

Decision No BoR/2018/05
of the Board of Regulators on confirmatory application for access to BoR (17) 39,
Report on the implementation of symmetric regulation: description of existing
practices and consideration of future challenges

The Board of Regulators,

HAVING REGARD TO Regulation No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (BEREC Regulation) and in particular Article 4 and Article 22 thereof;

HAVING REGARD TO Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, and in particular Article 4(3) and Article 4(1)(b) thereof;

HAVING REGARD TO Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data;

HAVING REGARD TO Decision BoR (10) 26 by the Board of Regulators of the Body of European Regulators for Electronic Communications (BEREC) concerning the transparency and access to documents at the BEREC, and in particular Article 4 and 8(2) thereof;

HAVING REGARD TO Decision BoR (14) 213 by the Board of Regulators of the Body of European Regulators for Electronic Communications on the rules of procedure of the Board of Regulators and in particular Article 17 thereof;

HAVING REGARD TO Decision BoR (11) 37 by the Board of Regulators of the Body of European Regulators for Electronic Communications on the Establishment of a Public Register of the BEREC Documents;

Whereas,

- 1) An application for access to document was received on 12 April 2018 concerning BoR (17) 39, Report on the implementation of symmetric regulation: description of existing practices and consideration of future challenges. The Applicant asked to be granted access to the document;

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- 2) The reply to the initial application was notified to the Applicant on 4 May 2018 and access was refused to the requested document;
- 3) A confirmatory application was submitted by the Applicant on 25 May 2018;

- 4) In the light of giving the fullest possible effect to the right of public access to documents and to provide a high level of transparency (Article 18 BEREC Regulation) the Board of Regulators decides to grant partial access to the requested document.

In accordance with Regulation 1049/2001 access was granted to the document to the fullest extent without disclosing information based on Article 4 of the Regulation No 1049/2001. The requested information contains some opinions for internal use as part of deliberations and preliminary consultations. These passages have been redacted on the basis of Article 4(3) second indent of Regulation 1049/2001 as, for some passages of the requested document, full disclosure would seriously undermine BEREC's decision-making process since BEREC members are of the view that the disclosure of these internal documents would deter them from expressing frank and complete views on the topics discussed and would therefore lead to self-censorship.

Has adopted the following Decision:

Article 1

The confirmatory application submitted on 25 May 2018 is partially accepted.

Article 2

The reply will be sent to the Applicant by the BEREC Office by 15 June 2018.

Article 3

This decision shall enter into force on the day of its adoption by the Board of Regulators.

Done in Riga, on 08 June 2018.

For the Board of Regulators

(s)

**Johannes Gungl
BEREC Chair 2018**