Public debriefing
43rd BEREC Plenary meeting

Dan Sjöblom, BEREC Chair 2020

Virtual meeting 16 June 2020

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- Welcome

- Dates for Public Consultations

- BEREC:s work with Covid-19 pandemic

- Ad hoc WG on Cybersecurity of 5G Networks

- BEREC Strategy 2021-2025

- BEREC Report on the impact of 5G on regulation and the role of regulation in enabling the 5G ecosystem

- BEREC Guidelines on the implementation of the Open Internet Regulation

- Q & A

- Draft BEREC Guidelines on the criteria for a consistent application of Article 61 (3) EECC

- Draft BEREC Guidelines to foster the consistent application of the criteria for assessing co-investments on very high capacity network elements

- BEREC Report on Member States Best Practices to support the defining of adequate broadband Internet Access Service

- BEREC Guidelines on public warning systems, by WNE WG Co-Chairs

- Q & A

- Wrap-up and Closing

Dates for Public Consultations

WG	Project	Launch date of PC	Closing date of PC
FNE	BoR (20) 106 Draft BEREC Guidelines on the criteria for a consistent application of Article 61	16 June 2020	31 July 2020
PFT	BoR (20) 110 Draft BEREC Guide to the BEREC 5G Radar and 5G Radar	16 June 2020	31 July 2020
MEA	BoR (20) 113 Draft BEREC Guidelines to foster the consistent application of the criteria for assessing co-investments in new very high capacity network elements (Article 76 EECC)	16 June 2020	04 September 2020

BERECs work with the Covid-19 pandemic

- Update on the special reporting mechanism on the status of internet capacity in light of the Covid-19 crisis and other national measures against pandemic

BERECs work within the Ad hoc WG on Cybersecurity of 5G Networks

Two deliverables foreseen in the near future:

- Input for the NIS CG, ENISA and EC for implementation of the toolbox, namely regarding SM05 (diversification of suppliers) and SM06 (strengthening national resilience) via the distribution of a survey to European NRAs and MNOs

- Snapshot for BEREC members regarding the conditions and outcomes of the toolbox implementation

BEREC Strategy 2021-2025

Michel Van Bellinghen, BEREC Incoming Chair 2021

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- Initial call for early inputs (as part of the WP 2021 PC) closed on 6 November 2019

- The PC ran from 6 March until 13 April 2020

- 17 non-confidential contributions from Article19, BEUC, ETNO, GSMA, Open Fiber, FTTH Council Europe, DIGITALEUROPE, Liberty Global, Telefónica, ECTA, Microsoft, Facebook, Huawei, CMG AE, 1&1 Telecom, Cecil Ameil and Anton Voprosov

- Report is a summary of how stakeholders' views have been taken into account

- BEREC publishes all individual contributions on its website, as well as the summary report

- BEREC approach to intensify stakeholder engagement is very much welcomed by all stakeholders.

- stakeholders highly appreciate BEREC's prompt response to the current Covid-19 crisis

- Broad support for the 5-year horizon and trends identified

- Core tasks remains to promote clear, predictable and harmonized rules in the area of telecommunications

- General support from respondents towards goals gigabit society

- Transition to 5G depends on conditions of spectrum, backhaul, infrastructure sharing

- Support and concern relating to issues with digital platforms

- Big data and AI may have numerous of unforeseen consequences

- ***Emphasis on ensuring the consistent application of the Code throughout the EU*** ✔

- ***Bridging the digital divide; everyone must have ability and capacity to participate in the digital society by ensuring that all consumers have access to broadband internet service.*** ✔

- ***COVID-19*** ✔

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•Welcome BEREC sustainability and climate change ambitions

•Concerns on wholesale access, network sharing, scarce resources

•BEREC aims at an intensified cooperation with other EU bodies

•Support commitment to the OI for the benefit of all end-users

•Concern that digitalisation has also many challenges

•Stakeholders welcome the concept of end-user empowerment - protection rules should be applied in a harmonised way.

