BEREC E-news

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BEREC E-news

Brief summary of the results from the 20th Plenary in Brussels 4-5 December 2014

BEREC held its 21st meeting on 4 and 5 December 2014 in Brussels (Belgium) chaired by **Göran Marby,** BEREC Chair 2014 and Director-General of PTS (Sweden).

A Heads' workshops on international roaming and the forthcoming review of the EU Regulatory Framework took place on 3 December 2014.

The Board of Regulators (BoR) elected

- **Wilhelm Eschweiler**, Vice-President of BNetzA (Germany), as BEREC Chair 2016 and the following BEREC Vice-Chairs 2015;

- **Lidia Kozłowska** – Vice-President of UKE (Poland);

- **Kevin O'Brien** – Chairperson of ComReg (Ireland).

According to the Rules of Procedure the elected Chair 2016 and the Outgoing Chair 2014 –**Göran Marby** (PTS), must serve one year as Vice-Chairs in 2015 to support the BEREC Chair 2015, **Fátima Barros** (ANACOM), who was elected Chair 2015 at the 17th BoR meeting (5-6 December 2014, Budapest).

The BoR approved for publication, among other, the following documents:

– BEREC Strategy 2015-2017and the Report on the outcome of the public consultation (PC) on the draft Strategy;

– BEREC Work Programme (WP) 2015

– Decision on BEREC Expert Working Groups (EWGs);

– BEREC Guidance on the regulatory accounting approach to the economic replicability test (ex-ante margin squeeze tests) and the Report on the outcome of the PC on the draft Guidance;

– BEREC Report on transparency and comparability of different roaming tariffs;

– BEREC Monitoring Report on the implementation of the BEREC Common Positions on WLA, WBA and WLL – Phase I;

– BEREC Termination Rates Benchmark Snapshot (as of July 2014);

– BEREC Questions to stakeholders for the preparation of the BEREC Report on oligopoly analysis and regulation.

Furthermore BEREC and the Group of Eastern Partnership Regulators for Electronic Communications Networks and Services (EaPeReg Network) signed a Memorandum of Understanding (MoU) on their future cooperation. In the light of the signed MoU, both sides discussed their future cooperation with specific emphasis on the activities to be performed in 2015.

Relevant links:

BEREC Press release, 05 December 2014.

BEREC Work Programme for 2015 and the BEREC Strategy 2015-2017: moving forward to a connected Europe

The BEREC Work Programme 2015 sets out the areas of work that BEREC intends to focus on throughout 2015. It is organised under three Strategic Priorities:

- Promoting competition and investment
- Promoting the internal market
- Empowering and protecting end-users

These strategic priorities reflect those outlined in the Mid-term Strategy Outlook published in 2012[1] and which have been maintained in the revised BEREC Strategy for 2015-2017[2].

Most of BEREC's planned work for 2015 can be seen as furthering these strategic priorities.

Regarding the promotion of competition and investment, BEREC will tackle, for instance, the increasing demand for data-intensive services by acknowledging the need for network investment and the need to support the deployment of fast and ultra-fast broadband on both fixed and mobile networks. BEREC will also aim to foster the conditions in which such investment can be made, while supporting healthy competition. Therefore, a number of projects have been planned with the aims of promoting competition and investment, such as:

- a study into the regulatory approaches to incentivise NGA investment and allow infrastructure-based competition;
- work on the migration from old access products to new IP-based access products;
- analysis of oligopoly market structures and potential regulatory responses;
- monitoring implementation of BEREC Common Positions on wholesale products.

Under the theme of 'promoting the internal market', BEREC will continue to provide input to Article 7/7a cases, which aim to encourage consistent implementation of regulation across the EU, and will continue its work on international roaming, including benchmarking reports and a report on the transparency and comparability of international roaming tariffs. It will also take part in a number of other activities that have a broad impact on the regulatory environment, such as preparing possible Position Papers on the proposed Connected Continent regulation and the next review of the EU regulatory framework for electronic communications. New responsibilities for BEREC may emerge

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[1] BoR (12) 09 BEREC Medium Term Strategy Outlook, 23 February 2012
http://berec.europa.eu/eng/document_register/subject_matter/berec/annual_work_programmes/56-berec-mediumterm-strategy-outlook

[2] BoR (14) 182 BEREC Strategy 2015-2017, 4 December 2014
http://berec.europa.eu/eng/document_register/subject_matter/berec/annual_work_programmes/4785-berec-strategy-2015-2017

from these legislative changes, so BEREC will need to maintain a certain degree of flexibility in order to react appropriately.

BEREC also plans some work on other important changes in markets with potential implications for regulators, such as those stemming from a growing usage of 'over-the-top' (OTT) services or from the so-called Internet of Things, and Machine-to-Machine (M2M) communications.

