

BEREC's position on the General Spectrum issues of the DNA

Key messages

- **The current EU telecoms framework is working well and the European telecommunications sector is doing much better than the DNA would have us believe:** The sector shows strong competitive dynamics, has affordable prices, improving coverage and solid financial conditions, though performance varies among MS.
 - Value for money is a clear EU strength, where EU consumers benefit from consistently lower mobile broadband prices than in the USA and South Korea, and broadly comparable affordability to Japan.
 - Europe's 5G coverage is similar to other leading regions and Europe is on track to achieve the Digital Decade target of 100% 5G coverage in all populated areas by 2027, i.e. 3 years ahead of the 2030 deadline.¹
 - While 5G standalone (5G SA) deployment has been slower than expected, this is not due to regulatory issues but to demand-side factors and technical challenges, with operators focusing on consumer markets where 5G SA offers few added benefits over non-standalone 5G.
- **Competition: BEREC has serious concerns that the DNA spectrum proposals will adversely affect competition in Europe;** in particular by proposals for unlimited licence durations by default (**Article 24**) and automatic renewal, including retrospective renewals (**Article 25**). **Competition remains a key driver of investment and consumer welfare, and a robust competition framework is key to improving EU competitiveness** recalling that wireless communications services are an essential input. Focusing solely on indefinite licences (Art 24) and automatic renewals (**Article 25**), BEREC believes that these proposals:
 - would reduce market contestability over time, increase barriers to entry and expansion, stifle innovation and limit the ability of NRAs to address market developments and use a market-based approach to introduce updated obligations including coverage and competition-related conditions.
 - essentially amount to an expropriation and privatisation of Member State's valuable public radio spectrum resource into the hands of incumbent operators on the presumed expectation of increased investment.
- **Investment: Competition and licence obligations remain key drivers of investment.** BEREC does not share the EC's view that indefinite licences and automatic renewals will boost investment. In contrast, BEREC observes the findings of a recent empirical study for the UK regulator Ofcom (a country with indefinite licences) which found that **there was no robust empirical evidence to suggest that longer licence durations induce operators to invest more in their networks or to improve their service quality**. The above factors may well explain why, given that licences of indefinite duration and automatic renewals are possible under the existing framework, that such an approach has seen limited adoption by Member States.
- **Centralisation and Complexity:** The DNA's spectrum proposals is a substantial shift in spectrum management control from Member States to the European Commission. Such centralisation dynamics cast doubt on the effectiveness of the proposed measures, their proportionality in achieving the general objectives set out

¹ [Digital Decade - EU-level trajectories \(2025\) - Digital Decade DESI visualisation tool](#)

in **Article 3** of the DNA including the declared simplification goal, as well as in terms of their compatibility with the subsidiarity principle.

- **The reality remains that telecom markets across Europe are still predominantly national in scope**, and that each Member State has its own unique national circumstances meaning that **there can be no standardised method for awarding spectrum**
- **Scope of the spectrum provisions:** Although the Commission's proposal is drafted with electronic communications services in mind, several provisions concerning spectrum use and radio licences are written in general terms, potentially extending to all radio frequency use. This limits flexibility, proportionate solutions and efficient use when granting radio licences, for example for public-safety networks, private radio networks, or maritime and aviation uses. To avoid interpretative ambiguities, the provisions related to radio frequency use should be clarified.
- **Allow the Peer Review to evolve and be enhanced with timely overarching common guidance.** The existing peer review should be allowed to evolve supplemented by BEREC advice on any overarching common and timely guidance (e.g. recommendations, award best practices, benchmarking information to inform fees, coverage methodology, etc.). This would better promote the internal market without limiting national competences and discretion.

Commission proposal:

Under Title I: Radio Spectrum (**Articles 13-35**), the European Commission (EC) proposes to centralise spectrum management control giving itself competence in spectrum management shared with Member States. The EC would gain the ability to review, comment upon and require amendment and withdrawal (i.e. have a Veto) of relevant draft decisions on harmonised spectrum for wireless broadband, as well as the power to adopt relevant implementing acts, and to set rules on licensing matters (such as licence duration, renewal, fees) and, in certain situations, the ability to authorise spectrum for terrestrial use at the EU level. The proposal includes, amongst other provisions, new provisions that (i) all spectrum rights shall be in principle granted for an unlimited duration, and (ii) any right of use of harmonised radio spectrum for wireless broadband services which by exception is subject to limited duration shall be for a period of at least 40 years and automatically renewed for a similar duration and with similar conditions upon the request by its rights holder.

