

**26th Ordinary Plenary Meeting of the BEREC Office Management
Committee (MC)**

Hosted by the Netherlands Authority for Consumers and Markets (ACM)

Conclusions

Chair: Wilhelm Eschweiler
Vice-President of
Bundesnetzagentur (BNetzA)

26 February 2016, Rotterdam (The Netherlands)

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Main Results of the 26th BEREC Office MC Meeting

The BEREC Office MC held its 26th ordinary plenary meeting on 26 February 2016 in Rotterdam.

During the meeting the MC discussed and agreed on the following:

1. Documents approved for publication and implementation:

- [MC Decision on the working language of the BEREC Office](#);
- [MC Decision on the termination of the appointment of the Interim Accounting Officer and on the appointment of the Commission Accounting Officer as the BEREC Office Accounting Officer](#).

The MC authorised the BEREC Office Administrative Manager (AM) to sign on behalf of the BEREC Office a Service Level Agreement (SLA) between the BEREC Office and the Commission for the provision of the Accounting Officer's services to the BEREC Office.

2. Documents submitted to the MC for information and discussion

The MC took note of the information provided in the following documents:

- Final Audit Report on the activities under Article 7 and 7a including stakeholder relationship management and external communication, and the action plan to address the audit recommendations;
- Explanatory Note on the transfers carried out by AM in the BEREC Office Budget 2015 in October-December 2015;
- 2015 BEREC Office Report on operation and budget execution;
- 2015 BEREC Office Report on budgetary and financial management.

The MC was briefed on the following subjects:

- recent activities of the BEREC Office Advisory Group (BAG);
- recent activities of the MC Vice-Chair exercising the powers conferred on the appointing authority by the Staff Regulations of Officials of the EU and the powers conferred on the authority entitled to conclude contracts by the Conditions of employment of other servants of the EU;
- next steps in the preparation of the Annual and Multiannual Programming Document of the BEREC Office Activities for 2017-2019;
- state of play of the selection procedure for the appointment of Head of Administration and Finance (AF) at the BEREC Office and the establishment of a reserve list for that post.

3. Next meeting

The next meeting of the CN will take place on **3 June 2016 in Vienna (Austria)** and will be hosted by the [Austrian Regulatory Authority for Broadcasting and Telecommunications](#) (RTR).

Introduction and participation

The BEREC Office MC held its 26th ordinary plenary meeting on 26 February 2016 in Rotterdam. The meeting was hosted by ACM.

The meeting was attended by the heads and/or high-level representatives of the National Regulatory Authorities (NRAs) with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services established in each Member State of the European Union (EU), and the Commission. Heads and high-level representatives of the NRAs from the EFTA States and the candidate countries for EU accession also took part in the meeting.

List of documents

The list of final documents approved by the meeting for publication in compliance with the BEREC Regulation and the MC transparency rules is included in Annex.

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 MC under each agenda item is each presented below.

1. Opening of the meeting and adoption of the agenda

Document(s)	MC (16) 17 Draft MC Agenda
Introduction by	BEREC Chair
Information presented	The BEREC Chair opened the meeting and presented the agenda for approval by the MC meeting. The Chair clarified that agenda item 8 on the appointment of the Head of AF will be for information only and will not require a decision by the MC at this stage. The MC members were invited to suggest any additional issues to be raised or presented under “Any other business” (AOB). This not being the case, the agenda was adopted.
Conclusions	The MC approved the agenda as presented in the document mentioned above with the clarification made by the Chair on agenda item 8.

2. List of the ‘A’ items

Document(s)	MC (16) 18 Draft MC Decision on the working language of the BEREC Office (approval for publication)
Introduction by	BEREC Chair
Information presented	The Chair presented the ‘A’ item above. The Chair recalled that, if needed, MC members still could make statements for the minutes on the “A” items. The Chair asked the MC to approve the document included in the “A” item list for publication and implementation.

