

Methodology for monitoring the application of the BEREC Common Positions on WLA, WBA and WLL

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Executive Summary

1. In 2012, following a public consultation, BEREC adopted its **revised Common Positions** (CPs) listing the best practice remedies to be implemented in Markets 4 (wholesale local access, WLA), 5 (wholesale broadband access, WBA) and 6 (wholesale leased lines, WLL). Consistent with its work programme¹ for 2013, the next step in the process is for BEREC to develop a **methodology to monitor** how NRAs have implemented the revised CPs. This short report discusses in more detail the rationale behind the monitoring exercise and describes how its objectives can best be met.

2. The key objectives of the monitoring exercise are to:

- Contribute to the achievement of the internal market by promoting implementation of the revised CPs (**Objective 1**);
- Understand how (in a snapshot and over time) NRAs have implemented the revised BEREC CPs, both at the level of individual best practices (BPs) and also at the level of the overall regulatory approach implemented in a given market (**Objective 2**);
- Where applicable, understand the (technical, economic, regulatory, legal and/or market-driven) reasons which led to the implementation of regulatory solutions in a specific national context which departed from the best practices (BPs) identified in the revised CPs (**Objective 3**); and
- Capture new emerging best regulatory practices (**Objective 4**).

3. Through this monitoring exercise BEREC aims at extracting further detailed understanding of which regulatory approaches work best for different national circumstances and also aims to inform its own harmonisation efforts. BEREC also identified a number of additional benefits associated with this exercise, which include (among other things) contributing to the BEREC know-how and identifying areas where the CPs would benefit from further clarification.

4. BEREC proposes to follow the below process when conducting the monitoring exercise:

- The monitoring exercise will require NRAs to complete an Excel based questionnaire. The Excel based questionnaire will include a number of closed (YES/NO) and open ended questions.
- The first questionnaire will be issued in Q1 2014 (January 2014) and yearly thereafter for 2015/2016 (to capture a complete cycle of new market reviews). NRAs will have 6 weeks to complete the questionnaire.
- BEREC will analyse the responses and publish the results yearly.

5. The short-term output of this exercise will include the yearly publication of a short report aiming to capture a snapshot of latest NRA decisions, while a longer-term output will involve capturing emerging new best regulatory practices which would be an input to the eventual revision of the CPs. BEREC notes that yearly publication of the result will only provide partial information and a full picture of the implementation of the revised CPs will only emerge when all NRAs have had the opportunity to complete a new market review following

¹ BoR (12) 142, 7 December 2012.

the adoption of the revised BEREC CPs (in December 2012) and to take them into utmost account.

I Introduction

6. In 2012, following a public consultation, BEREC adopted its **revised Common Positions** (CPs) listing the best practice remedies to be used in the following three wholesale markets²:

- Revised BEREC Common Position on best practice in remedies on the market for wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location imposed as a consequence of a position of significant market power (SMP) in the relevant market³ (**the WLA CP**).
- Revised BEREC Common Position on best practice in remedies on the market for wholesale broadband access (including bitstream access) imposed as a consequence of a position of significant market power (SMP) in the relevant market⁴ (**the WBA CP**).
- Revised BEREC Common Position on best practices in remedies as a consequence of a SMP position in the relevant markets for wholesale leased lines⁵ (**the WLL CP**).

7. Application of the best practices contained in these CPs will assist NRAs in designing effective remedies in line with the objectives of the Framework. At the same time, the CPs are not a substitute for any of the legal tests which NRAs must carry out before imposing SMP remedies, in particular the requirement for NRAs to show (among other things) that SMP remedies are based on the nature of the problem identified, proportionate and justified in light of the policy objectives laid down in Article 8 of the Framework Directive. However, the CPs are an important instrument that NRAs and the Commission must take utmost account of, in the same manner as for Commission Recommendations (such as the NGA Recommendation). Therefore, and as discussed in its consultation on the revised CPs⁶, BEREC expects NRAs to explain in their notified draft measures the steps they have taken to:

- analyse the objectives identified in the CPs and the related competition issues with reference to the market analysis they have performed;
- to the extent consistent with applicable national law, provide an effective and proportionate regulatory solution to those issues and;
- explain transparently 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.