- *improving generally the conditions VHCN for operators and end-users*

- *Added a para about inclusion of business end-users* ✔

- *Added regulated, if necessary re. ensuring wholesale access to fibre backhaul connectivity of cell sites* ✔

- *The digital economy brings new opportunities and challenges* ✔

- *Added in close cooperation with other competent authorities and institutions BEREC will continue to build its knowledge base* ✔
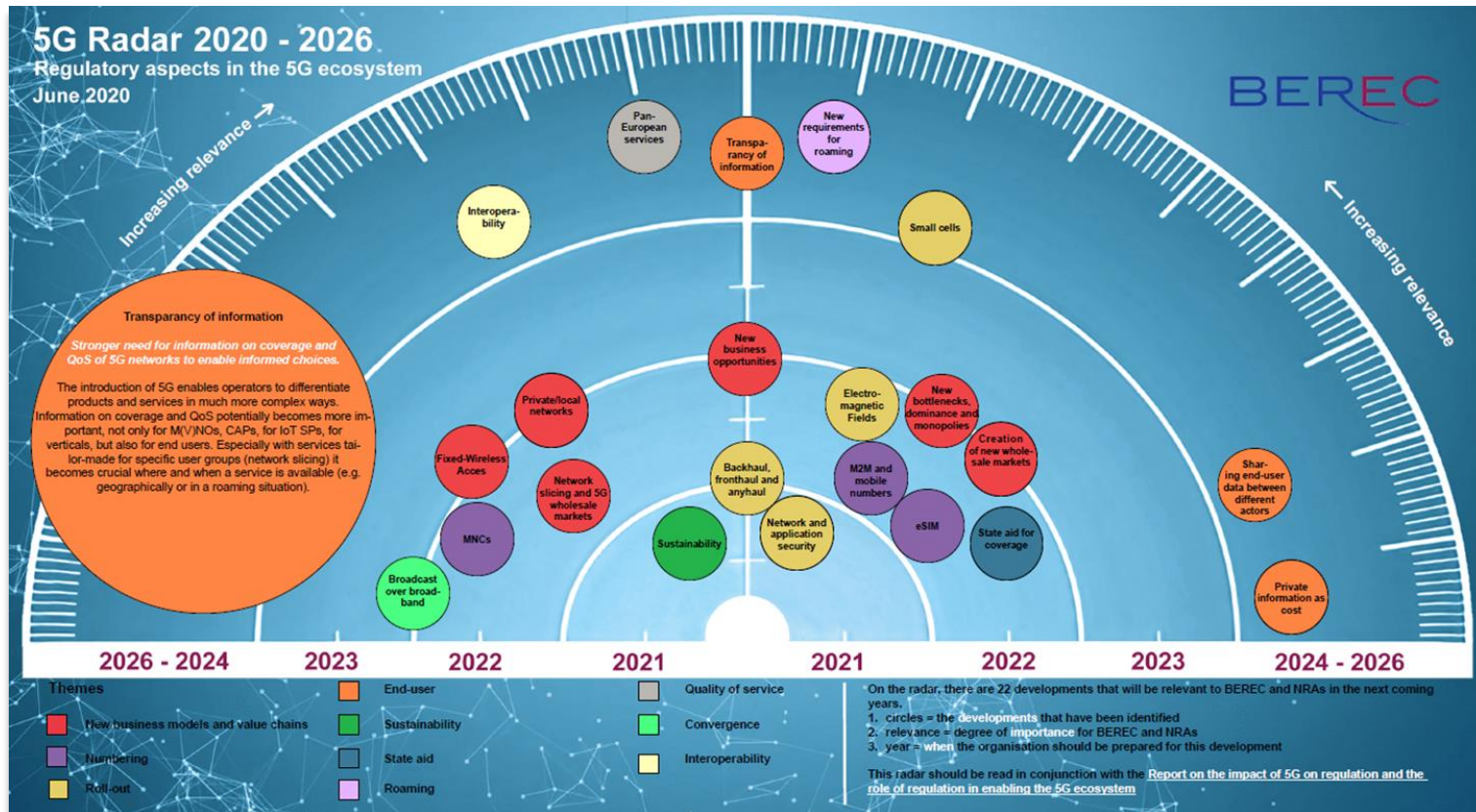
BEREC 5G radar, as an extension to the BEREC Report on the impact of 5G on regulation and the role of regulation in enabling the 5G ecosystem

