

Board of Regulators Rules of Procedure

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The Body of European Regulators for Electronic Communications (hereinafter “**BEREC**”) has been established by Regulation (EU) 2018/1971¹ (hereinafter “**BEREC Regulation**”) and its functioning shall be governed by the BEREC Regulation and these Rules of Procedure (hereinafter “**Rules of Procedure**”). In case of inconsistency between these Rules of Procedure and the BEREC Regulation, the BEREC Regulation shall prevail.

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

Article 1 – Composition

Members

1. The Board of Regulators shall be composed of one member per Member State, each with voting rights, who shall be the head, member of the collegiate body or a replacement of either of them, of the national regulatory authority (hereinafter “NRA”) with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services under Directive (EU) 2018/1972² (hereinafter “EECC”) established in each Member State.
2. Each NRA shall appoint one alternate from amongst the head of the NRA, a member of its collegiate body, their replacements or the staff of the NRA, whose names shall be communicated to the Agency for Support for BEREC (hereinafter “BEREC Office”). NRAs shall aim to achieve a balanced representation between men and women in the Board of Regulators. When neither the member nor the nominated alternate can attend a meeting of the Board of Regulators, 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.
3. The members of the Board of Regulators and their alternates shall neither seek nor take instructions from any government, institution, person or body.

Participants without voting rights

4. 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 Board of Regulators work without the right to vote.
5. The European Commission (hereinafter Commission) shall participate in all deliberations of the Board of Regulators without the right to vote and shall be represented at an appropriately

¹ 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)

² DIRECTIVE (EU) 2018/1972 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018 establishing the European Electronic Communications Code (Text with EEA relevance)

high level.

Observers

6. The Board of Regulators 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.

Interested parties

7. Interested parties (market participants, consumers and end-users or their representatives) shall be able to participate in BEREC work through consultations and/or public hearings.

Principle of independence

8. In any event, the independence of BEREC and its members and other participating NRAs should be preserved.

List of members of the Board of Regulators and internal contact list

9. An up-to-date list of members of the Board of Regulators, participants without voting rights and their alternates, together with their declarations of interest, shall be made public. The BEREC Office shall be responsible for maintaining and keeping an updated list, as well as an internal contact list of all the appointed representatives mentioned above.

Article 2 – Appointment and Term of the Chair and Vice-Chairs

1. Before serving her/his term as Chair for one year, the Chair shall first serve one year as Vice-Chair, unless this is not possible; in such case, she/he shall serve as Vice Chair at least 6 months preceding her/his term as Chair. If possible, she/he shall also serve as Vice-Chair for the year following her/his term as Chair.
2. Every year, the Board of Regulators shall elect a Vice-Chair for the following³ year or part of it as defined in the previous paragraph who shall become Chair the subsequent⁴ year (“incoming Chair”), from among the members. Candidacies for incoming Chair shall be submitted to the BEREC Office in writing by the candidates themselves at least 2 months before the election. The Chair shall circulate the list of candidates to the members within five working days of the closing date.
3. A nomination for candidacy must be supported in writing by at least 4 members (excluding the candidate). Each member shall provide its support to one candidate per post only. The candidate shall have a record of active personal participation in BEREC and shall ensure that she/he is able to devote a significant part of her/his time to the position in BEREC. Each candidate shall declare her/his availability to serve one year, or a shorter term of at least 6 months, as Vice-Chair prior to her/his term as Chair. A candidate shall be elected by a 2/3 majority of the members. The election shall take place at the penultimate ordinary meeting of the year where four ordinary meetings are scheduled, otherwise at an ordinary meeting scheduled to be held in the latter half of the calendar year. The Chair shall circulate the date

³ Following year means the calendar year immediately following the election (election+1)

⁴ Subsequent year means the second calendar year following the election (election+2)

of the election to members at least three months in advance of the election. Two tellers shall be designated from among the members, excluding the candidates, to assist in the vote.

