

BEREC Office ref. No MC (16) 120

Riga, 17 October 2016

Dr Ingeborg GRÄSSLE
Member of the European Parliament
Chair of Budgetary Control Committee
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Subject: *Follow-up report on the discharge of the implementation of the BEREC Office budget for the financial year 2014.*

Dear Dr Grässle,

I would like to address you in relation to the European Parliament Decision of 28 April 2016 on discharge in respect of the implementation of the budget of the Office of the Body of European Regulators for Electronic Communications ('the BEREC Office') for the financial year 2014 (Decision (EU) 2016/1491) and the recommendation given by the Council of the European Union (05584/2016 – C8-0090/2016) on the same subject.

In compliance with the provisions of Article 110 (1) of the BEREC Office Financial Regulation¹ the BEREC Office has undertaken all appropriate steps to act on the observations accompanying the European Parliament discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council, as presented below:

1. **Management of budgetary transfers and appropriations carried over** (§2 of Council recommendation, §3² and §4³ of the European Parliament resolution)

In 2014 the BEREC Office launched several large-scale projects in support to BEREC, which had high relevance to BEREC's work in two important policy areas, namely: net neutrality and

¹ MC/2014/1, of [Decision of the BEREC Office MC on the financial regulation applicable to the BEREC Office in conformity with the framework Financial Regulation for the bodies referred to in Article 208 of Council Regulation \(EU, Euratom\) No 966/2012 on the Financial Regulation applicable to the general budget of the European Union](#), 07.01.2014

² '3. Notes with satisfaction that, according to the Court's report, the overall level of committed appropriations improved from 87 % in the year 2013 to 98 % in 2014; notes, however, that the level of committed appropriations carried over increased to EUR 900 000 (23 %), compared to EUR 500 000 (13 %) in 2013, mainly due to operational activities of the Office, such as ongoing studies on electronic communications;'

³ '4. Ascertains from the Office that it made a number of budget transfers during the year 2014, changing the structure of the initial budget considerably, in order to finance the additional needs for operational expenditure; notes in particular that those transfers were mainly related to the "Net Neutrality Study" as well as "BEREC net" projects; notes that the finalisation of those projects during the year 2014 was uncertain at the time of the preparation of the budget;'



the review of the regulatory framework for electronic communications. In particular, the BEREC Office commissioned two studies on net neutrality (amounting to EUR 424 260) and a study on the future development of the telecom sector (amounting to EUR 210 000). Furthermore, the BEREC Office started the development of a platform for collaboration and knowledge sharing between the BEREC members and observers - BERECnet (amounting to EUR 101 410), which has the objective to improve the efficiency and effectiveness of the communication between the BEREC members and observers and to increase the internal transparency. The execution of these projects was finalised in 2015, which led to an increase of the appropriations carried over, which constituted an increase to 0,9 million euro, i.e. 23 %, in comparison to 0,5 million euro, or 13 % in 2013, particularly in relation to operational activities (title III).

The BEREC Office would like to point out that the additional amounts carried-over were planned in advance, as in the project plans the final date for submission of the deliverables had been envisaged for 2015.

With the objective to provide the necessary financial resources for these projects the BEREC Office carried out a number of budgetary transfers, which has changed the structure of the initial budget considerably. In particular, title I (staff costs) was reduced by 17 %, title II (administrative expenditure) was reduced by 44 % and title III (operational expenditure) was increased by 60 %, mainly in order to finance ongoing studies.

The BEREC Office is working continuously to improve its activity-based budget planning that has led to further reduction of the number of budget transfers. For example in 2014 the BEREC Office carried out 37 budgetary transfers, in 2015 the number of budgetary transfers was reduced to 17 and for the period from January to September 2016 their number was limited only to four.

The BEREC Office has achieved significant improvement in management of the budgetary transfers and will continue to work on reducing the amounts of the appropriations carried over, as far as the projects cycle allows it. Such target could be set up specifically for the administrative expenditure of a routine nature.

