

**BEREC Guidelines for the notification
template pursuant to article 12,
paragraph 4 of Directive 2018/1972 of
the European Parliament and of the
Council**

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Index

1. Executive Summary	2
2. Introduction and legal basis	3
3. Scope of the BEREC Guidelines: the BEREC duty.....	4
4. Previous activities conducted by BEREC	5
5. The notification template	6
Table 1 – Purpose of the notification.....	6
Table 2 – Identification data	7
Table 3 - Contact person and contact details	8
Table 4 - Short description of the network(s) or service(s).....	9
6. Declaration	12

1. Executive Summary

The newly introduced European Electronic Communications Code (hereinafter “EECC”) confirms the present EU legislator’s approach to the administrative regime for market entry in the electronic communications sector, as outlined in the Authorisation Directive (Directive 2002/20/EC). This means that the general authorisation system still constitutes the EU framework of reference regulating access to the market for undertakings wishing to provide electronic communications networks and services.

Within such framework, the EECC still acknowledges the notification of the beginning of activity to the NRA or other competent authority as the only requirement that Member States might legitimately envisage for ECN or ECS providers subject to the general authorisation framework.

Compared to Article 3 of the current Authorisation Directive, bearing an illustrative list of information potentially includable in a notification form, the EECC now introduces in Article 12, paragraph 4, an exhaustive list of such pieces of information.

In this context, BEREC is called to “publish guidelines for the notification template” and to set up, by December 2020, an EU database of the notifications transmitted to the competent authorities.

To this end, BEREC built on previous work carried out in 2013 with a view to simplifying notification fulfilments for cross-border operators and adapted those reflections to the new legal context of reference.

The present Guidelines are therefore meant to ensure the implementation of Article 12, paragraph 4 of the EECC, thereby contributing to achieving consistent notification-related requirements throughout the Union, to the benefit of the single market.

2. Introduction and legal basis

Directive 2018/1972 establishing the EECC provides that, with a view to stimulating the development of new communications services and pan-European communications networks and services, as well as to allowing service providers and consumers to benefit from the economies of scale stemming from the internal market, Member States should envisage the least onerous authorisation system in relation to the provision of electronic communications networks and services (hereinafter referred to as “ECN” and “ECS”) (recital 41).

Such a lean system is identified (in subsequent recital 42) in the general authorisation regime for electronic communications networks and services - other than number-independent interpersonal communications services - implying that no explicit market entry-related decision or administrative act can legitimately be required under EU Law by the national regulatory authority for the undertakings to begin their provision of ECN/ECS.

The general authorisation therefore is shaped as a legal framework of reference composed of a set of obligations – the widest array of which is exhaustively listed in Annex I to the EECC - that providers have to abide by in order to legitimately provide ECN/ECS and compliance with which shall be verified ex post; general authorisations should contain only conditions which are specific to the electronic communications sector (recital 46).

The EECC also provides that any procedural requirements connected to market entry in the electronic communications sector should be limited to a declaratory notification which, when envisaged by a Member State upon beginning the activities, should not entail administrative costs on the providers¹. The EECC adds that such notification could be made available via an entry point at the website of the competent authorities.

Article 12 of the EECC confirms the approach outlined in the mentioned recitals and provides that a Member State may legitimately envisage for all ECN or ECS providers subject to general authorisation the submission of a notification to the NRA or to other competent authority to keep a registry or list of providers of ECS and ECN; this whole approach is in full continuity with what envisaged by the current EU sectoral legislative framework (Article 3 of Directive 2002/20/EC – “Authorisation Directive”).

Pursuant to Article 12, paragraph 4 of the EECC, the notification – when envisaged by a Member State - shall not entail more than a declaration by the operator of the intention to start the provision of ECN or ECS, supplemented by relevant minimal information, whose components, newly introduced by the EECC, are indicated in the same provision: i) the name of the provider; ii) the provider’s legal status, form and registration number, where the provider is registered in a trade or other similar public register in the Union; iii) the geographical address of the provider’s main establishment in the Union, if any, and, where applicable, any secondary branch in a Member State; iv) the provider’s website address,

¹ NRAs and other competent authorities may impose administrative charges on undertakings providing electronic communications networks or services under the general authorisation framework, but not as a condition for market access.

where applicable, associated with the provision of electronic communications networks or services; v) a contact person and contact details; vi) a short description of the networks or services intended to be provided; vii) the Member States concerned; and viii) an estimated date for starting the activity.

Compared to the mentioned “Authorisation Directive”, the EECC now provides that Member States shall not impose any additional or separate notification requirements, therefore introducing a list bearing the widest range of information that NRAs or other competent authorities can legitimately require from ECN/ECS providers within a notification form.

3. Scope of the BEREC Guidelines: the BEREC duty

Pursuant to Article 12, paragraph 4 of the EECC, “in order to approximate notification requirements”, and harmonise accordingly the notification forms currently in use at national level, BEREC is called to “publish guidelines for the notification template”, i.e. guidelines outlining the main features and contents of the notification form – within the constraints provided for by Article 12, paragraph 4 – to be used by Member States that will decide to envisage a notification requirement.

