

39th Ordinary Plenary Meeting of the Board of Regulators

Hosted by the Belgian Institute for Postal Services and Telecommunications (BIPT).

Conclusions

Chair: Jeremy Godfrey

Commissioner
Commission for Communications Regulation (ComReg)

13-14 June 2019

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Main Results of the 39th Meeting of the BEREC Board of Regulators

The BEREC Board of Regulators (BoR) held its 39th ordinary plenary meeting on 13-14 June 2019 in Ghent, Belgium.

During the meeting the BoR discussed and/or approved the following documents:

1. Documents approved as 'A' items

1.1 For publication:

- BoR (19) 90 BEREC Annual Reports 2018;
- BoR (19) 91 BEREC Report on the Termination Rates at the European level;
- BoR (19) 93 BEREC Report on the outcome of the public consultation on Access to physical infrastructure in the context of market analyses;
- BoR (19) 94 BEREC Report on Access to physical infrastructure in the context of market analysis;

1.2 For public consultation:

- BoR (19) 95 BEREC Guidelines on the minimum criteria for a reference offer relating to obligations of transparency.

2. Documents approved as regular items

2.1. For publication:

- BoR (19) 100 Working arrangement between the Body of European Regulators for Electronic Communications (BEREC) and the Radio Spectrum Policy Group (RSPG);
- BoR (19) 101 BEREC Opinion on the functioning of the roaming market as input to EC evaluation;
- BoR (19) 107 BEREC response to the public consultation from the EC on the review of the recommendation on relevant markets;
- BoR (19) 115 BEREC Detailed Rules on Access to Documents;
- BoR (19) 109 BEREC report on the outcomes of the public consultation on the draft BEREC Common Position on infrastructure sharing;
- BoR (19) 110 BEREC Common Position on infrastructure sharing.

2.2. For internal use:

- BoR (19) 117 "Scoping and Proposal" Document for the development of BEREC Guidelines to assist NRAs on the consistent application of geographical surveys of network deployments;
- BoR (19) 112 "Scoping and Proposal" Document on the development of the Update to the BEREC Guidelines on Net Neutrality;
- BoR (19) 103 "Scoping and Proposal" Document on the BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3);

- BoR (19) 108 “Scoping and Proposal” BEREC Guidelines to foster the consistent application of the criteria for assessing co-investments on very high capacity network elements;
- BoR (19) 102 “Scoping and Proposal” Document on the development of BEREC Guidelines detailing QoS parameters of IAS and publicly available ICS and the publication of information;
- BoR (19) 111 “Scoping and Proposal” BEREC guidelines on how to assess the effectiveness of public warning systems transmitted by different means;
- BoR (19) 118 PRD for Cybersecurity in 5G Networks.

3. Documents submitted for public consultation:

- BoR (19) 104 Call for Initial Stakeholder Input on the BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3);
- BoR (19) 113 BEREC Guidelines for the notification template pursuant to article 12, paragraph 4 of Directive 2018/1972 of the European Parliament and of the Council;
- BoR (19) 114 BEREC guidelines on common criteria for the assessment of the ability to manage numbering resources by undertakings other than providers of electronic communications networks or services and of the risk of exhaustion of numbering resources if numbers are assigned to such undertakings.

4. Documents submitted for information:

- BoR (19) 99 Preliminary schedule for meetings in 2020;
- Ares(2019)3666781 Letter of the EC on the Working Arrangement between BEREC and RSPG;
- BoR (19) 119 Agenda of the 7th BEREC Stakeholders’ Forum.

5. Other main topics discussed

During the plenary meeting, the BoR also discussed topics related to the implementation of the new telecommunications regulatory framework and BEREC’s international cooperation. The BoR members also exchanged experience in relation to the cybersecurity issues. Two NRAs shared experience from the national level regarding 5G auctions and regulation of platforms.

6. Next meeting

The next ordinary plenary meeting of the BoR will take place on **3-4 October 2019 in Crete (Greece)** and will be hosted by the [Hellenic Telecommunications and Post Commission](#) (EETT).

Introduction and participation

The BEREC Board of Regulators (BoR) held its 39th ordinary plenary meeting on 13-14 June 2019 in Ghent, Belgium.

The meeting was attended by the Heads and/or high-level representatives of the NRAs from each EU Member State which have primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. The European Commission also took part in the meeting. Heads and high-level representatives of the NRAs with which BEREC concluded working arrangements also took part in the meeting.

List of documents

The list of final documents approved by the meeting for publication, in compliance with the BEREC Regulation and the BoR transparency rules, is presented in Annex to the Conclusions.

Items discussed

A short overview of the information presented under each agenda item, a summary record of the proceedings and a record of the conclusions reached by the BoR is presented below.

1. Opening of the meeting and adoption of the agenda

Document(s)	BoR (19) 89 Draft BEREC Agenda
Introduction by	BEREC Chair (ComReg)
Information presented	<p>The BEREC Chair welcomed the meeting participants who attended a plenary meeting for the first time:</p> <ul style="list-style-type: none">- Mr Kreshnik Gashi – (ARKEP) Kosovo;- Mr Rainer Schnepfleitner (AK) Liechtenstein;- Mr. Jesmond Bugeja – (MCA) Malta. <p>A representative of the meeting host presented information on the logistics of the meeting and the social event.</p> <p>The BEREC Chair opened the meeting and presented the draft agenda for approval by the BoR meeting. The BoR was invited to suggest any additional issues to be raised or presented under “Any other business” (AOB).</p> <p>A short update on WACC and presentation of national cases were requested for presentation under AOB.</p>
Conclusions	The agenda was approved with the suggested changes.