4. The election shall take place in accordance with the following procedure:
 - a. If the BEREK Office only receives one candidacy, this candidate shall be elected provided that she/he receives the support of 2/3 majority of all members. Should the candidate not receive that support in the first round, the vote shall be repeated once. Should the candidate not receive that support in the second round, a new invitation for candidacies shall be opened, to be submitted on the same day of the meeting with each candidate supported by at least 4 members, evidenced in writing.
 - b. If two or more candidacies are submitted and during the first vote 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. Rounds shall run until a candidate receives a 2/3 majority of votes of all members. Where there remains a sole candidacy, paragraph a. shall apply.
 - c. In the event that no candidate receives the support of a 2/3 majority of all members and new candidacies are submitted on the same day of the meeting, the voting shall take place as soon as practicable according to:
 - the above paragraph a. in the event that one candidacy only is submitted, and according to
 - the above paragraph b. in the event that two or more candidacies are submitted.
5. In addition to the support provided to the Chair by the two Vice-Chairs, the Board of Regulators may decide to elect other members as additional Vice-Chairs for 1 year. The election of the additional Vice-Chairs for the following year shall take place during the penultimate ordinary meeting of the year where four ordinary meetings are scheduled, otherwise at an ordinary meeting scheduled to be held in the latter half of the calendar year. The election shall take place in accordance with the voting rules set out in paragraph 4. Candidacies for additional Vice-Chair shall be submitted in writing at least one month before the election. The Chair shall circulate the list of candidates to the members within five working days of that date. This procedure shall apply also to the election of a representative of the participants without voting rights to the Mini Board, as foreseen in Article 3(3).
6. The serving Chair shall inform the Board of Regulators of the voting results.
7. These Rules of Procedure shall be amended in a timely manner, to cater for the event that a candidacy for renewal is submitted by the Chair.

Article 3 – Duties of the Chair and Vice Chair

1. Upon mandate by the Board of Regulators, for the purposes foreseen in the Regulation, the Chair shall be responsible for external relations on behalf of BEREK. She/he shall inform all members of external engagements and contacts and report on their results, also providing relevant materials. The Chair may ask any Board of Regulators member, Working Group (hereinafter: WG) co-Chair or WG member to act on his behalf in relation to external relations.

2. The Chair shall report to the European Parliament and to the Council on the performance of BEREC's tasks when invited to do so.
3. The Chair, the Vice Chairs of the Board of Regulators and one representative of the participants without voting rights shall compose the Mini Board. The Chair of the Board of Regulators shall serve as the Chair of the Mini Board.
4. The Board of Regulators shall decide to grant the members of the Mini Board a clearly defined mandate to speak and act on behalf of BEREC.
5. The incoming Chair or, should he/she not be available, one of the Vice-Chairs shall automatically assume the role of the Chair if the latter is not in a position to perform his/her duties.
6. Meetings of the Mini Board shall be convened by the Chair. The Office may provide administrative assistance at the request of the Mini Board.
7. The Mini Board shall assist the Chair in the performance of his/her duties.
8. Each BEREC Vice-Chair shall provide support and follow the work of a cluster of WGs. The aggregation of the WGs into clusters and their assignment to Vice-Chairs shall be decided upon by the BEREC Chair.
9. The Chair of the Mini Board shall inform the Board of Regulators whenever necessary of the work of the Mini Board and, in any event, at every Board of Regulators meeting.

Article 4 – Meetings of the Board of Regulators

1. The ordinary meetings of the Board of Regulators shall be convened by the Chair in writing not less than ten days prior to the proposed meeting date and shall occur at least twice a year. The number of the ordinary meetings in a particular year shall be defined in the work programme for the said year. The Agenda of the meetings shall be set by the Chair and made public.
2. Extraordinary meetings of the Board of Regulators may also be convened at the initiative of the Chair or at the request of at least 3 of the members or upon request by the Commission. Extraordinary meetings shall be convened by the Chair in writing not less than seven days before the date of the meeting.
3. Any member or participant without voting rights wishing to host a Board of Regulators meeting shall submit a proposal to the BEREC Office. In the event of more than one proposal being received for a particular meeting, the member planned to Chair BEREC for the concerned period shall have the final decision. In the event that no proposal for hosting a meeting is presented, the Chair may request the BEREC Office to make a proposal to organise the meeting at a suitable place.
4. Notices of the meetings shall indicate the date, time and place of the proposed meeting and

shall contain the agenda and the working documents, as in Articles 5 and 6 below.

5. The Director shall take part in all deliberations of the Board of Regulators, without the right to vote.
6. Each member may be represented at the meeting by another member, provided that written authorisation from the absent member is submitted to the Chair. A member may represent a maximum of two other members.
7. Members and alternates may be assisted at the meetings by their advisers or other experts.
8. The BEREC Office shall provide the secretariat for the Board of Regulators.

