

# Outcomes

# BEREC 27<sup>th</sup> Plenary Meeting

Wilhelm Eschweiler – BEREC Chair 2016

# Outline

- Draft BEREC Guidelines Net Neutrality – Start of public consultation
- Several NGN documents approved for public consultation
- BEREC Information Sharing Portal
- Next BEREC main meetings / events

## **Draft BEREC Guidelines Net Neutrality**

- High profile and ambitious task within tight timing
- High expectations from EU-Institutions and stakeholders
- Already inclusive process of drafting in close cooperation with EC and involving European-level stakeholders
- In depth discussion led to balanced and pragmatic draft guidelines covering various complex issues
- Consultation provides opportunity to road test

# The role of BEREC's Guidelines

- Guidelines not about creating new rules; rather, about providing guidance on the regulatory implementation of existing rules
- Regulation to be enforced by national regulators (NRAs)
- BEREC tasked with providing guidance to NRAs
  - To contribute to consistent implementation across Europe
  - In close cooperation with the Commission
  - After consulting stakeholders
  - By 30 August
- Draft guidelines follow structure of the Regulation

# What's covered by the Regulation

- The open internet right applies to “end-users” using IAS:
  - Individual consumers
  - Business users
  - Content and application providers (CAPs)
- In scope:
  - IAS (including sub-internet services, which would be an infringement)
  - Specialised services
- Out of scope:
  - Private networks, e.g. WiFi hotspots and corporate networks
  - Services where the access to the internet is limited by the nature of the terminal equipment, e.g. M2M services, e-book readers
  - IP interconnection services

# Commercial practices, e.g. zero-rating

- Not prohibited *per se*
- Many types of zero-rating
- Some will clearly infringe
  - e.g. all applications blocked except the zero-rated application(s) when the data cap is reached
- Others less clear – to be assessed on case-by-case basis
- Guidelines set out criteria NRAs should use to make these assessments

# Zero-rating assessment criteria

Criteria taken from Regulation and expanded in Guidelines:

- Circumvention of general aims of Regulation
- Market position of ISPs and CAPs involved
- Any effects on end-user rights of consumers/businesses
- Any effects on end-user rights of CAPs
- The scale of the practice and availability of alternative offers
- Any effects on freedom of expression and media pluralism

# Traffic management (TM)

- ‘Traffic management’ = the way traffic is forwarded in networks
- As long as traffic management is done independently of applications and end-users, the traffic is normally considered to be treated equally
- As a second step, the Regulation allows “reasonable traffic management” which may be used to differentiate between “categories of traffic”.
- As a third step, the Regulation describes three specific exceptions which are allowed under stricter conditions.



# Reasonable and exceptional TM

- Reasonable traffic management
  - Categories of traffic could e.g. be defined by reference to application layer protocol or generic application type, but only in so far as:
    - i. this is linked to objectively different technical QoS requirements
    - ii. applications with equivalent requirements are handled in the same category
    - iii. the justification given is relevant to the category of traffic in question
  - NRAs should ensure such measures do not monitor specific content
- Exceptional traffic management
  - a) compliance with other laws
  - b) preservation of integrity and security
  - c) congestion management measures

# Specialised services

## Examples that may be considered specialised services:

- VoLTE (high-quality voice calling on mobile networks)
- Linear (live) broadcasting IPTV services with specific quality requirements
- Real-time remote health services

## Specialised services must meet requirements of:

- Necessity – are they necessary to meet requirements for a specific level of quality?
- Capacity – is network capacity sufficient that quality of internet access services is not degraded?

