

Public debriefing 46th BEREC Plenary Meeting

Michel Van Bellinghen, BEREC Chair
Virtual meeting, 17 March 2021

Body of European Regulators
for Electronic Communications



Preliminary remarks : information on the adopted documents that are not subject to presentation and on the ongoing public consultations

Part 1:

- BEREC Guidelines on Geographical surveys of network deployments regarding the consistent implementation of Article 22 (2), 22 (3) and 22 (4)
- Draft Report on harmonised definitions for indicators regarding OTT services, relevant to electronic communication markets
- For a swift, effective and future-proof regulatory intervention: BEREC Opinion on the EC's proposal for a DMA
- Draft BEREC Report on the ex-ante regulation of digital gatekeepers

Q&A

Part 2:

- BEREC Opinion on the revision of the BCRD
- Draft Report on how to handle third-party payment charges on mobile phone bills
- Announcement of the early call for inputs for 2022 Work Programme

Q&A

Preliminary remarks : adopted documents that are not subject to presentation

- 26th BEREC International Roaming Benchmark Data Report - 1 April 2020 to 30 September 2020
- BEREC Report summarising conclusions from the internal workshop on sustainability

Preliminary remarks : Public Consultation

WG	Project	Launch date of PC	Closing date of PC
Sal	Draft Report on harmonised definitions for indicators regarding OTT services, relevant to electronic communication markets	16 March 2021	21 April 2021
MEA	Draft BEREC Report on the ex-ante regulation of digital gatekeepers	16 March 2021	4 May 2021
EU	Draft Report on how to handle third-party payment charges on mobile phone bills	16 March 2021	16 April 2021

First Part

BEREC Guidelines on Geographical surveys of network deployments regarding the consistent implementation of Article 22 (2), 22 (3) and 22 (4)

Sal Co-Chairs (ANCOM/CNMC)

Iulia Zaim-Grigore, Begoña García-Mariñoso

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BEREC Guidelines on Geographical surveys of network deployments regarding the consistent implementation of Article 22 (2), 22 (3) and 22 (4)

The Guidelines deal with the consistent implementation **of para 2, 3 and 4, Art. 22 of the EECC**. They describe optional policies that authorities may undertake to:

- Inform private and public agents of the non-availability of VHCN & >100 Mbps networks in areas with precise boundaries;
- Subsequently invite agents to declare their intentions to deploy VHCNs in "designated areas".

Stakeholders expressed **valid concerns about the length of the periods in the invitations procedures**. Thus:

- To respond to public consultations: **at least 60 days** (30 days before);
- At least **two-weeks** between the publication of designated areas and the first invitation.

The accuracy of the text was improved through public consultation.

BEREC Draft Report on harmonized definitions for indicators regarding OTT services, relevant to electronic communications markets

Sal Co-Chairs (ANCOM/CNMC)

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BEREC Draft Report on harmonized definitions for indicators regarding OTT services, relevant to electronic communications markets

- Objective: To identify and define relevant indicators for NRAs with respect to OTT services, which are useful for performing their regulatory tasks and proportionate to collect.
- Focus on: **NI-ICSSs** (voice, video and messaging provided over the internet) and **video-streaming services**
- Builds on extensive stakeholder engagement throughout 2019 and 2020 -> stakeholders expressed willingness to further get involved in discussions
- **Public consultation coordinates:**
 - **16th March – 21st April** (5 weeks)
 - **dedicated email address** [**PC_BEREC_OTT_Report@berec.europa.eu**](mailto:PC_BEREC_OTT_Report@berec.europa.eu)
 - targeted questions with respect to **data traffic metrics for video-streaming services** (end of section 3 of the BEREC Draft BEREC Report)

**BoR (21) 34 Draft BEREC Draft Report on
the ex ante regulation of digital gatekeepers**

BoR (21) 35 BEREC Opinion on the DMA

Co-Chairs, BEREC MEA WG (ARCEP / CNMC)
Chiara Caccinelli & Jorge Infante

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Published on 16 March:

- For a swift, effective and future-proof regulatory intervention: BEREC Opinion on the European Commission's proposal for a Digital Markets Act – BoR (21) 35

Open to public consultation from 16 March to 4 May 2021:

- Draft BEREC Report on the ex ante regulation of digital gatekeepers – BoR (21) 34
 - With proposals on objectives and scope of the regulatory interventions, designation of gatekeepers, regulatory measures, enforcement of the regulation and the support by national independent authorities

