GSMA response to BEREC's draft Work Programme 2023

7 November 2022

About the GSMA

The GSMA is a global organisation unifying the mobile ecosystem to discover, develop and deliver innovation foundational to positive business environments and societal change. Our vision is to unlock the full power of connectivity so that people, industry, and society thrive. Representing mobile operators and organisations across the mobile ecosystem and adjacent industries, the GSMA delivers for its members across three broad pillars: Connectivity for Good, Industry Services and Solutions, and Outreach. This activity includes advancing policy, tackling today's biggest societal challenges, underpinning the technology and interoperability that make mobile work, and providing the world's largest platform to convene the mobile ecosystem at the MWC and M360 series of events.

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Introduction

The GSMA welcomes the opportunity to comment on BEREC's draft work programme for 2023. We hope the following general and detailed comments can serve as a constructive contribution to BEREC's deliberations on its final work programme.

The GSMA generally welcomes and supports the work items planned by BEREC in particular those items with enabling potential for the delivery of the 2030 Digital Decade and we stand ready to engage with BEREC on all work items relevant for the membership of the GSMA.

The 2030 Policy Programme "Path to the Digital Decade" represents a significant milestone in the development of EU's policy on electronic communications and the digital topics in general. It sets new ambitious targets for connectivity and beyond. In this context, it is our conviction that it may be a useful exercise for BEREC to separately assess how its planned key activities contributes to achieving the targets of the "Digital Decade" and whether any changes may be necessitated, given BEREC's central role and experiences. Further, the GSMA appreciates BEREC's commitment in relation to stakeholder engagement and thanks BEREC for hosting plenary debriefings, stakeholder forums and numerous workshops to allow for continued and effective engagement with industry and other stakeholders.

Unfortunately, we note that some work items in the Work Programme do not foresee neither public consultations nor any other kind of interaction with the industry. The GSMA urges BEREC to reconsider this approach in view of the improvement of stakeholder engagement and transparency. The GSMA believes that the industry's experience and views should be sought by BEREC by default (BEREC decidees on appropriate format, i.e., public consultation, workshops, etc.) and eventual deviation should be well justified.

The GSMA considers it especially important that the the numerous external studies, BEREC plan to tender and publish during 2023, include contributions from the industry by means of interviews carried out with individual operators or at least with the respective associations. This type of approach is already regarded as best practice by the European Commission's contractors, and we request that BEREC follows the same approach. In particular, the GSMA requests BEREC's contractors to engage directly with the GSMA and its members at least in the following studies:

- (1.2) BEREC Study on the evolution of competition dynamics of tower access infrastructure companies not directly providing retail services
- (2.10) External study on the trends and policy/regulatory challenges of cloudification, virtualisation and softwarisation in telecommunications
- Criterion 4 of the BEREC guidelines on Very-High-Capacity Networks (1.5) would also benefit from workshops with the industry beyond the foreseen public consultation.

- Further, considering the increasing relevance of cybersecurity and network resilience, we believe that the different workstreams focused on cyber security could also take advantage of an exchanges with the industry (1.8 and 1.9).
- GSMA would appreciate a public consultation on BEREC's input to the Commission on the Review of the Commission Implementing Regulation on the Fair Use Policy and Sustainability of the Roaming Regulation (5.2.5)

As for work items related to the digital ecosystem, the GSMA suggests BEREC consider to streamlining some of the workstreams for 2023; especially work items related to changes in the digital and telecom ecosystems. Workstream 1.12 (cloud and edge), 2.4.1 (entry of CAPs in electronic communications sector) and 2.7 (IP-interconnection ecosystem) are in large parts complementary and would benefit from a more holistic approach and alignment of timelines. The current somehow artificial boundaries may lead to a piecemeal approach in which the evolution of the entire ecosystem is not captured in a proper way. The suggested holistic approach would also require an anticipation of some of the current timelines in view of the upcoming consultation from the European Commission on virtual worlds and possibly cross working-groups collaboration within BEREC. The GSMA is keen to play an important role in the assessment of the changes to the ecosystem and to support BEREC's working groups in the development of their tasks.

BEREC tasks under the EU legislation

Guidelines detailing Quality of Service parameters

We agree with BEREC's position to rely on standards for more effectiveness and harmonisation.

Implementation of the Open Internet Regulation and the BEREC Open Internet Guidelines

BEREC and NRAs should continue to ensure that the Open Internet Guidelines are applied in a harmonised way, provide clarity, legal certainty, predictability and that they support innovative services that can ultimately benefit European citizens and businesses. This is particularly relevant when it comes to new technical features such as those enabled by 5G networks.

Report on practices and challenges of the phasing out of 2G and 3G

The GSMA looks forward to contributing to BEREC's efforts to examine and anticipate any impact of possible future phasing out of some legacy systems (2G and 3G) on the electronic communications network markets including system reliability and security, sustainable network management, environmental impact, and end-user terminal developments.