BEREC's assessment:

This assessment contains the following subsections:

- General remarks
- Competition: The assessment framework for market shaping measures
- Union radio spectrum single market procedure
- Licence duration & automatic renewal
- Union radio-spectrum strategy and roadmaps
- Principle of shared use of radio spectrum

This assessment takes a topical approach and does not follow the exact order of Articles set out in the EC DNA proposal. Where applicable, text (in bold) emphasises specific Articles or Recitals set out in the EC DNA proposal.

General remarks

The legal form proposed by the EC (Regulation not Directive) would require a substantial transition when applied to spectrum management activities in Europe.

Further many of the spectrum provisions are currently formulated in general terms, such as the strategic planning and management of radio spectrum in accordance with **Article 13**, and so not only do they apply to Electronic Communications Networks and Services, such as wireless mobile broadband but also to other categories of spectrum use (e.g. applies to special event uses, private use, fixed wireless links, satellite ground station uses, aeronautical & maritime uses...). This is a significant broader scope of application, the impacts of which have never been analysed or reasons set out why this is needed for the single telecoms market, which leads to significant complexity in practice. Various national-level regulations covering all categories of spectrum rights of use would have to be amended creating additional work and legal uncertainty for many users and significantly complicating the day-to-day licensing activities for many uses such as defence, aviation and maritime communications.

The DNA's spectrum proposals of inter alia treating spectrum as a common European resource under shared competence (**Article 13**), giving the EC, in certain situations, the ability to authorise spectrum for terrestrial use at the EU level (**Article 22 & 23**), introducing (i) spectrum rights of unlimited or indefinite duration by default (**Article 24**), (ii) automatic renewal for any limited duration right of use of harmonised radio spectrum (**Article 25**), (iii) establishing a common approach for spectrum fees (**Article 29**), and (iv) introducing a single Union radio spectrum single market procedure (**Article 31**), marks a substantial shift to the current approach that has functioned effectively to date and where the EC has an important technical harmonisation and coordination role.

Overall, the EU telecoms sector is doing much better than the DNA would have us believe. It shows strong competitive dynamics, has affordable prices, improving coverage and solid financial conditions, though performance varies among MS. International benchmarking highlights that competition remains a key driver of investment and consumer welfare, while the EU's pro-investment regulatory framework also supports connectivity objectives effectively. Accordingly, BEREC strongly believes that competition, together with the regulatory framework that enables it, is the primary driver of investment, innovation, and sectoral progress.

In relation to mobile services, Europe already has 94.3% 5G coverage—similar to other leading regions—and is on track to reach 100% by 2027, 3 years ahead of the Digital Decade target.² Value for money is a clear EU strength, where EU consumers benefit from consistently lower mobile broadband prices than in the USA and South Korea, and broadly comparable affordability to Japan.³ While 5G standalone deployment has been slower than expected, this is not due to regulatory issues but to demand-side factors and technical challenges, with operators focusing on consumer markets where standalone offers few added benefits over non-standalone 5G. As operators build up cloud-native expertise and the 3GPP standards

² *ibid*

³ Source [BoR \(26\) 36](#), Europe's Telecom Reality Check, Draft BEREC Fact finding report on connectivity, competition and regulatory highlights in different jurisdictions, 12 March 2026

become increasingly definitive, these technological challenges are beginning to fade⁴. As of March 2026, data from the Global mobile Suppliers Association (GSA) indicates that 5G SA is steadily gaining share, with 95 operators having launched a 5G Standalone service (a growth of 42% since 1Q25), with 36 of these operators (i.e. 38%) being European⁵.

The DNA's centralisation dynamics cast doubt on the effectiveness of the proposed measures and their proportionality in achieving the general objectives set out in **Article 3** and the declared simplification goal, as well as in terms of their compatibility with the subsidiarity principle. Along this line, also, the proposed single market procedure, which includes a Commission veto is neither justified, proportionate or furthers the stated aim of simplification. Furthermore, the proposal favours the position of present rights holders/incumbents, thereby weakening market contestability and hindering the currently functioning competitive dynamics in access to spectrum resources, to the detriment innovation, efficient spectrum use, long-term consumer benefits and overall European competitiveness, recalling that wireless communications services are an essential input.