PFT Co-Chairs (PTS/ACM)
Bo Andersson, Bert Klaassens

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The 5G radar 2020 – 2026

(2020) BEREC Guidelines on the Implementation of the Open Internet Regulation

OI Co-Chairs, (TRAFICOM/ACM)

Klaus Nieminen, Michiel van Dijk

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(2020) BEREC Guidelines on the Implementation of the Open Internet Regulation

Published today by BEREC:

- Updated Guidelines
- Consultation Report, public contributions
- Updated Open Internet section on the BEREC website
  https://berec.europa.eu/eng/openinternet/

Discussed in this presentation:

- Input from the Public Consultation
- Changes made to the Guidelines <u>after</u> the Public consultation

- 52 responses from various types of stakeholders.
  - Public contributions (50) will be published

- Generally stakeholders seem to appreciate the overall updated Guidelines
  - Consultation report focuses on the remaining points that stakeholders wanted to address & clarifications of new text

- Stakeholders maintain opposing views on certain guidance in the 2016 version. For example on zero rating and specialized services.
  - Yet the received feedback did not justify any major changes to the Guidelines, but some further clarifications were needed

- Added subheaders for readability

- Clarifications on what is and what is not part of the IAS (**GL** 12 and 78-78c)

- Clarifications on end point-based services (**GL** 32a-b)

- Clarification of the term application agnostic (**GL** 34a)

- Clarifications in the text on Open Programmes and in the methodology in the Annex (**GL** 42-42c and Annex)

- Clarification: certain Hybrid IAS and Fixed Wireless Access IAS fall under the transparency rules for 'fixed'. (**GL** 141-141b)

- Also many other minor clarifications
    - **GL** 25, 34b-34d, 40, 48, 80, 81, 108a, 112, 121, 121a, 124, 135, 138, 147, 183 and 186 + proofreading

Questions on the first part of the debrief

Draft BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3) EECC

FNE Co-Chairs (RTR/BNetzA)

Wilhelm Schramm, Björn Jonassen

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Draft BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3) EECC

- **The draft BEREC Guidelines on Art. 61(3) EECC**

  - define criteria on key aspects of the EECC's extended and amended provision on symmetric access regulation.

Criteria on key aspects:

- **The first concentration and distribution point is defined**

  - technologically neutral as the first point that is accessible or can be made accessible without unreasonable effort.

- **High and non-transitory economic or physical barriers to replication**

  - economic barriers stem from a low prospect for cost recovery

  - physical barriers may derive from technical, legal or administrative restrictions and physical obstacles

- **The "Point beyond" is defined as**

  - the point closest to the end-user allowing to overcome the high and non-transitory barriers to replication identified

- **Network deployments considered to be "new"**

  - recently deployed networks where service provision started no longer than five years ago

- **Network deployments considered to be "small"**

  - projects by undertakings not active in a major part of the broadband market

  - size of the undertaking should be measured relative to the broadband market

  - presumption: Undertakings with less than 500 (potential) end-users

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- **The draft Guidelines**

    - Are defined in accordance with Art. 61(3) EECC

    - Inform also on how the criteria need to be applied

- **Next steps**

    - Stake holder meeting to introduce draft Guidelines on 23 June 2020

    - Public consultation is open until 31 July 2020

Draft BEREC Guidelines to foster the consistent application of the criteria for assessing co-investments in new very high capacity network elements Article (76) EECC

MEA Co-Chairs (Arcep/CNMC)

Chiara Caccinelli, Jorge Infante

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Article 76 EECC: Regulatory treatment of new VHCN

- ❑ VHCN in Art 76: optical fibre elements up to the end-user premises or base station
- ❑ SMP can make a co-investment offer to deploy new VHCN

Paragraph 1: Conditions for NRAs to assess the commitments offered by the SMP in order to not impose any additional obligations pursuant to Article 68 as regards the elements of the new VHCN

Annex IV EECC: Minimum criteria that the commitments should meet

Article 79 EECC: Procedure to assess the commitments

Article 76(4) BEREC, after consulting stakeholders and in close cooperation with the Commission, shall publish guidelines to foster the consistent application by national regulatory authorities of the conditions set out in paragraph 1, and the criteria set out in Annex IV.

