

# **BEREC Report on the outcome of the public consultation on the draft BEREC Report on Contractual Simplification**

6 December 2018

## Contents

<b>Executive Summary .....</b>	<b>2</b>
<b>1. Comments to Question 1 .....</b>	<b>3</b>
1.1. BEREC comments .....	7
<b>2. Comments to Question 2 .....</b>	<b>9</b>
2.1. BEREC ccomments: .....	12
<b>3. Comments to Question 3 .....</b>	<b>13</b>
3.1. BEREC comments .....	14
<b>4. Comments to Question 4 .....</b>	<b>14</b>
4.1. BEREC comments .....	19
<b>5. General comments.....</b>	<b>21</b>
5.1. BEREC comments .....	23

## Executive Summary

This report summarises the responses received to the public consultation on the draft BEREC Report on Contractual Simplification (draft Report). The public consultation ran from 10 October until 7 November 2018, with the objective to gather stakeholders' comments and observations on the content of the draft BEREC Report.

The report collates information on practices and initiatives in Member States (MS)<sup>1</sup> to prescribe key information elements (i.e. important contract terms) for contracts between consumers and providers of publicly available electronic communication services (ECS), which are intended to assist the consumer to better understand the terms of their contract.

When finalised, this report will also be taken into account when developing BEREC's input to the European Commission's implementing act specifying a contract summary sheet.

In response to the consultation on the draft report, BEREC received 13 contributions from the following stakeholders:

1. Confidential submission by a stakeholder
2. Microsoft
3. Facebook
4. ECTA
5. Hutchison 3G UK Limited
6. Joint contribution by Anga, Bitkom, Buglas-Breko, eco, VATM
7. Liberty Global
8. Joint contribution by GSMA - ETNO
9. Polish Chamber of Information Technology and Telecommunications (PIIT)
10. Open Fiber
11. Vodafone
12. BEUC
13. MVNO Europe

In general, stakeholders welcomed the opportunity to comment on the draft BEREC Report on Contractual Simplification. The following sections provides further comments, observations and recommendations expressed within the contributions during the public consultations.

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<sup>1</sup> Member States (MS) is the generic term used throughout this report to include all countries, whose NRAs have responded to the BEREC questionnaire, regardless of the NRAs status with respect to BEREC (e.g. member or observer) or the country's status with respect to the EU (e.g. member, accession state or member of EEA/EFTA).

It is worth recalling that the legislative provisions of Article 102 of the European Electronics Communications Code (EECC), tasks the European Commission, having consulted with BEREC, with adopting an Implementing Act specifying a contract summary template to be used by the providers of publicly available ECS (other than transmission services used for the provision of M2M services) to fulfil their obligations to provide consumers with a concise and easily readable contract summary, which identifies the main elements of the information requirements.

When the project to produce this draft Report was first envisaged, the purpose of the report was to provide relevant information that NRAs can use or refer to for any initiatives they may undertake to simplify consumer contracts with providers of publicly available electronic communications services. The report sought to collate information on practices and initiatives in Member States to prescribe key information elements for contracts between consumers and providers of publicly available ECS, which are intended to assist the consumer to better understand the terms of their contract.

As such, the draft Report is a factual account of national regulatory authorities (NRAs), or other competent authorities (CAs) experiences of taking initiatives and measures along with their assessment of what are the key information elements that are important to end users. Consequently, many of the comments received from stakeholders do not suggest amending the draft Report, rather they aim to highlight other factors that BEREC should consider when providing input to the Commission as it seeks to adopt the implementing act specifying a contract summary template. BEREC will seek to take note of relevant input from stakeholders and include it, as appropriate, in its input to the Commission.

## 1. Comments to Question 1

***Q: Do you have any comments or observations regarding the summary of NRAs initiatives and measures, set out in Section 2, to assist consumers to better understand their ECS contracts?***

In reviewing Section 2 of the Report, **Microsoft** highlights three key issues:

- (1) Not all of the obligations identified in the NRA summary are applicable to internet-delivered apps and services. Rather, some of these obligations seem to be remnants of earlier types of communications services. For example, a common “quality of service” obligation across the MS is one that requires disclosure of “time for initial connection.” This concept, which was important during the time of telephone services whereby customers were required to (a) go to a store or call a customer care phone number, (b) then order their service and (c) then await the arrival of an installer, is not relevant to the downloading of apps and services where the service or feature is immediately available for use. Similarly, some of the pricing components (e.g., roaming charges) are not applicable to apps and services that are readily available over internet connection. As NRAs implement their consumer protection obligations on new apps and services that were not previously subject to regulation – most notably certain NBICS and all NIICS – it will be helpful if NRAs clarify that not every obligation must

apply to every type of service. Rather, disclosures and disclaimers should apply only “where applicable.”

- (2) **Microsoft** mentions that there is significant overlap between the obligations imposed by NRAs on telecom services and the obligations already imposed by Directive 2011/83/EU on Consumer Rights (CRD) on a broader set of services. The most significant area covered by the NRAs’ obligations is the matter of service quality. While quality of service is a long-standing matter of significance to telecommunications providers and their customers, it will be a net new obligation for a number of internet-based services (particularly NIICS) that (i) have not previously been subject to quality of service obligations and disclosures and (ii) that do not readily lend themselves to managing the quality of service of their apps, given their reliance on an underlying, unaffiliated network operator. While quality of service will continue to be an important aspect of NRAs’ consumer protection rules, it will be important for those rules to appropriately distinguish between network-tethered services and those untethered from the underlying network.
- (3) Finally, **Microsoft** requests BEREC to clarify that these consumer protection requirements are, indeed, consumer protection requirements. There is little information in the Report about the distinction between Business-to-Consumer (B2C) services and Business-to-Business (B2B) services. It will be important to clarify that the contractual summary and the contractual disclosures are applicable only to B2C relationships. Businesses typically have more leverage to negotiate their service agreements with telecom operators – and they will have the same leverage in negotiating their NBICS and NIICS service agreements with service providers newly subject to NRAs’ telecom regulations. Therefore, just as B2B telecom services have been exempt from consumer protection obligations, B2B NBICS and NIICS should similarly be outside the scope of these consumer obligations.

**Microsoft** strongly encourages BEREC to pursue contract summary alternatives that recognize the marketplace realities of internet-based apps and services that will be newly subject to telecom regulation: First, these apps and services are different from traditional telecom services and, therefore, should not necessarily be subject to the same list of obligations as traditional services. Second, these apps and services already are subject to a number of consumer protection obligations and contract disclosure requirements through the CRD, and therefore, should not be subject to overlapping obligations by NRAs. Third, apps and services delivered over the top of unaffiliated networks do not control the networks (or the quality of service of those networks) and, therefore, should be subject to a different set of quality of service obligations and disclosures.