2. Prevention of conflict of interest and implementation of checks of the declared financial interests (§ 8⁴ of the European Parliament resolution)

The obligation for the BEREC Office to submit declarations of interests is introduced by the legislator through Article 21 of Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office ('the BEREC Regulation'), which requires the members of the Management Committee, the Administrative Manager and the staff of the Office to make an annual declaration of interests indicating any direct or indirect interests, which might be considered prejudicial to their independence.

⁴ '8. Calls on those Union institutions and agencies which have introduced codes of conduct, including Parliament, to step up their implementation measures, such as checks of declarations of financial interests;'

Therefore the BEREC Office pays practical attention to the conflict of interest, including its financial aspects. Consequently, since the establishment of the BEREC Office all members of the Management Committee, the Administrative Manager and the staff are requested to submit annual declarations of interests. Such declarations are made in writing. The declarations of interests made by the members of the Management Committee, and by the Administrative Manager are made public through a specific section of the public register and can be consulted at the following link: http://www.berec.europa.eu/eng/document_register/subject_matter/berec_office/declarations_of_interests_and_commitment/

The BEREC Office has also decided to dedicate one section of its website to conflict of interest, where all the rules and legal concepts are summarised and explained.

The scope and content of the declarations of interests made by the members of the Management Committee has been determined by the Rules of Procedure of the Management Committee⁵, which also contain the explanation of the legal context, defines the notion of conflict of interest, provides some examples on conflict of interest and describes the responsibilities for the assessment of the conflict of interest.

The rules applicable to the staff are introduced through the internal administrative instruction on the prevention of conflict of interest as of 2011⁶, which has been further strengthened by the internal administrative instruction on ethical values approved by the internal administrative instruction of Administrative Manager of the BEREC Office in 2013⁷, which is a part of the welcome guide to newcomers.

In 2016 all staff members submitted annual declarations of interest and their content was checked jointly by the Vice-Chair of the Management Committee, who exercises the powers conferred on the appointing authority by the Staff Regulations of Officials of the European Communities and the powers conferred on the authority entitled to conclude contracts by the Conditions of employment of other servants of the European Communities and the Administrative Manager, who is the BEREC Office's Authorising Officer. All declarations were assessed for all aspects of potential conflict of interest, including the financial ones. No conflict of interest was found in any of the checks carried out.

⁵ MC (14) 70, Rules of Procedure of the Management Committee of the BEREC Office, 06.06.2014, http://www.berec.europa.eu/eng/document_register/subject_matter/berec_office/rules_of_procedure/4461-rules-of-procedure-of-the-management-committee-of-the-berec-office

⁶ Internal Administrative Instruction adopted by the Administrative Manager approving the model letters on annual declaration of commitment and conflict of interest for staff members of the BEREC Office according to Article 21 of the BEREC Regulation (1211/2009), Ref. 2011-08-01 AF 01 mc

⁷ Internal Administrative Instruction No 2 of 2013 of the Administrative Manager of the BEREC Office on establishing ethical principles and the principles of ethical administrative behaviour (IAI/2013/2), 31 July 2013, not published.

3. Introduction of a standard chapter on transparency, accountability and integrity in the BEREC Office annual report (§9⁸ of the European Parliament resolution)

The BEREC Office has prepared its annual report in compliance with the Commission Guidelines, which do not foresee a standard chapter on transparency, accountability and integrity. However, in compliance with the provisions of Article 18 of the BEREC Regulation the BEREC Office carries out its activities with a high level of transparency. The BEREC Office is also in charge of ensuring transparency and accountability of the work of BEREC, thus providing the public and any interested party with objective, reliable and easily accessible information, in particular in relation to the results of all the work carried out by BEREC. Consequently, in its 2015 annual report the BEREC Office included a sub-chapter related to the transparency, accountability and integrity (see paragraph 1.2.2. of the [2015 Consolidated Annual Activity Report of the BEREC Office](#)⁹) and would be willing to devote a chapter on the subject provided that the Commission Guidelines provide clear guidelines on the standard elements to be included in such chapter.

