

## Rules of Procedure of the Management Board of the BEREC Office

The Management Board of the **Agency for Support for BEREC** (hereinafter, '**BEREC Office**') has been established by Regulation (EU) 2018/1971<sup>1</sup> (hereinafter the '**BEREC Regulation**') and its functioning shall be governed by the BEREC Regulation and these Rules of Procedure (hereinafter, the '**Rules of Procedure**'). In case of inconsistency between these Rules of Procedure and the BEREC Regulation, the BEREC Regulation shall prevail.

In accordance with Article 14 of the BEREC Regulation, the Management Board is part of the BEREC Office.

In accordance with Article 16(1)(i) of the BEREC Regulation, the Management Board shall adopt its rules of procedure.

The Management Board shall exercise the relevant tasks assigned by the BEREC Regulation, in accordance with the provisions of these Rules of Procedure.

### Article 1 – Composition

#### *Members*

1. The Management Board shall be composed of the persons appointed as members of the Board of Regulators and of one high level representative of the Commission. Each member of the Management Board shall have the right to vote.
2. Each appointing National Regulatory Authority (hereinafter 'NRA') may appoint a person other than the member of the Board of Regulators as member of the Management Board. That person shall be the head of the NRA, a member of its collegiate body, or the replacement of either of them.
3. Each member of the Management Board shall have an alternate who represents the member in his or her absence.

The alternates of each member shall be the persons appointed as alternates of the

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<sup>1</sup> REGULATION (EU) 2018/1971 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (Text with EEA relevance)

members of the Board of Regulators. The representative of the Commission shall also have an alternate.

Each appointing NRA may appoint a person other than the alternate of the member of the Board of Regulators as the alternate of the member of the Management Board. That person shall be the head of the NRA, a member of its collegiate body, the replacement of either of them, or the staff of the NRA.

When neither the member nor the nominated alternate can attend a meeting of the Management Board, a further alternate may attend and stand in for those representatives, provided that he/she is authorised to do so in writing and that the authorisation is communicated to the Chair and to the Director of the BEREC Office (hereinafter “the Director”) in advance of the meeting concerned.

4. The members of the Management Board and their alternates shall neither seek nor take instructions from any government, institution, person or body.
5. An up-to-date list of members of the Management Board and their alternates, together with their declarations of interests, shall be made public by the Director.
6. In accordance with Article 3, the Management Board shall be assisted by a high-level permanent preparatory group called BEREC Office Advisory Group composed of members of the Management Board, their alternates or other senior representatives from NRAs, who have recent and relevant experience, such as finance, budget or human resource administration, to provide advice, recommendations and opinions in taking decisions on administrative matters.

#### ***Participants without voting rights***

7. Heads (or their appointed high-level representatives) of the independent regulatory authorities competent in the field of electronic communications of third countries with whom working arrangements have been established in accordance with Article 35 (2) of the BEREC Regulation, shall have the right to participate in Management Board meetings without the right to vote.

#### ***Observers***

8. The Management Board may invite any person whose opinion may be of interest to it in the light of his/her expertise, to participate in its meetings as an observer.

## **Article 2 – Administrative functions of the Management Board**

1. The Management Board shall have the administrative functions listed in Article 16 of the BEREC Regulation.

2. Without prejudice to the decision referred to in the first subparagraph Article 16 (2) of the BEREC Regulation, powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment (the 'appointing authority powers') that are not delegated to the Director shall be exercised by the Deputy Chairperson assuming the role of the incoming Chairperson, on behalf of the Management Board.

### **Article 3 – BEREC Office Advisory Group**

1. The Management Board shall be assisted by a high-level permanent preparatory group called BEREC Office Advisory Group ('BAG'). The rules of procedure for the BAG including specific provisions on governance, membership, duties and meeting arrangements, are provided in Annex 1.
2. In accordance with Art.7, the BAG shall review and comment on decisions and documents to be submitted to the Management Board.
3. Without prejudice to the responsibilities of the Management Board and those of the Director, BAG can also advise the Management Board and the Director on administrative matters such as programming, budget, staff, audits or reporting.
4. The Director shall keep an up-to-date internal contact list of members of the Management Board and their alternates as well as BAG members.

### **Article 4 – Chairperson and Deputy Chairpersons of the Management Board**

1. The Chairperson and the Deputy Chairpersons of the Management Board shall be the persons appointed as the Chair and Vice-Chairs of the Board of Regulators. The same term of office shall apply.
2. By derogation from the first paragraph, the Management Board may, by a majority of two-thirds of its members, elect other members of the Management Board as Chairperson or Deputy Chairperson(s) from among its members, representing Member States. Their term of office shall be the same as that of the Chair and Vice-Chairs of the Board of Regulators.
3. The election shall take place in accordance with the mechanism described in Article 2 of the BEREC Board of Regulators Rules of Procedure.
4. The incoming Chairperson or, should he/she not be available, one of the Deputy Chairpersons shall automatically assume the duties of the Chairperson if the latter is not in a position to perform those duties. The Deputy Chairpersons will assist the Chairperson, at her/his request, in the performance of her/his duties.
5. The Chairperson of the Management Board shall report to the European Parliament and to the Council on the carrying out of the tasks of the BEREC Office when invited to do so.