Visit BEREC website to respond to the PC

BEREC strongly supports the EC's ambition to create contestable and fair markets in the digital sector. For a swift, effective and future-proof regulatory intervention, BEREC **makes proposals** concerning:

1. The objectives

- Reinforce measures market contestability
- Ensure that digital environments remain open and develop as an engine of innovation

2. The scope

- Be cautious about including NI-ICS, already regulated under the EECC. Further analysis will be carried out
- Set guidelines for qualitative GK designation, also allowing for national GKs

3. The enforcement

- Build sound knowledge and detailed understanding of the sector(s)
- Ensure a constant regulatory dialogue with all types of relevant stakeholders
- Set up dispute resolution mechanisms

4. The regulatory measures

- Clarify the directly-applicable obligations i) for all CPS + ii) for each CPS
- Allow for case-by-case tailoring of remedies (similar to ECS regulation)

5. The support by Member States

- Provide support by national independent authorities (NIAs) for monitoring, enforcement, dispute resolution and remedies design
- Establish an Advisory Board for harmonising NIAs support

Organisation of two public workshops on

- **Market entry – 16 April 10:00-12:30 / live-streamed**
 - To collect input from stakeholders' associations and potential competitors
 - With the participation of representatives from the EC and the EU Parliament
- **End-users' interests – mid-April / live-streamed**
 - To collect input from consumers' associations, organizations defending digital rights, technical experts, key academics
 - To see how to (further) include end-users' perspective in the DMA
 - With the participation of representatives from the EC and the EU Parliament

Questions & Answers on the 1st part of the debriefing

Second Part

BEREC Opinion on the revision of the Broadband Cost Reduction Directive

FNE Co-Chairs (PTS/RTR)

Lars-Erik Axelsson, Wilhelm Schramm

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The European Commission asked BEREC to provide an opinion on the revision of the BCRD at the end of October 2020

General questions

- Access to existing physical infrastructure (**PI**) and coordination of civil works are important to reduce the cost of deploying high-speed **ECN**^{*)}
- Main problems are the dependence on the PI of other network operators and that the PI providers typically do not have any interest to share their PI

Dispute settlement body (DSB)

- The principle of the dispute settlement process foreseen in the BCRD is very positive
- Measures are important which make the outcome of dispute settlement procedures more foreseeable for ECN operators
- BEREC considers NRAs best placed to perform the functions of the national DSB

^{*)} Electronic Communications Network

Single information point (SIP)

- BEREC's overall evaluation of the functioning of the SIP is positive
- It is appropriate that public sector bodies and also other organizations make information on existing PI available via the SIP
- BEREC considers NRAs also best placed to perform the functions of the SIP, at least the NRAs which already perform these functions

Access to existing PI

- Expanding the access obligation has advantages in terms of effectiveness of BCRD, however, the increased effort for the DSB would need attention
- No need for further guidance on the costing methodology in the revised BCRD
- No need for more specific rules on the grounds that justify refusal to access in the revised BCRD

Coordination of civil works

- There is potential to leverage coordination of civil works
- The most promising instruments for that are the availability of information and planning security for undertakings concerning cost allocation mechanisms
- No need for further guidance on pricing in the revised BCRD also in case of coordination of civil works

Permit granting procedures

- NRAs typically do not have the legal competence to grant permits
- It is appropriate to set the permit fees not higher than the administrative costs
- It would not be appropriate to establish the SIP as a centralized permit granting authority

Access to in-building PI

- In one country the number of disputes with regard to access to in-building PI is particularly high
- A few other NRAs report positive experiences
- No need to adjust the definition of “access point” in the revised BCRD

Expanding the PI

- The suggested requirement to deploy PI e.g. along new or majorly renovated communication routes (e.g. roads, railways) might be very helpful to facilitate VHCN deployment
- The suggestion that new deployments of ECN deploy excess capacities for other operators has several advantages and disadvantages

Environmental impact of ECN

- Coordination of civil works and joint use of existing PI might contribute to reduce the environmental impact since they avoid civil works
- The factors to be considered in determining the environmental impact of the operation of ECN could be:
 - The design of the ECN equipment (e.g. energy efficiency, repair, reuse, recycling)
 - Energy consumption (e.g. availability of sleep mode)
 - Indirect consequences of operation of ECN (e.g. consumption of ICTs devices)
 - Management of network's lifecycle
 - Waste collection and treatment

BEREC Draft Report on handling of third party payment charges BoR (21) 36

EU-Co Chairs (AGCOM / ComReg)
Paolo Lupi, Therese Hourigan

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Third Party Payments – The project

The steps

Q2/2020 Desk analysis
and questionnaire
development



Q3/2020 Questionnaire
finalised and circulated to
members



Q4/2020 Questionnaires
analysed and report
drafted

The Issues

Knowledge
gathering

- What are 3PPs?
- How does the industry work?