8. Consistent with its work programme⁷ for 2013, the next step in the process is for BEREC to develop a **methodology to monitor** how NRAs have implemented the BPs recommended in the revised CPs. The revised CPs focus on the consistent application of the Directives across Member States (MSs), rather than solely on the uniformity of the remedies

² The three common positions were published alongside an accompanying note (BoR (12) 125a) and a glossary (BoR (12) 129).

³ BoR (12) 127, 8 December 2012.

⁴ BoR (12)128, 8 December 2012.

⁵ BoR (12) 126, 26 November 2012.

⁶

http://berec.europa.eu/eng/document_register/subject_matter/berec/annual_work_programmes/1147-berec-work-programme-2013

⁷ BoR (12) 142, 7 December 2012.

imposed, striking a delicate balance between the need to ensure consistency and the need to take into account national market circumstances and differences in national legislations. On this basis, the main objectives of the monitoring exercise are (amongst other things) to better understand how and to what degree NRAs have implemented the revised CPs and what new best practices may be emerging.

9. This methodology will complement the monitoring methodology first developed by the European Regulators Group (ERG),⁸ adapted to recognise the establishment of BEREC and the review of the Framework in 2009.

10. Below we discuss in more detail the rationale behind the monitoring exercise and describe how its objectives can best be met.

II Objectives of the monitoring exercise

1. Why monitor implementation of the revised CPs?

11. BEREC has a central role to play in the achievement of the single market for telecommunications and one way it can contribute to this is by ensuring the consistent application of remedies across Europe. As a first step in this process, BEREC updated its broadband CPs in 2012 (see paragraph 6). For the revised BEREC CPs to be credible tools in the promotion of consistent regulatory approaches there needs to be a high degree of conformity of national decisions with those CPs. At the same time, BEREC does not have enforcement powers and responsibility for national measures rests with each NRA who has detailed knowledge about the local market circumstances and national legislations, which BEREC collectively does not have. Therefore, and as a second step, regular monitoring is necessary to test the practical implementation of the CPs and at the same time understand departures from these.

12. In 2010, BEREC undertook its first monitoring exercise to review NRA conformity with the then CPs⁹ and summarised the results in a report it published in 2011 (the First Monitoring Exercise). One of the overall conclusions of this exercise was that NRA conformity with the CPs in operation during that time was quite good. Nevertheless, as part of its commitment to drive consistency and dissemination of best practices, BEREC also identified the key areas where the CPs could be improved. One of the key improvements identified was the need to strengthen the CPs and make them more specific. In effect, this first monitoring exercise paved the way for the preparation, and eventual adoption, of BEREC's revised CPs in 2012.

13. The First Monitoring Exercise was focussed on monitoring the conformity of NRA remedies with each relevant CP and using the results of this exercise in a second phase as a basis to review the continuing relevance of each CP.

14. The scope of the current exercise (the Revised Monitoring Exercise) is wider and is, in particular, focussed on achieving the following key objectives:

⁸ Report on the Elaboration and Monitoring of Common Positions, ERG (09) 36.

⁹ In 2006 and 2007, BEREC's predecessor, the European Regulators Group (ERG) developed three Common Positions (CPs) covering the following key wholesale access products: wholesale local access (WLA), wholesale broadband access (WBA) and wholesale leased lines (WLL). In 2009, ERG also set out its methodology for monitoring the implementation and review these CPs.

