

17th Meeting of the Board of Regulators

Hosted by the Hungarian National Media and Infocommunications Authority (NMHH)

Conclusions

Chair: Dr Leonidas KANELLOS

President of the Hellenic Telecommunications and

Post Commission (EETT)

5-6 December 2013, Budapest (Hungary)

Main results of the 17th Meeting of the Board of Regulators (BoR)

I. Elections of BEREC Chair for 2015 and Vice-chairs for 2014

The BoR elected Dr **Fátima BARROS**, President of the Board of ANACOM (Portugal), BEREC Chair for 2015 and the following BEREC Vice-Chairs for 2014 (BEREC members, listed in alphabetical order of their name):

- Ms Asta SIHVONEN-PUNKKA Director General of FICORA (Finland);
- Mr Domagoj JURJEVIC Deputy President of the Council of HAKOM (Croatia);
- Mr Jack HAMANDE Chairman of the Council of BIPT (Belgium).

According to the Rules of Procedure, the BEREC Chair for 2015 must serve one year as Vice-Chair in 2014.

II. Documents approved for publication:

- 1. BEREC Work Programme 2014;
- BEREC Report on the Public Consultation on the draft BEREC Work Programme (WP)
 2014;
- 3. Decision on BEREC Expert Working Groups (EWGs);
- BEREC Termination Rates Benchmark Snapshot (as of July 2013);
- 5. BEREC report on transparency and comparability of different roaming tariffs.

III. Documents approved for public consultation:

Review of the BEREC Common Position (CP) on geographic aspects of market analysis. The public consultation will take place between 10 December 2013 and 7 February 2014.

IV. Documents approved for internal use:

- Project Requirements Documents (PRDs) for the implementation of the BEREC 2014 WP;
- 2. BEREC Internal Report on Mobile Termination Rates (MTR) Benchmark (as of July 2013);
- 3. BEREC Internal Report on SMS Benchmark (as of July 2013);
- 4. BEREC Internal Report on the Outcomes of the Work Undertaken on Revenue Indicators in Relation to Bundled Services.

V. Other important topics discussed:

1. Proposal for a Regulation laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent (hereinafter referred to as "Telecoms Single Market Initiative")¹

The BoR took note of the recent developments within the legislative process of the Telecoms Single Market Initiative (TSM) and expressed its commitment to provide advice to the colegislator when needed.

2. ECORYS Report

The BoR discussed the recommendations of the consultant (the Dutch company ECORYS) in the report 'Future electronic communications markets subject to ex-ante regulation'. This report was prepared in the context of the forthcoming review of the Recommendation on the relevant markets.

3. Requests for signing Memoranda of Understating (MoU)

Following a proposal from one of the stakeholders to sign a MoU for cooperation with BEREC, the BoR discussed the issue and came to a general conclusion that BEREC should be open for cooperation with stakeholders without MoUs.

VI. Next meeting

The next meeting of the BoR will take place on 27 and 28 February 2013 in Stockholm (Sweden) and will be hosted by the <u>Swedish Post and Telecom Authority</u> (PTS), whose Director General, Mr **Göran MARBY**, will be the BEREC Chair in 2014. The meeting will be preceded by a Workshop on the relevant markets.

¹ COM(2013) 627 final, 2013/0309 (COD)

Introduction and participation

The BoR held its 17th meeting, kindly hosted by the <u>Hungarian National Media and Infocommunications Authority</u> (NMHH), on 5 and 6 December 2013 in Budapest (Hungary). 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, represented at high level.

Items discussed

1. Opening of the meeting and adoption of the agenda

Document(s)	BoR (13) 189 Draft BoR Agenda
Introduction by	BEREC Chair
Information presented	The BEREC Chair opened the meeting and invited the new BEREC members and alternates to introduce themselves.
	The BEREC Chair presented the draft agenda with the suggestion to cover under AOB one additional topic related to the request of ENISA submitted to BEREC to nominate one member and one alternate to the Permanent Stakeholders' Group (PSG) established to the Agency. The BoR members were also invited to suggest other issues to be presented under AOB. Two NRAs suggested presenting information about forthcoming events under AOB.
Conclusions	The BoR approved the agenda with the proposed additional items under AOB.