The BEREC Office takes this opportunity to recall that in 2015 it continued the development of the BEREC website by regularly updating its content, in particular the events section and the public register. In 2015 the BEREC Office registered 721 BEREC and BEREC Office documents, including the annual declarations of interest and commitment of BEREC and the BEREC Office Management Committee members. As an additional tool of increased transparency the BEREC Office opened to the public an information sharing portal in June 2016, whose development was finalised in January 2016. The portal has the objective to serve as a single point of access to the decisions, reports and other documents developed by BEREC, the national regulatory authorities and the Commission in the field of the single telecoms market.

The scope of the event section of the BEREC website has been enlarged and now it serves as a single point of information for all BEREC events, public or non-public. Under each event now citizens can find all documents approved for publication, short description of the outcome of the event, as well as any photographic or video materials from the event.

Since the beginning of 2015 the BEREC Office organises live streaming of all public debriefings and other major public events, such as the BEREC Stakeholder Forum. The citizens have the opportunity to submit questions by e-mail or through the official account of BEREC on the social media. All audio and video materials prepared as a result of BEREC public events or BEREC's work are also shared with the citizens through the BEREC's YouTube channel.

The BEREC Office is in charge of managing the public consultations on key draft BEREC documents. The BEREC Office is managing the public consultations with high degree of transparency by publishing all non-confidential contributions and reports on the outcome of the public consultations, which summarise the outcome of the consultation and provide

⁸ '9. States that the annual reports of the Office could play an important role in compliance regarding transparency, accountability and integrity; calls on the Office to include a standard chapter on those components in its annual report;'

⁹ Document MC (16) 62

explanation of how the contributions received have been taken into account or explain the reasoning for not taking into account some of the views expressed during the consultation. These reports are extremely valuable in the event of the receipt of big number of contributions, as was the case during the consultation on the draft BEREC Guidelines on net neutrality during which the BEREC Office received around 500 000 contributions.

In line with the BEREC Communication Strategy since 2014 the BEREC Office has published all speeches of the BEREC Chair in a new section of the BEREC website and issues a BEREC newsletter 4 times per of year.

Furthermore, other awareness raising activities were done, such as: BEREC Office staff members visited schools in Latvia and gave presentations to students on issues related to BEREC and the BEREC Office's work, as well explaining how it affects their daily life as end-users; BEREC Office organised Doors open day, which contributed to awareness raising about the BEREC Office and BEREC's work among Latvian citizens; a visit of Council telecommunication attachés to the BEREC Office was organised during the Digital Assembly in June 2015, and the BEREC Office continued to use actively the BEREC's social media Twitter account and in January 2015 also established a LinkedIn account to advertise BEREC's public events.

In 2015, special attention was paid to increase of internal transparency and improvement of the cooperation between all national regulatory authorities. For that reason, the BEREC Office established a collaboration platform for internal use by BEREC members and observers. Its first, pilot phase, was finalised on 4 May 2015. After the end of this pilot phase the BEREC Office gathered the initial views of the user community and launched a second development phase with the objective to satisfy all user needs as far as possible.

4. Implementation of internal control standards (ICSs) and follow-up on recommendations by the Internal Audit Service (§12¹⁰ and §15¹¹ of the European Parliament resolution)

At the beginning of the year 2015 the BEREC Office had not implemented only ICS No 6 on 'Risk Management' and needed to undertake some additional measures in terms of the off-site back-up of its electronic data in order to ensure full implementation of ICS No 12 'Information and Communication'. With the extremely valuable support of the European Union Agency for Network and Information Security (ENISA) under two Service Level Agreements of 2015 and 2016 the BEREC Office managed to fully implement these two ICSs.

¹⁰ '12. Acknowledges the fact that all relevant ICSs have been adopted by its Management Committee; notes, however, that the implementation of the ICS is still not completed; calls on the Office to report to the discharge authority on the progress made in that regard;'

¹¹ 15. Notes that in 2014 the audit of the IAS focused on the follow-up of the 2013 limited review with the aim of assessing the state of compliance with the ICSs; notes that the IAS closed two of the 18 recommendations based on desk research; notes, moreover, that the IAS examined the remaining 16 open recommendations during the follow-up and concluded that 14 recommendations were fully implemented;

Consequently, in February 2016 the Internal Audit Service closed its two recommendations, which remained open after the 2014 follow-up on the limited review of the implementation of the ICSs.