The pace of 2G/3G network shutdowns is increasing as operators look to optimise their network operations and costs, and to refarm spectrum for 4G and 5G networks. Decisions to sunset 2G services and 3G services are based on a wide range of considerations. Mobile network operators seek to rationalise legacy network technologies as more spectrally efficient technologies become available and the nature of consumer demand changes. In drawing conclusions from its analysis of potential consequences of 2G/3G shutdown, as listed in the WP (e.g., environmental impact of replacement of the equipment), we invite BEREC to weight any possible negative impact against the numerous benefits of transition to new technologies, which are most likely to offset the former.

Worldwide, decisions are invariably driven by operators, with differing degrees of involvement by regulatory authorities. A smooth process depends on careful planning of a transitional period, obtaining regulatory approval where necessary, and above all ensuring effective customer engagement.

Further, the GSMA follows global developments closely and has been working on a toolkit to address known VoLTE roaming issues and a summary of industry plans to decommission 2G/3G networks.

In particular, the GSMA would like to highlight ongoing discussions with the European Commission regarding the issue of eCall and the urgent need to update the Regulation (EU) 2015/758. Finding a solution to the legacy issue, whereby an ever-increasing number of newly produced vehicles are equipped with obsolescent circuit-switched technology which is only compatible with 2G and 3G networks is getting more and more vital. This is being done in the context of 2G and 3G networks in Europe already beginning to be closed down, to permit scarce spectrum to be re-farmed to enable more efficient spectrum use through the roll out of 4G and 5G networks.

Carry over projects from 2023

Report on the assessment of the IP interconnection ecosystem and the impact of the potential sending party network pays principle on Internet ecosystem and on end-users

In line with the need to find synergies among the different workstreams in section 2, stressed above, GSMA suggests broadening the scope of BEREC's report. By focusing only on IP interconnection, the workstream fails to capture all the complexities of the internet ecosystem. Additionally, the term "sending party pays principle" is traditionally associated to the voice market and to the existence of individual monopolies in each terminating network. It would be appropriate not to prejudge the market analysis, and more clearly address the unbalanced bargaining power between suppliers of internet access services and large content providers. Accordingly, we suggest renaming the workstream to "Assessment of the provision of the Internet access service and impact of a potential fair contribution from content providers on the Internet ecosystem and on end-users". In addition, GSMA deems that the timeline of this work item should provide for the public consultation already in P1 2023, considering the EC consultation on the fair share issue will be carried out at the beginning of the year.

Moreover, as workstreams 1.12 (cloud and edge), 2.4.1 (entry of CAPs in electronic communications sector) and 2.7 (IP-interconnection ecosystem) are in large parts complementary and would benefit from a more holistic approach and alignment of timelines.

Finally, we invite BEREC to consider interacting closer with the industry prior to the public consultation on this topic, by i.e., issuing questionnaires, surveys, workshops etc. to capture relevant emerging trends as the market continues to develop.

Report on the 5G Value Chain

5G is a priority for the EU and achieving the ambitious Digital Decade targets and the GSMA welcomes the important role that BEREC can play in this context. We note the work completed to date and welcome BEREC's continued engagement on the 5G ecosystem. The GSMA would like to highlight that 5G, along with the multitude of services it will enable, will further increase the complexity of the markets and players involved, exponentially increasing competition in the mobile sector. It is therefore important to ensure a regulatory framework that allows the mobile industry to compete on an equal basis.

In this context, creating a European regulatory environment where Member States are incentivised to view spectrum licensing as a way to foster investment by operators rather than a means to extract value from the sector should, in our view, be a core priority.

If there is an area where 5G will make a significant difference, it is in business connectivity and the digitalisation of EU industries. We encourage BEREC to explore the tension that exists between desires for

Attempts to enhance competition by allocating spectrum in small geographic blocks or by reserving frequencies for private networks commonly need to be considered carefully through extensive cost-benefit analysis, as they may very well also raise network deployment costs and reduce service performance capabilities of the wireless services available to businesses. inter-network competition in that segment, and the technology and economics of mobile networks.

Finally, we would like to highlight that 5G development may require cooperation and sharing of resources among MNOs. It would be of value for BEREC to address the issue of how the rules and procedures around such sharing could be simplified in order to encourage additional efficiencies.

Report on competition amongst multiple operators of NGA-networks in the same geographical region

The GSMA supports the continued focus of BEREC on geographical market definition and ensuring that market analysis is evidence based and focuses SMP and remedies on genuine bottlenecks. The study might also cover the case where there is enough infrastructure-based competition and a regulatory obligation in relation to access to physical infrastructure, which could be a sufficient condition to enable sustainable competition at the wholesale and retail level.

