Public debriefing
39th BEREC Plenary meeting

Jeremy Godfrey, BEREC Chair 2019

Brussels, 19th June 2019

Body of European Regulators
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- **BEREC Guidelines – stakeholder input sought**

  – **Guidelines on the minimum criteria for a reference offer**

  – **Guidelines for the notification template (pursuant to Art 12)**

  – **Guidelines on the common criteria for the assessment of the ability of undertakings to manage numbering resources**

  – **Initial input in order to develop guidelines on the criteria for the consistent application of Article 61(3)**

- **BEREC Markets & Economic Analysis (MEA) Working Group**

  – **BEREC report on data economy**

  – **BEREC report on access to physical infrastructure**

  – **BEREC response to the EC consultation on the review of the recommendation of relevant markets**

- **BEREC Opinion on the functioning of the Roaming Market**

- **Other BEREC publications**

  – **Common Position on infrastructure sharing**

  – **Detailed Rules on Access to BEREC and BEREC Office Documents**

  – **Working arrangements with RSPG**

  – **BEREC Annual Reports 2018**

  – **BEREC report on the termination rates at the European level**

- **Other BEREC work**

  – **Additional Participants – RAK & ARCEP**

  – **Workshop on the update of the BEREC Net Neutrality Guidelines**

  – **Cyber Security in 5G Networks**

  – **Extension of BEREC Office Director's term of office**

Guidelines on the minimum criteria for a reference offer

- In order to ensure a **consistent application** of the transparency obligation while at the same time providing NRAs with **flexibility** to take account of national situations.

- Proposed minimum criteria set covers the following **core elements**:

  - Terms and conditions for the provision of network access

  - Details of operational processes

  - Service supply and quality conditions

  - General terms and conditions of the agreement

- NRAs are free to add other criteria, but only the core elements as listed above are obligatory.

- **The consultation runs from 19 of June to 19 July, 2019** - stakeholders are asked to provide feedback on the general approach as well as on the suggested elements

Guidelines for the notification template (Art 12)

- 4 Tables in the template

  – Notification purpose (commencement of a new activity, termination…etc.)

  – Details of undertaking

  – Contact persons, and

  – Short description of networks/services

- Main features of the proposed template/system

  – national language for notifications, and also English, if possible

  – streamlined taxonomy in Table 4 in view of undertakings' "short description of networks and services" and provision of details in dedicated columns

  – certification from chamber of commerce for the identification of undertakings

- **Public consultation 19 June – 28 August** (10 weeks consultation) seeking input on draft template & prospective functioning of the EU notifications database

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Guidelines on common criteria for the assessment of the ability of undertakings to manage numbering resources

- Main issues for public consultation:

  - for which use cases the assignment of numbers to non-ECN/ECS entities may be useful, and

  - which numbering resources (i.e. E.164, E.212, E.118, Signalling Point Codes and Operator identifiers) might be assigned to non-ECN/ECS

- The requests for input/response are framed in two scenarios:

  - where the provisioning of numbering resources of the SIM is realised Over-The-Air

  - where the provisioning of numbering resources of the SIM is not realised Over-The-Air

- **Public consultation from 19 June – 28 August (10 weeks consultation)**

- **BEREC Guidelines on the Criteria for a Consistent Application of Article 61(3) – to address the criteria for determining:**
  - **The first concentration or distribution point**
  - **The point beyond the first concentration or distribution point, capable of hosting a sufficient number of end-user connection to enable an efficient undertaking to overcome the significant replicability barriers identified**
  - **which network deployments can be considered to be new**
  - **which network deployments can be considered to be small**
  - **Which economic or physical barriers to replication are high and non-transitory**
- **Call for inputs launched 17 June 2019 – 15 July 2019**

BEREC Report on the Data Economy

Public debriefing of 39ᵗʰ BEREC Plenary meeting

Anaïs Le Gouguec

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❑ **Milestones**

- ▪ **MEA-EWG working-level seminars with institutions, stakeholders and academics**

- ▪ **Heads Workshop on Data Economy (June, 2018)**

- ▪ **Public consultation on issues to be taken into account by BEREC in relation to the data economy (P3 2018)**

- ▪ **19 responses:**

  - ▪ Telco: ETNO, ECTA, GSMA, DT, Telefónica, Liberty Global

  - ▪ Tech sector: Digital Europe, Facebook, Google, Microsoft, Oracle

  - ▪ Consumers associations and digital rights: BEUC, EDRI, Article 19

  - ▪ Others: Law society Scotland, Danish and American Chambers of Commerce, 1 confidential

- ▪ **Report on Data Economy and summary of the response to the PC (P2 2019)**

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Why BEREC looked at the data economy?

