

**12th meeting
of the Board of Regulators
27-28 September 2012, Limassol**

Hosted by OCECPR

Conclusions

Chair: **Dr Georg SERENTSCHY**
CEO of the Austrian Regulatory Authority
for
Broadcasting and Telecommunications
(RTR-GmbH)

Main Results from the 12th meeting of the Board of Regulators (BoR)

I. Final documents, approved for publication

The BoR approved for publication and implementation the following documents:

1. BEREC Guidelines:

BEREC Guidelines on the application of Article 3 of the Roaming Regulation - wholesale roaming access

2. BEREC Opinions:

- Roaming Regulation – choice of the decoupling method: BEREC opinion on Article 5 Implementing Act

- BEREC Opinion on the draft revision of the EU Guidelines for the application of state aid rules in relation to the rapid deployment of broadband networks

3. BEREC Reports:

- Report on mobile broadband tariff benchmarking;

- Termination rates benchmark snapshot as of July 2012;

- BEREC Report on the Regulatory Accounting in Practice 2012;
- BEREC Report on the results from the public consultation on issues relating to non-discrimination;
- International Roaming - consultation on Article 3 Guidelines: Summary of responses received during the public consultation and BEREC view on the issues raised by stakeholders;
- Roaming Regulation - choice of the decoupling method: Summary of responses received during the public consultation and BEREC view on the issues raised by stakeholders.

4. BEREC mission statement

In addition to that BEREC approved its mission statement, as follows: “Committed to independent, consistent, high-quality regulation of electronic communications markets for the benefit of Europe and its citizens”.

II. Final documents approved for internal use

The BoR approved for internal use the MTR benchmark and the SMS benchmark as of July 2012.

III. Draft documents approved by the BoR for public consultation:

- Draft 2013 BEREC Work Programme
- Review of BEREC’s common positions, namely:
 - Revised Common Position on Wholesale Local Access;
 - Revised Common Position on Wholesale Broadband Access;
 - Revised Common Position on Wholesale Leased Lines; and
 - A Glossary of terms to support the definition of terms used in all three Common Positions.
- Article 28(2) Universal Service Directive: A harmonised BEREC process: Draft consultation document.

IV. Next meeting

The next meeting of the BoR will take place on 6 and 7 December 2012 in Saint Julian's (Malta).

Introduction and participation

The BoR held its 12th meeting on 27 and 28 September 2012, in Limassol, kindly hosted by the Office of the Commissioner for Electronic Communications and Postal Regulation of the Republic of Cyprus (OCECPR).

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.

Items discussed

1. Opening of the meeting and adoption of the agenda

- Draft BoR Agenda

BoR (12) 90 rev. 4

Information presented:

The Chair opened the meeting and welcomed three new members of BEREC, namely:

- Ms Bettina HAGERUP – Director General of Danish Business Authority;
- Prof. Dr Angelo Marcello CARDANI – President of AGCOM;
- Prof. Dr Fatima BARROS – President of ANACOM.

The Chair presented the draft meeting agenda as mentioned above.

The BoR members agreed to the agenda as suggested by the Chair and had no suggestions for inclusion of any additional items under AOB.

Conclusions

The BoR approved the agenda as suggested by the Chair.

2. Information by the Chair

Information presented:

The BEREC Chair presented an oral report on his communication activities and other significant events which took place since the last plenary, amongst which were the following major events:

- Meeting with Mr Joaquín Almunia – Vice-president of the European Commission and Commissioner for competition;
- Meeting with the Chairs of EWGs, held on 5 July 2012 in Brussels;
- Meeting with the BEREC Vice-chairs, held on 13 and 14 September 2012 in Vienna;

The Chair informed about his recent meetings with some stakeholders, amongst which were the preparatory meeting for the next CEO meeting within the so called “Strategy dialogue”, a visit of the Campus Party in Berlin, hosted by Telefonica, Investors’ meeting in London and others.

The Chair also reported about his visits to the BEREC Office, including the visit of members of his office.

Conclusions

The BoR took note of the information.

