



## Liberty Global response to BEREC's Draft Work Programme 2025

### Introduction

Liberty Global appreciates the opportunity to provide input on BEREC's Draft Work Programme for 2025 (WP2025) and supports BEREC's commitment to engage with stakeholders and examine relevant topics. We appreciate that input provided to this call will be considered in drafting the final Work Programme in December 2024.

Liberty Global acknowledges that BEREC's upcoming work, as set out in the outline of the WP2025, includes multiple carry over items from previous years or items that are part of its regular activities. In regard to this, Liberty Global refers to and reiterates its responses to previous work programmes. In the following sections of this response, Liberty Global addresses specific initiatives identified in the WP2025, referring to specific paragraphs of the WP2025. Liberty Global may respond in more detail when the initiative in question is consulted upon by BEREC, also in regard of initiatives Liberty Global does not comment on as part of this response.

### BEREC work in 2025

#### High-level strategic priorities

We note that in outlining its work streams, BEREC will consider the three high-level priorities contained in the BEREC strategy 2021-2025 i.e., promoting full connectivity, supporting sustainable and open digital markets, and empowering end-users.

The 2018 European Electronic Communications Code (Code) aims to ensure wide-spread high-speed connectivity by promoting private investment in very high-capacity networks (VHCN), also commonly referred to as Gigabit networks, and infrastructure-based competition. In this regard, the Code promotes consistency of rules (and their application), regulatory certainty, harmonisation across the EU single market and a level playing field for all players – adhering to the principles of appropriateness and proportionality. Its correct implementation will contribute to the achievement of the 2030 connectivity targets as outlined in the European Digital Decade.

In this context, BEREC has played a key role in the creation of various Code-related guidelines and a significant portion of BEREC's role in the future will be to monitor how the Code functions and continues to be implemented. This includes how BEREC's guidelines work in practice and whether changes are required. Liberty Global supports BEREC's proactive approach and once again urges BEREC to involve stakeholders at all times in these activities.

With regards to digital markets, Liberty Global recognizes that there are varying perspectives across the EU on how to address new challenges associated with the rise of new digital services and technologies. Any new policy measures should be appropriate and proportionate to the harm sought to be addressed, built upon existing concepts, and consistent and not overlapping with other legislative instruments.



Furthermore, we support BEREC's contribution to the achievement of a green and digital transition under the European Green Deal. Any assessment of the ICT sector's environmental impact must take into account its varied nature and the multitude of actors within the sector. In this context, we urge BEREC to maintain a nuanced approach, and continue to abide by the principles of appropriateness, proportionality and technology neutrality when assessing environmental impact.

Having digitally skilled citizens is crucial for Europe to strengthen its global competitiveness and to become an inclusive digital society. As a technology, media and telecoms company, we believe that access to education that allows for the acquisition of basic digital skills should be a right for all EU citizens. We also note that end-user rights are significantly fragmented across the EU. One of the goals of the Code is to create more consistency in the application of consumer protection legislation, through modified full harmonisation of the end-user rights provisions. BEREC therefore has a crucial role in promoting regulatory best practices and consistent application of these Code provisions across the EU.

Finally, with regards to BEREC's tasks under EU legislation, we would like to take this opportunity to reiterate once more that the powers and obligations of BEREC are assigned by the Code – where BEREC provides opinions around legislative proposals and undertakes any work, we urge BEREC to remember that its duties and responsibilities are defined in the Code – anything beyond the Code may be outside BEREC's remit.

## **1. Strategic priority: Promoting full connectivity**

### **1.1 Update of criterion three of the BEREC Guidelines on very high-capacity networks**

Liberty Global welcomes the revision of criterion 3 of the BEREC Guidelines on VHCN. We expressed significant concerns in the past regarding BEREC's approach to setting the performance thresholds 1 in criterion 3. In the Guidelines BEREC defined the performance of a "gold standard" FTTB network as the VHCN benchmark network based on a "best technology" approach. By doing so, BEREC discriminated against non-FTTB operators, which would need to invest in their networks further to be able to meet this gold standard. The performance thresholds are not appropriate nor proportionate, go beyond the wording and spirit of the Code and are inconsistent with the Code's key principle of technological neutrality.

BEREC should not set a gold standard VHCN with future network performance in mind, but rather define a VHCN that reflects the current market realities (including the current network technologies and performance). In its workstream, we urge BEREC to consult fixed network operators and involve them in every step of the data gathering process.