2. List of ‘A’ items

Document(s)	<u>Approval for publication:</u> BoR(19) 90 Draft BEREC Annual Reports 2018
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	<p>BoR (19) 91 Draft BEREC Report on the Termination Rates at the European level</p> <p>BoR (19) 93 BEREC Report on the outcome of the public consultation on Access to physical infrastructure in the context of market analyses</p> <p>BoR (19) 94 Draft BEREC Report on Access to physical infrastructure in the context of market analysis</p> <p><u>Approval for public consultation:</u></p> <p>BoR (19) 95 Draft BEREC Guidelines on the minimum criteria for a reference offer relating to obligations of transparency</p>
Introduction by	BEREC Chair (ComReg)
Information presented	<p>The BEREC Chair presented the list of 'A' items as outlined above. The list of 'A' items had been drawn up on the basis of the conclusions of the CN, according to which BoR approval of the documents mentioned above should be possible without further discussion. The BEREC Chair informed the BoR members that, if needed, they could still make statements for the minutes on any of the 'A' items.</p> <p>The BEREC Chair requested the consent of the BoR members for including all items in the list and, secondly, he asked the BoR to approve the documents in the list of 'A' items.</p>
Conclusions	The BoR approved the documents included in the list of 'A' items.

3. Information from the Chair, including oral updates on the elections of the BEREC Chair 2021 and Vice-Chairs for 2020

Document(s)	No documents
Introduction by	BEREC Chair (ComReg)
Information presented	<p>The BEREC Chair briefed the BoR on the outcome of the recent important meetings he held and on the meetings that he is going to attend, referring to the list of meetings, which the Chair circulated before the meeting.</p> <p>He also reported on the following topics:</p> <ul style="list-style-type: none"> - the establishment of the Ad hoc WG on Cybersecurity in 5G Networks; - the second Co-Chairs' meeting to take place in Riga on 17-18 July 2019; - the meeting with Western Balkan NRAs scheduled just after the BoR session on 13 June 2019; - update on the participation of 3rd country NRAs in the work of BEREC, especially with regard to the participation of representatives of the Swiss NRA, who will participate in 5

	<p>WGs (Roaming, OI, FWE, SI, PFT) and the BoR/CN meetings for corresponding agenda items.</p> <p>In addition, the BEREC Chair provided information on the procedure for the election of the BEREC Chair 2021 and the Vice-Chairs for 2020 in line with the updated Rules of Procedure, focusing mainly on the new deadlines envisaged in the newly adopted rules.</p> <p>The decisions for both the 2021 Chair and the additional 2020 Vice-Chairs are to be adopted by a 2/3 majority of the BEREC members.</p>
Conclusions	The BoR took note of the information.

4. Information from the BEREC Office

Document(s)	<p>BoR (19) 96 Information on the electronic voting procedures since the last plenary meeting</p> <p>BoR (19) 97 Information on planned electronic voting procedures</p> <p>BoR (19) 98 2019 BEREC Work Programme status update</p>
Introduction by	BEREC Office Representative
Information presented	<p>The BEREC Office submitted for information documents on the electronic voting procedures and the implementation status of the 2019 BEREC Work Programme (WP-2019).</p> <p>A BEREC Office representative also updated the BoR on:</p> <ul style="list-style-type: none"> – The Phase-II cases submitted since the last plenary meeting; – The progress made in the development and implementation of the Net Neutrality (NN) Measurement Tool; – The Open Internet Stakeholder Workshop, which took place on 29 May 2019 in Brussels; – The study on “The Determinants of Investment in Very High Capacity Networks – A System Dynamics Approach”; – The project on the upgrade of BERECnet; – Outcomes of the survey on the quality of service provided by the BEREC Office in supporting the WGs; – BEREC training for the next academic year.
Conclusions	The BoR took note of the information.