- Contribute to the achievement of the internal market by promoting implementation of the revised CPs (**Objective 1**);
- Understand how (in a snapshot and over time) NRAs have implemented the revised BEREC CPs, both at the level of individual BPs and also at the level of the overall regulatory approach implemented in a given market (**Objective 2**);
- Where applicable, understand the (technical, economic, regulatory, legal and/or market-driven) reasons which led to the implementation of regulatory solutions in a specific national context which departed from the BPs identified in the revised CPs (**Objective 3**); and
- Capture new emerging best regulatory practices (**Objective 4**).

15. In relation to Objective 1, pursuant to Article 3(b) and (c) of the Framework Directive, MSs must ensure that the goals of BEREC - promoting greater regulatory coordination and coherence - are actively supported by NRAs and that NRAs take utmost account of opinions and common positions adopted by BEREC when adopting regulatory decisions for their national markets. The revised CPs have the clear objective of ensuring the consistent application of the Framework in all MSs, thereby contributing to the development of the internal market and complementing the harmonisation guidance provided by the Commission through Article 19 Recommendations.

16. Underlying Objective 2 is the need to understanding how (and why) the regulatory approaches adopted by NRAs have evolved over time. As telecoms markets evolve, the regulatory remedies implemented by NRAs would also need to adapt to the changing circumstances. Monitoring implementation of the CPs over time would offer useful insights to the time dependant aspects of regulation.

17. Furthermore, BEREC notes that Objective 3 above is a very important aspect of the Revised Monitoring Exercise, as it will provide BEREC with invaluable input for both understanding the reasons behind an NRA's decision and for revising the CPs in due course. More specifically, BEREC thinks it is important to understand whether a departure from a particular BP is due to an underlying objective and justifiable reason (for example, national laws not permitting implementation of a particular BP or the BP not being proportionate in the specific circumstances) or not.

18. Finally, through the monitoring exercise BEREC aims to adopt a **bottom-up** approach to policy making in Europe. The best practice remedies included in the revised CPs are based on the experience and expertise of all NRAs. They represent a challenging, yet an attainable, benchmark for achieving regulatory consistency and harmonisation (where necessary or where it will contribute to the establishment of an internal market for electronic communications). Through this monitoring exercise, BEREC aims to extract further detailed understanding of which regulatory approaches work best for different national circumstances and aims to inform its own harmonisation efforts.

2. What are the additional benefits and key outputs of this monitoring exercise?

19. The Revised Monitoring Exercise provides a unique opportunity to collect information in a way which goes beyond automatically capturing "who does what". For **BEREC** the key objectives of this exercise are listed in paragraph 14 above. For **individual NRAs** the

information to be collected could additionally act as a reference material/handbook on the regulatory approaches adopted by their peers (along with the reasons for such choices). **Individual stakeholders** will be most interested in understanding the commonalities and differences between the regulatory measures adopted in different MSs (especially when the underlying national circumstances may be, at first instance, very similar).

20. Along with the key objectives listed in paragraph 14, there are additional benefits to the monitoring exercise which include amongst other things (and in no particular order of priority):

