



## **GSMA response to the BEREC public consultation on the BEREC Work Programme for 2021**

November 2020

The GSMA, which represents the interests of mobile operators worldwide, welcomes the opportunity to comment on BEREC's draft Work Programme for 2021. We hope the following detailed comments can serve as a constructive contribution to BEREC's deliberations on its draft.

### **Strategic priority 1: Promoting full connectivity**

#### **1.1. Report on a consistent approach to migration and copper switch-off**

The GSMA is supportive of a report on a consistent approach to migration and copper switch-off. It is of high importance that proper procedures and approaches are put in place to migrate from copper networks to fibre networks and ultimately to switch off copper networks. We fully agree that operators should properly plan and communicate migration plans sufficiently in advance to ensure that end-users including consumers and alternative providers are not left off in migration or switch off issues. This includes to establish a dialogue with relevant stakeholders and to define possible solutions for identified challenges. Despite this required alignment, the process needs to be led and controlled by the operator in order to ensure efficiency of highly complex migration processes. Possibly new legislative safeguards and subsequent regulation based on the European Electronic Communications Code (EECC) and the upcoming review of the NGA Recommendation should facilitate the use of new networks technologies, provide the required flexibility to the operator and ultimately facilitate a smooth migration process. If BEREC considers to provide specifications, they should take into account that operators require flexibility to effectively manage complex migration processes and thus must not be prescriptive. In any case, considering national differences such as the heterogeneity across network maturity evolution in Member states, also the timing of copper switch-off dispositions should be left to operators' discretion. Where copper switch off happens in areas which have no alternative fixed infrastructure, Fixed Wireless Access (FWA) could be foreseen as a potential solution.

### **1.3. Work on the impact of 5G on regulation (carry-over)**

5G is a priority for the EU and the GSMA welcomes the important role which BEREC can play in this, namely by clarifying certain aspects related to 5G deployment through stakeholder engagement and studies. We note that any further work on topics listed in the 5G radar should be undertaken with early stakeholders' involvement and consultations at European and national levels.

The GSMA has already provided its views to BEREC on 5G regulatory aspects both, in 2019 and 2020, and we look forward to providing our further contribution on the way forward regarding regulatory key issues identified in the first path finder Report in the impact of 5G on regulation and the role of regulation in enabling the 5G ecosystem. In this context, the GSMA would like to emphasize that 5G does not trigger a general need for additional regulation given that many issues, such as privacy, are typically covered by existing horizontal regulation.

Discussion is needed on how to achieve extended 5G network coverage given that the usual approach (i.e. coverage obligations as part of awards) are not fit for purpose. More collaborative, publicly funded and targeted schemes are needed. An open and pragmatic conversation about infrastructure sharing would also be welcome.

### **1.4 Workshop on NRA experiences with 5G**

The GSMA supports the view that it is useful to discuss the experiences regarding 5G rollout and information to end-users and to continue working together with BEREC on this topic. The GSMA believes that MNOs should be involved as they have detailed visibility of the issues around 5G deployment.

### **1.5. Workshop on EMF: How best can BEREC promote science-based EMF exposure limits recommended by experts?**

The GSMA fully supports BEREC's aim to promote science-based EMF exposure limits recommended by experts. We would like to draw BEREC's attention to the following important considerations:

#### 5G EMF measurements:

- The GSMA believes that a European-wide publicly-funded measuring campaign with sufficient incentives and specific cases, designed and suggested by a European body could be a good opportunity to assuage the doubts on 5G operations. Conditional, of course, on a framework of techniques, costs and communication that is discussed and approved.
- An alternative would be to take dedicated measurements in typical scenarios, focusing on massive-mimo and realistic output power levels. Possible measurements include those based on the following examples:
  - In the UK - Ofcom with the 5G measurements being made public.
  - In Italy - measurements are done by Regional Environmental Agencies, where they are doing

a lot of measurements close to 5G sites with some results published.

- In France ANFr led analyses and measurement campaigns with MNOs and manufacturer's support are published<sup>1</sup>.