PREVIOUS STEPS

❑ 7th March 2019, 31th January 2020: Workshops with Stakeholders´ associations

KEY POINTS ADDRESSED IN THE GUIDELINES

❑ What is a new VHCN, timing for making an offer, type of investments and co-investments models qualifying for Article 76

❑ How to assess the openness of offers under the different models (joint-venture, reciprocal access, one way access, mixed models) and lifetime of the network

❑ How to assess the fair, reasonable and non discriminatory terms under each model

❑ Flexibility on the participation of co-investors

❑ Possibility to increase participation and reciprocal rights

❑ Information to be published in advance by SMP operator proposing co-investments

NEXT STEPS

❑ Open to public consultation. All stakeholders are invited to submit their inputs on the draft Guidelines.

❑ Extended deadline: 4 September 2020

❑ Internal discussion among drafters on feedback received

❑ To be approved at P4 (December, Latvia)

❑ A summary of all contributions received will be published on BEREC website, taking into account requests for confidentiality

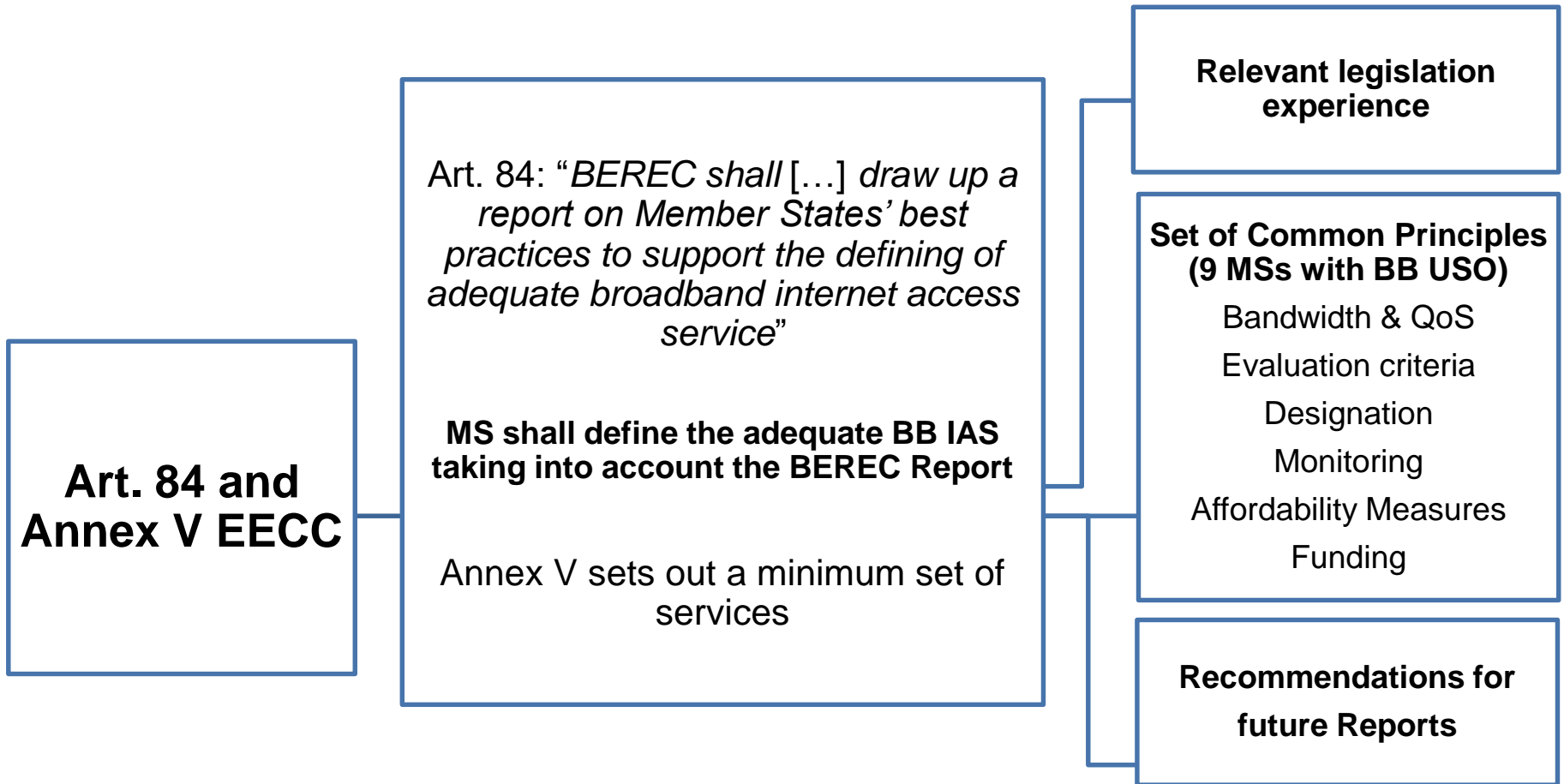=> **The Guidelines will enter in force in December 2020**