BEREC also plans a number of projects that aim to 'empower and protect end-users'. For instance, BEREC will give particular attention to the availability of clear and relevant information for end-users to make better informed decisions and facilitate switching between providers. Another of the areas of interest is Net Neutrality. BEREC will conduct a feasibility study on monitoring broadband quality of service in the context of Net Neutrality, which will spread awareness of the subject amongst NRAs, develop approaches to monitor quality of service and consider whether an opt-in monitoring system for NRAs to participate in would be useful. BEREC will also continue its work on ECODEM, which aims to provide NRAs with a more evidence-based understanding of the extent to which the dynamics between consumers, ISPs and Content and Application Providers impact Net Neutrality. Throughout 2014 BEREC gathered information and empirical data (including through commissioned consumer research) on the various traffic management and strategic responses adopted by ISPs in the face of technical, legal and market constraints and on the way consumers' expectations and market dynamics are reflected in retail offers. A report planned for 2015 will set out BEREC's general approach and will support future analysis by NRAs of their national markets, while also contributing to the ongoing public debate on Net Neutrality issues.

In addition to this planned work, BEREC is also ready to respond to *ad hoc* requests for advice from the European Commission, the European Council and the European Parliament and will fulfil these requests appropriately and in a timely manner.
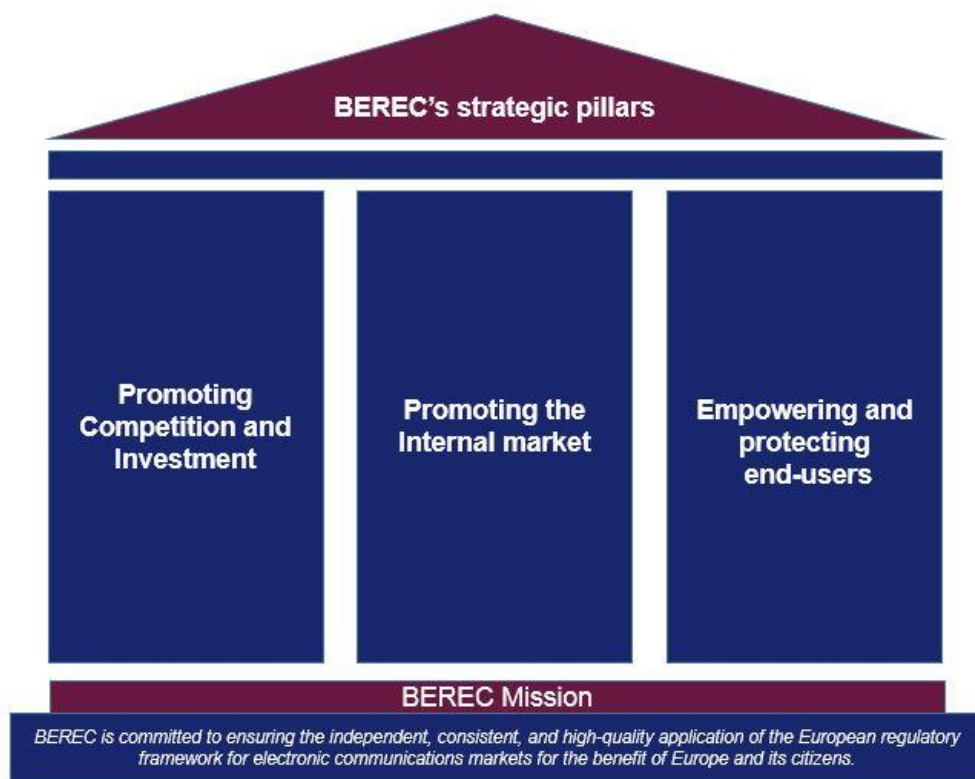
As in previous years, BEREC will maintain the transparency and visibility of its work and working procedures and will focus on strengthening its relations with stakeholders.

BEREC may need to reassess its work priorities during the course of the year, not only in light of available resources, but also, in particular, in view of the possible conclusion of the ongoing legislative process on the proposed Connected Continent Regulation and anticipating developments in terms of the review of the Regulatory Framework during 2015. BEREC will therefore keep its work under constant review and will revisit the Work Programme mid-way through 2015, in order to ensure that the work streams remain properly prioritised and resourced and that any new issues are suitably addressed.

The 2015 BEREC Work Programme was initially prepared by the incoming BEREC Chair for 2015, with input from the NRAs, the European Commission and Stakeholders, regarding the main areas and specific topics or issues to be included. A draft outline of the Programme was then presented and NRAs were asked to prioritise the potential areas of work for inclusion in the Work Programme. A public consultation was launched on 29 September until 24 October. The draft Work Programme was presented at the Stakeholders' Forum meeting during the consultation period. Having taken into account all stakeholders' responses, final approval of the Programme took place at Plenary 4 2014 in Brussels on 4-5 December 2014.

