

WE ARE SHAPING THE INTERNET.  
YESTERDAY.TODAY.BEYOND TOMORROW.



## CONTRIBUTION

### **on the draft BEREC Guidelines for the notification template pursuant to article 12, paragraph 4 of EECC (Directive 2018/1972 of the European Parliament and of the Council) – BoR (19) 113**

Berlin, 28.08.2019

A new telecommunication framework set in force with the European Code of Electronic Communication. Its Art. 12, paragraph 4 states that BEREC shall publish Guidelines for a notification template for providers of electronic communications networks and/or such services. One direct goal is the harmonisation of notification in the EU, serving the European Digital Market. Overhead it is an expression of entrepreneurial freedom. For this sake, BEREC asks the stakeholders about their opinions. eco appreciates this consultation.

For easier comprehension, we prepend the questions of BEREC.

*1. Do you think that the items covered by Table 1 on the purpose of the notification are sufficiently clear and exhaustive?*

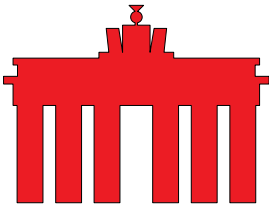
Yes, we consider it as clear enough and exhaustive, if our answer to question 2 is taken into account.

*2. Item 1.2 intends to capture only changes occurred in terms of networks and services to be provided and relevant commencement dates; other changes concerning a previous notification would fall under item 1.3. Do you think this is sufficiently clear?*

eco thinks, that the term „activity“ will very probably be understood in a broader sense than intended. Thus, we suggest to use the words “Change of network and/or service already notified in notification...”, according to item 1.2. The same applies to “activity” in the items 1.1, 1.4.

*3. Do you think that other purposes of a notification should be covered in the template?*

In the current situation we do not consider this necessary.



WE ARE SHAPING THE INTERNET.  
YESTERDAY.TODAY.BEYOND TOMORROW.



*4. Table 2 bears a set of information necessary to identify undertakings in the market. Please elaborate your views on the nature and level of detail of information in Table 2.*

The level of detail is sufficient and the nature of information is the necessary address in a legal sense, on the one hand, to identify the provider and on the other that official and legal correspondence can be sent to.

*5. Table 3 bears the notifying undertaking's contact person details. Please elaborate your views on the nature and level of detail of information in Table 3.*

The level of detail is sufficient.

*6. Does the taxonomy proposed in columns 1 and 2 of Table 4 is sufficiently general, covering at the same time all market situations? Would you suggest a different macro-categorization of electronic communications networks and services, with a view to facilitating market entry, at the same time allowing undertakings to provide enough information on the activity to be launched? Have you got any other suggestions concerning Table 4?*

Referring to column 1 „network“ we think BEREC should at first provide more information, what in its view is which network. For example, the last mile to a consumer's home is connected by Long Term Evolution.

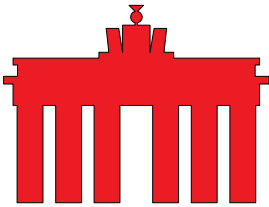
Furthermore more kinds of networks shall be foreseen.

Referring to column 11 “Termination date” it should be possible to not fill in and that should be clearly stated by BEREC. First, in many cases, the providers will not know a termination date, because that depends on many factors, I. E. success of the service. That's why we suppose in column 11 below the words “Termination date” the information -optional-.

*7. The EECC requires BEREC to maintain a database of the notifications transmitted by undertakings to national competent authorities; since notifications, at least for national operators, will have to be submitted in national language, have you got any suggestions on how an EU database could be set up and automatic translations of national notifications into English ensured?*

Meanwhile, we have no suggestions.

*8. What would you suggest in order to ensure that the EU database be as useful as possible? Should it be public? What key features should it have?*



WE ARE SHAPING THE INTERNET.  
YESTERDAY.TODAY.BEYOND TOMORROW.



If the database is publicly available, it must be possible that termination dates of services are not published. We think that this data is sensitive on competition grounds. If the BEREC meant that third and the second question are linked, we would consider search by name, kind of networks and/or services and geographic area of networks and/or service should be possible.

#### Annexes

On page 14 of the draft BEREC states that “in compliance with Article 12, Member States may use Annexes to ask for additional information needed to comply with national legislation”.

In our opinion, there is no legal basis in Art. 12 EEC for the member states to oblige providers to fill in annexes to abide national law as BEREC supposes. Art. 12 (4), second subclause, last sentence states that member states do not require further or additional notification plights. The recitals do also not provide a basis for annexes for notification obligations by national law. Furthermore, this would not merge with the concept of a European Digital Market, because the notification with one, three or six annexes will occur certainly. Then there would not be more left than a harmonized skeleton and depending on the account of annexes, their complexity it will definitely take very different amount of time to be finished with filling in the notification template. According to Art. 12 (4), third subclause, the guidelines, here drafted, shall contribute to harmonization. The annex-option does not.

---

**About eco:** With 1,100 member companies, eco is the largest Internet industry association in Europe. Since 1995 eco has been instrumental in shaping the Internet, fostering new technologies, forming framework conditions, and representing the interests of members in politics and international committees. eco's key topics are the reliability and strengthening of digital infrastructure, IT security, and trust, ethics, and self-regulation. That is why eco advocates for a free, technologically-neutral, and high-performance Internet.