Further, many of the EC's proposals constrain independent national regulators from exercising efficient and effective market-based mechanisms and, instead, would regress back to a command-and-control approach of administrative decisions with its inherent risk of inefficient outcomes and increased litigation.

Nevertheless, BEREC welcomes some other proposals, such as the clarity on its increased role in the market shaping aspects of spectrum assignment, which may constructively support competent authorities in their spectrum assignment duties, where necessary, and the EC's overall intent to enhance regulatory predictability and simplification. Although not spectrum specific, but important in relation to mobile technology phaseouts, BEREC also welcomes **Article 5 (4)** which sets out provisions to ensure efficient technological switch-off processes requiring providers of public electronic communications networks and of publicly available electronic communications services to inform the NRAs and end-users at least 2 years in advance by providing a roadmap reflecting the migration process, but more detailing could be necessary.⁶

However, there are several practical implementation issues with the DNA proposals which reduce flexibility and complicate rather than simplify spectrum management in Europe. Experience suggests that administrative decision-making in spectrum management (for example, in assignment processes, setting of actual fees, variation, revocation, use-it-or-lose-it or use-it-or-share-it decisions) predominantly favour existing licence holders, and substantially increase litigation risks. In a digital economy where technology changes quickly, any delays in NRA spectrum decisions (e.g. litigation or in the validation of a draft national decision by the Commission) can mean the loss of an entire investment cycle. Introducing all the additional layers, some of which are discussed below, undermine simplification efforts, whereas national-level management and use of market-based mechanisms is generally more

⁴ A 2024 GSMA Intelligence operator survey revealed the main issues curbing 5G SA rollouts were concerns about the technology's maturity (26%) and the difficulties of integrating a 5G core network with existing systems (19%), revealing that many mobile operators were relatively unfamiliar with the cloud-native technologies that underpin 5G SA networks. Source, [Standalone: Overcoming Barriers to 5G Deployment - Networks](#), 9 February 2026

⁵ [State of the Market April 2026 | GSA](#)

⁶ See also the BEREC Document (26) 85 BEREC Statement: [BEREC urges operators, device manufactures, and all other stakeholders to ensure emergency call access in the context of 2G and 3G phaseout](#)

efficient and responsive compared to the EC centralised command-and-control approach of administrative decision-making as set out in the DNA proposals.

BEREC sets out an initial assessment below on a mix of general spectrum market shaping issues and may elaborate in more detail on these and other specific Articles (e.g. fees in **Article 29**) in due course.

Competition: The assessment framework for market shaping measures

Article 32 applies to various market shaping aspects in the grant, amendment, renewal or revocation of spectrum rights of use that may arise from any reviews of unlimited duration individual rights of use (which for wireless broadband services cannot be carried out earlier than every 20 years), any proposed measures to grant limited duration licences (which for wireless broadband services should be *at least 40 years*), any decisions to not automatically renew limited duration rights or to renew subject to different duration or licence conditions (where any such decision has to be taken at the latest 5 years before licence expiry), licence revocations, transfer and lease, shared use of radio spectrum, etc..

This approach to subjecting all these market shaping measures, and in particular the grant of limited duration licences, to the expanded competition assessment of **Article 32** is burdensome, and represents a significant complexity for NRAs, stakeholders and their advisors, and cannot be understated.

For example, **Article 32** sets out that NRAs must *only* propose measures (a)-(e) on the basis of a market analysis carried out in accordance with **Article 73(2)**. In addition, **Article 32(3)(a)** sets out that *"before imposing measures affecting the structure of the market, national regulatory authorities shall assess the number of infrastructures that can be economically sustained in the market with reference to the characteristics of the spectrum awarded and associated investment requirements needed to achieve the quality of service targeted"*.

In BEREC's view the issue for NRAs is that the information needed to carry out such an assessment requires market information which changes quickly and where operators and potential entrants have more information than the NRA themselves. For example, operators have different network designs and traffic demands. Market and technology evolution is uncertain. The technology mix on networks is not uniform, and operators may pursue different strategies in different geographic locations (capacity verses coverage). In short, individual market participants have access to more information about efficient investment requirements and it may be different for different operator models. As a result, it is not clear how NRAs can effectively conduct an **Article 32** assessment, let alone carry out such an assessment at least 5 years in advance of licence expiry in relation to a decision not to renew, noting that actual and potential market participants and technologies can change considerably during that time. There are similar difficulties with conducting the forward-looking assessment requirement of the Article. Overall, this will result in increased burden and complexity, regulatory uncertainty and increased legal risk.