Relevant links:

BoR (14) 185 Work Programme 2015 BEREC Board of Regulators

BoR (14) 182_BEREC Strategy 2015-2017

BEREC's strategic pillars

Promoting Competition and Investment

Promoting the Internal market

Empowering and protecting end-users

BEREC Mission

BEREC is committed to ensuring the independent, consistent, and high-quality application of the European regulatory framework for electronic communications markets for the benefit of Europe and its citizens.

BEREC's strategic priorities

Promoting Competition and Investment
- Promoting competition
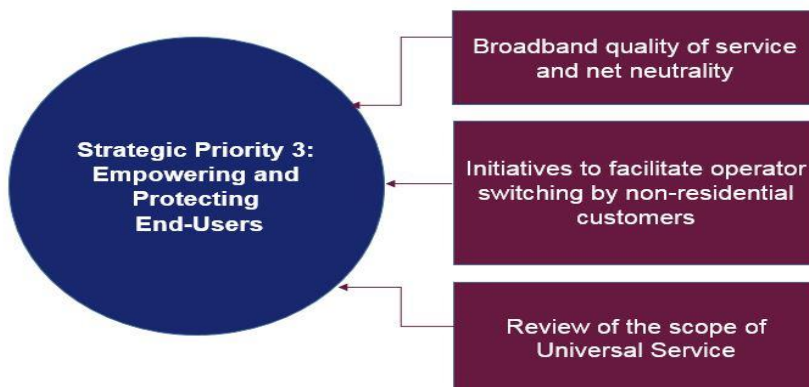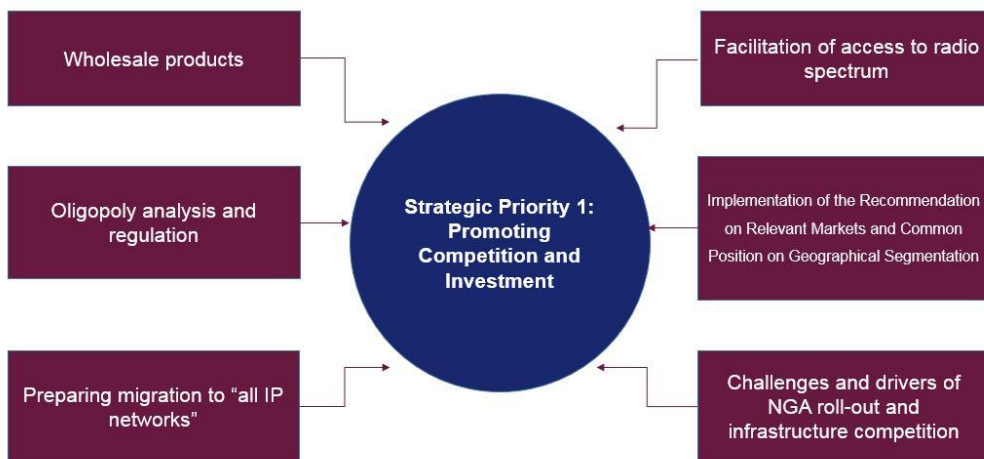- Fostering a favourable climate for investment
- Supporting innovation

Promoting the Internal market
- Supporting convergence
- Taking down barriers

Empowering and protecting end-users
- Promoting end-user choice, accessibility and affordability
- Safeguarding an open internet
- Promoting end-user protection online

Strategic Priority 1: Promoting Competition and Investment

- Wholesale products
- Oligopoly analysis and regulation
- Preparing migration to "all IP networks"
- Facilitation of access to radio spectrum
- Implementation of the Recommendation on Relevant Markets and Common Position on Geographical Segmentation
- Challenges and drivers of NGA roll-out and infrastructure competition

Strategic Priority 2: Promoting the Internal Market

- Legislative Evolution
- Report on OTT services
- Advanced connectivity of devices, systems and services
- Article 7/7-A – Phase II
- Cross-border regulatory cooperation within the scope of Art. 28 (2) of the Universal Service Directive
- Implementation of the Recommendation on Termination Rates
- International Roaming

Strategic Priority 3: Empowering and Protecting End-Users

- Broadband quality of service and net neutrality
- Initiatives to facilitate operator switching by non-residential customers
- Review of the scope of Universal Service

BEREC Report on Transparency and Comparability of Roaming Tariffs (2014)

The BEREC report focuses on two possible key issues for consumers when selecting international roaming tariffs: **transparency and comparability**. Transparency refers to the availability of clear information on prices and conditions for each tariff provided by the operators and the availability of simple procedures to switch between tariffs. Comparability refers to the ability of customers to compare different tariffs, allowing them to select the one best suited to their needs and pattern of consumption.

In order to investigate whether consumers face transparent conditions and are able to compare different tariffs, BEREC prepared two questionnaires addressing the operators and NRAs respectively. The questionnaire to NRAs also included questions on any recommendation that may be available to customers on how to select the most suitable tariff and any hints on methods for customers to estimate their data consumption.

