

16th meeting of the Board of Regulators Hosted by SPRK, in cooperation with the BEREC Office

Conclusions

Chair: Dr Leonidas KANELLOS President of the Hellenic Telecommunications and Post Commission (EETT)

26 September 2013, Riga (Latvia)

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Main results of the 16th meeting of the Board of Regulators (BoR)

I. Documents approved for publication:

- 1. International Roaming BEREC Benchmark Data Report July 2012 March 2013;
- 2. <u>BEREC International Roaming Compliance Report (Regulation (EU) No 531/512 of the</u> European Parliament and of the Council of 13 June 2012 on roaming);
- 3. <u>BEREC Report on the Regulatory Accounting in Practice 2013;</u>
- 4. <u>Methodology for monitoring the implementation of the BEREC Common Positions (CPs) on</u> <u>Wholesale Local Access (WLA), Wholesale Broadband Access (WBA) and Wholesale</u> <u>Leased Lines (WLL)</u>.

II. Documents approved for public consultation:

<u>Draft BEREC 2014 Work Programme</u>; the consultation will be held within the period 1-25 October 2013 with a public hearing on 17 October 2013.

III. Documents approved for internal use:

- 1. Mid Term Review of BEREC Work Programme 2013;
- 2. Internal Guidelines for the elaboration of BEREC Opinions in Article 7 and 7a Phase II cases;
- Definition of BEREC internal Guidelines for BEREC regulatory assistance to NRAs pursuant to Article 2 b) of the BEREC Regulation;
- 4. Definition of BEREC internal Guidelines for the provision of BEREC's Opinion on crossborder disputes according to Article 21 of the Framework Directive.

IV. Other important topics discussed:

1. Revised BEREC medium term strategy outlook

The BoR discussed the revision of the BEREC medium term strategy outlook and decided organising an in-depth reflection, preferably during a strategic workshop to be held in the framework of to one of the next plenary meetings.

2. Proposal for a Regulation laying down measures concerning the European single market for electronic communications and to achieve a connected continent (hereinafter referred to as "Single Market Initiative")¹

The BoR discussed the high-level principles of the aforementioned legislative proposal and decided to set up an Ad Hoc Expert Working Group to prepare a BEREC opinion on the proposal with a view to contributing to the legislative process.

3. Ecosystem Dynamics and Demand Side Forces in NN: Progress Report and Decision on Next Steps

The BoR discussed the Progress report and the next steps in relation to the future Report "Ecosystem Dynamics and Demand Side Forces in NN". A final decision on the way forward will be circulated for approval by the BoR via electronic clearance.

4. Interim Report on Machine-to-Machine (M2M) Communications

The BoR discussed also the Interim report on M2M Communications and decided to organise a BEREC Workshop on the topic. The Workshop has been indicatively scheduled for November 2013.

5. BEREC-REGULATEL Memorandum of Understanding (MoU)

The BoR discussed the draft BEREC-REGULATEL MoU on cooperation and approved it for signature by BEREC.

V. Next meeting

The next meeting of the BoR will take place on 5 and 6 December 2013 in Budapest (Hungary) and will be hosted by the <u>Hungarian National Media and Infocommunications Authority - NMHH</u>.

¹ COM(2013) 627 final, 2013/0309 (COD)

Introduction and participation

The BoR held its 16th meeting on 26 September 2013, Riga (Latvia), kindly hosted by the <u>Latvian Public Utilities Commission</u> - SPRK, in cooperation with the BEREC Office. The meeting was attended by high-level representatives of the National Regulatory Authorities (NRAs) with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services established in each EU member state and the Commission. Representatives of the NRAs from the EFTA states and the states that are candidates for accession to the EU also took part in the meeting and were represented at high level.

The meeting was presided by Dr Leonidas KANELLOS, President of the Hellenic Telecommunications and Post Commission (EETT), BEREC Chair 2013.