# Transparency requirements

## Guidelines set out best practices which NRAs should look for

- Information should be easily accessible, accurate, meaningful, comparable
- Information should cover:
  - Any traffic management measures used, and any impact on the end-user
  - Complaint-handling procedures
  - Data caps
  - Speeds (different metrics depending on fixed and mobile)
- Guidelines provide high-level definitions of speeds as well as examples of detailed requirements that NRAs could set to define the various speeds

# Role of the regulators

- Supervision
  - Monitoring contract information, commercial practices, traffic management practices and specialised services
  - By means of assessment of practices in the market, technical measurements, information-gathering
- Enforcement, e.g.
  - Requiring ISPs to deal with degradation of IAS
  - Requiring ISPs to cease or revise problematic traffic management practices
  - Requiring ISPs to cease providing specialised services in absence of sufficient capacity for IAS
  - Imposing fines on ISPs
- Reporting:
  - NRAs to provide annual reports to BEREC and Commission
  - Guidelines set out when to provide reports and what to include in them
  - BEREC planning to summarise main findings of these annual reports

# Consultation and beyond

- Draft Guidelines subject to consultation, which provides opportunity to road-test them:
  - Learning how draft Guidelines are viewed by different stakeholders and citizens
  - Considering any convincing alternative approaches to interpretation and implementation
- In the future, “BEREC will review and update the Guidelines as and when it considers it to be appropriate” (para 181)
- The consultation period ends on 18 July and no exemptions to this deadline will be made.

## 3 publications from the NGN Working Group

### For consultation

- **Common Position on Layer 2 Wholesale Access Products** - defined for L2 WAP imposed on markets 3a and 3b with regard to
  - Conditions for the impositions of L2 WAP
  - Prices
  - Technical characteristics
  
- **Challenges and drivers of NGA roll-out and infrastructure competition**
  - Analysis of drivers (infrastructure competition, demand-side and supply-side factors)
  - Regulatory practice illustrated using four main scenarios of SMP regulation
  - Type and extent of NGA rollout to a large extent be explained by factors which are exogenous to NRAs and regulation

## **Publications from the NGN Working Group (cont.)**

- **Input paper on potential regulatory implications of software-defined networking and network functions virtualisation**
  - Potential regulatory implications of SDN and NFV
  - Respond to the request of the European Commission for a BEREC view on the review of the regulatory framework with regard to SDN and NFV

## Information Sharing portal - [www.isportal.berec.europa.eu](http://www.isportal.berec.europa.eu)

The ISPortal is a user-friendly **online documentation tool** that allows users to search for and consult various public documents, reports, and decisions published within the electronic communications sector.

- Provides a **one-stop access point to public documents**
- Ensures access to a comprehensive, **regularly updated database** of documents, produced and shared by the NRAs/BEREC and available on their websites.
- **Every Internet user can access** and use home page boxes and use the **search functionality**
- The user has the possibility to **subscribe to the news** of the IS Portal.

The ownership belongs to BEREC and it shall be maintained by BEREC and the Office.

The Information Sharing Portal has the domain name **isportal.berec.europa.eu** and is now open.



## Documents published

Subject	Doc. No.	Observations
Report on Termination rates at European level January 2016	BoR (16) 90	Approved for publication
Draft BEREC Guidelines on Regulators' Implementation of European Net Neutrality rules	BoR (16) 94	Approved for public consultation
Draft BEREC Common Position on layer 2 wholesale access products	BoR (16) 95	Approved for public consultation
Draft BEREC Report on challenges and drivers of NGA roll out and infrastructure competition	BoR (16) 96	Approved for public consultation
Input paper on potential regulatory implications of SDN and NFV	BoR (16) 97	Approved for publication
BEREC response to the European Commission's public consultation on the evaluation of the Termination Rates Recommendation	BoR (16) 100	Approved for publication

## Next BEREC Meetings / Events

Meeting	Date	Location
Extraordinary BEREC Board of Regulators	25 August 2016	Brussels
Press Conference on NN Guidelines	30 August 2016	Brussels
BEREC Contact Network	15-16 September 2016	Limassol
BEREC Board of Regulators and Management Committee of the BEREC Office	6-7 October 2016	Vilnius

# Q&A