



**GSMA Response to the Call for Input to the  
Draft BEREC Work Programme 2025**

**4th of November 2024**

### **About the GSMA**

The GSMA is a global organisation unifying the mobile ecosystem to discover, develop and deliver innovation foundational to positive business environments and societal change. Our vision is to unlock the full power of connectivity so that people, industry, and society thrive. Representing mobile operators and organisations across the mobile ecosystem and adjacent industries, the GSMA delivers for its members across three broad pillars: Connectivity for Good, Industry Services and Solutions, and Outreach. This activity includes advancing policy, tackling today's biggest societal challenges, underpinning the technology and interoperability that make mobile work, and providing the world's largest platform to convene the mobile ecosystem at the MWC and M360 series of events.

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## **Introduction**

The GSMA thanks BEREC for the opportunity to provide input to the Draft BEREC Work Programme 2025.

The GSMA supports BEREC's initiative to analyse European telecom markets in comparison to other jurisdiction but encourages a more comprehensive report. The GSMA welcomes BEREC's focus on submarine cable connectivity, advocating for joint governance guidelines and streamlined permitting processes. Moreover, we underscore the importance of funding for the redundancy and replacement of aging submarine cables, suggesting a public-private partnership approach. The GSMA supports infrastructure sharing to enhance environmental sustainability but cautions against using sustainability indicators to score networks. We welcome the research into NRA's application of Article 52(2), but question how comprehensive the results of this research will be. Furthermore, we call for a harmonized framework for environmental data collection and a clear mandate for NRAs to collect such data. The GSMA expresses concern that European consumers are already well-protected and suggests that sector-specific consumer protection rules need an overhaul. Lastly, we acknowledge BEREC's role in peer review with RSPG, however, we recall that this mechanism is futile in the case of improving harmonization of good licensing practices. Below we further detail our viewpoints

### **1.9 Fact finding report on the competition indicators and regulatory highlights in different jurisdictions**

GSMA welcomes BEREC's idea of looking in detail at the European telecoms markets when compared to other relevant jurisdictions. Often discussions are based on facts and figures that suit different positions in the market without the ability to sense check these. The policy debate at EU level would benefit from more (and reliable) data including operator's data on return on investments, investment intensity, investment per capita, network coverage, quality of service of fixed and mobile connectivity. Where Europe seems to be doing well in terms of prices, recent data shows that European citizens (in rural areas) don't benefit from the speeds and quality that citizens in other regions of the globe are enjoying already today. Moreover, telecom operators in Europe are underperforming in terms of market capitalization and former pan-European operators are retrenching into national markets. This is another very important angle that is mentioned in the outline of potential work in 2025 and beyond. Understanding the reasons for the low market capitalization of European telcos, currently targeted by either

private equity or “new” money could help identifying the regulatory and competition policy changes needed in the sector.

We support the preparation of such a report, but this needs to go beyond the report prepared for DG Competition in 2024. The latter has covered only the 4G era which is doesn't reflect the current market realities with 5G and convergence. Moreover, BEREC's report could be expanded and identify the benefits of in-country consolidation, and the benefits of a more concentrated market structure compared to network sharing agreements.

### **1.11. Submarine cables connectivity in Europe**

The GSMA welcomes the indication from the BEREC Draft Work Programme that they will be conducting consultations on the topic of submarine cable connectivity. This infrastructure is a critical part of the connectivity infrastructure and is the backbone of the global internet including email, webpages, and video calls. More than 99% of all the data that moves around the world goes through these undersea cables.

GSMA would recommend that any consultation and consideration of future measures, must include all relevant industry stakeholders from the earliest opportunity and that in your view should also include engagement with the European Experts Group established earlier this year. An area which should form part of either workshops or consultations is that of the requirement for joint governance guidelines. There should be a harmonised approach to authorisation and permitting processes for submarine cables, we advocate for a joint governance process administered by relevant national authorities, and supported by the development of best practice guidelines, for use across the EU Member States. Delays in permitting and overlapping requirements for various national authorisations, on average lead to significant delays of 12-14 months in the deployment of new submarine cable systems.

Related to the report by BEREC on the entry of large content providers, there is a lack of clarity in the EECC on the definitions of public ECN and publicly available ECS and how these apply in the submarine context. We need to see the inclusion of clear definitions of public ECN and publicly available ECS in future legal and regulatory frameworks, particularly NIS2. There should be a focus on this area and a more balanced approach considered as part of future workshops.

Finally, a critical area of consideration must be that of funding. The GSMA strongly supports the need for CPEI funding. There should be a focus on the following areas:

- A global approach in achieving the strategic aims of the CPEI.
- Transparent criteria that consider factors such as scale, expertise, and operational capacity
- Accessibility to all trusted industry partners, including non-EU countries, to ensure fair competition and best outcomes for the sector and customers.
- Funding to support the redundancy and replacement of existing cables which have come to the end of their lifecycle.
- The financing model should consider a public-private partnership approach.

#### **2.4. Report on Infrastructure sharing as a lever for ECN/ECS environmental sustainability**

The GSMA supports the focus on identified benefits of the environmental impact from network-sharing. A report could cover the risk, barriers, and benefits. However, this study needs to identify more than decisions that promote the protection of the environment, it also needs to include benefits for networks. How this can contribute to responsible use of networks and fair share. The report should cover the complexity of decolonization and competitiveness.

