



## Full fibre for a digital and sustainable Europe

Response to the consultation on the 'BEREC Work Programme 2025'

4 November 2024

**Introduction**

The FTTH appreciates the opportunity to comment on the draft BEREC Work Programme 2025 following on from the initial work programme outline and the early call for input. In its response to that early call for input, the FTTH Council called for more work on the issue of Copper Switch-Off and the Council is pleased to see that the revised programme contains a public workshop on “Strategic Issues related to copper switch off” in addition to the “Progress Report on Managing copper network switch-off”. A critical support element to effecting copper switch-off within the work programme is work item 3.2, ‘BEREC report on switching and termination of contracts’ – in order to migrate customers from copper to fibre, there must be a fit for purpose switching regime which is seamless and customer friendly and there is a lot of work to be done on this issue.

The Council also notes that there is a placeholder for potential work under ‘7.1. Facilitating copper network switch-off’. We believe that this is prudent and is a resource that is likely to be called upon. This is a very ambitious work programme and does well to deal with the uncertainty regarding the timing and nature of initiatives that may or may not arise in the course of 2025, while doing extensive work on issues that will arise.

The FTTH Council is an industry organisation with a mission to accelerate the availability of fibre-based, ultra-high-speed access networks to consumers and businesses. The Council promotes this technology because it will deliver a flow of new services that enhances the quality of life, contributes to a better environment and increased competitiveness. The FTTH Council consists of more than 150 member companies. Its members include leading telecommunications companies and many world leaders in the telecommunications industry (additional information at [www.ftthcouncil.eu](http://www.ftthcouncil.eu) ). Setting a concrete date for switching-off legacy copper networks as proposed by DG Connect in its White paper and echoed by the Draghi report is critically important. Shutting down copper networks requires careful planning and management but it gives confidence to investors and operators about the path ahead, driving investment and addressing demand issues. There are difficulties and challenges with moving to copper switch off. BEREC is uniquely placed to help the industry and stakeholders to make that transition.

The FTTH Council takes this opportunity to make further submission on the programme proposed.

**Commentary**

The FTTH Council’s interests are principally tied to the items listed under the first Strategic priority: Promoting full connectivity.

*Copper Switch-Off*

From the FTTH Council’s perspective, completing the transition from copper to fibre networks is a critical development. With respect to work item 1.2, ‘Progress Report on Managing copper network switch-off’, BEREC will be aware that the FTTH Council has commissioned a study from Cullen International tracking progress with respect to copper switch-off across a series indicators and would be happy to share data, learnings and experience from that work with BEREC. The FTTH Council looks forward to actively participating in the public consultation on this topic.

Similarly, with respect to work item 1.10, ‘Workshops on the competitive effects of strategic fibre networks deployment, including in the context of copper switch-off’, the FTTH Council would point (a) to the relevance of that study mentioned above and also point to a series of workshops (4 in total) scheduled to address different aspects of copper switch-off. The FTTH Council would be happy to share its knowledge and experience with BEREC in its workshop preparations.

There does appear to be a gap in the work programme which looks at developments and progress in managing switch off and then looking at the competitive effects of copper switch off – industry and stakeholders do need specific guidance to achieve a specific target which highlights issues that can arise and which proposes solutions.

Although the FTTH Council's interests are principally tied to the items listed under the first Strategic priority: Promoting full connectivity, certain issues under Strategic priority 3: 'Empowering end-users' are also critical in our view. Specifically work item 3.2, 'BEREC report on switching and termination of contracts' is vital to an effective migration process from copper to fibre and the ultimate switch off of the copper network. An effective switching process which is gaining-provider-led can, if implemented effectively, allow customers to switch ISP in a seamless manner and with no (or minimum) disruption in a customer friendly way. The Council has seen examples of switching processes whereby the gaining provider can obtain confirmation of the customer details within 60 seconds and can have the implications of switching within a further 60 seconds (is the customer out of contract, what penalties might arise for early termination etc. etc.). However, the Council is also aware of very poor processes which are either (a) not consumer friendly (e.g. parallel billing periods) or (b) penalising on the gaining provider (fines if there is a delayed switch over. Delayed switch overs can be caused by multiple factors but one issue is the lack of a standardised process for the physical connection of a customer. A lack of standardisation can lead to smaller ISPs becoming isolated islands separate from the general retail market and switching processes. These are areas where the FTTH Council believe BEREC could champion best practice across Europe. The FTTH Council Open-Access Working Group is working in this area which it is happy to share its data and experience with BEREC.