❑ **Developing the DSM → ECS are key**

❑ **EECC and OTTs → Extension of the NRA scope with the code. Yet, data economy is not in NRA's regulatory scope: exploratory work**

❑ **Impact on the competition in the ECS sector?**

❑ **NRAs have gained expertise in regulating digital infrastructures**

   How could NRAs lend a hand if needed? ->Interoperability, portability, wholesale market, …

❑ **How can NRAs improve their daily activity using tools developed in the context of the data economy?**

BEREC report on Access to physical infrastructure in the context of market analyses

Debriefing BEREC Plenary Ghent

Body of European Regulators
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Anaïs Le Gouguec

Brussels 19June 2019

❑ **Report**

- **NRAs have mainly imposed API through analysis of existing wholesale markets (largely 3a). ¾ NRAs regulate access to physical infrastructure as a result of the market analysis.**

- **The preliminary analysis is prospective and aimed to explore how to tackle the potential future challenges through the option of a separate market for API. In general NRAs are fine at present with the approach taken at this moment. However, a separate market of API may offer a potential path, among others, to resolving these issues if they were to arise.**

❑ **PC**

- **9 responses: Danish Energy, Deutsche Telekom AG, DNA Plc (Finland), ECTA, ETNO, Liberty Global, Open Fiber SpA (Italy), Vodafone Group, 1 confidential contribution**

- **Most of the changes were aimed to clarifying misunderstandings. This is specially the case regarding the need (or not) for a separate API market, the impact of BCRD or the need for active remedies.**

- **New annex: "Ofcom's review of access to telecoms physical infrastructure market"**

BEREC response to the public consultation from the EC on the review of the recommendation on relevant markets

Debriefing BEREC Plenary Ghent

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Anaïs Le Gouguec

Brussels, 19th June 2019

MAIN ISSUES ADDRESSED

- ❑ **M1&M2:** To the extent that the Commission provides sufficient guidance on how NRAs could address other remedies than prices (access, transparency and non-discrimination, ancillary services…), BEREC would not be against removal of Markets 1 and 2 from the list.

- ❑ **M3a, M3b, M4:** still to be in in the list (high and non-transitory barriers)

- ❑ **Merging M3a and M3b:** As a starting point for NRAs analyses, WLA and WCA should be assessed as separate markets. BEREC would welcome guidance on which factors might be useful to consider for the purposes of determining whether there is a case for defining a broader wholesale market in the explanatory note.

