

Decision No BoR/2018/07
of the Board of Regulators on confirmatory application for access to BoR (17) 180
BEREC Internal report summarising annual reports by NRAs on the implementation of
the net neutrality provisions of Regulation 2015/2120

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) thereof;

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 26 April 2018 concerning BoR (17) 180 BEREC Internal report summarising annual reports by NRAs on the implementation of the net neutrality provisions of Regulation 2015/2120 . The Applicant asked to be granted access to the document;
- 2) The reply to the initial application was notified to the Applicant on 17 May 2018 and access was refused to the requested document;
- 3) A confirmatory application was submitted by the Applicant on 20 May 2018;
- 4) In accordance with Regulation 1049/2001 and on the basis of Article 4(3) second indent of Regulation 1049/2001 disclosure of the requested document 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;

- 5) The requested report was part of deliberations and consultations within BEREC, and as such does not represent its final views.
- 6) The final version of the requested document 'BEREC Report on the implementation of Regulation (EU) 2015/2120 and BEREC Net Neutrality Guidelines' registered under No [BoR \(17\) 240](#) is publicly available on the BEREC website.
- 7) Consequently, the Board of Regulators decides to refuse the application submitted by the Applicant;

Has adopted the following Decision:

Article 1

The confirmatory application submitted on 20 May 2018 is refused.

Article 2

The reply will be sent to the Applicant by the BEREC Office by 13 July 2018.

Article 3

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

Done in Riga, on 13 July 2018.

For the Board of Regulators

(s)

**Johannes Gungl
BEREC Chair 2018**