

21st meeting of the Board of Regulators

Hosted by the BEREC Office

Conclusions

Chair: Mr Göran Marby
Director-General of the
Swedish Post and Telecom Authority (PTS)

4-5 December 2014, Brussels (Belgium)

Main Results of the 21st Meeting of the Board of Regulators

The BEREC Board of Regulators (BoR) held its 21st ordinary plenary meeting on 4 and 5 December 2014 in Brussels. During the meeting the BoR discussed and agreed on the following:

I. Elections of BEREC Chair for 2016 and Vice-chairs for 2015

The BoR agreed that the Chair for 2016 of the BEREC Office Management Committee (MC) and the MC Vice-Chairs for 2015 should hold the same positions in the BoR, to be referred to respectively as 'BEREC Chair 2016' and 'BEREC Vice-Chairs 2015'. The BoR also agreed to hold a joint vote for these posts only during the MC session and acknowledge the results of the vote held at the MC meeting.

Therefore, following the elections held at the MC, the following persons were considered also elected for the respective posts at the BoR: Mr **Wilhelm Eschweiler**, Vice-President of [BNetzA](#) (Germany), was elected as BEREC Chair 2016 and Ms **Lidia Kozłowska** – Vice-President of [UKE](#) (Poland) and Mr **Kevin O'Brien** – Chairperson of [ComReg](#) (Ireland) were elected as BEREC Vice-Chairs 2015.

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

II. Documents approved for publication

The BoR approved for publication the following documents:

- [BEREC Strategy 2015-2017](#) and the [Report on the outcome of the public consultation \(PC\) on the draft Strategy](#);
- [BEREC Work Programme \(WP\) 2015](#) and the [Report on the outcome of the PC on the draft WP](#);
- [BoR 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to the economic replicability test \(ex-ante margin squeeze tests\)](#) and the [Report on the outcome of the PC on the draft Guidance](#);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](#);
- [Termination Rates Benchmark Snapshot \(as of January 2014\): Integrated Report on Mobile Termination Rates & SMS Termination Rates](#);
- [BEREC Questions to stakeholders for the preparation of the BEREC Report on oligopoly analysis and regulation](#)';
- [Amended BoR Rules of Procedure](#).

III. Documents approved for submission to the Commission

The BoR approved for submission to the Commission the BEREC Input to the Commission request for assessing the state of the wholesale roaming market and defining the fair use criteria for retail roaming services in the context of the European Parliament proposal "Roam

Like At Home” (RLAH). The BoR agreed to submit this document to the Commission at the time of the adoption of the BEREC Opinion on roaming mentioned in item V below.

IV. Documents approved for internal use

The BoR approved for internal use the following documents:

- BEREC Best Practices regarding internet access in the consumer market;
- BEREC MTR Benchmark (as of July 2014) - Internal Report;
- BEREC SMS benchmark (as of July 2013) - Internal Report;
- BEREC cross-border SMS termination Report;
- BEREC Report on M2M services;
- BEREC Internal Report on telecommunications issues in smart grids;
- Project Requirement Definition (PRD) documents for the implementation of the BEREC 2015 WP.

V. Discussion on other important topics:

The BoR discussed the future of roaming in the light of the on-going discussions by the co-legislator on the Telecoms Single Market (TSM) initiative¹ and decided to establish an Ad Hoc Group composed of Heads, chaired by the BEREC Vice-chair from HAKOM. The objective was to work with the International Roaming (IR) EWG in order to draft the BEREC Opinion on roaming, to be submitted to the BoR for approval by electronic voting procedure by 11 December 2014.

VI. Other important developments

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.

VII. Information provided to the BoR

The BoR was briefed in relation to the recent developments in the relationship between BEREC and respectively EMERG and REGULATEL.

The Commission provided the BoR with information on the new investment initiative of the Commission.

VIII. Next meeting

The [next BoR meeting will take place on 26 and 27 February 2015 in Berne \(Switzerland\)](#) and will be organised by [ComCom](#) and [BAKOM](#).

The meeting will be preceded by a Heads’ workshop on market analysis in oligopolistic situations and mergers.