An assessment of whether entry is in principle feasible is also required when proposing measures aimed at facilitating market entry. However, this assessment should be carried out with a degree of pragmatism as new players should be afforded the opportunity to evaluate whether there is a business case for entering the market which can only reliably be done at time close to a spectrum assignment process, and not at least 5 years in advance.

BEREC may elaborate on this again, because not all issues are covered here. For example the role of the behavioural remedies (such as wholesale access obligations) and the DNA's

stated preference (as set out in **Recital 118**) for such behavioural remedies before other market shaping measures (such as radio spectrum caps) is problematic and would not address structural competition concerns that arise from indefinite licences. Additionally, in one sense this is a confirmation in the DNA of the problems that it creates through indefinite licences and automatic renewals.

Union radio spectrum single market procedure

The Commission plans to replace the existing Peer Review forum (**Article 31**), which it deems inefficient at creating harmonised conditions for spectrum usage, with a new radio spectrum single market procedure, a burdensome ex-ante mechanism that is similar to the current mechanism used in fixed line regulation.

BEREC disagrees with the negative assessment of the Peer Review forum, which has been a valuable source of information on best practices for NRAs in the past years, whilst also being relatively easy to organise. In contrast, BEREC is of the opinion that it will be very complex and burdensome to organise the many formal reviews as envisaged by the Union radio spectrum single market procedure, within the specified and limited timeframes as set out in the DNA. This would be required for every draft decision with a market shaping measure proposed by NRAs in relation to the grant, amendment, renewal or revocation of rights of use for wireless broadband services. It also contradicts the tendency of the last twenty years to actually limit the extent of formal market analysis procedures to an ever-smaller number of markets. The timeframe to comment on draft measures is very ambitious and demanding for participating NRAs, BEREC, RSPB and the Commission, especially in a context where the draft measure (e.g. frequency assignment) has been designed and tailored to national circumstances (e.g. security, geographic differences) best known by the specific NRA itself.

Furthermore, BEREC does not agree with the EC's claims that the telecoms market is fragmented because, in essence, Member States and local NRAs have taken somewhat divergent decisions in spectrum awards with different award conditions to meet their national circumstances, and that therefore a formal union-wide procedure is warranted. The reality remains that telecom markets across Europe are still predominantly national in scope, and that each Member State has its own unique national circumstances meaning that there can be no standardised method for awarding spectrum. Further experience shows that spectrum awards have complied with all existing legislation and followed the prescribed objectives. It is also worth noting that the Peer Review has only been in place for one regulatory cycle and that more time should be given for it to evolve. As a result, BEREC considers it can contribute to simpler ways of reaching the same objectives that the EC intends to reach with the DNA (investment, simplification and regulatory predictability) without such extreme changes to the existing peer review process. For example, this could be achieved through BEREC guidance on market shaping award design principles or other harmonisation activities which could set common ground and enable manoeuvring to handle local circumstances. BEREC supports simply letting NRAs work within BEREC and RSPG/B on recommending and delivering such guidance.

The overall increased Commission oversight of spectrum assignment and allocation, going as far as a veto, creates more complex procedures and also disregards the expertise of local spectrum experts within NRAs, BEREC and RSPG/RSPB.

Licence duration & automatic renewal

BEREC is strongly concerned about the proposed unlimited duration of rights by default for all spectrum rights (**Article 24**) and the automatic renewal of limited duration rights of use for

harmonised radio spectrum including for wireless broadband services (**Article 25**), including the retrospective application of automatic renewal provision to existing licences which will expire within a period of time of at least seven years after the date of entry into force of the DNA Regulation.

This proposal would reduce market contestability over time, increase barriers to entry and expansion, and stifle innovation. The proposal also limits the ability of NRAs to address market developments and use a market-based approach to introduce updated obligations, including coverage and competition-related conditions, noting that these must also be notified and assessed in the union-wide radio spectrum single market procedure (following an **Article 32** assessment). Even the proposed rules to support a decision to not renew rights create legal and market uncertainty, where among other things, relevant decisions would need to be taken at the latest 5 years in advance.⁷

The DNA recognises the problems it is creating and further provisions coined as *safeguards* (the EC's words) are proposed, such as provisions for wholesale access. BEREC's observes that such measures are typically employed where there are potential competition concerns noting that wholesale access is most common in countries with 3 network operators⁸ and BEREC is of the view that it would be better to drop unlimited licenced duration and automatic renewals altogether rather than rely on wholesale access provisions as the means by which to address competition concerns. There is a need for further elaboration on this because wholesale access measures entail challenges, including potential impacts on investment incentives (e.g. perverse economic incentives) and regulatory complexity (e.g. implementation and monitoring burdens for NRAs to ensure long-term effectiveness). These considerations suggest that such measures should therefore primarily be considered in situations where, based on national circumstances, there are limited prospects for effective infrastructure-based competition.

