

20th meeting of the BEREC Office Management Committee

Hosted by the [Autorità per le Garanzie nelle Comunicazioni](#) (AGCOM)

Conclusions

Chair: Mr Göran Marby
Director-General of the
Swedish Post and Telecom Authority (PTS)

26 September 2014, Rome (Italy)

I. Documents approved by the BEREC Office Management Committee (MC) for publication

The BEREC Office MC discussed all issues related to the functioning of the BEREC Office and approved the following documents for publication:

- [BEREC Office Work Programme \(WP\) 2015](#);
- [MC Decision on the designation of two Reporting Officers for the assessment of the probationary period of the BEREC Office Administrative Manager \(AM\)](#);
- [MC Decision on the empowerment of the AM for the signature of a Service Level Agreement \(SLA\) with ENISA, in accordance with articles 82, 83 and 84 of the BEREC Office Financial Regulation MC/2014/1](#);
- [MC Opinion on the observations of the European Court of Auditors \(ECA\) on the Final Account of the BEREC Office for 2013](#) (to be submitted to the ECA, the European Parliament (EP) and the Commission).

II. Documents approved for signature

The MC approved for signature the draft Memorandum of Understanding for cooperation between the Body of European Regulators for Electronic Communications (BEREC) and the Group of Eastern Partnership Regulators for Electronic Communications Networks and Services (EaPeReg Network).

III. Information provided to the BEREC Office MC

The MC was informed about the recent developments in BEREC Office human resources (HR), the on-going and planned procurement procedures and projects and the transfers carried out by the AM within the BEREC Office Budget 2014 in the period May-July 2014.

The MC took note of the recent activity of the BEREC Office Advisory Group (BAG), established by the 18th MC plenary meeting (28 February 2014, Stockholm) to advise the MC on issues related to the operation of the BEREC Office MC.

IV. Next meeting

The [next MC meeting](#) will take place on **4 and 5 December 2014 in Brussels (Belgium)** and will be organised by the BEREC Office.

Introduction and participation

The MC held its [20th ordinary plenary meeting](#) on 26 September 2014 in Rome (Italy), kindly hosted by the Italian National Regulatory Authority (NRA) - [Autorità per le Garanzie nelle Comunicazioni \(AGCOM\)](#). The meeting was attended by high-level representatives of the NRAs established in each EU Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services, 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.

The list of final documents approved during the 20th MC meeting and subject to publication in compliance with the BEREC Regulation and the MC transparency rules¹ are included in the Annex to the Conclusions.

Items discussed

A short overview of the information presented under each agenda item, a summary record of the proceedings and a record of the conclusions reached by the MC under each agenda item is presented below.

1. Opening of the meeting and adoption of the agenda

Document(s)	MC (14) 103 Draft MC Agenda
Introduction by	BEREC Chair
Information presented	<p>The BEREC Chair opened the meeting and presented the draft agenda for approval by the MC. The Chair informed the MC members that the change of the location for the 21st plenary meeting will require the approval of a Financing Decision by the MC, an issue to be discussed under AOB.</p> <p>The MC members were invited to suggest any additional issues to be raised or presented under agenda item “Any other business” (AOB).</p> <p>There were no proposals for additional items and the agenda was adopted without amendment.</p>
Conclusions	The MC adopted the meeting agenda.

2. Approval of the “A” items

Document(s)	MC (14) 96 Draft MC Decision on the designation of two Reporting Officers for the assessment of the probationary period of the BEREC Office Administrative Manager (approval for publication and implementation); MC (14) 97 Draft Reply by the MC to the observations of the European
--------------------	---

¹ [Decision MC \(10\) 28](#) by the Management Committee of the BEREC Office concerning the transparency and access to documents at the BEREC Office, 2010

	Court of Auditors (ECA) on the Final Account of the BEREC Office for 2013 (approval for publication and submission to the ECA, the European Parliament (EP) and the Commission).
Introduction by	BEREC Chair
Information presented	<p>The BEREC Chair presented the list of “A” items as listed above. The list of “A” items had been drawn up on the basis of the conclusions of the CN according to which approval by the MC should be possible without further discussion.</p> <p>The BEREC Chair first requested the consent of the MC members for including all items in the “A” list and second, he asked the MC to approve the “A” items.</p>
Conclusions	The MC approved the list of the “A” items.

