

BEREC 2012 Draft Work Programme

Comment by

the International Telecommunications Users Group (INTUG)

INTUG congratulates BEREC on an ambitious and balanced work programme for 2012 and hopes BEREC will continue to grow as a strong and credible organization, and to facilitate much greater harmonization of electronic communications regulation in Europe.

INTUG is pleased to offer the following comments using the Draft Work programme numbering.

1 Background

“BEREC will focus on those tasks set out in the BEREC Regulation, and will prioritise its efforts on actions that can significantly contribute to the interests of the citizens of Europe and to the promotion of competition and a harmonised approach to regulation.”

Competition in electronic communications is extremely important for international business users. Efficient, effective and reliable networks are essential to give employees the necessary tools for mobile working, smooth access to information and applications, and the ability to conduct trade across national borders. High performance networks are needed for large scale cloud computing. This environment can only be sustained by vibrant and effective competition in business services.

2 The core topics of the work programme 2012: Harmonisation is key.

“As set out in the BEREC Regulation, BEREC shall contribute to the development and better functioning of the internal market for electronic communications networks and services by aiming to ensure a consistent application of the EU regulatory framework for electronic communications. Improving harmonisation is without question one of the key challenges for BEREC and also one of the most difficult tasks.”

Harmonisation, standards, consistency and interoperability are key to business users of electronic communications. INTUG regularly receives comments from international companies, frustrated by continuing difficulties in implementing a standard ICT-strategy using electronic communications within the European Union. Companies active in more than one Member State still face different regulations when it comes to emergency numbers and VoIP, fiscal regimes affecting tax treatment, different approaches for the use of one number, lack of harmonization on cloud services, the absence of standardization on SIP, inconsistent technical and regulatory treatment of last mile access, plus many other obstacles to efficiency and effectiveness.

3.2 International roaming

INTUG welcomes that BEREC commitment to continued monitoring of this abject market failure, and is in discussion with the European Commission team working on the third phase of regulation. INTUG welcomes Commissioner Kroes declared aim of effectively eliminating roaming charges within the European Union by 2015. International roaming charges remain a major concern for businesses. For INTUG it is also important that Europe tries to enlarge the scope to other parts of the world, via ITU, or bilateral agreements. The practical issues of the roaming regulations are based on the consumer market. It would be helpful if the Roaming III regulation paid separate and specific attention to the consequences in the business market where, for example, most companies may not wish their employees to decide whether to continue to use mobile data roaming after an SMS warning that their volume cap is nearly reached. They will wish to make those decisions centrally.

In the long term, INTUG believes that the whole concept of a “roaming charge” should be removed from the international mobile market and that the 4G/LTE spectrum auction provides an ideal opportunity to achieve this by outlawing roaming charges as a condition of spectrum licences.

3.4 Consumer empowerment

INTUG completely agrees with the wish of BEREC to bring greater transparency in data tariffs. Much greater transparency is needed in the provision of pricing information to customers, and it needs to be conveyed in a way which enables consumers to compare rates/plans of providers. If pricing information is bundled, it is much harder to make comparisons. OECD has insisted that pricing information is simplified by regulators to enable customers to make informed decisions. The same principle should also apply to comparable quality of service measures and reporting. Remedial commitments are needed in the event of outages, e.g. the recent Blackberry failure.

3.5 Network neutrality

“In its response, BEREC noted that incidents so far remain few and for the most part have been solved without the need for regulatory intervention.”

INTUG encourages BEREC to produce clear network neutrality guidelines to ensure consistent treatment of applications, content and service providers, including requirements for information provision, transparency reporting and network quality of service management. This is essential to avoid Member States implementing divergent national measures. For businesses it is important to be able to agree on SLAs for mobile electronic communications, separate from discussions on network neutrality. INTUG asks BEREC to take into account the differing service levels which will be achievable with 4G/LTE mobile communications.

3.6 Next Generation Networks – Access + 4.1.1 Review and update of BEREC Common Positions + 4.2.1 Non-discrimination

“In its opinion on the draft NGA Recommendation BEREC stressed that regulatory certainty and consistency are crucial in to foster a competitive environment for long-term investment in NGA.

With regard to business communication services, these services are increasingly being migrated to NGN. Some service providers claim to experience difficulties in competing with incumbent operators in offering data communication services because of lack of availability of the necessary wholesale inputs. In 2009 and 2010 BEREC has outlined the ways in which NRAs regulate these wholesale building blocks. In particular, very high-speed access and resilient products are not generally included in the definitions Markets 4 and 5, because xDSL and FTTH do not provide adequate architecture for business services.”