Main findings with regard to the transparency of retail roaming tariffs:

Customers face a wide variety of international roaming tariffs ranging from linear tariffs (such as the Eurotariff) to daily, weekly or monthly bundles that include different roaming services and to specific tariffs where domestic tariffs are also included. Compared to the previous report, more and more providers offer tariffs where customers can use their domestic bundle when roaming, although generally restricted to EEA countries (Iceland, Liechtenstein, and Norway) or within the footprint of the group. Moreover, a majority of these offers include some fair-use limitations and not a strict application of domestic rates.

Most of the operators report to provide extensive information on conditions and prices for each tariff on their websites and to furthermore inform customers about tariffs by sending SMS or USSD (Unstructured Supplementary Service Data) messages. However, the responses indicate that quite a number of operators do not actively inform their customers when they reach a time or volume limit and how services are charged when the usage has reached this limit.

All providers that have answered the questionnaire supply historical service records to their customers. In general, they supply this kind of information in the bill. Some providers also provide e-bills and detailed information on their website, via call centre and/or in specific applications.

Providing data on real-time consumption is more challenging for roaming services. Nevertheless, BEREC notes that providers improved their transparency when it comes to supplying real time information on consumption compared to the previous Report on transparency, being 68 % of the providers that supply real time information via the customer area on the website, via the customer call centre, or by supplying the service records on the customers' handset by sending an SMS or in case of data information via a landing page

Less than half of the NRAs confirmed having received complaint on transparency issues. Nevertheless, the number of complaints per NRA is very low. The few complaints received are mainly focused on clarity regarding the terms and conditions of different roaming packages, prices to call premium rate numbers in the home country and missing welcome SMS. Some customers claim that they have not been informed by their provider when the financial cut-off limit had been reached.

Main findings with regard to the comparability of retail roaming tariffs:

BEREC finds that consumers generally do not have comprehensive access to tables comparing roaming tariffs, where the tariff conditions are summarized. Although certain comparison tools are available, BEREC finds that consumers generally lack the data required to make informed decisions based on tariff comparison. BEREC also considers that there is room to improve the supply of service records to customers and that operators should provide an overview of the different tariffs which they offer. Nevertheless, BEREC observes a slight increase in the percentage of providers supplying a table comparing international roaming tariffs which might help to increase transparency and comparability of tariffs and encourages operators to publish and keep comprehensive information up to date on all active offers in one place.

BEREC considers that there is also room for providing comparison tools based on estimated usage or real life examples that are easy to use by the customer, as well as providing information and tools to help customers to estimate data traffic consumption. Additionally, something considered as advisable would not only be to provide data traffic estimations in MB, but also the maximum price that customers would have to pay under the Eurotariff. This could help users to better compare the Eurotariff with alternative tariffs.

Figures:

Figure 1: Type of mobile providers responding to the BEREC questionnaire
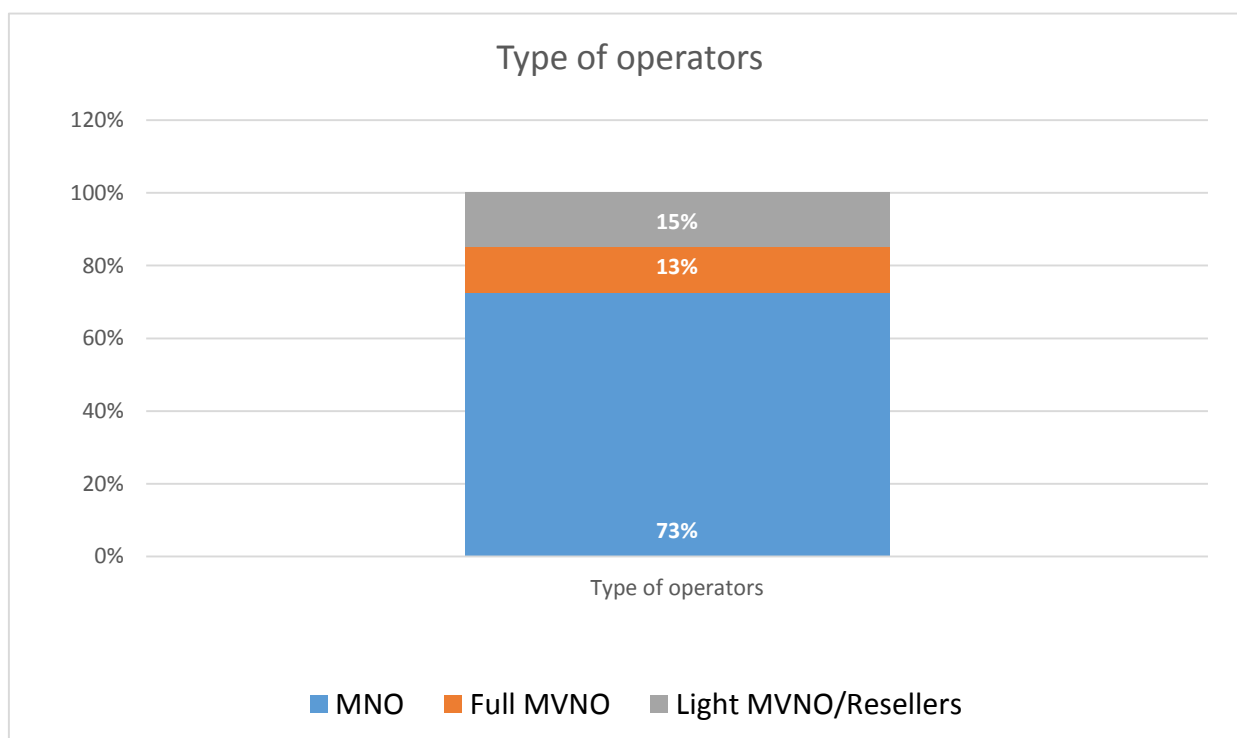
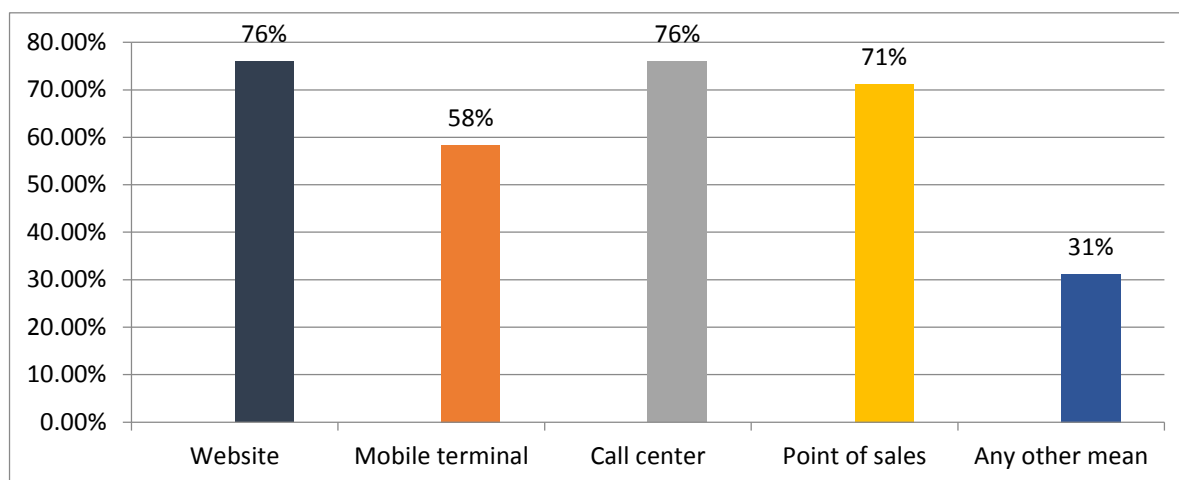**Figure 2: Supply information concerning switching between tariffs**

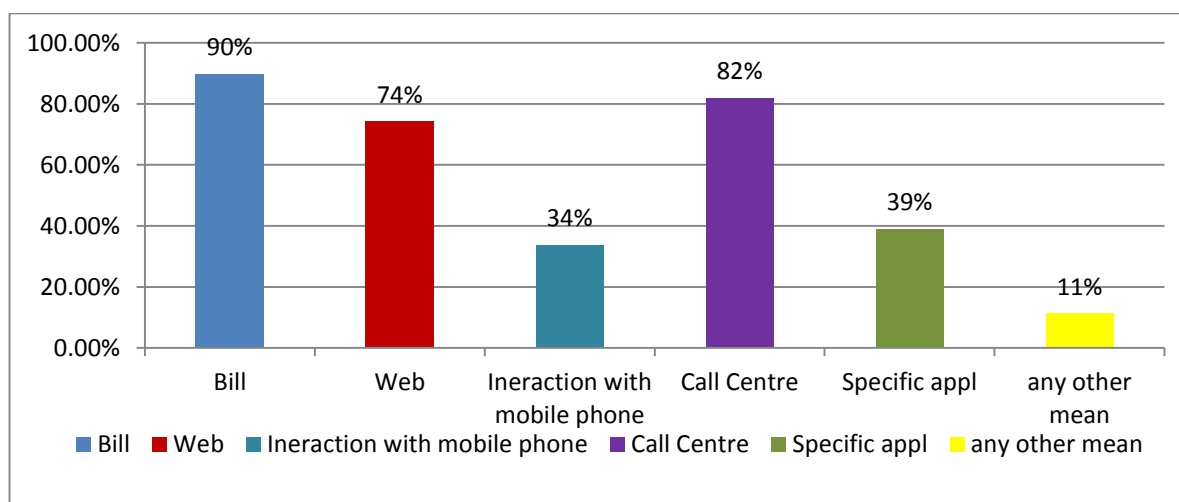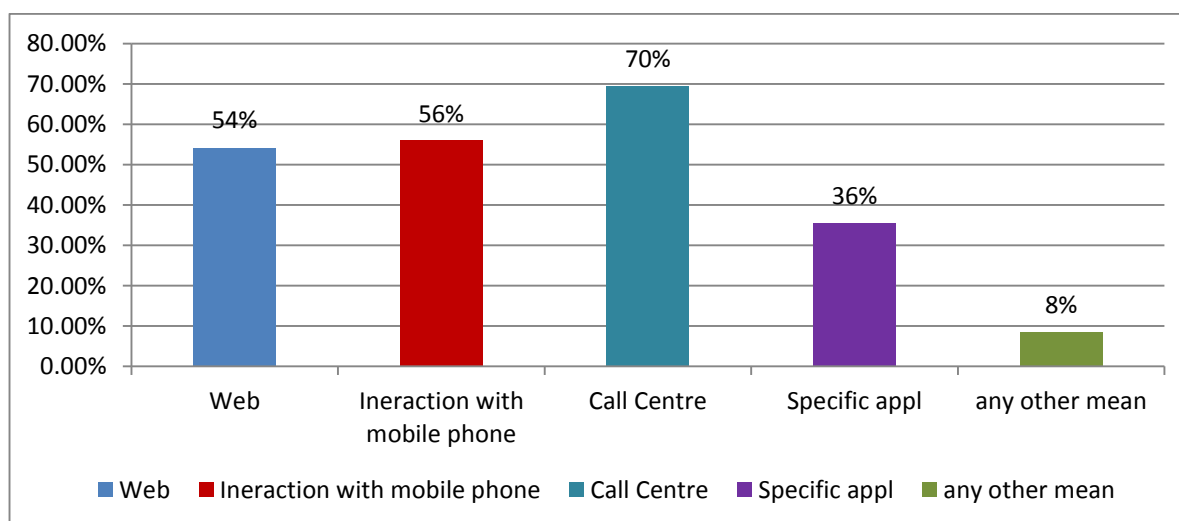**Figure 3: How providers inform about the charges and/or volumes consumption (historical)**