## **Article 5 – Meetings of the Management Board**

1. Where applicable meetings of the Management Board shall be held at the same date and venue as the meetings of the Board of Regulators. The Chairperson shall convene ordinary meetings of the Management Board in consultation with the Director, in writing not less than ten days prior to the proposed meeting date.

The Chairperson may convene extraordinary meetings of the Management Board in consultation with the Director, in writing not less than seven days prior to the proposed meeting date.

Notices of the meetings shall indicate the date, time and place of the proposed meeting.

2. The Director shall take part in the deliberations, except those related to his/her appointment, without the right to vote.
3. The Management Board shall hold at least two ordinary meetings a year. In addition, the Chairperson shall convene extraordinary meetings on his or her own initiative, upon the request of the Commission, or of at least three of its members.
4. Meetings may be held using videoconference. Physical meetings may allow participation of the members of the Management Board and other participants via videoconference.
5. Each member of the Management Board may be represented at the meeting by another member of the Management Board, provided that written authorisation from the absent member of the Management Board is submitted to the Chairperson. A member of the Management Board may represent a maximum of two other members of the Management Board.
6. The members of the Management Board and their alternates may be assisted at the meetings by advisers or experts.
7. The Director shall provide the secretariat for the Management Board.

## **Article 6 – Agenda**

1. A provisional agenda shall be drawn up by the Chairperson assisted by the Director. It shall contain, in addition to those items the inclusion of which is requested by a member, any item the inclusion of which is requested by the Director or by a participant without voting rights, in agreement with the Chairperson. The provisional agenda shall be made public before each meeting.
2. Any request for including, deleting or substituting an item on the agenda shall state the reasons on which it is based. The Chairperson shall inform the other members, participants without voting rights and the Director of any such request.
3. The agenda shall be adopted at the beginning of each meeting.

4. The agenda of the meetings shall be made public.

## **Article 7 – Documents**

1. The provisional agenda and draft proposals, documents, submission notes and other relevant material to be submitted to the Management Board shall be prepared taking due account of the comments and the conclusions of the BEREC Office Advisor Group (BAG). The BAG shall assist the Director in preparing any additional material that may be considered necessary to submit to the Management Board.
2. The BAG Chair shall ensure that the BEREC Contact Network (CN) is informed in due time prior to the CN meetings on any draft proposal, document and additional material to be submitted to the Management Board and take note of any comments or observations received.
3. The documents and other relevant material shall be distributed by the Director not less than 10 days before ordinary meetings and not less than 3 days before extraordinary meetings, so that members of the Management Board and participants without voting rights have the opportunity to propose amendments prior to the vote. When justified by urgent or exceptional circumstances, the Chairperson, at the request of the Director, may shorten, as necessary, time limits for sending the documentation.
4. Press releases, and exceptionally other documents, such as short statements, may be prepared and agreed during meetings of the Management Board.

## **Article 8 – Minutes and follow-up**

1. The Chairperson with the assistance of the Director shall prepare the draft minutes of the meetings of the Management Board.
2. The minutes of each meeting shall as a general rule indicate in respect of each item:
  - a. Documents submitted to the Management Board;
  - b. A summary record of the proceedings;
  - c. A record of the decisions adopted or the conclusions reached by the or the Management Board, summarising the main arguments, together with the reservations of a member of the Management Board at its request;
  - d. The list of attendees;
  - e. The list of agreed follow-up actions.
3. The draft minutes shall be distributed electronically by the Director for comments by the members of the Management Board and participants without voting rights no later than 10 working days after that meeting. The minutes of all meetings shall be kept by the Director in

a register, which shall be accessible to any member of the Management Board upon request.

4. The Chairperson with the assistance of the Director shall summarise the follow-up actions to be undertaken and circulate them electronically to the Management Board within 3 working days following the end of the meeting.
5. In addition to the minutes of the meeting, the Chairperson with the assistance of the Director shall also draft the meeting conclusions summarising the main decisions adopted. The draft conclusions should be distributed electronically by the Director for comments no later than 5 working days after that meeting. The final conclusions of the meeting shall be made public within 10 working days after that meeting.

## **Article 9 – Quorum**

The quorum necessary for meetings shall be achieved when at least two-thirds of all voting members of the Management Board are present during the voting or represented by proxy. In order to determine whether the quorum is met, an attendance list shall be drawn up by the Director at the beginning of each meeting.