Report on the regulatory treatment of business services

The GSMA notes that these markets are evolving and that wholesale access regulation may need to adapt to evolving wholesale access needs within the context of the existing regulatory framework. We encourage BEREC to explore the role of hyperscalers in the provision of services to business customers and evaluate the need for broader market definition and analysis that includes these players and depending on the findings, if needed, a reassessment of dominance in this market as a result. Network virtualisation is in our view greatly lowering barriers to entry. With the increasing relevance of IT and digital services for business customers (cloud, security, big data etc.), connectivity could potentially become a commodity accounting for a small percentage of the expenditure of businesses in their digitisation processes.

Report on the impact of AI solutions in the telecommunications sector on regulation

The GSMA believes that AI has the potential to radically alter and improve the way governments, organisations and individuals provide services, access information, and improve their planning and operations. However, AI adoption is still at an early stage at EU level in general and within the telecommunications sector in particular, and discussions on the regulatory approach to be adopted are still ongoing at an institutional level.

The GSMA reiterates that it might be premature for BEREC to undertake specific activities on the topic, other than an initial fact-finding report to understand current use cases in the telecommunications sector.

ICT Sustainability work items (2.3, 2.4, 3.1)

The GSMA welcomes BEREC's work in this regard and supports efforts to achieve the Paris agreement climate objectives. The consistent use of the latest mobile technologies and the decisions of mobile operators to transition to green energy have been a testament to the importance of the industry to reduce its carbon footprint and completely eliminate it by 2050.

The GSMA appreciates BEREC's acknowledgement of the key role connectivity plays in enabling the 'green transition'. The mobile industry is committed to reducing its own emissions. However, its greatest contribution to combating climate change is reducing the emissions of wider industries through smart connected technologies and behavioral change.

The GSMA highlights that the mobile industry is tackling climate change voluntarily and has developed a decarbonisation pathway aligned with the science-based target initiative (SBTi)[1] and in line with the Paris Agreement target of achieving net-zero emissions by 2050. The mobile sector is taking collaborative action to be fully transparent about the industry's own climate emissions and have developed an industry-wide

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[1] Scientific Based Targets

climate action roadmap, to achieve net-zero greenhouse gas (GHG) emissions by 2050, in line with the Paris Agreement.

Further, the mobile industry is making continued progress on disclosing climate data (rather than performance) and setting targets for emissions reductions. At the end of 2021, 66% of operators by connections and 82% by revenue disclosed their climate impacts, energy and GHG emissions via the internationally recognised CDP global disclosure system.

The GSMA calls on BEREC to take into due account the work done to date at global level by the mobile industry.

The establishment of regulatory incentives for "environmentally sustainable" networks would miss the fact that operators already have strong incentives to deploy and operate energy efficient networks.

A better approach would be to recognise the mobile industry's enabling role. By increasing connectivity, improving efficiency, and impacting consumers behaviour, mobile network enabled technologies are helping to reduce emissions. In fact, research conducted by the GSMA with the Carbon Trust found, that while the mobile industry is currently responsible for around 0.4% of carbon emissions globally, it enables carbon reductions in other sectors that are 10 times larger, equivalent to approximately 4% of global emissions. Furthermore, research launched by the GSMA at COP26, showed that connectivity can help enable 40% of the required cuts in carbon emissions by 2030 in the manufacturing, transport, energy, and buildings sectors.

Update of criterion four of the VHCN guidelines

As far as we understand the purpose of this update is to take into account 5G mobile networks. Due to the novelty of such networks, it was not possible to address this in the current guidelines. However, it is important to note that 5G deployment and related use cases are still at an early stage. As such, the lack of maturity regarding this network technology must be considered before making any conclusions.

Report on interoperability for number-independent interpersonal communication services

The GSMA strongly supports the work of BEREC on interoperability of NI-ICS, and the GSMA is ready to contribute to this work with its extensive experience on interoperability in the context of RCS.

BEREC ad hoc work

Peer review process

The GSMA welcomes increased cooperation and sharing of experiences to facilitate peer learning and ultimately aid in ensuring that the conditions for spectrum assignment support network deployment. This

is especially important in the context of the Digital Decade, as spectrum policy is one of the key levers in the hands of policy makers to help deliver the EU's ambitious digital vision for 2030.

We therefore urge BEREC experts participating in peer review forums to encourage a long-term view regarding spectrum prices that is decoupled from the objective of maximising state revenues, thereby prioritising investments in 5G capacity and coverage. In addition, licence durations, access conditions and coverage obligations should not inhibit the speed and scale of investment in network rollout. Licence obligations and conditions should be designed to minimise the cost of covering non-profitable areas.

Potential work for 2023 and beyond

Further work on 5G cybersecurity

The GSMA supports BEREC in this work. The GSMA is looking forward to future cooperation with BEREC on this important topic and stands ready to continue sharing industry's knowledge and expertise.