Items discussed

Document(s)	BoR (13) 116 Draft BoR Agenda
Introduction by	The BEREC Chair
Information presented	 The BEREC Chair opened the meeting and invited the new BEREC members to introduce themselves, as follows: Jack HAMANDE - Chairman of the Council of BIPT (Belgium); Mr Petros GALIDES - Deputy Commissioner OCECPR (Cyprus); Jaromír NOVÁK - Chairman of the Council of the CTU (Czech Republic); Mr Godfrey VELLA - Board Member MCA (Malta); Mr Joaquín OSA BUENDÍA - General Director of CMT (Spain). Then the BEREC Chair informed the meeting that Mr Gabor MATRAI, who
	was Vice President of NMHH and BEREC Vice-chair, resigned from his post in the Hungarian NRA.
	The BEREC Chair informed the meeting that agenda item 13.2 will be withdrawn and that the Chair of the Evaluation EWG will make a short

1. Opening of the meeting and adoption of the agenda

presentation on the recent developments in BEREC's evaluation by the
European Parliament under AOB.
Following those announcements, the Chair asked for the adoption of the agenda with the amendments suggested.
The BoR adopted the agenda with the amendments suggested by the BEREC Chair
- -

2. Adoption of the list of "A" items

Document(s)	BoR (13) 102 Draft International Roaming BEREC Benchmark Data Report July 2012 – March 2013 (approval for publication).
	BoR (13) 103 Draft BEREC International Roaming Compliance Report (Regulation (EU) No 531/512 of the European Parliament and of the Council of 13 June 2012 on Roaming) (approval for publication).
	BoR (13) 110 Draft BEREC Report Regulatory Accounting in Practice 2013 (approval for publication).
	BoR (13) 112 Draft Internal Guidelines for the elaboration of BEREC Opinions in Article 7 and 7a phase II cases (approval for internal use).
Introduction by	The BEREC Chair
Information presented	The Chair presented the list of "A" items as mentioned above and asked if any of the BoR members would like to suggest taking some of the "A" items as regular items.
Discussion	There were no requests for withdrawing items from the "A" list but 2 NRAs requested the introduction of minor changes in documents Nos. BoR (13) 102 and BoR (13) 103 concerning their countries.
	The BoR agreed with the proposed minor changes and approved the whole package of the list of "A" item.
Conclusions	All items included in the "A" list were approved

3. Information by the BEREC Chair on activities since the last meeting

Document(s)	No document	
Introduction by	The BEREC Cha	air
Information presented		air updated the meeting on the most important activities which the last meeting, as follows:
	12 June 2013	The BEREC Chair and other BEREC representative met the Commission to explain BEREC's consideration in relation to the draft Recommendation on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment;
	13 June 2013	The BEREC Chair presented the outcome from the 15 th plenary meeting (6-7 June 2013) at a public debriefing;
	24 June 2013	The BEREC Chair met representatives of some stakeholders;
	25 June 2013	The BEREC Chair addressed the ECTA Conference Single European market;
	26 June 2013	The BEREC Chair met the EWG Chairs with whom he discussed the status of the work of the EWG headed by them;
	2 July 2013	The BEREC Chair took part in the XII BEREC-REGULATEL Summit during which both sides had a preliminary discussion on the possibilities of signing MoU for cooperation;
	2 July 2013	The BEREC Chair took part in a BEREC-REGULATEL regulatory conference;
	5 July 2013	The BEREC Chair chaired a panel dedicated to the national broadband interconnection charges;
	BEREC Chair a	med the meeting that since the last plenary meeting the nd Vice-chairs had 2 meetings, one of them arranged via e and one physical meeting, which took place on 3 in Athens.
Conclusions	The BoR took no	te of the information presented.

4. Oral up-date on the forthcoming elections of Chair for 2015 and Vice-chairs for 2014

Document(s)	No document
Introduction by	The BEREC Chair
Information presented	This agenda item was discussed only under MC agenda item No. 3.
Conclusions	The conclusions reached under the afore-mentioned MC agenda item are also applicable to the current BoR item.

