Public debriefing
33rd BEREC Plenary Meetings

Sébastien Soriano, BEREC Chair 2017

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Body of European Regulators
for Electronic Communications

BEREC

Outcomes of BEREC 33rd Plenary

1 **Enhancing connectivity**

- Non residential markets indicators for EC Digital Scoreboard
- Report on BBCost directive implementation
- Report on State aid funded infrastructures
- BEREC work on mobile issues

2 **Safeguarding an open environment**

- Report on one year of implementing Net neutrality rules throughout Europe
- Net neutrality supervision tools
- Cooperation with TRAI

3 **Reinventing BEREC from within**

- BEREC Work programme for 2018

In 2017, BEREC contributed to…

1

Enhancing CONNECTIVITY

✓ **Roam-like-at-home** BEREC Wholesale Roaming guidelines to accompany operators in implementing new roaming rules

✓ **Mobile connectivity in challenge areas** BEREC/RSPG Report analysing initiatives throughout Europe (Q4 2017)

✓ **Monitoring of mobile coverage** Initial work on a Common Position to be finalised in P2 2018, to move forward on consistent mobile coverage maps in Europe.

① Enhancing connectivity

Q4 Hot Topics

Non residential market indicators for EC Digital Scoreboard

Reports on BBCost directive implementation and Staid aid funded infrastructures

BEREC Work on mobile issues

Created by Gregor Cresnar from Noun Project

Non-residential market indicators for the European Commission's Digital Scoreboard

- **Purpose of the project**: Given a lack of data on the non-residential market across Europe, BEREC proposes to the European Commission a set of indicators which could be included in the questionnaire that is used for the Digital Scoreboard.

- In light of differences between NRAs regarding non-residential definitions, BEREC has agreed a **common definition** (and guidance) for what NRAs and operators could consider as a non-residential customer.

- **Definition**: A non-residential customer primarily uses an electronic communication service(s) for performing economic activities. Non-residential customers include businesses, entrepreneurs/self-employed individuals, non-governmental organisations, and public/state sector bodies.

- Guidance: NRAs may consider allowing operators to use criteria equivalent to the definition and should settle, in their own terms, on how to check these criteria.

Non-residential market indicators for the European Commission's Digital Scoreboard

- BEREC proposes that the following indicators across the fixed and mobile sectors are (a) the most relevant to the Gigabit Society initiative and (b) already collected by a significant cohort of NRAs:

- **<u>Fixed indicators</u>**
  - Total number of non-residential broadband internet access
  - Number of non-residential broadband internet access <30Mbps
  - Number of non-residential superfast broadband internet access ≥30Mbps
  - Revenues from non-residential broadband internet access

- **<u>Mobile indicators</u>**
  - Number of non-residential M2M SIM cards
  - Number of active non-residential mobile broadband (at least 3G) users
  - Non-residential mobile data volumes
  - Total non-residential mobile revenues (calls, SMS/MMS, data, roaming out)

Report on BBCost directive implementation

- Report describes defines tasks appointed to NRAs by BBcost directive:
  - 106 disputes resolved so far. Most difficult challenge was mostly setting the price for access to existing physical infrastructure

