

## BT Comments on “BEREC Strategy 2015-2017” Consultation BoR (14) 119

BT supports the key headings of BEREC’s strategy document including the ‘strategic pillars’ and ‘strategic priorities’, and we welcome the commitment to promote both competition and investment. We attach at annex a paper on the ‘Digital Single Market’ themes which addresses many of the points raised in the BEREC strategy.

### Strategic Pillars

- We fully endorse the commitment to promote effective competition and investment in both infrastructure and services.
- We strongly endorse the need to develop consistent regulatory practice, particularly in relation to cross-border issues. This should focus not just on the examples given, such as international roaming, dispute resolution, but also on the availability of the wholesale access inputs needed to support cross-border or pan-European business services.

### Major Trends and Developments

- We fully support the need for BEREC and NRAs to take greater account of new bottlenecks across the wider communications chain. Much political attention has been given to the perceived market power of OTT players, but other bottlenecks such as PayTV content also need to be addressed, given the increased prevalence of bundled services, which BEREC rightly recognises as a key driver of competition. Similarly, the convergence and consolidation across and between platforms such as cable/fixed/mobile requires a more consistent and neutral approach to the treatment of network bottlenecks and the need for effective wholesale access.

### EU Regulatory Developments

The BEREC document captures many of the issues to take into consideration in the next Framework Review, but we believe some of the key points highlighted above should also be given prominent consideration, namely:

- availability of the wholesale access inputs needed to support cross-border or pan-European business services;
- convergence between telecoms and audiovisual.

***Differentiating consumer and business customer needs.*** In a number of cases regulation which is intended to protect consumer rights actually confuses the different needs of consumers and business customers (of potentially any type or size). Current discussion on Net Neutrality legislation illustrate this problem. It is not appropriate to apply the same procedures or rules to businesses as suit consumers. This confusion adds either administrative burden or disproportionate obligations resulting in additional costs for business operators and could in some circumstances prevent business operators from providing innovative and future-proof services to business customers. This could be avoided by using an more specific wording (i.e. consumers, business customers). This could be part of the adjustments addressed in the review the Electronic Communications Framework. Any regulation should be focused on addressing a defined customer protection, investment or competition need, identified in relation to the market or markets being addressed.

**Wholesale Access services and Cross-border service provision** should of course be a key focus for BEREC in the Single Market. BT is a significant player in this market, providing service to businesses across the EU, but regulatory inconsistency and non-availability of key wholesale access inputs mean large business customers in Europe as well as globally are still missing out on the full productivity benefits of ICT. What is needed is effective wholesale access to business connectivity products (Ethernet leased lines and wholesale broadband access over Ethernet) across all EU markets. Competitive conditions must improve via genuinely non-discriminatory wholesale access services, with the capacity and in the geographic markets where our customers need us to be. This is the key solution for the achievement of genuine pan-EU competition in telecoms and the completion of the provisions necessary for the single market. More effective provision of cross-border services to businesses can help significantly boost productivity, innovation and economic growth.

### **BEREC Strategic Priorities**

- We broadly support the ‘strategic priorities’, which effectively build on the points summarised earlier in the paper, and subject to a focus on the points we have emphasized above. Under ‘fostering a favourable climate for investment’ we feel more recognition should be given to the potential for VULA-based approaches which can deliver a more efficient form of investment as well as the benefits of more downstream competition and choice. EU state aids policy also needs to be reviewed
- A key barrier to the completion of near-universal fibre coverage is the state aid rules imposing burdensome terms on public support for fibre deployment in the white areas of cities: these should be changed, otherwise countries such as the UK will experience the perverse outcome of higher fibre coverage in rural areas than in cities and will be stymied in achieving the targets in the Digital Agenda for Europe.
- Migration to all-IP – in its assessment of the transition to all-IP technology we agree that BEREC should take a technology-neutral and forward-looking approach that supports the development of new business models while also looking at end-users requirements and protecting the interests of residential and business end-users and of Communications Providers. Although markets 1 and 2 have been removed from the Recommendation on Relevant Markets, NRAs will still need to carry out appropriate market analysis based on the 3 criteria test, and it must be noted that the pace of migration away from PSTN, and the approaches to implementation of technology to support IP voice, will vary significantly across Europe, and regulation of narrowband voice markets therefore needs to reflect local conditions, and continue to support effective competition and protect end users.
- Ease of switching is clearly important for end-users – consumers and providers. In the context of convergence, we would emphasise the need for a level playing field across the value chain, and particularly in relation to bundled services.

### **Quality of output**

BEREC’s published positions in late 2013 on the legislative proposal for a Regulation on the Single Market in telecoms were incisive, balanced and well-argued. In setting out a robust critique of the EC’s proposal and of the assumptions on which it was based, as well as the procedure followed by the Commission, BEREC made a valuable and welcome contribution to the debate.