5. Information from the Commission

Document(s)	No documents
Introduction by	Commission Representative

<p>Information presented</p>	<p>The EC representative reported on several digital policy legislative acts which had been finalised:</p> <ul style="list-style-type: none"> – Directives on copyright and related rights in the Digital Single Market were formally adopted on 17 April 2019; – The Cybersecurity Act, which establishes ENISA and the Information and Communication Technology cybersecurity certification; – The Directive on Open Data and the re-use of public sector information; <p>He reported on the workshops on the cost models for fixed and mobile termination rates, in which the NRAs were involved. Regarding the work on mobile termination rates, he reported that the model is relatively stable. As for the fixed termination rates cost model, he reported that the consultation is ongoing (6 May-28 June 2019).</p> <p>Regarding roaming, the EC representative informed the BoR that, by the end of June 2019, the EC will publish a report on the findings of the review of the Commission Implementing Regulation on fair use and the sustainability derogation. He noted that the draft BEREC Opinion on the functioning of the roaming market had already been an important input to this report. He also reported that a study on technological and business developments that might possibly impact roaming markets is also planned to be published soon. This documents will serve as an important input to the Commission’s roaming review, which is planned by the end of 2019.</p> <p>The EC representative also reported on the workshop on 5G authorisations, which took place on 24 April in Brussels. He informed the BoR that Member States have reported on the progress made in the awards of 5G bands. The EC representative noted that there are many questions around the allocation of frequency bands, not only of an economic nature, but also related to concerns around electromagnetic fields radiations caused by 5G networks. He noted that a rational discussion is needed in this respect and that BEREC could play some role in it.</p> <p>Finally, the EC representative informed the BoR that the Council adopted the negotiation mandate for the forthcoming WRC-19.</p>
<p>Conclusions</p>	<p>The BoR took note of the information.</p>

6. Oral update on the BEREC Work Programme 2020

<p>Document(s)</p>	<p>BoR (19) 99 Preliminary schedule for meetings in 2020</p>
<p>Introduction by</p>	<p>Incoming BEREC Chair</p>
<p>Information presented</p>	<p>Each year, following consultation with interested parties, BEREC needs to adopt a Work Programme (WP) for the following calendar year. In that respect, and to achieve as broad a stakeholder input as possible, BEREC launched a call for input on the BEREC Work Programme 2020.</p>

	<p>The Incoming BEREC Chair reported on the outcome of the call for inputs, which ran from 15 March 2019 until 23 April 2019.</p> <p>He also presented to the BoR the results of the call for prioritisation of items suggested for the BEREC WP 2020-21, which was launched on 29 May 2019 together with the list of discretionary items for the BEREC WP 2020-2021.</p>
Conclusions	The BoR took note of the information.

7. Working arrangements between BEREC and RSPG

Document(s)	<p>BoR (19) 100 draft Working arrangement between the Body of European Regulators for Electronic Communications (BEREC) and the Radio Spectrum Policy Group (RSPG)</p> <p>Ares(2019)3666781 Letter of the EC on the Working Arrangement between BEREC and RSPG;</p>
Introduction by	BEREC CN Chair (ComReg) and RSPG Chair
Information presented	<p>Following the work initiated by the BEREC Chair in 2018, the draft working arrangement (WA) between BEREC and RSPG establishes co-operation on matters of mutual interest, particularly under Article 35 (Peer Review Process) of the EECR. The working conditions have been developed in conjunction with RSPG and the Commission, having regard for the different organisational structures of the two organisations (BEREC and RSPG).</p> <p>The BEREC Chair informed the BoR that the WA received approval from the European Commission.</p> <p>The RSPG Chair updated the BoR on the work that the RSPG is doing in relation to the peer review process. He also informed the BoR about the operational arrangements put in place in order to ensure that BEREC and RSPG collaborate effectively under the provisions of the WA, for example the appointment of the 'Liaison Officers' that will be closely cooperating with BEREC peers. He invited the NRAs to participate in the peer review workshop that will be organised under the auspices of the RSPG.</p> <p>The BEREC Chair noted the need for appropriate expertise to feed into the process of peer reviews. He also noted the importance of sharing experience and knowledge at the expert level.</p> <p>The Working Arrangement between the Body of European Regulators for Electronic Communications (BEREC) and the Radio Spectrum Policy Group (RSPG) was signed by both parties.</p>
Conclusions	<p>The BoR approved the Working Arrangement for publication.</p> <p>The Working Arrangement was signing by all parties.</p>

8. Roaming

Document(s)	BoR (19) 101 Draft BEREC Opinion on the functioning of the roaming market as input to EC evaluation
Introduction by	Roaming WG Co-Chairs (RTR/EETT)
Information presented	<p>The European Commission has to publish a review of the Roaming Regulation by the end of 2019. In its letter of 1 October 2018, the European Commission asked BEREC for input for the review of the roaming rules. This input shall cover the lists of elements that are laid down in Article 19(3) of the Roaming Regulation and serve as an input to amending the Commission Implementing Regulation.</p> <p>The draft BEREC Opinion is based on input from NRAs and operators (MNOs and MVNOs/resellers). The input is mainly based on responses to a survey jointly launched by BEREC and the European Commission in March 2019. The Roaming WG also took into account data published in the BEREC International Roaming Benchmark Reports and the BEREC Report on Transparency and Comparability of Retail Roaming Tariffs.</p> <p>The WG Co-Chairs noted that, in general, the roaming regulation has been a success.</p> <p>They also presented to the BoR the main conclusions of their work and recommendations on each of the following topics:</p> <ul style="list-style-type: none"> - Retail markets and quality of service; - Derogation mechanism and wholesale markets; - Misuse and premium rate services; - Technological aspects. <p>The WG Co-Chairs also informed the BoR about the next steps.</p>
Conclusions	The BoR took note of the information and approved the document for publication and submission to the EC, subject to the changes suggested during the meeting.