3. Approval of the list of “A” items

Draft Report on mobile broadband tariff benchmarking BoR (12) 79

Draft TR integrated report snapshot as of July 2012 BoR (12) 80

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.

There were no requests for withdrawing items from the “A” list and therefore the Chair suggested the approval of the documents on the list without discussion.

Conclusions

The BoR approved the documents included in the “A” list.

4. Information by OCECPR on the recent developments of the markets for electronic communication services in Cyprus

Oral up-date by OCECPR on the recent developments of the markets for electronic communication services in Cyprus

Information presented:

OCECPR made an oral up-date on the recent developments of the markets for electronic communication services in Cyprus.

Conclusions

The BoR took note of the information presented.

5. Information by the BEREC Office

- BEREC WP 2012 status BoR (12) 86

- Article 7a, phase II recent cases – conclusions BoR (12) 77

- OPTA’s request for the advice of BEREC (taken under agenda item 16.2)

Information presented:

The BEREC Office Administrative Manager (AM) presented information on the state of play of the BEREC WP 2012 and the conclusions of the recent Article 7/7a phase II cases under the revised Regulatory Framework.

The AM suggested some procedural improvements with a view to streamlining the process of preparation of BEREC opinions under Article 7/7 a phase II by the introduction of an “early warning system”, Furthermore, BEREC Office introduced a proposal for clarifying the procedure in cases when a member asks for the advice of BEREC.

FICORA gave a short overview about the status of the Finish Article 7 phase II cases FI/2012/1328-1329.

Conclusions

The BoR took note of the information presented..

6. Draft BEREC 2013 WP

Draft 2013 BEREC WP

BoR (12) 92

Information presented:

The incoming Chair presented the draft 2013 BEREC WP, highlighting its consistency with the BEREC Medium Term Strategy, adopted in February 2012. It was communicated that the draft WP was developed over the three main thematic areas of work listed in the Strategy, notably: boosting the rollout of next generation networks, promoting consumer empowerment and protection and boosting the internal market.

The incoming Chair asked all EWG Chairs to prepare the draft PRDs for 2013 for approval at the 4th plenary in Malta.

Conclusions

The BoR discussed the draft 2013 BEREC WP and approved it for public consultation, which will be run in the period 28 September – 26 October 2012 with a public hearing on 15 October 2012.

7. Telco OTT - Level Playing Field

Information presented:

The BEREC Chair gave an oral presentation on the Level Playing Field Telco – OTT. He reminded that BEREC had received written input from some operators, which were distributed via e-mail and suggested discussing the main issues raised by operators.

Conclusions

The BoR took note of the discussion. The discussion on this topic will continue during subsequent meetings.

8. Draft BEREC Mission Statement

Information presented:

Mr Ed Richards, BEREC Vice-chair in charge of strategy and communication policy (Ofcom), presented the draft BEREC mission statement, as follows:

“Committed to independent, consistent, high-quality regulation of electronic communications markets for the benefit of Europe and its citizens.”

Conclusions

The BoR approved the BEREC mission statement for publication as suggested.

9. NGN – BEREC input on the draft revision of the EC Guidelines for the application of state aid rules for rapid deployment of broadband networks

Draft BEREC opinion of the review of the Commission Guidelines for state aid rules in relation to deployment of broadband networks

BoR (12) 91

Information presented:

BNetzA presented the draft BEREC opinion of the review of the Commission Guidelines for state aid rules in relation to deployment of broadband networks.

It was communicated that the Commission published its revised draft Guidelines for the application of state aid rules for rapid deployment of broadband networks for public consultation until the end of August 2012 and that the Commission agreed to grant extension to BEREC with a view to allowing the BoR to discuss its opinion during the current plenary meeting.

Conclusions

The BoR approved the BEREC opinion for submission to the Commission and for publication.