5. State of implementation of the 2013 BEREC Work Programme (WP) and conclusions from the recent Article 7/7a phase II cases

Document(s)	BoR (13) 106 State of implementation of the 2013 BEREC WP
	BoR (13) 107 6 th Assessment Report on Article 7/7a, Phase II cases -
	Conclusions
Introduction by	The BEREC Office Administrative Manager (AM)
Information	The BEREC Office AM presented the status of implementation of the BEREC
presented	2013 WP. In his presentations he pointed out that work of all Exert Working
	Groups is on track and informed the meeting about 2 forthcoming public
	workshops, as follows:
	- 15 October 2013, Brussels - BEREC Workshop on measures towards
	disabled end-users accessibility to electronic communications (organised
	by the End-user EWG;
	- November 2013, Brussels - BEREC Workshop on M2M (Machine-to-
	Machine) communication (organised by the Framework Implementation
	EWG).
	The BEREC Office presented also the Conclusions from the recent six Article
	7/7a, Phase II cases, 5 of which had been completed.
Conclusions	The BoR took note of the information

Document(s)	BoR (13) 118 Revised BEREC Medium Term Strategy Outlook
Decement(c)	Box (13) The Revised BEREC Medium Term Strategy Outlook
Introduction by	A representative of the BEREC Chair
Information presented	The meeting was informed that the BEREC Medium Term Strategy had been adopted in February 2012, following a public consultation and that the document itself calls for its regular update. In this respect BEREC has undergone some reflection about the necessity to up-date the strategy, taking into account some recent developments, namely: - The Trautmann report on the Framework Review; - The Commission single market initiative; - The Recommendation on non-discrimination and costing. Taking into account the main ideas in the afore-mentioned documents, which generally coincide with the main objectives of the BEREC Strategy, the speaker voiced the opinion that there was no need for major rethinking and that the three main pillars of work, as identified in the 2012 Strategy, still reflective of BEREC priorities. In this respect the proposed review of the BEREC strategy responded only to
	the need to up-date the Strategy with the newly introduced concepts in the afore-mentioned documents.
Conclusions	The BoR discussed the draft and decided to organise a more in-depth reflection, preferably during a strategic workshop to be held in the framework of one of the next plenary meetings.

6. Revised BEREC Medium Term Strategy Outlook

7. Midterm Review of BEREC WP 2013

Document(s)	BoR (13) 113 Mid Term Review of BEREC WP 2013
Introduction by	A representative of the BEREC Chair
Information presented	A representative of the BEREC Chair made a short presentation of the revised BEREC 2013 WP. He pointed out that there had been some recent changes

	in the Commission's planned desumants including the frequence of death
	in the Commission's planned documents, including the freezing of draft
	Recommendation on net neutrality (NN); the recently tabled legislative
	proposal for a Regulation on the single telecoms market and others which
	affect the implementation of the 2013 BEREC WP.
	There the Chairs' Office suggests 3 main departures from the BEREC WP in
	force, namely:
	- The BEREC Opinion on draft NN Recommendation has to be postponed
	for 2014 or even abandoned, depending on further decision of the
	Commission on this act (NN EWG).
	 The draft report on platforms for measuring the Quality of Broadband
	Access Services had been rescheduled from December 2013 to March
	2014 (NN EWG).
	 Methodology and questionnaire for the second round of traffic
	management investigation (TMI) has to be postponed from December
	2013 to June 2014 (NN EWG).
	Furthermore there is a need to undertake some additional work on the further
	address the forthcoming STM initiative.
	Although any work on the single market initiative could be undertaken by an ad hoc team, this will require additional resources. Therefore in the current
	mid-term review, the Chair's Office proposes postponing some of the
	deliverables of the FI EWG (revision of the RoP for example), in order to free
	up resources for the work on the single market initiative. The work on the
	single market initiative could be used also to start preparation for the
	forthcoming framework review dialogue. Such a task is likely to involve several
	EWGs and could be led by an ad hoc team, which could act as an umbrella
	structure and coordinate all EWGs contributing to this task.
	The paper suggests also undertaking further reflection on the structure and
	names of the EWG with a view to optimising their structure and linking it to the
	actual work done, including by renaming some of the EWGs.
Conclusions	The BoR took note of the document and approved it for internal use.