Other *safeguards* put forward by the EC include the use of "use-it-or-share-it" or "use-it-or-lose-it" conditions and rollout obligations, and by enforcing them, which the EC submits will enable NRAs to ensure that radio spectrum would not be left idle or blocked and would be available for more efficient uses or innovative competitors. Noting firstly that each of the above works differently and thus can have different impacts on competition and innovation, BEREC observes that in a situation where incumbent licensees would hold indefinite spectrum rights, there is little practical evidence to support the EC's claims that these principles would in practice be effective mechanisms to ensure efficient spectrum use or make spectrum available for innovative competitors.

Where an NRA considers not to renew a limited duration right of use for harmonised radio spectrum, **Article 25** proposes that an NRA shall only proceed with a new selection process where there is evidence of *credible market demand from undertakings other than those holding rights of use for radio spectrum in the band concerned*. This is problematic for a number of reasons. First, by excluding market demand from existing rights holders, the proposal effectively precludes the opportunity for a recalibration of spectrum holdings between existing

⁷ BEREC also stresses that it will be very different, including from a legal standpoint, to announce at the latest 5 years in advance that an NRA decides to revoke a licence and, on the other side, adopt a decision to renew or re-assign a licence, with the same advance notice. The burden of proof would be totally different in both cases, both would likely end in litigation, which would delay technology deployment.

⁸ See also tables 6.4 and 6.5 in the Study for BEREC: [Study on wholesale mobile connectivity, trends and issues for emerging mobile technologies and deployments](#)

operators irrespective of technological and market changes in the intervening period (e.g. new network technology, the outcome of other relevant spectrum awards etc). This also effectively entrenches the existing market structure by, for example, precluding the ability of smaller operators to obtain additional spectrum rights with which to better compete. Second, noting that any decision not to renew a limited duration right of use must be taken at least 5 years in advance of licence expiry, BEREC considers that gathering evidence of *credible market demand* is open to speculation and gaming, particularly where this information needs to be gathered at least 5 years in advance of any new selection procedure. It also becomes an impractical task to determine *credible market demand*, if after 5 years the conditions for *associated investment requirements* (as per **Article 32(2)(a)**) are substantially different. BEREC therefore has serious concerns about an NRA's ability to collect reliable information on credible market demand and making an administrative assessment that predicts effective market entry, particularly where this needs to be done at least 5 years in advance of licence expiry and where information on credible market entrant may only become available when the competitive process is being run. In addition, given that spectrum rights may only be put into use at the earliest five years after the relevant assessment, an effective deployment by a new user could take several more years after the new selection process is run.

In addition, BEREC observes the findings of a recent empirical study into licence duration and capital investment, on behalf of the UK regulator Ofcom (a country with indefinite licences), that there was no robust empirical evidence to suggest that longer licence durations induce operators to invest more in their networks or to improve their service quality.⁹ Further, BEREC also considers that granting network operators unlimited or very long licence durations would have little benefit and positive impact on operator innovation. Compared to other players operating along the mobile value chain, the incumbent network operators' record of innovation is limited, particularly when compared to other game-changing innovations in chipsets, handsets, app-stores (which are almost only 20 years old), and other related services. These factors may well explain why, given that licences of indefinite duration and automatic renewals are possible under the EECC, that such an approach has seen limited adoption by Member States.

BEREC supports the periodic review and recalibration of spectrum holdings, as this can be very important to promote competition, innovation and ensure that spectrum is efficiently assigned. This important spectrum management tool is currently possible with finite licences and the use of market mechanisms (i.e. awards) and it also works alongside the context of the periodic allocation of additional radio bands (for IMT services) following the World Radio Conference cycles. With indefinite licences and automatic renewals, this important spectrum management tool is either removed or severely diminished particularly where the use of market mechanisms (i.e. awards) is not possible. Further as reviews and recalibrations have to be handled under the single radio spectrum union procedure of the DNA, they will also be delayed and more complicated.