9. Statistics and Indicators

Document(s)	BoR (19) 117 “Scoping and Proposal” Document for the development of BEREC Guidelines to assist NRAs on the consistent application of geographical surveys of network deployments
Introduction by	SI WG Co-Chairs (CNMC/ANACOM)
Information presented	The WG Co-Chairs reported that, according to Article 22 of the EECC, NRAs and/or other competent authorities shall conduct a geographical survey of the reach of electronic communications networks capable of delivering broadband (“broadband networks”) by 21 December 2023 and shall update it at least every 3 years.

	<p>They noted that the results of the geographical survey may be used for different purposes by the EC, NRAs and other competent authorities.</p> <p>The WG Co-Chairs underlined that the main goal of the Guidelines on geographical surveys is to enable the production of data on the reach of broadband networks that is geographically referenced and relevant to regulation and policy in each Member State. Secondly, BEREC must also seek a level of consistency in this data, as Article 22(7) refers to Guidelines on “the consistent application” of Article 22.</p> <p>They informed the BoR about the scope of the Guidelines and the topics that could be covered by the document. They also presented the benefits and challenges of harmonisation. The WG Co-Chairs also presented the data to be collected and the expected level of harmonisation, breaking it into different types of data (QoS-1, QoS-2 and QoS-3) and presenting different recommendations for each of them.</p> <p>The WG Co-Chairs sought BoR guidance on whether to include in the Guidelines geographical surveys of associated facilities, QoS-2 and QoS-3 information (as optional). Also, the Co-Chairs looked for approval of a new time line for two aspects of the project, first, in relation to guidelines for QoS-2 and QoS-3 and second on the procedure to be followed in order to invite declarations of investments in areas where there is no expectation of a VHCN being deployed. Both topics are reliant on the definition of VHCN which will only be available by plenary 4 2020 (consultation in plenary 2).</p> <p>The Co-Chairs sought BoR approval to nominate a few external experts with technical expertise on surveys of network deployments. The experts could be academics or OCA professionals, approved by the NRAs and they may have access to our documents but signing a confidentiality agreement</p> <p>As for the next steps, the workshop with operators is scheduled for 5 July 2019 in Brussels. A public consultation document will be submitted to CN3/P3 for adoption. The adoption of final Guidelines is envisaged at Plenary 1 2020.</p>
<p>Conclusions</p>	<p>The BoR took note of the discussion and approved the document for internal use. All types of data could be included in the scope of the Guidelines, but at different stages. Thus, guidelines for QoS-2 and QoS-3 were postponed to mid-2020.</p> <p>The decision on the new timeline and additional resources needed to elaborate guidelines on procedures to invite declarations to invest in areas where there is no expectation of a VHCN being deployed, was postponed.</p> <p>On involvement of external experts any engagements must be made by the WG Co-Chairs with the involvement of the NRA at the national level.</p>

10. Open Internet

Document(s)	BoR (19) 112 “Scoping and Proposal” Document on the development of the Update to the BEREC Guidelines on Net Neutrality
Introduction by	OI WG Co-Chairs (ACM/TRAFICOM)
Information presented	<p>The WG Co-Chairs reported on the outcomes of the workshop that took place in Brussels on 29 May 2019 and shared their impressions. They noted that the stakeholders from industry highlighted the need to avoid a situation of ‘innovation by permission’ and the importance of minimum interference by NRAs on QoS, traffic management and specialised services. They also noted that some stakeholders raised issues related to access to zero-rating programmes.</p> <p>The WG Co-Chairs noted that the title of the Guidelines could be changed and aligned with the title of the Regulation.</p> <p>Regarding the approach to the scoping exercise for the update to the NN Guidelines, the WG Co-Chairs reported that it deviates from the approach to scoping normally followed by WGs, which are tasked with the implementation of the EECC. This is due to the fact that the Guidelines are to be updated and BEREC has already done considerable work on this subject before. They recommended keeping the current level of harmonisation.</p>
Conclusions	The BoR took note of the discussion and approved the document for internal use, subject to the guidance provided by the BoR.

11. Planning and Future Trends – oral update on the Study on Investment in Very High Capacity Networks

Document(s)	No document
Introduction by	PFT Co-Chairs (PTS/ACM)
Information presented	<p>The WG Co-Chairs reported to the BoR on the progress of the study on “The Determinants of Investment in Very High Capacity Networks – A System Dynamics Approach”.</p> <p>They informed the BoR that the presentation of the outcome of phase 1 of the project is planned to take place at the Workshop on 5 September 2019 in Dublin, Ireland.</p> <p>They also gave an overview of considerations to take into account ahead of CN3/P3 when assessing phase 1 and taking the decision on whether or not go ahead with phase 2.</p>
Conclusions	The BoR took note of the information.

12. Fixed Network Evolution

12.1. “Scoping and Proposal” Document on the BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3)

Document(s)	BoR (19) 103 “Scoping and Proposal” Document on the BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3)
Introduction by	FNE WG Co-Chair (BNetzA)
Information presented	<p>The WG Co-Chair outlined the policy principles, recalling that according to the EECC (Art. 61 (3)), BEREC shall issue guidelines setting out the criteria for determining:</p> <ul style="list-style-type: none"> a) The first concentration or distribution point b) The point beyond the first concentration or distribution point, capable of hosting a sufficient number of end-user connections to enable an efficient undertaking to overcome the significant replicability barriers identified c) which network deployments can be considered to be new d) which network deployments can be considered to be small e) Which economic or physical barriers to replication are high and non-transitory <p>The Co-Chair also reported on the relevant experience, which can serve as an input to the work on the Guidelines, as well as the main questions and issues that the document could address.</p> <p>Adoption of final Guidelines is envisaged at Plenary 4 2020.</p>
Conclusions	The BoR took note of the information and approved the document for internal use.

