

# **BEREC Strategy 2018-2020**

**ETNO contribution  
(marked in Blue)**

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## Introduction

BEREC, the Body of European Regulators of Electronic Communications) was established by Regulation (EC) 1211/2009. BEREC's membership comprises the 28 independent NRAs of EU Member States. The European Commission, EEA countries and EU accession countries also participate in BEREC work as observers. BEREC is supported by the BEREC Office in Riga.

BEREC, as stated in its mission, aims to ensure the independent, consistent and high quality application of the European regulatory framework for electronic communications markets for the benefit of Europe and its citizens.

Based on BEREC's almost seven years of experience, it can be stated that the two-tier approach, involving the Board of Regulators and the BEREC Office<sup>1</sup>, has worked well. BEREC has successfully produced professional and high quality deliverables in accordance with its annual work programmes based on its triannual strategy and also in response to various ad-hoc requests of the European Commission, the European Parliament and the European Council. Further to this it has become a platform for regulators exchanging experiences and developing best regulatory practices ("Common Positions") in order to apply the regulatory framework consistently across the EU thus developing the internal market for electronic communications further.

In 2014 BEREC adopted its Medium Term Strategy 2015 – 2017 and laid down three overarching objectives on which annual work programmes are based:

- Promoting competition and investment;
- Promoting the internal market;
- Empowering and protecting end users.

These three fundamental objectives continue to be relevant to guide the work of BEREC for the coming three years, though, inevitably, the strategy for 2018-2020 will need to be updated to reflect the fast changing technological and market development expected for the period.

In this context, the objective of this document is to update BEREC's strategy for the period 2018-2020, by identifying specific strategic priorities, that takes these market and technological developments into account.

BEREC acknowledges the ongoing legislative process on the review of the electronic communications framework, and in particular the discussions in the debate around the objective of promoting fixed and mobile connectivity. BEREC considers that this political priority is already underlying in the current framework and should be acknowledged.

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<sup>1</sup> The two-tier approach refers to the structure of BEREC consisting of the Board of Regulators taking all regulatory decisions which has no legal personality and the BEREC Office which is an EU agency supervised by the Management Committee made up of the 28 EU-NRAs and the European Commission.

## Market and technological developments<sup>2</sup>

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

The continuing transition to next generation fixed and mobile broadband access and the increasing trend among consumers towards internet enabled services (as opposed to traditional telecom services) are underpinned both by technological developments in networks and terminal equipment and by a greater willingness by end-users to buy and use services in new ways. High speed broadband connectivity is increasing as operators respond to end-user demand for fast, seamless and reliable connectivity.

**Very high-capacity networks** have become vital for end-users to realise the full potential of the digital ecosystem and access to these networks has become essential for competition to continue to benefit consumers and businesses. The deployment of these high-capacity networks in Europe does not follow a single path when it comes to when, how and by whom these networks are being built<sup>3</sup>. In some Member States FTTH networks have already replaced large parts of the legacy copper access network, in other Member States existing infrastructure such as cable networks is being upgraded and in yet other Member States the transition to next generation networks is still waiting to gain momentum. This variance in the deployment of high-capacity networks has led to **heterogeneous market conditions** across Europe and in some Member States concerns have been expressed over the emergence of oligopolistic market structures or sub-national local fixed access monopolies.

The considerable investment needs of high-speed communications networks and the increasing demand for spectrum has led to an increased level of cooperation between ECS operators in several Member States.

While **network sharing** may be an efficient way to reduce cost, such arrangements might also limit the level of infrastructure competition unless competition law principles are respected.

As spectrum becomes an even more important resource to manage due to several competing needs of wireless technologies, such as 5G or **fixed wireless access**, spectrum

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<sup>2</sup> In March 2017 BEREC launched a stakeholder consultation, seeking answers to a number of questions relating to developments affecting the end-user experience, the evolution of networks and the competitive dynamics in the digital ecosystem. BoR (17)38

<sup>3</sup> BoR(16)171 – Challenges and drivers of NGA rollout and infrastructure competition

sharing is another area in which cooperation between ECS operators might increasingly be explored.

The wider access to-, higher quality and more resilient internet based services has played an important role in accelerating the transition to digital services and the wider **digital ecosystem**, be it for banking, social, entertainment or communication purposes. The digitalization of services has greatly increased the number and variety of different services and service providers competing at retail level. While this separation of service distribution from the network layer has done much to improve competition and innovation at a service level, there is the potential that **new bottlenecks** may emerge in the service distribution chain. Device manufacturers, on-line platforms and content providers can have positions in new emerging value chains that enables them to adversely affect the competitive dynamics on digital markets.