Furthermore, Article 12 of the EECC provides that, by December 2020, BEREC shall maintain a Union database of the notifications transmitted to the competent authorities by providers falling under the general authorisation regime and subject to the notification requirement.

As a Body statutorily committed to contribute to the internal market for electronic communications networks and services, BEREC shall accomplish the duties entrusted to it by Article 12, paragraph 4, with a view to facilitating market entry for ECN/ECS providers consistently throughout the Union, thus minimizing their procedural requirements and relevant administrative costs, in line with what mandated by the EECC, and ultimately streamlining the fulfilments bearing on providers with a EU-wide scale of operation.

The present BEREC Guidelines are therefore meant to accompany the implementation process for Article 12 EECC by defining a template, applying to future notifications of the beginning of activity by providers of ECN and ECS (as they are newly defined in Article 2 of the EECC) that Member States might wish to envisage.

Such notification template aims to materialize the spirit of Article 12, which bears an exhaustive list of information that can be required from operators when beginning their provision of ECN/ECS, and to facilitate at the same time the accomplishment of the database that BEREC is called to implement, as a homogenous template is likely to significantly facilitate the BEREC task to collect undertakings’ notifications.

The present BEREC Guidelines are therefore intended to cover the definition of a notification template within the boundaries drawn by the EECC itself; NRAs/other competent authorities would need to remain within the boundaries of Article 12 EECC when adopting the national template and should consider the list in Article 12 EECC as the maximum set of information that can be requested from undertakings. In order to minimize the administrative burden bearing on undertakings, NRAs/competent authorities might decide to limit the information requested to them

further, compared to what mentioned in Article 12, as long as in a non-discriminatory way.

4. Previous activities conducted by BEREC

In 2011, BEREC has carried out a reflection on the potential legal and administrative factors hindering the development of the internal market for business connectivity services by means of a Report concerning “the impact of administrative requirements on the provision of transnational business communication services” (BoR (11) 56); in the document, a snapshot was provided of the NRAs’ competences in the general authorisation field and of the Member States’ different administrative schemes in place back then, implementing the relevant provisions in the Authorisation Directive. Furthermore, problems in terms of different national administrative requirements, also stemming from outside the electronic communication discipline, as well as possible best practices were sketched out. The work carried out then has allowed to identify several factors that come into play when describing the overall fulfillments bearing down on operators in the context of notifying of the beginning of their activities. Most of such factors fall beyond the electronic communications sector, hence beyond the scope of the present Guidelines. The simplifying tools provided by sectoral legislation shall play though their role in easing market entry-related requirements for electronic communications providers, without impacting on general administrative rules.

BEREC kept on working on the subject in 2013 and reflected upon a draft notification template, drawing on common features in national notification forms, with a view to drafting a simplified template for the notification of the beginning of the activities by cross-border operators only, bearing the requirements as in the Authorisation Directive, and putting in relevant annexes any further information required at a national level.

This working line ended with the publication, in June 2013, of an outline of national notification-related requirements (BoR (13) 03).

The present Guidelines build on the reflections carried out in 2013 and get to define a template to be taken into account at national level with a view to the notification of the beginning of the activities by ECN/ECS providers, on the background of the newly introduced provisions in the Code and, in particular, of the list of items in Article 12, para 4 of the Code.

5. The notification template

To be filled in the national language and, if possible, also in English language.²

In table 1 below, please tick only the one, out of the four available options, which is applicable to your case.

Please tick item 1.1 in case you intend to start a whole new business and have not notified any networks/ services yet.

In case you are an operator active in the market, which has already notified the NRA/other Competent Authority of the beginning of its activities, and you wish to make changes to the activities you carry out (in terms of provision of new networks and/or services or withdrawal of certain networks and/or services from the market), you can notify the NRA/other Competent Authority only of the changes that you wish to introduce (in terms of provision of new networks and/or services or termination of networks and/or services; the notification is not about individual products supplied) by ticking item 1.2 and then filling in items 2.1 and 2.2 and Table 4 (selecting the networks and/or the services that you wish to introduce or terminate and providing the relevant details in the corresponding columns).

In table 3, please provide the requested information about the person you wish to be the main contact between your undertaking and the NRA/other Competent Authority in relation to any exchanges subsequent to the notification. Please provide also the requested information on an alternate contact person in the event that you intend to authorize also an additional person to be reached in case the primary contact person does not respond.

Table 1 – Purpose of the notification

This notification is for	
1.1 Commencement of new activity of provision of networks and/or services <i>If you select this item, please proceed to filling in Tables 2 to 4</i>	
1.2 Changes ³ to the networks/services already notified, including – where applicable – termination of individual networks/services and termination of your whole activity. <i>If you select this item, please proceed to filling in items 2.1 and 2.2 and Table 4</i> <i>In case of termination of your whole</i>	

² The English version is intended to facilitate the collection of notifications in the BEREC register; the national language version of the notification is the legally valid text.