- **Identify areas where there is room for further consistency and harmonisation.** BEREC will analyse the level of implementation of the revised CPs and will identify whether there is room for further consistency and harmonisation where this is appropriate (having taken into account the reasons provided by NRAs). Where necessary, we will leverage expertise from other BEREC Expert Working Groups (EWGs).
- **Understanding *how NRAs have dealt with the latest regulatory challenges.*** Telecoms markets are very dynamic and are currently undergoing a significant overhaul. The Commission's Digital Agenda for Europe (DAE) sets out ambitious roll-out and take up targets for NGA. In line with the European telecoms framework BEREC shares the Commission's overall objective to both promote competition and to enhance the broadband investment environment across Europe. The achievement of these targets requires a stable regulatory framework that promotes investment, preserves and promotes competition, and continues to contribute to the development of the internal market. NRAs have a critical role to play in this respect and there will be a lot to learn from how different NRAs have balanced these sometimes competing objectives, while at the same time implementing the revised BEREC CPs.
- **Further contribute to the BEREC knowhow.** BEREC EWGs working on Article 7a cases or preparing formal Opinions need to be aware of the existence of the revised BEREC CPs and the need for NRAs to also take these into utmost account. The information collected through the monitoring exercise can assist BEREC in its preparations of its formal Opinions under the Article 7(a) procedure of the Framework Directive and other advisory work initiated by the Commission.
- **Understanding the reasons which have led NRAs to implement *different regulatory remedies when (seemingly) faced with similar competition issues.*** Article 8.3 (d) of the Framework Directive requires NRAs to contribute to the development of the internal market by inter alia "*co-operating with each other, with the Commission and with BEREC so as to ensure the development of consistent regulatory practice and the consistent application of this Directive and the Specific Directives*". This is a principle that BEREC fully supports. At the same time the principle of "regulatory consistency" should not be upheld to the detriment of "regulatory innovation". On this basis, it is important to understand the underlying reasons which have led NRAs to implement different regulatory solutions to (seemingly) similar competition problems and identify which ones worked better.
- **Determining the emerging and/or established trends in regulation at a *European level.*** As well understanding how individual NRAs have implemented the revised BEREC CPs, it is also important to understand such implementation at a European level. The outcome of this high level analysis would be to determine the

key trends or clusters in the types of regulations (for each of the Markets 4, 5 and 6) implemented across all MSs and the potential reasons underlying these.

- **Identify those areas in the revised CPs where NRAs would benefit from additional guidance.** In the process of implementing the revised CPs, NRAs may uncover areas where they would benefit from further guidance from BEREC. BEREC could then provide such additional guidance in the most appropriate form by also taking into account its urgency and complexity (for example, approaches could vary from a quick call between experts to setting up a specific work-stream).

21. Armed with this detailed understanding, an **immediate output** of this exercise would be to capture the learning BEREC obtains from the Revised Monitoring Exercise, in particular focussing on the following:

- **Capture how NRAs have implemented the revised CPs.** This is a factual output which aims at understanding (at a micro- level) how NRAs have implemented each BPs and (at a macro- level) how they have combined the different BPs to set up the regulatory framework that they have put in place.
- **Collate the reasons given by NRAs for departing from the best practices identified in the revised CPs.** In the first instance, and as discussed in paragraph 14 above, BEREC is keen to collate the various reasons for NRAs departing from the best practice remedies identified in the CPs and understand how those NRAs have instead addressed the competition issues they faced. Building on this, BEREC will identify whether there is further room for harmonisation.

22. A key **longer term output** of this exercise would be to capture the convergence in the regulatory approaches implemented by NRAs (which will require monitoring along two or more market review cycles). In addition, we will also identify the new regulatory best practices that have emerged (based on actual NRA experience and evidence) which would then be an input to the eventual revision of the CPs. This is by necessity a longer term output, as the eventual revision of the CPs will depend on a number of factors such as the notification timetable of each NRA (and for each market) and further market developments.

3. What is out of the scope?

23. The focus of the Revised Monitoring Exercise is to capture how NRAs have implemented BEREC's revised CPs and its key objectives have already been summarised in paragraph 14 above. One of the main objectives is to understand why NRAs departed from the best practices identified in the CPs. BEREC will not make a judgement as to whether the reasons given by an individual NRA for deviating are justified or not. However, BEREC expects NRAs to have explained their reasons from departing from the specific BPs identified in the CPs (providing, where relevant, an explanation of the specific national circumstances supporting their decisions).

24. BEREC will also not be evaluating how NRAs may have implemented various Commission recommendations, including the Commission's NGA Recommendation¹⁰ and the Recommendation on consistent non-discrimination obligations and costing

¹⁰ <http://eur-lex.europa.eu/LexUriServ/%20LexUriServ.do?uri=OJ:L:2010:251:0035:0048:EN:PDF>

methodologies.¹¹ However, to the extent Commission Recommendations may have had an impact on how NRAs have implemented the revised CPs, we expect to capture these in our analysis.

