

Public Consultation on a Draft Berec procedures for public consultations held by Berec

– Wind Telecomunicazioni comments –

Wind Telecomunicazioni S.p.A. ("Wind") welcomes the opportunity to comment on the procedures for public consultations held by Berec.

Wind Telecomunicazioni Spa is one of the few European alternative telecom operators to offer integrated fixed, mobile and Internet services. In Italy, Wind is the third-largest mobile operator, with a market share of more than 18% and more than 16 million customers. Under the brand Infostrada the company is also the leading alternative operator in fixed-line services, with more than 1.6 million LLU customers and more than 1,2 million broadband users. Wind owns also "Liberio.it" which is the top Italian web portal and is one of the largest service providers in the country.

First of all, Wind expresses its support and appreciation for Berec procedures for public consultation.

Wind wants to suggest some amendments to Berec's draft , as follows.

1. Reference provision on public consultation

Wind agrees to the reference provision on public consultation, as established by the Regulation 1211/2990, art. 17, where Berec says that *"Where appropriate, BEREC shall, before adopting opinions, regulatory best practice or reports, consult interested parties and give them the opportunity to comment within a reasonable period. BEREC shall, without prejudice to Article 20, make the results of the consultation procedure publicly available"*. Wind position is tha Berec should also give to stakeholders the possibility to make secret the part of their positions or documents that concern industrial or commercial strategies.

Wind agrees also to the Roles of Procedure of BoR, where - see art. 16 - the criteria under which the Board shall decide to launch a public consultation are defined, and shall decide on a case by case basis about the need to consult interested parties: *"Public consultation shall be organised in such cases where the input and comments of stakeholders is required"*.

2. Time scale for response

With regards to the time scale for stakeholders responses, Wind suggests the possibility to extend the time scale, from 20 to 30 working days, adjusting it to the NRA's procedures and permitting stakeholders to take their time to collect data.

3. Types of documents producer by BEREC

Wind suggests the possibility to evaluate case by case which documents could be put in consultation. In fact, as reported by draft Berec procedures, the Board has to request a public consultation just in case of Berec Regulatory Best Practice or Berec Work Programme.

In order to ensure transparency and to keep in consideration stakeholders' position, it may be necessary to give the possibility to have a public consultation also about Berec Reports, for general papers on issues not covered by the regulation, and about Berec procedure ruling.

With regards to documents that don't need *per se* a public consultation, Wind suggests to seek the involvement of interested stakeholders in a more informal way than a public consultation, to give them the possibility to know Berec positions and, at the same time, to inform Berec about their own point of view.

First, Berec should give notice in the web site or with a press release each time a new activity/project starts clearly evidencing scope and terms of BEREC activities in order to provide further transparency to market players. Once provided the information the Berec could have the possibility to easily and rapidly gather a feedback from market players (e.g. stakeholder to show interest in 2-3 days) regarding the need on a case by case basis of further consulting tools. Once gathered the interest from stakeholders Berec could then be in the position to choose the appropriate, if any, consulting tool be it in the form of meetings with market players or in the form of a short timed consultation.

In order to ensure the knowledge of Berec activities, Wind suggests to publish also documents that concern Berec Advice, whereby every single stakeholder should be informed about assistance that Berec gives to the NRA's.

Wind also considers important to report publicly about the degree to which there has been conformity with common positions, to consult stakeholders on whether they agree with this assessment, and explain what measures BEREC proposes to take to reduce non-conformity including, for example, setting deadlines by which it expects NRAs to be in conformity or encouraging action by the Commission should conformity not be achieved.

4. Other considerations

Next June, Berec will publish a new document about Bill and Keep: "*BEREC Common Statement on Next Generation Networks Future Charging Mechanisms / Long Term Termination Issues*". This kind of document is not classified into the outline of the documents that Berec is expected to produce.

In order to ensure clarity of information, Wind proposes to Berec to add this new kind of document to one of the categories of its official documentation.

BEREC Deliverable	Scope	Obligation to take utmost account of?	Notice in the Web Site / Press Release + Consulting tools appropriate to feedback received	Public consultation needed?	Publication needed?
BEREC Opinion	• on draft decisions, recommendations	Yes	Yes	No	Yes

	<p>and guidelines of the Commission (Article 2.c) (Article 3.b) (Article 3.c) (Article 3.d) (Article 3.f)</p> <ul style="list-style-type: none"> • to the Commission on national draft measures of NRAs (Article 3.a) (Article 3.h) • to the EP and Council (upon a reasoned request or on its own initiative) (article 2.d) • to NRAs on cross-border disputes (Article 3.g) 				
BEREC Report	<ul style="list-style-type: none"> • to the Commission (upon a reasoned request or on its own initiative) on any matter regarding electronic communications within its competence. (Article 2.d) 	No	<input checked="" type="checkbox"/>	No	Yes
	<ul style="list-style-type: none"> • general papers (at its own initiative) on issues not covered by the Regulation 	No	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> (proposed by Wind)	Yes

<p>BEREC Regulatory Best Practices:</p> <ul style="list-style-type: none"> - BEREC Common Approach (Common Position) - BEREC Guidelines - BEREC Methodology 	<ul style="list-style-type: none"> • on the implementation of the EU Regulatory Framework (Article 2.a) 	Yes	No	Yes	Yes
<p>BEREC Advice</p>	<ul style="list-style-type: none"> • to the Commission (upon a reasoned request or on its own initiative) on any matter regarding electronic communications within its competence. (Article 2.d) 	No	Yes	No	No
	<ul style="list-style-type: none"> •input to the Commission in the context of comitology (Article 3.i) (Article 3.j) (Article 3.k) 	No	Yes	No	No
<p>BEREC Advice</p>	<ul style="list-style-type: none"> • assistance to NRAs (Article 2.b) (Article 3.e) (Article 3.l) 	No	Yes	No	<p>YES (proposed by Wind)</p>
<p>BEREC Annual Report on the development of the sector</p>	<ul style="list-style-type: none"> •Art. 3n. 	n.a	Yes	No	Yes
<p>BEREC Rules of Procedure</p>	<ul style="list-style-type: none"> •Art.4.10 	n.a	No	<p>YES (proposed by Wind)</p>	Yes

BEREC Work Programme	-Art. 5.4	n.a	<input checked="" type="checkbox"/>	Yes	Yes
BEREC Annual Report on the activities of the BEREC	-Art. 5.5	n.a	<input checked="" type="checkbox"/>	No	No