Article 5 – Agenda

1. A provisional agenda shall be drawn up by the Chair 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 Chair. 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 Chair shall inform the 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 6 – Documents for meetings

1. The provisional agenda and draft proposals, documents and submission notes which outline the key issues and the decision being sought by the Board of Regulators shall be prepared in accordance with the conclusions of the Contact Network, together with any additional material considered necessary by the Chair or the Director.
2. The documents for meetings and other materials shall be distributed by the BEREC Office not less than 10 days before ordinary meetings and not less than 3 days before extraordinary meetings, so that members and participants without voting rights have the opportunity to propose amendments prior to the vote. When justified by urgent or exceptional circumstances, the Chair, at the request of the relevant WG or the BEREC Office, may shorten, as necessary, time limits for sending the documentation.
3. Press releases, and exceptionally other documents, such as short statements, may be prepared and agreed during meetings of the Board of Regulators.

Article 7 – Minutes and follow-up

1. The Chair with the assistance of the BEREC Office shall prepare the draft minutes of the meetings of the Contact Network and the Board of Regulators.
2. The minutes of each meeting shall as a general rule indicate in respect of each item:
 - a. Documents submitted to the Contact Network or to the Board of Regulators;
 - b. A summary record of the proceedings;
 - c. A record of the decisions adopted or the conclusions reached by the Contact Network or the Board of Regulators, summarising the main arguments together with the reservations of a member 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 BEREC Office for comments by the members and participants without voting rights no later than 5 working days after that meeting. The minutes of all meetings shall be kept by the BEREC Office in a register, which shall be accessible to any member or participant without voting rights upon request.
4. The follow-up actions to be undertaken after the meeting shall be summarised by the Chair with the assistance of the BEREC Office at the end of the meeting and shall be circulated electronically within 1 working day.
5. In addition to the minutes of the meeting, the Chair, with the assistance of the BEREC Office, shall draft the meeting conclusions summarising the main decisions adopted. The draft conclusions should be distributed electronically by the BEREC Office 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 8 – Quorum

The quorum necessary for meetings shall be achieved when at least two-thirds of all members are present during the voting or represented by proxy in accordance with Article 9 (3). In order to determine whether the quorum is met, an attendance list shall be drawn up by the BEREC Office at the beginning of each meeting.

Article 9 – Voting procedures for meetings

1. The Board of Regulators shall act by a simple majority of all its members unless otherwise provided for in the BEREC Regulation or in another legal act of the Union, in accordance with the procedures in this Article and Article 10. A two thirds majority is required in the following circumstances
 - a. election of Chairs and Vice Chairs
 - b. adoption of Rules of Procedure
 - c. adoption of the opinion referred to in points (c) (v) of Article 4(1) and the

guidelines referred to in points (d)(i) to (iv), (vi), (vii) and (x) of Article 4(1) of the BEREC Regulation.

2. The decisions of the Board of Regulators shall be made public and shall indicate the reservations of any member at his or her request.
3. In addition to his/her own vote, each voting member may cast a maximum of two votes received by written proxy. The proxy shall be submitted to the Chair at the beginning of the meeting and shall be recorded in the minutes.
4. Voting shall be made by a show of hands or by secret ballot. A request for a secret ballot must be made by at least two members present and supported by a majority of members.
5. The Chair shall submit a proposal for a decision to the members, who shall vote by “yes” if they are in favour of it, or “no”, or “abstain”.
6. If at least the requisite number of members has voted in favour of the proposal, the Chair shall declare the proposal approved.
7. If the number of members who have either voted against the proposal or who have formally abstained results in the threshold for approval not having been met, the Chair shall declare that the proposal has not been approved.

Article 10 – Electronic voting procedure

1. The Chair may seek a decision of the Board of Regulators by means of an electronic voting procedure when a meeting is not possible or practicable and the decision should not wait until the next ordinary meeting.
2. The electronic voting shall be initiated by the Chair with the assistance of the Director. Draft decisions together with the relevant documents and an explanation of the need for an electronic voting procedure, shall be addressed to members and, to participants without voting rights. 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.
3. In the event that members support the draft decision as submitted for comments, they may express this through a “no-comment” message. If significantly different opinions are expressed in the comments, the Chair with the support of any relevant WG’s co-Chairs, shall attempt to resolve the differences between the respective members.
4. The Chair shall prepare a final proposal and submit it to the vote, together with a report on the comments received. He/she shall send it to the members 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 could be reduced to a minimum of one working day. At any stage the Chair may decide to withdraw the electronic voting procedure and schedule the subject of the voting procedure for discussion at an appropriate level.