5. Contributions from the national regulatory authorities of the European Free Trade Association (§16¹² of the European Parliament resolution)

The BEREC Office takes note of the comment that the 2014 budget provision for contributions from national regulatory authorities from the European Free Trade Association (EFTA) having observer status at BEREC, did not materialise in the absence of agreements with EFTA countries. Consequently, the 2015 and 2016¹³ budgets have been corrected accordingly.

The BEREC Office would like to note that the EFTA agreement is negotiated between the Commission and countries concerned and the BEREC Office does not have power to influence the negotiations and/or the agreement signing process.

The BEREC Office takes this occasion again to reiterate its strong commitment to work towards further improvement of its financial programming, budget management and compliance with the ICSs. The BEREC Office takes this opportunity to present to the attention of the discharge authority a short overview of the current follow-up report and remains at your disposal for providing any other additional information, which may be needed.

Yours sincerely,

(s)

László IGNECZI

Administrative Manager

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¹² '16. Takes note of the fact that the 2014 budget provisions for contributions from the national regulatory authorities of EFTA having observer status at BEREC did not materialise in the absence of agreements with the EFTA countries; acknowledges the fact that the 2015 budget of the Office was corrected accordingly; invites the Office to remain prudent when forecasting the related contributions from the national regulatory authorities of the EFTA countries;'

¹³ See [Statement of revenue and expenditure of the BEREC Office for the financial year 2015](#) and [Statement of revenue and expenditure of the BEREC Office for the financial year 2016](#)

Short Overview
of the follow-up report on the discharge of the implementation of the BEREC Office budget for the financial year 2014 Office

Observation of the Discharge Authority	Response and measures taken by the BEREC Office	Status/Reference
<p>3. Notes with satisfaction that, according to the Court's report, the overall level of committed appropriations improved from 87 % in the year 2013 to 98 % in 2014; notes, however, that the level of committed appropriations carried over increased to EUR 900 000 (23 %), compared to EUR 500 000 (13 %) in 2013, mainly due to operational activities of the Office, such as ongoing studies on electronic communications;</p> <p>4. Ascertains from the Office that it made a number of budget transfers during the year 2014, changing the structure of the initial budget considerably, in order to finance the additional needs for operational expenditure; notes in particular that those transfers were mainly related to the "Net Neutrality Study" as well as "BERECnet" projects; notes that the finalisation of those projects during the year 2014 was uncertain at the time of the preparation of the budget;</p>	<p>The increase of the appropriations carried over, as well as the transfers from title I and title II have been justified by the need to finance large scale operations projects in support to BEREC activity, in particular two studies on net neutrality (amounting to EUR 424 260) and a study on the future development of the telecom sector (amounting to EUR 210 000). In 2014 the BEREC Office also started the development of a platform for collaboration and knowledge sharing between the BEREC members and observers - BERECnet (amounting to EUR 101 410).</p> <p>The amounts carried-over were planned in advance, as the final date for submission of the deliverables had been envisaged for 2015 in the project plans.</p> <p>As far as the budgetary transfers are concerned, the BEREC Office is working continuously to improve its activity based budget planning that could lead to further reduction of the number of the budget transfers.</p> <p>For example in 2014 the BEREC Office carried out 37 budgetary transfers, in 2015 the number of budgetary transfers was reduced to 17 and for the period from January to September 2016 their number was limited only to four.</p>	<p>The BEREC Office has achieved significant improvement in management of the budgetary transfers and will continue to work on reducing the appropriations carried over, as far as the projects cycle allows it. Such target could be set up specifically for administrative expenditure of routine character.</p>