The relationship between traditional telecom operators and OTT providers has also changed much during the last number of years as **data-driven business models** for telecom operators have replaced the old models based on voice and SMS. Traditional network access providers, facing the risk of disintermediation, have entered into different forms of partnerships or **cooperation with OTT providers** that aim to increase brand exposure, provide higher value to end-users and promote more data consumption that can also deliver indirect cross-benefits to other interlinked partners of platforms.

There are also examples where the interaction between the network and service level is taking the form of cross-sector mergers. **Bundles** are no longer limited to a number of vertically integrated telecom and audio-visual services but are increasingly being designed to provide better access to popular internet-based content and services, usually through promotional prices or through so called “zero-rated” access.

While consumers may benefit from the efficiency of one-stop shops, this might also make them more dependent on their providers and the increasing complexity and heterogeneity of bundles could make it more difficult for them to properly compare propositions and exercise informed choice. With an increasing value of data, for both the providers and the end-users, there is also a risk that the inability to transfer personal data from one provider to another could become a barrier to switching. This could create new barriers to switching and dampen some of the benefits of competition.

As more players have become involved in the distribution of digital services, it has become more difficult for **end-users** to understand the factors influencing their experience of using digital services. The download speed, once of paramount importance for understanding what quality to be expected, is now just one of many several aspects determining the quality of experience for end-users. Service providers and regulatory agencies have been providing data on the characteristics of service provision using supply side indicators that measure network speed, jitter, latency and reliability.

As the digital ecosystem becomes more complex, there will be an increasing need to ascertain the drivers of consumer engagement with digital services from a demand side perspective, to complement data on **supply side aspects**. Better and more granular information for people and businesses on the availability, speed, quality and pricing of services and indicators as experienced in the end-user environment when using internet

based services will play a greater part in their ability to engage with the market and switch providers. The **protection and empowerment of consumers**, for example around issues such as billing, affordability and switching, is essential to the effective functioning of a digital society. In this context, the availability of choice and the ability to exercise that choice freely among service offers, principles that were recently reaffirmed with the adoption of the EU rules on **Net Neutrality**, needs to be safeguarded through effective monitoring and implementation by national regulators.

The shifts in technology and usage patterns, while leading to an increased consumption of digital services, might also increase the risks of digital exclusion as the digital ecosystem evolves from being primarily about value added services to becoming an essential utility. The development and benefits of the digital society requires that all citizens are connected so that they can experience the benefits of digital innovations and the digital market. Digital exclusion can manifest itself in new and different ways and its consequences will be greater as more and more services are only enabled by high capacity networks and as IoT becomes more prevalent in day to day life.

At the same time, the open nature of such a fast evolving and complex ecosystem means issues like data protection, privacy and network security are becoming more important aspects of the end-user experience and with improved means of data analysis and more data available as more users or “things” are connected, the use and the value of data is steadily increasing.

Technologies that are still at their formative stage, like 5G, Network Function Virtualization (NFV) and Software Defined Networking (SDN), have the potential to bring further benefits such as lower cost for building and operating networks and to enhance the possibility to design more flexible network topologies that can accommodate different services or specific QoS requirements at different moments in time. Although it is possible to make some early observations on how these technologies will affect the end-user experience and change competitive dynamics (e.g. 5G may lead to a further development of IoT, that spectrum resources need to be available to advance 5G and that it may be important to look at this from a broader perspective) the role of regulators will be to balance the need to foster an open and competitive environment with the need to enhance network integrity and security and protect consumer interests.

## **BEREC Strategic Priorities 2018-2020**

In 2014 BEREC adopted its Medium Term Strategy 2015 – 2017 and laid down three overarching objectives on which the annual work programmes are based:

- ETNO welcomes the fact that BEREC reiterates its strategic objectives. We would nonetheless like to reiterate that the overriding objective of the regulatory framework and its implementation should be to provide society with best-in-class connectivity. This is the key tool to empower EU citizens and promote growth across the EU in a sustainable competitive environment.

- **Promoting competition and investment;**

This strategic objective outlines BERECs role in promoting effective competition, and in so doing promoting efficient investment and innovation in new and enhanced infrastructures and services. Central to this approach is the understanding that *effective* and *sustainable* competition is what drives *efficient* investment and choice for end-users.