Finally, under this topic of copper network switch off, the work item 7.1, 'Facilitating copper network switch-off' which is for now a hypothetical project should be brought into the actual work programme to allow transition issues that may arise with an identified copper switch-off date. This work could allow BEREC to address the following issues,

1. Identify the scope of copper switch off in existing networks. Is it only twisted copper pairs or do CATV networks also fall within scope? Are hybrid networks covered and if so, up to what point in the network (e.g. would in-building copper need to be replaced/removed for instance, fibre to the last amplifier etc.)?
2. What are the range of scenarios that could arise in terms of existing network versus new network ahead of a switch off date, e.g. (a) the copper network owner also owns a fibre network, (b) the copper network owner does not own a fibre network but there is a fibre network available (c) there is more than one fibre network available, (d) scenario (a) plus there is a hybrid CATV network etc.
3. What is the unit of Switch-Off, exchange area, regional, national? Is it staggered? Which are the criteria that should be followed for ordered switch-off processes (e.g. coverage, take-up).
4. What contractual or existing access concerns would be impacted by a specific switch off date (e.g. existing contracts still in place, regulatory obligation to give minimum notice periods beyond the switch off date...). What, if any, compensation issues arise?
5. What competition concerns arise? SMP copper infrastructure owners may discriminate in switch-off decisions against third-party fibre infrastructures by delaying switch-off compared to situations with own fibre infra. For instance in the event that in an exchange area, third party renters using copper to supply services, what access remedies will be available if the

remaining fibre network does not have an owner designated with SMP. In the event of a specific copper switch off date, where the copper network owner has no fibre network but the existing fibre network owner has no regulated or voluntary contractual access possibilities, what happens to their customers? How would CATV operators be accommodated where their networks have not been upgraded? What pricing methodologies would be applied to non-SMP access products? What safeguards are necessary to avoid strategic anticompetitive behaviour by the SMP operators?

6. Are the incentives and conditions for fibre investments adequate to ensure sufficient FTTH coverage by the envisioned switch off dates? What additional measures could be considered as switch off approaches to ensure an orderly transition? 7. How are migration processes set up? Can they be used to mitigate against competitive exclusion?

When these issues have been considered it will allow BEREC to issue policy recommendations based on the research to guide NRAs managing the switch off process.

#### *Other Items*

With respect to work item 1.1, 'Update of criterion 3 of the BEREC Guidelines on very high- capacity networks' the FTTH Council Europe believes that this is a critical update to affirm the high nature of VHCN and its equivalence. There may be an issue with achieving 100% FTTH rollout with the last small percentage accounting for a very large cost – however, this is a separate issue to setting the appropriate metrics for measuring what constitutes VHCN.

With respect to work item 1.5, 'BEREC Input to European Commission's Guidance on Article 3 of the Gigabit Infrastructure Act' the FTTH Council would appreciate the possibility to comment on the work item as it could be a critical resource for parties deploying physical networks.

With respect to work item 1.6, 'Report on the regulation of physical infrastructure access' while the vast majority of Member States have imposed remedies on physical infrastructure as a remedy to a broader market failure, this approach may need to shift to ensure continuity particularly with regard to the upcoming review of the Recommendation on Relevant Markets. The FTTH Council Europe looks forward to participating in the public consultation process.

With respect to work item 1.9, 'Fact finding report on the competition indicators and regulatory highlights in different jurisdictions' the FTTH Council would like to note that it recognises the challenges that can arise from comparing data from different jurisdictions. The FTTH Council is part of a global body, the FCGA and has worked with sister associations in the North America, Latam, MENA and Asia to collaborate on common definition and data gathering exercises. The FTTH Council would be happy to share its experiences if that would be useful. The FTTH Council looks forward to participating in the public consultation.

With respect to work item 1.14, Update to BEREC Guidelines on Geographical surveys of network deployments – while TBD, the FTTH Council believes that important questions about how the output of these surveys are used – to what extent designated areas are identified and to what extent those identifications have led to interventions being sought or otherwise. The FTTH Council would be happy to participate in a public consultation on this topic.