2. Information by the BEREC Chair on activities since the last meeting

Document No	No document	
Introduction by	BEREC Chair	
Information presented	2013, Riga) he has mostly on the Conne Chair attended meet	he BoR that since its last plenary meeting (26 September represented BEREC in a number of events, focusing ected Continent package and the TSM in particular. The ings with the Commission, the European Parliament, the ind stakeholders, as follows:
	2 October 2013, Brussels	Meeting with the European Organisation 'Mobile Challengers', representing a number of competitive mobile operators (with key focus on the Connected Continent package);
	2 October 2013, Brussels	Public hearing on reduction of high-speed broadband deployment costs, organised by the European Parliament (EP);
	3 October 2013, Brussels	BEREC public debriefing to present the outcomes of the 16 th BEREC plenary meeting;
	3 October 2013, Brussels	Meeting with the Head of Cabinet of the President of the European Council to discuss the TSM;
	15 October 2013, Brussels	BEREC meeting with the Vice-president of the Commission, Mrs Neelie Kroes, to discuss the Connected Continent package;
	15-16 October 2013, USA	BEREC study visit to Silicon Valley in the USA, outcomes presented under agenda item 12;
	5 November 2013, Brussels	Informal meetings with Ms Pillar del Castillo, MEP, rapporteur on the proposed Regulation, and the Commission (Mr Roberto Viola, Deputy Director General of DG CONNECT, Mr Anthony Whelan, Acting Director

		of Directorate B in the same DG) to discuss the way forward with TSM.
	18-19 November 2013, Athens	Speech by the BEREC Chair at the meeting of the Southern Mediterranean dialogue on electronic communications and the information society, organized by the European Mediterranean Regulators Group (EMERG).
	26 November 2013, Brussels	Dinner debate on the Digital Single Market, organised by the European Internet Foundation at the EP;
	28 November 2013, Brussels	Hearing on the TSM Commission's proposal, organised by EP ITRE Committee.
Conclusions	The BoR took note o	f the information.

3. Key regulatory developments in the Hungarian market for electronic communications services

Document No	No document
Introduction by	NMHH representative
Information presented	NMHH presented information on the key regulatory developments in the Hungarian market for electronic communications services.
Conclusions	The BoR took note of the information.

4. Elections of the Chair for 2015 and the Vice-Chairs for 2014

Document(s)	No document
Introduction by	BEREC Chair

Information presented

The BEREC Chair reminded the BoR that every year at its last ordinary meeting the BoR must appoint the Chair for the year subsequent to the following year. The newly-elected Chair and the Outgoing Chair must serve one year [2014] as Vice-Chairs. Moreover, the BoR may decide to appoint additional Vice-Chairs for 1 year.

The BEREC Chair informed the BoR that he had decided to step down as a Vice-chair in 2014. Nevertheless, he would be ready to provide the Chair 2014 and the Vice-Chairs with any support and advice when needed.

That being said, the BEREC Chair suggested the BoR to elect 3 Vice-Chairs.

He also proposed that all members elected respectively Chair of the BEREC Office Management Committee (MC) for 2015 and Vice-Chairs for 2014 should hold the same positions in the BoR. Should the proposal be accepted, elections would have to be held only once, at the MC, and the vote would become binding to the BoR as well.

Conclusions

The BoR decided to elect three additional Vice-Chairs for 2014.

The BoR agreed that that all members elected respectively as Chair of the BEREC Office MC for 2015 and Vice-Chairs for 2014 should hold the same positions in the BoR.