- Main findings
  - Electronic communications network operators reach in nearly all requests an agreement with the infrastructure provider without the need to involve the Dispute Settlement Body
  - The BBCost directive is still in an initial phase and therefore its use by electronic communications network operators may further increase in the future
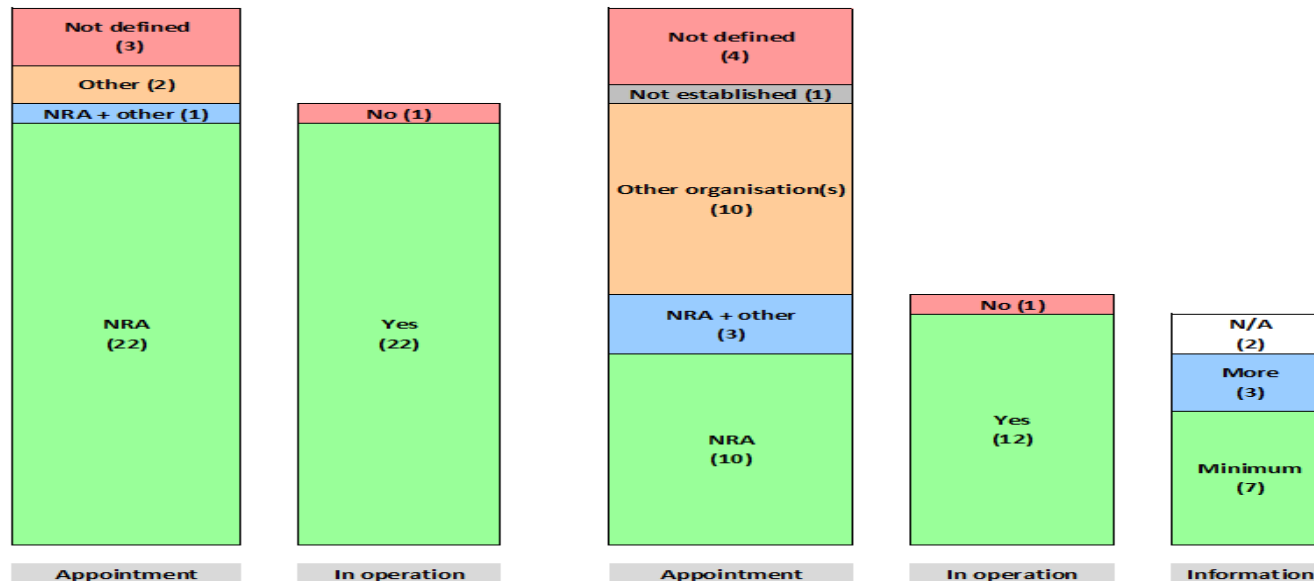
Report on Staid aid funded infrastructures

- General information about the State Aid programs and their implementation in the MS as well as information on tasks of NRAs in State Aid cases

- Main findings:
  - Most NRAs have competencies concerning access conditions and pricing by issuing guidelines, by directly setting these conditions or by giving advice to the responsible authority.
  - Access products are usually the same or very similar to those in symmetric regulation (passive access) or SMP regulation.
  - SMP operators in several countries are bound to regulated SMP prices. Otherwise, countries directly or indirectly refer to SMP regulated prices.

Facilitating mobile connectivity in 'challenge areas'

- A BEREC and RSPG joint report on facilitating mobile connectivity in 'challenge areas':
    - Public consultation from 31 October to 28 November 2017.
    - 6 contributions received (ECTA, ESOA, ETNO, Fastweb, GSMA, Telefonica) and comments in the on-line BEREC platform (by the satellite sector).
    - Updated report under adoption procedure.
    - Possible publication in January.
- Compilation of initiatives to provide mobile connectivity in four types of "challenge" areas:
    - Indoor coverage: evaluation of building loss, wi-fi, repeaters, small and femto cells, distributed antenna systems, construction regulation, private mobile networks;
    - Transportation means: network sharing, coverage obligations, public and localised information on coverage;
    - Non-profitable areas: coverage obligations in licences, concerted approach between public and private sector (including funding programs), network sharing;
    - Other areas: protected areas, areas with not all operators, areas with low quality of service;

2

Safeguarding an OPEN ENVIRONMENT

✓ **Net neutrality measurement tool**

Launch in Q3 2017 for NRAs willing to develop their own tools

✓ **Feedbacks, cases and best practices**

BEREC Report on one year of implementation of Net neutrality rules in Europe (P4 2017)

✓ **Impact of content and devices on ECS markets**

BEREC Report analysing potential **impact of content and devices on ECS markets** and risks of bottlenecks (P3 2017)
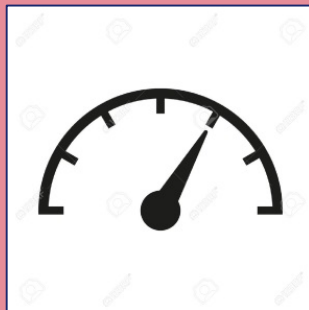
✓ **Beyond Europe**

BEREC Study trip to India and launch of **collaboration at experts' level with TRAI** (Indian regulator) in Q1 2017

