



Cable Europe

Body of European Regulators for
Electronic Communications (BEREC)
Z. A. Meierovica Bulv. 14, 2nd Floor
Riga LV-1050
Latvia

Brussels, 23 January 2012,

Dear Sir or Madam,

Re: Cable Europe response to BEREC consultation on draft broadband promotion report

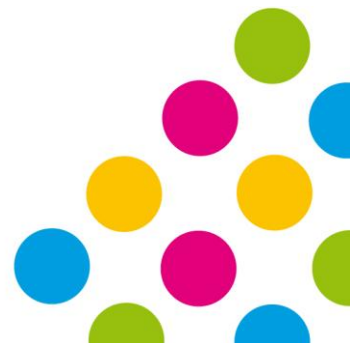
Cable Europe would like to thank BEREC for consulting the industry on its draft broadband promotion report. We have carefully examined the proposed report and we would like to take this opportunity to make some comments.

Cable Europe is the trade association that groups all leading broadband cable operators and their national associations throughout Europe. The European cable industry provides digital TV, broadband internet and telephony services to more than 70m customers.

BEREC's draft report aims to catalogue and analyse the role of the different policy and regulatory mechanisms/tools for promoting broadband, assess their interdependency and solicit input from stakeholders on the promotion of broadband adoption. The ultimate aim is to provide advice to policy makers and NRAs on their role towards these mechanisms/tools and how they should be used.

The draft document mainly focuses on demand-side measures as opposed to supply-side measures – that have already been largely covered by BEREC in previous initiatives. It considers a broad range of demand-side measures - and the obstacles to their implementation - and recognizes that these measures can and should play a role in broadband promotion.

Overall, Cable Europe would like to express its support to the draft report and underline the measured approach adopted by BEREC. BEREC is right when it recognizes that, as sustained competition in broadband markets contributes to broadband diffusion and to lower prices, it should be considered as a major



broadband promotion factor. It is a fact that market forces should prevail as they have delivered the best outcomes so far.

In that respect, cable operators play an important role in the fostering of a European broadband market based on sustainable infrastructure competition. They act as catalysts for greater European network investment and actually help to stimulate investment by other telecommunications players. They thereby create an economically positive situation in which investment levels are becoming a means of competing with other service providers.

Cable Europe also welcomes the focus on demand-side measures. Demand side factors such as market dynamics, actual willingness of customers to have broadband and to pay for it must be taken into account. We are of the view that a demand-driven approach is necessary to meet the Digital Agenda objectives.

We would also highlight that the (perceived) slow deployment/take up of NGA does not in and of itself constitute market failure. Forcing the pace on the supply side can actually result in opposite outcomes to those desired. This is where demand side factors can play a part. In particular, it is crucial that demand-side measures can play a greater and earlier role in the promotion of broadband. The sequential approach - as suggested by a 2011 study commissioned by the Independent regulators Group (IRG) from the Florence School of Regulation (FSR) - that supply side policies should come first followed by a focus on demand side policies at a subsequent stage is too simplistic.

Further, the existence of (and greater certainty and tangibility around) demand-side measures can help to incentivise investment in the first place. Therefore, we believe that, contrary to the assertion of the FSR study, investment in demand-side measures when supply is low could, in fact be effective.

However, Cable Europe shares BEREC's view that close co-ordination between and sequencing of member states' policies/strategies at the supply- and demand-side level and regulatory action is critical. Resulting inconsistencies between the two could be counter-productive.

Cable Europe further thinks that in addition to operators, governments, NRAs and other public authorities can (and should) play a part in advancing demand-side measures. BEREC advocates subsidies and tax incentives where appropriate (e.g. to remedy high costs of broadband adoption) and notes the benefit of national framework schemes in reducing the administrative burden/avoiding the need for individual project notifications.

Cable Europe would urge a note of caution. Where it is proven that the market will not deliver of its own accord, state aid or other intervention may be warranted. These measures must be viewed as 'last resort' and be accompanied by comprehensive, transparent assessment of market conditions in relevant areas. In particular, notification of framework schemes must be approached with great caution and any devolution of approval of individual projects to national authorities must be accompanied by stringent assessment and transparency requirements.



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It is also important not to forget that mis-targeted intervention would send a fatal message to potential investors in what is a high risk sector with the result that they will take their funds to emerging economies. The desire to stimulate investment in less competitive markets/regions should not be at the expense of the million homes across Europe that are already on the right path. The lowest common denominator approach should be avoided.

Commercial viability, return on investment and access to spectrum are well recognised barriers to broadband promotion. However the lack of certainty, consistency and confidence in regulatory regimes, and the fear of intervention also have disincentive effects on investment, and can undermine existing investment and progress already made. The European Commission's implicit deviation from technology neutrality in a number of recent initiatives (such as the consultation on costing methodologies) or regulators' intervention in certain markets (such as net neutrality) are good illustrations of these regulatory uncertainties.

NRAs already have comprehensive and effective regulatory tools - in the form of the EU electronic communications regulatory framework -, and they should be afforded the opportunity to have effect.

Yours sincerely,

Caroline van Weede
Managing Director