8. Draft BEREC 2014 WP

Document(s)	BoR (13) 122 Draft BEREC 2014 WP
Introduction by	A representative of the BEREC Chair 2014 (PTS)
Information presented	A representative of the BEREC Chair 2014 (PTS) presented the draft BEREC 2014 WP and explained the rationale behind its preparation. He pointed out that the draft WP had been structured around the main pillars of the BEREC Medium term strategy outlook, namely: infrastructure, consumer empowerment, internal market and horizontal and quality aspects. Furthermore the drafting team took into account the fact that the Commission Single Market Initiative would inevitably influence BEREC's work in 2014. Taking into account the big volume of work expected in 2014, the drafting team had done its best to set up priorities in the WP and to have a fairly low number of work streams but more important to shift the deliverables from reports to workshops, as far as possible. In accordance with Article 5 of the BEREC Regulation, the BEREC WP is subject to consultation, which will be held in October 2013, with a public
	hearing in mid-October. The final adoption of the document is envisaged for the December plenary meeting (5-6 December 2013, Budapest).
Conclusions	The BoR discussed the draft 2014 BEREC WP and made some suggestions for improvements. The draft was approved for public consultation with the amendments agreed. The public consultation will be run within the period 1-25 October 2013 with a public hearing in mid-October 2013.

9. Proposal for a Regulation on European single market

Document(s)	No document
Introduction by	Commission representatives
Information presented	The European Commission presented the recently adopted Connected Continent package comprised of the following documents:
	 The Communication: Commission's vision for a Single Telecoms Market;

Conclusions	The BoR discussed the high-level principles of the Commission proposal and decided to establish an Ad Hoc team to prepare a BEREC opinion on the draft, which could facilitate the legislative process.
	In its presentation the Commission elaborated on the above topics and presented also its proposal for changes in the BEREC Regulation, including the introduction of a professional BEREC Chair as part of the BEREC Office staff.
	 Phasing out roaming.
	 Open Internet: net neutrality;
	 Harmonised end-user rights and easier switching;
	3. Single consumer space
	 Fixed: European virtual access products.
	 Wireless: spectrum coordination; facilitating small cells;
	2. European inputs for high-speed broadband:
	1. Single EU authorisation – to introduce simplified regulation and enhanced convergence of regulatory conditions
	BEREC was informed that the proposal covers the following key areas:
	approach
	 prejudicing efficient operators of any size minimal governance changes to ensure collaborative, strategic European
	- enable benefits of economies of scale to be passed to consumers without
	 safeguard open Internet, while leaving space for innovations, such as specialised services
	 maintain market regulation based on competition principles; emphasis on infrastructure competition and the end-user interest in retail price, choice and quality
	 build on solid foundations of current legislation with focused measures against identified barriers
	 contribute to a single market based on freedoms of providers and consumers to act across borders, leading to gradual market integration
	The Commission informed the participants of the meeting that the aims of the proposal are as follows:
	 Proposal for a Regulation concerning the EU Single Telecoms Market accompanied by an Impact Assessment.
	 The costing and non-discrimination Recommendation;

10. Net Neutrality (NN) EWG: Ecosystem dynamics in NN developments from an end-user perspective

Document(s)	BoR (13) 117 Ecosystem Dynamics and Demand Side Forces in NN: Progress Report and Decision on Next Steps
Introduction by	The Drafting leader (OFCOM)
Information presented	The Drafting Leader presented the suggested approach to be applied to the draft Report on ecosystem dynamics and demand side forces in NN developments from an end-user perspective. The NN EWG was of the opinion that there is a need to gather additional empirical data on the behaviour of all players in the chain, notably the end users (e.g. their understanding of information related to net neutrality , the impact of direct commercial relations with Content Application Providers (CAPs)), operators, CAPs, equipment suppliers, etc.
	The NN EWG in that respect proposed the following methods for gathering evidence:
	 i) NRA questionnaire and a desk research on how consumers use Internet; ii) NRA questionnaire, a desk research, a consumer research and stakeholder meetings to assess the value of NN for consumers; iii) NRA questionnaire and a desk research to assess how the ecosystem responds to the characteristics of consumer demand.
Conclusions	The BoR discussed the proposed approach and the follow-up needed and made some comments. The NN EWG was requested to update the proposed approach in line with the comments made. The revised document has to be submitted to the BoR for approval via e-clearance.