BEREC Report on Member States Best Practices to support the defining of adequate broadband IAS

EU Co-Chairs (AGCOM/ComReg)

Paolo Lupi, Therese Hourigan

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Art. 84 and Annex V EECC

Art. 84: "*BEREC shall* […] *draw up a report on Member States' best practices to support the defining of adequate broadband internet access service*"

MS shall define the adequate BB IAS taking into account the BEREC Report

Annex V sets out a minimum set of services

Relevant legislation experience

Set of Common Principles (9 MSs with BB USO)

Bandwidth & QoS

Evaluation criteria

Designation

Monitoring

Affordability Measures

Funding

Recommendations for future Reports

MS experiences – bandwidth and evaluation criteria

	CURRENT USO INTRODUCED	CURRENT DOWNLOAD SPEED (min)	CURRENT UPLOAD SPEED (October 2019)
BELGIUM	2014	1Mbit/s	not specified
CROATIA	2015	1Mbit/s	not specified
FINLAND	2015	2Mbit/s	not specified
LATVIA	2010	not specified	not specified
MALTA	2011	4Mbit/s	not specified
SLOVENIA	2018	4Mbit/s	512kbit/s
SPAIN	2012	1Mbit/s	not specified
SWEDEN	2018	10Mbit/s	not specified
UNITED KINGDOM	2018	10Mbit/s	1 Mbit/s

Main criteria considered by MS:

- expected availability of BB without public intervention
- estimation of the cost of a BB USO
- geographic survey
- market distortion
- estimation of the potential demand for a BB USO
- where the data rate is used by at least 50% of HH and at least 80% of HH with a BB connection
- comparison with other EU countries

Public consultation period: 11 Dec 2019 - 27 Jan 2020
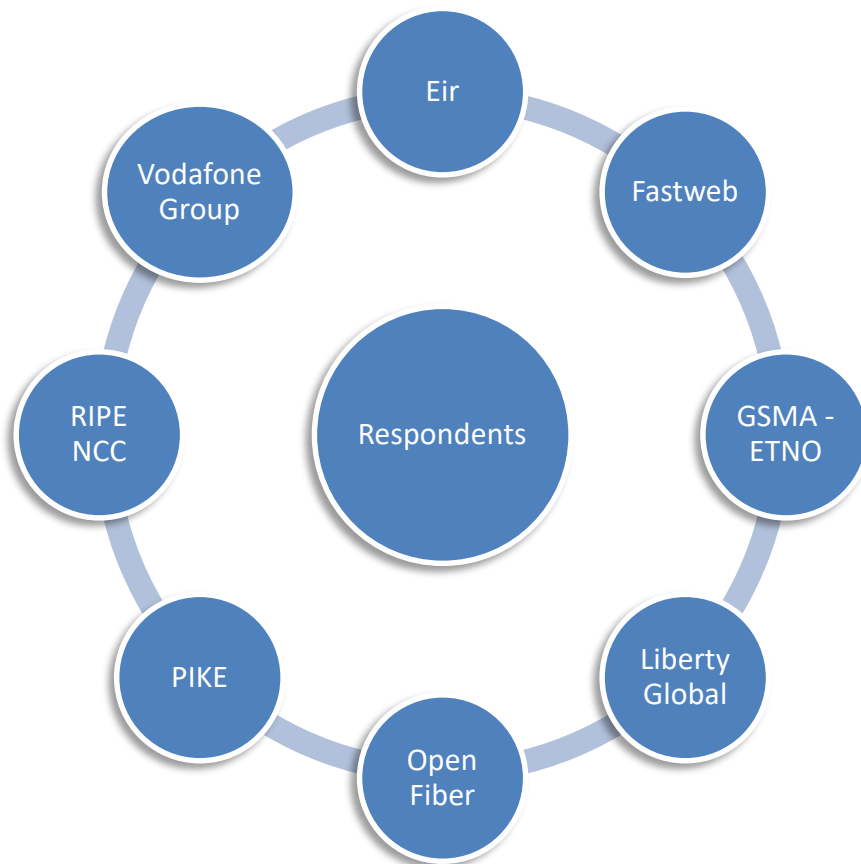
Relevant experiences/criteria raised by Respondents

