



The Consumer Voice in Europe

## BEREC DRAFT STRATEGY 2018 – 2020

BEUC comments



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BEUC welcomes the opportunity to provide input into BEREC's draft Strategy 2018-2020. Over the past years, BEREC's work has been of crucial importance in the work towards building competitive telecom markets and ensuring consumers benefits. As Europe moves towards a Digital Single Market where digital products and services permeate consumers' everyday lives, and in particular with the advent of the Internet of Things, BEREC's role will become increasingly important.

In its draft Strategy 2018-2020, BEREC has by and large identified the most important issues for consumers, although some key areas appear to be missing. The following are BEUC's comments on the proposed Strategic Priorities.

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

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A vibrant, competitive telecom sector is necessary for Europe's Digital Single Market. Regulators' role will be as important as ever to guarantee a competitive environment throughout the value chain. As markets consolidate, regulators will be increasingly faced with new forms of anticompetitive situations. Solving the undesirable anticompetitive dynamics of oligopolies, carefully analysing the merits of planned mergers, and importantly, continue to strategically use the regulatory toolbox necessary to protect and strengthen competition across the value chain are all important objectives where BEREC and NRAs will play a key role. We welcome that BEREC rightly recognises the importance of its and NRAs' role in achieving this objective and encourage you to make sure that the strategic objective includes monitoring and resolving new forms of anticompetitive dynamics in telecom markets.

BEUC is part of the [NetCompetition Alliance](#)<sup>1</sup>, a community of organisations supporting competition and consumer choice in broadband and through all layers of the digital economy as the most effective way to spur innovation, drive investments in infrastructure and create consumer welfare. As highlighted in NetCompetition's position paper on the proposed Electronic Communications Code<sup>2</sup>, "we share the opinion of the Body of European Regulators for Electronic Communications (BEREC) that investment will not be incentivised through deregulation. This is shown by experience over the last fifteen years. Effective and sustainable competition has been the driving force of success of the European liberalisation process in the telecoms sector."

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

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BEREC should not only look into competition within the telecoms markets, but also across other adjacent markets, and in particular within the Internet value chain. As BEREC has correctly identified, online service providers and Internet service providers increasingly offer joint services, and the competitive dynamics of such practices needs to be carefully scrutinised. This situation has two dimensions:

First, on cases of vertical integration by telecoms and content providers and of exclusive licensing practices of sport events and premium content, which can be used to attract

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<sup>1</sup> <http://savenetcompetition.eu/>

<sup>2</sup> [https://edri.org/files/netcompetitionalliance\\_position\\_electroniccommunicationscode\\_20170308.pdf](https://edri.org/files/netcompetitionalliance_position_electroniccommunicationscode_20170308.pdf)

consumers to telecom offers (e.g. in the form of triple play). This is because only big operators can afford such licenses, competitors find it very difficult to compete on an equal footing when the content offered by the operators becomes the most attractive part of the offer.

Secondly, in relation to practices of zero-rated content, where online applications and services get a preferential treatment within a fixed or mobile provider's Internet access service offering. In the context of BEREC's role in monitoring the implementation of the EU's recently adopted net neutrality rules, it is of particular importance that BEREC looks into the competitive effect of zero rating practices.

Other competitive bottlenecks may exist in the digital value chain that impede consumers from benefitting from a truly neutral and open internet. Identifying these bottlenecks and putting in place policies to address them in close collaboration with competition authorities is also necessary to protect consumers over the coming years.

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

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On top of its work to follow the development and deployment of 5G and accompanying network technologies, BEREC should focus closely on the development and deployment of the Internet of Things.

The Internet of Things is an area that requires a thorough policy analysis to make sure consumers are well protected. Issues related to connectivity, privacy, security, and affordability to name but a few need to be addressed. BEREC's role in providing expert insight and policy recommendations on this front will be very helpful.

In the context of the Internet of Things, as an interdisciplinary policy and regulation challenge, BEREC's co-operation and exchange with other sector specific networks of regulators or enforcement authorities should become a strategic objective.

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

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BEREC's role in securing net neutrality in Europe is fundamental. On top of ensuring the consistent application of Regulation 2015/2120 and the BEREC Guidelines, BEREC should also BEREC and the member NRAs will have a fundamental role in supervising and monitoring markets to look out for any deviations and new practices that might be cause for concern.

In particular, BEREC should follow up on its obligation under Article 4(4) of Regulation (EU) 2015/2120 to certify measurement software that allows consumers to test their internet connection and assess whether they are actually receiving get the contractually agreed minimum, average and maximum speeds they are paying for. These adequate speed measurements are necessary for consumers to exercise the relevant remedies accorded to them in national law. BEREC should be ambitious in this regard and adopt technical specifications that will allow certification of top-class speed measurement tools in each

market. Data generated by such tools should be able to enable comparisons both within national markets but also across Europe.