#### EMF Education and Misinformation:

- The mobile industry, supports public education programmes and clear, science-based information and public statements such as during the coronavirus 5G misinformation campaigns. In addition, we welcome fighting fake news and misinformation, as it unsettles the population and leads to rising but unjustified concerns regarding the health of 5G. According to experiences with mobile networks the overall levels will remain well below the international safety guidelines, which apply for all frequency bands currently envisaged for 5G.
- The GSMA supports the measures suggested in the Democracy Action Plan consultation to help stop the propagation of disinformation through social media.

#### New ICNIRP Guidelines:

- For the first time in 20 years, ICNIRP has updated the international safety guidelines for electromagnetic field exposure (EMF) from smartphones, mobile devices and network antennas. The sweeping review of research concluded that the health risk assessment is unchanged and only small adjustments were made. The review found no established health risks to anyone, including children, using mobile phones or living near base stations.
- After a proper review by SCHEER and other EU Scientific Committees an update of the EC Recommendation on the limitation of exposure of the general public to electromagnetic fields (1999/519/EC) should be driven forward. Member States should review and align their policies along science-based limits.

## **Strategic priority 2: Thriving sustainable and open digital markets**

### **2.1. Report on digital platforms - Market & Economic analysis (carry-over)**

The GSMA believes that the European Commission's efforts in shaping a "Digital Services Act" (DSA) and a "Digital Market Act" (DMA) have the potential to be two of the most relevant tech policy exercises of our generation. Not only it will be relevant to millions of European citizens and businesses, but also has the potential to inspire a new global approach to digital markets.

In this context, we take a view that the digital economy is a broad, diverse ecosystem. One in which innovation thrives through collaboration and competition, but also through shared responsibility and accountability across global value-chains.

The DSA and the DMA approach two fundamental aspects of today's digital markets. On the one hand, we must address the balance between ensuring fundamental freedoms and preventing illegal and

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<sup>1</sup> <https://www.anfr.fr/en/publications/thematic-files/5g/public-exposure/>

socially toxic activity online. On the other hand, we should tackle the effects of excessive market power in the digital space, taking a European perspective on practices that might unfairly disadvantage European companies and innovation and of course ultimately affect customers as well.

The Commission will no doubt embark on this feat guided by Europe's long-standing values and principles, enshrined in the *acquis communautaire*: the freedom of thought and of expression, the principles of open and fair competition, as well as the key principles of the eCommerce Directive.

In view of the above, the GSMA supports BEREC's aim to build its knowledge and expertise in the digital economy to ensure that technological, economic, legal, and user protection perspectives are integrated in the design and practice of regulation.

## **2.2. Report on the harmonised collection of data regarding OTT services relevant to electronic communication markets (carry-over)**

The GSMA supports BEREC in this work in principle and agrees that BEREC should take a more prominent role in this field to support a level playing field with OTT partners. Work to standardize data collection in respect of what OTT services are offered in the EU would be welcome insofar as it relates to BERECs proposed plan to feed these data points to its' proposed market analysis on digital markets. However, standardizing data collection in this field should not lead to a situation where consumer privacy might be undermined or a level playing field is inadvertently undermined (rather than secured), for example, through mandatory sharing of sensitive telecommunications data with OTT players.

### **2.3.1 Report on the Internet Value Chain**

The GSMA believes that the distribution of powers and the identification of bottlenecks in the distribution of digital services – including electronic communications services – are crucial topics that are rightfully undergoing broad discussions both at the EU and national level, both from the regulatory and competition standpoints.

Keeping in mind the general need to assess the crucial role of digital gatekeepers, we welcome relevant public authorities' efforts to evaluate how the digital economy has evolved and restate the importance of the identification of new potential bottlenecks (i.e. devices, Operating Systems, App stores, digital platforms). Most importantly, this analysis requires the assessment on how market power is distributed in the digital market, the existence of competition failures and how these can be best addressed, taking into consideration the role of data in the market dynamics. To ensure joined-up policy-making, we would also urge BEREC to take into account the work being done under the Digital Services Act/Digital Markets Act, as well as BEREC Report on IP-Interconnection practices in the Context of Net Neutrality.