**BEUC** is pleased to see that BEREC recognises the complexity of contracts between consumers and the electronic communication services’ (ECS) providers, which can put consumers in a difficult and disadvantages position towards operators and impedes easy comparison of services. **BEUC** is glad to see that according to the results of the mapping conducted by BEREC, the National Regulatory Authorities (NRAs) or other national authorities have undertaken a series of different measures to remedy this. Such mapping is without a doubt important for further information and best practices sharing between these authorities.

However, in **BEUC's** view more concrete conclusions are missing from the report. For example, the authorities have not been asked about the level of compliance in their countries with the non-legally binding measures (guidelines, codes of conducts, etc.). Such information could be important for all the authorities that will need to decide on any future measures to be taken in this field. In **BEUC's** view, legally binding measures can bring much better results for consumers.

**Hutchinson 3G UK Ltd** agree with the seven information elements which the Report identifies as key B2C (and micro/small business and not-for-profit organisations) e-communication contracts, but there is a drawback that the provision of information has created 'information-overload' or other unintended and negative consequences for the consumers.

According to **Hutchinson 3G UK Ltd** the Report reveals to whom the imposed measures apply and when the information has to be provided. However, it does not reveal anything about the methods being used by e-communication traders across MS to effectively communicate the key information to consumers, i.e. what works best for consumers and therefore represents good practice. Also, **Hutchinson 3G UK Ltd** believes that there is nothing in the summary of initiatives and measures that suggests a design or form or content for the standardised contract summary template as a preferred method of contract simplification. Annex 2 also demonstrates the difficulties of attempting to present complex information in prescriptive and reductive written template formats. As such, **Hutchinson 3G UK Ltd** is disappointed that the Report provides no judgement on the most effective way of summarising key contract information for the benefit of consumers.

**Polish Chamber of Information Technology and Telecommunications (PIIT)** had no comments for this question.

**Liberty Global** supports the harmonisation of rules on contract simplification and notes that restrictions on how (and when) providers present information to customers reduces their flexibility and ability to respond to consumer feedback and experience. They urge BEREC to include in its assessment the actual impact which the measures by NRAs have had on consumers and, in particular, whether consumers' decision-making has actually improved as a result. **Liberty Global** considers that service providers should have discretion as to how to present key information to customers and that the information contained in the contract summary should be limited to those terms specifically identified in the Code.

**Vodafone Group** considers that a high level of protection can only be afforded to consumers, and a sound level playing field achieved between competing operators, if NRAs apply the same measures and initiatives (to simplify contract terms) to all providers of ECS, including providers of number-independent interpersonal communication services (NI ICS). Regarding the nature of measures and initiatives to be taken, Vodafone supports a collaborative approach with industry. A collaborative approach could include forums with stakeholders, non-binding guidelines, the dissemination of information by NRAs (or other CAs), or self-regulatory initiatives. Their view on the purpose of a contract summary is that it should be to help empower customers to make the right decisions and too much information leads to information overload. This can be avoided through the provision of key information elements only, presented in a simplified manner and at the right time for consumers. It is essential that any given contract summary is neither too long nor rigid in format, and operators should retain

some flexibility in the way they are able to differentiate the information they provide to their customers. Therefore, they do not believe that a specified font size, contrast layout or order of presentation of key information is desirable. Finally, Vodafone considers that a single contract summary for multiple ECS is desirable, to ensure that converged offers (where multiple services are bundled together) are presented in a simple and consistent manner to consumers.

**ECTA** expresses the view that the final BEREC Report should go beyond summarising NRA initiatives and measures, and should also recognise explicitly that challenger operators often compete in terms of marketing simplicity and contractual simplicity – alongside competing on technological innovation and in terms of pricing. Enabling competition is the first and foremost trigger for good outcomes for consumers (and other end-users), including in terms of marketing and contractual simplicity. In addition, **ECTA** considers that publication of contract summaries, as specified by the draft Code, can be beneficial to end-users, and can be a tool to further promote competition, if properly implemented, but we have concerns about regulatory over-reach. The draft Code clearly specifies the objectives (and page limits) for the design of the ‘contract summary template’. BEREC’s Opinion should not reach beyond that.

**ECTA** notes that Section 2 of BoR (18) 172 refers to national measures, which require operators to: (i) identify individual element prices in a bundle, (ii) enable termination of a specific service component from a bundle, and (iii) create rights (on request) to refund prepaid credit in case of switching. They think that these elements might potentially not be in the interests of consumers (and other end-users) to the extent that they could undermine rather than promote competition, and therefore should be carefully assessed with regard to their competitive impact. In any case, **ECTA** asks BEREC to be clear on not recommending information of this type to be included without acknowledging situations in which neither current nor future EU law on electronic communications requires this to be provided or, indeed, harmonises underlying national legislation. Likewise, its Opinion to the EC on a ‘contract summary template’ should take care not to support harmonisation through the backdoor, where this would go beyond the mandate given by the European Parliament and the Council.

**ECTA** does recommend that NRAs and BEREC systematically monitor the component elements of bundles and related contracts, to ensure that entirely new barriers to switching between electronic communications operators do not arise, for instance with regard to machine-to-machine communications (hereafter ‘M2M’) and Internet of Things (hereafter ‘IoT’) with an argument that there is a real risk that future M2M/IoT components of bundles could become a new lock-in tool in the hands of vertically integrated operators.

**ECTA** points out that ‘cash-backs’ (customers receive payments back from operators in exchange for monthly payments on contractual commitments for bundle components and contract duration) is a measure, which is not addressed in BEREC’s summary of NRAs initiatives and measures. **ECTA** has learned that ‘cash-backs’ have been used (notably by incumbent operators) as retail sales and marketing propositions, and that concerns have arisen about distortions to competition compared to operators relying on wholesale network access. **ECTA** encourages BEREC members to verify the existence of such practices, their impact and consider their accommodation in the report and a future contract summary template, e.g., in the context of pricing information.

**Open Fiber** points out that the BEREC report did not map if operators communicate to end customers the kind of infrastructure over which communication services are provided and their technical characteristics. They strongly support that it is essential to guarantee customers a proper knowledge of the quality of connection services. It is noted that by that way customers can recognize the greater efficiency of VHC services compared to the legacy ones. Otherwise, consumers will not buy premium services, since they are unable to understand the actual quality differences from basic ones.

**GSMA and ETNO** fully support the view that contracts need to be concise and easy to read, taking into account that legal clarity has to be ensured for both consumers and providers. However, they draw the attention that the approach to facilitate the contracts' understanding must not be sector-specific, but horizontal, avoiding that it leads to fragmentation. Therefore, BEREC should anticipate horizontal discussions and choose a more cautious approach.