10. Review of Common Positions (CPs) on and Wholesale Local Access (WLA), Wholesale Broadband Access (WBA) and Wholesale Leased Lines (WLL)

Draft BEREC Report on the results from the public consultation on issues relating to non-discrimination

BoR (12) 81

Draft BEREC's review and update of the BEREC CP's on WLA, WBA and WLL - umbrella document

BoR (12) 82

Draft CP on WLL

BoR (12) 83

Draft CP on WLA

BoR (12) 87

Draft CP on WBA

BoR (12) 88

Draft glossary document to support all three CPs

BoR (12) 89

Information presented:

The Remedies and NGN EWG Chairs (Ofcom and BNetzA) presented the revised BEREC CP's on WLA, WBA and WLL. The presentation also included a short overview of the results from the public consultation on the issues relating to non-discrimination.

Conclusions

The BoR approved the report on the results from the public consultation for publication and the revised BEREC CPs on WLA, WBA and WLL for public consultation.

The consultation will run from 28 September to 18 October 2012.

11. Information on the recent developments on the field of net neutrality (NN)

Information presented:

Mr Göran MARBY (PTS), BEREC Vice-chair in charge of NN gave an up-date on the recent developments in the field of net neutrality referring also to an ETNO proposal submitted to ITU for discussion during the forthcoming WCIT conference. In this regard, it was suggested to prepare a BEREC paper on the topic to be approved by electronic clearance.

Conclusions

The BoR agreed to proceed with a preparation of a paper to be submitted for approval via electronic clearance, based on the conclusions already achieved by the NN work stream.

12. BEREC's contribution to the implementation of the new Roaming Regulation

BEREC's contribution to the implementation of the new Roaming Regulation

Draft BEREC Summary of responses received during the public consultation on Guidelines - Article 3. BoR (12) 97

Draft BEREC summary of responses received during the public consultation on choice of decoupling method; BoR (12) 98

BoR (12) 99

BoR (12) 100

Information presented

The Chair of the International Roaming EWG (RTR) presented the following draft documents:

1. Draft BEREC opinion on article 5 implementing act;
2. Draft BEREC summary of responses received during the public consultation on choice of decoupling method;
3. Draft BEREC Guidelines on the application of Article 3 of the Roaming Regulation;
4. Draft BEREC Summary of responses received during the public consultation on Guidelines - Article 3.

Conclusions

BoR approved the documents for submission to the Commission and for publication, subject to including the amendment suggested.

13. Regulatory Accounting - Report in Practice

BEREC Report on Regulatory Accounting in Practice 2012

BoR (12) 78

Information presented

BNetzA presented the draft BEREC Report on Regulatory Accounting in Practice for 2012.

Conclusions

The BoR approved the report for publication.

14. Evaluation of BEREC and the BEREC Office

Evaluation of BEREC and the BEREC Office

General comments on the draft final study report for the evaluation of BEREC and the BEREC Office BoR (12) 95

Outline of BEREC Input to the assessment process BoR (12) 96

Information presented

RTR presented the afore-mentioned documents and informed that if BEREC agrees on the way forward suggested in the drafts, the EWG will prepare the final drafts to be submitted for approval via electronic clearance in mid-October.

It was also communicated that the Commission will host a public workshop on the topic to be held on 8 October 2012 in Brussels.

Conclusions

The BoR agreed on the proposed way forward on the evaluation of BEREC and the BEREC Office.

The final documents will be approved via electronic clearance.

15. BEREC Newsletter

BoR (12) 84

Information presented

The incoming Chair presented a short overview of the objectives of the newsletter and reminded that according to the BoR decision from Bucharest all deliverables have to be included in the Newsletter, which currently is not the case.

The incoming Chair suggested to the BoR to approve the newsletter for internal use only until it reaches the necessary level of maturity.

The BEREC Office AM also informed the BoR about the work done in relation to the preparation of the October 2012 BEREC newsletter edition.

Conclusions

The BoR took note of the progress achieved on the preparation of the BEREC newsletter and concluded that the work should continue with a view to including all deliverables in the newsletter. Until that time the newsletter will be kept for internal use only.

16. Framework Implementation (FI)

16.1. BEREC internal procedures for the elaboration of the BEREC Opinion in article 7 and 7a Phase II

Draft BEREC internal procedures for the elaboration of the BEREC Opinion in Article 7 and 7a Phase II BoR (12) 93

BoR (12) 94

Information presented

The FI EWG Chair (AGCOM) presented the draft BEREC internal procedures for the elaboration of BEREC Opinions in Article 7 and 7a Phase II cases and the draft BEREC Guide on Article 7/7a procedures – steps and best practices.