Thus, after the elections held during the 17th meeting of the BEREC Office MC, the following members were declared elected as BEREC Chair for 2015 and BEREC Vice-Chairs for 2014:

- BEREC Chair for 2015 Dr **Fátima BARROS**, President of the Board of ANACOM (Portugal);
- BEREC Vice-Chairs for 2014 (listed in alphabetical order of their names):
- Ms Asta SIHVONEN-PUNKKA Director General of FICORA (Finland);
- Mr Domagoj JURJEVIC Deputy President of the Council of HAKOM (Croatia);
- Mr Jack HAMANDE Chairman of the Council of BIPT (Belgium).

For more details about the proceedings, please see the Minutes of the 17th meeting of the BEREC Office MC.

5. Adoption of the list of "A" items

Document(s)	BoR (13) 176 Draft BoR Decision on BEREC Expert Working Groups (EWGs)
	BoR (13) 177 Draft PRDs for the implementation of the BEREC 2014 WP
	BoR (13) 178 Draft BEREC Termination Rates Benchmark Snapshot (as of July 2013)
	BoR (13) 179 Draft BEREC MTR Benchmark internal Report (as of July 2013)
	BoR (13) 180 Draft BEREC SMS benchmark internal report (as of July 2013)
	BoR (13) 185 Draft BEREC Report on transparency and comparability of different roaming tariffs
Introduction by	BEREC Chair
Information presented	The BEREC Chair presented the above-mentioned list of "A items" and informed the BoR that it had been drawn up on the basis of the conclusions of the Contact Network (CN) meeting of 14 and 15 November 2013, they could be approved without further discussion. The BEREC Chair informed the BoR members that, if they wish, they can still make statements for the Minutes, commenting on any of the A items, or requesting their withdrawal of any of them.
Conclusions	The BoR approved the list of "A" items.

6. Draft BEREC 2014 WP

Document(s)	BoR (13) 187 Draft BEREC Report on the outcome of the public consultation of the draft 2014 WP
	BoR (13) 188 Draft BEREC 2014 WP, revised following the public consultation
Introduction	Incoming CN Chair (PTS)

Information presented	The Incoming CN Chair presented the draft BEREC 2014 WP. He reminded that the draft was approved for public consultation at the 16 th BEREC plenary meeting and subsequently published for consultation in the period 1–25 October 2013 with a public hearing held on 17 October 2013.
	During the public consultation, BEREC received 24 contributions, which were summarised in the draft BEREC report on the outcome of the public consultation on the draft BEREC2014 WP. The draft report also explains how the opinions expressed during the consultation have been reflected in the draft BEREC 2014 WP, revised accordingly.
	The Incoming CN Chair emphasised that one of the objectives of the 2014 WP will be increasing the transparency of BEREC's work, especially in areas where BEREC has not envisaged any public deliverables. He also informed the BoR that during the public consultation some good proposals on additional tasks of the WP were received. However, as the WP is already very ambitious, the Incoming CN Chair underlined that it would not be feasible to add any extra work streams to the next year's WP.
Conclusions	The BoR discussed the BEREC 2014 WP and proposed some improvements with a view to taking into account some of the proposal made during the public consultation. The Incoming Chair was asked to reflect the conclusions of the meeting in the WP before its publication. With the proposals made, the BEREC 2014 WP was approved for implementation and publication.

7. State of implementation of the BEREC 2013 WP and conclusions from the recent Article 7/7a Phase II cases

Document(s)	BoR (13) 181 State of implementation of the 2013 BEREC WP
	BoR (13) 182 Assessment Report on Article 7/7a, Phase II Cases – Conclusions
Introduction	BEREC Office Representative
Information presented	The BEREC Office presented the state of implementation of the BEREC 2013 WP, specifically emphasising the deliverables completed since the previous

	plenary meeting.
	The BEREC Office also presented the main conclusions of the recent Article 7/7a Phase II cases. The presentation provided an overview of the participation of the NRAs in the Phase II EWGs, which generally remains very unbalanced. The BEREC Office also emphasised that the participation does not depend on the size of the authority and in that respect invited all NRAs to
	take more active participation in EWGs.
Conclusions	The BoR took note of the information presented.