## **Article 10 – Voting procedures for meetings**

1. The Management Board shall act by a simple majority of its members, unless otherwise provided for in the BEREC Regulation, in accordance with the procedures in this article and Article 10. A two thirds majority is required in the following circumstances:
  - a. Adoption of the BEREC Office's single programming document;
  - b. Adoption of the annual budget of the BEREC Office;
  - c. Election as Chairperson or Deputy Chairperson(s) of members of the Management Board different of the persons appointed as the Chair and Vice-Chairs of the Board of Regulators, by derogation from Article 17, paragraph 1 of the BEREC Regulation;
  - d. Adoption of decisions on appointment, extension of the term of office or removal from office of the Director.
2. Each member shall have one vote. In the absence of a member, the alternate shall be entitled to exercise the right to vote.

In the absence of a member and the alternate, the right to vote may be delegated to another member. The proxy shall be submitted to the Chairperson at the beginning of the meeting and shall be recorded in the minutes. In addition to his own vote, each voting member of the Management Board may cast a maximum of two votes received by written proxy.

3. The Chairperson may delegate the right to vote in any event. He or she shall take part in the voting unless he or she has delegated the right to vote.
4. Voting shall be by a show of hands or by secret ballot. A request for a secret ballot must be made by at least two voting members of the Management Board present and supported by a majority of members of the Management Board.
5. The Chairperson shall submit a proposal for a decision to the members of the Management Board, who shall, either in person or by their alternate or by proxy, vote by “yes” if they are in favour of it, or “no”, or “abstention”.
6. If at least the requisite number of members of the Management Board has voted in favour of the proposal the Chairperson shall declare the proposal approved.
7. If the number of members of the Management Board who have either voted against the proposal or who have formally abstained results in the threshold for approval not having been met, the Chairperson shall declare that the proposal has not been approved.

## **Article 11 – Electronic voting procedure**

1. The Chairperson may seek a decision of the Management Board by means of an electronic voting procedure when a meeting is not possible or practicable and should not wait until the next ordinary meeting. At any stage the Chairperson may decide to withdraw the electronic voting procedure and schedule the subject of the voting procedure for discussion at an appropriate level.
2. The Chairperson shall inform the members of the Management Board and Participants without voting rights as soon as possible of the need and justification for an electronic voting procedure. The Chairperson shall, if possible, inform members of the Management Board and Participants without voting rights of the intended use of the electronic voting procedure during ordinary meetings.
3. The electronic voting shall be initiated by the Chairperson in consultation with the Director. Draft decisions together with the relevant documents shall be addressed to members of the Management Board and, for information, to Participants without voting rights, after approval of the Chairperson. The minimum period which must be given for comments to be submitted is 5 working days, except in case of justified extreme urgency where the time-limit may be shortened to a minimum of one working day. All comments on draft Management Board decisions and documents shall be also communicated to the members of the Management Board, BEREK Contact Network and BAG.
4. If significantly different opinions are expressed in the comments, the Chairperson with the support of the Director, shall attempt to resolve the differences between the respective members of the Management Board. The Chairperson shall prepare a final proposal and submit it to the vote. She/he shall send it to the members of the Management Board and shall lay down a time-limit which must not be less than 5 working days, except in cases of

justified extreme urgency where the time-limit is of one working day.

5. For any voting round to be valid, at least the two-thirds majority of the members of the Management Board must have cast their vote or formally abstained.

Article 1(3) should apply *mutatis mutandis*. An authorisation of a further alternate to sign the electronic voting ballot should be communicated to the Chairperson at the latest when such further alternate casts a vote.

6. Article 10(2) should apply *mutatis mutandis*. The proxy shall be submitted to the Chairperson at the latest when the voting member casts its vote on behalf of another voting member of the Management Board.
7. If the number of members of the Management Board who have either voted against the proposal or who have formally abstained prevent the required threshold for approval as in Article 10(2) being met, the Chairperson shall declare the proposal not approved. In this case, the Chairperson, in consultation with the Director, shall inform the members of the Management Board and Participants without voting rights of the number of votes cast for and against the proposal, as well as the number of formal abstentions, in the first round and shall organise a second and last round of electronic voting pursuant to paragraphs 1 to 7.
8. A full report on the outcome of the procedure will be made available by the Chairperson to members of the Management Board and Participants without voting rights. The report shall indicate in particular:
  - a. The detailed results of the voting (i.e., number of votes cast – specifying the number of negative and positive votes and abstentions); and
  - b. The remarks and reservations of members of the Management Board upon their request.
9. Members of the Management Board can make public use of their part of the voting report.

