

## Press Release

15 December 2021

### **BEREC prepares for the update of the Guidelines on implementing the Open Internet Regulation**

BEREC is thoroughly analysing the rulings of the European Court of Justice related to the application of the Open Internet Regulation (OIR). In its process to come to updated Guidelines reflecting the Court of Justice interpretation on the topic of zero-rating, BEREC also considers the views of the stakeholders who contributed to the call for input. Twenty-six stakeholders used the opportunity for early involvement on an equal footing, launched in October 2021. The internal discussions and the stakeholders' input play a significant role in preparing the updated Guidelines on implementing the Open Internet Regulation planned for the second quarter of 2022. The current analysis was presented during the BEREC public debriefing on the outcomes of the 49<sup>th</sup> BEREC plenary meetings held on 9 December in Stockholm, Sweden.

During the BEREC public debriefing, BEREC Chair Michel Van Bellinghen (BIPT, Belgium) emphasised: ***“BEREC thanks the stakeholders for their early input. Based on the discussion we had at our meeting, we take the preliminary view that the Court of Justice rulings make it clear zero tariff offers are by themselves incompatible with the equal treatment of traffic obligation in the Open Internet Regulation. We also take the view that there is still room for price differentiation, especially when traffic is treated equally. BEREC will now develop draft updated Guidelines which will be published for public consultation in March 2022”***.

#### **Consistent approach to migration and copper switch-off**

On 15 December 2021, BEREC launched a public consultation on its [draft report regarding the consistent migration and copper switch-off approach](#). BEREC invites stakeholders to provide their input to the draft report by 28 January 2022. The overall aim of the document is to identify a consistent approach to migration and the copper switch-off. The draft report also provides an overview on the status of the significant market power operators (SMPOs) and plans for the copper switch-off. In the draft report, the BEREC experts analyse the rules set by the national regulatory authorities (NRAs) for the migration process and the copper switch-off and examine the further aspects thereof.

#### **Market developments and end-user rights**

The general conclusion of the [BEREC Opinion on the market and technological developments and on their impact on the application of rights of end users in the EECC](#) is that there will likely

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be no significant market and technological developments over a 3-year time horizon that will impact the application of end-user rights. Following its research, BEREC concluded that the provisions around transparency and contractual information, especially when fully transposed into national legislation, should positively impact end users and aid the development of the retail market. In the Opinion, BEREC also suggests that in the time horizon covered by the Opinion (until the end of 2024) there is no need to introduce amendments either to the provisions concerning contract duration, termination, provider switching and number portability. On the matter of effective access to emergency services, BEREC notes that the provisions regarding emergency services in the European Electronic Communications Code (EECC) have not been fully developed yet as the first act with detailed measures from the European Commission is due in December 2022. BEREC also looked at the application of the provisions regarding equivalent access and choice for end-users with disabilities. Also here, the very recent and therefore limited experience with the new regulatory framework makes it difficult to provide an answer to the question of what impact market and technological developments might have on the application of these provisions.

All in all, BEREC considers the continued monitoring of market and technology trends to be important and will therefore develop several initiatives in the field of end-user rights in its working programmes in the coming years.

### [BEREC Work Programme 2022](#)

Promoting full connectivity for consumers and businesses will remain a key priority for BEREC in 2022. During the BEREC public debriefing, incoming BEREC Chair Annemarie Sipkes (ACM, the Netherlands) presented the [BEREC Work Programme 2022](#) and invited stakeholders to actively engage in the call for early input next year for the Work Programme 2023.

### [Other reports and draft reports](#)

A [full list of public documents](#) adopted at the 49th plenary meeting is available on the BEREC website.

BEREC would like to specifically mention the following topics:

- [BEREC Report to enable comparable national broadband coverage indicators throughout Europe](#). This report explores the possibilities of improving the comparability of the coverage indicators in the Broadband Coverage in Europe study and the DESI coverage indicators.
- [BEREC Opinion on the national implementation and functioning of the general authorisation](#). Based on the information provided by NRAs and stakeholders, the Opinion identifies the strengths and weaknesses of the current EU General Authorisation scheme.
- [BEREC Report on transparency and comparability of international roaming tariffs and the termination rates at European level](#).

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- [BEREC Report on the COVID-19 crisis – lessons learned regarding the communications networks and services for a resilient society](#). This Report constitutes a factual overview and gives insights concerning commercial practices, traffic management, best practices, and ways forward regarding a consistent application of the Regulation across the European Union during a pandemic.

BEREC has also published several documents related to the roll-out of 5G, such as the [BEREC Report on the diversification of 5G ecosystem](#), the [BEREC Report on the workshop on EMF](#) and the [BEREC Report on the NRAs' experiences with 5G](#).

The 50<sup>th</sup> BEREC plenary meeting will be fully virtual and take place on 9-10 March 2022.

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