Figure 4: How providers inform about the charges and/or volumes consumption (real time information)

Relevant Links:

BoR (14) 170 Report on Transparency and Comparability of International Roaming Tariffs

BoR (14) 115 International Roaming BEREC Benchmark Data Report September 2013- March 2014

BoR (14) 16 International Roaming BEREC Benchmark Data Report April 2013 – September 2013

BoR (13) 185 Report on Transparency and Comparability of International Roaming Tariffs

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BEREC Report on Oligopoly analysis and regulation: Questions to stakeholders

Questionnaire for stakeholders regarding oligopolistic market structures

In February 2015 BEREC will organize a workshop on oligopolistic market structures, with the aim to collect views from stakeholders. Information about this workshop will be published on the BEREC website. To prepare this workshop but also, more generally, to get input from stakeholders in the area of analysis and regulation of oligopolies, BEREC invites all stakeholders to respond to a questionnaire that is available on the BEREC website. The questionnaire is available until January 25th 2015 and touches on different questions regarding oligopolistic competition trends, their potential impact and the related regulatory issues.

Recently, European telecommunications markets have witnessed several developments, such as a trend towards consolidation via mergers and acquisitions, an increased uptake of services provided by alternative operators, especially in certain geographical areas, and an increase in competition based on bundled services. These developments result in an evolution of the electronic communications services markets and imply that market dynamics are changing, leading in certain situations to an increase in oligopolistic market structures.

The BEREC Work Programme for 2015 includes the preparation of a report on oligopoly analysis and regulation that will be submitted for public consultation in summer 2015. One of the results to be produced by BEREC is a review of the application of the existing regulatory framework (including the Commission's guidelines on market analysis and the assessment of significant market power - SMP) to oligopolistic situations, before providing any possible recommendation on the evolution of this regulatory framework in relation to the treatment of oligopolistic situations. For this purpose BEREC welcomes stakeholders' input.

The questions

The questionnaire covers the following topics:

1. *Situations of oligopolistic competition in the electronic communications sector;*

2. *Possible effects of oligopolistic competition;*

3. *Regulating oligopolies;*

4. *Remedies in the context of oligopolies.*

The procedure and the deadline

All stakeholders are invited to send their contributions by the **25th of January 2015** at the latest to pm@berec.europa.eu, in English, in order to speed up the processing of the contributions. Questions regarding the questionnaire itself can be sent to kevin.wood@berec.europa.eu.

BEREC will publish all individual contributions on its website, taking into account stakeholders' requests for confidentiality (if any), which should be clearly indicated in the contributions to be submitted. It is also possible to send both a confidential and a public version.

BEREC Termination Rates Benchmark Snapshot

I. Introduction

The Benchmarking EWG together with the BEREC Office present the benchmark of mobile termination rates (MTR)- termination fees that charge operators one another for the completion of a call- in the EU with data as of 1 July 201. The purpose of this comparison is to provide an indication of the level of MTRs in the BEREC countries and its evolution over time. The report presents as well the benchmarking of termination rates for messaging, SMS.