## **Article 12 – Expert Networking Groups**

1. The Management Board may decide to create Experts Networking Groups (ENG) to deliver expertise on specific matters requested by the BEREC Office.
2. Each ENG shall be composed of members appointed by the NRAs according specific criteria depending on the relevant area of expertise. Each NRA shall nominate a member or identify a contact point for every ENG. Two Co-Chairs shall lead each ENG.
3. Costs for reimbursement of travel expenses of the NRAs experts for the ENG meetings should be met by the BEREC Office in accordance with its internal rules and in accordance with rules adopted under the Financial Regulation.



## **Article 13 – Appointment of the Director**

1. The Director shall be appointed by the Management Board, following an open and transparent selection procedure, on the basis of merit, management, administrative and budgetary skills and the skills and experience relevant to electronic communications networks and services.
2. The Director shall be appointed in accordance with the rules set out in Annex 4.
3. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Director on the basis of a vote of a two-thirds majority of its members.

## **Article 14 – Declarations**

1. Members of the Management Board and Participants without voting rights shall each make a written declaration indicating their commitments and the absence or presence of any direct or indirect interests which might be considered to prejudice their independence.
2. Such declarations shall be made at the time of taking up responsibilities, shall be accurate and complete, and shall be updated where there is a risk of there being any direct or indirect interest which might be considered to prejudice the independence of the person making the declaration.
3. These declarations shall be made in accordance with Annex 2 and Annex 3.
4. The declarations made by the members of the Management Board and participants without voting rights shall be made public. To this effect, the Director shall publish the declarations on the BEREC Office website.
5. Members of the Management Board and other participants in their meetings shall each accurately and completely declare, at the latest at the start of each meeting, any interest which might be considered to be prejudicial to their independence in relation to the items on the agenda, and shall abstain from participating in the discussion and the voting on such points.

## **Article 15 – Duty of confidentiality**

1. Members and other participants at the meetings of the Management Board shall comply with the confidentiality requirements under Article 339 TFEU, even after their duties have ceased.
2. Members of the Management Board, other participants at the meetings of the Management Board and members of the BAG shall each sign a declaration of confidentiality made in accordance with Annex 3.
3. For members of the Management Board, members of the BAG and participants without voting rights, such declarations shall be made at the time of taking up responsibilities.

4. For other participants to the meetings of the Management Board, such declarations shall be made at the latest at the start of each meeting.

## **Article 16 – Revision of the Rules of Procedure**

1. The Chairperson may propose, following a request from one of the members of the Management Board or participants without voting rights or on her/his own initiative, amendments to these Rules of Procedure.
2. These amendments shall be adopted by the Management Board, in accordance with Article 9 of these Rules of Procedure.

## **Article 17 – General provisions**

1. These Rules of Procedure shall replace the previous version as adopted by the Management Board in 2019 (MB (19) 26).
2. These Rules of Procedure shall be published on the BEREC Office website.

Annex 1: Rules of procedure of the BAG

Annex 2: Model form for declarations of commitments

Annex 3: Model form for declarations of interests

Annex 4: Model form for declarations of confidentiality

Annex 5: Selection procedure for the Director

## Rules of procedure of the BEREC Office Advisory Group (BAG)

### 1 Introduction

Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 ('BEREC Regulation') introduces revised mandate to BEREC and to the BEREC Office. Following from the workshop, BEREC - The Next Decade, held in Portoroz in October 2018 and the follow-up workshop held in Budapest in March 2019, the BEREC Chair 2019 proposes to establish a group, loosely titled "enhanced BAG", which is intended to contribute to the proper administration of the BEREC Office.

This document sets out the rules of procedure for a new enhanced BAG, providing a high-level overview of the objectives of the enhanced BAG, some of the key considerations in forming the group and its proposed governance.

### 2 Objective of BEREC Office Advisory Group ('BAG')

1. In accordance with Article 3 of the MB Rules of Procedure, the BAG is set up by the Management Board as a high-level permanent preparatory group.
2. The objective of the BAG is to review and comment on the decisions and documents to be submitted to the Management Board.
3. Without prejudice to the responsibilities of the Management Board and those of the Director, the BAG can also advise the Management Board and the Director of the Agency for Support for BEREC (BEREC Office) on administrative matters such as programming, budget, staff, audits or reporting, inter alia:
  - 3.1. To provide general advice on the administration and activities of the BEREC Office.
  - 3.2. To enhance communication between the Director and the Management Board in relation to the BEREC Office administration and activities.
  - 3.3. To advise the Director on adequate follow-up to the findings and recommendations stemming from investigations of the European Anti-Fraud Office (OLAF) and the various internal or external audit reports and evaluations.
  - 3.4. The BAG may provide its advice, recommendations and opinions in oral form, within the relevant submission notes or in individual documents, as appropriate.

### 3 Governance and reporting

1. The MB shall establish the BAG after a call for resources from Heads of NRAs, their alternates, or other senior representatives from NRAs, with relevant expertise.