3. International activities

3.1. Letter from the Commission to the BEREC Chair on BEREC and BEREC Office international activity

Document(s)	MC (14) 86 Letter from the Commission to the BEREC Chair on BEREC and BEREC Office international activity
Introduction by	BEREC Chair / Commission Representative
Information presented	<p>The BEREC Chair recalled that on 7 July 2014 the Commission had sent him a letter which explains the legal framework for the international activities of BEREC and the Office. The Commission reminds the BEREC Chair about the obligations of the EU Agencies stemming from the BEREC Regulation, the Common Approach (CA)² and the Roadmap on the follow-up to the Common Approach on EU decentralised agencies³.</p> <p>The letter raised certain concerns among some of the NRAs who take the view that some of these statements should not be applicable to BEREC, which is not an Agency of the EU. For that reason the BEREC Chair requested the Commission to articulate and develop its analysis and to provide additional clarity in relation to the applicability of the afore-mentioned rules to BEREC.</p> <p>The Commission explained that the letter sent to the BEREC Chair is part of a horizontal measure for ensuring that all agencies of the EU comply with the Common Approach, which has the objective to streamline the agencies’ international relations and to establish appropriate working arrangements with the Commission, as the Agencies are not empowered to officially represent EU positions externally.</p>
Conclusions	The MC took note of the information.

² http://europa.eu/agencies/documents/joint_statement_and_common_approach_2012_en.pdf

³ http://europa.eu/agencies/documents/2012-12-18_roadmap_on_the_follow_up_to_the_common_approach_on_eu_decentralised_agencies_en.pdf

3.2. Memorandum of Understanding between BEREC and the EaPeReg Network

Document(s)	BoR (14) 125 Draft Memorandum of Understanding for cooperation between BEREC and the EaPeReg Network
Introduction by	BEREC Chair
Information presented	<p>The draft MoU between BEREC and the EaPeReg Network has been approved by the BoR in relation to the activities to be performed during its term of validity. However, the implementation of the MoU will have some budgetary impact for the BEREC Office Budget as each party should bear its own costs resulting from the implementation of the MoU. The scope of the activities to be financed by the BEREC Office budget should mainly comprise reimbursements of the expenses for BEREC participants in the joint meetings (in line with the legal base in place) and organisational costs for events hosted by BEREC.</p> <p>According to Article 12 of the BEREC Regulation, the MC is in charge of the establishment of the BEREC Office budget. For that reason, the BEREC Chair requested the MC to approve the MoU taking into account the future budgetary implication of its implementation.</p> <p>According to Article 13 (1) of the BEREC Regulation, the BEREC Office AM shall act as authorising officer and shall implement the Office's budget under the supervision of the MC. Therefore the Chair suggested co-signing of the MoU by the AM, as well.</p>
Conclusions	The MC approved the MoU for signature.

4. Oral up-date on the BEREC Office Advisory Group (BAG) activities

Document(s)	No documents
Introduction by	BAG Chair (ANACOM)
Information presented	<p>The BAG Chair (ANACOM) briefed the MC on the recent activities of the BAG.</p> <p>He recalled that the Group had been established with the objective to provide advice to the MC and in particular to ensure that the documents submitted by the BEREC Office to the MC are ready for approval.</p> <p>The MC was informed that since the last plenary the BAG had 1 meeting via video conference. The BAG Chair recalled that the Group had submitted advice to the MC on the transfers in the BEREC Office Budget 2014, the draft MC Decision on the designation of Reporting Officers for the assessment of the probationary period of the BEREC Office AM and the draft MC Decision on the empowerment of the AM for the signature of a SLA with ENISA on the establishment of internal audit capacity.</p> <p>In order to be able to fulfil its tasks more efficiently the BAG foresees the</p>

	establishment of a dialogue with the Office during the drafting phase of new documents.
Conclusions	The MC took note of the information provided.

5. BEREC Office operation in 2014 - status up-date on the functioning of the BEREC Office (key activities, budget execution and human resources)