25. Furthermore, the monitoring exercise will not be used to collect quantitative information in relation to the broadband markets (for example, extent of NGA roll-out/take-up, number of operators, market shares etc.), which is available through different means.¹²

26. Finally, the monitoring exercise will not cover the revision of the CPs but, as discussed in paragraph 22 above, it will provide the relevant inputs for any such future revision.

4. How best to conduct the monitoring exercise?

27. BEREC considered a number of different ways to collect the relevant information in order to undertake a comprehensive monitoring exercise. The advantages and disadvantages attached to the various options are summarised in the table below.

Approach	Advantages	Disadvantages
Option 1 – NRAs to fill a (Excel based) questionnaire	<ul style="list-style-type: none"> • Capture qualitative and quantitative information • Create a repository of all information collated over time • Easy to analyse and present results (in chart format if appropriate) • Easy to fill by individual NRAs 	<ul style="list-style-type: none"> • Questions and/or responses may not be clear and may be misinterpreted
Option 2 – BEREC to analyse individual NRA notifications	<ul style="list-style-type: none"> • Less time consuming for individual NRAs 	<ul style="list-style-type: none"> • NRA notifications not always available in English and translations not “official” • Difficulty in identifying how NRAs have dealt with certain issues • Risk of misinterpreting a detailed notification • Time consuming for BEREC (as BEREC not close to the detail of the national notification) • Limited BEREC resources
Option 3 - Conduct interviews with individual NRAs	<ul style="list-style-type: none"> • Possibility to ask probing and detailed questions 	<ul style="list-style-type: none"> • Not a practical way to gather the detailed information BEREC is looking for (50+ questions for each CP) • Time consuming (when compared to Options 1 and 2)

28. As summarised in the table above, an Excel based questionnaire (Option 1) is the most effective and efficient way of collecting the relevant information (which will include 50+ questions for each CP). BEREC will also need to complement Option 1 by following up with

¹¹ <http://ec.europa.eu/digital-agenda/en/news/commission-recommendation-consistent-non-discrimination-obligations-and-costing-methodologies>

¹² Some examples include the Commission’s Digital Agenda Scoreboard, OECD reports etc.

NRAs individually (Option 3), should there be a need to obtain further information and/or clarifications.

III Conducting the monitoring exercise

1. Structure of the questionnaire

29. To assist in this task, BEREC developed a detailed Excel based questionnaire to be completed by individual NRAs. The questionnaire covers all three CPs (where each CP is included on a different work sheet). Since the CPs are constructed along similar lines, the monitoring questionnaires are also similar, with variations only introduced to reflect the differences in each market.

30. The questionnaires are structured along the competition objectives listed in each CP.¹³ In addition, and in order to avoid introducing any unintended bias, at least one question is associated with each BP (in cases where a BP is too long or made up of several elements, we have broken these out into separate questions). Moreover, several questions are added which are more general in nature and which aim to capture the high level policy considerations underpinning the overall regulatory approach implemented by each NRA.

1.2 Types of questions

31. The questionnaire includes a mixture of closed (**YES/NO** or where the answer can be chosen using a drop down menu) and open ended questions (**WHY/HOW**). The closed question will reduce the resource requirement imposed on NRAs (as NRAs will be able to choose the answer from a drop down menu), will help BEREC perform some quantitative analysis and will also aid with the communication of the results (in a graphical format). On the other hand, the more open ended question will help BEREC better understand the underlying rationale for a chosen approach.

32. The questionnaire is structured in a manner which also captures the following additional considerations:

- We include a **generic question**, at the start of each section of the questionnaire dealing with a relevant competition objective, aimed at capturing the main documents and (briefly) any general information NRAs think would be useful for BEREC to collate.
- In some instances, when the answer to a question is **YES** - we request NRAs to provide (briefly) additional information regarding the implementation of the relevant BP (for example, commenting on the length of lead times imposed on a case-by-case basis).
- When the answer to a question is **NO** – we request NRAs to provide a brief summary of the justification for such a departure (for example, the competition problem identified is being addressed through alternative remedies).