Conclusions	The MC approved the document included in the 'A' item list.
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3. Oral up-date on the recent activities of the BAG and of the BEREC Vice-Chair in his capacity of appointing authority

Document(s)	No documents
Introduction by	BEREC Vice-Chair (ARCEP)
Information presented	<p>The BEREC Vice-Chair (ARCEP) briefed the MC in relation to the recent BAG activities and on recent staff matters¹, as follows:</p> <ul style="list-style-type: none"> - Recent BAG activities <p>The BAG gave positive opinions on the draft Annual and Multiannual Programming Document of the BEREC Office activities for 2017-2019 (with reservations from the Commission), the draft Decision on the transfer of the accounting officer function to the European Commission and the draft Decision on the BEREC Office working language.</p> <p>The BAG examined the documents listed below under agenda items 4 and 5 and agreed with their submission to the MC for information (for agenda item 4) and for discussion (for agenda item 5).</p> <ul style="list-style-type: none"> - Recent activities of the BEREC Vice-Chair in his capacity of appointing authority of the BEREC Office staff <p>Since the beginning of 2016 the BEREC Vice-Chair in his capacity of appointing authority of the BEREC Office staff approved 6 decisions concerning granting of special leave, unpaid leave, extension of one contract and the resignation of the legal officer.</p>
Conclusions	The MC took note of the information.

4. BEREC Office operation in 2015

Document(s)	<p>MC (16) 19 2015 BEREC Office Quarterly Report on operation and budget execution</p> <p>MC (16) 20 Transfers by the BEREC Office Administrative Manager in the BEREC Office Budget in the period October - December 2015</p> <p>MC (16) 21 BEREC Office Report on implementation of the budget and on budgetary and financial management 2015</p>
Introduction by	BEREC Office AM
Information presented	<p>The BEREC Office AM briefed the MC on the following subjects:</p> <ul style="list-style-type: none"> - Transfers by the BEREC Office Administrative Manager in the BEREC Office Budget in the period October - December 2015

1 In compliance with Article 10 (3) of the BEREC Regulation and Article 2 (1) the Incoming Chairs and BEREC Vice-Chair exercises the powers conferred on the appointing authority by the Staff Regulations of Officials of the EU and the powers conferred on the authority entitled to conclude contracts by the Conditions of employment of Other Servants of the EU

The MC was informed that in the period October-December 2015 the AM carried out transfers in the BEREC Office Budget for the following amounts:

- within Title 1 – for EUR 115 669;
- within Title 2 – for EUR 78 732;
- within Title 3 – for EUR 18 000.

The MC was informed that the transferred amounts mentioned above were compliant with the provisions of Article 27 (4) of the [BEREC Office Financial Regulation](#)² and were justified by the following:

- transfers in Title 1 – in particular were mainly needed to cover the increased expenditure for Contract Agents and decreased needs for Seconded National Experts (SNE) due to the conversion of 2 SNE posts to CA posts; following a Decision of the European Court of Justice the BEREC Office needed to translate the vacancy notice for one vacant post into all EU official languages;
 - the transfers in Title 2 were necessary to cover increased expenses on computer equipment, bank charges and publications by the Publication Office, to launch a review of the activity based budget model due to multiannual programming and budgeting, to organise the BEREC Office Open Days;
 - the transfer in Title 3 there was required to allow the signature (with a contractor from the Czech Republic) of a direct service contract for subscription to media and analytical services related to the electronic communications market and other topics related to BEREC activities.
- **BEREC Office quarterly Report on operation and budget execution**

The AM informed the MC that the quarterly report has served as a basis for the BEREC Office report on the implementation of the budget and report on budgetary and financial management as it covers the whole financial year 2015. As the information in the two reports covers largely the same subject, it was presented only under the item presented below.

- **BEREC Office Report on implementation of the budget and on budgetary and financial management 2015**

The current Report has been prepared in compliance with the provisions of Article 93 of the [BEREC Office Financial Regulation](#). It gives an account, both in absolute terms and expressed as a percentage of the rate of implementation of appropriations, on the transfers of appropriations among the various budget items, together with summary information.