- BB USO should be technology neutral

- BB USO should be limited to primary residence

- No delays in compensating the designated USPs for provision of US

- US should be publicly funded

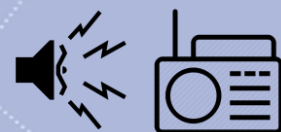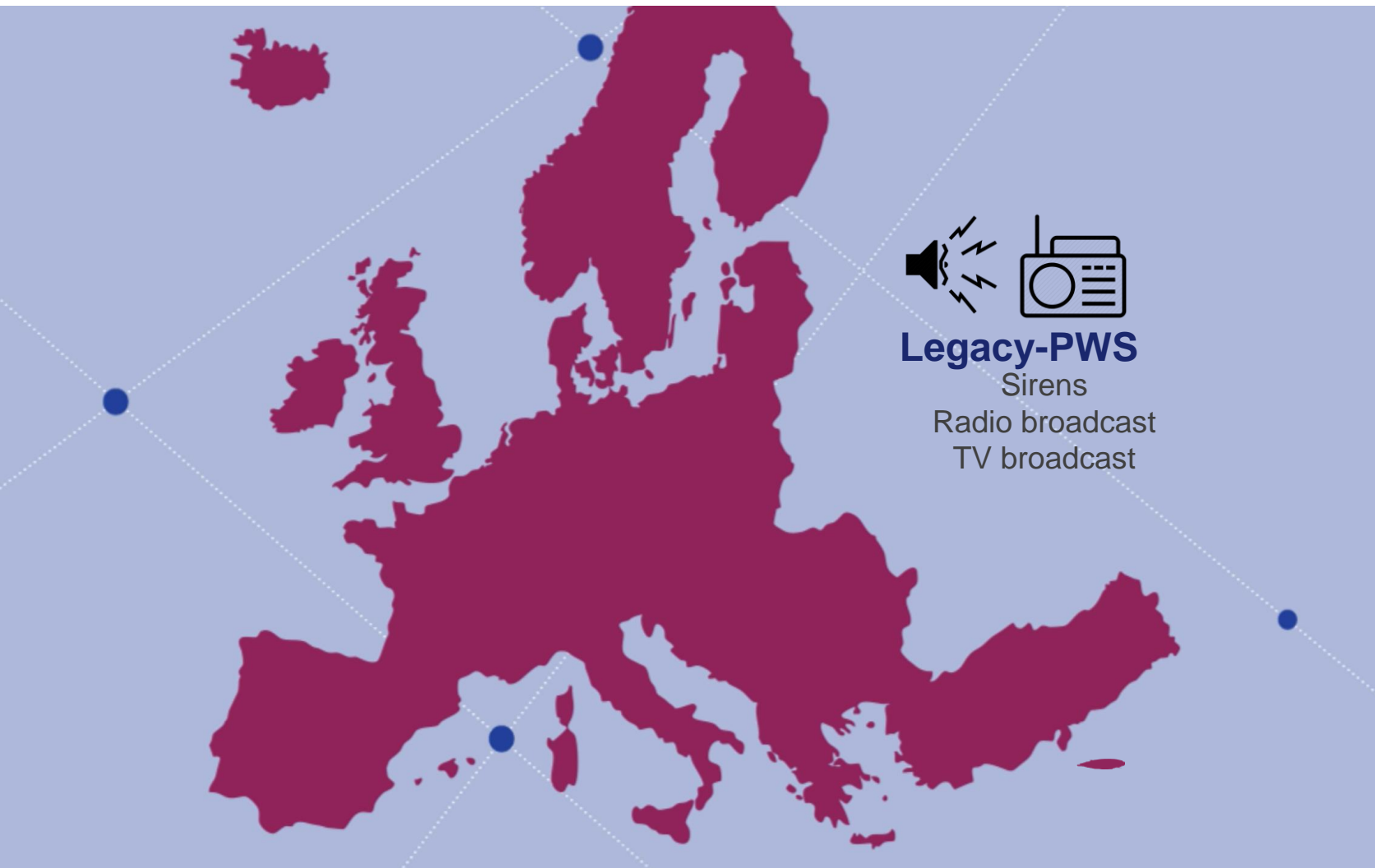- Concept of affordability and availability are separate matters