Furthermore, the respondents consider that adding a contract summary implies a new layer of information, on top of the pre-contractual information and the contractual information to be submitted after contract conclusion. Thus, the contract summary should remain short and present only a selection of key information, as envisaged by the provisions of recital 233(a) of the EECC. In this context, BEREC is asked to focus on better transparency of contractual information and not diverge from the provisions of the EECC. Flexibility to customize the document is also considered important.

Another point raised by **GSMA and ETNO** deals with the fact that the BEREC Report on contractual simplification seems to analyse only whether provisions are applicable to NB-ICS. The respondents consider that BEREC should emphasize in its final report that the requirements are applicable also for providers of NI-ICS.

Lastly, **GSMA and ETNO** encourage BEREC to adopt a collaborative approach with ECS providers, in order to take advantage of industry's exhaustive experience and improve consumer friendly interpretation of regulatory obligations.

**ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** comments that the information, which NRAs declare as fundamental terms of contract, exceeds the amount of info that the customer needs to understand within the contract. The content of the simplified contract summary must considerably stay behind the duties of information companies must include in their contracts to allow a short presentation of the main information. The information about the "main characteristics of each service provided" must be described with a few keywords.

## 1.1. BEREC comments

On its project definition the report is required to collate information on practices and initiatives in Member States to prescribe key information elements for contracts between consumers and providers of publicly available ECS, which are intended to assist the consumer to better understand the terms of their contract. Also, the purpose of the report is to provide relevant information that NRAs can use or refer to for any initiatives they may undertake to simplify consumer contracts with providers of publicly available electronic communications services.



As such, BEREC believes that the requirements of the report as they were approved by the BoR were met, the report constituting a preliminary work for the BEREC input on the EC Implementing Act. BEREC notes that there is nothing in the draft Report that requires to be amended in response to the above submissions from stakeholders. BEREC does, however, note some specific observations in the following paragraphs.

Microsoft observer that not all of the obligations identified in the NRA summary are applicable to internet-delivered apps and services and it will be important to clarify that the contractual summary and the contractual disclosures are applicable only to B2C relationships

BEUC raise a query about the level of compliance across Member States with the non-legally binding measures (guidelines, codes of conducts, etc.) and in **BEUC's** view, legally binding measures can bring much better results for consumers.

Hutchinson 3G UK observed that the draft Report does not reveal anything about the methods being used by e-communication traders across MS to effectively communicate the key information to consumers.

Liberty Global considers that service providers should have discretion as to how to present key information to customers and that the information contained in the contract summary should be limited to those terms specifically identified in the Code.

Vodafone considers it is essential that any given contract summary is neither too long nor rigid in format, and operators should retain some flexibility in the way they are able to differentiate the information they provide to their customers and a single contract summary for multiple ECS is desirable.

ECTA submitted that BEREC should take care not to support harmonisation through the backdoor, where this would go beyond the mandate given by the European Parliament and the Council. ECTA further requested that NRAs and BEREC systematically monitor the component elements of bundles and related contracts, to ensure that entirely new barriers to switching between electronic communications operators do not arise. Finally, ECTA also raised the issue of 'cash-backs'<sup>2</sup>, which is not addressed in the draft Report and requested that NRAs and BEREC verify the existence of such practices and consider their accommodation in the report

Open Fiber essential to guarantee customers a proper knowledge of the quality of connection services, otherwise consumers will not buy premium services

GSMA and ETNO observe that rather than focussing on sector-specific matters, BEREC should anticipate horizontal discussions and choose a more cautious approach. The respondents also observe that further flexibility to customize the document is also considered important and BEREC should emphasize in its final report that the requirements are applicable also for providers of NI-ICS

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<sup>2</sup> Whereby customers receive payments back from operators in exchange for monthly payments on contractual commitments for bundle components and contract duration

BEREC notes that the provisions of Article 102 of the EECC, would appear to put B2B relationships outside the scope of the Implementing Act to be adopted by the Commission addressing Microsoft's concern in this area a mandatory EU-wide Implementing Act, specifying a contract summary template, would appear to address BEUCs concern about the possible ineffectiveness of voluntary measures.

BEREC notes the provisions of Recital 261 of the EECC that "The contract summary should be concise and easily readable, ideally no longer than the equivalent of one single-sided A4 page or, where a number of different services are bundled into a single contract, the equivalent of up to three such single-sided A4 pages", which places some limitations on the means by which contact summary template should be laid out is relevant to the points raised by Liberty Global and Vodafone.

Regarding the submissions from ECTA, GSMA and ETNO, BEREC notes the submissions and will analyse these issues with a view to considering their relevance to BEREC's input to the European Commission's Implementing Act specifying a contract summary sheet next year.

## 2. Comments to Question 2

***Q: Do you have any comments or observations regarding the summary of NRAs ranking of the key information elements, set out in Section 3?***

**BEUC** welcomed the idea to have a contract summary template that all providers of ECS must fill in, share with their consumers, and then integrate into the contracts for their services. This contract summary template, which now the Commission is mandated to develop via an implementing act under the Telecom's code, should help consumers compare services, including bundled offers, more easily, and be designed with consumers' needs in mind.

**BEUC** supports the idea of seeking NRAs feedback as to the ranking of the key information elements to be provided to consumers. Their specific knowledge and experience in this area shall be taken into account.

**Hutchinson 3G UK Ltd** believes that there is a significant amount of information deemed to be 'highly important' to consumers – more than could realistically be included on a concise summary template. Also, **Hutchinson 3G UK Ltd** believes that it is important that the contract summary appropriately allows for future flexibility to providers.

**Polish Chamber of Information Technology and Telecommunications (PIIT)** had no comments to the above question.

**Liberty Global** stresses that terms with a high ranking should not automatically be included in the contract summary template. As it's a summary it should be limited to a one pager focusing on the key elements identified under the Code, otherwise risking to lose the customer's interest which then would make the mandated information provisioning entirely ineffective. Liberty Global appeals to BEREC to focus on the essential elements of the contract and include only those terms specifically identified in the Code. Service providers should then have discretion to include additional information if it considers that this information is relevant to the particular product or service in issue.

**Liberty Global** agrees with the inclusion of information on the name of the trader and contact information; that the services included in offer, the name of the product plan and, where applicable, tariff volume allowances are of importance to consumers, and that latency, jitter and packet loss should feature at the bottom of the ranking. They do not consider that the specifics of a TV product (e.g. number of channels, audio-visual content package) are part of the main characteristics of the service, as these relate to content services and not ECS and it should not be mandatory to include this information in the contract summary.

**Liberty Global** considers that the contract summary should only include the essential pricing terms (i.e. the monthly periodic charge for prepaid plans) and should only specify the duration of the contract and the conditions for renewal and termination. Compensation and refund arrangements should not be included in the contract summary.

