

## Telefonica response to draft BEREC Report on IP-Interconnection Practices in the Context of Net Neutrality

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Telefonica agrees with the BEREC conclusion that there is no need for regulatory intervention and that monitoring of market practices is sufficient. Telefonica do shares BEREC conclusions on how highly dynamic and competitive the scenario of Internet interconnection is.

Notwithstanding Telefonica shares global conclusions with BEREC, Telefonica strongly complains about the last paragraph included in the description of the situation in Spain (point 6.1.3) referring to the Telefonica performance in the Netflix ISP index. Telefonica strongly believes that this consultation is not the right place to put this kind of references because it is neither part of any action made by the NRA nor by any other Spanish authority.

Moreover, as BEREC recognizes in the Net Neutrality Regulatory Assessment Methodology consultation (BOR (17) 112), measurements taken in a non-controlled environment are highly questionable as there are many different factors out of the ISP control that do affects any measurement results. Indeed, many Internet content providers, such as Netflix, dynamically manage their interconnection routes to the different network operators affecting the end-to-end QoS, no matter which is the operator's network real capacity as demonstrated in the MIT research of 2014<sup>1</sup>.

Additionally, Telefonica cannot understand how the measurements made by an interested party with a proprietary and non-certified system have been taken as fully reliable and included in the report. Again, this Netflix ISP index has nothing to do with the operator's network capacity and should not be used as a reference for this type of BEREC's report.

Consequently, Telefonica strongly demands BEREC to remove the reference to the Netflix ISP index included in the clause 6.1.3 in the final report.

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<sup>1</sup> <https://groups.csail.mit.edu/ana/Measurement-and-Analysis-of-Internet-Interconnection-and-Congestion-September2014.pdf>