¹ Proposal for a Regulation of the European Parliament (EP) and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012

Introduction and participation

The BoR held its 21st meeting on 4 and 5 December 2014 in Brussels (Belgium), which was hosted by the BEREC Office. The meeting was attended by the Heads and/or high-level representatives of the NRAs established in each EU Member State which have primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. Heads and high-level representatives of the NRAs from the EFTA States and the States that are candidates for accession to the EU, the Commission and the EFTA Surveillance Authority also took part in the meeting.

Upon invitation of the BEREC Chair, representatives of the NRAs participating in the EaPeReg Network also took part in the meeting.

List of documents

The list of documents approved by the 21st BoR meeting for publication in compliance with the BEREC Regulation and the BoR transparency rules is included in Annex I of the Minutes.

Items discussed

A short overview of the information presented under each agenda item, a summary record of the proceedings and a record of the conclusions reached by the BoR under each agenda item is presented below.

1. Opening of the meeting and adoption of the agenda

Document(s)	BoR (13) 167 Draft BoR Agenda
Introduction by	BEREC Chair
Information presented	<p>The BEREC Chair opened the meeting and presented the draft agenda for approval by the BoR meeting. The BoR members were invited to suggest any additional issues to be raised or presented under “Any other business” (AOB).</p> <p>The BEREC Office Administrative Manager presented information on the logistics of the meeting and the social event.</p>
Conclusions	The BoR approved the agenda as suggested by the BEREC Chair.

2. Information by the BEREC Chair

Document No	BoR (14) 168 State of implementation of the 2014 BEREC WP BoR (14) 169 Overview of the electronic voting procedures in 2014
Introduction by	BEREC Chair
Information	The BEREC Chair informed the BoR that the afore-mentioned documents

<p>presented</p>	<p>had been circulated for information and expressed his view that they did not need further presentation.</p> <p>The Chair made a short overview of his activity as BEREC Chair in 2014, noting that through the whole year he had given a large number of speeches on behalf of BEREC. Additionally, the Vice-Chairs participated in many events on his behalf, which clearly demonstrates that BEREC's opinion is valuable and requested by many different parties.</p> <p>He also provided information on the recent important meetings which took place since the last plenary meeting, as follows:</p> <ul style="list-style-type: none"> - On 10 November 2014, BEREC held a 'What-If' discussion with the Commission on roaming. The discussion, which proved very fruitful, provided the Heads, the International Roaming (IR) EWG and the Commission with the opportunity to discuss informally issues of strategic importance; - On 11 November 2014, the BEREC Chair and the Co-Chairs of IR EWG presented BEREC's views on the EP proposal on roaming at a meeting of the Council Telecom Working Party. - On 19 November 2014 the BEREC Chair 2014 and the Chair 2015 met Commissioner Oettinger.
<p>Conclusions</p>	<p>The BoR took note of the information presented.</p>

3. Elections of Chair for 2016 and Vice-chairs for 2015

<p>Document(s)</p>	<p>No document</p>
<p>Introduction by</p>	<p>BEREC Chair - Mr Göran Marby</p>
<p>Information presented</p>	<p>The BEREC Chair recalled that, every year at its last ordinary meeting, the BoR must appoint the Chair for the year subsequent to the following year. The newly-elected Chair and the Outgoing Chair 2014 must serve one year [2015] as Vice-Chairs. The BoR may decide to appoint additional Vice-Chairs for 1 year.</p> <p>The BEREC Chair already suggested to the BoR in writing to elect 2 additional Vice-Chairs. He also proposed that all members elected respectively as Chair of the BEREC Office Management Committee (MC) for 2016 and Vice-Chairs for 2015 should hold the same positions in the BoR.</p> <p>Should the proposal be accepted, elections would have to be held only once, at the Management Committee, and the vote would become binding on the BoR, as well.</p> <p>The BEREC Chair invited the BoR to agree on these proposals.</p>
<p>Conclusions</p>	<p>The BoR agreed to elect 2 Vice-Chairs for 2015 in addition to the Outgoing and Incoming Chairs who have to serve as Vice-Chairs in 2015.</p> <p>The BoR agreed on a joint vote with the MC for Chair 2016 and Vice-Chairs 2015 and decided that the persons elected to these post by the MC should hold the same post for the BoR.</p>