With respect to work item 1.16, 'BEREC Opinion on the review of European Commission's Recommendation on relevant markets susceptible to ex-ante regulation.' while not for public consultation – this is an issue of critical importance for the sector and the Council looks forward to interacting with BEREC and its members on this subject as appropriate.

*Environmental sustainability,*

Under strategic priority 2: 'Thriving sustainable and open digital markets' the FTTH Council is particularly interested in work item 2.4, 'Report on Infrastructure sharing as a lever for ECN/ECS environmental sustainability' which is believed to be particularly important. It is an important consideration that the provisions on infrastructure-sharing foreseen by the EECC could be used to support environmental targets to allow competent authorities to impose the co-location and sharing of fixed and mobile network elements and associated facilities for reducing the environmental footprint of ECN/ECS. The FTTH Council believe that this adds further justification for an effective implementation of various measures to facilitate network deployment.

*End-Users and demand side issues*

Under strategic priority 3: 'Empowering end-users' the FTTH Council has already noted that work item 3.2, 'BEREC report on switching and termination of contracts' is a critical element in ensuring customers can transition from copper to fibre in a customer friendly way. The FTTH Council sees this item in two ways, it is a critical element to enable switch-off and also an important end-user project in its own right.

The FTTH Council has consistently sought and promoted policies that would accelerate the deployment of VHCN networks – and the FTTH Council believes that, barring a major shock to the market or implementation of policies detrimental to competitive investment in fibre, Europe is well on its way to achieving full FTTH coverage or its equivalent by 2030 or shortly thereafter.

However, despite the success in putting the necessary network in place, little attention has been paid to what drives take-up when VHCN is available and more importantly why demand for VHCN is so subdued. The range of factors are enormous and diverse – misleading advertising can be an issue (to the point where certain Member States have taken action), the cost differential between (fully depreciated) copper based and new fibre based networks may be an issue, the lack of VHCN specific services (so all services perform adequately over copper networks or even VHCN networks).

However, it may be related to aspects of the transition – it could be one-off connection costs, the availability of equipment, the ability of suppliers to physically access a unit and the ease with which consumers can make the choice and have that choice executed. There must be a fit for purpose switching regime which is seamless and customer friendly and there is a lot of work to be done on this issue.

An effective switching process which is gaining-provider-led can, if implemented effectively, allow customers to switch ISP in a seamless manner and with no or minimum disruption in a customer friendly manner. The Council has seen examples of switching processes whereby the gaining provider can obtain confirmation of the customer details within 60 seconds and can have the implications of switching within a further 60 seconds (is the customer out of contract, what penalties might arise for early termination etc. etc.). However, the Council is also aware of very poor processes which are either (a) not consumer friendly (e.g. parallel billing periods) or (b) penalising on the gaining provider (fines if there is a delayed switch over. Delayed switch overs can be caused by multiple factors but one issue is the lack of a standardised process for the physical connection of a customer. A lack of standardisation can lead to smaller ISPs becoming isolated islands separate from the general retail market and switching processes. These are areas where the FTTH Council believe BEREC could champion best practice across Europe. The FTTH Council Open-Access Working Group is working in

this area which it is happy to share its data and experience with BEREC, and this working group will also host a workshop in Spring 2025 in Amsterdam. We look forward to participating in the public consultation process.

The FTTH Council believe that this issue is very important and deserves to be a policy priority area for European policy makers.

As noted recently, where gigabit networks are available, with the exception of some rural developments take up is less than 50%. Even for those who take-up access to the gigabit networks, the vast majority continue to subscribe to services that do not require access to gigabit capable networks – in fact take-up of gigabit service is less than 20%. This impacts many other issues in the market, including concerns about rates of return.

#### *Stakeholder engagement*

For work item 5.1, BEREC Strategies 2026-2030: Mid-term strategy- the FTTH Council is very interested in the renewal of BEREC strategic priorities in the coming period. This is particularly important in the context of the regulatory cycle and the forthcoming changes. As a general observation, the FTTH Council finds the thematic approach in the MTS which feeds into the annual BEREC work programme, useful and clear in highlighting BEREC's priorities. The FTTH Council looks forward to participating in the public consultation.

Finally, the FTTH Council appreciates the level of engagement with Stakeholders through the debriefing session (though more in-person meetings would be preferred) but also through the Stakeholder day. While we have a preference for more public workshops (which is noted in this year's programme) as a compromise between consultation and non-consultation.