- ETNO welcomes the identification of investments in new and enhanced infrastructure and services as a strategic priority in this strategy. In this context, we note and endorse the recognition that the objective of promoting fixed and mobile connectivity already underlies the current framework and should be recognised. Accordingly, the need to foster the investments required to achieve this objective should also be recognised.
- Investment in high speed networks and 5G deployment are key factors to meet the EU connectivity goals. Equally important would be to take into account the direct link between the need to deploy new and enhanced infrastructure and services and regulatory incentives leading to investments.
- Effective – infrastructure based - competition is essential to provide incentives to innovate and deploy new networks. It should be acknowledged that investment drives competition.
- BEREC needs to promote the right regulatory environment that incentivises companies to invest and receive a fair return on their investment taking into consideration the risks involved. We would request BEREC to note the importance of creating the right incentives for investment within their strategy.

- **Promoting the internal market;**

This strategic objective outlines BERECs role in developing consistent regulatory practices and address cross-border issues to enable EU citizens and businesses to enjoy a (high) minimum level of services and benefit from pan-European services wherever they are.

- In order to achieve a true Digital Single market, it is important to **address converging technologies and services, through a technology-neutral approach, maintaining fair competition between all digital market players, across the EU**. Wherever possible, reliance on horizontal consumer protection and privacy rules, rather than outdated sector-specific ones, should be sought.
- Therefore, BEREC has a key role to play to achieve a **harmonized and consistent regulatory environment**.
- To this end, it is also fundamental to stimulate demand and take-up of digital networks and services to improve citizens' engagement in the digital society, e.g., through public policies aimed at stimulating digital skills and the take-up of digital services by public authorities.

- **Empowering and protecting end users**  
This strategic objective outlines BERECs role in promoting the interests of EU citizens and the protection of the interests of vulnerable end-user groups. It includes a role for BEREC to study demand side aspects of the market, to monitor market evolutions and, to the extent possible, respond to ensure end-users' continued ability to use the services of their choice, at appropriate levels of price and quality.
- End user experience, competition, investments, digital dividend and the presence of different players play a key role in the user experience. In addition to that, ETNO has been consistently advocating that the best way to enhance end-user experience is **to promote innovation and quality of services, focusing on sustainable benefits for EU citizens and businesses, by maximizing availability, quality and choice of communications networks and digital services.**
- Moreover, ETNO believes that the interests of digitally disengaged/digitally excluded citizens can be best protected by creating an environment of trust in the use and take up of digital services.
- The regulatory approach should seek to **enhance transparency and availability of choice without creating "information overload"**. Products and services should rely on non-discrimination principles and regulatory intervention limited to the situations where the market fails to deliver. Proportionality is also key in this context to avoid imposition of extremely costly obligations that deliver minor benefits, having a systemic impact on product development and innovation processes, ultimately resulting to the detriment of the user experience.
- Regulation needs to strike the right balance between ensuring reasonable safeguards and granting consumers the right to make informed decisions. Where consumers have choice and proper information, overly protective regulation is not proportionate.

BEREC will continue to plan its annual work around these three strategic objectives for the period 2018-2020 and in doing so, take special consideration to the 5 strategic priorities listed below. The strategic priorities are based on the market developments outlined in the previous section and point to particular areas of interest that BEREC should cover under one or several of the strategic objectives in the medium-term. The strategic priorities will not define the full scope of BEREC work for 2018-2020, but will be recurring topics in the work programmes for the coming three years. The order in which the priorities are listed does not imply a ranking.

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

Roll out of fibre networks and migration from legacy networks, as well as market consolidation, can lead to new forms of competition problems which need to be tackled by national regulators with the appropriate tools 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-capacity networks has led to different market conditions across Europe. BEREC will make it a strategic priority to continue its work on identifying competition problems that arise in different member-states as high-capacity 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 experience national regulators have with applying the SMP-framework and/or symmetric remedies will be a key aspect of this work. There will also be an important role for BEREC to look at access to high-capacity networks in more general terms (both fixed and wireless), such as how access to fixed high-capacity networks influence wireless network coverage and how the relationship may impact on the ultimate goal of increased connectivity.