4. Adoption of the list of 'A' items

<p>Document(s)</p>	<p>Approval for publications:</p> <p>BoR (14) 170 Draft BEREC report on transparency and comparability of different roaming tariffs</p> <p>BoR (14) 171 Draft BEREC Monitoring Report on the implementation of the BEREC Common Positions on WLA, WBA and WLL – Phase I</p> <p>BoR (14) 172 Draft BEREC Questions to stakeholders for the preparation of the BEREC Report on oligopoly analysis and regulation</p> <p>BoR (14) 173 Draft BEREC Termination Rates Benchmark Snapshot (as of July 2014)</p> <p>Approval for internal use:</p> <p>BoR (14) 174 Draft BEREC MTR Benchmark (as of July 2014) - Internal Report</p> <p>BoR (14) 175 Draft BEREC SMS Benchmark (as of July 2014) - Internal report</p> <p>BoR (14) 176 Draft BEREC cross-border SMS termination report</p> <p>BoR (14) 177-(1 to 27) Draft PRDs for the implementation of the BEREC 2015 Work Programme (WP)</p> <p>BoR (14) 178 Draft BEREC report on M2M services</p> <p>BoR (14) 179 Draft BEREC Internal report on telecommunications issues in smart grids</p> <p>BoR (14) 180 Draft BEREC Best Practices regarding internet access in the consumer market</p>
<p>Introduction by</p>	<p>BEREC Chair - Mr Göran Marby</p>
<p>Information presented</p>	<p>The BEREC Chair presented the “A” items as listed above. The list of “A” items has been drawn up on the basis of the conclusions of the CN according to which approval by the BoR should be possible without further discussion. The BEREC Chair informed the BoR members that, if needed, they could still make statements for the minutes on any of the “A” items. If a position taken on an “A” item might lead to further discussion or if a member of the BoR so requested, this item would be withdrawn from the “A” list.</p> <p>The BEREC Chair then requested the consent of the BoR members for including all items in the “A” list and asked the BoR to approve the ‘A’ items</p>
<p>Conclusions</p>	<p>The BoR approved the A-items.</p>

5. BEREC Strategy 2015-2017

Document(s)	BoR (14) 181 Draft BEREC Report on the Public Consultation (PC) on the BEREC Strategy 2015-2017 BoR (14) 182 Draft BEREC Strategy 2015-2017
Introduction by	BEREC Vice-Chair (BIPT)
Information presented	<p>The BEREC Vice-Chair (BIPT) presented the draft BEREC Strategy 2015-2017 and the outcome of the PC on the draft Strategy held in the period 29 September – 24 October 2014, with an oral hearing on 16 October 2014 during the 2nd BEREC Stakeholder Forum meeting.</p> <p>During the PC, BEREC received 18 contributions from stakeholders, which provided a broad support for the 3 main strategic pillars proposed in the draft Strategy. None of the contributions were in favour of increasing regulation and on the contrary the stakeholders were of the opinion that less restrictive regulation would provide more room for investments. However, there was a general agreement that, overall, the current regulation has been useful both for developing more competition on the market and providing better conditions for the consumers.</p> <p>As a consequence of the PC, the BEREC Vice-chair (BIPT) has proposed the following 4 amendments to the draft Strategy:</p> <p><u>Strategic pillar 1</u>: to adjust the wording in order to describe competition as not only driving innovation and investment, but also the interplay between them;</p> <p><u>Strategic pillar 2</u>: to reinforce the message about business services;</p> <p><u>Para 1</u>: to "soften" the tone on OTTs;</p> <p><u>Para 6b</u>: to emphasize the need for cooperation with other relevant international fora.</p> <p>An overview of the contributions received and explanation of how they were reflected in the final draft Strategy is presented in the report on the outcome of the PC.</p> <p>The Strategy and the Report on the outcome of the PC were submitted to the BoR for approval for publication.</p>
Conclusions	The BoR discussed the outcome of the PC on the draft BEREC Strategy 2015-2017 and approved it for publication together with the Report on the outcome from the PC.