In our view, BEREC should not use the report as a tool to target environmental benchmarks, or to mark geographical areas for market development by sustainability indicators. The report should not lead to scoring of networks by sustainable indicators or environmental targets.

#### **2.5. BEREC external workshop on telecom regulators' role in the development and implementation of sustainability indicators in the ICT sector**

*“Another focus will be to investigate to what extent a harmonized framework at European level, including a more precise mandate for NRAs to collect environmental data from telecom players and more broadly from the ICT sector could be foreseeable in the near future”.*

The GSMA supports that BEREC seeks to continue contributing to the European Commission's elaboration of a Code of Conduct on sustainability for telecommunications

networks and services that should include a list of relevant environmental indicators in this frame.

This would in our view be a good link to the above and to responsible use of networks. It would be beneficial to have a workshop on the sector's efforts on developing lifecycle and multicriteria assessment of the ECN/ECS environmental impact. However, the aim and role of an open industry database needs to be further clarified.

*“to publishing information and open databases from industry players. BEREC will assess possible future actions on the topic, including the possibility to build a BEREC database of sustainability indicators building on the information that could be collected by the NRAs in the future”.*

What would be the aim and role for a BEREC database of sustainability indicators? How will this database be used, and who will have access? Further, there is a need for clarification and identification of which industry players should publish information in the open databases.

## **2.7. Internal workshop on the consideration of 5G differentiated services and network slicing**

This topic is very important for the Industry and BEREC's considerations would benefit from interaction with operators and other relevant stakeholders. We therefore suggest BEREC to open the workshop to other stakeholders and, if a report is adopted on the conclusions of the workshop, open it for public consultation.

In general, we see many internal and external workshops on a number of topics that are not open for feedback. We therefore urge BEREC not to derive conclusions and recommendations in the related reports, without the possibility for stakeholders to comment on them.

## **2.11 Stock Taking of NRAs Application of Article 52(2) for Wholesale Access Obligations**

The GSMA welcomes BERECs research into the extent to which NRAs and competent authorities, if any, have utilised the provisions of Article 52(2) of the EEC. Our interpretation is that this survey and report is done with the intention to collect information on the basis for set-asides. We believe that this is important information to

have. However, we question the density of the survey, as the survey appears rather “light”, and we have doubts as to whether this will result in particularly comprehensive information. Moreover, we believe it is a missed opportunity to not publicly consult the outcome of this research, as there is interest from relevant industry stakeholders to contribute to this research.

### **2.12. Advancing towards environmental data collection on ECN/ECS and contributing to future code of conduct on ECN/ECS sustainability**

*“BEREC will especially contribute to and support the work of the European Commission on the future Code of Conduct for ECN/ECSs, expected to be delivered in 2025. It will also work to establish the ground for BEREC ad hoc data collection with a questionnaire on the implementation of key sustainability indicators that NRAs will be proposed to distribute to their market players”.*

The GSMA is not sure about the added value of the proposed data collection exercise and of the questionnaire. There are already established streams of sustainability reporting and launching yet another questionnaire could lead to more reporting without new substance.

Generally, we are also critical of the sustainability indicators, cf. our view above as this would lead to a scoring of sustainable networks.

### **3. Strategic Priority: Empowering end-users**

The GSMA is overall concerned that regarding the aspects of empowering end-users, there is no recognition by BEREC that European consumers are already the most well-protected in terms of sector specific regulation that has been layered with new requirements on providers for more than three decades.

We would welcome indications of the thinking within BEREC as to whether the sector specific consumer protection rules should be subject to a much-needed review and revision, including removing of eventual obsolete requirements, and general alignment with horizontal consumer protection within the EU.

For more than a decade, consumers’ uptake of various number-independent services (iMessenger, Snapchat etc.) demonstrates that regulators and consumers have very

different observations of what is needed from transparency and information requirement levels. On some of these aspects, we regret that BEREC does not consult with the companies that are mostly impacted by the regulation. We therefore encourage BEREC to increase transparency and ensure that their own information level is balanced reflecting relevant parties in the work output.

### **5.2.2. Peer Review Process and Engaging with RSPG**

The GSMA acknowledges BERECs participation in the Peer Review Forum, contributing to the objective of promoting full connectivity through discussions with RSPG. However, we recall our before-mentioned point, namely, that the peer review mechanism is futile if intended to improve harmonization of good licensing practices. Thus, we would suggest for BEREC to consider a different mechanism in the case of the harmonizing of good licensing practices. Yet, we recognize that it is RSPG who is responsible for this.

### **5.3 Other Tasks Under EU Legislation**

The GSMA and its members are committed to provide data to the Intra-EU communications benchmark report and the Ukraine monitoring report. However, we echo again the need for proper lead times for network operators to collect the requested data.

In the case of Intra-EU communications (5.3.3), we suggest anticipating the data collection to February or early March to avoid falling into the Easter holiday period.

On the Ukraine monitoring report (5.3.4) we would appreciate clarity around the timing for the data collection which is currently absent from the draft work programme.

Finally, regarding the update of the BEREC Guidelines on intra-EU communications (5.3.5) we welcome the possibility to comment on the draft guidelines, but we note that once again the co-legislators didn't provide sufficient time for BEREC to work on updated guidelines and hereby create uncertainty for both consumers and operators.