



## **GSMA response to the BEREC public consultation on the BEREC Work Programme for 2018**

8 November 2018

The GSMA, which represents the interests of mobile operators worldwide, welcomes the opportunity to comment on BEREC's draft Work Programme for 2018. We hope the following detailed comments can serve as a constructive contribution to BEREC's deliberations on its draft work programme.

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

#### **Geographical market definition**

Due to national demand-side and supply-side substitution, mobile electronic communications markets are most likely to be national in scope. However, strong competitive constraints on mobile services may also be supra-national or sub-national.

Firstly, the competitive pressure from globally active over-the-top services on mobile services such as voice and SMS may extend beyond national boundaries. Secondly, the increasing pervasiveness of public and private Wi-Fi access as a substitute for mobile data access exerts a competitive constraint according to the geographical coverage of Wi-Fi and may thus range from local to national scope. These new competitive constraints from Wi-Fi access and – or in conjunction with – over-the-top services have to be taken into account for market definition and analysis.

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

#### **Data economy**

The GSMA is increasingly active on the Data Economy topic and is planning to issue a study report analyzing this field. In February 2017, the GSMA has also launched [Big Data for Social Good campaign](#). In principle, we advise policymakers to focus on partnerships around specific policy goals (e.g., improving public health, transport, etc.) rather than on regulatory interventions.

The GSMA is keen and interested to actively participate in the forthcoming BEREC data economy workshop and other stakeholder engagement events on the topic planned in 2018 and beyond.

### **Internet of Things (IoT) Indicators**

IoT will go far beyond the telecom markets borders as currently known, meaning sector specific regulators may go beyond their remits by investigating / gathering information on IoT from service providers. Also, it has to be taken into account that the IoT market is global and still very much nascent. As such national/regional indicators will at best only be indicative.

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

The GSMA and its members play an actively role in 5G development. Therefore, we would like to encourage BEREC to involve the GSMA in the various workstreams relating to 5G, especially the discussions on 5G, IoT and security scheduled for the BEREC 1<sup>st</sup> plenary session in 2018. The GSMA is willing to continue the discussion with BEREC on the links between Net Neutrality rules and 5G architecture and services.

BEREC should also recognize the achievements of the High-level advisory group that assists the European Commission in the development of radio spectrum policy RSPG.

### **Best practices report regarding spectrum authorization and award procedures with a view to 5G**

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### **Infrastructure sharing**

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BEREC work on infrastructure sharing does not mention any link or exchange with competition authorities while they are very often involved in assessing voluntary sharing deals.

### **Best practices report on coverage obligations with a view to 5G**

A public consultation would be reasonable to enhance the transparency. BEREC should recognize the achievements of the High-level advisory group that assists the European Commission in the development of radio spectrum policy RSPG.

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

The GSMA and its members play an active role in Net Neutrality discussions. Therefore, we would like to encourage BEREC to involve the GSMA in the various workstreams relating to Net Neutrality scheduled for 2018. As mentioned above, the GSMA is also willing to continue the discussion with BEREC on the links between Net Neutrality rules and 5G architecture and services.

### **Net neutrality - Input to an evaluation**

The GSMA believes that in order to properly evaluate the experiences with regulation and guidelines on Net Neutrality, while taking into account new technologies such as 5G, and services (i.e., IoT / specialised services), BEREC should adopt such a report only after exchanging views with the industry, as relevant implementation experiences also come from market players which are bound by the rules.

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

### **Report on termination of contracts and switching of provider**

The draft proposal for a European Electronic Communications Code (Code) includes new requirements on termination of contracts and switching of provider. The draft is currently being negotiated amongst the EU Institutions, and it therefore appears to be either too late to explore current practices and too early to investigate whether future measures will have the intended effects for BEREC to consider undertaking the writing of a report on these topics.

### **Report on best practices for ensuring equivalence of access and choice for disabled end-users**

As in the response to question 5.1 the Code is still being negotiated as is the draft European Accessibility Act, and it is therefore too early to investigate whether future measures will have the intended effects for BEREC to consider undertaking the writing of a report on these topics.

### **Report on contractual simplification**

It is expected that the Code will include requirements on providers to issue a contract summary to their customers. In this regard, it is the recommendation that this contract summary is developed on a self-regulatory basis by industry itself as this will ensure the necessary flexibility in responding to customers' needs and the development of offers and technologies.

### **European Benchmark of the pricing of bundles**

GSMA sees little need for a European benchmark on the pricing of bundles as bundles are not fixed in terms of which services are bundled together. Ultimately, it is the demand from customers and the competition in the market that decides which services are bundled, and this will vary over time and from market to market.

## **Proposal for a new work stream: Enhanced cooperation to prevent fraud**

Finally, we would like to suggest the introduction of a new work stream on the revision of the paper “Article 28(2) USD Universal Service Directive: A harmonised BEREC cooperation process”, published in May 2013. These guidelines set out a description of how NRAs can work together to address cross-border fraud or misuse of electronic communications with support from BEREC. Now, almost five years later, we strongly believe that BEREC should revisit those guidelines, in conjunction with industry, to analyse their effectiveness and see the improvements that may be required, in light of the new market developments and the new competences foreseen for BEREC in the new code. We consider that the management of fraud is a fundamental issue to achieve the development of a healthy digital single market and that there is a relevant gap on this fundamental topic, which should be covered by regulators.

We thank BEREC for the opportunity to comment on its draft 2018 Work Programme and look forward to working with BEREC on these important topics.