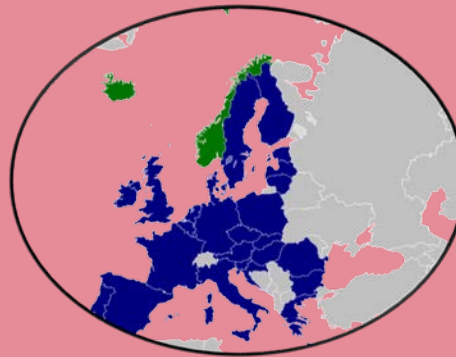**BEREC-Regulatel-EMERG-EaPeReg workshop** in P2 2017

② Safeguarding an open environment

Q4 Hot Topics

Net Neutrality supervision tools

Report on one year of implementation of Net Neutrality rules

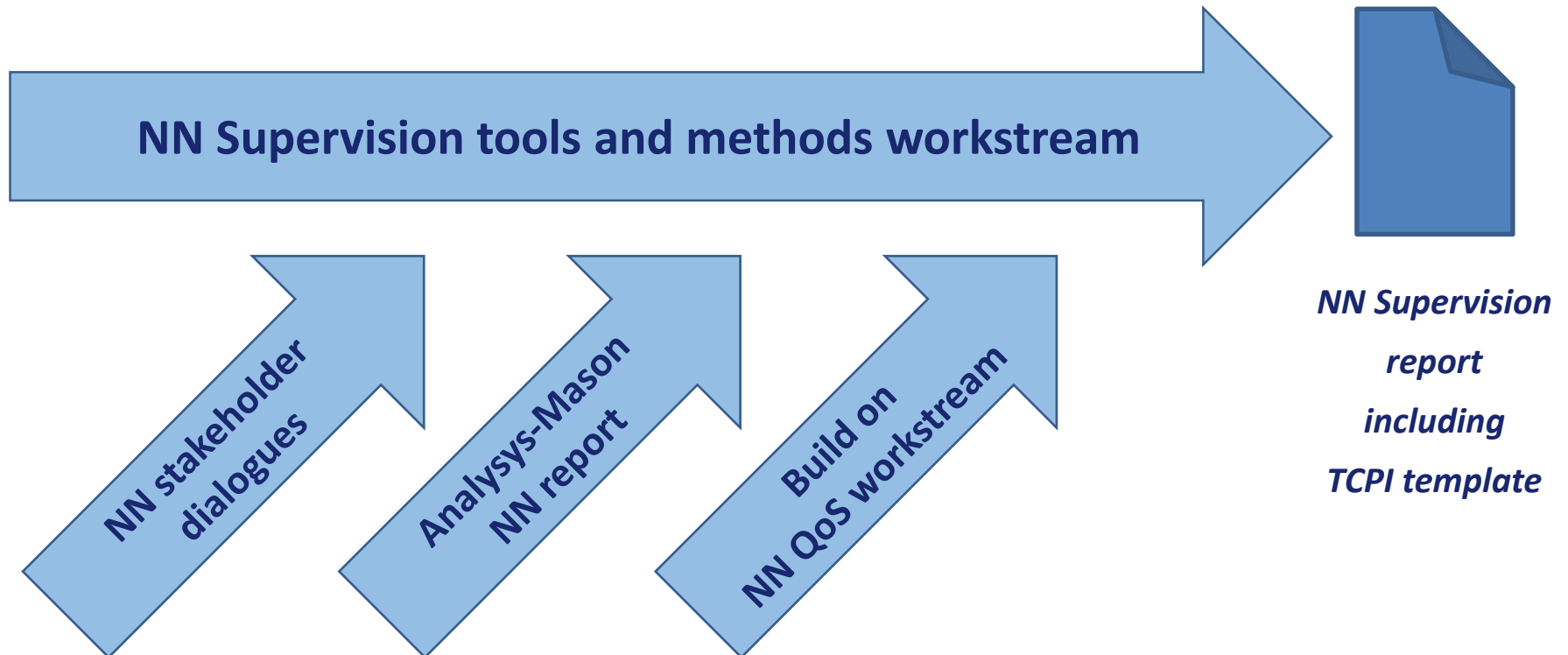**Cooperation with Indian regulator TRAI**