- ❑ **Access to physical infrastructure:** Not appropriate to include a new wholesale market for access to physical infrastructure, as this would oblige all NRAs to undertake an analysis that would, in many cases, offer little if any material benefit. However, given trends in some MSs, recommendation to address in the Explanatory note the potential for a definition of a separate market for physical infrastructure.
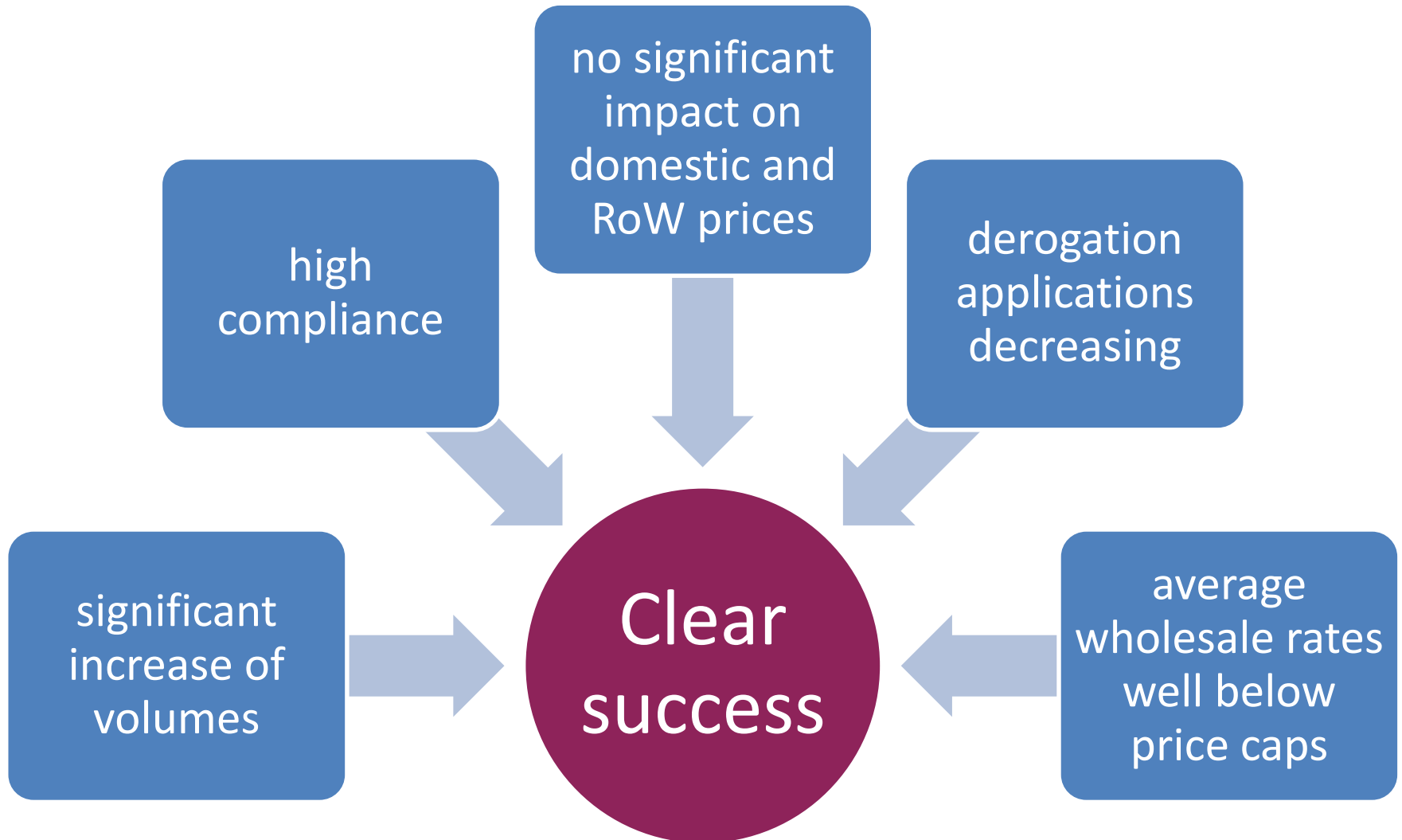
Some issues for further consideration