BEREC Guidelines on public warning systems

WNE Co-Chairs (ComReg/Arcep)

Joe Lynch, Blaise Soury-Lavergne

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Background ECS-PWS

Article 110 of the European electronic communication code

1. […]
2. […]

By 21 June 2020, and after consulting the authorities in charge of PSAPs, BEREC shall publish guidelines on how to assess whether the effectiveness of public warning systems under this paragraph [110(2)-PWS] is equivalent to the effectiveness of those under paragraph 1 [110(1)-PWS].

110(2)-PWS   =   **110(1)-PWS**

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- Three step methodology

Equivalence assessement
Comparing 110(2)-PWS' peformance against the benchmark

110(2)-PWS assessment
Assessing110(2)-PWS'
performance against factors

Benchmark creation:
Assessing identified 110(1)-
PWS' performance against
factors

2 — **3** →

3-STEP APPROACH

1 — **0**

Preliminary step:
Member State identifying
compliant 110(1) systems

Questions on the second part of the debrief
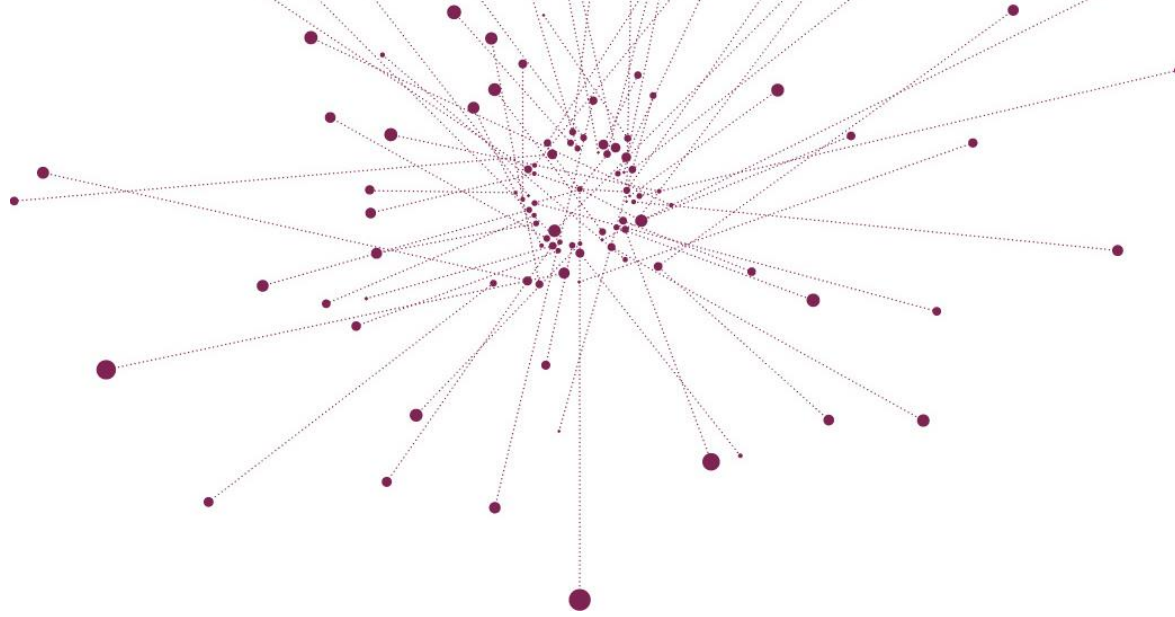
Thank you!

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