## **2.4. Collaboration on the Net Neutrality Measurement tools and evolution of the regulatory assessment methodology**

GSMA welcomes the fact that BEREC aims to rely on best practices. It is essential that this workstream

includes testing and feedback with operators to ensure that the tool is accurate and thus provides real value to the customer.

### **Strategic priority 3: Empowering end-users**

#### **3.1. BEREC study on consumer behaviour and attitudes towards digital platforms (carry-over)**

The GSMA supports BEREC's aim to get a better understanding of digital platforms and consumers' views on digital platforms and of the platforms' role as providers and distributors of digital services.

#### **3.2. Report on how to handle third-party payment charges on mobile phone bills (carry-over)**

The GSMA believes that this workstream should also consider overlaps and contradictions between telecoms and financial regulation, e.g. restrictions on offering the ability to charge for third party services and the requirement to provide access to a directory enquiries service.

### **Cooperation with EU institutions and institutional groups**

We encourage BEREC to continue following the existing and ongoing work carried out by other competent authorities and to continuously strengthen cooperation with them, in order to provide useful insights when required.

### **BEREC obligatory work**

#### **5.1.2. BEREC Opinion on the Review of the Broadband Cost Reduction Directive**

The GSMA supports the need to review the Broadband Cost Reduction Directive (BCRD) in light of current technological, market and regulatory developments. Turbocharging the BCRD so it provides an effective pan-European instrument for network deployment is vital in connecting Europe for a better and digital future.

The BCRD's effectiveness has varied greatly between Member States. While in some Member States it was transposed and enforced in a relatively effective manner, thus facilitating the deployment of ultra-fast broadband networks, in others it had limited success, specifically in areas of enforcement, dispute resolution and local permit costs and procedures.

To increase the BCRD's effectiveness, so it would incentivize and facilitate the deployment of future networks efficiently, its scope should be widened. Moreover, consistent, harmonized and efficient procedures for the Member States should be introduced. Thus, it would significantly contribute to achieving Digital Single Market (DSM).

In the context of the BCRD review, the GSMA hereby provides preliminary comments:

#### Fit for purpose

To achieve fitness for purpose and future proof BCRD to deliver on European Gigabit society aspirations, we propose the following changes:

- Alignment with the EECC and the objectives of the Gigabit Society Communication.
- Ensure consistency with the future ‘Toolbox’ to be designed and approved at EU level in March 2021 as specified by the Commission Recommendation *C(2020) 6270 final*<sup>2</sup>.
- Specific improvements needed to promote the efficient VHCN deployment and the transformation towards the Gigabit society.

#### Cutting red tape

The BCRD has failed in achieving its goal of providing uniform rules across Member States and helping them achieve the DSM. Variability in local processes, procedures and administrative costs creates inefficiencies for operators and hurdles to effective deployment. Ultimately, increased costs of compliance and deployment result in worse consumer and socioeconomic outcomes. To achieve its goals, the BCRD must prescribe more effective and simplified procedures, applicable universally and consistently across the EU. We propose the following key improvements:

- A “deemed consents” regime for relevant access to public buildings, rooftops and infrastructure.
- Universal and streamlined rules for permit costs and procedures.
- A single information point at national level to also cover access to the private sector infrastructure information allowing access on demand to minimum information concerning the existing physical infrastructure to any network operator.

#### Bold and enforceable

A bold new instrument, empowered to deliver socioeconomic results of a connected Europe, should reinforce the obligation to implement measures contributing to the achievement of the 2025 gigabit society targets:

- Harmonised and streamlined rules is the only way to overcome the granularity and inefficiency at the local and municipal level.
- The new law should facilitate the negotiation of economic conditions while at the same time improving the effectiveness of a robust dispute resolution, which has been largely underused and often ineffective as a way to enforce the Directive.

#### Support networks as enablers for digitalization

- We support the green option, which also needs to consider networks’ crucial “enabling effect” for the economy’s efficiency, irrespectively of the network technology used. Against this

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<sup>2</sup> Commission Recommendation *C(2020) 6270 final* of 18 September 2020 on “a common Union toolbox for reducing the cost of deploying very high capacity networks and ensuring timely and investment-friendly access to 5G radio spectrum, to foster connectivity in support of economic recovery from the COVID-19 crisis in the Union”

background, the announced support of energy efficient networks must not result in the burdening of less energy efficient networks, which are still crucial enablers. This and the complexity to assess efficiency is elaborated in GSMA's published position paper on the Green Deal.