6. Proposal for amending the BoR Rules of Procedure (RoP)

Document(s)	BoR (14) 183 Proposal for amending the BoR RoP
Introduction by	Framework Implementation (FI) EWG Chair (AGCOM)
Information presented	The FI EWG Chair presented a proposal for amendment to the BoR RoP,

	<p>aimed at improving the functioning of the BEREC EWGs.</p> <p>The proposal was based on the outcome of the orientation debate held by the BoR on this topic during its 20th plenary meeting (Rome, 25-26 September 2014).</p> <p>With the objective to trying to keep the text of the RoP as general as possible, the FI EWG has proposed the following amendments:</p> <p><u>Article 11 of the BoR RoP:</u></p> <ul style="list-style-type: none"> • introduction of 2 Co-Chairs per EWG, from 2 different NRAs; • definition of the length of the mandate of EWGs' Co-Chairs (2 years, renewable); • establishment of a procedure for appointing or replacing EWGs' Co-Chairs; • defining transitional rules on the term of current EWGs' Chairs; • introduction of rules on drafting team leaders; • introduction of principles for the set-up of ad hoc teams. <p><u>Article 3 of the BoR RoP</u></p> <p>A new provision is proposed to introduce the distribution of EWGs amongst the Vice-chairs, who should each be responsible for supporting and following the works of a cluster of EWGs.</p>
Conclusions	<p>The BoR discussed the proposal for amending the BoR RoP in relation to the function of the EWGs and made some additional proposals for changes. The proposal for amending the RoP was revised in line with the proposals made, in particular with regards to the transitional rules, and was approved by the BoR for publication.</p>

7. Draft BEREC 2015 WP

Document(s)	<p>BoR (14) 184 Draft BEREC Report on the PC of the BEREC draft WP 2015</p> <p>BoR (14) 185 Draft BEREC 2015 WP (up-dated after the PC)</p>
Introduction	<p>BEREC Chair 2015 (ANCOM)</p>
Information presented	<p>The BEREC Chair 2015 recalled that the draft BEREC Work Programme 2015 was approved for PC at the 20th BEREC BoR meeting in Rome on 25 September 2014. The PC ran from 29 September to 24 October 2014, with an oral hearing on 16 October 2014 during the 2nd BEREC Stakeholder Forum meeting.</p> <p>During the PC, BEREC received 20 contributions from stakeholders, including incumbent and alternative operators (fixed, mobile, cable) and user associations. All contributions supported the BEREC priorities for work in 2015. Additionally the stakeholders provided the following main comments regarding the first three BEREC priorities for 2015:</p> <ul style="list-style-type: none"> – less regulation should be appropriate in order to promote innovation in the

	<p>sector;</p> <ul style="list-style-type: none"> – the next Framework Review should be given high priority in BEREC’s work; – BEREC’s role in providing guidance and best practices to stakeholders and NRAs should be further strengthened. <p>Following the PC, the BEREC Chair 2015 reviewed the draft WP taking into account all relevant comments and responses as far as possible. An overview of the contributions received and explanation of how they were reflected in the BEREC WP is presented in the draft report on the outcome of the PC.</p>
Conclusions	The BoR took note of the outcome of the PC on the draft BEREC WP 2015 and approved for publication the final text of the WP together with the Report on the outcome of the PC.