12.2. Draft Call for Initial Stakeholder Input on the BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3)

Document(s)	BoR (19) 104 Draft Call for Initial Stakeholder Input on the BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3)
Introduction by	FNE WG Co-Chair (BNetzA)
Information presented	<p>The draft Call for Initial Stakeholder Input was prepared with a view to publishing it for public consultation after Plenary 2.</p> <p>It is intended to give stakeholders the opportunity to provide their general views on how to set out criteria for a) to e) (as set out in section 12.1 above), mentioning relevant considerations for each point.</p> <p>The input will feed into BEREC’s thinking on the draft guidelines. Publication of BEREC’s responses to the received input is not envisaged at this stage.</p>
Conclusions	The BoR took note of the information and approved the document for public consultation.

13. Market and Economic Analysis

13.1. BEREC Report on the data economy

Document(s)	BoR (19) 105 BEREC Report on the outcome of the public consultation on the data economy BoR (19) 106 Draft BEREC Report on the data economy
Introduction by	MEA WG Co-Chairs (ARCEP/CNMC)
Information presented	<p>The WG Co-Chairs recalled the objectives of the PRD. The report on the data economy was prepared with the aim to identify issues related to the transition towards a data-driven economy in Europe that might have to be taken into account by NRAs in the future.</p> <p>The report takes into account views expressed during MEA WG working-level seminars with institutions, stakeholders and academics, as well as the Heads Workshop on Data Economy which took place in June 2018. Finally it includes inputs provided by different actors in the public consultation (PC) which ran from 10 October until 21 November 2018.</p> <p>The WG Co-Chairs reported that in total BEREC received 19 contributions from the stakeholders. They presented to the BoR the summary of responses.</p> <p>The WG Co-Chairs also presented the report to the BoR. It reviews the concept of the “data economy”, the economic characteristics of data, the characteristics of online competition, as well as the regulatory framework and competent authorities for the data economy at the European level.</p> <p>Furthermore, the report elaborates on the role of electronic communications networks and states that these networks act as the infrastructure over which data is transmitted, being critical to allow the flow of data. The promotion of competitive and innovative ECS markets is necessary, although not sufficient, to ensure that European society makes optimal use of the data economy.</p> <p>The report also reviews different areas in which NRAs may apply data collection and analysis, for instance in the context of regulatory policies, market analyses and when publishing additional information for consumers and stakeholders.</p> <p>Finally, the WG Co-Chairs noted that the report explores how the experience that NRAs have gained in regulating ECS markets can be used now and in the future when dealing with the data economy.</p>
Conclusions	The BoR took note of the information and approved the documents for publication.

13.2. BEREC response to the review of the EC Recommendation on relevant markets

Document(s)	BoR (19) 107 Draft BEREC response to the public consultation from the EC on the review of the recommendation on relevant markets
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Introduction by	MEA WG Co-Chairs (ARCEP/CNMC)
Information presented	<p>The WG Co-Chairs recalled that according to Article 64 of the EECC, the European Commission shall adopt a Recommendation on Relevant Product and Service Markets. The Recommendation shall identify those product and service markets within the electronic communications sector the characteristics of which may be such as to justify the imposition of regulatory obligations set out in the Code, without prejudice to markets that may be defined in specific cases under competition law.</p> <p>On 15 February 2019 the EC opened a targeted consultation on the revision of the Recommendation on relevant markets. The results of the targeted consultation will support the Commission’s preparations of the new Recommendation, which is to be adopted by 21 December 2020.</p> <p>The WG Co-Chairs presented the main questions put forward in the EC’s public consultation. As a result the draft BEREC response addresses the following topics: termination markets (markets 1 and 2), broadband connectivity markets, potential merging of markets 3a and 3b, other markets to be added to the revised Recommendation and transnational markets.</p> <p>The WG Co-Chairs also informed the BoR that, when the draft Recommendation is published, BEREC will need to issue its opinion on it.</p>
Conclusions	The BoR took note of the information and approved the document for publication, subject to the agreed changes.

13.3. “Scoping and Proposal” Document on the development of BEREC Guidelines to foster the consistent application of the criteria for assessing co-investments on very high capacity network elements

Document(s)	BoR (19) 108 “Scoping and Proposal” BEREC Guidelines to foster the consistent application of the criteria for assessing co-investments on very high capacity network elements
Introduction by	MEA WG Co-Chairs (ARCEP/CNMC)
Information presented	<p>The WG Co-Chairs recalled that BEREC is required under Article 76 of Directive (EU) 2018/1972 (the EECC) to publish guidelines to foster the consistent application by National Regulatory Authorities (NRAs) of the conditions to be met when assessing co-investment offers.</p> <p>They noted that the guidelines aim to contribute to the consistent application by NRAs of the conditions with which co-investment offers must comply when commitments associated with those offers are being assessed by the NRAs. Furthermore, the envisaged guidelines are to facilitate the consistent application of the minimum criteria for assessing the relevant co-investment project, as set out in Article 76 and Annex IV of the EECC.</p>

	<p>The WG Co-Chairs also presented to the BoR the main questions to be addressed by the future guidelines.</p> <p>They noted that the guidelines should be issued by BEREC after consulting stakeholders. BEREC would conduct one public consultation after adopting draft guidelines at Plenary 1 2020. The final adoption of the guidelines is envisaged for Plenary 4 2020.</p>
Conclusions	The BoR took note of the discussion and approved the document for internal use.