### **1.3. BEREC Guidelines on the coordination of civil works according to Art. 5(6) of the Gigabit Infrastructure Act**

We see a lot of benefits in the coordination of civil works for network rollout, but across our footprint we have been dealing with different practices and rules at local level, which have made coordination problematic. In this workstream, key priority of BEREC when drafting the Guidelines should be to create a single and uniformed guidance for all local authorities to facilitate the coordination of civil works based on simplified procedures, so that operators can deploy civil infrastructure and/or associated facilities in



an efficient manner. Also, costs apportioned should reflect the level of contribution and benefit experienced by the parties. It is fair and proportionate that each party bears cost that can be directly attributed. If there are multiple ECN operators, in general the allocation key should reflect the number of operators involved. We urge BEREC to address these points in the guidelines, that should be clear, practical and concrete in nature.

#### **1.4. BEREC Guidelines on access to in-building physical infrastructure according to Article 11(6) of the Gigabit Infrastructure Act**

When it comes to accessing in-building physical infrastructure, we experience a number of issues across our footprint, including long procedures to come to an agreement with the building's manager/owner, difficulties to acquire information about network path or additional element's location, difficulties to come to an agreement over access fees or technical conditions, refusal of permission by owners. However, the most frequent problem is the lack of clarity on the ownership of the in-building infrastructure. Permission is often needed from multiple sources to make progress. This prevents effective shared use of physical in-building infrastructure in the mass market.

BEREC's Guidelines should address how to standardise conditions for access and provide a clear framework which sets out the parties' responsibilities and timescales for access requests to be dealt with, outline how to address ownership of the inbuilding infrastructure installed by another operator and provide clarity on the powers and responsibilities of local authorities. A centralized information system should also be available to assist the procedure to request access to the in-building infrastructure. We urge BEREC to address these points in the guidelines, that should be clear, practical and concrete in nature.

#### **1.6. Report on the regulation of physical infrastructure access**

We note that physical infrastructure access (PIA) has become a greater focus of regulatory intervention in a number of different markets and we welcome BEREC's intention to carry out an in-depth review of regulatory intervention in this area. We would encourage BEREC to engage with industry stakeholders at an early stage of this review to understand the market view of PIA and regulatory intervention in this area.

Regulation is only one element which influences the value of PIA in encouraging VHCN or Gigabit network rollout – the quality of the PIA on offer is also critical. There are variations in the nature and quality of PIA product on offer across different Member States. In certain markets, the PIA offering available from the SMP operator is poor. Physical infrastructure access is of little value where the product is sub-standard, which can impede future rollout. We urge BEREC to also examine other factors than regulation.

#### **1.7. BEREC Report on the evolution of private and public 5G networks in Europe**

The rise of private mobile networks and the continued evolution of public mobile networks raises many interesting questions – and poses challenges from a regulatory perspective. Liberty Global commends BEREC for investigating this and associated trends, such as satellite communication, small cells, infrastructure, and spectrum sharing and neutral hosting. Liberty Global is of the opinion that BEREC's



report has the potential to contribute to a principled and technology neutral application of current and nascent regulatory frameworks.

Finally, Liberty Global emphasizes that the providers of both public and private networks can provide the same set of services to e.g., verticals. This concerns *inter alia* bespoke connectivity services, commonly known as Networks-as-a-Service (NaaS). Spectrum license conditions – but also regulatory requirements – should not favour one form of delivery of such services over another, in order to avoid distortions of competition. Therefore, careful analysis is required in the setting of such conditions and requirements, to ensure spectrum – an inherently scarce resource – is allocated in accordance with maximum efficient use and broad coverage, and to ensure that regulatory frameworks are applied in accordance with the principle of technology and service neutrality.

#### **1.8. BEREC External workshop on the technological advances as security opportunities and challenges for networks resilience**

Liberty Global supports BEREC ongoing work in the context of coordinating and facilitating a common European approach towards tackling the challenges and opportunities as regards the security and resilience of Europe's communications networks and services. BEREC and national regulators are well-positioned to ensure that the NIS Cooperation Group and other policymakers take informed decisions on matters affecting our sector. At the same time, however, Liberty Global notes that the level of engagement sought by national regulators, to further BEREC's work in this regard, can differ from country to country. The centralisation of consultations and stakeholders at the European level, i.e. through BEREC instead of indirectly via national regulators, can ensure a more consistent level of stakeholder engagement. Liberty Global notes that the recent BEREC Cybersecurity Working Group survey to national fixed and mobile operators on security and resilience is a positive example of such a more centralized approach, but again notes that national regulators diverge in terms of their engagement with stakeholders. Sometimes, even within the same country, we see disagreement between different regulatory instances, all claiming responsibility for a same matter. This leads to double work to be done by the operators for exactly the same regulations and potentially to uneven levels of engagement with such surveys across the market. We urge BEREC to hold a public consultation of the workshop summary report, for the workshop held in the fourth quarter of this year, to ensure full transparency and to enable those stakeholders unable to attend or to participate in the workshop to contribute as well.