QoS & Roaming

- cases of limitations to 3G access for roaming
- low transparency

Misuse and fraud

- increase due to RLAH

5G

- new regulatory approaches because of eg network slicing

MVNOs

- RLAH to a certain extent negatively impacted MVNOs
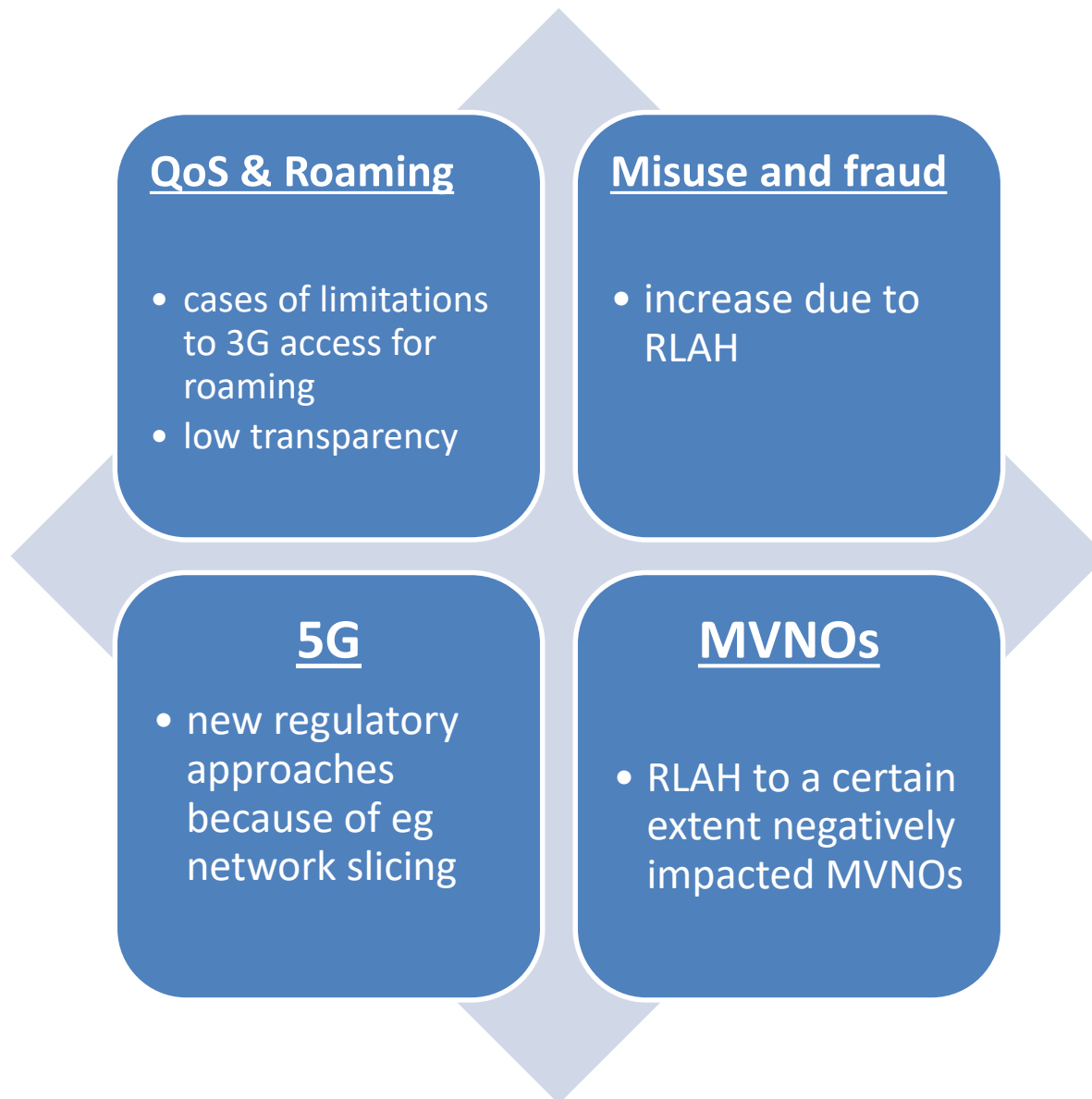
Proposals to EC for consideration during review process