14. End-User

Document(s)	BoR (19) 102 “Scoping and Proposal” Document on the development of BEREC Guidelines detailing QoS parameters of IAS and publicly available ICS and the publication of information
Introduction by	End-User WG Co-Chairs (AGCOM/ComReg)
Information presented	<p>The WG Co-Chairs reported that, in accordance with Article 104 of the EECC, the rationale for issuing these guidelines is to contribute to the consistent application of Article 104(2) and Annex X, with the aim of defining:</p> <ul style="list-style-type: none"> – the relevant QoS parameters, including the parameters relevant for end-users with disabilities; – the applicable measurement methods for these QoS parameters, including, where appropriate, the ETSI and ITU standards set out in Annex X of the EECC in relation to ICS and IAS, respectively; – the content, form and manner of the QoS information to be published; and – possible quality certification mechanisms. <p>The aim of the scoping document is to set out the approach based on which the EU WG will draft these guidelines. In order to contribute to the consistent application of Article 104(2) and Annex X, BEREC has to produce the guidelines by 21 June 2020.</p> <p>The WG Co-Chairs also outlined the experience which will feed into the work on the guidelines, as well as the issues which will be addressed by the document.</p> <p>The final adoption of the document is envisaged for Plenary 1 2020.</p>
Conclusions	The BoR took note of the information and approved the document for internal use.

15. Oral update on Cybersecurity in 5G Networks

Document(s)	BoR (19) 118 PRD for Cybersecurity in 5G Networks
Introduction by	Ad hoc WG Co-Chairs (AKOS/EETT)

<p>Information presented</p>	<p>The Co-Chairs of the Ad hoc WG on Cybersecurity in 5G Networks recalled the adoption of the Commission Recommendation on Cybersecurity of 5G networks on 26 March 2019. The document requests coordinated actions at national and EU levels and explicitly mentions BEREC. In this context, the BEREC Chair set up the Ad hoc WG on Cybersecurity in 5G Networks on 30 April 2019.</p> <p>The WG Co-Chairs briefly presented the main points of the Commission’s Recommendation and the actions arising from it. They reported on the requirements for the national and for the coordinated Union risk assessments. Taking into account national and Union risk assessments, the Cooperation Group should establish a toolbox identifying types of cybersecurity risk and possible measures to mitigate the risks in areas including certification, testing and access controls. The Cooperation Group should draw on the support of ENISA, BEREC and the EU Intelligence and Situation Centre in the process of preparing the toolbox.</p> <p>The WG Co-Chairs presented the draft PRD, based on which BEREC will contribute to meeting those requirements.</p> <p>The WG Co-Chairs presented to the BoR the next steps and the milestones for each of them.</p>
<p>Conclusions</p>	<p>The BoR took note of the information and approved the PRD for internal use.</p>

16. Regulatory Framework

16.1. BEREC Guidelines on the general authorisation notifications transmitted to competent authorities

<p>Document(s)</p>	<p>BoR (19) 113 Draft BEREC Guidelines for the notification template pursuant to article 12, paragraph 4 of Directive 2018/1972 of the European Parliament and of the Council</p>
<p>Introduction by</p>	<p>RF WG Co-Chair (AGCOM)</p>
<p>Information presented</p>	<p>The WG Co-Chair reported that, according to Article 12(4) of Directive 2018/1972, “in order to approximate notification requirements” and harmonise accordingly the notification forms currently in use at national level, BEREC is called to “publish guidelines for the notification template”, i.e. guidelines outlining the main features and contents of the notification form to be used by Member States that decide to implement a notification requirement.</p> <p>He noted that the Code requires BEREC to develop a single European template to be used by ECN and ECS providers entering the market in each Member State (where notification will be required). In this respect, the RF WG prepared draft guidelines, including the template to be used by the CAs for the purpose of general authorisation notifications.</p> <p>He also presented the work done so far by the group and the next steps.</p>

	The final guidelines are envisaged for adoption at Plenary 4 2019 after consultation with stakeholders.
Conclusions	The BoR took note of the information and approved the document for public consultation.