As set out above, the implications of unlimited licence durations and automatic renewals are significant and essentially amount to the privatisation of a valuable, public resource of Member States to the benefit of incumbents in the mobile industry (i.e. expropriating a Member State's national resource and transferring the full value of Member State's assets to industry players)

⁹ See, *Spectrum Licence Duration and Capital Investment - An empirical assessment*, Charles River Associates (prepared for Ofcom), 9 February 2023, available at: [CRA Report on Mobile Spectrum License Duration and MNOs Investment Decisions](#)

based on the presumed expectation that this will boost investment leading to increased rollout, coverage and higher QoS of mobile networks.

In relation to retrospective application of the automatic renewal provision to existing rights due to expire within a period of time of at least seven years after the date of entry into force of the DNA Regulation, BEREC considers this hugely problematic as it fundamentally changes the basis on which the existing rights of use were granted (e.g. finite with no expectation of automatic renewal) and, arguably, had operators known that such rights were being issued for, effectively an indefinite duration based on automatic renewals, then operators would arguably have bid differently in the spectrum award process. This proposal also infringes on the rights of third parties (i.e. not the incumbent right holders) who could have expected rights to become for re-award at licence expiry.

Finally in relation to determining the appropriate duration of a licence, from BEREC's perspective, the time taken to make a return on investment should be the main criterion, and it is not appropriate to solely use a competition assessment to determine the length of a licence as proposed in **Article 24(3)**. The four **Articles of 24, 25, 31 and 32** are intertwined and at least **Articles 24, 25** may need further elaboration by BEREC in due course.

Union radio-spectrum strategy and roadmaps

The EU already had a spectrum strategy in the form of the Radio Spectrum Policy Programme (RSPP), a Decision adopted by the European Parliament and the Council in 2012. The new Union spectrum strategy proposed in the DNA (**Article 17**) would be completely in the hands of the Commission, with no obligation to take into account input or possible veto from competent authorities, governments or the European Parliament and the Council. This might limit different national/local uses on certain bands, even those dedicated to other services than mobile broadband (incl. security services), which can be inefficient or inapplicable considering national/local specificities.

Given its political importance to both the national and European landscape, BEREC is of the view that any future spectrum strategy should follow the same process as used in 2012, namely that it should be prepared by the EC based on advice from the relevant spectrum expert bodies and should be adopted by the European Parliament and the Council.

Principle of shared use of radio spectrum

Increasing spectrum sharing (**Articles 15 and 27**) is an interesting objective and may lead a more dynamic and efficient use of spectrum in line with competition law objectives. In addition, spectrum and infrastructure sharing may be beneficial to operators as regards investment efficiency, as well as regards environmental sustainability considerations. However, there are also advantages with maintaining or even promoting **parallel infrastructures**, e.g. from a risk- and redundancy perspective or from a coverage and market competition perspective, also spectrum sharing might be inapplicable to certain bands (for example, on security reasons), which has to be taken into account. Also, managing spectrum sharing through a centralised Union database is very complex, where the benefits of such a centralised approach are not clear compared to a national solution. Further it might be inefficient and burdensome for operators and regulators alike (especially depending on how the ODN is staffed).

When it comes to the technical aspects of spectrum sharing BEREC considers that a certain level of complexity is inherent for example managing interference between two operators using the same frequency in neighbouring areas is a major engineering challenge. The DNA treats this as regards investment efficiency, as well as regards environmental sustainability

considerations, as an administrative solution, when in reality it is a problem of extremely fine mathematical and physical coordination.

On more specific issues around the sharing provisions, BEREC finds that in **Article 27** there are some critical issues, such as that any interested party may ask in any moment for sharing a given band or portion to the competent authority. This could mean an overload of administrative requests to be handled by the competent authorities, considering also that i) sharing can be in frequency, time and geography, ii) The competent authority shall define conditions for sharing in the rights of use: as shown in the duration-related discussion, this could be many years in advance of potential cases, so decisions may be ineffective and a waste of effort; iii) it is not clear how and to whom the entrants in mandated sharing should pay fees (BEREC intends to elaborate on **Article 29** (fees) in due course). So, despite the fact that BEREC sees merit in fostering sharing, the proposed provision seems not consistent with practical application.

