eir

Response to Consultation on BEREC Guidelines on Common Approaches to the Identification of the Network Termination Point in different Network Topologies

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eir welcomes this opportunity to comment on BEREC's draft Guidelines on Common Approaches to the Identification of the Network Termination Point in different Network Topologies.

RESPONSE TO CONSULTATION

General remarks

eir has a number of concerns with regard to the Draft Guidelines. In particular, we do not consider that the approach taken by BEREC is aligned with the output envisaged by the European Electronic Communications Code (EECC).

According to article 61(7) of the EECC, BEREC is tasked with adopting guidelines on common approaches to the identification of the network termination point (NTP) in different network topologies. National Regulatory Authorities (NRAs) will then be required to take utmost account of those guidelines when defining the location of NTPs.

Our understanding of the relevant provision in conjunction with the definition of the NTP as per Article 2(9) of the EECC, is that this should be a purely technical exercise, based on the network topology in question, that allows for harmonisation of the approach taken with regard to identifying the physical point at which an end-user is provided with access to an electronic communications network in different network topologies. Our concern is that a focus on non-technical factors, as put forward by BEREC, will result in arbitrary decisions by NRAs on the location of the NTP that, rather than reflecting the network topology and the associated technical characteristics, will instead reflect differing policy objectives. This in turn will serve to further fragment the approach taken at the Member State level.

Location of the fixed NTP

Given the relevant provisions of the EECC and the mandate provided by same, we consider that the Guidelines should focus on providing guidance with regard to the individual elements of the NTP as defined by Article 2(9). We consider that this should involve a technical assessment that identifies the physical location of the NTP in various network topologies and we would urge BEREC to refrain from adopting an approach that focuses on non-technical characteristics such as such as the impact on the telecommunications terminal equipment (TTE) market and net neutrality.

The location of the fixed NTP in the consumer market has generally been where the external cable terminates in the customer premises and eir considers that this should be the starting point for any technical feasibility assessment.

Location of the mobile NTP

We do not agree with BEREC's position that NRAs, when defining the mobile NTP location, shall determine that the mobile NTP is at a location (e.g. the air interface between mobile equipment and base station) which permits end-users to (continue to) use their own mobile equipment. We do not consider that BEREC has sufficiently considered the implications of this for different mobile services but rather has simply focussed on the issue of mobile handset connectivity.

In particular, we are concerned with regard to the impact this could have in the mobile broadband market. We consider that there is potential for abuse of subscription services in this market and that in such a scenario the provision of specific mobile terminal equipment by the service provider could be justified.