² Decision MC/2014/1 of the BEREC Office MC on the financial regulation applicable to the BEREC Office in conformity with the framework Financial Regulation for the bodies referred to in Article 208 of Council Regulation (EU, Euratom) No 966/2012 on the Financial Regulation applicable to the general budget of the European Union (hereinafter, the general Financial Regulation)

	In particular, the MC was informed about the rates of budget execution for the last 4 years and cancellation of appropriations carried over, which are closely monitored by the Commission, which have been as follows:					
	Year	2012	2013	2014	2015	Benchmark
	Budget execution	88.54%	89.55%	97.91%	95.65%	At least 95%
	Cancelled carry-overs	45.53%	28.40%	14.10%	4.17%	No more than 5 %
	<p>The attention of the MC was drawn to the fact that for the first time both indicators closely monitored by the Commission and the discharge authority are consistent with the benchmark identified as best practice.</p> <p>In terms of staff, the MC was informed that in 2015 the BEREC Office has managed to remain fully staffed, including by making use of a contract for interim workers. The AM also recalled that in 2015 the BEREC Office implemented the required cut of 1 post and therefore the number of establishment plan posts was reduced from 16 to 15 in 2015.</p> <p>In compliance with Article 13 (3) of the BEREC Regulation, the current Report (together with the provisional accounts) will be transmitted by 1 March 2016 to the Commission's accounting officer and the Court of Auditors and by 31 March 2016 to the European Parliament and the Council.</p> <p>The report will be included also in the 2015 consolidated annual activity report of the BEREC Office, which will be presented for the attention of the MC during its 27th plenary meeting (3 June 2016, Vienna).</p>					
Conclusions	The MC took note of the information.					

5. Outcome of the internal audit in 2015

Document(s)	<p>MC (15) 147 Final Audit Report on activities under Article 7 and 7a including stakeholder relationship management and external communication</p> <p>MC (16) 10 Action Plan to address the recommendations of the IAS Audit Report on activities under Article 7 and 7a including stakeholder relationship management and external communication</p>
Introduction by	BEREC Office AM
Information presented	<p>The BEREC Office AM recalled that, according to the provisions of the BEREC Regulation, the Commission IAS is responsible for auditing the BEREC Office. In compliance with the Strategic Audit Plan for 2013-2015. In 2015, the IAS audited the activities under Articles 7 and 7a, including stakeholder relationship management and external communication performed at the BEREC Office.</p>

	<p>The audit fieldwork took place in the period from 5 to 9 October 2015, preceded by preliminary interviews carried out with the AM and with BEREC Office staff in April 2015.</p> <p>Following the audit the IAS concluded that in general the processes at the BEREC Office are fit for purpose.</p> <p>Following the audit the IAS made five recommendations for improvement classified as 'important'.</p> <p>The BEREC Office AM presented in detail the specific observations of the IAS, which led the auditor to the conclusions mentioned above.</p> <p>The MC was also informed that the BEREC Office prepared an action plan (also presented for the attention of the MC) for addressing these recommendations, which contains the proposed actions to address the recommendations listed above.</p> <p>The AM also informed the MC that the IAS has closed all open recommendations made during the limited review of the implementation of the Internal Control Standards at the BEREC Office in 2012.</p>
Conclusions	<p>The MC took note of the outcome of the internal audit in 2015 and the proposed actions to address the audit recommendations presented in the BEREC Office action plan.</p>

6. Appointment of the Commission Accounting Officer as the BEREC Office Accounting Officer

Document(s)	<p>MC (15) 139 Provision of Accounting Officer's services to the BEREC Office - offer of services by DG Budget (European Commission)</p> <p>MC (16) 22 Draft MC Decision on the termination of the appointment of the Interim Accounting Officer and on the appointment of the Commission Accounting Officer as the BEREC Office Accounting Officer</p>
Introduction by	BEREC Office AM
Information presented	<p>The AM recalled that according to the BEREC Regulation certain key administrative functions, such as the internal audit, are performed by the Commission Services. The AM informed the MC that there are other examples for outsourcing of administrative activities to Commission Service (PMO, DG DIGIT, DG HR, DG Budget, EPSO, etc.) or to other EU Agencies (ICC Assistant function, off-site back-up storage of data, outsourced to ENISA).</p> <p>With a view to improving the cost-efficiency of the BEREC Office, the MC³ has envisaged the possibility of sharing services or transferring certain functions to another body of the EU or to the Commission. One of the options explicitly mentioned in the Financial Regulation is the possibility for partial or full outsourcing of the tasks of the accounting officer.</p> <p>Mainly with a view to ensuring business continuity, access to more expertise and improved risk management, the BEREC Office AM has</p>

³ In the BEREC Office Financial Regulation (Decision MC/2014/1)