Non-discriminatory access to all wholesale broadband services is of the highest importance to business users. It must be guaranteed to enable them to build effective international networks using a single supplier, or as few suppliers as possible, to support cross-border trade within a digital economy in the Single Market. There is not enough competition in the business market. It is still the case that competitors cannot always offer a complete service because of their dependence on incumbent networks and services. Transparent contractual commitment and reporting of critical clearly defined KPIs between the incumbent and the competitors is vital.

“In 2010 BEREC started to conduct monitoring exercises on three Common Positions (wholesale broadband access, wholesale local access and wholesale leased lines). These have been reviewed for continuing relevance, taking account also the earlier work on business services and the need to include developments such as NGA.”

The markets are indeed constantly developing, so it is necessary to continue this monitoring, to prevent incumbents benefiting from their own positions and continuing to hinder competition.

4.3.1 Recommendations on termination rates

“The recommendation on termination rates leaves quite some degree of freedom for NRAs to make their own choices. BEREC will look more into this and the grade of implementation within the Member States to give common guidance.”

INTUG welcomes the trend of previous decisions to lower mobile termination rates (MTRs), but these still remain far too high, and the benefits of lower MTRs are not as effective as they should be, since they are not always passed on to end customers. Fixed operators frequently hide the impact by obscuring the balance between the price per minute and call set up charges.

4.6 Access to special rate services

International 00800 freephone services were intended to provide a single company number, e.g. for service or marketing use, throughout the EU. Most companies wishing to use these numbers have decided the difficulties and barriers involved are simply too great for viable implementation, and are forced to use national 0800 numbers instead. There are different regimes in each country, and in some countries 00800 numbers are not reachable from mobile phones, or are charged for, thus destroying the whole aim of the number. Simply trying to register an 00800 number in different countries can give rise to unpredictable consequences.

4.7 Cross-border and demand side related issues

“Reliability and accuracy of caller location information in particular for emergency calls”

Business users report difficulties because the warning of emergency numbers, especially for VoIP, differs in different countries. It is very difficult to be able to support all national implementations.

4.8 Security

The work programme should pay some attention to network security, especially for business users. There will be increased m-banking, m-commerce and other sensitive data-based transactions from handheld with 4G and accountability and responsiveness will be critical. ENISA can perform a valuable role in this area. Whilst data protection issues are outside the scope of BEREC, they are also of importance as on-line commerce grows and cloud computing increases.

4.9 International cooperation

“while BEREC needs to focus on the European market, it is also necessary to track developments elsewhere to be aware of and in a position to respond to emerging challenges. It is beneficial for BEREC to have cooperation with regulatory authorities outside the EU to learn from each other.”

INTUG fully agrees. BEREC/Europe should make (bilateral) agreements on roaming charges to ensure that the elimination of this tax on trade is universally eliminated. BEREC should publish the international roaming rates negotiated by Member States with countries outside the EU, exposing the highest rates, so pressure can be put on other national regulators to lower rates with the EU.

Extra areas where INTUG requests BEREC to give priority attention.

1. Migration from Legacy Services

In all Member States, existing technology is being replaced by all IP-networks and this creates a major challenge of migration for business users in terms of the timing of the phase-out of different services (e.g. ISDN) with the impact of the investments required, and the identification of viable alternatives, e.g. faxes, communications in elevators, alarm systems, fail-safe and circuit breaker and process control devices dependent on very low latency services such as ISDN. INTUG requests BEREC to provide substantive assistance to NRAs on user migration advice.

2. Common SIP Standards

Businesses need good standards for migration to IP services. BEREC must promote the use of a common SIP standard, e.g. SIP connect v1.1. This will reduce cost and delay for service providers, PBX-vendors and the business market. Businesses must be able to guarantee that their own equipment and software, and that of their supply chain partners, will work together, e.g. for unified communications, and they need to be able to “federate” between different systems so that they can use best of breed solutions without interoperability difficulties, for example when they acquire new subsidiary companies or merge operations between parts of their business.

About INTUG

The International Telecommunications Users Group (INTUG) represents the interests of public and private business users of telecommunications globally. Users include some of the world's largest financial institutions, car manufacturers, pharmaceutical companies, fast moving consumer goods enterprises, retail and distribution companies, and small and medium enterprises (SMEs).

The INTUG community includes user associations in many large EU Member States, including Belgium, Denmark, France, Germany, Spain, the Netherlands, Sweden and the UK, and the multinational user group EVUA, as well as user groups in other parts of the world. Each group represents public and private sector customers of communications service providers.

Nothing in this submission is confidential and the contents can be considered to be in the public domain. The submission is available on the INTUG web site at www.intug.org. This response is submitted on behalf of INTUG, which is registered at Heidestein 7, 3971 ND Driebergen, The Netherlands; Tel.: +31 88 353 2218. Queries relating to this response should be addressed to:

Nick White, Executive Vice President, INTUG

Email: Nick.white@intug.org

Tel: +44 20 8647 4858

Mobile: +44 77 1009 7638

DRAFT