16.2. BEREC Guidelines on common criteria for the assessment of the ability of undertakings other than providers of electronic communications networks or services to manage numbering resources

Document(s)	BoR (19) 114 Draft BEREC guidelines on common criteria for the assessment of the ability to manage numbering resources by undertakings other than providers of electronic communications networks or services and of the risk of exhaustion of numbering resources if numbers are assigned to such undertakings
Introduction by	Drafting Team Leader (AGCOM)
Information presented	<p>The Drafting Team Leader reported that, based on Article 93(2) of Directive 2018/1972 establishing the European Electronic Communications Code, BEREC shall adopt guidelines on common criteria for the assessment of the ability to manage numbering resources and of the risk of exhaustion of numbering resources.</p> <p>He recalled that, after adopting the scoping document at Plenary 1 2019, the RF WG prepared the draft Guidelines, building on common practices currently in place for assigning numbering resources for ECN/ECS and aiming to identify any specificities relating to non-ECN/ECS providers.</p> <p>The Drafting Team Leader reported on the work done so far and the next steps.</p> <p>He informed the BoR that the final adoption of the BEREC Guidelines on common criteria for the assessment of the ability of undertakings other than providers of electronic communications networks or services to manage numbering resources is envisaged at Plenary 1 2020.</p> <p>In addition, he reported on the Database of E.164 numbers of European emergency services. He recalled that, according to the EECC (Article 109(8)), BEREC shall maintain a database of E.164 numbers of European emergency services to ensure that they are able to contact each other from one Member State to another, if such a database is not maintained by another organisation.</p> <p>Based on the work of the RF WG, it was established that such a database already exists and is kept by the CEPT. As a next step the RF WG will elaborate a report/assessment on the suitability of the ECO/CEPT tool in light of the EECC, which will be submitted to the BoR for endorsement.</p>
Conclusions	The BoR took note of the information and approved the document for public consultation.

16.3. Detailed Rules on Access to BEREC and BEREC Office Documents

Document(s)	BoR (19) 115 Draft BEREC Detailed Rules on Access to Documents
Introduction by	Drafting Team Leader (ANACOM)
Information presented	<p>The Drafting Team Leader recalled the legal basis for establishing the rule on access to documents. In line with provisions of Article 36(2) of the BEREC Regulation, the Board of Regulators and the Management Board shall, by 21 June 2019, adopt detailed rules for applying Regulation (EC) No 1049/2001.</p> <p>In this respect, the Heads discussed this topic during the workshop, which took place on 6 March 2019 in Budapest, Hungary. Based on the outcome of the discussion, and subsequent work at the WG level, the RF WG drafted the Detailed Rules on Access to BEREC and BEREC Office documents, which establish a procedure under which any natural or legal person shall be granted access to documents held by BEREC and the BEREC Office when applying Regulation (EC) No 1049/2001.</p>
Conclusions	The BoR took note of the information and approved the document for publication, subject to the proposed amendments.

16.4. Rules of Procedure on the operation of BEREC Working Groups

Document(s)	BoR (19) 116 Draft Rules of Procedure on the operation of BEREC Working Groups
Introduction by	RF WG Co-Chair (NMHH)
Information presented	The WG Co-Chair presented to the BoR an updated version of the Rules of Procedure on the operation of BEREC Working Groups for discussion.
Conclusions	The WG was asked to propose some amendments to the document, taking into account the discussions during the meeting, with a view to adopting the document via the e-voting procedure.

17. Wireless Network Evolution

17.1. BEREC Common Position on infrastructure sharing

Document(s)	<p>BoR (19) 109 Draft BEREC report on the outcomes of the public consultation on the draft BEREC Common Position on infrastructure sharing</p> <p>BoR (19) 110 Draft BEREC Common Position on infrastructure sharing</p>
Introduction by	WNE WG Co-Chair (RATEL)
Information presented	The WG Co-Chair reported that in June 2018 BEREC adopted a report on infrastructure sharing which describes different regulatory and legal

	<p>frameworks applicable in European countries to the existing sharing arrangements, as well as the benefits and challenges related to such arrangements and their possible evolution with regard to 5G.</p> <p>Since then BEREC continued this work with a view to identifying common positions on the subject. A draft Common Position was adopted for public consultation at Plenary 4 2018, which ran from 12 December 2018 until 18 January 2019. BEREC received 21 contributions from stakeholders.</p> <p>Considering the comments and proposals received by stakeholders, the final draft Common Position was presented to the BoR for adoption.</p> <p>The WG Co-Chair introduced the proposed Common Position to the BoR, which consists of:</p> <ul style="list-style-type: none"> - a background section which describes the applicable legal framework and the benefits and drawbacks related to sharing agreements; - a common position section which provides: <ul style="list-style-type: none"> • common definitions for some types of sharing agreement; • the main objectives to be pursued when considering network sharing agreements; • the parameters to consider when assessing network sharing agreements; - an indicative analysis of different types of network sharing, according to the objectives and parameters.
Conclusions	The BoR took note of the information and approved the documents for publication and submission to the DG COMP.