5. For any voting round to be valid, at least two-thirds of the members must have cast their vote or formally abstained.
6. Article 1(2) should apply *mutatis mutandis*. An authorisation of a further alternate to sign the electronic voting ballot should be communicated to the Chair at the latest when such further alternate casts its vote.
7. Article 9(3) should apply *mutatis mutandis*. The proxy shall be submitted to the Chair at the latest when the member casts its vote on behalf of another member.
8. If the number of members who have either voted against the proposal or who have formally abstained prevent the required threshold for approval as in Article 9(1) being met, the Chair shall declare the proposal not approved. In this case the Chair, in consultation with the Director, shall inform the members 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 4 to 8.
9. A full report on the outcome of the procedure shall be made available to members 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 and participants without voting rights upon their request.
10. Members can make public use of their part of the voting report if they want.
11. If the electronic procedure remains undecided, an extraordinary meeting may be convened at the initiative of the Chair.

Article 11 – Working Groups

1. The Board of Regulators shall create Working Groups (WGs) to assist with the performance of the tasks and functions of BEREC and request the BEREC Office to provide support. The decision that establishes the WGs for the following year shall be approved before the end of each calendar year.
2. Each WG shall be led by two co-Chairs, from different NRAs, unless in exceptional and temporary circumstances. WGs shall be open to all members, participants without voting rights, and the staff of the BEREC Office, who shall contribute to the regulatory work of, and provide administrative support to, the working groups. Each NRA shall nominate a member or identify a contact point for every WG.
3. The Board of Regulators or the co-Chairs of the WGs (after consulting the Contact Network Chair) may invite individual experts recognised as competent in the relevant field, to participate in the WG meetings – if necessary, on a case-by-case basis and as long as it does not affect the independence of BEREC.

4. In case of the WGs which are set up to carry out the tasks referred to in point (c) (ii) of Article 4(1) of the BEREC Regulation, experts from the Commission shall not participate.
5. In working groups which are set up to carry out the tasks referred to in points (c)(iv), (vi), (vii) and (viii), points (d)(i), (ii), (ix), (x) and (xi), point (j)(ii) and point (l) of Article 4(1) of the BEREC Regulation as well as, where relevant, point (c)(iii) and point (j)(i) of Article 4(1) of the BEREC Regulation, the views of experts from other relevant competent authorities notified pursuant to Article 5(4) of EECC shall be taken into consideration by means of the necessary coordination at national level managed by the NRA.
6. The term of the WGs' co-Chairs shall be two calendar years and may be renewed in accordance with the following paragraphs.
7. Before the two year – term expires, a call for interest shall be issued by the Chair to provide the opportunity to NRAs to nominate candidates as possible co-Chairs of a WG. The list of candidatures received shall be distributed to all members and participants without voting rights.
8. The co-Chairs of the WGs shall be appointed by the Board of Regulators, based on a reasoned proposal by the Chair. The proposal by the Chair shall be based on objective criteria established beforehand and following consultation with the relevant Vice-Chair as regards the suitability of the candidates and in light of the need to ensure maximum participation of all NRAs in BEREC work.
9. If a co-Chair resigns during their term, or a new WG is established, new co-Chairs shall be appointed according to the same procedure. The appointment of co-Chairs replacing the existing ones after a resignation shall be made for the remainder of the term of the replaced co-Chair.
10. Drafting team leaders may be appointed by the WG co-Chairs, where appropriate, to carry out specific projects within the WGs. Co-Chairs shall inform the Contact Network and the BEREC Office of the drafting team leaders appointed in the relevant WGs.
11. Where necessary to implement a decision of the Board of Regulators, in derogation of the above rules, the Chair may set up ad hoc groups to deal with time-limited tasks which were not foreseen in the BEREC's annual Work Programme, and which do not fall under the remit of any existing WG.