³ Changes that must be notified concern the intention to provide new networks or services or to terminate networks and/or services, not individual products. For example, tick item 1.2 if you already notified your activity as internet service provider and you intend to enter also the voice market or if you intend to change the geographic reach of your notified network/service.

<i>activity, please indicate the relevant termination date beside your tick mark in the next cell</i>	
1.3 Change to provider identification data, contact person or contact details. <i>If you select this item, please proceed to filling in Tables 2 and 3</i>	
1.4 Change to the commencement date ⁴ <i>If you select this item, please proceed to filling in items 2.1, 2.2 and Table 4</i>	

Table 2 - Identification data

Details of the undertaking	
2.1 Name of the provider	
2.2 Provider's legal status, form and registration number ⁵ , where the provider is registered in a trade or other similar public register in the Union	
2.3 Geographical address of the provider's main establishment in the EU, if any, and, where applicable, any secondary branch in a Member State ⁶	
2.4 Provider's website address, where applicable, associated with the provision of electronic communications networks or services ⁷	

⁴ This change should be notified to the NRA/ other Competent Authority before the commencement date already notified.

⁵ Certification number from the competent chamber of commerce or equivalent, if available in the Member State of establishment, depending on national requirements in compliance with applicable EU law.

⁶ Item 2.3 is aligned with art. 12 EECC. However, as already clarified further above, the list as in article 12 provides the maximum amount of information that can be requested from notifying operators; this is an area where NRA/other Competent Authorities could streamline the informational burden on operators when adopting the national notification template.

⁷ Providers shall indicate the address of their website's sections concerning the provision of ECN/ECS, in case such pages are available.

Table 3 - Contact person and contact details

Contact person	
3.1 Full name of the Contact Person, to be someone duly authorized by the undertaking to submit notifications or documents on its behalf	
3.2 Telephone No.	
3.3 Email Address	
3.4 Geographic address ⁸	
Alternate Contact person	
3.5 Full name of the Alternate Contact Person	
3.6 Telephone No.	
3.7 Email Address	
3.8 Geographic address ⁹	

⁸ Correspondence address; optional, to be filled in only in case it is different of 2.3.

⁹ Correspondence address; optional, to be filled in only in case it is different of 2.3

Table 4 - Short description of the network(s) or service(s)¹⁰

(1)	(2)	(3)	(4)	(5)		(6)	(7)	(8)	(9)
Network (Please choose from the drop down menu)	Service (Please choose from the drop down menu)	Short description of the Network	Short description of the Service ¹¹	Geographic area of the Member State where the network is available and/or the service is provided (in case of players active at sub-national level) ¹²		Publicly Available ¹³ ?(Please choose from the drop down menu)	Wholesale-only service ¹⁴ (Please choose from the drop down)	Estimated commencement date ¹⁵	Termination date ¹⁶
				(Please choose from the drop down menu)	Please indicate the name of the geographical				

¹⁰ Please indicate the activities to be carried out by the notifying entity only (e.g., in case of multinational groups, do not indicate activities carried out by different subjects)

¹¹ Please also provide here some details in case you are notifying the provision of reselling services.

¹² Territorial units are defined by Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS)

¹³ In line with the NN Guidelines (BoR (16)127, No10) electronic communication services or networks that are offered not only to a predetermined group of end-users but in principle to any customer who wants to subscribe to the service or network should be considered to be publicly available. Electronic communication services or networks that are offered only to a predetermined group of end-users could be considered not to be publicly available.

¹⁴ "Wholesale only" means that the service is provided only at wholesale level (no retail provision), no matter whether via own network or based on resale

¹⁵ For notifications concerning the uptake of multiple provisioning activities, the first commencement date should be stated in Table 1

¹⁶ To be indicated only if the notifying operator knows the termination date for the networks/services it is notifying. Otherwise, the column shall be left blank.

					area				
Metal Line (DSL)	Fixed IAS			NUTS 1		yes	yes		
Coax (cable TV)	Mobile IAS			NUTS 2		no	no		
Fibre	Fixed NB-ICS (including nomadic)			NUTS 3					
Electricity cable system	Mobile NB-ICS			Local Administrative Unit					
Wireless-licensed spectrum	Data transmission								
Wireless-unlicensed spectrum	Leased lines								
Standard mobile network (i.e.:2G, 3G, 4G, 5G)	TV broadcasting								
Other mobile solutions (i.e:TETRA POL emergency networks)	Radio broadcasting								

Submarine cables	Roaming services (MCA and MCV),								
Satellite	Transport of telephone traffic among operators								
Other	M2M services								
	Other								

6. Declaration¹⁷

On behalf of the notifying person or company, I declare that the information provided by me is accurate and complete in all respects.

Full name of Signatory:

Signed:

¹⁷ The notification must be signed: a) in the case of a natural person, by that person, duly identified, or by their representative, if any, duly identified; or b) in the case of a legal person, by that person, duly identified in accordance with the law, or on its behalf, by (a) person(s) duly identified, having the capacity and the powers to perform such act.

Position held (if the notifying undertaking is a company):

Date: _____