2. In accordance with Art.7.2 of the MB rules of procedure, the BAG Chair shall ensure that the BEREC Contact Network (CN) is informed in due time prior to the CN meetings of any draft proposal, document and additional material to be submitted to the Management Board.
3. The BAG shall report formally to the Management Board on all matters within its duties and responsibilities at the ordinary Management Board meetings and shall keep the Management Board updated on any relevant matters in between Management Board meetings.
4. The BAG shall make recommendations to the Management Board as it deems appropriate on any area within its remit where action or improvement is needed.

#### **4 Membership**

1. The BAG shall comprise at least [six] members of the Management Board, their alternates or other senior representatives from NRAs, who have recent and relevant experience, such as financial, budgeting or human resource administration. The Deputy Chairperson assuming the role of the incoming Chairperson, a representative of the Chairperson and a representative of the European Commission shall be members of the group.
2. Members of the BAG shall serve a term of three years, renewable once, except for the representative of the European Commission, and for the Deputy Chairperson assuming the role of the incoming Chairperson, who will serve a term of one year in advance of assuming the role of Chair of the Management Board.
3. The MB shall appoint a chair of the group from among the BAG members. The term of the BAG Chair shall not exceed three years and the MB can appoint a new BAG Chair at any stage. In the absence of the BAG Chair and/or an appointed deputy at a group meeting, the remaining members present shall elect one of themselves to chair the meeting.

#### **5 Advisory role**

Advice provided to the Management Board and the Director on administrative matters in accordance with Paragraph 2.3 above may cover the following indicative and non-exhaustive list of matters:

1. Budgeting and Resources:

The BAG may:

- 1.1. advise on financial strategy, financial sustainability and financial compliance;
  - 1.2. advise on staffing strategies and policies as well as appropriate staffing levels in the BEREC Office;
  - 1.3. advise on infrastructure matters including Information Technology strategies;
  - 1.4. review the draft Single Programming Document and advise accordingly, in particular on the proposed annual budget and staffing levels.
2. Financial Reporting
    - 2.1. The BAG may comment on draft financial statements of the BEREC Office, including its periodic reports and report to the Management Board on significant financial reporting issues and judgements.
    - 2.2. In particular, the BAG may comment on any material information presented with the financial statements, including the annual report and the governance statements relating to the audit and to risk management.

### 3. Internal controls and risk management systems

The BAG may:

- 3.1. review the BEREC Office's internal financial controls systems that identify, assess, manage and monitor financial risks, and other internal control and risk management systems; and
- 3.2. review draft statements to be included in the annual report concerning internal control, risk management and the viability statement.
- 3.3. review and comment on the risk register and risk appetite statement and draw issues to the attention of the Management Board as appropriate.

### 4. Compliance, whistleblowing, fraud and data protection

The BAG may:

- 4.1. review the adequacy and security of the agency's arrangements for its employees and contractors to raise concerns, in confidence, about possible wrongdoing in financial reporting or other matters;
- 4.2. review the agency's procedures for detecting fraud;
- 4.3. review the agency's systems and controls for the prevention of bribery;
- 4.4. may advise on the follow-up to any findings and recommendations of any investigations of the OLAF;
- 4.5. contribute to the necessary follow-up to any findings and recommendations of any investigations of the European Data Protection Supervisor (EDPS);
- 4.6. meet with the Data Protection Officer (DPO) of the BEREC Office and receive the DPO annual report on the DPO activities and on the state of play of compliance of BEREC Office with Regulation (EU) 2018/1725 <sup>1</sup>.

### 5. Internal audit

The BAG may:

- 5.1. review the BEREC Office draft annual internal audit plan to ensure it is aligned to the key risks of the business;
- 5.2. review the findings and recommendations of internal auditors, advise on the necessary follow-up, including drawing issues to the attention of the Director and Management Board as appropriate;
- 5.3. advise on the effectiveness of the BEREC Office internal audit controls function including whether an independent, third party review of processes is appropriate.

### 6. External audit

The BAG may:

- 6.1. Advise the Director regarding any audit by the European Court of Auditors (ECA) or private auditors. In this context the BAG may:

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<sup>1</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

- 6.1.1. participate in meetings with the external auditor if so requested;
- 6.1.2. advise on any necessary follow-up/action plan to any findings of the audit of the external auditor;
- 6.1.3. advise on any representation letter(s) requested by the external auditor before they are signed by the Director;
- 6.1.4. advise on any response to the auditor's findings and recommendations; and
- 6.1.5. advise on the action plan to be prepared by the Director as follow-up of the conclusions of external audit reports and evaluations with a view to ensure its effectiveness.

## 7. Annual objectives and annual appraisal

7.1. The BAG may suggest annual objectives to the Director in accordance to the priorities identified by the BoR and the MB in their programming documents.