Document(s)	MC (14) 98 Execution of the BEREC Office budget for 2014 MC (14) 99 Explanatory Note by Administrative Manager on transfers in May-July 2014 within BEREC Office Budget 2014
Introduction by	BEREC Office AM
Information presented	<p>The BEREC Chair made a short introduction and communicated the messages which he heard during his last meeting with the Expert Working Group Chairs, who were extremely satisfied by the professional support provided to them by the BEREC Office. He also mentioned that some of them had requested additional support which the Office could not provide due to limited resources.</p> <p>The BEREC Office AM presented a status up-date on the functioning of the BEREC Office. He started his presentation by pointing out that the decision of the Communication Strategy concerning the BEREC Office logo has been implemented as demonstrated on the first slide of the presentation which clearly states that the BEREC Office is an Agency of the EU. The relevant section of the BEREC website has also been updated and all templates used by the Office will be aligned with this decision.</p> <p>Then the BEREC Office AM made a short overview of some of the key projects, as follows:</p> <ul style="list-style-type: none"> - Net neutrality study – the Office has faced some challenges in the implementation of the project - the long procurement procedure and the lack of consistency between the WP and the Budget, which were approved at different times. The lessons learned demonstrate that (i) there is a need for using an easier procedure in the organisation of procurement, preferably by making use of existing framework contracts and (ii) more flexibility is needed in programming, in particular taking into account the different timing of the adoption of the draft BEREC Office budget, the BEREC Office WP and the BEREC WP. - BERECnet – this project has been delayed due to its long preparation and the lack of sufficient HR in the Office to launch an open tender; the high priority of the project has been confirmed and the Office has planned to use existing Commission framework contract and to find a pragmatic solution for the implementation of this project, in particular by dividing the project in phases. The objective of the Office is to sign a contract and to make a budgetary commitment by the end of 2014. <p>In relation to the discharge in respect of the implementation of the budget of the BEREC Office for the financial year 2012, the AM explained that the BEREC Office has been working hard to prove that there has been a great</p>

	<p>improvement in budget and financial management. This has led to a positive vote in the EP Committee on Budgetary Control (CONT) on the proposal for the closure of the BEREC Office accounts for the financial year 2012.</p> <p>The AM further elaborated the topic of the budget by presenting the status of execution of the 2014 budget, which is on track and demonstrates that the full budget will be spent.</p> <p>The AM explained the specificities in the organisation of the work related to HR management due to the fact that the appointing authority for the BEREC Office staff is the BEREC Vice-chair who needs to deal with these issues on a daily basis including by signing all vacancy notices, reserve lists, nomination of selection committees, approval of special leaves, etc.</p> <p>In that respect, the AM invited the MC to consider the delegation of further staff powers to the AM, a topic which was already on the agenda on several occasions and which can ease the daily work of the BEREC Office.</p> <p>Furthermore the AM recalled that, in line with the horizontal 5% cut in the next 5 years in all EU institutions, the BEREC Office MSPP envisages the cut of 1 post in 2015 and 1 post in 2017. The implementing guidelines from the Commission state that each cut has to be implemented when the specific contract of the staff member concerned expires. In the former case, the post cut will not be possible before the end of 2015.</p> <p>In parallel, the EU Agencies Network has been trying to convince the Budgetary Authority to handle Agencies on a case by case basis and not to apply this rule to all agencies. Taking into account the fact that the BEREC Office is the smallest agency of the EU, the AM was sceptical that below a certain size the Agency could work effectively.</p> <p>Therefore the BEREC Office proposes launching a traineeship programme in 2015 in order to be able to obtain more HR. However, the Office should be prepared to manage sufficiently a big turnover of staff due to the high percentage of SNEs and the recruitment of BEREC Office staff by other EU institutions.</p> <p>The AM also presented the main outcome of two recent projects on HR matters, conducted by an external contractor related to efficiency gains and business continuity</p> <p>In conclusion the AM emphasised that a more flexible HR management approach is needed, taking into account in particular that part of the staff is always in learning mode. The existing establishment plan could be sufficient, given implementation of efficiency gain measures, for the actual workload and for the obligatory functions. However, the Office needs to be prepared for phasing-in new tasks.</p> <p>At the end of his presentation the AM informed the MC that for the 21st MC plenary meeting the BEREC Office will prepare its 1st multiannual work programme, as requested during the BEREC Office Workshop on operational management. At the same time, the MC should consider a possible increase of posts based on analysis and multi-annual programming.</p>
Conclusions	<p>The MC took note of the information and acknowledged the significant improvement in the BEREC Office financial and budgetary management.</p>

6. Documents for approval by the MC

6.1. Service Level Agreement (SLA) with ENISA on Internal Audit Capacity (IAC)

Document(s)	MC (14) 100 Draft MC Decision on the empowerment of the Administrative Manager for the signature of a SLA with ENISA, in accordance with articles 82, 83 and 84 of the BEREC Office Financial Regulation MC/2014/1 MC (14) 101 Draft SLA between the BEREC Office and ENISA on IAC
Introduction	BEREC Office AM
Information presented	<p>The BEREC Office AM recalled that according to the BEREC Office Financial Regulation (Decision MC/2014/1) the BEREC Office MC may decide to establish an IAC. However, due to the small size of the BEREC Office, the establishment of an IAC would not be cost-effective.</p> <p>Analysis made in collaboration with other Union bodies in the same policy area revealed that it is possible for the BEREC Office and ENISA (European Union Agency for Network and Information Security⁴) to share their IAC. In that respect, ENISA's management has made the proposal to share its IAC with the BEREC Office through the signature of a SLA, for a duration of one year, with possibility of further renewals.</p> <p>The current draft MC decision has the objective to empower the BEREC Office AM to negotiate and to sign the SLA with ENISA, which has also been circulated for consideration by the MC.</p>
Conclusions	The MC approved the decision for publication and implementation and empowered the AM to negotiate and sign the SLA with ENISA.

