
Outcomes
BEREC 14th Plenary Meeting
7-8 March 2013

Dr. Leonidas Kanellos, BEREC Chair 2013

Summary

- Agreed the headline messages of BEREC's opinion on the Commission's draft Recommendation on non-discrimination obligations and costing methodologies, in consideration of the detailed technical analysis that follows shortly.
- Approved for publication the BEREC response to the Commission's questionnaire for the public consultation on the revision of the Recommendation on Relevant Markets.
- Approved a Brief Note on the Commission's draft Recommendation on implementing Universal Service.
- Approved the BEREC advice on OPTA's request for assistance concerning Article 25 of the Universal Service Directive.

Summary

- Adopted the BEREC Guidelines on the new Roaming Regulation (excluding articles 3, 4, 5 on wholesale access and separate sale of services).
- Adopted the BEREC Guidance paper - Article 28(2) Universal Service Directive (USD): a harmonised BEREC cooperation process, as well as the relevant Consultation report.
- Adopted a decision for the election of the new BEREC Chair for 2014 in the 15th Plenary, 6-7 June 2013.

Headline messages on the draft Recommendation on cost orientation and non-discrimination (1)

- Effective non-discrimination rules are essential for competition, ensuring a level playing field between incumbents and new entrants.
 - EOI is in principle the surest way to achieve this.
 - NRAs should assess proportionality, when determining the most appropriate approach for their national market (i.e. EOI or EOO).
- Price flexibility is important in supporting investments in NGA.
 - Avoid any unanticipated consequences of linking the lifting of cost orientation obligations to the imposition of non-discrimination obligations.

Headline messages on the draft Recommendation on cost orientation and non-discrimination (2)

- Ex ante economic replicability tests may be needed to prevent abusive pricing behaviour by dominant operators.
 - BEREC welcomes the Commission's clarifications during recent discussions that the appropriate test (EEO, REO)
 - will depend on the NRA's regulatory objective, and
 - is without prejudice to the margin squeeze tests already in use.
- Predictable and stable copper prices in line with cost orientation principle, to promote investments and provide competitive safeguard.
 - Modelling should take on board the pursued network architecture, to ensure that prices reflect the actual costs faced by operators.

Response to Consultation on the revision of the Recommendation on Relevant Markets (1)

- Basis: The main commercial & technological developments, and the potential bottlenecks and challenges that could arise from them.
 - Bundling, all-IP convergence, fixed-mobile substitution, the appearance of OTT undertakings and NGA roll out.
- BEREC values positively the three criteria test although more transparency is requested.
 - The Explanatory Memorandum should detail the way EC applies the three criteria test for revising the list of markets.
 - It should also deal with the complexities associated with duopolies and the issue of joint dominance.

Response to Consultation on the revision of the Recommendation on Relevant Markets (2)

- Not necessary to revisit the boundaries of markets related to access and interconnection.
- Regulation of market 1 not necessary any longer, provided:
 - The availability of alternative technologies and infrastructures;
 - The possibility to impose the wholesale remedies of Carrier Selection/ Preselection and Wholesale Line Rental.
- Consistent with that, market 2 could be modified as “Wholesale fixed telephony access and call origination”.

Response to Consultation on the revision of the Recommendation on Relevant Markets (3)

- Not necessary to include markets that are regulated in some Member States.
 - Reference to SMS termination, due to the particular issues raised by international asymmetry.
- No additional markets included.
 - Analysed IP Interconnection, backhaul infrastructures and Special Rate Services.
- No transnational markets identified.

Note on the draft Recommendation on implementing Universal Service

- BEREC reiterates still relevant views expressed in its Opinion of 25 April 2012.
- Consistency with the subsidiarity principle enshrined in the U.S. Directive and the EU Treaty.
 - Avoid limiting policy decisions of the Member States.
- Clarification that the provisions of the draft Recommendation are not envisaged to apply retroactively or retrospectively:
 - to past (or even ongoing) decisions of Member States and NRAs;
 - or to services other than broadband.
- Useful recognizing also the benefits and costs associated with broadband dissemination to disabled citizens.

BEREC advice on OPTA's request for assistance concerning Article 25 of the USD

BEREC conclusions on OPTA's questions:

- Article 25 USD is aimed at ensuring end-users' rights but also at fostering the internal market of Directory Enquiry services.
- Access obligation under article 25 USD is also applicable when the requesting undertaking is established in a different MS.
- Article 12 Privacy Directive: Subscriber's consent (when given) to pass their data to another provider does not seem to be limited to requests from providers in the same MS.

BEREC Guidelines on new Roaming Regulation

- Update of former ERG Guidelines on 2nd Roaming Regulation.
 - Excludes structural measures (wholesale access obligation, separate sale of roaming services).
- Main new elements:
 - Retail data caps and application of transparency measures outside the EU-EEA.
 - Customer protection measures in case of inadvertent roaming.
 - Recommendation to apply bill-shock provisions for communication services on ships and airplanes.
 - Recommendation to inform customers about any additional charges that may occur.

BEREC Guidance paper - Article 28(2) USD

- Final document, following public consultation (5/10 – 16/11).
- Addresses “fraud or misuse”.
 - Seeks to set out a cooperation process between NRAs and to elaborate its practical implementation.
- Draft document adopted in September Plenary.
- 13 inputs received – none from Consumer Associations.
 - Welcomed the overall effort and provided constructive suggestions.

Decision for the election of BEREC Chair 2014

- Elections for incoming BEREC Chair 2014 will be held in the 15th meeting of the BEREC Board of Regulators (Athens, 6-7 June 2013).
- Elections will take place in accordance to the BEREC Rules of Procedures.

Board of Regulators Documents for publication

Document title	Doc Number
BEREC Guidelines on Roaming Regulation (EC) No 531/2012	BoR (13) 15
BEREC Response to the European Commission's questionnaire for the public consultation on the revision of the Recommendation on Relevant Markets.	BoR (13) 22
Brief Note on the European Commission's Draft Recommendation on implementing universal service for digital society.	BoR (13) 27
BEREC Advice on OPTA's request for assistance concerning Article 25 of the Universal Service Directive	BoR (13) 34
BEREC Report on Article 28(2) Universal Service Directive: A harmonized BEREC cooperation Process <ul style="list-style-type: none"> - Consultation Response Analysis. - BEREC Guidance paper 	BoR (13) 36 BoR (13) 37
BoR Decision to elect a new Vice Chair for 2013 and a new Chair for 2014	BoR/2013/1



Next BEREC Meetings

BEREC Board of Regulators and
BEREC Office Management Committee Meeting

June 6-7, 2013

Dr. Leonidas Kanellos, BEREC Chair 2013

Body of European Regulators
for Electronic Communications

BEREC

The logo for BEREC features the acronym in a bold, sans-serif font. The letters 'B', 'E', and 'R' are blue, while 'E' and 'C' are maroon. A blue swoosh underline is positioned beneath the 'R' and 'E'.A decorative graphic consisting of two thin horizontal lines, one blue and one maroon, with a central section where they curve downwards and overlap.

Thank You