Data collected from a total of 34 NRAs is presented.

Detailed information can be found in the published Termination rates Benchmark Snapshot (see LINK).

II. Termination rates for mobile calls and for SMS

Mobile termination rates (MTRs) are regulated in all countries of the EU(28) and in the additional members of BEREC collected in this benchmarking report.

In order to report MTRs, the nominal rates have been taken into account, i.e., the regulated rate by the NRA for the specific period. Two general averages at the European level have been calculated: a simple average and a weighted average, the latter weighting each country's average with the share of the country's subscribers (total subscribers per country/total subscribers in all countries). In the case of the weighted average, only the countries that reported the number of subscribers have been taken into account.

As of July 2014, the mobile voice termination rates in the EU(28) stand at 1.69 eurocents per minute as a simple average. The weighted average reached 1.23 eurocents per minute.

As for the SMS benchmark report the results are based on the inputs received by NRAs referring to data as of July 2014. Thirty five (35) countries provided data, but some NRAs - following national law provisions - asked for the SMS Termination Rates (SMS TRs) to be treated as confidential information.

The benchmark aims at keeping track of the main trends in wholesale SMS TRs in Europe. The scope of the report is limited to describe termination prices at national level (no international SMS TRs are therefore considered[3]).

The SMS TRs collected in this report reflect nominal wholesale rates applied among domestic operators for an off-net SMS exchange, excluding VAT. They may diverge from the "average revenue from an SMS at a wholesale level".

Average SMS tariffs per country are obtained by weighting the SMS tariff of each operator according to its market share, measured in terms of subscribers (instead of in terms of volumes of text messages)[4].

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[3] International SMS TRs in most European countries are also based on bilateral negotiations among operators, which generally result in higher levels than the domestic rates that are reflected in this report.

[4] The figures used in the report stem from MTR benchmark (July 2014).

Two averages are calculated: a simple average and a weighted average. The latter one weights each country's average with the share of the country's subscribers (Total subscribers per country / Total subscribers in all 34 countries). In the case of the weighted average, only countries reporting the number of subscribers are taken into account.

The price for SMS termination is related to each delivered domestic off-net SMS; therefore, no assumption is necessary about set-up charges or average call durations. Slovenia and Serbia are the only countries where "Bill & Keep" agreements are in place for traffic between all domestic operators.

For the domestic SMS TR, the simple average was 2.19 eurocents per SMS, whereas the weighted reported average was 2.02 eurocents per SMS.