Experience
sharing

- What tools are used to protect consumers
- How is ECC planned to be implemented

Further
research

- Identify areas of further consumer protection

Structure and Content of the Report

Institutional Framework

- Legal base and legal definition
- NRA Responsibilities
- Power to Collect Information
- Is there any problem? – Complaints

Consumer protection measures

- Consent
- Information & transparency measures & tools
- Detailed billing
- Spend reminders, thresholds and alerts
- Blocking services
- Where to file Complaints?
- Unsubscription
- Refunds

70 + page report including Annexes, definitions, list of references, etc.

Key Elements

- Lot of information and quantitative data
- Report shows more higher level of protection for PRS
- Inclusion in the 2023 Work Programme the same exercise in order to be able to compare the situation pre and post code implementation

Public Consultations

From **16 March 2021**, at 10:00 CET to Friday, **16 April 2021** at 17:00 CET

BEREC Work Programme 2022

Call for input

BEREC Incoming Chair 2022 (ACM)
Annemarie Sipkes

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Work Programme 2022

**Publication
of Outline
WP 2022**

27/01/'21

**Call for
input**

18/03/'21

**Stakeholder
Forum**

01/04/'21

**Deadline for
input**

19/04/'21

**Adoption of
draft WP for
PC**

30/09/'21

**Adoption of
the final WP**

09/12/'21

Programme

Host: Philippe Defraigne

Stefan Schweinfest (UN-SD/DESA) - Relation between 5G and UN - Sustainable development goals (UN-SDG)
Dan Sjöblom – BEREC’s approach to 5G

Rita Wezenbeek (EC, DG Connect) - Digital Decade
Michel van Bellinghen - The BEREC Opinion on end-users in light of Art. 123

Annemarie Sipkes – Call for input BEREC Work Programme 2022
Anaïs Aubert - Sustainability in BEREC’s work programmes

Relevant Details:

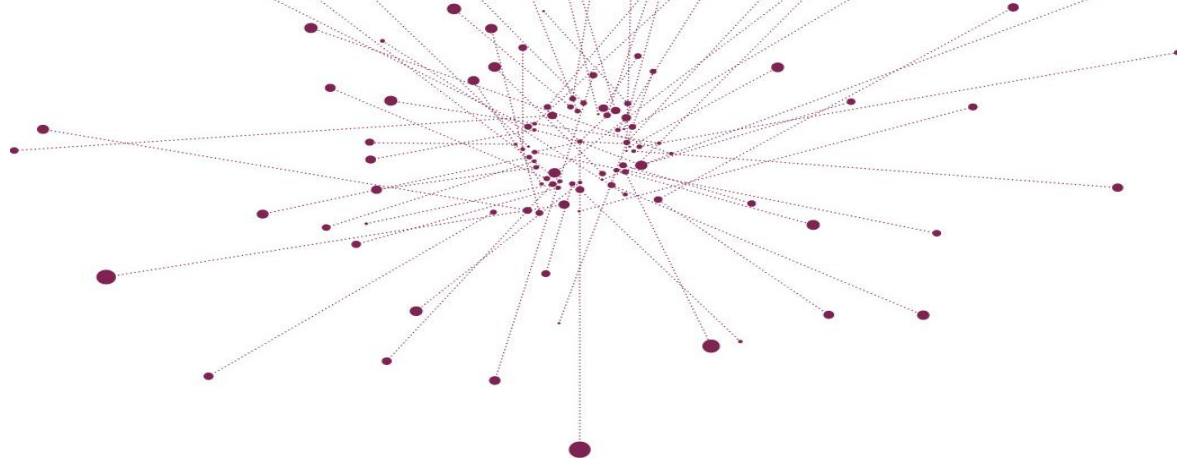
Date: 1 April 2021

Time: 14:30-17:00 CET

Where: BEREC Website (<https://berec.europa.eu/>)

Registration and questions: <https://berec-stakeholder-forum.eu>

Questions & Answers on the 2nd part of the debriefing



Thank you!

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