8. BEREC Expert Working Groups (EWGs)

Document(s)	<p>BoR (14) 186 Draft BoR Decision on BEREC EWGs</p> <p>BoR (14) 177 BEREC EWG Structure</p>
Introduction	BEREC Chair 2015 (ANACOM)
Information presented	<p>Before starting the presentation, the BEREC Chair 2015 thanked the BEREC Vice-chair (FICORA) for the enormous work done on the review of the BEREC EWG structure, which contributed significantly to the preparation of the document tables for BoR approval under the current item.</p> <p>The BEREC Chair 2015 recalled the provisions of Article 4 (7) of the BEREC Regulation and Article 11 of the BoR RoP, which state that the work of BEREC may be organised into EWGs and which require the BoR to designate the Chairs of the EWGs. In that respect the 2015 BEREC Chair presented a draft BoR decision for nominating the Chairs of all EWGs and a new structure for the BEREC EWGs.</p> <p>Following the orientation debate held by the BoR in Rome, the 2015 BEREC Chair also presented the new EWG structure.</p> <p>The BoR Decision on the new EWG was submitted to the BoR for approval for publication and the new EWG structure – for approval for internal use. To increase the transparency of its works BEREC has been made available to the public an organigram with the new EWG structure.</p>
Conclusions	The BoR took note of the document presented and approved for publication the BoR Decision on the EWGs and for internal use - the new BEREC EWG Structure.

9. International Roaming

Document(s)	BoR (14) 187 International Roaming (IR): Draft BEREC Input to EC request
Introduction by	BEREC Chair and IR EWG Chairs (RTR/CNMC)
Information presented	<p>The BEREC Chair made an introduction by referring to the discussions the day before, in the workshop on roaming, where the draft BEREC Opinion and the way forward was discussed. It was decided to continue and conclude on that discussion first, before moving on to discuss and approve for publication and submission to the Commission the BEREC Input to EC request.</p> <p>First, the BEREC Chair made a correction of the agenda item. The agenda said that BoR should approve the Answer also for publication. At the Rome plenary it was decided that it will be approved for submission to the Commission and not published by BEREC.</p> <p>Then the IR EWG Co-Chairs recalled that on 11 September 2013, the European Commission (EC) tabled a proposal for a Regulation laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, including proposals designed to offer operators an incentive to enable their customers to use their phones when travelling throughout the EU, while paying domestic rates.</p> <p>On 17 October 2013 the BEREC published its views on the proposed Regulation.</p> <p>On 3 April 2014, the European Parliament (EP) adopted at first reading a legislative resolution on the proposed Regulation, which contained a proposal to abolish the retail roaming surcharges in order to allow customers to “Roam Like at Home” (RLAH) subject to a fair use limit.</p> <p>On 17 May 2014, BEREC published its views on the EP proposals stating that, while the EP amendments represented an improvement on the EC’s proposals, some of the problems of regulatory uncertainty BEREC had identified with the EC’s original proposals remained.</p> <p>On 9 April 2014, BEREC received a request from the Commission for advice in assessing the state of the wholesale roaming market and defining the so-called fair use criteria, in order to inform discussions between the EC and the co-legislators, and help enable a smooth and predictable transition in the mobile market to any new requirements.</p> <p>Therefore, based on input from the NRAS and individual operators, BEREC developed analysis of the impacts of the RLAH, which was presented on 16 October 2014 during the 2nd BEREC Stakeholder Forum meeting.</p> <p>Accordingly, the IR EWG Co-Chairs presented a draft BEREC reply to the Commission request of 9 April 2014 to BEREC (to provide advice in assessing the wholesale market for international roaming services and defining fair usage for the use of roaming services) and which also provided some elements to be included in the future BEREC Opinion.</p> <p>The BoR in general agreed with the proposed answer to the Commission but was of the opinion that there was need for further work on the BEREC Opinion in order to include some high-level messages in it.</p>

Conclusions	The BoR discussed and approved the BEREC Input to the EC request for submission to the Commission and agreed to set up a Heads Group, which together with the IR EWG should draft the BEREC Opinion on roaming, to be submitted to the BoR for approval by electronic voting procedure. It was further agreed that the BEREC Input to the EC request would be submitted to the Commission when the BEREC Opinion is adopted.
--------------------	--