In conclusion, to improve network roll-out conditions, we invite BEREC to support an ambitious pro-investment and green option which, in addition to the alignment with the EECC and stronger harmonisation and enforcement of current measures, will provide an enhanced new framework for public authorities and network operators to ensure a more cost-efficient deployment of sustainable networks.

### **5.1.3. Input to the evaluation and potential review of the EU State Aid Guidelines**

The GSMA supports BEREC's work in this field. The GSMA is also working on the topic and will provide its contribution to the Commission's public consultation. This is particularly important, given the size of the NextGenEU package and the need to build back better through transforming Europe into a digital and green continent. Given these funds are of market shaping size it is essential that BEREC plays a role to ensure competition in telecom markets is preserved throughout the recovery process.

### **5.1.5. Peer review process**

We support BEREC's participation in the Peer Review Forum and continue to advocate for measures to increase the robustness of this process. The collaboration, cooperation and critical exchange of good practices between Member States cannot be understated and this is an area where the GSMA believes further progress can be made.

Understanding the sensitivities, limiting the peer review process only for Member States does have merits. At the same time, including the concerned market players in an open, transparent and honest discussion about the immense impact that spectrum awards have on the market for decades and consequently on the feasibility to offer a cost effective connectivity to all EU citizens in due time, is absolutely essential.

The GSMA has already encouraged the RSPG to hold bi-annual meetings with stakeholders; one where the industry can provide its detailed analysis of forthcoming awards across Europe and a second one reviewing past awards and the lessons that can be learned from them.

The GSMA firmly believes that an open and frank discussion between spectrum policy makers and the market players directly concerned would be not only be in the spirit of what Europe stands for, but the only way to find common solutions to the challenges Europe is facing whilst avoiding repeating past mistakes.

### **5.1.6. Ad hoc work relating to network security and cybersecurity**

The GSMA supports BEREC in this work and has engaged with BEREC's ad-hoc Group on 5GCS on numerous occasions since its establishment. In this context, the GSMA appreciate BEREC's genuine

interest in the GSMA's Network Equipment Security Assurance Scheme (NESAS), which the GSMA is pursuing to submit for acceptance as a scheme under the EU Cybersecurity Certification Framework and the Cybersecurity Act. The GSMA is looking forward to future cooperation with BEREC on this important topic and stands ready to continue sharing industry's knowledge and expertise.

#### **5.1.7. Ad hoc work relating to the Recommendation on Connectivity**

The GSMA welcomes BEREC contribution to the deployment of connectivity and 5G networks. We support BEREC's engagement with the Commission and Member States on the topic.

### **5.2. BEREC mandatory tasks in line with EU legislation**

The GSMA acknowledges that BEREC carries out a large number of mandatory tasks under EU legislation and supports its work.

#### **5.2.1.1 Review on End user rights – BEREC Opinion**

Considering the potential relevance of the impact of rapid technological developments on the application of rights of end-users, the GSMA urges BEREC to engage with stakeholders on the issue and to subject the opinion to public consultation.

#### **5.3.1. Report on COVID-19 crisis – lessons learned regarding communication networks for a resilient society**

The COVID-19 crisis was showing the world that digital infrastructure is essential for social welfare and the continued functioning of the economy. Citizens were embracing new ways of engaging and interacting, businesses were pivoting to more virtual modes of operation, and sectors including healthcare, education and retail were looking to digital alternatives to meet the needs of a society in various stages of the coronavirus response. With this public health crisis, we have seen how digitalization can facilitate swift and positive change when the circumstances demand it.

Now, as the Commission envisions a Digital Decade, implementation of Europe's digital strategy<sup>2</sup> is more pressing than ever. Acknowledging connectivity as "the most fundamental building block of the digital transformation," the strategy identifies a range of measures to strengthen Europe's digital economy, generate value in alignment with European values and establish greater sovereignty in the era of Big Tech. Digital sovereignty is a central tenet; Europe must ensure that digital infrastructure and services are not defined exclusively by overseas companies whose interests are not its own and over which it has limited authority.