**Vodafone Group** gives grouped response to questions (2) and (3) and ranks the trader's brand identify higher than the trader's corporate identity, as customers are more familiar with the former (e.g. brand name used in advertising material) than the latter (i.e. registered company name). On quality of service information, they agree that information on speeds is important, but any contract summary template must take into account the fact that this, and other performance indicators, do not sit well in a standard form, as presenting such information is very challenging. For obvious reasons, operators aren't able to provide information on quality of service in relation to international roaming use, and this should be specified in any contract summary. Regarding the price of each service provided, they agree that pricing conditions are highly relevant for any contract summary. Any summary should be able to contain a disclaimer specifying that prices may change over time. On the cost of out of bundle calls charges (mobile, international and nongeographic numbers, roaming and international), **Vodafone** supports the inclusion of charges for geographic domestic and EU destinations, but not those which relate to premium rate services and non-EU destination and illustrates that with an information in an annex. Information on the cost of ancillary services (e.g. maintenance, customer care) and of terminal equipment should also be omitted, so that consumers can focus on information that's the most relevant to their decision making process. On additional information elements, **Vodafone** considers that none of the other parameters suggested for inclusion are relevant for a contract summary which should focus on the critical factors which empower customers to make the right choice. Also, the following information items should be omitted from any contract summary (but such items should, of course, be covered in the general terms and conditions, to the extent that they form part of the contract), either because they don't form part of the contract, aren't essential or because they cannot be provided at the point of sale or activation:

- Whether the product/offer/tariff plan is pre-paid or post-paid (main characteristics);
- Time for initial connection, failure probability, and call signalling delays (main characteristics);
- Coverage (main characteristics);
- Number of TV Channels or types of content available (main characteristics);
- Restrictions on the usage of equipment included in the bundle (main characteristics).

**ECTA** gives one answer to both questions (2) and (3) and asks BEREC to be very sensitive about the way in which it treats quality of services (QoS), and to ensure that any proposals it makes in its Opinion to the EC on an EU-wide 'contract summary template' will not have the

effect of driving potential customers away from challenger operators' offers, as these operators may not be able to commit to consistently reliable QoS information, due to their reliance on wholesale inputs from SMP operators. Before requiring operators to provide detailed forward-looking QoS information to (prospective) end-users (e.g. in a contract summary), NRAs and BEREC need to take decisive action to ensure that challenger operators relying on SMP operator wholesale access have genuine and verified non-discriminatory access. This requires NRAs to have a strong focus on operational processes for activation and repair, ensuring strict and verified non-discrimination (including e.g. copper loop lengths, precise addresses including in multi-tenant buildings), enabling alternative operators' certified technicians to perform all relevant installation and repair, and a new focus on fibre. NRAs and BEREC need to tackle QoS discrimination and process problems at the source, before considering QoS at the level of end-user contracts. Aside from the QoS issues, they are surprised by the low importance given by NRAs to information about the components of an audio-visual package (they assume that this refers to the list of channels in a TV channel bundle).

**Open Fiber** fully supports the view that regulatory intervention is needed in order to avoid the inability of the consumers to distinguish between premium services and basic ones. They note that if it is not clear the difference between basic and premium services, consumers will buy the basic ones since they cannot understand the quality differences. **Open Fiber** believes that consumers cannot easily realize the difference between services provided by VHC Networks and those provided over other infrastructures that can be associated with a UBB label (such as FTTC networks). Thus, the services provided over VHC Networks are severely harmed, due to the lower demand and the absence of a premium price for better services. To further support VHC services, **Open Fiber** underlines that AGCOM - in the Decision n.292/18/cons – established that operators must provide a detailed description of the technical characteristics of the network with reference to the pre-contractual phase (as well as accurate information on the maximum and minimum expected data transmission speeds and latency).

**GSMA and ETNO** are of the opinion that the summary should cover only the main elements that have to be clearly indicated and not specific details that are only relevant for some specific services (for example, various tariff elements corresponding to bundles, optional handset insurances, etc.).

According to **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** the national use in Germany showed that product fact sheets are useful for consumers because of its unified and compact overview (one page max.). This is the scale the stakeholder would propose for the intended display of contract information. Information needs to be chosen with most attention. Technical values, like jitter, latency or loss of packages would be prejudice to the level of clarity of the summary. These values can be presented in advance only as estimations. Furthermore, the value of information of these parameters for the consumer is rather low. These values depend on different parameters, which are not under the control of the ISP.

**ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** pointed out this comparable problem in the context of the indication of bandwidths in the national product fact sheets, which are problematic. From the perspective of **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM**, it seems to be impossible to present the scope of the proposed information in this manner;

therefore a periodisation is mandatory. In any case, the duty to inform may not be extended beyond the “main characteristics of each service provided”.

According to **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** strict requirements concerning the usage of the template causes uncertainties, since, when drafting the template, it cannot be foreseen, which products will be offered in the market in the future.

## 2.1. BEREC ccomments:

BEREC welcomes stakeholder’s observations on NRAs rankings of key information elements, some of which BEREC considers are particularly relevant and, for that reason, are noted below:

- Hutchinson 3G UK Ltd believes that there is a significant amount of information deemed to be 'highly important' to consumers and appropriately allows for future flexibility to providers
- Liberty Global stresses that terms with a high ranking should not automatically be included in the contract summary template and compensation and refund arrangements should not be included in the contract summary
- Vodafone Group ranks the trader’s brand identify higher than the trader’s corporate identity, while information on speeds is important but presenting such information is very challenging and information on the cost of terminal equipment should be omitted from the contract summary
- ECTA submits that BEREC to be very sensitive about the way in which it treats quality of services (QoS)
- Open Fiber support regulatory intervention in order to avoid the inability of the consumers to distinguish between premium services and basic ones since if the benefits are not made clear consumers will buy the basic ones. Open Fiber also underlines recent requirements introduced in Italy whereby consumers must be provided with a detailed description of the technical characteristics
- Conversely ANGA-BITKOM-BUGLAS-BREKO-eco-VATM product fact sheets are useful for consumers Technical values, like jitter, latency or loss of package value for the consumer is rather low
- GSMA and ETNO summary should cover only the main elements that have to be clearly indicated and not optional handset insurances, etc.

As stated above, the EECC entrusts the European Commission with the mission to adopt an Implementing Act specifying a contract summary sheet, with certain specified requirements as set out in Recital 261 and Article 102 of the EECC. However, BEREC notes the comments, observations and recommendations received in relation to NRAs rankings of a large number of information elements and will carefully consider these submissions and analyse the opportunity of including them in its input to the European Commission next year.