10. BEREC - EaPeReg Cooperation

Document(s)	BoR (14) 125 final Memorandum of Understanding (MoU) between BEREC and the Group of Eastern Partnership Regulators for Electronic Communications Networks and Services (EaPeReg Network)
Introduction by	BEREC Chair, representative of RRT and Chair of EaPeReg Network
Information presented	<p>The BEREC Chair, a representative of RRT and the Chair of the EaPeReg made a short overview of the cooperation established between BEREC and EaPeReg Network so far. They also emphasised that the cooperation should be intensified and expressed their belief that the MoU, which had been agreed between the two organisations and is about to be signed would further contribute to the deepening of the collaboration.</p> <p>At the end of the presentation the BEREC Chair, the Chair of EaPeReg Network and the BEREC Office Administrative Manager signed the MoU for cooperation between BEREC and the EaPeReg Network.</p>
Conclusions	The BoR took note of the information presented and of the signature of the MoU between BEREC and EaPeReg.

11. Remedies (REM)

Document(s)	BoR (14) 188 Equivalence of Inputs (EoI): A preliminary report on issues and potential approaches
Introduction by	REM EWG Chair (Ofcom)
Information presented	<p>The REM EWG Chair presented a preliminary report on issues and potential approaches to the EoI. She recalled that both BEREC's revised CPs on WLA, WBA and WLL and the Commission's Recommendation on non-discrimination and costing obligations recognise EoI as an effective non-discrimination remedy in ensuring a level playing field between SMP operators and alternative (competing) operators.</p> <p>However, there is little practical experience amongst NRAs in designing regulatory obligations dealing with the implementation of EoI. In addition, there is also uncertainty amongst NRAs, as well as operators, about what is meant by EoI and what are the key issues that need to be analysed when considering implementing it in practice.</p> <p>The document draws on the experience and lessons from a number of NRAs that have implemented EoI, with case studies from France, Ireland, Slovenia and the UK. The report also examines the case of Italy, which has implemented an advanced form of Equivalence of Outcome (EEO).</p>

	The current document will be periodically updated as EoI is implemented more widely by Member States and is intended for internal use. The original idea of the EWG was that a report to serve as a guide to NRAs considering EoI implementation should be published only once there is a sufficient experience gathered from NRAs who have implemented EoI.
Conclusions	The BoR discussed the Report and to approved it for internal use.

12. Regulatory Accounting (RA)

Document(s)	<p>BoR (14) 189 Draft Report on the BEREC PC on document “Guidance on the RA approach to the economic replicability test (i.e. ex-ante/sector specific margin squeeze tests)”</p> <p>BoR (14) 190 Draft BEREC Guidance on the RA approach to the economic replicability test (ex-ante margin squeeze tests)</p>
Introduction by	RA EWG Co-Chair (BNetzA) and Drafting Team Leader (AKOS)
Information presented	<p>The RA EWG Co-Chair (BNetzA) and the Drafting Team Leader (AKOS) presented the outcome of the PC on the draft BEREC Guidance on the RA approach to the economic replicability test (ex-ante margin squeeze tests), as well as the changes introduced to the document after the PC.</p> <p>The draft Guidance was approved by the BoR for a PC during the 20th BEREC plenary meeting (25-26 September 2014, Rome). The public consultation ran from 29 September to 24 October 2014, with an oral hearing on 16 October 2014 during the 2nd BEREC Stakeholder Forum meeting. BEREC received 11 contributions during the PC, which were examined and reflected in the revised Guidance paper where appropriate. Most of the comments asked for additional clarification or reflected on the objective of the document.</p> <p>In that respect, it has been clarified that the purpose of the Guidance documents to provide orientation to the NRAs, which should not be considered as best practices, as it is too early to develop best practice at the initial stage of the implementation of the Recommendation; the NRAs also need flexibility to take into account national market situations.</p> <p>The revised Guidance document also notes that the ERT, as a particular form of an ex-ante margin squeeze test is a similar but not identical instrument. Therefore, in the revised version of the Guidance, the EWG has clarified the distinction between the two instruments. Furthermore the current version of the document introduces additional clarity as far as the price control and sharing the risk of investment are concerned.</p> <p>Comments related to ex-post procedures have been considered beyond the scope of the document, since the ERT is defined as an ex-ante test. Some comments which relate to the Recommendation in general but do not directly relate to the Guidance document have also not been taken into account.</p> <p>An overview of the contributions received is presented in the draft report on the outcome of the PC, together with an explanation of how they were reflected in the revised Guidance.</p>