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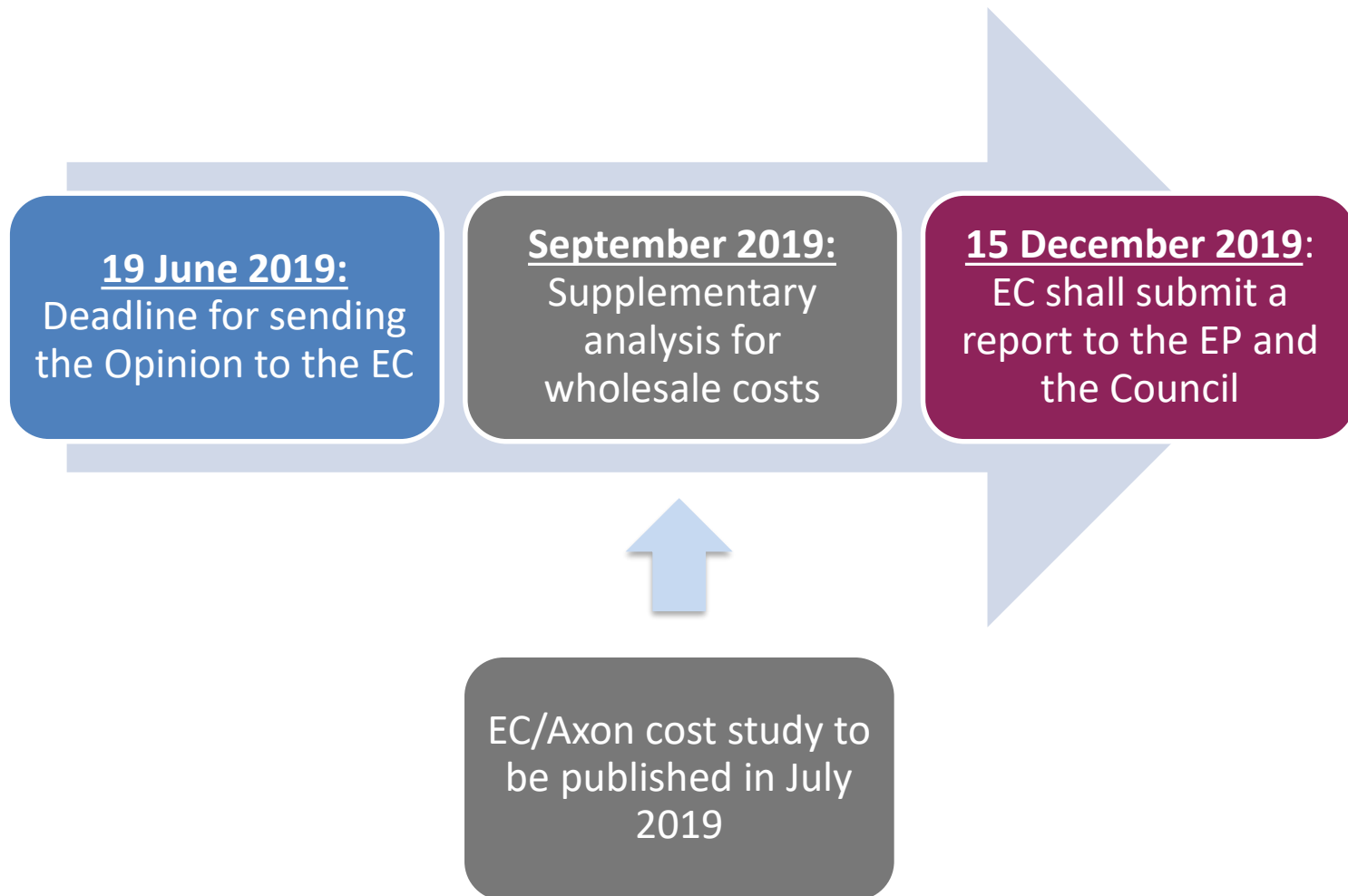**BEREC**

Specific obligations for QoS in Roaming	Specific measures for MVNOs
Specific measures for misuse	More clarity about IoT/M2M

Close monitoring of technological developments

19 June 2019: Deadline for sending the Opinion to the EC

September 2019: Supplementary analysis for wholesale costs

15 December 2019: EC shall submit a report to the EP and the Council

EC/Axon cost study to be published in July 2019

- **Common Position on infrastructure sharing**
- **BEREC Annual Reports 2018**
- **BEREC report on the termination rates at the European level**
- **Detailed Rules on Access to BEREC and BEREC Office Documents**

Common Position: Key changes

- **CP1: Definitions**

  – 5G may enable new forms of sharing

  – Clarifications on the definitions of MORAN, MOCN and spectrum ~~sharing~~ pooling

- **CP2: Objectives**

  – Efficient infrastructure-based competition

  – Infrastructure sharing might bring savings. Low usage areas = High network sharing benefits

- **CP3: Parameters**

  – ~~Population density as the main point~~ → Population density as an example

  – ~~Passive sharing preferred to active sharing~~ → Passive sharing easier to implement and less impact than active sharing

BEREC Annual Reports 2018

- Annual Report on the Activities of BEREC:

  – Focuses on and lists all key-activities of BEREC in 2018

  – Based on work streams and priorities identified in Work Programme 2018

  – Elaborates on work conducted by working groups and ad-hoc groups

- Annual Report on developments in the electronic communications sector. Expresses BEREC's independent view about the key-trends in the electronic communications sector - structured along 5 key areas that were important this year for the sector:

  – 5G

  – Market trends

  – Regulatory framework

  – Openness of the Internet

  – International roaming developments.

- As of January 2019, European TRs are as follows:

    – Simple average of the **lowest regulated FTR of incumbents**:

        - 0.3105 cents per minute (all 37 countries)

        - 0.1982 cents per minute (EU member states only)

    – **MTR of all 37 countries**:

        - simple average = 0.8847 cents per minute

        - weighted average = 0.7837 cents per minute.