1. NN Supervision Report
   - Tools for NRAs to supervise the NN Regulation

2. NN Implementation Report
   - Facts on the implementation of NN Regulation by NRAs

3. Ongoing NN activities

1. NN Supervision Report

- Report collecting ways for NRAs to supervise and enforce net neutrality rules

- Examples from in and outside the EU

- Format: Technical and commercial practices investigation (TCPI)

- Tools are easy to adapt for specific situation by the NRA

- General message: report recognizes the added value of a coordinated use of the TCPI template by the NRAs

Workstream overview

NN Supervision tools and methods workstream

NN stakeholder dialogues

Analysys-Mason NN report

Build on NN QoS workstream

NN Supervision report including TCPI template

General questions

- Approach for network design and dimensioning
- Capacity repartition between IAS and SpS
- Specific policies for wholesale accesses

Commercial practices

- Zero rating
- IAS and content bundling
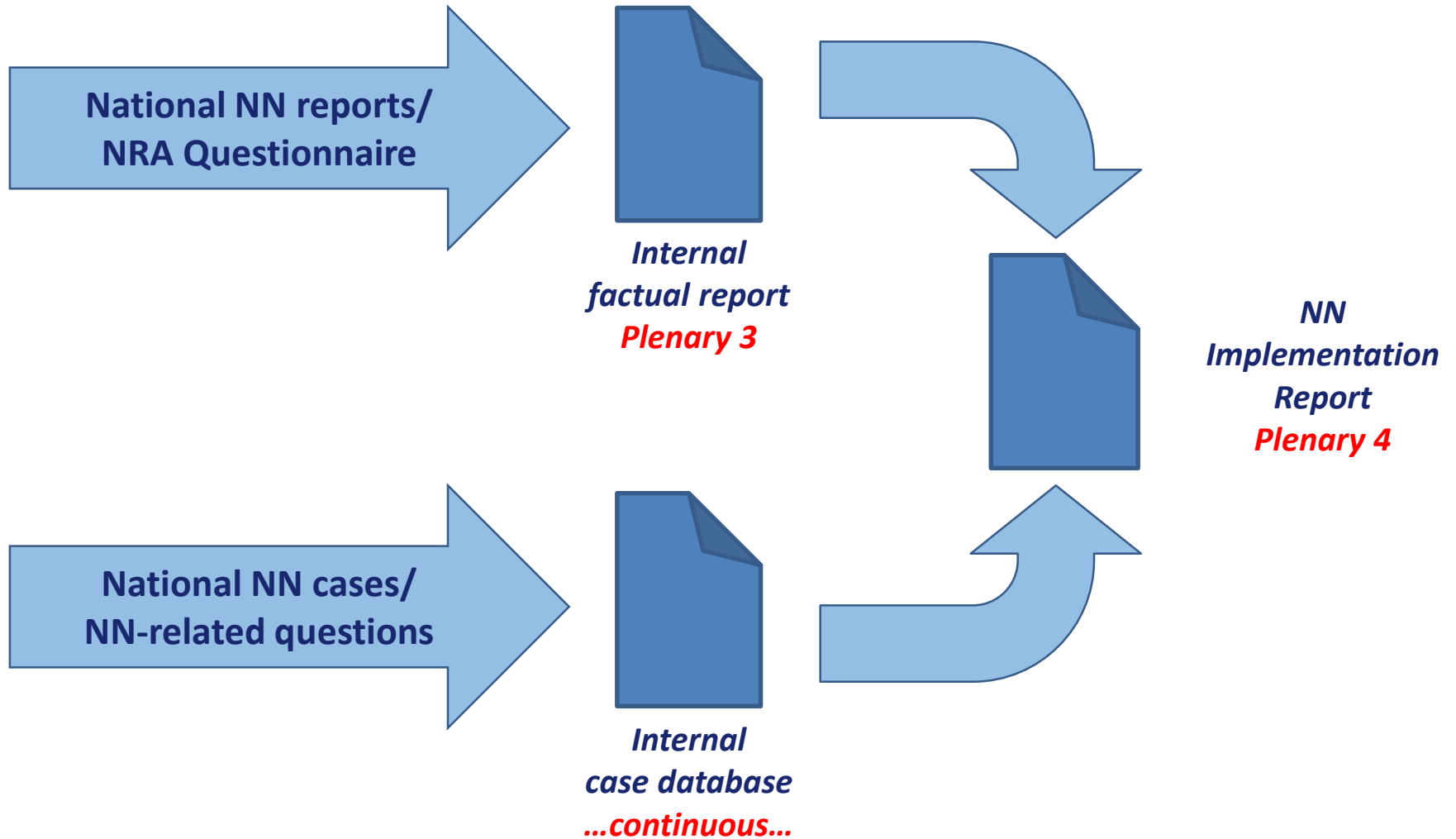- Prohibition of some practices
- Other commercial practices