Conclusions	The BoR discussed the outcome of the PC on the BEREC Guidance on the RA approach to the economic replicability test (ex-ante margin squeeze tests) and approved the final text of the document and report on the outcome of the PC for publication.
--------------------	---

13. Oral up-date on the CPC legal workshop on electronic communications (26 September 2014, Brussels)

Document(s)	No document
Introduction by	Representative of the BEREC Chair
Information presented	<p>A Representative of the BEREC Chair presented information on the CPC legal workshop on electronic communications organised in cooperation with BEREC in Brussels on 26 September 2014. The workshop was co-organised with the Commission Service, in particular with the involvement of DG Justice, DG SANCO and DG CONNECT.</p> <p>The workshop focused on the main consumer issues in the area of electronic communications and on the available instruments for consumer protection. The workshop was organised into 2 sessions, as follows:</p> <p>Session 1: "Responsibilities of electronic communications operators as intermediaries/ platforms for the provision of premium rate services"</p> <p>Session 2: "Protection of vulnerable consumers in the context of telecommunication services – unsolicited calls and off premises selling".</p> <p>At the end of the workshop the participants concluded that there is still need for additional capacity building and knowledge sharing, which could enhance NRAs' and Consumer Protection Authorities' understanding of the consumer problems.</p> <p>The representative of the BEREC Chair suggested, therefore, organising a follow-up workshop or establishing a joint EWG or joint project between BEREC and CPC that could look into common consumer problems in the market.</p>
Conclusions	The BoR took note of the information.

14. BEREC international activities

Document(s)	No document
Introduction by	BEREC Chair 2015 (ANACOM)
Information presented	<p>The BEREC Chair 2015 briefed the BoR about the state of the international cooperation with REGULATEL, EMERG and EaPeReg Network, as follows:</p> <p>In line with the MoU signed in December 2013, BEREC and REGULATEL set up several working groups in 2014 on issues related to roaming, net neutrality and quality of service and end user protection, which met in March 2014 in Cartagena. The BEREC delegation took part in the XIII</p>

	<p>REGULATEL-BEREC Summit (21 and 22 July 2014, Buenos Aires) led by the BEREC Vice-chair (ANACOM). The 2015 REGULATEL Chair took part in the 20th BoR Plenary and presented to BEREC his views on the further development of the relationship between BEREC and REGULATEL in 2015. In return BEREC took part in the REGULATEL plenary meeting of 16-18 November 2014 in Puerto Rico. BEREC was represented by its Vice-chair (HAKOM).</p> <p>In 2014 BEREC and EMERG signed by electronic means an MoU on cooperation. There have been some joint initiatives and in January 2015 BEREC and EMERG will organise their next joint workshop on investigative powers of NRAs.</p> <p>During the current plenary BEREC and EaPeReg Network signed a MoU for cooperation and a BEREC delegation will take part in the next EaPeReg Network plenary to take place in Prague in the period 10-12 December 2014.</p> <p>As CNMC will Chair EMERG next year and will host the next BEREC-REGULATEL summit, they are considering organising a 3-in-one summit: Regulatel, EMERG and EaPeReg Network. The feasibility of this idea is under examination and further information will follow.</p>
Conclusions	The BoR took note of the information.

15. Information from the Commission

Document(s)	<p>BoR (14) 166 Letter from the Commission to the BEREC Chair of 12 November 2014</p> <p>BoR (14) 199 Note from the Commission to the BEREC BoR</p>
Introduction	Commission representatives
Information presented	<p>A representative of the Commission recalled that there is a set of obligations for the Member States in relation to the market analysis, subject to derogation request. So far the Commission has not received such requests and has serious concerns that the NRAs of twenty-three Member States have accumulated delays in conducting market reviews. Consequently, the Commission had sent a letter to the BEREC Chair and would like to discuss this issue with BEREC as, in some cases, either the delays accumulated or the number of affected markets are significant.</p> <p>In reply, several NRAs informed the BoR that the information presented in the letter from the Commission was not correct.</p> <p>The Chair requested the BEREC Office to undertake a fact-finding exercise, which would support the BEREC Chair 2015 in preparing a reply to the Commission letter.</p> <p>The Commission also presented information about the announced new investment project of the Commission, which would support private investors to develop their ideas, which might be either very risky or might not be supported with external finance under regular market conditions. One of the priority areas for receiving financing would be the digital infrastructure.</p> <p>More information on these subjects has been provided in writing in the Commission letters mentioned above.</p>