### 3. Comments to Question 3

**Q: Do you agree with the NRAs views on the rankings of the key information elements for the summary template?**

**BEUC** agrees that the main elements have been rightly identified by the NRAs.

**Hutchinson 3G UK Ltd** generally agrees with the rankings of key information elements and do feel that these rankings are reflective of the current position of e-communication service delivery and usage, but regulators should recognise that these rankings are not static, but responsive to the ever-changing requirements of the market.

**Polish Chamber of Information Technology and Telecommunications (PIIT)** believes that Termination conditions shouldn't be placed in the summary due to the large volume of text (there is plenty of conditions for termination). Renewal is important only if it regards another definite period. Also, summary shall be as limited as possible. **Polish Chamber of Information Technology and Telecommunications (PIIT)** believes that if we provide too much information in a summary, most of consumers would decide not to read further documents.

**GSMA and ETNO** consider that the key information elements included in the summary should not go beyond what is outlined in Article 102(3) of the EECC, covering the information most important for consumers, without detailing it. Further details can be provided in a flexible manner by ECS providers.

**ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** stress that the national product fact sheets adequately provide consumers with information, NRAs consider of particular importance. The sheets containing advanced information like prices for additional acquirable hardware. In order to keep clarity, only content that is relevant for the customer should be presented, based on customer's point of view. For instance, this may not be the case for the already mentioned information like jitter, latency or loss of packages, although these are prioritized by NRAs. There is a significant discrepancy in perception. The contract summary should present solely content that was agreed upon. Only in such way, clarity and practicality can be guaranteed. Finally, **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** advises that no elements, which are not part of the contract, should be indicated (e. g. time to solve customer complaints).

**One stakeholder** agrees with the ranking average on identity of the trader. However, with respect to the main characteristics of the service the following ranking is considered more appropriate:

1. Services included in the offer;
2. Coverage area of the service;
3. Minimum and maximum estimated and advertised download and upload speed;
4. Domestic data volume allowance;
5. Roaming in the EEA information;
6. Equipment included in the bundle and specification of the relative title (ownership or on gratuitous loan) and possible return conditions.

Moreover, regarding the price of service, it proposes the following ranking:



1. Monthly charge of the service;
2. Eventual discount price, duration of discount;
3. Activation costs and eventual further costs;
4. Recurring costs related to equipment;
5. Payment methods.

Considering the duration of the contract, the proprieties should be as follows, according to the respondent:

1. Minimum duration of the contract;
2. Indication of modalities for termination;
3. Reference to the website for updated termination costs.

On the additional information elements, the stakeholder proposes the following:

1. Information on the necessary procedures for the purchasing of additional data on the prepaid Mobile services and the relevant costs;
2. Information and explanation of the procedures for the data processing requested by privacy law.

### 3.1. BEREC comments

BEREC welcomes stakeholder's observations and will analyse the opportunity of including them in its input to the European Commission next year.

## 4. Comments to Question 4

**Q: Do you have any views on how a contract summary should be drafted, addressing the following aspects in your response:**

- a. Size and number of pages on which the summary should fit**
- b. Font size and contrast of key information elements**
- c. Layout or order in which the key information elements should be presented**
- d. A single contract summary for each category of ECS or for multiple ECS**
- e. Particularities that should be considered with regard to disabled citizens**
- f. Any other elements you consider important to be included in the contract summary.**

**MVNO Europe** asked BEREC to have summaries not longer than 2 or 3 A4 pages, as per the relevant recital in the draft EECC. Annex 3 of BoR (18) 172 – BEREC Report on contractual simplification – contains a huge list of contract items. The stakeholder trusts that BEREC is not envisaging to include all of these in summary templates, as this would make matters complex rather than simplifying them. We also ask BEREC to bear in mind its findings in Annex 2, which is that national implementation of contract summary templates/forms has not gone smoothly. Lessons need to be drawn from this. **MVNO Europe** requests BEREC to hold a

public consultation on the actual draft contract summary template, before providing its input to the EC. In **Microsoft** opinion regarding the above question, BEREC's proposals for a contract summary must consider that the new EECC has substantially broadened the types of services that are now subject to the NRAs' regulatory authority, including the obligations addressed in this Report. In broadening the scope of the ECS definition, the EU has captured a new array of apps and services that are very different from the traditional services regulated by NRAs. These apps and services typically are not tethered to any particular telecom network. Untethered, they generally can operate over any internet access connection – from any country on the globe. As a result, in **Microsoft** opinion, the business models and user experiences can differ greatly from traditional tethered services. These differences may require different types of summaries for different types of ECS. A one-size-fits-all approach is likely to result in an ill-fitting summary for many of the services to which it applies, according to **Microsoft**.

**BEUC** advises that the contract summary should:

- Take not more than 1 page (or a max 4 000 characters);
- Be provided in the language of the MS where the consumer resides;
- Use a legible font size with appropriate contrast and colour of the font and the background;
- Use sections and paragraphs with clear headings;
- Highlight important terms, or put them up front, to attract consumers' attention, for example those imposing obligations, setting deadlines or excluding or limiting rights;
- Use simple and plain language (e.g. use short sentences, avoid using passive voice, define key or complicated terms);
- Use symbols, visual aids, graphics and as much as possible;
- Use layered approach where possible with layer of information to be provided more detailed than the previous one.

**Hutchinson 3G UK** Ltd believes that templates should be tested to enable good quality practical guidance to be given. Necessary information should be presented in a straightforward way to enable understanding with the most important information presented in way that is most impactful. **Hutchinson 3G UK** Ltd believes BEREC should also allow for alternative ways of covering off the elements that should be included in a contract summary, in forms that are more accessible for all types of consumers across the EU, including older and disabled citizens. Alternatives could include info-graphics and pictorial media to explanatory videos.

Whilst contractual simplification is an important objective, **Hutchinson 3G UK** feels an overly prescriptive template, including formatting requirements, may not be in the best interests of consumers.

**Polish Chamber of Information Technology and Telecommunications (PIIT)** advises that the contract summary should:

1. Contain at the very most 2 pages (1 page is preferred).



2. Font size - no less than 8.

3. CS should presents the most important things from the consumer point of view:

2a. Single contract:

- a) the name of the offer/promotion,
- b) duration of the contract,
- c) the name of the tariff plan,
- d) all charges that consumer has to pay included one-time rate (for example activation fee) as well as monthly fee (for example subscription fee),any additional useful information for a consumer such as number of agreement, , the way of invoice delivery (paper/mail),
- e) e) Service Provider contact details.

2b. Multiple contract (bundle offer):

- a) all the information from 2a + short describe of the elements of the bundle (for example if bundle offer comprise of 3 offers: FBB + MV + TV – consumer should has an information about a maximum speed of FBB; information about where (in what document) consumer is able to find list of TV channels; what benefits consumer got in mobile voice offer and so on).