Alternative proposals:

1. **Clarify scope (and definitions)**; otherwise, the proposal is a broad-brush application of rules aimed at wireless broadband services, but with some (e.g. indefinite durations) also applying to all other categories of spectrum use. The level of complexity associated with applying these provisions to both ECS and non-ECS spectrum uses cannot be understated. In many cases, it makes no sense except for example, to protect against harmful interference.
2. **Allow the Peer Review to evolve and be enhanced with timely overarching common guidance** – The ex-ante formal Union single market procedure should be discarded. Instead, the existing Peer Review process should be allowed to evolve, including being supplemented by timely BEREC advice on overarching common guidance. For example, recommendations and best practice on: award mechanisms, benchmarking methodologies and other information to inform reserve prices and/or fees, methodologies for measuring coverage and Quality of Service etc.) This would better promote the internal market (i.e. consistency and common approaches among Member States *where appropriate* without unduly limiting Member States' competences and discretion to address particular national circumstances.
3. **Promoting efficient investment, including investment returns should be the main criterion to determine licence duration** – This is the more relevant criteria and would achieve simplification compared to the proposed requirement for a competition assessment.
4. **BEREC guidance** – Instead of unlimited licence durations, and with respect to balancing interests between incumbents and their competitors, BEREC could set out independent information that can allow informed choices of the pros and cons of full big-bang auctions, multi-band awards with and without synchronised timing, hybrid awards, administrative decisioning making pre- and post-awards (noting that there are at least seven bands used for mobile communications today (700/800/900/1800 MHz and 2.1/2.6/3.5 GHz) and, in the future there is likely to be heterogenous networking and spectrum use) which, will require a responsive approach that is much better enabled with finite licence durations coupled with periodic reviews and awards.

As part of this alternative proposal on BEREC guidance, and bearing in mind that possible mechanisms in such a guidance should be voluntary and decided by the NRA, BEREC would therefore suggest:

- Unlimited duration licences should be discarded - they encourage incumbency attitudes and lower incentives for innovation and competition (from new entrants and between existing licensees)
 - Restricting individual rights of use to a duration of at least 40-years from their issuing should be discarded. There is no credible evidence to justify moving away from the minimum period of (15 plus 5) 20 years, noting that the EECC allows Member States to issue longer duration licences should that be considered appropriate to their national circumstances.
 - BEREC to carefully elaborate on guidance/proposals/reports that provide for Member States flexibility and assist in selecting authorisation formats and market shaping aspects (recognising that industry wants greater predictability). The minimum period of (15 plus 5) 20 years could for instance be followed by an authorisation mechanism subject to conditions (e.g. if the obligations stipulated in the licences no longer meet user expectations, modification of deployment and service obligations would be needed) or an authorisation mechanism that puts all or part of the frequencies back out to tender at the end of the 20-year term so that the market can adjust to any imbalances in frequency assignments between operators.
 - Renewal provisions should remain the same as the Code and not be obligatory. BEREC does not consider that the DNA gives any explicit guarantee about investment in coverage or quality, or efficiency of use and wants BEREC to advise on market shaping given its expertise. This needs to be addressed.
5. **Market analysis for market shaping measures:** Systematic market analysis for market shaping measures and limited durations goes against the rationale that led to reducing market analysis procedures on fixed networks in the past years and should be dropped.
 6. **Spectrum and infrastructure sharing:** Generally speaking, spectrum and infrastructure sharing subject to competition law should be encouraged where possible, as it offers many benefits. Firstly, it is beneficial for operators as it leads to more efficient investment, and secondly, it contributes to environmental sustainability. However, there are also advantages with maintaining or even promoting **parallel infrastructures**, e.g. from a risk- and redundancy perspective or from a coverage and market competition perspective.
 7. **Union radio spectrum strategy:** Given its political importance make the union radio spectrum strategy a decision of the Parliament and the Council, noting this was the process deemed appropriate from the previous strategy adopted in 2012. This would enhance the consideration of local particularities and make sure that the resulting document is applicable and well accepted within the Union.
 8. **Information on technological switch-offs:** Lastly, to ensure efficient technological switch-off processes, the DNA could include more detailing on this matter. Firstly, to avoid that the provisions would unintentionally apply to technology transitions or service enhancements that do not involve permanent service discontinuation or impact a considerable part of the user equipment. Secondly, provisions could be included on the necessary information that should be provided when user equipment is part of or impacted by a switch-off plan, for example that such equipment will no longer be compatible in a certain timeframe.