¹³ Each CP is structured along 10 key competition objectives which include (1) Assurance of access, (2) Assurance of co-location at the access point (e.g. MDF, street cabinet, concentration point) and other associated facilities, (3) Level playing field, (4) Avoidance of unjustified first mover advantage, (5) Transparency, (6) Reasonable quality of access products - technical issues, (7) Reasonable quality of access products - operational aspects, (8) Assurance of efficient and convenient wholesale switching, (9) Assurance of efficient migration processes from legacy to NGN/NGA network, (10) Fair and coherent access pricing.

- We also include a number of questions which aim to explore **HOW** NRAs have implemented certain BPs. For example, one of the BPs require “*NRAs’ imposition of remedies should be based on the ladder of investment principle*”. In such cases it is more informative to find out how NRAs ensured the practical implementation of a BP, rather than only whether they have implemented it.
- Finally, at the end of each questionnaire we invite NRAs to capture (briefly) any regulatory measures they have implemented which they regard to be innovative.

33. In order to help NRAs fill in the questionnaire we have also provided general guidance on how to complete it.

2. Timing and frequency of the questionnaire

34. BEREC also considered two separate, but related, questions regarding the timing and frequency of the monitoring exercise.

35. **When to run the (first) Revised Monitoring Exercise?** BEREC considered three main options:

- **Option 1:** NRAs to complete the monitoring questionnaire as they finalise their national decisions.
- **Option 2:** BEREC to conduct the monitoring exercise once all 28 NRAs have had the opportunity to complete a new market review following adoption of the revised BEREC CPs in December 2012.
- **Option 3:** BEREC to conduct the monitoring exercise (yearly) for the next three years (2014, 2015 and 2016).

36. BEREC rejected Options 1 and 2. Option 1 would put a huge administrative burden on both BEREC (who would need to keep track of individual NRA notifications with changing timetables) and NRAs (who would be busy finalising their decisions). In addition, the biggest drawback of Option 1 is that it would not afford BEREC (at that point in time) the possibility to compare a select number of different NRA notifications to be able to extract some key learnings. On the other hand, Option 2 would result in a big gap between BEREC agreeing its revised CPs (December 2012) and reporting on the results of its First Monitoring Exercise (which would be completed by mid 2016 at the earliest).

37. BEREC believes **Option 3** presents a good compromise position. On this basis, BEREC is considering running the first exercise early in Q1 2014 (**e.g. January 2014**).

38. All NRAs are expected to complete the first questionnaire, irrespective of whether they have conducted a new market review following BEREC’s adoption of its revised CPs in December 2012. This will represent an initial baseline and will help BEREC capture how NRAs are amending their remedies following the adoption of the revised CPs. However, NRAs who have not undertaken such a new market analysis will only be asked to complete the closed (YES/NO) questions and will not be required to provide any explanations supporting their regulatory choices in place at that time.

39. For the avoidance of doubt, NRAs should use the latest decision that they have successfully implemented (following notification to the Commission and other NRAs) and which is still in place at the time of completing the questionnaire (across notified and urgent measures). Should an NRA be in the process of notifying a new measure or amending a

notified measure (following a Phase II investigation), the latest decision which is still in force should be used to complete the questionnaire. BEREC advocates this approach for its efficiency (draft measures can change) and also based on the fact that draft measures will in due course be finalised and therefore captured in subsequent monitoring exercises.

40. **When (and how often) to run subsequent exercises?** BEREC is considering running the monitoring exercise regularly, **once a year** and around the same time (Q1/January). Due to the cyclical nature of the market review process (every 3 years), BEREC estimates to be able to build a complete picture of how all NRAs have taken into account the revised CPs across the three broadband markets by Q4 2015. During subsequent exercises, BEREC expects only NRAs who have conducted a new market review (since December 2012), or have amended a recent one (including implementation measures, such as amendments to relevant reference offers or Key Performance Indicator (KPI) measurements), to complete the questionnaire.