The European mobile industry applauds these aspirations. We believe that Europe can emerge from the COVID-19 crisis stronger, and connectivity will play an essential role. In the short term, digital solutions will allow people to return to work more quickly by facilitating social distancing. Longer-term, we will need to consider where investment should be targeted, recognising that economic activity might not return to pre-crisis levels for years to come.

Some global supply chains might never fully recover, and this will introduce inefficiency to the system.



Supply-chain disruptions may present an opportunity for Europe to regain sovereignty in some strategically important areas. On the other hand, a telecoms sector weakened by chronic overregulation could be exposed to greater foreign control. A robust and resilient telecoms sector will also play a critical role in Europe's ability to meet its environmental commitments. Through what we call 'the enablement effect', increased use of smart, connected technologies across all economic sectors will make a manifest difference in greenhouse gas emissions.

The future will require us to be more resilient and more digital, and this calls for rapid and bold action. By increasing the pace of digitalisation, Europe can achieve new efficiencies linked to the new attitudes and behaviours we see taking hold across society.

Decisive policies are needed to propel Europe towards greater digital self-determination and technological leadership — for the benefit of all. Therefore, the GSMA supports BEREC's aim to provide a report on this important topic.

### **5.3.8. Sustainability: assessing BEREC's contribution to limiting the impact on the environment**

The GSMA would like to congratulate BEREC for initiating the work in this important area.

The GSMA supports the efforts to achieve the Paris agreement climate objectives. The consistent use of the latest mobile technologies and the decisions of mobile operators to transition to green energy have been a testament to the importance of the industry to reduce its carbon footprint and completely eliminate it by 2050<sup>3</sup>.

The mobile industry has also had tremendous impact on reducing the carbon emission of other industries through digitisation. A recent report by The Carbon Trust and the GSMA provides a global overview of the enablement impact that mobile communications technologies currently have on reducing Green House Gas (GHG) emissions, across various sectors<sup>4</sup>. The report looks at a high-level analysis of six categories of enabling mechanisms, along with case studies. It concludes that by increasing connectivity, improving efficiency and impacting behaviour change, mobile network enabled technologies are helping avoid emissions. In 2018, the enabling impact of mobile communication technologies globally was estimated to be around 2,135 million tons of CO2.

We believe the commonly recognized great enabling potential and the well evidenced good will of our sector to sustain the EU Commission climate ambition should encourage measures that generate positive incentives for operators to reduce their energy consumption voluntarily by enhancing an investment friendly ecosystem at an earlier stage, while the 5G deployment is still ongoing, to make a real difference.

The total annual emissions of the mobile sector are approximately 0.4% of total global emissions. Compared to the global carbon footprint of mobile networks themselves, the level of avoided emissions

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<sup>3</sup> [www.gsma.com/newsroom/press-release/ict-industry-agrees-landmark-science-based-pathway-to-reach-net-zero-emissions/](http://www.gsma.com/newsroom/press-release/ict-industry-agrees-landmark-science-based-pathway-to-reach-net-zero-emissions/)

<sup>4</sup> [www.gsma.com/newsroom/press-release/mobile-technologies-enabling-huge-carbon-reductions-in-response-to-climate-emergency/](http://www.gsma.com/newsroom/press-release/mobile-technologies-enabling-huge-carbon-reductions-in-response-to-climate-emergency/)

enabled by mobile communications technologies is 10 times greater – a tenfold positive impact. The majority of these avoided emissions result from a decrease in electricity, gas, and fuel consumption. In 2018, mobile communications technologies enabled a decrease in 1.44 billion MWh of electricity and gas, and 521 billion litres of fuel, globally. These totals would be enough electricity and gas to power more than 70 million houses for an entire year and enough fuel for all 32.5 million registered UK passenger cars to drive for 19 years.

We thank BEREC for the opportunity to comment on its draft Work Programme for 2021 and look forward to working with BEREC on these important topics.