8. Oral overview of the recent developments in the TSM

Document(s)	No document
Introduction by	TSM Ad Hoc EWG Chair (AGCOM)
Information presented	The TSM Ad Hoc EWG Chair made a short overview of the state of work of the proposal approved by the Commission on 11 September 2013.
	The Commission presented its proposal to BEREC during the 16 th plenary meeting of the BoR (26-27 September 2013, Riga). Taking into account the objective of the proposal, namely to establish a single telecoms market in Europe, BEREC decided to establish an Ad Hoc EWG to prepare the BEREC opinion on the Commission proposal.
	The Ad Hoc EWG started work immediately after the 16 th plenary meeting and on 17 October 2013, following approval via electronic voting procedure, BEREC published its views on the aforementioned proposal ² .
	The BEREC opinion was sent to the European Council (EC) and key Members of the EP in order to contribute to the discussion held by the EC on 25 and 26 October 2013 and the EP debate on the topic held on 24 October 2013.
	BEREC has been actively contributing to the legislative process by providing advice to the EP rapporteurs/shadow rapporteurs and by participating in the

² BoR (13) 142, BEREC views on the proposal for a Regulation "laying down measures to complete the European single market for electronic communications and to achieve a Connected Continent", 17.10.2013, http://berec.europa.eu/eng/document_register/subject_matter/berec/opinions/?doc=2922

	public hearings organised by the EP.
	In the meantime the EP has started active work on the draft regulation and the two responsible Committees have produced a draft report in the middle of November 2013 ³ .
	The deadline for tabling amendments on the draft report is 17 December 2013.
	BEREC is ready to provide the co-legislator with any additional support it needs.
Conclusions	The BoR took note of the information.

9. Benchmarking (BMK) - revenue indicators

Document(s)	BoR (13) 184 Report on the outcomes of the work undertaken on revenue indicators in relation to bundled services
Introduction by	Representative of the BMK EWG Chair (CNMC)
Information presented	A representative of the BMK EWG Chair (CNMC) made a short overview of the internal BEREC report on the results of the work undertaken on revenue indicators of bundled services. It was pointed out that the revenue data and number of subscribers is the most wide-spread type of statistical data for analysing the development of the telecom sector. Such data is usually publicly available at national and international level and has recently been included in the Commission's Digital Agenda (DA) Scoreboard. For that reason the Commission requires the NRAs to provide individual service categories' (ISCs) revenue data and has set general principles on how allocation of bundled revenues should be applied. The Commission's view is that revenues should be split according to their components' values are best approximated by standalone prices. When those prices are unavailable, the Commission recommends several alternative ways to proxy component values.

³ Draft Report on the proposal for a regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/22/EC, and Regulations (EC) No 1211/2009 and (EU) No 531/2012, Committee on Industry, Research and Energy, 14 November 2013,

However, for historical or other reasons, the NRAs do not use one and the same approach and/or methodology for gathering revenue data, and a large number of NRAs do not even provide guidance to their operators about how to perform bundle revenue allocation. There is, therefore, no guarantee that the Commission's principles and guidance will be or have been used in providing the data, which makes the ISCs data incompatible – both within the EU and internationally.

With that in mind, the internal report contains the several short-term and

With that in mind, the internal report contains the several short-term and middle term recommendations, which when implemented should lead to improvement of the quality of the statistical data gathered and published.

Therefore, the BMK EWG believes that the work on this topic should continue with a view to achieving more uniform statistics.

Conclusions

The BoR discussed the issues reflected in the report and approved the document for internal use. The BoR invited the BMK EWG to continue working on the revenue indicators of bundled services in compliance with the recommendations of the report.