Article 12 – Contact Network

1. The Board of Regulators shall be assisted by a Contact Network, a group composed of senior representatives of all members and participants without voting rights, to prepare the decisions to be taken by the Board of Regulators. The Contact Network should be chaired by a representative of the Chair of the Board of Regulators. The BEREC Office shall be represented at the Contact Network.

The Contact Network ensures coordination of proposals to be considered by the Board of

Regulators. The Board of Regulators may decide to delegate some of its duties to the Contact Network. Such mandate shall be clearly defined in advance.

In particular, the Contact Network shall perform the tasks set out in the following paragraphs.

2. The Contact Network shall make the necessary preparations with the support of the BEREC Office for each meeting of the Board of Regulators. To this end it shall:
 - a. aim to resolve outstanding differences of opinion between the Members,
 - b. ensure that proposed papers to be submitted for consideration by the Board of Regulators are duly and timely prepared, and
 - c. with the assistance of the Director, agree the draft agenda for each meeting of the Board of Regulators, including a proposal of subjects to be addressed as A items at the Board of Regulators meetings; the agenda shall then be proposed to the Chair of the Board of Regulators for approval.
3. The Contact Network shall act as a filter and facilitator between WGs, on the one hand, and the Board of Regulators, on the other hand, with the assistance of the BEREC Office. To this end, it shall, inter alia:
 - a. assess the completeness and the consistency of papers proposed to the Board of Regulators and ensure that these papers are ready for discussion and decision by the Board of Regulators, and
 - b. facilitate the arrangements and coordination with the BEREC Office.
4. The Contact Network can delay items to be considered by the Board of Regulators where issues need further work and can make recommendations to the Board, for example in setting priorities for the execution of the Work Programme.
5. The Contact Network also operates as an informal network whose members are the key contact points between NRAs for seeking and exchanging information on regulatory issues.
6. The Contact Network shall meet three to four weeks prior to the ordinary meetings of the Board of Regulators, and may, if requested by the Chair of the Contact Network, meet prior to any extraordinary meetings.
7. Article 4(3) shall apply to the organisation of meetings of the Contact Network.
8. The BEREC Office shall provide the secretariat for the Contact Network.

Article 13 – Article 7 and 7a Working Groups (establishment - functioning – reports – voting) ⁵

1. Pursuant to Articles 7 and 7a of Directive (EC) 2002/21, as amended by Directive (EC) 2009/140, as well as to the BEREC Regulation, BEREC shall issue an Opinion in the event that the Commission opens a Phase II investigation on a draft national measure concerning

⁵ This Article applies until 21 December 2020.

either:

- the definition of a relevant market and the identification of operators having significant market power, or
- the imposition of regulatory obligations.

2. The BEREC Office shall be responsible for:

- keeping track of all Articles 7 and 7a notifications from the NRAs to the Commission;
- identifying a WG Coordinator;
- establishing a dedicated WG composed of NRAs/BEREC Office experts and chaired by a Rapporteur.

3. NRAs shall nominate a focal point to help in identifying national experts. NRAs shall commit to make their experts available to take part in Articles 7 and 7a WG activities when required. The notifying NRA shall not be part of the WG.

4. Subject to Articles 36 and 38 of the BEREC Regulation, the experts shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public, even after the notification procedure has been closed.

5. As long as the WG is on duty, the experts shall refrain from any contact with any third parties on any issue that might have any direct or indirect interest in the case, without prejudice to the meetings organized by the Coordinator.

6. The WG shall closely cooperate with the NRA concerned as well as with the Commission, with a view to the exchange of information concerning the notification itself and the planned work.

7. In the event of a Phase II investigation concerning an Article 7 notification, the WG shall deliver to the Board of Regulators a draft Opinion within fourteen working days following the opening of the Commission's Phase II investigation.

8. In the event of a Phase II investigation concerning an Article 7a notification, the WG shall deliver to the Board of Regulators a draft Opinion on the Commission's notification in twenty-four working days following the opening of the Commission's Phase II investigation.

9. The BEREC Office shall submit the draft Opinion to the Board of Regulators for comments to be provided to the Coordinator and the Rapporteur of the WG and copied to the Board of Regulators and Contact Network within two working days.

10. The WG shall take into account any comments provided and shall send, within two working days, a final draft Opinion to the Chair, who shall submit it to Board of Regulators.

11. NRAs shall vote within one working day, in line with the rules of the electronic voting procedure as Article 10 above.