Conclusions

The BoR approved the documents for implementation with the amendment proposed by BEREC Office.

16.2. Update on the future developments related to FI working streams

Update on the future developments related to Framework Implementation working streams, including OPTA's request for the advice of BEREC on the interpretation of a provision in the Universal Service Directive (USD) BoR (12) 102

Information presented

The FI EWG Chair (AGCOM) gave an oral up-date on the future developments related to Framework Implementation. It was communicated that a detailed questionnaire on the NRAs' regulatory capacity was circulated to NRAs in early September with an original deadline for replying until 2 of October 2012 (to be postponed) , based on several NRAs' requests).

In addition to that, OPTA's request for the advice of BEREC on the interpretation of a provision in the USD was considered under this agenda item.

Conclusions

The BoR took note of the information provided.

As far OPTA's request is concerned, the BoR asked the FI EWG to set up a small ad hoc group with the task to elaborate a draft response to OPTA, and to elaborate a proposal for procedural steps to be undertaken in similar cases in the future.

16.3. Article 28(2) Universal Service Directive (USD): a harmonised BEREC process. Consultation paper.

Article 28(2) USD: a harmonised BEREC process: consultation paper. BoR (12) 85

Information presented

ComReg presented the draft BEREC public consultation document on a harmonised BEREC process under the Article 28(2) USD.

Conclusions

The BoR approved the draft for public consultation.

The consultation will be run in the period 5 October – 16 November 2012.

17. Information from the Commission

Information presented

The Commission gave an oral up-date on the following topics:

- information on the launch of a study focusing on the assessment of the cost of ensuring availability and affordability of broadband connection in the context of US, which will be finalised soon;
- information about finalisation of the initiatives on cost accounting and non-discrimination with a view of issuing a Recommendation, with an invitation to BEREC to issue an opinion (expected in early November);
- information on the initiative on the ways to tackle the high costs of in NGA roll-out (in particular high civil engineering costs) – in this respect EC invites BEREC for inputs;
- information on the launch of a public consultation on specific aspects of transparency, traffic management and switching (closing 15 Oct.), which will feed into the work on a Recommendation on NN; the Commission plans to consult BEREC on the draft Recommendation in February 2013.

Furthermore Commission informed BEREC that the review of the Recommendation on relevant markets will shortly start with a launch of a public consultation.

Regarding the roaming in non EU countries the Commission explained that there is a possibility of regulating roaming to and from candidate countries under the integration regime (stabilisation and association agreement). In other countries, the Commission suggested that commercial agreements between the operators can be encouraged.

Conclusions

The BoR took note of the information.

18. Elections of Chair for 2014 and Vice-chairs for 2013

Elections of Chair for 2014 and Vice-chairs for 2013 - Procedures

Information presented

The BEREC Chair provided oral information on the procedure for the elections of Chair 2014 and Vice-chairs 2013. He informed the BoR members that the deadline for submitting applications for Chair 2014 was 7 October 2012

Conclusions

BoR took note of the information.

19. AOB

19.1 BEREC-REGULATEL

XI Summit REGULATTEL - BEREC, 12-13 November 2012, Costa Rica

Information presented

The Secretary General of Regulatel presented information about the main topics to be included in the next REGULATTEL-BEREC Summit to be held in Costa Rica on 12-13 November 2012.

The BEREC Chair informed the meeting that during the Summit BEREC will be represented by Dr Leonidas KANELLOS (EETT), incoming BEREC Chair and Vice-chair for international relations.

Conclusions

The BoR took note of the information.

19.2 Information by MCA on the next BoR meeting

Information presented

The Malta Communications Authority (MCA) presented information on the venue for the next BoR meeting to take place on 6 and 7 December 2012 in Saint Julian's, Malta.

ANCOM presented information on the workshop on internal governance to precede the plenary meeting.

Conclusions

The BoR took note of the information.