10. Requests for MoUs

Document(s)	BoR (13) 183 Draft MoU with Open Mobile Alliance (OMA) (the document is tabled for information purposes only, not for approval)
Introduction by	BEREC Chair
Information presented	The BEREC Chair informed the BoR that BEREC and OMA had established fruitful cooperation for the implementation of the Roaming Regulation and the Commission Implementing Regulation (EU) No 1203/2012 on the separate sale of regulated retail roaming services within the EU. This successful collaboration has resulted in OMA suggesting to sign a MoU for cooperation. The objective of the MoU would be to enhance the exchange and sharing of relevant information, as well as to facilitate any future meetings related to the implementation of decoupling measures. The terms of the MoU are rather general and have no binding effect on BEREC. However, when considering the proposed MoU, the CN was concerned by

	the fact that, although there might be certain merits in signing such a MoU with the OMA, this act may give all stakeholders a wrong impression that, in order to cooperate with BEREC, they would need to sign MoU.
	The CN, therefore, decided to address this principal question to the BoR, asking whether it is necessary for BEREC to enter in such formal relations with the stakeholders in order to cooperate with them or should BEREC remain open to cooperation without any formalities.
	That is why the BEREC Chair suggested the BoR to announce that BEREC will remain open for cooperation with the stakeholders without any formalities, while MoU will be signed only with other regulatory authorities.
Conclusions	The BoR discussed the proposal for signing a MoU with the OMA and decided that BEREC should rather work with the stakeholders on informal basis, without signing MoU. The OMA will be informed about the decision of the BoR via a letter signed by the Chair.

11. Convergence and Economic Analysis (CEA)

11.1. Review of the BEREC Common Position (CP) on geographic aspects of market analysis

Document(s)	BoR (13) 186 Draft Review of BEREC CP on geographic aspects of market analysis (definition and remedies)
Introduction by	CEA EWG Co-chair (ARCEP)
Information presented	In order to define the circumstances under which a geographically-differentiated approach to market analysis (definition and remedies) could be deemed appropriate, in 2008 the European Regulators Group (ERG) adopted a CP on geographic aspects of market analysis. In general, the key standings expressed in that document maintain their relevance and are adequate to copper-driven competition. However, some major developments have taken place since 2008, leading BEREC to the conclusion that potential updating of the CP might be needed to reflect the recent developments in the telecom sector, including the recent regulatory changes. For this reason the CEA EWG undertook a review of the 2008 CP. The

review has been based on the following considerations: 1. The key cases and market developments since the ERG's approval of the 2008 CP. 2. The relevant indicators for assessing the necessity of undertaking a geographic analysis. The markets most likely to be affected by a geographical segmentation. The proposed analysis to assess geographical differences in the competitive situation. 5. The implications on the geographical analysis of the upgrade of historical networks to Next Generation Access Networks (NGA) and others. The final result of this BEREC project should be an updated CP, integrating the 2008 CP and the new considerations that need to be taken into account in the light of new market developments, as requested by the Hague CN meeting. With a view to reflecting deeper on the appropriate way forward, including in the light of the forthcoming review of the Commission Recommendation on the relevant markets subject to an ex ante regulation, the Board of Regulators had envisaged in the 2013 BEREC WP holding a public consultation on the revised CP. The BoR discussed the revised CP on geographic aspects of market analysis **Consultations** and approved it for public consultation to be launched on 10 December 2013.

11.2. Oral update on the work concerning the Ecorys study on markets subject to ex-ante regulation

Document(s)	No document
Introduction by	CEA EWG Co-chair (ARCEP)
Information presented	The CEA EWG Co-chair (ARCEP) presented a short overview of a report 'Future electronic communications markets subject to ex-ante regulation' prepared by the Dutch company ECORYS for the Commission and published by the latter on 10 October 2013.

	The study advises the Commission to reduce the number of markets subject to ex-ante regulation. While the CEA EWG agrees with most of the recommendations made in the report, a few of them have been rather concerning. Therefore, CEA EWG Co-Chair presented the views of the CEA
	EWG in relation to the final report and suggested collecting some additional information in relation to the issues raised in the report by sending out a questionnaire to the NRAs.
Conclusions	The BoR discussed the consultant's recommendations described in the report and agreed with way forward proposed by the EWG.

