

BEREC Work Programme 2011

Comment from the International Telecommunications Users Group (INTUG)

Summary

INTUG welcomes the opportunity to comment on the BEREC work programme for 2011. There are significant challenges in identifying the highest priority activities, whilst still in the early stages of establishing the BEREC Office. It is imperative that BEREC focuses on the activities which are known to contribute most to achieving the European Digital Agenda.

First and foremost amongst these activities is the essential guidance, which BEREC must give to NRAs, to ensure that the EU environment facilitates and encourages development of competition and investment in provision of effective transnational business services. These have a multiplier effect on the economy, generating investment in innovative new business processes, which create growth, improve productivity and generate jobs.

These processes require seamless fixed and mobile communications services, available on a fair and non-discriminatory basis in every Member State. The BEREC survey in January 2010 confirmed this assessment, and BEREC's work must therefore concentrate on removing the national bottlenecks in wholesale broadband access and other services, which are hampering a proper single European communications market.

Given this acknowledgement that business customers' needs differ from those of domestic mass-market retail customers, and therefore require a separate relevant market definition, INTUG will respond separately to the public consultation on the disappointing draft BEREC report on this high priority topic. The work programme must reflect this consultation.

In addition to the specific comments below, INTUG wishes to draw BEREC's attention to the ineffectiveness of accounting separation and the whole cost accounting methodology. These remain exposed to extreme subjectivity, and have failed to be an effective remedy against profiteering and discrimination.

INTUG believes there would be benefit in BEREC reporting on progress in transposition of the key elements of the revised Regulatory Framework, including a checklist, which could be used by NRAs in discussion with stakeholders including national user associations.

INTUG supports the view that some items qualify for a multi-annual approach, and suggests that it may be appropriate to publish a longer-term strategic plan within which each year's work programme can be determined. This should improve continuity and consistency whilst providing a context for short-term prioritisation decisions. In addition to International Roaming, harmonisation of remedies and benchmarks, BEREC should consider including Termination Rates and alternative charging methods for this approach.

INTUG is keen to maintain its involvement in influencing BEREC priorities, and remains willing to participate in surveys and consultation to assist in BEREC's strategic planning.

Termination Rates (3.2.1)

INTUG has made submissions to consultations on Fixed and Mobile Termination rates and believes that the current billing model does not facilitate effective competition. As a result, termination rates remain unacceptably high, and distort markets. The glide paths of rate reduction are of some benefit to users, but a different approach, such as Bill and Keep may be a better solution. This topic merits multi-annual treatment by BEREC.

NGA Recommendation - Access (ref 3.2.2)

INTUG expressed serious concern over the earlier NGA Recommendation drafts. Given the need for fair non-discriminatory wholesale broadband access, it is very important that BEREC monitors the interpretation and transposition of this recommendation by NRAs, to ensure no Member State allows loopholes which prevent business users from acquiring seamless network services from their chosen international provider. BEREC should publish clear guidelines on non-discrimination to prevent such loopholes.

International Roaming (ref 3.4)

INTUG has lobbied for reduction/elimination in international roaming charges for a decade and welcomes the European Digital Agenda target for these to approach zero by 2015. BEREC should prepare for an extension of the Roaming regulation when the current regulation expires, with further reduction in voice and text caps, and should include retail price caps for data, as wholesale reductions are not passed on to customers.

Business Communications Services (ref 3.5)

INTUG recommended a sectoral enquiry by DG Competition in its comments on the 2010 work programme, given the inability to conduct a separate business market analysis or an international market analysis. INTUG believes the current draft BEREC report is wholly inadequate and will respond accordingly. Unless the report is changed, INTUG is likely to recommend that the European Commission now becomes involved in direct action.

Promotion of Broadband/State Aid Guidelines (Ref 4.1)

INTUG strongly supports actions to accelerate the availability of high speed broadband services for all, and in particular to enable enterprise customers to invest in innovative new international business processes which improve productivity, stimulate growth, create jobs, and contribute to enhanced social welfare. BEREC has an important role in ensuring that state aid can be used where this facilitates and/or accelerates broadband roll out, as long as this is not at the expense of long-term sustainable competition. Wide pricing variations between Member States should be investigated to help achieve the Digital Agenda goals.

Network Neutrality (Ref 4.2)

INTUG has submitted a response to the Network Neutrality consultation in which attention was drawn to the serious issues affecting business use of the Internet. BEREC's general proposed approach addresses many concerns of business customers, for whom the key issues are differentiation, discrimination and transparency. The term "Network Neutrality" has unfortunately been interpreted in different ways by various players and a different term might help focus on the major areas requiring BEREC's attention. The real issue is Traffic Prioritisation rules, sometimes referred to as "Traffic Management". It is the transparency of the rules, their consistency across Member States, and the fair and non-discriminatory application of those rules operationally, which is the real objective.

Spectrum Management (Ref 4.3)

INTUG strongly supports strengthened co-operation of BEREC with RSPG, which should help achieve more efficient and consistent use of spectrum. This would be welcomed by business users. BEREC should seek simpler ways of enabling licensing of pan-European mobile operators to assist the establishment of international services and competition in mobile communications services. The advent of 4G/LTE will also pose new challenges for achieving consistency of standards and implementation, both of which will be essential for an effective functioning of the pan-EU mobile environment.

Functional Separation (ref 5.2)

INTUG welcomed the inclusion of functional separation as a remedy available to NRAs, and strongly supports BEREC's formal role in its application.

Confidentiality

Nothing in this document is confidential. The contents may be considered as in the public domain, and available for distribution. They are based on regular consultation by INTUG with its member associations, and their members, of draft documents prior to submission.

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About INTUG

The International Telecommunications Users Group (INTUG) represents the interests of business users of telecommunications globally. These include some of the world's largest financial institutions, car manufacturers, pharmaceutical companies, fast moving consumer goods enterprises, and retail and distribution companies. They also include small and medium enterprises, who are increasingly dependent on telecommunications services.

The INTUG community includes user associations in many large Member States, including Belgium, Denmark, France, Germany, Spain, the Netherlands, Sweden and the UK, and the multinational user group EVUA. Each represents public and private business customers of telecoms operators, both directly and indirectly through service providers. INTUG is an association established in the Netherlands, governed by an elected Board.

INTUG was established in 1974, with close links to user groups throughout the world, in countries as diverse as Australia, New Zealand, Hong Kong, India, Korea, Mexico, Norway, Switzerland, and South Africa. INTUG also has a signed Memorandum of Understanding with the Commonwealth Telecommunications Organisation (CTO).

INTUG has permanent observer status at the ITU, participant status in APECTel and CITEL, chairs a user group in ICANN, and is an expert group within the OECD/CISP.

INTUG engages actively with the European Commission and Members of the European Parliament, and has made submissions to many EU regulatory consultations and events.