

11th Meeting of the Board of Regulators

24-25 May 2012, Dubrovnik

Hosted by HAKOM

CONCLUSIONS

Chair **Dr Georg SERENTSCHY**
CEO of the Austrian Regulatory Authority for
Broadcasting and Telecommunications
(RTR-GmbH)

Main Results from the 11th meeting of the Board of Regulators (BoR)

I. Net Neutrality (NN)

NN was the central topic of discussion during the 11th BoR meeting.

The BoR approved for publication the Snapshot from the traffic management investigation and agreed to opening of public consultation on the following draft documents:

- Draft BEREC Report on differentiation practices and related competition issues in the scope of NN;
- Draft BEREC Guidelines for Quality of Service (QoS) in the scope of NN;
- Draft BEREC Report "An assessment of IP-interconnection in the context of NN"

The draft documents will be published for public consultation immediately after the plenary for a period of 8 weeks.

II. Final documents approved by BoR

The BoR approved the following BEREC reports for publication:

- Report on the impact of fixed-mobile substitution (FMS) in market definition and the consultation report;
- Report on Special Rate Services (SRS) and the consultation report;
- Report on co-investment and significant market power (SMP) in next generation access (NGA) networks and the consultation report;
- Report on the current accessibility of numbering resources pursuant to Article 28.1 of the Universal Service Directive (USD);
- Termination Rates Integrated Snapshot as of January 2012;
- 2011 BEREC Annual Report (2011 BEREC activities and developments of the eCommunications sector).

III. Other important topics discussed

The BoR agreed to accept the offer of IRG to host BEREC's presence in Brussels free of charge.

The BoR discussed also the draft BEREC 2013 Work Programme (WP), the practical and strategic next steps in building BEREC's future and BEREC's approach to fulfilling its obligations under the revised Roaming Regulation.

IV. Next meeting of the BoR

The next meeting of the BoR will take place on 27 and 28 September 2012 in Limassol (Cyprus) and will be hosted by OCECPR.

Introduction and Participation

The BoR of BEREC held its 11th meeting on 24 and 25 May 2012, in Dubrovnik, kindly hosted by the Croatian Post and Electronic Communications Agency (HAKOM).

The meeting was attended by high-level representatives of the National Regulatory Authorities (NRAs) established in each EU Member State, EFTA States and the States that are candidates for accession to the EU with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. The Commission also took part in the meeting and was also represented at high level.

Items discussed

1. Opening of the meeting and adoption of the agenda

- *Draft BoR Agenda*

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Information presented

The BEREC Chair opened the meeting and presented the draft meeting agenda.

Requests for inclusion of additional items under AOB

ComCom suggested presenting under AOB of short information about the outcome of a recent auction for assigning frequencies in Switzerland.

Conclusions

The BoR adopted the agenda with the addition of the suggested AOB item.

2. Information by the Chair

Information presented

Firstly the Chair welcomed Serbia as a new BEREC observer. Afterwards the BEREC Chair presented an oral report on his communication activities and other significant events which took place since the last plenary, including his recent meetings with some stakeholders, amongst which were the meetings conducted within the so called "[Strategy Dialogue](#)", announced on the BEREC web page.

Conclusions

The BoR took note of the information.

3. Adoption of the "A" items

Information presented

The BEREC Chair presented the list of "A" items to be adopted without discussion, as follows:

3.1. Convergence and Economic Analysis

3.1.1. Impact of fixed-mobile substitution (FMS) in market definition

- *Draft consultation report on the draft BEREC Report on the impact of FMS in market definition*
BoR (12) 51
- *Draft BEREC Report on the impact of FMS in market definition*
BoR (12) 52

3.1.2. BEREC Draft Report on Special Rate Services (SRS)

- Consultation report on the draft BEREC Report on SRS BoR (12) 54
- BEREC Report on SRS BoR (12) 55

3.2. Framework Implementation - BEREC Report on the current accessibility of numbering resources pursuant to Art 28.1 USD

- Draft BEREC Report on the current accessibility of numbering resources pursuant to Art 28.1 USD BoR (12) 53

3.3. Benchmarking

- Termination Rates Integrated Snapshot Report as of January 2012 BoR (12) 56

Conclusions

The BoR approved for publication all the documents included in the “A” list together with the non-confidential individual contributions received during the public consultation.

4. Information by HAKOM

Information presented

HAKOM presented oral information on the key regulatory developments on the Croatian market for electronic communications in the light of the accession of the Republic of Croatia to the EU.

Conclusions

The BoR took note of the information.

5. Net Neutrality (NN)

5.1. Introduction on the NN topic and overview of all NN work streams, incl. presentation of the results from the traffic management investigation (TMI)

- A view of traffic management and other practices resulting in restrictions to the open Internet in Europe (Draft Traffic Management Snapshot Report) BoR (12) 30

Information presented

ARCEP made an introductory presentation to the NN topic, which included an overview of the NN work streams and a short presentation of the draft snapshot report on traffic management.