12. BEREC international activities

Document(s)	No document
Introduction by	Representative of the BEREC Vice-Chair in charge of international relations (RTR)
Information presented	Representative of the BEREC Vice-Chair in charge of international relations (RTR) made an oral presentation of the results of the BEREC–EU study trip to Silicon Valley (USA) from 15 to 18 October 2013. The purpose of the trip was to gain insight into new technologies and market trends of the digital economy, as well as explore their future policy and regulatory implications for Europe.
	The BEREC Delegation had the opportunity to meet senior officials of major global US players and academics to exchange informal views on issues such as the dynamics of new cloud applications, investment opportunities, network monetisation strategies and big data analytics, and learn about different aspects of competition, privacy and security. The BEREC delegation met representatives of several US equipment manufacturers, software vendors, investors and scientific institutions.
	The Representative of RTR concluded his presentation by emphasising the issues related to the "big data" that BEREC will probably need to take into account in its future work.
Conclusions	The BoR took note of the information.

13. Information from the Commission

Document(s)	BoR (13) 194 Information from the Commission
Introduction	Commission representative
Information presented	The Commission presented information on the timeline for submitting its revised Recommendation on the relevant markets and information on the Commission's plans in relation to the review of the scope of the universal service.
	The Commission also made a short overview of the progress of the legislative process in relation to the proposed Regulation on measures to reduce the cost for deploying high-speed electronic communications networks and the TSM.
Conclusions	The BoR took note of the information.

14. AOB

14.1. Information on a request by European Union Agency for Network and Information Security (ENISA) to BEREC to nominate a member and an alternated to the Permanent Stakeholders' Group (PSG)

Document(s)	No document
Introduction by	BEREC Chair
Information presented	The BEREC Chair informed the BoR that he had received a letter from the Executive Director of ENISA requesting BEREC to nominate 1 member and 1 alternate to ENISA's PSG. The BEREC Chair requested additional clarification about the role of the BEREC's representatives. As a reply ENISA clarified that the members of PSG are involved mainly in
	drawing up ENISA's annual work programme. Therefore ENISA expects the PSG members to have the necessary expertise in relation to network and

	information security.
	In the light of the information presented, the BEREC Chair invited BoR's members with relevant expertise to submit their application to the Chair's Office as soon as possible.
Conclusions	The BoR took note of the information provided.

14.2. Information by PTS on the next BoR meeting (27-28 February 2014, Stockholm (Sweden)

Document(s)	No document
Introduction by	Incoming BEREC Chair (PTS)
Information presented	Incoming BEREC Chair (PTS) presented information on the next BoR meeting to be held on 27 and 28 February 2014 in Stockholm (Sweden). The invitation for the meeting has been circulated. The meeting will be preceded a BEREC workshop dedicated to the relevant markets subject to ex-ante regulation to take place on 26 February 2013.
Conclusions	The BoR took note of the information provided.

14.3. Information by APEK on the forthcoming NGA Capability Building/Training Workshop (April 2014)

Document(s)	No document
Introduction by	BEREC Vice-Chair (APEK)
Information presented	The BEREC Vice-Chair (APEK) presented short Information the forthcoming NGA Capability Building/Training Workshop indicative scheduled for mid-April 2014.
Conclusions	The BoR took note of the information provided.

14.4. Information by ACM on the forthcoming congress in 2014 'Innovation and oversight, oversight and innovation' to be hosted by ACM

Document(s)	No document
Introduction by	Representative of ACM
Information presented	The BEREC representative in the BoR from ACM informed the meeting about a forthcoming congress 'Innovation and oversight, oversight and Innovation' to be organized by ACM in 2014, for which more information will be circulated shortly.
Conclusions	The BoR took note of the information provided.

Done at Riga, on 10 December 2013.	

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