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

As outlined in Mario Draghi's report "The future of European competitiveness", the current financial situation of the EU electronic communications sector presents obstacles to securing funding for the substantial investments required to keep pace with technological shifts, as well as to meet the Digital Decade connectivity goals. EU markets are overly fragmented. Operators are struggling to achieve scale, i.e. sufficient customers on the network, in order to achieve sufficient returns on investment to meet demands for the rollout of Gigabit networks. Underinvestment hinders the sector's growth and prevents the EU from fully benefiting from technological advancements brought about by Gigabit networks.



Increase in scale of a particular network infrastructure can only be accomplished through consolidation within individual markets – what the sector really needs is economies of scale that are local, not transnational. Regulators and competition authorities should accept pro-competitive in-market consolidation, which will enable the sector to continue to roll out Gigabit networks. Decisions that force a market structure designed around short-term demand-side outcomes may produce long-term results that are harmful to consumers if firms cannot earn a reasonable return and so stop investing or exit the market. When operators achieve sufficient scale on a national basis, only then cross-border consolidation becomes relevant. We urge BEREC to address these points in the report.

#### **1.16. BEREC Opinion on the review of European Commission’s Recommendation on relevant markets susceptible to ex-ante regulation**

Liberty Global strongly supports the continued trend of deregulation in the sector, reflecting significant market and technological developments over the past decade. We applaud the shift from a European, one-size-fits-all assumption to a customised approach with the national regulator determining whether measures are needed, reflecting on national circumstances.

*Ex-ante* regulation of electronic communication networks was introduced to facilitate the transition from state-owned monopolies to open, competitive markets – reflecting well-established competition law principles and ensuring legal certainty. The Recommendation on relevant markets provides guidance to regulators in assessing a pre-defined set of markets that were deemed to meet the three criteria test for the whole of the EU footprint. As noted in the 2020 Recommendation, the objective of the *ex-ante* regime is to produce benefits for end-users in terms of price, quality, and choice by achieving sustainable competition at retail level – particularly to improve efficiency and increase innovation within the telecoms sector – to a point at which *ex-post* competition law can take over. This regime has proven successful, effective and flexible, paving the way for significant deregulation in the sector over the last 20 years. There has been a significant reduction in the number of listed markets, from 18 markets in 2003 to one market in 2018. We consider there is scope for another wave of deregulation in light of continued technological developments.

In the next revision of the Recommendation, the European Commission should refrain from recommending *ex-ante* regulation for any market at the EU level – there are no such circumstances justifying this for the whole of the EU anymore. Competition law and the GIA are sufficient. And only in exceptional circumstances there is still scope for national regulators to review markets if they meet the three criteria test, starting with a forward-looking assessment of the retail market and, only if market failures are demonstrated, moving to assessing the wholesale market.

We urge BEREC to address these points in the Opinion.

## **2. Strategic priority: Thriving sustainable and open digital markets**

### **2.2 Implementation of the Open Internet Regulation and the BEREC Open Internet Guidelines**

Liberty Global broadly supports BEREC’s continued efforts to monitor the implementation and application of the Open Internet Regulation and the associated Guidelines. We note that the national reports upon which BEREC’s report is based are frequently also adopted and published without prior public consultation. Given the importance of these national reports, as well as BEREC’s pan-European



report, in the furthering of a harmonized application of the Regulation, Liberty Global, at a minimum, urges BEREC to hold a public consultation prior to the adoption of the pan-European report.

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

Environmental sustainability is a pressing policy objective and Liberty Global supports the increased emphasis on sustainability in the ECN/ECS sector. Infrastructure sharing could be a key tool to increase the sustainability of the sector under the right circumstances. Greater clarity on how the potential environmental benefits should be weighed against other regulatory considerations would be useful for operators. It is important that discussions surrounding this issue remain transparent and open for discussion, and we urge BEREC to ensure that dialogues with stakeholders continue.

### **2.11. Stock taking of NRAs application of Article 52(2) for wholesale access obligations**

Promoting effective competition and avoiding distortions of competition in the internal market when deciding to grant, amend or renew rights of use for radio spectrum for electronic communications networks and services is instrumental to competition, investment and consumer welfare. The most important driver for successful spectrum policy should be a shift from the currently dominant, almost singular focus on maximising (auction) returns, to pursuing a set of balanced objectives (including returns, but also availability, coverage and other aspects related to the EU Digital Targets).

It should be ensured it remains economically viable for operators to deliver the best outcomes to consumers – i.e. not encouraging unnecessary new entrants when competition is deemed sufficient, not artificially driving up spectrum prices, and encouraging infrastructure sharing. Also, the existing attitude to private spectrum trading should be continued allowing the market to move spectrum to those with most value and likelihood of using it and discouraging hoarding.