4. Information from a) to h) should be presented in a table form.

5. CS should also contains a dedicated website address for disabled people where they may find dedicated information for them. Customers with special needs should get a summary of the contract in an electronic version (e.g. PDF), which will allow them to read the document, using programs that enlarge the text or read the text. In addition bright colours should be avoided because they make it difficult to read for people with certain visual impairments.

Operators should have some scope of freedom as to the graphical appearance of the contract summary, for example the possibility of placing a logo or other information that identifies the brand.

**Liberty Global** does not see the necessity for a specified format for this information (e.g. font size, layout, contrast) and this would go beyond the purpose of article 102(3) Code and considers that providers should have the flexibility to design their own contract summaries. When a specific format is required, it should be kept to the minimum essential terms and conditions of the contract. They consider that a single contract summary for multiple ECS is likely to be the preferred options as this is likely to be more meaningful for consumers. **Vodafone** points out that it is essential that any given contract summary is neither too long nor rigid in format. The exact length should be left to operators to decide, but in any event not exceed two or three pages (A4 size), in line with the EECC7. The purpose of a contract summary should be to help empower customers to make the right decisions. It should also be practical; this includes providing a link to further details where necessary (for example in relation to detailed pricing, or to customer service contact details which may change over time). Also, different sales channels need to be considered: customers may purchase services in a shop, via a website, a mobile device, or over the phone. Being too specific in relation to format and timing of the presentation of information can limit use of specific channels. Finally, where operators are required to provide non-sector specific information to their customers, for

example in relation to privacy or tax matters, operators should be allowed to provide such information in their contract summaries.

**Vodafone** considers that a single contract summary for multiple ECS is desirable, to ensure that converged offers (where multiple services are bundled together) are presented in a simple and consistent manner to consumers. Details relating to the specificities of particular services provided in a converged offer will be specified in the general terms and conditions, or other specific policies (e.g. privacy notice).

**ECTA** advocates that 2 or 3 A4 pages, as provided for by the draft Code, should be efficient and sufficient (and avoid regulatory over-reach) to meet the co-legislators' objectives, with optional further pages if the service or bundle includes further services or products which are separately relevant. A front page would identify the trader, basic elements identifying the service or bundle provided, applicable fees and contract duration, and the applicable conditions for renewal and termination. A subsequent page can thereafter describe the technical aspects of the service or bundle in more detail (and optional further pages if the service or bundle includes further services or products which are separately relevant). A contract summary should meet a basic standard of being legible.

**ECTA** believes that a pre-ordered list of elements of a bundle (e.g. fixed telephony to be listed first, broadband Internet second, TV third, equipment fourth) would not be appropriate. The lead service and add-on services or products of a bundle are key vectors of competition, which should be determined by market participants, not be pre-ordered by regulation. In relation to a single contract summary for each category of ECS or for multiple ECS, **ECTA** considers that market participants should be able to define their offers, i.e. determine if and how they bundle electronic communications services and any add-ons. This includes the possibility for operators to define the bundle/add-on services and products, and to offer the bundle as a single product (see also point a. above).

**Open Fiber** comments that in both Italy and France the term "fibre" cannot be used indistinctly for FTTC and FTTH networks, in order to allow a clear differentiation of the services provided over different infrastructures and therefore avoid that VHC infrastructures (such as FTTB and FTTH) may finally be severely harmed by this confusion. They note that in particular, in Italy, in order to avoid confusion about the use of the term "fibre" in every kind of commercial communications, it is not possible to associate the term "fibre" to offers that are not based on FTTH/B infrastructures. In case of FTTC offers, operators must specify that the last part of the connection is made on copper and they cannot use the term "fibre" itself if not together with the term "copper". **Open Fiber** also considers that very technical parameters, such as jitter or packet loss, provide much less valuable information for the majority of customers and they are accessible only to a tiny share of the population.

The **GSMA and ETNO** have the following comments, following the structure proposed in the public consultation:

- a. Size and number of pages on which summary should fit:
  - fitting on one page and, in case of bundles, not longer than 3 pages;
  - the size of the page should be A4 in principle;

- some flexibility of the format should be granted with regard to specific sales channels, such as smaller font or size of the summary document.
- b. Font size and contrast of key information elements:
- should be flexible;
  - might be different, but it is important that the language of summaries must be concise and easy to understand.
- c. Layout or order in which the key information elements should be presented:
- should be flexible;
  - different layouts are necessary to ensure a consumer-oriented approach, depending on the sales channels;
  - the order of information is not of high relevance;
  - the set of key information should be sufficiently legible for the consumer.
- d. A single contract summary for each category of ECS or for multiple ECS:
- should be flexible, since, for example, the need that information on IAS will differ from those on ICS;
  - the information on NB ICS and NI ICS should in principle be the same, with the mention that information on data portability would only be relevant with regard to NB-ICS.
- e. Any other elements you consider important to be included in the contract summary:

The following elements should be considered:

- Evidence-based approach;
- Summary as an extract from full contractual document;
- Horizontal approach required, not limiting the benefits just to ECS;
- Transparency, which should not be confused with unfair contract terms;
- Plain language and readability;
- Focus on consumers only;
- Comparability instead of standardization, flexibility;
- Annex 3 goes beyond the regulatory obligations included by Article 102 of the EECC, no benchmarking based on compiling the national practices which are country-specific;
- The submission process should not be tackled, since it is already provisioned by the EECC.

**ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** comments that the schematic regulations for the drafting of fact sheets are reasonable. Rigid regulations (e. g. number of columns) may not be constructive in this case, as those may lead to uncertainty within the companies when presenting the information, for example in the case that they are not sufficient and may in the end result in a limitation of the offer. Templates must satisfy under all circumstances the diversity of offers in the market and therefore provide templates for different products.

1. Some limitation of pages per ECS is advisable. That will enable the consumer to get all relevant information at one glance.
2. The readability of information has to be in the focus. The exact font size as well as the contrast should be left to the discretion of the telecommunication company.

3. The basic structure of the product fact sheets in Germany stood the test of time. This structure should be adopted as much as possible. The accentuation of specifications in the summary is not considered as constructive. The document should be kept from the beginning as lean and clear as possible, a separate accentuation is not needed.
4. The contract summary for each product category should be limited to one page. Besides, there should be the possibility to summarize bundled product on one page.

With respect to the drafting of the contract summary, **a respondent** considers that it should:

- be short (max 2 pages);
- be schematic and capable of bringing the attention to the most important issues;
- comprise a separate summary for each category (mobile/fixed service) and for each single service within those categories;
- be prepared in a readable form, including for visually impaired citizens;
- describe procedures relative to fraud, compensation, switching provider, move/transfer, with reference to more extensive sources of information, such as websites or to the complete contractual documents;
- always allow operators to fully describe specific innovative services that are offered together with the ECS, with no restriction of any kind.