Technical practices

- Capacity reservation/ allocation
- Offers with guaranteed throughput rate
- Prioritization of users
- Prioritization of applications
- Class-based traffic differentiation
- Choice of terminal equipment
- Limitations in wholesale access
- Modification of content or traffic
- Blocking or throttling
- Assurance of IAS availability and quality

2. NN Implementation Report

Structure of the report

National NN reports/
NRA Questionnaire

*Internal
factual report*
Plenary 3

National NN cases/
NN-related questions

*Internal
case database*
…continuous…

*NN
Implementation
Report*
Plenary 4

NRAs activities on end-user rights (Art. 3)

- All NRAs monitor commercial and technical practices

- 25 NRAs identified zero-rating cases, mostly
  - ➢ music streaming and
  - ➢ social networking

- Traffic management practices only formally assessed by a few NRAs (but increasing)

- So called specialized services are being monitored by some NRAs

Commercial practices – "pure" ZR

- Case descriptions concerning "pure" zero-rating (without traffic management concerns)

- Different markets therefore different assessment on different zero-rating cases (analysis on case by case basis)

- Concerning "pure" zero-rating cases: no formal interventions

Traffic management – combined ZR/TM

- Case descriptions concerning traffic management, often in combination with zero-rating (different treatment of traffic with/without zero-rating after data cap)

- Concerning such cases: mostly similar interventions in different markets

Examples:

- Cases on end-user equipment:
  - ➢ Interventions were practices limit end-user choice by restricting tethering
  - ➢ No intervention where technical requirements are justified (4G only subscription)

- Cases on zero-rating after the data cap has been reached:
  - ➢ Intervention three cases

- Cases on zero-rating music streaming:
  - ➢ No interventions, three analyses
  - ➢ Openness of the zero-rating program mentioned often

- Cases on video "throttling"
  - ➢ Interventions when (certain) video-traffic is being slowed down or degraded

- On substance: Regulation and Guidelines are implemented adequately

- For the time being, Guidelines seem to be well suited for analyzing cases

- **Note**: we are still at an early stage in the implementation

- On "pure" zero-rating: national circumstances are one reason for different approaches on different cases

- On traffic management in combination with zero-rating: mostly coherent application

- Transparency and contractual terms, most NRAs:
  - formal and informal requests for information from the ISPs
  - market surveys without requesting information from ISPs
  - end users reports and complaints are used

- 16 NRAs prepared national specifications for different types of speeds: maximum, normally available and minimum speed

- Significant number of countries where ISPs have not yet included these speed information in the contracts

- A majority of NRAs monitor end-user complaints about performance of the IAS. One half offers an IAS quality monitoring mechanism to consumers

- Full implementation is work in progress
- Different approaches by NRAs
- Related to:
  - ➢ National market situation
  - ➢ National contract and consumer law
  - ➢ Tasks delegated to NRA by national legislator

3. Ongoing NN activities

- Coherent application of the Regulation
  - Continue with 'day to day' exchange of information and use database
  - Exchange analyses of national net neutrality cases
  - Exchange general questions on the application of the regulation

- BEREC Opinion on the evaluation of the Regulation
  - A public consultation in Q1/Q2 2018 for gathering input
  - Opinion is scheduled for finalization and publication in Q4 2018
  - Political evaluation by the Commission and the EU legislator early 2019

- Public procurement of the NN measurement tool
  - As announced in October this year
  - Launch of the public procurement scheduled for Q1

- Cooperation with other regional counterparts

- 30 March – 4 April: BEREC study trip
  - Discussion with TRAI on Net neutrality

- 29 November: Video conference between BEREC and TRAI experts
  - Exchange in particular on 2017 (enforceable) recommendations
  - Future work on OTT-rules and NN monitoring tools

- Discussion on a possible Memorandum of understanding between BEREC and TRAI to reinforce cooperation on Net neutrality issues

In 2017, BEREC contributed to...