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

### **3.1. BEREC Opinion on the review of Universal Services**

We support the current approach of the Code to the universal service obligations, which focus on the capability of broadband services provided to deliver a basic list of online services. We consider this a more consumer-focussed and technologically-neutral approach. In our view, this approach has been sufficient to ensure an adequate level of social inclusion and participation by citizens in the digital economy and society in their territory.

However, universal service obligations should only be imposed as a tool of last resort. We operate in a competitive market where consumers are already able to obtain access to basic electronic communications services in the absence of universal service at an affordable price. To the extent that there remain concerns about availability and quality, we consider that these are more adequately addressed through alternative measures. BEREC will support the European Commission in the review of the scope of universal service by providing data from Member States. We urge BEREC to involve network operators in the data collection.



### **3.2. BEREC report on switching and termination of contracts**

Liberty Global supports BEREC's work on reporting on the best practices for termination of contracts and switching provider. The implementation of Article 106 Code has been very fragmented across our footprint and best practices would prove very useful. While Liberty Global generally supports information sharing, we would like to add that if BEREC intends to organize workshops or touchpoints with NRAs, stakeholders should be involved.

## **6. Communication and engagement**

BEREC's stakeholder engagement intends to promote transparent and effective regulation, based on high-quality professional standards and regulatory best practice. Consultation and information-sharing by BEREC with a broad range of stakeholders on its initiatives is instrumental for stakeholder engagement. Liberty Global welcomes BEREC's commitment to 'continue to engage with stakeholders, with the goal of focusing its work on issues that are relevant to them', through ensuring transparent work processes, targeting relevant audiences as well as via the involvement of stakeholders at both early and advanced stages of BEREC's work. To further improve the relevance of stakeholders' contributions to BEREC's work, Liberty Global would particularly like to emphasize the need for (and merits of) involving stakeholders in e.g., defining the contents of questionnaires and of data requests. Therefore, when developing its WP2025, we urge BEREC to incorporate regular points of contact for stakeholder engagement, including workshops and one-on-one meetings, keeping in mind that the need for these opportunities must be truly bi-directional (e.g., through information sharing and open discussion of issues) to facilitate full transparency and effective communication.

## **POTENTIAL BEREC WORK FOR 2026 AND BEYOND**

### **7. Potential work for 2025 and beyond**

#### **7.5. Workshop and Report on practices for ensuring equivalence of access and choice with respect to accessibility**

The aim of the Accessibility Act is to harmonize accessibility requirements for products and services by eliminating and preventing barriers to the free movement of certain accessible products and services arising from divergent accessibility requirements in the Member States, and more broadly also to further harmonise accessibility requirements across the digital single market. We welcome BEREC workstream in this space. BEREC has a meaningful role to play by monitoring on the national implementation, application and interpretation of relevant laws transposing the Directive, to ensure that electronic content, electronic communications services and access to audiovisual media services are fully available to persons with disabilities across the European Union.



## About Liberty Global

Liberty Global (NASDAQ: LBTYA, LBTYB and LBTYK) is a world leader in converged broadband, video and mobile communications services. We deliver next-generation products through advanced fiber and 5G networks, and currently provide over 85 million<sup>1</sup> connections across Europe. Our businesses operate under some of the best-known consumer brands, including Sunrise in Switzerland, Telenet in Belgium, Virgin Media in Ireland, UPC in Slovakia, Virgin Media-O2 in the U.K. and VodafoneZiggo in The Netherlands. Through our substantial scale and commitment to innovation, we are building Tomorrow's Connections Today, investing in the infrastructure and platforms that empower our customers to make the most of the digital revolution, while deploying the advanced technologies that nations and economies need to thrive.

Liberty Global's consolidated businesses generate annual revenue of more than \$7 billion, while the VMO2 JV and the VodafoneZiggo JV generate combined annual revenue of more than \$18 billion.<sup>2</sup>

Liberty Global Ventures, our global investment arm, has a portfolio of more than 75 companies and funds across the content, technology and infrastructure industries, including stakes in companies like ITV, Televisa Univision, Plume, AtlasEdge and the Formula E racing series.

---

<sup>1</sup> Represents aggregate consolidated and 50% owned non-consolidated fixed and mobile subscribers. Includes wholesale mobile connections of the VMO2 JV and B2B fixed subscribers of the VodafoneZiggo JV.

<sup>2</sup> Revenue figures above are provided based on full year 2023 Liberty Global consolidated results and the combined as reported full year 2023 results for the VodafoneZiggo JV and full year 2023 U.S. GAAP results for the VMO2 JV. For more information, please visit [www.libertyglobal.com](http://www.libertyglobal.com).