- As referred above, ETNO appreciates the recognition of investments in new and enhanced infrastructure and services as a strategic priority in this strategy. ETNO strongly believes that regulation should also address barriers to innovation, foster investments in network deployment, thereby enabling the provision of better services for citizens and businesses.
- Regulation should create the right conditions for European operators to maximise investments in advanced digital infrastructures, by simplifying regulation and stimulating competition between undertakings ready to invest. Regulatory interventions should be proportionate and justified. The right level of regulation should be set to allow justifiable returns on investment.
- As ETNO has been consistently advocating, old rules designed primarily to spur competition in existing networks should be replaced by a technology neutral framework that provides the right incentives to innovate and deploy new networks, thereby supporting sustainable infrastructure-based competition. Taking into account the connectivity needs, in today's highly competitive markets, the priority should be to maximise investment incentives and innovation, while ensuring that end-users continue to benefit from competitive markets. Infrastructure-based competition encourages market players to gain a competitive and technological edge over competitors, moving away from the "wait and see" environment that has been so far deterring investors.
- In this context, the appearance of new entrants in EU telecoms markets over the past years (e.g. cable operators; municipal networks; wholesale-only business models; utilities rolling out electronic communications networks) has been an important trend which has not always led to the most appropriate regulatory response. The rise of new drivers of infrastructure competition should be taken into account in market analysis proceedings.
- In addition, as we had the chance to convey in previous occasions, the emergence of less homogenous conditions in EU markets is a topic that requires attention, and more importantly the application of granular geographic segmentation of remedies (avoiding the practice where local bottlenecks may lead to the imposition of disproportionate remedies at a broader geographical level). Commercial agreements between operators are important and have to be taken into account by NRAs in their



market analysis, as proposed by the EC in the draft EECC.

- **Regarding network sharing**, there is no evidence of the need to impose ex-ante regulation with the new Code under discussion. Ex-ante regulation could lead to the adverted consequence of incentivizing free-riding behaviours, limiting investments and going against the interests of end-users. Cooperation between ECS operators (network and spectrum sharing) is a feature of many markets, and one which can increase efficiencies and synergies. ETNO believes that this should remain a process led by voluntary agreements, without requiring any specific regulatory fixes. The market is very competitive and, as acknowledged by BEREC, ECS providers have been using these tools, where appropriate.
- Measures which mandate access or shared use of passive and active network elements, including spectrum, circumventing the well-established existing procedures, risk having a competition-distortive effect, de-incentivising network operators from bearing the risks of the upcoming huge investments needed to implement 5G technologies and develop innovative services for an increasingly convergent digital world.
- Finally, ETNO wants to underline our worries on the very uncertain concept of “**oligopoly regulation**”. Regulators have a range of established and legally coherent tools to tackle dominance. Adding new regulatory concepts – such as **Unilateral Market Power** or other forms of oligopoly regulation – is considered by investors as a main threat to investment and it would create major issues of legal certainty and consistency, it would be a disaster also in the view of Gigabit investments.

## **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, BEREC will make it a strategic priority 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.

- Services markets are today driven by a fierce competition between a broad variety of players, i.e., not only among telecom operators (in markets, such as interpersonal communication services, internet access services that solely provide connectivity - e.g. leased lines - and specialised services), but also with new players providing communication services over the internet. ETNO shares the idea of the increasing consumers’ added value from this enlarged cooperation/competition between Telecoms and OTTs. They can make a choice between an increasingly wide-range of services indeed.

- The broad offer of bundled services comprising a wide variety of different nature is indeed becoming increasingly popular, due to its significant benefits. ETNO believes that the variety of business models requires a consistent regulatory approach across the digital services market. Therefore, regulators must take into account the new market dynamics, including OTTs that comprise various services and products in one integrated offering. BEREC should be mindful when regulating bundles and take into consideration the differences between the elements of a bundle and not necessarily strive to extend specific regulation to other parts of the bundle. In any case, a clarification on the term “bundles” is urgently required – first of all including various services and products included in the same contract.
- ETNO welcome the reference to the need of transparency regarding the issue related to the performance of the networks and we believes that the transparency framework established by Regulation (EU) 2015/2120 is sufficient and no further work or specification that limits flexibility and may impose additional burden is required in this regard. Looking ahead BEREC should be mindful of not further overloading customers with too much information that distract from the relevant information and ensure that they strike a balance to aid consumer decision making.