	<p>requested the Commission to provide the BEREC Office with an offer for full outsourcing to the Commission Accounting Officer of the tasks of the accounting officer.</p> <p>After examining the offer and taking into account the cost-benefit analysis undertaken (as presented in the submission note), the AM proposed to the MC to outsource the Accounting Officer function to the Commission Accounting Officer as of 18 April 2016.</p> <p>The AM informed the MC of the rationale behind this proposal and all related benefits. It was pointed out that, in the event of externalisation of this function to the Commission Services, the Head of AF will be able to act as authorising officer by delegation and will be able to sign contracts and authorise payments on matters falling within the competence of the AF Unit, which currently is not possible due to the principle of segregation of duties between the authorising officer and the accounting officer.</p> <p>The MC was informed that the BAG discussed the draft MC Decision and made some proposals for its improvement, which were taken into account in the document circulated to the MC for approval.</p> <p>As a next step, in the event of the approval of the current decision by the MC, the BEREC Office AM will need to sign a SLA with DG Budget for the provision of the Accounting Officer services to the BEREC Office.</p>
Conclusions	<p>The MC discussed the MC Decision on the termination of the appointment of the Interim Accounting Officer and on the appointment of the Commission Accounting Officer as the BEREC Office Accounting Officer and approved the decision for publication and implementation.</p>

7. BEREC Office annual and multiannual programming document – oral up-date

Document(s)	No documents
Introduction by	BEREC Office AM
Information presented	<p>The AM made an overview of the next steps of the procedure for the adoption of the BEREC Office annual and multiannual programming document, which was approved by the MC for submission to the Commission, the Council of the EU and the European Parliament on 28 January 2016.</p> <p>As a next step, the Commission will launch an internal consultation on the draft. It will be launched by the BEREC Office parent DG (DG Connect), during which all Commission Services will be consulted and may provide comments.</p> <p>In case of comments from the Commission, the BEREC Office will take them into account in preparing the final draft, which, in the event of substantial changes, will require a new approval of the document by the MC.</p> <p>By 31 March 2016 the BEREC Office will need to provide its estimate of budget and human resources, which in the current case will be fully compliant with the Programming Document already approved by the MC.</p>

	<p>The Programming Document will become definitive after the final adoption of the General Budget of the EU for 2017.</p> <p>At the end of the year the MC will be requested to approve the final budget for 2017 at item level.</p> <p>Any amendment to the document has to be communicated to the Commission, the European Parliament and the Council of the EU.</p>
Conclusions	The MC took note of the information.

8. Appointment of the Head of AF at the BEREC Office – oral up-date

Document(s)	No documents
Introduction by	BEREC Office AM
Information presented	<p>The BEREC Office AM briefed the MC on the state of the on-going selection procedure for the Head of Administration and Finance at the BEREC Office, which became vacant on 15 October 2015. The vacancy was published with a slight delay due to some technical reasons at EPSO (following a Court Case) and the need to translate the vacancy into all EU languages. The vacancy notice for this post (No BEREC/2015/02) was published on 4 December 2015 by the BEREC Office with a deadline for submission of applications of 15 January 2016.</p> <p>The best candidates had been invited to a written test the previous week. The Selection Panel, composed by 5 members, will convene a meeting on 26 February 2016 to examine the written tests. The final decision on the appointment will be submitted to the MC for approval by electronic voting procedure in March 2016.</p>
Conclusions	The MC took note of the information.

9. AOB

- Information on the next MC plenary meeting (3 June 2016, Vienna)

Document(s)	No documents
Introduction by	Representative of the meeting host (RTR)
Information presented	A representative of the meeting host (RTR) briefed the MC on the logistics for the next MC meeting scheduled for 3 June 2016 in Vienna.
Conclusions	The MC took note of the information.

Rotterdam, 26 February 2016.

List of final documents approved by the 26th MC ordinary plenary meeting for publication in compliance with the BEREC Regulation and the MC transparency rules

Document number	Document date	Document title/hyperlink to published version	Document author
MC/2016/02	26 February 2016	<u>MC Decision on the working language regime at the BEREC Office</u>	BEREC Office MC
MC/2016/03	26 February 2016	<u>MC Decision of the BEREC Office MC on the termination of the appointment of the Interim Accounting Officer and on the appointment of the Commission Accounting Officer as the BEREC Office Accounting Officer</u>	BEREC Office MC

29 February 2016