12. BEREC Opinions shall be sent to the Commission on the same day of adoption and shall be published in full within three working days of having been delivered to the Commission, subject to confidential scrutiny pursuant to Articles 36 and 38 of the BEREC Regulation.
13. In the event that BEREC – in its Opinion issued under Article 7a, paragraph 3 – shares the Commission’s serious doubts over the draft regulatory obligations notified by the NRA, the relevant WG shall cooperate closely with the NRA concerned in order to identify the most suitable and effective remedies, carrying out the cooperation activities through any possible tool agreed between the NRA concerned and the Article 7a WG.

Article 14 – Preparation and approval of the Work Programme

1. An outline of the Work Programme shall be adopted by 31 January of the year preceding that to which the annual work programme relates.
2. With the aim of achieving the goals identified by the BEREC strategy, the draft Work Programme of BEREC shall be prepared by the incoming Chair with the assistance of the BEREC Office, if required, and of the WGs; all members and participants without voting rights may make proposals to the Chair.
3. The draft Work Programme shall then be submitted for the consideration and comments of members and participants without voting rights through the Contact Network, after which an amended draft shall be submitted for the approval of the Board of Regulators.
4. After consulting the European Parliament, the Council and the Commission on their priorities, as well as consulting other interested parties in accordance with Article 4(5) of the BEREC Regulation, the Board of Regulators shall adopt the final annual work programme by 31 December of the year preceding that to which the work programme relates.
5. The Chair on behalf of the Board of Regulators shall transmit the Work Programme to the European Parliament, the Council and the Commission each year as soon as it is adopted.

Article 15 – Project Requirements Document

1. The co-Chairs of each WG shall prepare, with the assistance of the BEREC Office, a Project Requirements Document (hereinafter: PRD) for each work item for which they are responsible.
2. The PRD shall provide a clear statement of the purpose and scope of the planned activity, taking into account the objectives set in the Work Programme. It shall set out:
 - a. the form which the deliverable(s) will take,
 - b. the anticipated dates of interim and final delivery,
 - c. if and when a public consultation is foreseen.

3. The PRDs shall be adopted as soon as possible after the adoption of the final annual Work Programme for a respective year and, if possible, together with the adoption of that Work Programme.

Article 16 – Public Consultations

1. BEREC shall, where appropriate, consult interested parties and give them the opportunity to comment within a reasonable period having regard to the complexity of the matter, which shall not be shorter than 30 days, except in exceptional circumstances. Such consultations shall take place as early as possible in the decision-making process.
2. Public consultations shall be organised in such cases where the input and comments of stakeholders is required.
3. Subject to paragraph 5, the Board of Regulators shall agree on a case-by-case basis, whether to organize a public consultation, by a written procedure, and/or a public hearing, to gather either comments on a draft document and/or opinions in a preliminary phase of analysis.
4. The consultation procedure shall in principle be restricted to one round of written comments in the case of a consultation document, unless specific circumstances require otherwise.
5. In deciding on whether and how to consult, the Board of Regulators shall take into account considerations such as the nature of the specific subject, possible alternatives to consultation, confidentiality issues, the interests of third parties, and the urgency of the matter.
6. Public consultations/hearings shall be organised by the BEREC Office in coordination with the co-Chairs of the relevant WG, or with the Chair of the Board of Regulators in the case of paragraph 4.
7. The procedure for consultation and the time-scale for responses shall be made available on the BEREC website.
8. Comments shall be addressed to the BEREC Office in written form and shall be made available on BEREC website, except where confidentiality has been requested

Article 17 – Right of access to BEREC’s documents, data protection and confidentiality

1. BEREC shall ensure a high level of transparency regarding its tasks and the results of its work.
2. The right of access to BEREC documents shall be in compliance with relevant EU legislation.
3. Detailed rules on transparency, publication and access to documents, as well as on data

protection shall be laid down in separate guidelines.

4. Members and other participants at the meetings of the Board of Regulators, of the Contact Network and of the working groups or anyhow involved with BEREC work, the Director, seconded national experts, BEREC Office staff and other staff not employed by the BEREC Office shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.
5. Members and other participants at the meetings of the Board of Regulators and of the Contact Network shall each sign a declaration of confidentiality made in accordance with Annex 3.
6. For members of and participants without voting rights in the Board of Regulators and the Contact Network, such declarations shall be made at the time of taking up responsibilities.
7. For other participants at the meetings of the Board of Regulators and the Contact Network, such declarations shall be made at the latest at the start of each meeting.