11. Remedies Monitoring (REM) EWG: Methodology for monitoring the application of the BEREC common positions on WLA, WBA and WLL

Document(s)	BoR (13) 108 Draft Methodology for monitoring the application of the BEREC common positions on WLA, WBA and WLL
Introduction by	The REM EWG Chair (OFCOM)
Information presented	The REM EWG Chair presented a draft methodology for monitoring the compliance with the revised BEREC CPs on WLA, WBA and WLL, as adopted by BEREC in 2012.
	The meeting was informed that the key objectives of this monitoring exercise are to:
	 contribute to the achievement of the internal market by promoting implementation of the revised CPs.
	 understand how NRAs have implemented the revised BEREC CPs (individual BPs and overall regulatory approach).
	 understand the reasons for divergences from CPs.
	 capture new and innovative emerging best regulatory practices.
	The REM EWG Chair explained that according to the proposal BEREC expects NRAs to explain in their notified draft measures:
	 how they have analysed the objectives identified in the CPs and the related competition issues;
	 how the chosen remedies provide an effective and proportionate regulatory solution to those issues in the national legal context; and
	 how those competition issues have been addressed and give reasons when their regulatory solutions depart from the best practice remedies (BPs) identified in the CPs.
	The first questionnaire will be launched in the 1 st quarter of 2014 and yearly thereafter for 2015/2016 (to capture a complete cycle of new market reviews). BEREC will analyse the responses and publish the results yearly.
Conclusions	The BoR approved the methodology for publication

12. Framework Implementation (FI) EWG

12.1. Review of BEREC internal procedures

Document(s)	BoR (13) 114 Definition of BEREC internal Guidelines for BEREC regulatory
	assistance to NRAs pursuant to Article 2 (b) of the BEREC Regulation
	BoR (13) 115 Definition of BEREC internal Guidelines for the provision of
	BEREC's Opinion on cross-border disputes according to Article 21 of the
	Framework Directive
Introduction by	The FI EWG Chair (AGCOM)
Information	The FI EWG Chair reminded to the BoR that some BEREC obligations
presented	envisaged in the BEREC Regulation have not yet arisen, or have only recently
	been activated by single NRA requests, such as assistance to NRAs on
	regulatory issues pursuant to Articles 2(b) of the BEREC Regulation, which
	require specific internal BEREC procedures to be defined to tackle such
	cases.
	The FI EWG has, therefore, drafted internal BEREC Guidelines introducing
	internal BEREC arrangements for the adoption of opinions on the resolution of
	cross-border disputes defined in Article 21 of the Framework Directive and for
	provision of assistance to NRAs on regulatory issues under the provisions of
	Article 2 (b) of the BEREC Regulation.
	The FI EWG explained the rationale behind the proposed procedures and
	asked the BoR to endorse them for internal use.
Conclusions	The BoR approved the internal guidelines for internal use.

12.2. Machine to Machine (M2M)

Document(s)	BoR (13) 111 Internal interim report on M2M (for internal use only)
Introduction by	The Drafting Leader (AGCOM)
Information	The Drafting leader presented the Interim report on M2M. The main purpose
presented	of this document is to present the results of the first preliminary investigation
	on M2M communications which highlights the main regulatory issues and

	a ball an and the other that the table sum of this tame of a series of
	challenges identified by the take up of this type of services.
	The preliminary findings demonstrate that there is no urgent need for
	regulatory intervention; nevertheless, further monitoring of the situation is
	advisable.
	The Work Stream, therefore, suggested the BoR to undertake further
	investigation into the matter and organise a public workshop with stakeholders
	in November 2013 to further discuss any possible regulatory issues with
	regard to M2M communications.
	Following the presentation of the preliminary findings, the Work Stream also
	requested the consent of the BoR to use the interim report for preparation of a
	comprehensive presentation for the kick-off of the workshop.
	If considered appropriate, the work on M2M could be included in the 2014
	BEREC WP.
Conclusions	The BoR took note of the Interim Report and supported the proposal for
Conclusions	
	organising a BEREC workshop with the interested parties and presenting
	BEREC views as reflected in the Interim report.

