

Sharing best practices

First interview exclusive: BEREC's chairman talks to TelecomFinance's Jason Rainbow

JASON RAINBOW: What is BEREC, and why does European regulation need such a group?

CHRIS FONTEIJN: BEREC is the official European body of electronic communications regulatory authorities.

BEREC is comprised of a Board of Regulators consisting of Heads of 27 national regulatory authorities (NRAs) from the EU Member States. We advise the European Commission, the European Parliament and the Council to foster the development of the EU-wide communications market for the benefit of consumers and businesses. The EU Commission, EFTA States (Switzerland, Norway, Iceland and Liechtenstein) and three EU candidate States (Turkey, Croatia and the Former Yugoslav Republic of Macedonia) participate as observers to the Board of Regulators.

The objective of BEREC is to develop and disseminate best practices on the implementation of the EU regulatory framework, to deliver opinions on draft decisions, recommendations and guidelines and to issue reports and provide advice on the electronic communications sector. Collaboration between the NRAs is necessary to attain the internal market in the EU.

JR: Following the implementation of the EU Telecoms Reform Package last month, which set up BEREC, what other milestones does the group have to reach as part of its formalisation?

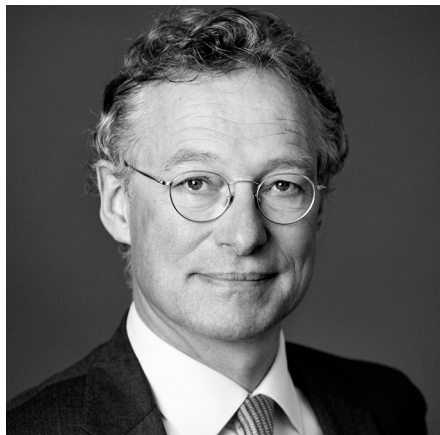
CF: BEREC Office provides the professional and administrative assistance to BEREC. We expect that the Manager of BEREC Office will have finalised the first phase of setting up the office and hiring the first staff members. We expect the formal opening of the Office in Riga mid October.

JR: What powers and tools will it have at its disposal, and when will these come into play?

CF: BEREC's most important tools are the advices and opinions it gives in the course of article 7 and article 7a procedures, and the common positions.

Common positions

BEREC members discuss the regulatory approaches on various topics. In case there are different approaches that form an impediment to the development of the internal market, BEREC members draft common positions. In these common positions, NRAs lay down guidelines relating to the regulatory problems at hand. Of course, differences may exist due to different circumstances in the Member States.



For instance due to geographical circumstances. But the ambition is to narrow down the regulatory approaches as much as possible.

Article 7 procedures

NRAs that take SMP decisions have to notify their draft SMP decisions at the Commission, other NRAs and BEREC. BEREC is in the position to advise individual NRAs on their SMP decisions. Also, in case the EC has expressed that they have serious doubts about a particular SMP decision, the EC is obliged to take the utmost account of BEREC's opinion on these serious doubts. The benefit of this is that the independent assessment of NRAs is part of the decision making procedure. BEREC expects that this will contribute significantly to increase the level of harmonisation across the EU.

JR: How does BEREC relate to/work with Neelie Kroes et al? Does it plan to have an equally high-profile presence in Europe?

CF: BEREC has a very good working relationship with the Commission's Services and with Ms. Kroes. The importance of BEREC, as it is in its starting phase, will have to grow. If the BEREC members act according to the intentions that they have expressed, then BEREC indeed will develop into one of the main players in Europe's electronic communications sector.

JR: What is your stance on net neutrality, and what can BEREC do to help to enforce this?

CF: We are currently investigating the issue. We expect to deliver a report later this year. Therefore it is hard for me to say something very concrete at this moment. BEREC has noted that incidents so far remain few and for the most part have been solved without the need for regulatory intervention. As Chairman of BEREC I recognise that there is a need to solve the issue of net neutrality, but the need for

regulatory intervention is not per se necessary. The way out of this dilemma is in the hands of all the players in the internet eco system. BEREC intends to participate in this debate and will publish a position on this subject later this year. Especially after the proposal that was accepted in Dutch Parliament to ensure absolute netneutrality by law, it is important to look at the European scale and agree on a harmonised approach.

One of the main relevant aspects of net neutrality is transparency. It is a necessary condition for end-users to have freedom of choice. Transparency enables end-users to compare offers and to make for instance a choice between operators that do discriminate between services, and those who offer unlimited internet access. BEREC is working on guidelines regarding transparency obligations.

A last remark concerns quality of service. The new Regulatory Framework introduces the competence for NRAs to set minimum requirements. But the question remains what exactly is meant by it, when NRAs should set minimum requirements and what those should be? Internet services are offered on an international scale. Therefore a harmonised approach towards minimum requirements is not only favourable, but necessary to avoid creating inefficiencies for operators, that have to be compensated by consumers.

JR: Do you feel that operators are unfairly pressured (lower voice/data fee caps, coverage requirements, little state aid for fibre/4G)?

CF: Not by regulators at least. All the decisions that NRAs take, are based on thorough economic research. Especially the SMP decisions are also subject to consultation procedures with other NRAs and the Commission. So while there may be regulatory pressure on operators, I don't think that that pressure could objectively be characterised as unfair. The annual reports from operators do not support that view either, since they have generally speaking a profitable business – even in times of crisis.

JR: What is the ideal number of operators per market in Europe?

CF: That is not up to an NRA or to BEREC to decide on. We do have a discussion on the question whether two is enough for sustainable competition. I expect it will take some time to come to a conclusion on that issue, since even academics have different views on this.