoR PC 11 (12) 09	Telecom Italia
BoR PC 11 (12) 10	Federation of Communication Services (FCS)
BoR PC 11 (12) 11	BT
BoR PC 11 (12) 12	ETNO
BoR PC 11 (12) 13	Confidential contribution
BoR PC 11 (12) 14	Telekom Austria
Documents approved by BEREC after the public consultation:	
BoR (13) 36	Article 28(2) Universal Service Directive: a harmonised BEREC cooperation process - Consultation Response Analysis
BoR (13) 37	Article 28(2) Universal Service Directive: a harmonised BEREC cooperation process - BEREC Guidance paper
Other related documents:	
BoR PC11 (12) 15	History of the public consultation on the draft report on Article 28(2) Universal Service Directive: a harmonized BEREC cooperation process