7.2. Without prejudice to the applicable implementing rules of the Staff Regulation, the Management Board may appoint the BAG Chair as reporting officer for the Director in the annual appraisal exercise.

## 6 Meeting arrangements

1. The BAG shall meet regularly at appropriate intervals in the programming, financial reporting and audit cycle and otherwise as required.
2. Outside of the formal meeting programme, the BAG Chair, and to a lesser extent the other BAG members, will maintain a dialogue with key individuals involved in the BEREC Office's governance, including the Director, the Head of Administration and Finance Unit.
3. Meetings of the BAG shall be convened by the Chair, at the request of any of its members if they consider it necessary.
4. The BAG's opinions and contributions shall be issued on the basis of a majority of Members present.
5. The proceedings and decisions of all meetings of the group, together with the names of those participating, shall be recorded and be made available to the Management Board and to the CN.
6. The BEREC Office Director shall take part in the meetings of the BAG in order to present the provisional agenda and draft proposals, documents, submission notes and other relevant material prepared for the MB meeting. The Director shall take due account of the comments made by the BAG.
7. The secretariat to the BAG will be provided by the BEREC Office staff that will be in charge of supporting the meeting organisation, keeping a record of the BAG documents and the timely distribution of any documents or material necessary for the work of the BAG.

## 7 Review

The work of the enhanced BAG shall be reviewed every 3 years by an independent expert. The purpose of the review would be to see if it is working as envisaged, is it resourced appropriately, has it completed the tasks that have been assigned.



Annex 2

**DECLARATION OF COMMITMENT FOR MEMBERS OF THE  
MANAGEMENT BOARD ACC. TO ARTICLE 42 OF THE BEREC  
REGULATION**

I ....., hereby declare that I shall make all reasonable efforts to fulfil my duties as a member of the Management Board (BEREC Office).

More particularly, I undertake to exercise the functions entrusted to me by BEREC and not to seek or accept any instructions incompatible with my individual tasks or with the tasks of BEREC from any other party.

I understand that this Declaration will be entered in a register held by the BEREC Office which is accessible to the public via BEREC website.

Title (Ms., Mr., Dr., Prof.).....

First Name: .....

Surname: .....

Position: **Member / Participant without voting right / Alternate<sup>2</sup>** of the Management Board

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<sup>2</sup> Please choose as appropriate

## ANNUAL DECLARATION OF INTERESTS

### Conflict of Interest: Legal basis

General provisions on conflict of interest are laid down in the Staff Regulation and the Conditions of Employment of other Staff<sup>2</sup>. The Financial Regulation defines what a conflict of interest of a financial nature is<sup>3</sup>.

Article 42 of the BEREC Regulation provides for the obligation for the Members of the Board of Regulators and of the Management Board, the Director, seconded national experts and other staff not employed by the BEREC Office to make a declaration of commitments and a declaration of interests indicating the absence of any direct or indirect interests, which might be considered prejudicial to their independence. Such declarations shall be made in writing. The declaration of interests made by the members of the Board of Regulators and of the Management Board, the Director shall be made public.

Therefore, as a rule, any person facing a conflict of interest situation is under a duty of informing and, as appropriate, discussing the best way of avoiding that the situation has an impact on the validity of the decisions.

The Board of Regulators and the Management Board have therefore decided to give guidance on how these rules should be interpreted as far as the Members of the Board of Regulators and Members of the Management Board are concerned.

### Conflict of Interest: Definition

A conflict of interest exists when a person appointed to a function has a personal or vested interest in the outcome of decisions resulting from that function. Consequently, a person must not be involved in any decision during the course of his/her duties with the knowledge that there is an opportunity to further his/her personal interests.

It must be highlighted that an "interest" declared is not automatically considered a conflict of interest. Therefore, the immediate aim of a conflict-of-interest policy is to protect the integrity of official policy and administrative decisions and of public management generally.

Interests can be direct or indirect depending on their likely or potential impact on the individual's behaviour at a given point in time:

<sup>2</sup> See in particular Article 11 of the Staff Regulations

<sup>3</sup> See Article 34 of Commission Regulation (EC/Euratom) No. 2342/2002 laying down the implementing rules



- Direct interests: Interests of personal benefit to the individual at the time of declaration, likely to influence or given the appearance of influencing his behaviour.
- Indirect interests: Other interests that may have some influence over the individual's behaviour and therefore have to be neutralised.

Some examples of cases that could lead to a conflict of interests are:

- a) any matter being considered by, or arising at, a meeting of the Board of Regulators and/or of the Management Board in which a Member or any household member has a direct or an indirect pecuniary interest;
- b) a situation where a Member of the Board of Regulators and/or of the Management Board, is in a position to make or make a decision, or is in a position to act or do act, motivated by other or additional considerations than the best interests of BEREC;
- d) a situation where a Member of the Board of Regulators and/or of the Management Board, or any members of their household learn of an opportunity for profit which might be valuable either personally or to any person in which they have a direct or indirect pecuniary interest.