Article 18 – BEREC information and communication system and websites

1. In order to avoid duplication of information requests and facilitate communications between all authorities involved and to provide a platform for early identification of the needs for coordination between NRAs, the BEREC Office shall run a BEREC internal website (intranet). It shall be used as a closed platform for the electronic exchange of documents between members and participants without voting rights. It shall be the preferred method of document circulation.
2. In addition, BEREC shall also have an external website, also managed by the BEREC Office, where all BEREC documents approved by the Board of Regulators for publication shall be published.
3. The data shall be made available to the public in an open, reusable and machine-readable format on the BEREC website and the European data portal, without prejudice to intellectual property rights, personal data protection rules and the required level of confidentiality.

Article 19 – Declarations

1. Members and participants without voting rights and their alternates shall make a written declaration indicating their commitment and the absence or presence of any direct or indirect interests which might be considered to prejudice their independence. These 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.
2. The BEREC Office shall keep record of these declarations and shall publish them on the

website of BEREC. These Declarations shall be made in accordance with the models contained in Annex 1 and 2.

3. Members of the Board of Regulators, the working groups, and other participants in their meetings, the Director, seconded national experts and other staff not employed by the BEREC Office 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. Anyone declaring such interest shall abstain from participating in the discussion and the voting on, such points.

Article 20 – Cooperation

1. BEREC may, where appropriate, consult and cooperate with relevant national authorities such as those competent in the fields of competition, consumer protection and data protection.
2. BEREC, with the assistance of the BEREC Office, may cooperate with competent Union bodies, agencies, offices and advisory groups, with competent authorities of third countries and with international organisations.

To that end, BEREC may, subject to prior approval by the Commission, establish working arrangements. Those arrangements shall not create legal obligations. Depending on the nature and the content of the working arrangement, the Chair of the BoR shall seek the prior approval of the Commission by involving it in all steps of the negotiations and presenting to it the draft and final text for approval.

Article 21 – Revision of the Rules of Procedure

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

Article 22 – General provisions

1. These Rules of Procedure shall replace the previous version as adopted by the Board of Regulators in 2014 (BoR (14) 213).
2. These Rules of Procedure shall be published on the BEREC website.

**ANNUAL DECLARATION OF COMMITMENT FOR MEMBERS OF THE
BOARD OF REGULATORS 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 Board of Regulators (BEREC).

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, on request, at the seat of the BEREC Office.

Done at _____ on / 20

Signature: _____

Position: _____

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 Staff¹. The Financial Regulation defines what a conflict of interest of a financial nature is².

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 Members of the Management Board, the Director and the staff of the BEREC Office 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:

- 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.

¹ See in particular Article 11 of the Staff Regulations

² See Article 34 of Commission Regulation (EC/Euratom) No. 2342/2002 laying down the implementing rules

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, the Director, the staff of the BEREC Office or any household member have a direct or an indirect pecuniary interest;

b) a situation where a Member of the Board of Regulators and/or of the Management Board, the Director or the staff of the BEREC Office are in a position to make or make a decision, or are 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, the Director, the staff of the BEREC Office 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 of the Management Board, the Director or the staff of the BEREC Office 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.

Assessment of Conflict of Interest

Based on the information provided by the Member of the Board of Regulators and/or of the Management Board, the Director, the Management Board or the Board of Regulators will jointly evaluate whether a declared interest constitutes a conflict. As a result of such assessment, the matter will be brought to the attention of the Board of Regulators/Management Board.

Annual Declaration of Interests

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

First Name:

Surname:

Position: **Member of the Board of Regulators**

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.

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 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 Board of Regulators and/or of the Management Board, any financial interests in a company relevant to the operating area of BEREC and/or voting rights in a company, including holding of stocks and shares, equity, bonds, partnership interests¹ 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):

¹ When declaring financial interests e.g. stocks and shares, only the kind, number and company name need be stated.

3. Other links with the field of activity of BEREC 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, 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.

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. 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's work:

5. Other interests or facts whether or not related to such organisations which you consider should be made known to BEREC, 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 BEREC 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 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/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/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/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/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

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) or with the European Data Protection Supervisor: 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.](#)