



**BoR PC01 (24) 03**

# **ecta RESPONSE**

**TO THE PUBLIC CONSULTATION BY BEREC  
ON THE**

**DRAFT BEREC REPORT ON THE GENERAL AUTHORISATION  
AND RELATED FRAMEWORKS FOR INTERNATIONAL  
SUBMARINE CONNECTIVITY**

**BOR (23) 214**

**30 JANUARY 2024**

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## 1. Introduction

1. **ecta**, the **European Competitive Telecommunications Association**,<sup>1</sup> welcomes the opportunity to briefly comment on the draft BEREC Report on the general authorisation and related frameworks for international submarine connectivity, BoR (23) 214.
2. **ecta** represents those alternative operators who, relying on the pro-competitive EU legal framework that has created a free market for electronic communications, have helped overcome national monopolies to give EU citizens, businesses and public administrations quality and choice at affordable prices. **ecta** represents at large those operators who are driving the development of an accessible Gigabit society, who represent significant investments in fixed, mobile and fixed wireless access networks that qualify as Very High-Capacity Networks (hereinafter “VHCN”) and who demonstrate unique innovation capabilities.
3. **ecta**’s membership includes an operator of several international submarine cables and cable landing stations in Europe, including open landing stations, which are crucial both for intra-EU connectivity and for Europe’s global connectivity. The connectivity provided supports a wide variety and massive amount of retail and wholesale traffic types. Transmission capacity is, for example, provided for Business-to-Business (B2B) services (in particular dedicated Ethernet leased lines and Software-Defined Wide-Area Networks (SD-WAN) made available to multinational business users), ultra-high capacity connections between data centres used by enterprises, other electronic communications network operators, Content and Application Providers (CAPs), Content Delivery Networks (CDNs – serving numerous smaller CAPs), Cloud Computing platforms, etc. The connectivity provided also supports open internet traffic (connecting thousands of Internet Autonomous Systems supporting Internet Access Service (IAS)), as well as the outbound and inbound voice and other data traffic of many European operators of electronic communications networks and services, including providers of numerous Internet of Things (IoT) solutions.

## 2. Brief comments on the draft BEREC Report

4. The draft BEREC Report is descriptive in nature. The related BEREC consultation and survey invites stakeholders to provide comments, but it does not include specific questions.
5. It addresses the submarine connectivity industry’s structure, contains an assessment of relevant definitions and related rights and obligations in application of the European Electronic Communications Code, covers security matters, i.e. the applicability of the EU’s NIS2 Directive and makes reference to useful ENISA ‘good practices’, as well as addressing non-telecom national authorisation and administrative procedures and initiatives to promote and facilitate (international) submarine connectivity.

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<sup>1</sup> <https://www.ectaportal.com/about-ecta>

6. **ecta** and its members have no particular remarks to make on the contents of the draft BEREC Report.
7. **ecta** does wish to put it on the record, and asks for this to be included explicitly in BEREC's Final Report, that it is clear for all involved that EU Member States and EEA countries apply, at least since the national transposition of the 2002 EU Directives, what is consensually considered as being **best world-wide international practices relating to the authorisation of international submarine connectivity**, and that this is **attributable principally to the fact that the EU's regulatory framework's general authorisation principle for ECN and ECS applies unequivocally to all ECN and ECS, including to the operation (and related rights and obligations) of submarine cables, landing stations, etc.** BEREC's draft Report usefully confirms that the general authorisation principle (with notification obligations where applicable based on Member States' national regulation) governs international submarine connectivity in the EU.
8. Based on the above, **ecta urges BEREC to exercise caution** in the Final Report and/or in follow-up work **with regard to suggesting possible new (national or EU-level) initiatives with regard to the authorisation regime for submarine connectivity, given that such suggestions may unintentionally result in creating uncertainty, or even complexifying rather than simplifying authorisation procedures, both for existing and new operators of such systems, etc.**
9. That being stated and taking into account additional national (non-electronic communications regulatory) requirements relating to territorial waters, coastal, town and country planning etc., **ecta welcomes BEREC's references to 'single point of contact' and/or 'one stop shop' procedures introduced at national level for non-electronic communications issues** by some EU Member States and EEA countries, which are usefully described by BEREC in the draft Report.
10. **ecta** invites BEREC, in the final Report, to **explicitly identify best practices at national level as regards non-electronic communications regulatory requirements**, and to **start a dialogue**, together with its constituent NRAs, with national authorities in charge of environmental protection, cultural heritage protection, maritime resources planning and management, and to explicitly add the authorities in charge of coastal areas, with a view to optimising the swift delivery of the necessary permits for submarine connectivity.
11. **Given that currently existing provisions work well, a harmonised multi-country authorisation process, a single point of contact at EU level, or a single EU authorisation procedure are not necessary.**
12. **ecta welcomes and endorses BEREC's reference to ENISA's 'good practices', notably in terms of ensuring diversity of routes and landings, to avoid single points of failure, to ensure spatial separation of submarine cable systems, and to ensure single points of contact for permitting and handling any issue arising around submarine cable installation, repair, and maintenance. Evidently, in light of geopolitical developments, surface and submarine surveillance of maritime activities is relevant as well. The security is a real issue and Member States, with**

**the help of European Commission should take it into proper account by taking into consideration ENISA’s “good practices”. For the same reason, ecta would welcome and endorse an initiative of mapping of the existent submarine cable routes.**

13. **ecta** is aware that the European Commission intends, as part of a package of measures likely to be put forward on or around 21 February 2024, to issue a Communication or Recommendation to EU Member States on secure submarine infrastructures for Europe, and instruments to facilitate financing. Security and resilience issues are clearly gaining in importance. **ecta** considers, in this context, that **it crucial that stakeholders are fully involved prior to the formal proposal or determination of any such measures, and asks BEREC to involve itself, and to be in close contact with industry stakeholders, to ensure continued legal/regulatory predictability, and to avoid the imposition of undue or impracticable new regulatory obligations.**

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In case of questions or requests for clarification regarding this contribution, BEREC and NRAs are welcome to contact Mr Luc Hindryckx, **ecta** Director General or Ms Pinar Serdengecti, **ecta** Regulation and Competition Affairs Director.