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

The next generation mobile networks (5G) will likely not be operational in Europe until 2020, but there is already a lot of activity going on in various groups and committees. The challenges that need to be addressed range from work on standards, interoperability, new business models, network sharing, coverage and security. BEREC will make 5G a strategic priority in the coming three years 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 will within the scope of its competence actively and closely follow the development of 5G and will, where relevant, work in cooperation with other EU bodies (in particular RSPG) to identify potential hurdles to a smooth and quick implementation in the Member States.

BEREC will also need to follow innovation in other network technologies, both fixed and wireless, to find common regulatory perspectives of how these technologies influence markets and should be treated by regulators. The network technologies and developments that have the potential to directly change the way services are used and delivered, such as IoT, NFV/SDN, as well as the technologies that may play a part in enabling such changes, eg. small cell deployment, will be of particular importance for BEREC to follow in the coming three years.

- ETNO welcomes the recognition of 5G among BEREC's strategic objectives. We believe that and the gigabit society require ambitious spectrum reform 5G is set to empower citizens and businesses with widespread ultra-fast connectivity and innovative new services (as we report here [https://etno.eu/datas/press\\_corner/ETNO%20GSMA%20Comment%20on%20EU%20Spectrum%20Reform\\_3.5.2016\\_8amCET.pdf?utm\\_source=POLITICO.EU&utm\\_campaign=1abeb53d7d-EMAIL\\_CAMPAIGN\\_2017\\_05\\_02&utm\\_medium=email&utm\\_term=0\\_10959edeb5-1abeb53d7d-189608417](https://etno.eu/datas/press_corner/ETNO%20GSMA%20Comment%20on%20EU%20Spectrum%20Reform_3.5.2016_8amCET.pdf?utm_source=POLITICO.EU&utm_campaign=1abeb53d7d-EMAIL_CAMPAIGN_2017_05_02&utm_medium=email&utm_term=0_10959edeb5-1abeb53d7d-189608417) )
- In this context, the role of regulators in acknowledging the massive investments needs is essential to ensure regulatory certainty and predictability and promote the right incentives.
- BEREC should also consider the digital environment change deriving from IoT services, especially on data ownership and end-user experience, and it should be supportive to the development of innovative business models.

#### **Strategic priority 4: Fostering a consistent approach of the net neutrality principles**

BEREC has a long history of working on Net Neutrality issues and has recently received new responsibilities with the adoption of the TSM regulation (Regulation 2015/2120). With the growing trend among consumers towards internet enabled services expected to continue, the measures on open internet access will become ever more important and BEREC will need to work actively to support national regulators in applying the Regulation in a consistent way throughout Europe. To that end, BEREC will make it a strategic priority to 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.

- ETNO notes the importance of the implementation of Regulation no. 2015/2120, an essential piece of legislation in the regulatory framework.
- In this context, ETNO would like to underline that open Internet rules need to be implemented in a way that does not restrict communication services, in particular in a 5G environment from being optimised to meet widely different quality of service requirements, to meet the needs of consumers and of service providers and industry verticals. An optimal management of the connectivity resources can only contribute to services innovation, to the benefit of both industry and consumers.

- There can be no contradiction between safeguarding consumers and fostering Europe's innovative potential. The priority of ETNO members remains to provide top quality services to all consumers and to empower new users and sectors through sustained innovation.
- A user-friendly and innovation-conducive implementation of the Regulation is essential to the quality and development of present and future services. In ETNO's view, the implementation should be harmonised, user-centric and unequivocally pro-innovation. It is essential to avoid restrictive interpretations that would deviate from the spirit of the dispositions of the Open Internet Regulation.
- Digital innovation and industrial transformation will more and more rely on flexible, ubiquitous and innovative networks. Connected cars, e-health, industrial sensors and many other applications require a connectivity based on specific quality requirements, for instance low latency and ultra-reliable networks – especially in a 5G scenario.
- In particular, with regard to monitoring systems, these should support network investments based reliable and accurate measurement results, which highlight good network performance. In this context, BEREC should rely on the existing regulatory framework provided by of Regulation no. 2015/2120 and support NRAs to foster development of robust monitoring systems with regard to speed monitoring, based on common principles. For this purpose, established good practices that have proven to yield robust results should be the reference and additional or diverging measures should be avoided.
- On the issue of zero rating, we make reference to the report recently published by the European Commission "Zero-rating practices in broadband markets", providing a detailed analysis of market practices and implications with an analysis of the potentially positive and negative aspects. The report concludes that zero-rating does not necessarily results in anti-competitive practices, and may deliver benefits for innovation in services and for the competition in the market.