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

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BEUC warmly welcomes BEREC's intention to elevate consumer protection and empowerment as one of its Strategic Priorities. All other Strategic Priorities relate to specific market elements or particular technology areas and they all have one thing in common: they all need strong, future-proof consumer protection and empowerment policies to succeed.

From ensuring consumers are well-informed in future digital markets, to enabling efficient comparison and seamless switching, BEREC's role in helping to roll out the new wave of consumer protection policies is essential. Making market data available to NRAs available for developers of comparison tools to enable easy comparison services for consumers is an important idea that we encourage following up on.

We suggest that a systematic and regular co-operation of NRAs with consumer organisations at national level become a strategic element within this priority (please see below).

### **What's missing – make RLAH a success**

There is one very important thing that we think is missing in BEREC's draft 2018-2020 Strategy: the monitoring and enforcement of Roam Like at Home (RLAH) rules. BEREC's role will be key in ensuring that the new RLAH rules are implemented correctly and respected by the entire industry. It will also have a key role in identifying areas where consumers are not being adequately informed or are not able to duly exercise their newly acquired rights.

### **Enabling close cooperation between NRAs and consumer organisations**

Importantly, we encourage BEREC and its members to work more and better with our members, the national consumer organisations that know consumers best. We would like to, together with BEREC, strengthen the relationship between each NRAs and the consumer organisations in their market – drawing inspiration on what we have done in the energy sector.

As a first step, the Council of European Energy Regulators (CEER) and BEUC developed a joint Vision (first in 2012, updated in 2014) that outlines the direction the sector should take by 2020 so it delivers maximum benefits for consumers<sup>3</sup>. This joint Vision was endorsed by 17 umbrella organisations representing different industry sectors and other NGOs, which then prepared concrete action plans on how their community would work towards achieving our joint Vision.

As a second step, CEER and BEUC worked together on a joint consultation process where all energy National Regulatory Authorities (NRAs) and our national members were asked questions that aimed to evaluate the involvement of consumer organisations in the national

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<sup>3</sup>[http://www.ceer.eu/portal/page/portal/EER\\_HOME/EER\\_PUBLICATIONS/CEER\\_PAPERS/Customers/Tab3/CEER-BEUC%202020%20VISION-joint%20statement\\_Long\\_v161014.pdf](http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/Tab3/CEER-BEUC%202020%20VISION-joint%20statement_Long_v161014.pdf)

regulatory process and to identify areas where collaboration between NRAs and our national members could be improved<sup>4</sup>.

Most recently, CEER is working on a project called PEER (“Partnership for the Enforcement of Energy Rights”) to bring regulators from various sectors together. We understand that BEREC is already involved in this interesting project to which we are an associated partner.

Enhancing the co-operation in between NRAs and consumer organisations with regards to digital and telecom markets following the model of the energy sector would be an interesting initiative that we would be very happy to discuss further with you.

### **Stakeholder engagement**

BEUC welcomes BEREC’s renewed intentions to engage and cooperate more effectively with stakeholders. We would like BEREC to systematically consult on all its policy papers. The BEREC Net neutrality guidelines is a good example of a properly-timed consultation that allowed for adequate stakeholder input from civil society.

On the other, we regret the fact that no consultation was undertaken on BEREC’s guidelines on retail roaming (Regulation 531/2012 as amended by Regulation 2015/2120 and Implementing Regulation 2016/2286). Very important interpretative rules for consumers were decided in those guidelines and we are disappointed that we could not feed our feedback into BEREC’s final outcome.

### **Close collaboration with other authorities**

We also encourage BEREC and its NRAs to work towards more enhanced and efficient collaboration with other relevant national and EU authorities such as the Article 29 Working Party and the Consumer Protection Co-operation Network. In an ever more complex digital world, it is essential that consumer protection, data protection, competition and telecom authorities work closely together.

END

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<sup>4</sup> See status review of this process by CEER - [http://www.ceer.eu/portal/page/portal/EER\\_HOME/EER\\_PUBLICATIONS/CEER\\_PAPERS/Customers/2013/C13-CEM-65-03\\_SR%20on%20involvement%20of%20consumer%20organisations%20in%20the%20regulatory%20process.pdf](http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/2013/C13-CEM-65-03_SR%20on%20involvement%20of%20consumer%20organisations%20in%20the%20regulatory%20process.pdf)



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