Observation of the Discharge Authority	Response and measures taken by the BEREC Office	Status/Reference
<p>'8. Calls on those Union institutions and agencies which have introduced codes of conduct, including Parliament, to step up their implementation measures, such as checks of declarations of financial interests;'</p>	<p>All Members of the Management Committee, the Administrative Manager and the staff submit annual declarations of interest, including of financial nature.</p> <p>The declarations of the Members of the Management Committee and of the Administrative Manager are published in the public register at the following link: http://www.berec.europa.eu/eng/document_register/subject_matter/berec_office/declarations_of_interests_and_commitment/</p> <p>The rules applicable to the staff are introduced through the internal administrative instruction on the prevention of conflict of interest as of 2011¹⁴, which has been further strengthened by the internal administrative instruction on ethical values of 2013¹⁵ and which is a part of the welcome guide to newcomers.</p> <p>In 2016 all staff members submitted annual declarations of interest. All declarations were assessed for all aspects of potential conflict of interest, including of financial nature.</p> <p>No conflict of interest was found in any of the checks carried out.</p>	<p>Implemented</p>
<p>'9. States that the annual reports of the Office could play an important role in compliance regarding transparency, accountability and integrity; calls on the Office to include a standard chapter on those components in its annual report;'</p>	<p>The BEREC Office has prepared its annual report in compliance with the Commission Guidelines, which do not foresee a standard chapter on transparency, accountability and integrity. However, in compliance with the provisions of Article 18 of the BEREC Regulation the BEREC Office included in its 2015 annual report a sub-chapter related to the transparency, accountability and integrity and would be willing to devote a chapter on the subject if the Commission Guidelines provide clear guidelines on the standard elements to be included in such a chapter.</p>	<p>Partially implemented See paragraph 1.2.2. of the 2015 Consolidated Annual Activity Report of the BEREC Office.</p>

¹⁴ Internal Administrative Instruction adopted by the Administrative Manager approving the model letters on annual declaration of commitment and conflict of interest for staff members of the BEREC Office according to Article 21 of the BEREC Regulation (1211/2009), Ref. 2011-08-01 AF 01 mc

¹⁵ Internal Administrative Instruction No 2 of 2013 of the Administrative Manager of the BEREC Office on establishing ethical principles and the principles of ethical administrative behaviour (IAI/2013/2), 31 July 2013, not published.

Observation of the Discharge Authority	Response and measures taken by the BEREC Office	Status/Reference
<p>12. Acknowledges the fact that all relevant ICSs have been adopted by its Management Committee; notes, however, that the implementation of the ICS is still not completed; calls on the Office to report to the discharge authority on the progress made in that regard;</p> <p>15. Notes that in 2014 the audit of the IAS focused on the follow-up of the 2013 limited review with the aim of assessing the state of compliance with the ICSs; notes that the IAS closed two of the 18 recommendations based on desk research; notes, moreover, that the IAS examined the remaining 16 open recommendations during the follow-up and concluded that 14 recommendations were fully implemented;</p>	<p>At the beginning of the year 2015 the BEREC Office had not implemented only ICS No 6 on 'Risk Management' and needed to undertake some additional measures in terms of the off-site back-up of its electronic data in order to fully comply ICS No 12 'Information and Communication'. With the extremely valuable support of the European Union Agency for Network and Information Security (ENISA) under two Service Level Agreements of 2015 and 2016 the BEREC Office managed to fully implement these two ICSs.</p> <p>Consequently, in February 2016 the Internal Audit Service closed its two recommendations, which remained open after the 2014 follow-up on the limited review of the implementation of the ICSs.</p>	<p>Implemented.</p> <p>See paragraphs 2.8 and 3.2. of the 2015 Consolidated Annual Activity Report of the BEREC Office.</p>
<p>16. Takes note of the fact that the 2014 budget provisions for contributions from the national regulatory authorities of EFTA having observer status at BEREC did not materialise in the absence of agreements with the EFTA countries; acknowledges the fact that the 2015 budget of the Office was corrected accordingly; invites the Office to remain prudent when forecasting the related contributions from the national regulatory authorities of the EFTA countries;</p>	<p>The BEREC Office took note of the comment and the 2015 and 2016 budgets have been corrected accordingly.</p>	<p>Implemented</p> <p>See Statement of revenue and expenditure of the BEREC Office for the financial year 2015 and Statement of revenue and expenditure of the BEREC Office for the financial year 2016</p>