13. Information from the Commission

13.1. Information from the Commission on initiatives and topics not mentioned previously

Document(s)	BoR (13) 123 Note to the BEREC Board of Regulators
Introduction by	Commission representative
Information presented	The Commission informed that meeting that it had circulated written information for the current agenda item and asked the BoR to take note of it.
Conclusions	The BoR took note of the written information provided.

13.2. **Proposal for enhanced data collection and benchmarking –** this agenda item was withdrawn

14. BEREC international activities

Document(s)	No document
Introduction by	The BEREC Vice-chair (RTR)
Information presented	The BEREC Vice-chair in charge of international relations from RTR presented an update on the future BEREC international activities with focus on the forthcoming visit to the USA, the cooperation activities with EMERG and the Eastern partnership.
Conclusions	The BoR took note of the information

14.1. Update on BEREC international activities

14.2. BEREC – REGULATEL Memorandum of Understanding (MoU)

Document(s)	BoR (13) 120 Draft BEREC - REGULATEL MoU on cooperation
Introduction by	The BEREC Vice-chair (RTR)
Information presented	The BEREC Vice-chair in charge of international relations from RTR presented draft BEREC - REGULATEL MoU. He reminded to the meeting that BEREC and REGULATEL have established active cooperation since 2001. In that respect during the XII BEREC-REGULATEL Summit both sides discussed the possibility for signing a MoU for cooperation. The proposed draft MoU is based on the MoU already signed by BEREC with FCC and had already been approved by REGULATEL in July 2013. As proposed the MoU will be in force for 2 years and can be extended depending on the initial results from the cooperation. REGULATEL is working on a detailed Working Group description and the expected deliverables, which will be presented most probably at the last plenary for 2013.
Conclusions	The BoR approved the draft MoU for signature

15. AOB

15.1. Information on the BEREC evaluation by the Committee on Industry, Research and Energy of the European Parliament - ITRE

Document(s)	No document
Introduction by	The Evaluation EWG Chair (ACM)
Information presented	The Evaluation EWG Chair made a short oral up-date on the current status of the preparation of the BEREC evaluation by ITRE and in particular the discussion on the draft ITRE report, prepared by the Rapporteur, Mr Salvador Sedó i Alabart, which was discussed on 25 September 2013. The Evaluation EWG Chair informed the BoR that the draft report focuses mainly on strategic issues and underlines the conclusions reached by the external consultation during the evaluation of BEREC and the BEREC Office conducted in 2012.
Conclusions	The BoR took note of the information.

15.2. Update on BEREC Accessibility Workshop (15 October 2013, Brussels)

Document(s)	No document
Introduction by	The End-user EWG Chair (ANCOM)
Information presented	The End-user EWG Chair informed the BoR that on 15 October 2013, at Hotel BLOOM, in Brussels, BEREC will be organising a public Workshop to discuss the accessibility challenges from an end-users' perspective, the role of regulators and service providers in promoting accessibility and to present initiatives by manufacturers for improving accessibility for disabled end-users. The speakers at the Workshop will be from the European NRAs, the European Commission, the manufacturing industry, operators, and user groups, who will present information on different aspects and measures for accessibility of disabled users to electronic communications services. The registration for participation in the workshop is organised via an <u>on-line</u> <u>registration form</u> available on the BEREC website.
Conclusions	The BoR took note of the information

15.3. Information by NMHH on the next BoR meeting, 5 and 6 December 2013, Budapest (Hungary)

Document(s)	No document
Introduction by	The NMHH representative
Information presented	NMHH presented practical information on next BoR meeting, to take place on 5 and 6 December 2013, in Budapest (Hungary).
Conclusions	The BoR took note of the information.

Done at Riga, on 7 October 2013, in English language.

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