



Response

BoR PC01 (17) 001

Cable Europe response to BEREC's consultation on the review of the BEREC medium-term strategy for 2018-2020

Cable Europe welcomes BEREC's initiative to invite stakeholders to comment on the review of its Medium-Term Strategy 2018-2020.

Cable Europe's comments below relate to selected topics raised in the consultation document and naturally follow on the comments made to BEREC Work Programme 2017.

I. Market and Technological Developments

A. The end-user experience

B. Competitive dynamics in the digital ecosystem

"Tendency towards oligopolistic markets"

Cable Europe would like to stress that the "SMP-mechanism" should remain the central axis of the Electronic Communications' regulatory framework. Although BEREC intends to pursue the work on the Medium-Term Strategy independently of the ongoing review of the regulatory framework, it is difficult to address this issue without mentioning the review. Cable Europe believes that other concepts such as symmetric or non-SMP based access should only be applied in rare and clearly defined cases to deal with certain instances of local monopolies, used with the greatest caution and should not replace the role that SMP plays within the regulatory framework and create uncertainty amongst market players and investors.

It's widely acknowledged that infrastructure based competition – largely driven by cable - is the most sustainable type of competition. It is also at the heart of the recent incumbents' decisions to invest in their own fixed networks, an effect of infrastructure competition that has been underpinned by many financial analysts and by regulators themselves. SMP based access regulation should continue to play a role, as a mean to complement the infrastructure competition dynamic. Nonetheless, with competition increasing and a new wave of infrastructure investment needed - if the Gigabit Society targets are to be reached and all member states need to benefit - we caution against any attempts to re-regulate the sector. The



principle that telecoms-specific regulation should be reduced as and where competition increases, has proven to be a recipe for success and should not be undermined.

Connected with the SMP regime and the review of the Electronic Communications' regulatory framework is the review of the SMP guidelines. The European Commission has recently launched a call for tenders for a service contract aimed at evaluating to which extent the SMP guidelines need to be amended as well as a public stakeholder consultation. The focus of the study will be the SMP concept in ex ante regulation of the electronic communications networks, in particular the concept of joint dominance. Although the Commission wants to complete the study in 2017, the review of the guidelines will spill over into 2018 (a Commission communication is due during 2Q 2018). Given BEREC' intention to participate in this review process (BEREC Work Programme 2017), Cable Europe would like to make the following remarks. We believe that any revision of the SMP guidelines in parallel to/following to the review of the EU regulatory framework should not lead to the weakening of the SMP concept via the backdoor. Cable Europe shares the European Commission's view expressed in the proposed electronic communications code that SMP should remain the key principle of the revised rules. Any departure from the SMP concept would undermine investment incentives in particular of cable operators which are the main challenger to the incumbents in the majority of the EU Member States.

“Ongoing popularity of bundled services”

Cable Europe notes that BEREC - in its highlevel opinion on the European Commission's proposals for a review of the electronic communications framework- has welcomed the extension of the rules on transparency, contract duration, termination and change of provider to all the elements of bundles that include at least one ECS. Despite the fact that BEREC's Medium Term Strategy covers the period 2018-2020 (the electronic communications code will have by then been adopted), Cable Europe would like to underline that the treatment of bundles as currently proposed by the Commission and endorsed by BEREC, risks disrupting the emerging of new business models based on the IoT. For example, a leasing contract for a connected car that is delivered together with a SIM card and a mobile subscription would be subject to the very specific rules on contract duration (article 98) of the code. In particular, this would make different sectors of the economy dependent on the initial commitment periods defined by the Member States on their national telecom laws (in any case, no longer than 24 months) regardless of the rules in place in the non-telecom sectors.



C. Evolution of Networks

The evolution of networks can be classified into two groups: (1) Reconfiguration of existing technologies and (2) new technologies under development.

The first group includes network convergence, IoT and M2M and Fixed Wireless technologies. Here, BEREC has already an excellent amount of research. The information collected and studied until today allows BEREC to continue monitoring the benefits and the risks these evolutions will pose. The current regulation, as well as the activities that NRAs have developed, are an important protection for the transparency that exists today. Cable Europe believes that there is one adjacent issue that must be included in this process, namely on what regards IoT and M2M, which is Cybersecurity. The impressive growth of connected devices is an important source of risk (e.g. the most recent Mirai botnet incident). Consumers ignore the fact that their IoT devices have very low security resilience and connect them in environments usually safeguarded.

BEREC/NRAs have a critical role of educating consumers and cooperating with electronic communication operators.

The second group needs a different approach. Here, 5G deployment, Software Defined Networking and Network Functions Virtualisation, still have a long way ahead and need time to be developed. In recent debates on SDN and NFV a clear message was given by the various stakeholders – it is too early to look at this from a regulatory angle. The right approach must be a continuous exchange of information between the various stakeholders. All these technologies have the ambition to play an important role on tomorrow's networks therefore they need the right time to mature.

D. Over-arching questions

II. How BEREC works and engages with stakeholders

A. BEREC's work with the regulatory objectives

The various stakeholder meetings that BEREC EWG have held are an important method to gather views from various sources. BEREC and its NRAs should leverage this relation with the operators to launch educational campaigns towards the consumers. Many of the complains about electronic communication services are based on external factors to the operators. Since



the solution is in many times independent from the provider, both BEREC and operators have to work on increasing the sector reputation. The electronic communications sector is by far one of the most transparent but consumers' have clearly a different perception.

About Cable Europe

Cable Europe is the trade association that connects leading broadband cable TV operators and their national trade associations throughout the European Union. The regulatory and public policy activities of Cable Europe aim to promote and defend the industry's policies and business interests at European and international level. The European cable industry provides high speed broadband internet, TV services, and telephony into the home of 64.5 million customers the European Union.

This paper represents the views of the full members of Cable Europe, and not necessarily those of our associate members, partners or affiliates.



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