Conclusions

The BoR discussed the results from the TMI and approved the snapshot for publication, subject to some adjustments in the contexts of the discussion made.

5.2. CEA - Competition issues related to net neutrality

- Draft BEREC Report on differentiation practices and related competition issues in the scope of NN BoR (12) 31

Information presented

CMT presented the draft Report on differentiation practices and related competition issues in the scope of NN.

Conclusions

The BoR took note of the draft report and approved it for public consultation.

5.3. NN – BEREC QoS Guidelines

- *Draft BEREC Guidelines for QoS in the scope of NN* *BoR (12) 32*

Information presented

NPT presented the draft BEREC Guidelines on QoS in the scope of NN.

Conclusions

The BoR took note of the draft guidelines and approved them for public consultation.

5.4. NGN - BEREC Report “An assessment of IP-interconnection in the context of NN”

- *Draft BEREC Report “An assessment of IP-interconnection in the context of NN”*

BoR (12) 33

Information presented

BNetzA presented the draft BEREC Report “An assessment of IP-interconnection in the context of NN”.

Conclusions

The BoR took note of the draft report and approved it for public consultation.

5.5. Closing discussion on NN

- *BEREC public consultations on Net Neutrality - Draft Explanatory Paper* *BoR (12) 34*

Information presented

ARCEP presented the general conclusions stemming from the various work streams on NN, which had been included into the joint summary paper announcing the public consultation on all 3 NN documents as stated above.

Conclusions

The BoR held a general discussion on all documents submitted to the plenary in the field of NN and approved the summary paper that will accompany the 3 NN draft documents subject to public consultation for publication.

6. Information by the BEREC Office

- *BEREC 2012 Work Programme (WP) status* *BoR (12) 36*
- *Article 7a, phase II cases – conclusions* *BoR (12) 37*

Information presented

The BEREC Office AM presented the state of play of the BEREC 2012 WP and of the conclusions from the recent Article 7a phase II cases under the revised Regulatory Framework for eCommunications.

Conclusions

The BoR took note of the information.

7. BEREC presence in Brussels

- *BEREC's presence in Brussels* BoR (12) 38

Information presented

Following the approval of the BEREC Medium Term Strategy Outlook, the BEREC Chair presented a paper on the possible options for the BEREC's presence in Brussels and suggested to BoR to agree on the way forward.

Conclusions

The BoR decided to choose the offer of IRG to host BEREC's Brussels presence free of charge.

8. 2013 BEREC Work Programme (WP)

- *BEREC 2013 WP Structure* BoR (12) 39

Information presented

EETT presented the approach, the structure and main issues of the 2013 BEREC WP.

Conclusions

The BoR discussed the structure and the approach applied to the draft 2013 BEREC WP. The discussion will continue during the next plenary.

9. CEA - Competitive Effects of NGA Co-investments

- *Draft BEREC Report of the Consultation on the draft BEREC report on Co-investment and SMP in NGA networks* BoR (12) 40
- *Draft BEREC Report on co-investment and SMP in NGA networks* BoR (12) 41

Information presented

BAKOM presented the results from the public consultation on the draft BEREC Report on co-investment and SMP in NGA networks, as well as the final draft report.

Conclusions

The BoR approved the afore-mentioned report for publication together with the non-confidential individual contributions received during the public consultation without discussion.

10. Remedies

10.1. BEREC's review of the Common Positions (CPs)

Information presented

Ofcom presented a brief overview of the responses received during the public consultation of the draft high level principles on issues of non-discrimination as the first stage in the BEREC's review of the CPs on wholesale unbundled access, wholesale broadband access and wholesale leased lines and requested the consent of the BoR for publishing the individual contributions received prior to the publication of the BEREC Report on the outcome from the public consultation.

Conclusions

The BoR took note of the information and agreed on the publication of the individual contributions to the public consultation.

1.1 Cost of non-Europe

- *BEREC preliminary views in relation to Commission's study on the cost of non-Europe (not for publication)* *BoR (12) 60*

Information presented

Ofcom presented a paper on BEREC's preliminary views on the EC study on the cost of non-Europe, in response to EC letter sent to BEREC in March 2012.

Conclusions

The BoR discussed BEREC's preliminary views on EC study on the cost of non-Europe.

11. International Roaming – state of play

- *Summary of BEREC Guidelines for Article 3 of the Roaming Regulation* *BoR (12) 43*
- *Summary of BEREC Analysis of the alternatives for supporting retail decoupling structural measures* *BoR (12) 44*

Information presented

RTR presented information on the state of play on Roaming Regulation III, including the main elements of the draft BEREC Guidelines on Article 3 and of the analysis of the alternatives for supporting retail decoupling structural measures.