Conclusions	The BoR took note of the information on the new investment initiative of the Commission and discussed the letter in relation to the delay in the market analysis. The BEREC Office was requested to undertake a fact-finding exercise, which will be used as a basis by the BEREC Chair 2015 to reply to the Commission letter.
--------------------	---

16. AOB

16.1. Request from Gibraltar NRA to access internal BEREC document on Benchmarking

Document(s)	No documents
Introduction by	BEREC Chair
Information presented	The BEREC Chair informed the BoR that Ofcom had received a request from the Gibraltar NRA to access internal BEREC documents on benchmarking. GRA had been advised by the European Commission that it should use these benchmarking documents to assist with market reviews in Gibraltar. The Chair suggested granting the access on a one time basis through the UK NRA - Ofcom.
Conclusions	The BoR agreed to grant access to its internal Benchmarking documents on a 1 time basis through the UK NRA - Ofcom

16.2. Calendar of meetings for 2015

Document(s)	BoR (14) 191 Up-dated meeting schedule for 2015
Introduction by	BEREC Chair 2015 (ANACOM)
Information presented	The 2015 BEREC Chair present an up-dated schedule for the ordinary BEREC and CN meetings and the public debriefings in 2015.
Conclusions	The BoR took note of the information.

16.3. New Article 7/7a case

Document(s)	No document
Introduction by	BEREC Chair
Information presented	The BEREC Chair informed the BoR that the Commission has opened a new Article 7/7a case against France, which will be submitted for approval by electronic voting with a comments round starting on 23 December 2014 and a voting round starting on 29 December 2014.
Conclusions	The BoR took note of the information.

16.4. Information on the next BoR meeting and Plenary Workshop

Document(s)	No document
Introduction by	2015 BEREC Chair (ANACOM) and representative of the meeting host (BAKOM/ComCom)

Information presented	<p>The 2015 BEREC Chair presented information on the Heads workshop on market analysis in oligopolistic situations and mergers and acquisition to take place before the plenary (on 25 February 2015). The BEREC Chair 2015 recalled that BEREC approved a questionnaire to the stakeholders which will be used as input to the Workshop.</p> <p>A Representative of ComCom presented information on the logistics of the next BoR meeting to be held on 26 and 27 February 2015 in Bern (Switzerland).</p>
Conclusions	The BoR took note of the information.

Brussels, 5 December 2014.

Contents

Main Results of the 21st Meeting of the Board of Regulators	2
Introduction and participation	4
List of documents	4
Items discussed	4
1. Opening of the meeting and adoption of the agenda.....	4
2. Information by the BEREC Chair	4
3. Elections of Chair for 2016 and Vice-chairs for 2015	5
4. Adoption of the list of 'A' items	6
5. BEREC Strategy 2015-2017	7
6. Proposal for amending the BoR Rules of Procedure (RoP).....	7
7. Draft BEREC 2015 WP	8
8. BEREC Expert Working Groups (EWGs).....	9
9. International Roaming.....	10
10. BEREC - EaPeReg Cooperation	11
11. Remedies (REM).....	11
12. Regulatory Accounting (RA)	12
13. Oral up-date on the CPC legal workshop on electronic communications (26 September 2014, Brussels).....	13
14. BEREC international activities	13
15. Information from the Commission	14
16. AOB	15
16.1. Request from Gibraltar NRA to access internal BEREC document on benchmarking	15
16.2. Calendar of meetings for 2015.....	15
16.3. New Article 7/7a case	15
16.4. Information on the next BoR meeting and Plenary Workshop	15