#### 4.1. BEREC comments

BEREC welcomes stakeholder's observations on NRAs rankings of key information elements, some of which BEREC considers are particularly relevant and, for that reason, are noted below:

- MVNO Europe asked BEREC to have summaries not longer than 2 or 3 A4 pages and requests BEREC to hold a public consultation on the actual draft contract summary template, before providing its input to the EC.
- Microsoft noted that the EU has captured a new array of apps and services that are very different from the traditional services regulated by NRA in that they, typically, are not tethered to any particular telecom network but can operate over any internet access connection. As a result, business models and user experiences can differ greatly from traditional tethered services and a one-size-fits-all approach is likely to result in an ill-fitting contract summary.
- BEUC, the Polish Chamber of Information Technology and Telecommunications (PIIT), ANGA-BITKOM-BUGLAS-BREKO-eco-VATM and the GSMA and ETNO all provided constructive comments and suggestions on the content and structure of the contract summary template.
- Hutchinson 3G UK helpfully pointed out that contract summary must be more accessible for all types of consumers across the EU, including older and disabled citizens. As such, info-graphics and pictorial media should be permitted and overly prescriptive rules may not be in the best interests of consumers.

- Liberty Global observed that a specified format would go beyond the purpose of article 102(3) Code and providers should have the flexibility to design their own contract summaries
- Vodafone similarly points out that the contract summary should be left to operators to decide since different sales channels need to be considered (i.e. shop, via a website, a mobile device, or over the phone). Also, operators should be allowed to provide non-sector specific information such as privacy or tax matters in their contract summaries.
- ECTA advocates that 2 or 3 A4 pages, as provided for by the draft Code, should be sufficient to meet the co-legislators' objectives ECTA believes that a pre-ordered list of elements of a bundle would not be appropriate and such matters should be determined by market participants.
- Open Fiber comments that in both Italy and France the term "fibre" cannot be used indistinctly for FTTC and FTTH networks

Addressing specifically the point raised by MVNO Europe requesting that BEREC hold a public consultation on the actual draft contract summary template, before providing its input to the EC, it is important to note that it is not for BEREC to draft a contract summary template, rather to provide input to the Commission as it seeks to adopt an implementing act specifying a contract summary template. As such, this public consultation serves the purpose of gathering stakeholder's views in advance of BEREC providing such input. Also, the report includes NRAs' opinions on the most important information elements (and sub-elements) that should be included in a contract summary, regardless of any measures or initiatives that the NRA may have taken. Not all elements will necessarily be included in the contract summary template.

BEREC notes the comments and will analyse the opportunity of including them on BEREC's input to the European Commission Implementing Act specifying a contract summary sheet next year. The scope of BEREC's work will largely depend on the nature and form of the request for input that it receives from the Commission. Furthermore, it is known from Recital 261 of the EECC that "The contract summary should be concise and easily readable, ideally no longer than the equivalent of one single-sided A4 page or, where a number of different services are bundled into a single contract, the equivalent of up to three such single-sided A4 pages".

BEREC underlines that according to the European Electronic Communications Code, the European Commission on its Implementing Act will establish "a design or form or content" for a contract summary sheet.

On Hutchinson 3G UK stating that templates should be tested to enable good quality and it should also be allowed for alternative ways of covering off the elements, BEREC notes the comment, but is also cognisant of the provisions of Article 102 of the EECC, which foresees a strict timetable for the adoption of the implementing act. Furthermore, BEREC would broadly support the concept that information elements could be provided in alternative ways, for example for consumers with physical or intellectual disabilities so long as the fundamental requirement of providing easily understandable information is met for all consumers. In other words, providing information by alternative means should be an additional complementary

measure rather than a substitute to the fundamental requirement to provide a contract summary template, containing a minimum list of information elements. .

On Liberty Global which does not see the necessity for a specified format for this information BEREC notes the comment, but it will not be taken on board. According to article 102 Commission shall, after consulting BEREC, adopt an implementing acts specifying a contract summary template to be used by the providers to fulfil their obligations under this paragraph.

BEREC welcomes the constructive and insightful comments, observations and recommendations received from stakeholders and will carefully analyse the opportunity of including them in its input to the European Commission next year.

## 5. General comments

**Hutchinson 3G UK Ltd** (Three) supports the objective of electronic-communications contractual simplification and agrees that consumers will benefit from initiatives to increase their awareness of key contract terms.

**Hutchinson 3G UK Ltd** agree that consumers of electronic-communications need to understand the key terms of the contracts they are entering. All seven key information elements identified by the Report are already used in UK.

**Polish Chamber of Information Technology and Telecommunications (PIIT)** advises that contracts for the provision of telecommunications services are becoming more and more complex. The catalogue of information required by law to be included in the contract expands ever more. In result the contracts get ever longer and less comprehensible for customers. Both telecommunications regulations (Telecommunications Law) and consumer protection regulations (Consumer Rights Law), require almost 50 obligatory elements to be included in the contract. So, for the sake of customers' interests the contracts should be kept as short and as simple as possible without including excessive number of compulsory elements that neither useful, nor comprehensible for a customer.

**Polish Chamber of Information Technology and Telecommunications (PIIT)** believes that in terms of the form how the contract should be concluded / signed, the default form should be digital and ecological thus reducing volume of paper that is used for this purpose.

**Polish Chamber of Information Technology and Telecommunications (PIIT)** states that the European Electronic Communications Code extends the catalogue of information that must be provided to the subscriber by the provider of the electronic communications service. For instance information about latency, jitter, packet loss will be understandable only for a small group of users and in our opinion they do not constitute an added value for the consumer. The BEREC report shows that this information have been recognized as of minor importance for most NRAs. (Figure 12: NRAs ranking of the importance of information on QoS for inclusion in a contract summary). In our opinion, this type of information should not be included in the contract. Of course, the subscriber should be able to get information about such indicators, but they could be available, for example, on the website.



**Polish Chamber of Information Technology and Telecommunications (PIIT)** believes that the activities of both NRA and BEREC related to contracts should focus on simplifying them and ensuring flexibility, what should, for example, mean giving some scope of freedom to operators when choosing a graphical form of summary, because they best know the needs of their clients.

**Facebook** supports measures to promote transparency. The draft report provides helpful background information on how Member States/NRAs have already been intervening at the national level to promote transparency and assist consumers in making informed choices and better understanding the terms of their ECS contracts. At this stage, **Facebook** does not have substantive comments on current practices adopted by the NRAs or their views on the key information elements that may be included in the summary template.