17.2. “Scoping and Proposal” Document on the development of BEREC guidelines on how to assess the effectiveness of public warning systems transmitted by different means

Document(s)	BoR (19) 111 “Scoping and Proposal” BEREC guidelines on how to assess the effectiveness of public warning systems transmitted by different means
Introduction by	WNE WG Co-Chair (RATEL)
Information presented	<p>The WG Co-Chair recalled that Article 110 of the EEC (Public Warning Systems) provides that, by 21 June 2022, Member States shall ensure that, when public warning systems regarding imminent or developing major emergencies and disasters are in place, public warnings are transmitted by providers of mobile NB-ICS to the end-users concerned.</p> <p>By 21 June 2020 BEREC must publish guidelines on how to assess whether the effectiveness of public warnings transmitted through ECS, other than mobile NB-ICS and broadcasting services, or through a</p>

	<p>mobile app (relying on an IAS) are equivalent to those transmitted through mobile NB-ICS.</p> <p>The purpose of the guidelines is to ensure that there is a common approach across Member State to the assessment of the effectiveness of the two public warning systems, namely:</p> <ul style="list-style-type: none"> – Those that transmit public warnings using mobile NB-ICS, and – Those using ECS, other than mobile NB-ICS and other than broadcasting, or through a mobile app (relying on an IAS). <p>The WNE Co-Chair also presented the operational aspects of the cooperation between the RSPG and BEREC in relation to Peer Review and implementation of the WA between the two parties.</p>
Conclusions	The BoR took note of the information and approved the document for internal use.

18. Exchange of experience on topics of strategic importance

Document(s)	No documents
Introduction by	Representatives of NRAs (Ofcom/BNetzA)
Information presented	Representatives of two NRAs shared their national experience regarding cybersecurity in 5G networks. They reported to the BoR on how relevant cybersecurity regulations have been implemented at the national level and what action they have undertaken to mitigate the risks of cyber threats. They put emphasis on the risks related to the deployment of 5G networks and services.
Conclusions	The BoR took note of the information.

19. BEREC international cooperation

Document(s)	No documents
Introduction by	BEREC Vice-Chair responsible for international cooperation (RTR)
Information presented	<p>The BEREC Vice-Chair responsible for international cooperation briefed the BoR in relation to recent and forthcoming BEREC international activities.</p> <p>He reported on the following topics:</p> <ul style="list-style-type: none"> – Study Trip of the Mini-Board to China, which took place on 1-5 April 2019. He reported that a summary of the study trip will be circulated for approval by the BoR at the next plenary meeting.

	<ul style="list-style-type: none"> – Extension of the MoUs on cooperation with other networks of regulators – Regulatel and EaPeReg, which is planned to take place during the 4-lateral summit on 2 October 2019 in Crete. – Videoconference between BEREC and FCC on 16 May 2019 – the FCC gave an overview of its 5G auctions, BEREC presented its work on 5G and the EC gave a presentation about the EECC. Minutes from the videoconference will be shared with the NRAs. – The joint workshop between BEREC and Regulatel – dedicated among other topics to net neutrality and end-user protection. – EaPeReg Plenary – 15 May 2019, Tbilisi, Georgia. – BEREC 10 years anniversary Joint BEREC and IIC conference, which will take place on 25-26 June 2019 in Riga, Latvia.
Conclusions	The BoR took note of the information.

20. 7th BEREC Stakeholders' Forum meeting

Document(s)	BoR (19) 119 Draft agenda of the 7 th BEREC Stakeholders' Forum
Introduction by	Representative of the BEREC Vice-Chair (PTS)
Information presented	<p>The BEREC Vice-Chair (PTS) briefed the BoR on the state of arrangements for the 7th Stakeholder Forum meeting, which will take place on 16 October 2019, in Brussels (Belgium), at Hotel Le Plaza.</p> <p>The event will be split into the following sessions:</p> <ul style="list-style-type: none"> i. How to handle security within electronic communications, in particular in relation to 5G ii. BEREC Work Programme 2020 iii. Stakeholder engagement – focus on WP 2020 and a continued discussion on safety/security within 5G iv. Futurist with a focus on telecoms/technology <p>The event will be fully open to the public and, in addition, will be made available to the public through live web streaming, with sign interpretation. Citizens and other interested parties will have the opportunity to watch the event in real time and to send comments or questions to the speakers through the official BEREC accounts on social media.</p>
Conclusions	The BoR took note of the information.

21. AOB

21.1 WACC update

Document(s)	No document
Introduction by	Remedies WG Co-Chair (BNetzA)
Information presented	The Remedies WG Co-Chair reported on the progress made in relation to the calculation of WACC parameters, as agreed during P1 2019 in Budapest.
Conclusions	The BoR took note of the information.

21.2 Information on 5G auction

Document(s)	No document
Introduction by	Representative of BNetzA
Information presented	The representative of the NRA informed the BoR about the recently finalised auction of 5G bands in Germany.
Conclusions	The BoR took note of the information.

21.3 Information on platforms and regulation

Document(s)	No document
Introduction by	Representative of ACM
Information presented	<p>The NRA representative informed the BoR that it had concluded a market study on app stores for mobile phones and reported that several potentially concerning issues had been found that led to the opening of a formal investigation in relation to the abuse of dominance under competition law.</p> <p>The NRA representative also informed the BoR about a letter sent to the Dutch parliament by the deputy minister of economic affairs concerning the modernisation of competition law.</p>
Conclusions	The BoR took note of the information.

21.4 Information on the 40th BoR ordinary meeting (3-4 October 2019, Crete, Greece)

Document(s)	No document
Introduction by	Representative of the meeting host (EETT)

Information presented	The representative of the meeting host, EETT, provided information on the logistics for the meeting.
Conclusions	The BoR took note of the information.