These cases are not intended to be exhaustive.

It is recognized that it is often difficult to objectively assess whether a Conflict of Interest situation exists. If a Member of the Board of Regulators and/or of the Management Board, feels that a potential Conflict of Interest position may exist, he/she is bound to declare it immediately. Each individual is responsible for the declaration of his/her interests and, to the best of his/her knowledge, those of his household members. In order to maintain privacy, the names of the household members do not need to be declared.

## Annual Declaration of Interests

Title (Ms., Mr., Dr., Prof.).....

First Name: .....

Surname: .....

Position: **Member/Participants without voting right/Alternate**<sup>3</sup> of the Management Board

hereby declares to have the following direct or indirect interests of relevance to BEREC or the BEREC Office:

1. Work and activities in organisations relevant to the operating area of BEREC Office.

During the past 3 years, all activities performed for or on behalf of an organization operating in a related field, whether related to the substance of BEREC Office mandate or to its operational support, and whether or not these activities have been subject to regular or occasional remuneration in cash or kind, either by the declaring member or to the best of his/her knowledge the members of his/her household, including i) participation in the internal decision-making of a company (e.g. Board membership, executive or non-executive directorship), ii) permanent or temporary member of the personnel of a company/institute (Other activities performed within a company (e.g. traineeship) are also subject to declaration.), iii) work contracted out by companies/institute, through consultancy or otherwise. Indicate names of organisation/Position/Period:

2. From the moment of taking the post of the Member of the Management Board, any financial interests in a company relevant to the operating area of BEREC Office and/or voting rights in a company, including holding of stocks and shares, equity, bonds, partnership interests<sup>4</sup> in the capital of a company, one of its subsidiaries or a company in the capital of which it has a holding (names of the companies):

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<sup>4</sup>When declaring financial interests e.g. stocks and shares, only the kind, number and company name need be stated.

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<sup>3</sup> Please choose as appropriate

3. Other links with the field of activity of BEREC Office during the preceding 3 years, including the participation in relevant activities supported by EU grants or contracts. All assistance and support received from stakeholders of BEREC Office, whether associated with direct or indirect pecuniary or material benefits, including: i) grants for study or research, ii) fellowships or sponsorships endowed by a company operating in the related business and iii) any other relevant activity related to EU grants and contracts. If such assistance or support is still subject to compensation in any form then declaration of any activity independently of granting period:

4. Any membership role or affiliation, or any other links with the organisations relevant to BEREC Office.

During the preceding 3 years, interests of non-pecuniary or material benefit to the declaring member, arising from professional activities or affiliation with national or international organisations or bodies with tasks similar to BEREC Office. It also includes the participation in public interest groups, professional societies, clubs or organisations which have an agenda or an interest or involvement in BEREC Office's work:

5. Other interests or facts whether or not related to such organisations which you consider should be made known to BEREK Office, including matters relating to the members of your household:

To the best of my knowledge, the only direct or indirect interests I, or any members of my household have, in organisations relevant to the operating area of BEREK Office related to my position referred to above are those listed above.

I further declare that should any changes occur and should it appear that I have or acquire additional interests that should be made known to BEREK Office I shall forthwith declare them and complete a new declaration of interests detailing the changes.

I understand that this Declaration **will be published on BEREK's website** and entered in a register held by the BEREK Office, which is accessible to the public, on request at the seat of the BEREK Office.

Signature:.....

Date:.....

## DECLARATION OF CONFIDENTIALITY OF BEREC OFFICE

I hereby declare that I shall undertake to exercise the greatest discretion with regard to all facts and information coming to my knowledge in the course of or in connection with the performance of my duties related to the work of the BEREC Office. I shall not disclose to any persons any information acquired as a result of such work unless otherwise stipulated in European Union or national law or already publicly available. The above is without prejudice to the sharing of documents with persons assisting me in the discharge of my duties related to the work of the BEREC Office. I shall take all necessary measures to ensure that the persons to whom I provide access to information respect the same obligations that I am subject to. I accept without reservation that I continue to be bound by this obligation also after these duties have ceased.

### Privacy Statement

Please note that the BEREC Office will ensure on its part that your personal data hereby submitted is processed as required by [Regulation \(EU\) No 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation \(EC\) No 45/2001 and Decision No 1247/2002/EC](#).

#### 1. What personal data do we collect?

- Identification data e.g. name, function

#### 2. For what purpose do we collect personal data and on which legal basis?

We collect personal data to assess the independence of the person concerned when working for BEREC Office.

Therefore, processing such data is necessary based on Article 5 (1) (a) of Regulation 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. This Article relates to the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body.