    – **MTR of EU member states only**:

        - simple average = 0.7794 cents per minute

        - weighted average = 0.7956 cents per minute

Detailed Rules on Access to BEREC Documents

- Detailed rules prescribe the arrangements under which any natural or legal person shall be granted access to documents held by BEREC/BEREC Office and ensuring a high level of transparency

  - Scope: Any natural or legal person residing or having its registered office in a MS or in a State of a NRA

  - Exceptions: Access to a requested document will be denied only if one of the exceptions listed in Article 4 of Regulation 1049/2001 will be considered applicable

  - Applications: Applications can be made in writing to BEREC via the website, by electronic mail or by mail, in one of the official languages of the EU and in a sufficiently precise manner to enable BEREC to identify the document

- Proceeding's deadlines:

  - Registration in 1 working day

  - Initial/confirmatory decision in 15 working days

  - In exceptional cases the deadline may be extended by 15 working days

  - In case of partial/total refusal, the applicant may make a confirmatory application within 15 working days

- **Working arrangements with RSPG**

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- **Update to the BEREC Guidelines on Net Neutrality**

- **Commission Recommendation (2019) 2335 - Cybersecurity of 5G networks**

- **Rules of Procedure on the operation of BEREC Working Groups**

- **BEREC Guidelines to assist NRAs on the consistent application of geographical surveys of networks deployment**

- **BEREC Guidelines to foster the consistent application of the criteria for assessing co-investments on very high capacity network elements**

- **BEREC Guidelines detailing QoS parameters of IAS and publicly available ICS and the publication of information**

- **BEREC guidelines on how to assess the effectiveness of public warning systems transmitted by different means**

- **BEREC Work Programme 2020**
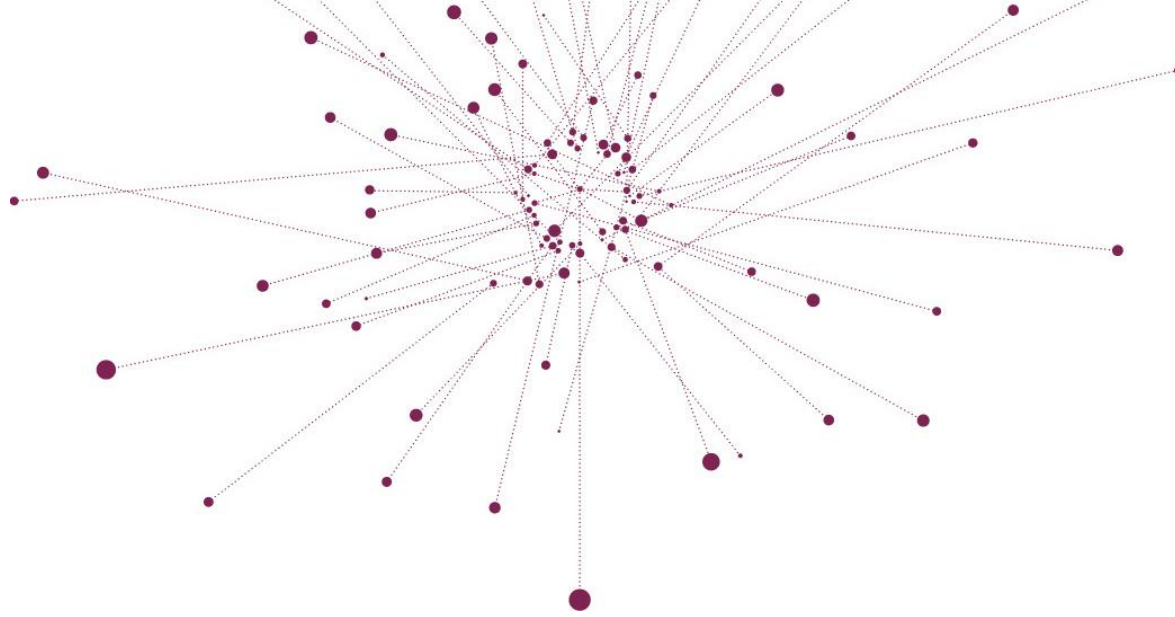
Thank you!

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