41. NRAs will have **6 weeks** to complete and return the questionnaire.

3. Approach to analysing the results

42. Monitoring of the revised BEREC CPs is not straightforward and should not be carried out as a box-ticking exercise. This is because the CPs, while providing the regulatory principles to be followed, do not always prescribe the exact detailed remedies which should be employed to put those principles into effect. This is to allow NRAs the discretion, as required by the Framework, to devise remedies which best fit national market circumstances. A degree of judgement will therefore be required in interpreting the results of the questionnaire.

43. The success of this analysis will also depend on the quality of the answers provided by NRAs. The more detail NRAs provide in support of their answers, the better the analysis of the results will be.

44. While analysing the results, BEREC is aware that there will be a number of challenges to be aware of, especially regarding the comparability of the results provided. On this basis, as well as analysing the written responses to the questionnaire, BEREC will also conduct interviews with NRAs when this may be required to better understand some of the responses received.

45. Furthermore, for each BP:

- BEREC will report in how many and which countries it was implemented;
- BEREC will capture whether it was implemented in fully, in part or not at all; and
- If a particular BP was not implemented, or was only partly implemented, BEREC will explain the reasons for this.

46. BEREC will analyse the results using various approaches, both at an aggregate and individual level. In particular, and to ensure comparability of results, BEREC will analyse separately the responses received from NRAs who have conducted a new market analysis since the adoption of the revised CPs from the responses submitted by those NRAs which are yet to undertake such new market reviews (only relevant for the first monitoring exercise).

4. Communication of the methodology and results

4.1 Phase I – Design of the monitoring exercise

47. Phase I of the work involves BEREC developing its approach to the monitoring exercise (summarised in this report) and designing the questionnaire to collect the relevant information. BEREC published this report which is available to all stakeholders.

4.2 Phase II – Conducting the monitoring exercise

48. Phase II of the work will involve conducting the monitoring exercise, analysing and communicating the results. This phase will be of particular interest to external stakeholders (ranging from operators across Europe to consumer organisations). At this stage of the work, a key question for BEREC will be **when** and **what** information to make publicly available.

49. **When to report?** As discussed in paragraphs 35 and 40 above, BEREC plans to run the first monitoring exercise in Q1 2014 and then yearly thereafter (until all NRAs have completed a new round of market reviews following the adoption of the revised CPs in December 2012).

50. BEREC will analyse and prepare a report summarising the results of the monitoring exercise on a yearly basis, which it also proposes to publish. The focus will be on NRAs who have completed a new market analysis.

51. This approach will ensure that BEREC is fully transparent with stakeholders who would have access to the same information on the same timescales as BEREC. On the other hand, BEREC notes that yearly publication of the result will only provide partial information and a full picture of the implementation of the revised CPs will only emerge when all NRAs have had the opportunity to complete a new market review following the adoption of the revised BEREC CPs (in December 2012) and to take them into utmost account.

52. **What to report?** An important objective of the monitoring exercise is to contribute to the consistent application of remedies across Europe and to be seen to be doing so in a manner which is transparent to all stakeholders. In order to achieve this BEREC will publish the individual/aggregate results of the monitoring exercise in a way which will help stakeholders better understand how the revised CPs are being/have been implemented and how a consistent regulatory framework is being achieved across Europe (including underlying reasons for observed divergences).

IV Next steps

53. In summary, BEREC proposes the following timetable:

- **September 2013 (Plenary meeting):** BEREC to discuss and agree the monitoring methodology. BEREC to publish the report on the methodology.
- **November 2013:** BEREC to finalise the Excel based questionnaire.
- **Q1 2014 (January):** BEREC Office to launch first questionnaire.

- Subsequent questionnaires to be launched at the same time yearly thereafter.