Conclusions

The BoR took note of the presentation of the IR EWG and agreed with the proposed next steps.

12. Framework Implementation - draft review of the voting procedure for adopting BEREC Article 7 and 7a Opinions

- *Draft review of the voting procedure applied to date for the adoption of BEREC Article 7 and 7a Opinions* *BoR (12) 45*

Information presented

AGCOM presented an assessment of the voting procedure applied to date for the adoption of BEREC Article 7 and 7a Opinions and communicated that on the basis of the 7 Article 7/7a phase II cases examined, the FI EWG concluded that the voting system had proved to be effective.

Conclusions

The BoR took note of the information provided and asked the FI EWG to keep under regular scrutiny the process.

13. Evaluation of BEREC and the BEREC Office

Information presented

OPTA presented oral up-date by on the status of preparation of the evaluation of BEREC and the BEREC Office.

Conclusions

The BoR took note of the information and asked the ad hoc group to continue its work.

14. NGN - BEREC Opinion on European Commission Draft Guidelines for State Aid

Information presented

BNetzA made an oral presentation of the status of the preparation of the BEREC opinion on the Commission draft Guidelines for State Aid.

Conclusions

The BoR took note of the information and asked the NGN EWG to start work on BEREC's opinion as soon as the draft Guidelines are published by the Commission.

15. Strategy Paper

- *Building BEREC's future: practical and strategic next steps* *BoR (12) 47*

Information presented

Ofcom presented a discussion paper on the practical and strategic next steps for building BEREC's future.

Conclusions

The BoR discussed the practical and strategic next steps for building BEREC's future and made some initial observations. The BEREC Office was asked to implement the measure ready for immediate realisation, such as: preparing the BEREC info pack, launching the new BEREC web page, etc. The discussion on the strategic next steps will continue.

16. Annual report on BEREC 2011 activities and on the developments in the electronic communications sector in 2011

- *Annual report for 2011 on BEREC activities and developments in the electronic communications sector* *BoR (12) 48*

Information presented

OPTA and the BEREC Office presented the draft annual Report for 2011 on BEREC activities (Article 5.5 of the BEREC Regulation) and developments in the electronic communications sector (Article 3 (1) (n) of the BEREC Regulation).

Conclusion

The BoR took note of the report and approved it for publication.

17. Motion for cross-border dispute

- *Motion for cross-border dispute* *BoR (12) 49*

Information presented

The BEREC Office presented an opinion following a request for advice on a motion for cross-border dispute. It was communicated that, in the opinion of the BEREC Office, BEREC could issue a formal opinion on a cross-border dispute only if the NRA concerned submits an explicit request to BEREC.

Conclusions

The BoR discuss the opinion and agreed on the next steps.

18. BEREC International Activities

Information presented

EETT presented a report on the recent BEREC international activities, as follows:

- Information Society dialogues between the EU and India held at the end of March 2012;
- Enhancing the cooperation with FCC;
- Planned visit to the NRA of South Korea, end of October 2012.

Conclusion

The BoR took note of the information.

19. Information from the Commission

Information presented

The Commission presented information on some recent Commission initiatives, not mentioned previously, amongst which was the progress on the elaboration of the data breach notifications, the forthcoming review of the Digital Agenda and other.

The Commission also presented information on the forthcoming restructuring of DG INFSO and distributed information on the new structure of the DG INFSO, which as per the 1 July 2012 will be entitled *Directorate General for Communications Networks, Content and Technology*¹.

Conclusions

The BoR took note of the information.

20. AOB

20.1. Information from Switzerland on the outcome of the auction on the 800 MHz

Information presented

ComCom informed the BoR that recently they had concluded the auction for assigning the 800 MHz spectrum and communicated that they will organise an information workshop on the outcome from the auction to take place on 13-14 September 2012 in Bern.

Conclusions

The BoR took note of the information.

21.2. BEREC-REGULATEL

Information presented

The BEREC Chair communicated that due to unforeseen circumstance the representative of Regulatel was unable to attend the meeting and to present the recent Regulatel's initiatives to the BoR. For that reason this information will be presented to BoR in writing.

Conclusions

The BoR took note of the information.

¹ The structure of the *Directorate General for Communications Networks, Content and Technology* can be consulted at: http://ec.europa.eu/dgs/information_society/doc/connect-organisation-chart.pdf

21.3. ITU Global Symposium of Regulators

Information presented

A representative of ITU presented information on the forthcoming ITU Global Symposium of Regulators and invited the BoR members to take part in it.

Conclusions

The BoR took note of the information.

21.4. Information by OCECPR on the next BoR meeting

Information presented

OCECPR presented information by on the 12th meeting of the BoR to be held on 27 and 28 September 2012 in Cyprus.

Conclusions

The BoR took note of the information.