In this respect, Article 38 of the BEREC Regulation provides that *'Members and other participants at the meetings of the Management Board, the Board of Regulators and the working groups, the Director, seconded national experts and other staff not employed by the*

*BEREC Office shall comply with the confidentiality requirements under Article 339 TFEU, even after their duties have ceased.'*

### **3. Who may receive your personal data?**

For the purpose detailed above, access to personal data is granted to staff members of the BEREC Office involved in the management of the declarations of interests, commitments and confidentiality.

### **4. How long are your personal data kept?**

Your personal data are kept seven years as of the year following the date of registration of the declaration of interests, commitments and confidentiality.

### **5. What are your rights?**

You have the right to request from the controller access to and rectification or erasure of your personal data or restriction of processing.

You also have the right to object to processing of personal data.

The controller shall provide information on action taken on a request within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

### **6. Who is the data controller and how to exercise your rights?**

The BEREC Office shall exercise the tasks of the data controller for the purpose of these processing operations.

To exercise the mentioned rights, you can contact the controller as follows:  
[berec@berec.europa.eu](mailto:berec@berec.europa.eu)

If you feel your data protection rights have been breached, you can always lodge a complaint with the BEREC Office's Data Protection Officer ([dpo@berec.europa.eu](mailto:dpo@berec.europa.eu)) or with the European Data Protection Supervisor: [edps@edps.europa.eu](mailto:edps@edps.europa.eu).

Name: Click here to enter text.

Position/Affiliation: Click here to enter text.

Place: Click here to enter text. Date: Click here to enter a date.

## SELECTION PROCEDURE FOR THE DIRECTOR

### 1. Vacancy notice

The Management Board shall adopt a vacancy notice setting out the eligibility and the selection criteria, as well as the overall procedure for the appointment of the Director.

### 2. Set up of a selection panel by the Management Board

The Management Board shall set up a selection panel made up of 5 members, 4 EU NRAs' senior representatives - in such a way as to guarantee a wide and balanced representation of the various geographical areas of the European Union -, and 1 representative from the Commission. A second representative from the Commission expert in human resources shall participate in the work of the selection panel to ensure the respect for due process<sup>5</sup>.

The purpose of the selection panel is to propose to the Management Board a short-list of the best suitable candidates for the post of Director.

The selection panel shall elect its chairperson.

The decisions of the selection panel shall be adopted unanimously and shall be motivated. In case no unanimous proposal is possible, both the majority and minority views shall be presented to the Management Board.

The secretariat of the selection panel shall be provided by the Commission.

### 3. Pre-selection phase

The Commission shall carry out the first scrutiny of the applications on the basis of the eligibility criteria and shall draft a list of admissible applications to be sent to the selection panel.

The selection panel shall:

- a) Confirm the list of admissible applications;
- b) Define the assessment criteria - based on the selection criteria indicated in the vacancy notice;
- c) Ensure that admissible applications are assessed and ranked on the basis of the assessment criteria previously defined. Given the high workload expected the

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<sup>5</sup> This person will co-sign the final report but will not participate in the assessment of candidates.

members of the selection panel may have recourse to the assistance of examiners experts from their respective organisations whenever they consider that necessary for assessing and ranking the applications;

- d) Confirm the list of candidates to be interviewed on the basis of the ranking mentioned above.

#### **4. First interview round by the selection panel**

The selection panel shall invite the candidates selected in accordance with point 2(d).

Each interview will comprise a short presentation by the candidate followed by a set of standard questions common to all candidates to be prepared in advance by the selection panel and additional questions put forward by individual members of the selection panel.

#### **5. Short-list for interview by the Management Board**

Upon completion of the interviews, the selection panel will provide to the Management Board a short-list of the best suitable candidates for the post of Director along with all relevant support documentation relating to the selection procedure carried out.

#### **6. Second interview round by the Management Board**

The Management Board will approve the short-list and invite the candidates to an interview.

The Management Board will define the list of questions that should be common to all candidates.

#### **7. Appointment**

Upon completion of the second round of interviews, the Management Board will select the candidate in accordance with the following voting procedure.

Members of the Management Board shall each vote for one candidate. If during that round of voting no candidate obtains a 2/3 majority of the votes of all Members, the candidate with the least support shall be withdrawn from the selection process and a new round shall be organized on the same basis. Where two or more candidates with equal votes have least support all of them shall be eliminated. Rounds will run until there is one remaining candidate who shall be selected.

If the candidate finally selected is unable to take up the appointment by a date specified by the Management Board, the Management Board may select other candidates from the above voting process, in reverse order of elimination.

Candidates will be informed by the Chairperson whether or not they have been selected.

Before appointment, the candidate selected may be subject to a non-binding opinion of the European Parliament. To this end, the candidate shall be invited to make a statement before the competent committee of the European Parliament and answer questions put by its members.