

Open Fiber response to the consultation on the BEREC work programme 2024

Open Fiber ('OF') is a leading FTTH wholesale operator in Italy and among leaders in Europe. With more than 8000 amongst employees and suppliers, OF's mission is to build ultra-fast networks across Italy to grant the best connectivity to citizens and businesses and it is fully committed to contribute to the achievement of the EU Digital Decade objectives. In few years, OF has already invested more than 4 billion euros and it is planning to invest additional 11 billion by 2031 to ensure coverage of around 25 million households, including those cities in black, white and grey areas.

OF welcomes the publication of the comprehensive BEREC work programme for the 2024 and the transparent process to consult stakeholders.

OF will focus its response on the most relevant items:

1.1. Report on the regulation of physical infrastructure access

OF believes that a comprehensive report on the regulation of the physical infrastructure access could be very useful to take stock of current practices across the EU as well as to understand the interactions in case of the likely approval of the Gigabit Infrastructure Act (GIA). On the other hand, OF invites a careful approach on the possibility of creating a new, separate "PIA" market and to do a proper assessment of the risk to disincentivize the creation of new infrastructure where needed.

Due to the complexity of the topic, we welcome the possibility to proceed with a stakeholders' consultation.

1.2. Workshops on ex ante regulatory experience concerning commitments, wholesale-only undertakings and commercial agreements review

OF appreciates the intention to organize public workshops on such relevant topic. Indeed, it would be important to understand the implementation of artt. 76, 79 and 80 of the EECC in the various EU Member States, especially regarding co-investments. In this regard, it is particularly important that NRAs duly assess the benefit and the impact of co-investments as well as how to ensure transparent procedure for their approval.

In addition to the workshop, it is suggested to consider the possibility to open a public consultation on the topic.

1.3. Report on the design, enforcement and monitoring of remedies in subnational markets with multiple SMP operators

The EECC and the development of the wholesale business model positively contributed to the deployment of VHC networks and to push competition. However, the situation remains scattered across and intra-Member States. Therefore, OF welcomes the project to gather common practices and assess the situation in the various countries.

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OF also invites to take into duly consideration the different markets and business models which also have different needs. Moreover, it suggested also to consider the risks of deregulation when there is a sufficient competition only in certain areas of a country.

In this regard, we welcome the provision of an open public consultation.

1.4. Workshop on economic replicability test practices in the context of Article 61(3) of the EECC

Economic replicability test is a relevant topic, and it should be dealt with the greatest stakeholders' involvement. OF, therefore, recommend reconsidering the choice to foresee only an internal workshop for this item.

Moreover, OF believes that it could be the occasion to open an exchange on the possibility to develop a wholesale replicability test that could guarantee a fair competition in the market as well as to clarify the role of wholesale operators on the determination of the network termination point.

1.5. Managing copper network switch-off

OF welcomes the revamped attention of the BEREC on the issue of copper switch-off and it believes that it should be one of the main priorities for the 2024 because is a key element to accelerate the achievement of the Digital Decade targets as well as to ensure the necessary long-term visibility for investors.

In particular, it would be essential to understand the different approaches and progresses in the various Member States and identify the best policy which may facilitate the switch off.

We regret that for such an important item it is not foreseen an open public consultation and we recommend reconsidering such choice, allowing an extensive and thorough participation of all the relevant stakeholders, especially in light of the dramatic take-up rate in several Member States.

1.8. Report on Connectivity Indicators for the Digital Decade Policy Programme

OF welcomes the close monitoring of the BEREC of the Digital Decade Programme and, above all, a clear technical assessment of the criteria and methodology to measure the connectivity KPIs. OF also invite the BEREC to call the EC to be more transparent in sharing the relevant dataset, especially regarding the FTTP take-up.

1.13. Update of criterion 3 of the BEREC Guidelines on very high-capacity networks

OF welcomes the initiative to revise the BEREC Guidelines on very high-capacity networks and, especially, criterion 3 for fixed networks through an open process involving stakeholders and gathering the relevant data from operators.