### **Strategic priority 5: Exploring new ways to boost consumer empowerment**

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

This means more transparency to enable consumers to assess and compare the performance of products and services (e.g. better and more targeted information for people and businesses on the availability, speed, quality and price of services) and seamless and user-friendly switching processes. Qualitative methods of gauging end user satisfaction and a more rounded set of performance metrics that lend themselves to better capture the quality of experience (QoE) for consumers may lead to greater consumer engagement. This will

entail deploying the data, either directly in the form of accessible and informative consumer information, or through open data that enables the market to respond to consumer needs.

At the same time, BEREC will need to be mindful about the emergence of new switching barriers such as data portability as well as switching barriers like restrictive contractual terms and new types of bundled packages which are being addressed in the draft European Electronic Communications Code still under discussion. NRAs will also need to enhance consumer trust in new services by working with manufacturers and network operators to ensure that the security and integrity of networks is paramount in their consideration and by building in privacy-by-design practices in digital services.

NRAs will also need to complement consumer empowerment initiatives with consumer protection measures that safeguard the interests of all citizens and especially those of the digitally disengaged.

ETNO welcomes the objective of improving the sharing of networks performance information for consumers. By creating an environment of trust in the use and take up of digital networks and services the audience of digital engaged consumers will be extended.

However, we believe that NRAs should “complement consumer empowerment initiatives with consumer protection measures” be evidence-based, avoiding overregulation. Such rules need to be precise and applied only delimited cases.

Moreover, the market dynamics are not only relevant for the purposes of monitoring the market, but should also be considered when assessing the possible measures to protect consumers, promote their engagement and empowerment. In fact:

- Services markets are driven by a fierce competition between a broad variety of players, i.e., not only among telecom operators (in markets, such as interpersonal communication services, internet access services that solely provide connectivity - e.g. leased lines - and specialised services), but also with new players providing communication services over the internet, as mentioned above. The enlarged cooptation/competition between Telecoms and OTTs creates value for users as the availability of choice between a wide-range of services *per se* boosts consumer empowerment.
- Likewise, the above referred wide ranging offer of bundled services of a different nature also delivers significant benefits to consumers. For this purpose, the variety of business models requires a consistent regulatory approach across the digital service market, also to the benefit of consumers, so that they can have clearer visibility on their rights. The regulatory environment should adopt a user-centric approach, whereby, users should benefit a predictable framework, a clear set of rules for similar services, regardless of the type of services provider at stake or the underlying

technology.

- Transparency regarding the performance of the networks is also key in this context. We should nonetheless reiterate that the transparency framework established by Regulation (EU) 2015/2120 is sufficient. Overloading customers with too much information risks distracting them from the relevant information. Information should be meaningful and enable users to make the right choices.
- Consumers should not be overburdened with very technical information that are also of limited value for most consumers. The IPSOS survey for ETNO (<https://goo.gl/lb38ex>) demonstrates that most consumers surveyed have little awareness of technical aspects behind their internet connection. The survey shows that few know what the following features are: latency (11%), packet loss (12%) and jitter (8%), therefore specific regulation on this parameters is not necessary. Information requirements should focus on the most essential parameters, relevant for most consumers.
- ETNO believes that the interests of digitally disengaged/digitally excluded citizens can be best protected by creating an environment of trust in the use and take up of digital services.
- Through the creation of trust, all citizens would be connected and therefore experience the benefits of the digital environment. Creation of trust, from a regulatory perspective, is best ensured by the reliance on simple, easily enforceable rules, which are equivalently applicable to all functionally similar services, regardless of the nature of the provider. In fact, the coherence of the rules and the consistency of consumer protection standards are increasingly important to create a fair balance in the digital value chain and providing end-users with consistent protection standards. Internet-based services have become substitutes for more traditional communication or media services, and various sectors in the digital value chain are increasingly integrated to facilitate the cross-border provision of services. Wherever possible, reliance on horizontal consumer protection and privacy rules, rather than outdated sector-specific ones, should be sought considering that less-granular rules are more flexible applicable and more future-proof in dynamic service markets.
- Finally, it is essential to draw a clear distinction between the actual end-user experience and the issues of contractual compliance. This is particularly relevant in the context of the monitoring of the performance of Internet Access Services, (“IAS”). End-user experience is a broader concept, which includes additional factors beyond the operator’s control and responsibility as agreed in the contract (e.g. the provider of the IAS has no influence on the quality of devices or home infrastructure, or the performance of a service offered behind the operators backbone, which may negatively impact the experienced speed).