However, as the scope of the contractual information requirements has been extended to number independent interpersonal communication services (NI-ICS) under the new EECC, it is important for the contractual summary template requirements to reflect the differing categories of ECS (for example, NBICS and NI-ICS). **Facebook** urges BEREC to consider technical, economic and other distinctions between these services, similar to the considerations under the EECC, as it develops related contractual requirements. Automatic extension of NB-ICS requirements to the category of NI-ICS would neglect the fact that both categories are different in many ways. BEREC's role in this process is critical to secure a consistent and harmonized implementation of Article 102 EECC across the EU and the adoption of a practical contractual summary template.

Finally, **Facebook** encourage BEREC to continue to engage with stakeholders as it develops its thinking in this area. Although this consultation is a valuable first step, unfortunately it does not provide insight into BEREC's intent as to the requirements to be included in the summary template and, in particular, those that might apply to NI-ICS. In this respect, we would kindly urge BEREC to engage with providers of NI-ICS at an early stage of its assessment in order to inform its input to the Commission. **Facebook** remains fully committed to cooperating with BEREC in this area.

**ECTA** believes that enabling competitors to do what it takes to win customers, comprehensively addressing lingering bottlenecks at the wholesale level with SMP operators, and keeping direct retail regulation simple, offers the best guarantees for an outcome which will be favourable to consumers (and other relevant end-users).

**ECTA** also asks BEREC to be mindful of Annex 2 of BoR (18) 172, which lists genuine, severe implementation challenges that have been encountered in Member States. They confirm their view that the benchmark list of information elements and sub-elements set out in Annex 3 of BoR (18) 172 does not constitute an appropriate basis for an EU-wide 'contract summary template' and encourages BEREC to clearly highlight those elements that are not required by the draft Code, but exclusively represent national legislative and/or administrative choices.

**ECTA** stresses that neither this report, nor the contract summary template must ultimately lead to complexification rather than simplification of contractual information requirements, which, even in summary form, might hinder the exercise of informed choice and lead to negative competitive outcomes.

In **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** opinion, transparency is vital for consumers. This aspect is of interest also for telecommunication companies as transparency allows them to distinguish themselves from competitors and to foreground their own services.

**ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** points out that any information beyond the regulated ones may not increase transparency, but confuse consumers. Having in mind Articles 102 (3) and 101 EEC that national solutions concerning product fact sheets are now obsolete and providers do not have to provide redundant information. **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** plead that the specifications concerning contract summaries should be geared as far as possible to the information included in the German product fact sheet, which already stood the test of time.

**ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** states that already now, consumers receive a number of documents (e. g. price list, SLAs) and terms and conditions. This is needed to allow consumers to take note of all conditions. Due to legal obligations consumer have to be informed comprehensively in order to be able to get knowledge of all modalities of the contract, even after the signature. A contract summary can yield a benefit only when it is focusing on the most important issues and has a clearly laid out format.

Furthermore, it is important that the creation of the summaries do not lead to an excessive burden. Specification should not be too formalistic and must give the companies the possibility to represent their products. Complex instructions are difficult to follow and hardly affordable for companies. In the end, this could lead to higher use of human resources, which may have a negative impact on end user tariffs. Such measure may also result in a lesser number of individual provisions between the contractual parties. As companies are interested to achieve a high degree of automation, they will avoid the modification of individual provisions in order to limit the additional input.

It is important for **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM** that this proposal will not limit the diversity of offers and innovation. The experience with the existing product fact sheet shows that a high degree of details leads to a high bureaucratic effort. For the benefit of the consumer, individual provisions must be possible also in the future without the need to include them in the contract summary, which would implicate high costs of implementation.

The proposal should also take into account the fact that the telecommunication market is an agile and complex market characterized by a high degree of competition. Additional regulation may lead to a limitation or burden for this market. Therefore, the contract summary template must give companies the leeway to present innovative and new products, according to **ANGA-BITKOM-BUGLAS-BREKO-eco-VATM**.

**One stakeholder** considers crucial keeping the possibility for operators to have the flexibility to describe their services as they consider more appropriate.

## 5.1. BEREC comments

BEREC welcomes stakeholder's observations and comments of a general nature on various aspects of prescribing a contract summary template some of which BEREC considers are particularly relevant and, for that reason, are noted below:



- Hutchinson 3G UK Ltd noted that all seven key information elements identified by the draft Report are already used in UK.
- Polish Chamber of Information Technology and Telecommunications (PIIT) noted that both telecommunications regulations (Telecommunications Law) and consumer protection regulations (Consumer Rights Law), require almost 50 obligatory elements to be included in the contract and the EECC now extends the catalogue of information that must be provided to the subscriber by the provider of the ECS. PIIT consider this situation overly burdensome and point out, for instance, information about latency, jitter, packet loss, which it considers will be understandable only for a small group of users and do not constitute an added value for the consumer. PIIT considers that the activities of both NRAs and BEREC should focus on simplifying contracts and ensuring flexibility, allowing some scope of freedom to operators when choosing a graphical form of summary.
- Facebook noted, in a similar manner to Microsoft above, that the scope of the contractual information requirements has been extended to number independent interpersonal communication services (NI-ICS) under the new EECC, and Facebook considers it important for the contractual summary template requirements to reflect the differing categories of ECS (for example, NBICS and NI-ICS). Facebook also noted that the draft Report does not provide insight into BEREC's intent as to the requirements to be included in the summary template and, in particular, those that might apply to NI-ICS. It urges BEREC to engage with providers of NI-ICS to inform its input to the Commission.
- ECTA asks BEREC to be mindful of Annex 2 of BoR (18) 172, which lists genuine, severe implementation challenges that have been encountered in Member States and points out that neither the draft Report, nor the contract summary template should further complicate rather than simplify contractual information requirements.
- ANGA-BITKOM-BUGLAS-BREKO-eco-VATM considers that transparency is vital for consumers and the advent of the EECC will result in national solutions concerning product fact sheets becoming obsolete and providers will not have to provide redundant information. However, this stakeholder urged BEREC to consider the information included in the German product fact sheet, which it considers has already stood the test of time. Further, this stakeholder considers that the contract summary template must give companies the leeway to present innovative and new products.

Addressing specifically the point raised by Facebook encouraging BEREC to engage with providers of NI-ICS, BEREC would note that this consultation provided all stakeholders a platform to engage with BEREC and, as previously stated, this public consultation serves the purpose of gathering stakeholder's views in advance of BEREC providing input to the Commission. Although this consultation may not have specifically asked questions about NI-ICS, there was not impediment to any stakeholder drawing BEREC's attention to factors that it considers relevant.

On a general note, BEREC welcomes the constructive submissions from stakeholders and will carefully consider these and analyse the opportunity of including them in its input to the European Commission next year.