3

REINVENTING ITSELF from within

✓ **Share**
- BEREC Workshop on **IoT** and ways to foster innovation
- Internal discussions at experts and heads level on **Net neutrality national cases**

✓ **Dare**
- A new **BEREC Strategy for 2018-2020** in P3 2017 : tuned to new markets trends and social demands with 5 new strategic priorities

✓ **Care**
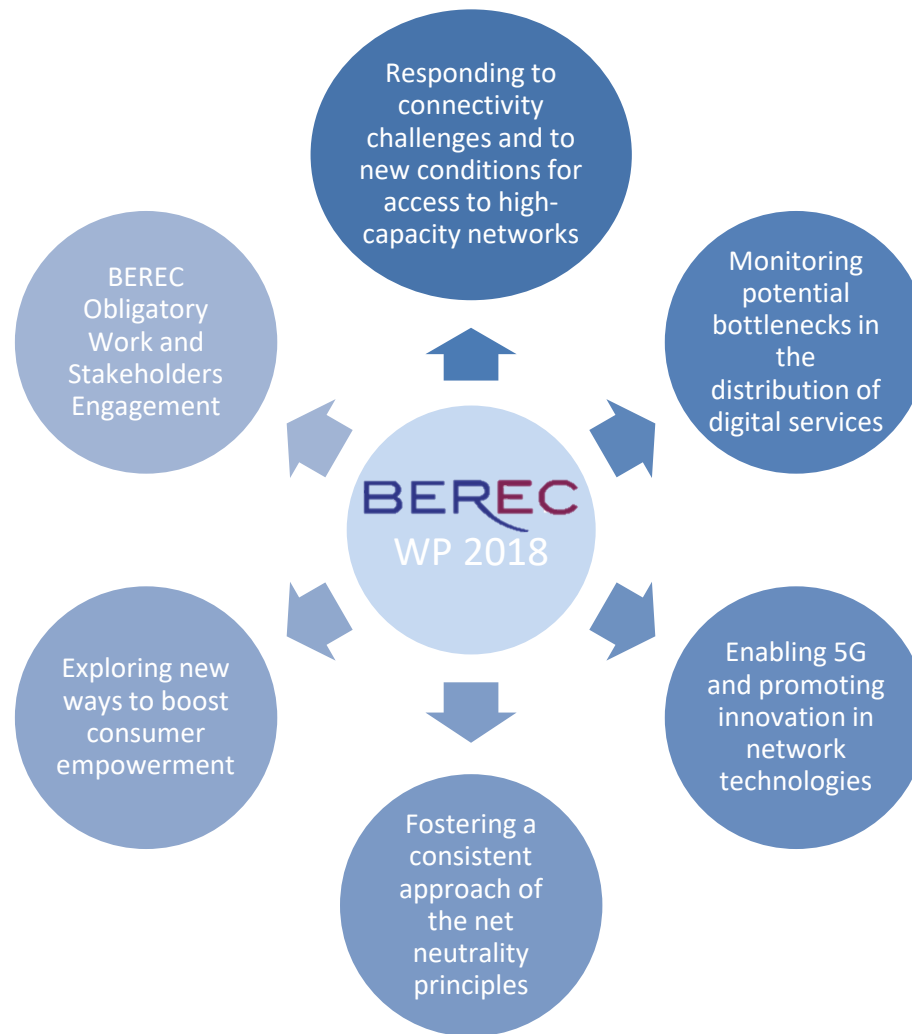- Development of a collaborative tool for public consultations in Q1 2017

③ Reinventing BEREC from within

Q4 Hot Topics

**BEREC Work
programme 2018**

- Public consultation ran from 11 October to 8 November

- BEREC received 9 inputs:
  - BEUC
  - DIGITALEUROPE
  - ECTA
  - EOLO
  - ETNO
  - FTTH Council Europe
  - GSMA
  - Mobile and Wireless Forum
  - MVNO Europe