Average MTR per country – July 2014
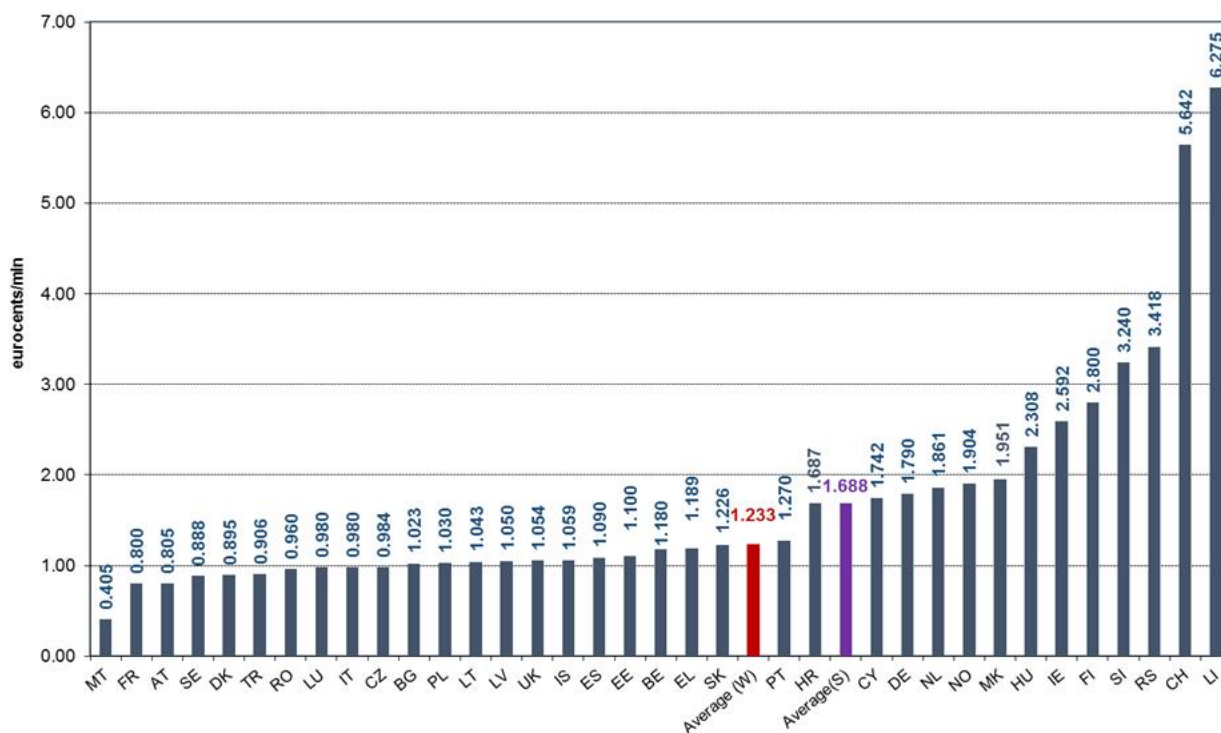
SMS TR per country – July 2014
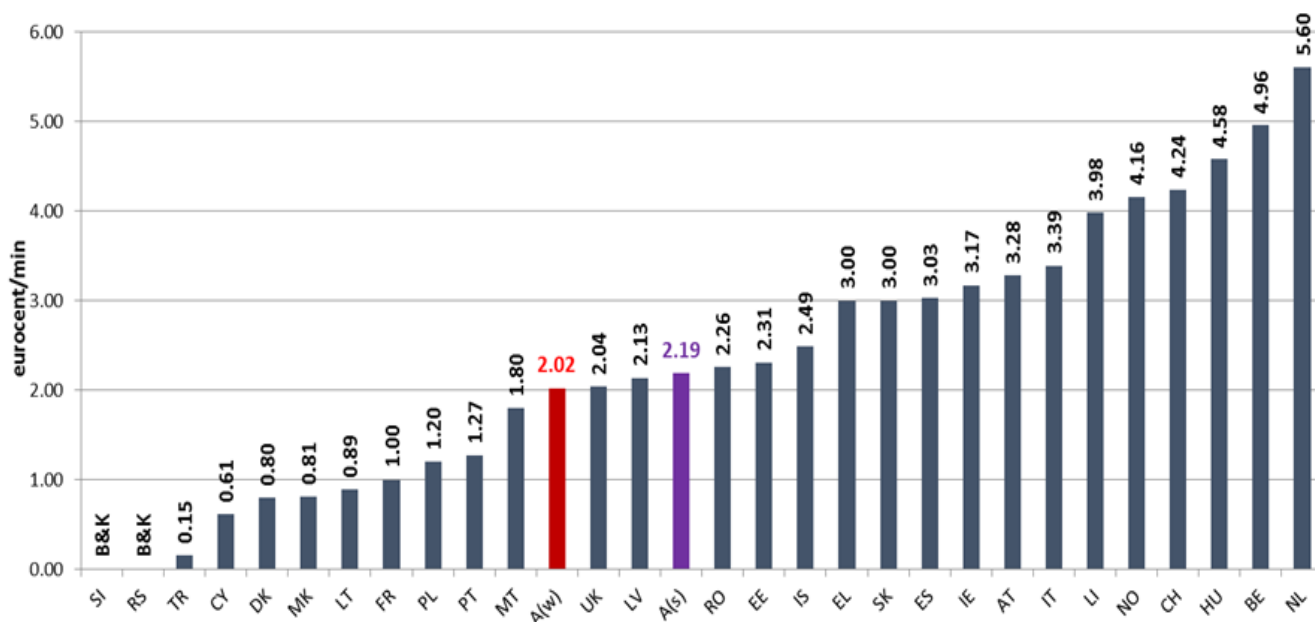
Relevant links:

BoR (14) 55 Termination Rates Benchmark Snapshot (as of January 2014): Integrated Report on Mobile Termination Rates & SMS Termination Rates

BoR (13) 178 Termination Rates Benchmark Snapshot (as of July 2013) - Integrated Report on Mobile Termination Rates and SMS Termination Rates

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BEREC's calendar of the future events

Meeting	2015 dates	Meeting Host	Location
1st CN meeting	5-6 February	CTU	**Prague (The Czech Republic)**
1st plenary meeting	25-27 February	BAKOM/ComCom	**Berne (Switzerland)**
Public Debriefing	**4 March**	**BEREC Office**	**Brussels (Belgium)**
2nd CN meeting	14-15 May	EKIP	**Budva (Montenegro)**
2nd plenary meeting	3-5 June	NPT	**Bergen (Norway)**
Public Debriefing	**16 June**	**BEREC Office**	**Brussels (Belgium)**
3rd CN meeting	10-11 September	RTR	**Vienna (Austria)**

Meeting	2015 dates	Meeting Host	Location
3rd plenary meeting	30 September – 2 October	SPRK	**Riga (Latvia)**
Public Debriefing	**9 October**	**BEREC Office**	**Brussels (Belgium)**
4th CN meeting	19-20 November	CNMC	**Barcelona (Spain)**
4th plenary meeting	9-11 December	OFCOM	**London (United Kingdom)**
Public Debriefing	**16 December**	**BEREC Office**	**Brussels (Belgium)**

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