6.2. 2015 BEREC Office WP

Document(s)	MC (14) 102 Draft 2015 BEREC Office WP
Introduction	BEREC Office AM
Information presented	<p>As required by Article 9(3) of the BEREC Regulation, the draft 2015 BEREC Office WP was submitted by the BEREC Office AM to the MC by 30 June 2014.</p> <p>The activities suggested for inclusion in the draft 2014 BEREC Office WP are structured around the Activity Based Budget (ABB) model, introduced by the Office in 2013, and are divided into the following three main categories:</p> <ul style="list-style-type: none">- Support for implementing the BEREC WP;- Horizontal activities and other support;- Administrative functions and activities of the BEREC Office. <p>The WP of the Office is equivalent to a financing decision for the activities, in</p>

⁴ <http://www.enisa.europa.eu/>

	<p>particular for the activities to be financed under Title 3 - "Operational Expenditure" of the BEREC Office Budget. Therefore, the BEREC Office has included in the draft WP all planned activities to be financed as operational expenditure.</p> <p>The MC Members had a first chance to provide their written comments and proposals for change by 15 August 2014. The BEREC Office received comments from 10 MC members (9 NRAs and the Commission).</p> <p>The MC members who commented on the draft have requested clarification and additional information on several topics which are new for the activity of the BEREC Office such as:</p> <ul style="list-style-type: none"> - The fact-finding capacity; - The proposed framework contract for training on regulatory issues for the NRAs; - The planned activities during the Latvian presidency of the Council of the EU; - The new role of ECA vis-à-vis the financial audit and the responsibilities of the BEREC Office; - The distribution of FTEs among the different activities. <p>Such additional details in relation to the topics mentioned above, as well as a general overview of the comments received and how they were reflected in the document submitted to the MC, have been circulated to the MC for information.</p> <p>The CN requested alignment of the BEREC Office WP with the BEREC WP for 2015, which has been ensured by the BEREC Office in the draft submitted to the MC for approval</p>
Conclusions	The MC approved the BEREC Office WP for 2015 for publication and implementation.

7. AOB

- Information on the next MC meeting, 4-5 December 2014, Brussels

Document(s)	No documents
Introduction by	BEREC Chair
Information presented	<p>The BEREC Chair reiterated the information already provided to the BoR that the forthcoming appointment of a new Commission and recent changes to the EP have led to an increased interest in BEREC. Both the European Commission and the EP are eager to interact with BEREC and take part in a BEREC Plenary session. As a result of this the BEREC Chair has decided to propose a change in the location of the last Plenary for 2014 from Istanbul to Brussels. The MC Members have been informed about this change in writing but some further steps will be required on the MC side in order to empower the BEREC Office to organize the event. In that respect the BEREC Office was requested to prepare a draft financing decision, which would be</p>

	<p>circulated to the MC for approval via electronic voting procedure.</p> <p>The BEREC Chair thanked the Turkish NRA – BTK, for the good cooperation on this issue and confirmed BEREC's readiness to plan other BEREC events in Istanbul at a later date.</p> <p>In reply a Representative of BTK confirmed the readiness of the Turkish side to host other BEREC events in future.</p>
Conclusions	<p>The MC took note of the information provided on the change of location of the last plenary meeting for 2014 and the forthcoming electronic voting procedure.</p>

26 September 2014, Rome

Contents

Main Results of the 20th Meeting of the BEREC Office Management Committee	2
Introduction and participation	3
Items discussed	3
1. Opening of the meeting and adoption of the agenda	3
2. Approval of the “A” items	3
3. International activities	4
3.1. Letter from the Commission to the BEREC Chair on BEREC and BEREC Office international activity	4
3.2. Memorandum of Understanding between BEREC and the EaPeReg Network.....	5
4. Oral up-date on the BEREC Office Advisory Group (BAG) activities	5
5. BEREC Office operation in 2014 - status up-date on the functioning of the BEREC Office (key activities, budget execution and human resources)	6
6. Documents for approval by the MC	8
6.1. Service Level Agreement (SLA) with ENISA on Internal Audit Capacity (IAC).....	8
6.2. 2015 BEREC Office WP	8
7. AOB	9
- Information on the next MC meeting, 4-5 December 2014, Brussels	9