- Overall support for topics in BEREC WP 2018

- Relevance of strategic objectives requested
  - Introduction updated by taking into account the comments received

- More transparency and involvement in the BEREC Work requested
  - 2 additional Public Consultations were added:
    - NN Input to an evaluation
    - Access to physical infrastructure in market analysis

- Proposal for an additional topic „Harmonised BEREC cooperation regarding Article 28 (2) USD"
  - BEREC recently adopted an internal report regarding this topic

- 5G
  - Proactively prepares itself for the upcoming challenges
  - Supports the consistent 5G deployment across the MS
  - Close cooperation with and building upon the work of other institutional bodies
- BEREC promotes the single market
  - Develops consistent regulatory practices and addresses cross-border issues
  - Exchange on ongoing net neutrality and roaming procedures between NRAs
  - Continuous monitoring and benchmarking work
- Enhance engagement with stakeholders
  - Increased number of public consultations and 2-stage public consultation
  - Dialogue with EU institutions, institutional groups and international cooperation

Two other documents approved for publication:

- Regular BEREC Benchmark Report on Termination rates at the European level - July 2017
- BEREC Report on transparency and comparability of international roaming tariffs

To be adopted in P1 2018:

BEREC Report on the need to review the Common Positions on Markets 3a, 3b and 4

- In 2017, BEREC has provided its technical input to the co-legislators, through the publication of a set of short papers
  - →13 technical papers published in April 2017

- Ongoing legislative process to review the regulatory framework with a clear objective to **enhance connectivity** which BEREC supports.

- BEREC work in 2017 and in the years to come are focused on making BEREC **"Connectivity-ready"** to be able to meet the political objectives and the increasing social demands, and accompany the new market trends

Regulating in turbulent times
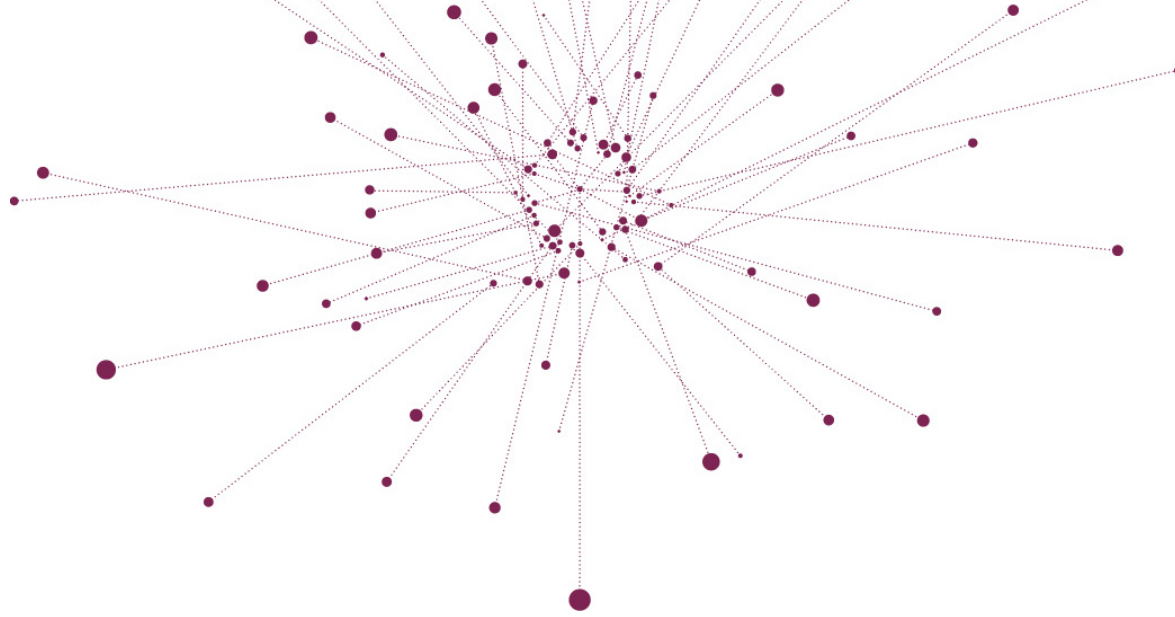
Thank you!

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