## BEREC Work

BEREC has continued to mature as an organization and is actively adapting its work to the most recent market developments. More recently, BEREC has been entrusted by the European co-legislators with new tasks, namely developing guidelines on the implementation of the net neutrality and roaming rules in the TSM Regulation. These responsibilities, as well as BEREC's ongoing work on Article 7/7a cases, requires an organisation whose outputs are timely, qualitative and consistently of a high quality.

Going forward, BEREC will continue to improve its work and adapt to new challenges, and is ready to take on board new responsibilities.

## Output and efficiency

BEREC remains committed to the consistent implementation of regulatory principles across Europe by developing Guidelines, Common Positions, Recommendations and any other guidance documents that NRAs must take utmost account of.

In doing so, BEREC and its members will continue to pursue the most efficient and least intrusive regulatory approaches. Moreover, BEREC will work to reduce regulatory uncertainty, taking timely and proportionate decisions grounded in evidence on relevant regulatory matters.

BEREC believes that effective regulation is based on high-quality professional standards applied by independent national regulators and will continue to be committed to these principles. As such, BEREC will update its working methods and will promote a broad and active participation of all NRAs.

BEREC will work to **improve the consistent implementation of regulatory principles** by:

- Striving to deliver more best practices and, when needed, common positions;
- Aiming to give timely advice to all NRAs by providing guidelines on the implementation of the EU regulatory framework (including net neutrality and roaming);
- Assessing the regulatory and market impact of emerging technological developments and trying to find common regulatory perspectives of how they should be treated.
- Continuing its important monitoring and benchmarking work, to give BEREC, the NRAs and the European Commission necessary, accurate and robust evidence to make informed decisions. This will include work to help with standardizing and harmonizing methodologies and performance indicators throughout Europe to facilitate comparisons and common approaches.

BEREC will continue to further **improve its working methods** by:

- Assessing periodically the results of its working methods, which may include monitoring how BEREC outputs have been reflected in NRAs decisions and practices;



- Ensuring transparency through regular updates to the market and to the European institutions about the current BEREC activities at all working levels.

### **Stakeholder engagement**

BEREC will continue to engage with stakeholders, with the goal of focusing BEREC work on issues that are relevant to the stakeholders. By engaging stakeholders, BEREC will be better positioned to promote its work, guarantee a consistent application of the electronic communications framework and give proper information to decision-makers.

BEREC will continue to **engage cooperatively and effectively with stakeholders** in a wide variety of ways, and will in particular strive to:

- Become better at informing stakeholders about the annual thematic workshops;
- Where relevant, implement more two stage public consultations on important topics, allowing stakeholders to comment at all stages of the consultation process;
- Work with industry forums;
- Make available more information at all levels of work and in particular for important topics that impact consumers (net neutrality, roaming); through public debriefings, newsletters, press releases and information on its web page, Twitter and YouTube channels.
- Organize the annual BEREC Stakeholder Forum in a consultative manner that increases the level of stakeholder engagement;
- Strengthening the cooperation with other European institutions with the aim of delivering a more joined-up and coherent regulatory framework for stakeholders.

ETNO appreciates the efforts made by BEREC to take into account the views of stakeholders. Moreover, ETNO believes that public consultations should be promoted as a rule, giving the interested parties sufficient time to provide meaningful contributions, and BEREC reports should always be made public. Finally, whenever the views of the stakeholders are not considered, BEREC should seek to provide the respective reasoning.

BEREC will also strive to **enhance its cooperation with the EU institutions and international fora**, through:

- Strengthening the relationship with the co-legislators (European Council and European Parliament) and commit to an early engagement with any Commission initiative on legislative and non-legislative measures;
- Ensuring coordination of BEREC activities with the plans and initiatives by the European Commission and strengthening the coordination with other European institutions in overlapping topics (RSPG, ENISA, competition authorities, data protection authorities), to maximize synergies;
- Cooperating in relevant international fora and with regulatory bodies of other regions on the basis of an international strategy.
- In particular when engaging with the EU institutions and international for a in legislative or non-legislative measures, BEREC should follow the highest levels of



transparency, keeping the other stakeholders informed about any type of cooperation.