



ETNO response to BEREC Work Programme 2021

November 2020

ETNO welcomes the opportunity to comment on BEREC's draft Work Programme 2021. To this end, ETNO would like to put forward some proposals based on our views on the outline for BEREC WG 2021:

We believe that BEREC should in general focus on the ongoing tasks as mandated by EU legislation, related to the EECC and intra-EU calls, for example. Indeed, this is reflected in the overarching approach by BEREC, that the focus in 2021 should be monitoring the impact of the EECC, moving from providing guidelines to assessing the market and technological developments. We also welcome the new focus of BEREC to monitor and evaluate the measures taken during the COVID-19 pandemic, with the aim of contributing to the resilience of the European electronic communication networks both during the ongoing pandemic, and in such situations in the future. ETNO is also interested to look at the reports that will be done on further issues in the digital market, potentially bringing new elements for a better understanding of the underlying mechanism.

BEREC Strategic Priorities

Strategic priority 1 – promoting full connectivity

ETNO agrees that the successful implementation of the EECC should be a horizontal principle forming an essential part of the work on BEREC's three strategic priorities, including the priority on connectivity. Both timely implementation and monitoring of the impact and effectiveness of the EECC will be important to accelerate investment in very high capacity networks (VHCN). Below we outline initial ETNO comments on the different BEREC work items as listed in the draft WP 2021:

- ETNO believes that copper phase-out is market reality that concerns all operators, however, it is extremely important to approach it in a way that is supportive of the common goal to promote the development of a Gigabit Society in Europe and that will help create favourable circumstances for investments in very high capacity networks. We note that there are some fundamental flaws in the current discussions on copper phase-out related to the interpretation of the economic reality of investment on the one hand, and to the economic and operational complexity of copper decommissioning, on the other.
- Regarding the proposed report on regulatory treatment for backhaul, we already raised some concerns in our reflections on BEREC's midterm strategy above about the suggestion that wholesale access to fibre backhaul connectivity of cell sites may need to be regulated. ETNO is concerned that BEREC states that "wholesale access to fibre backhaul connectivity of cell sites needs to be ensured (and regulated, if appropriate) to prevent potential problems in terms of lack of coverage and refusal of access to bottleneck facilities" and proposes to review in the Work Programme 2021 how backhaul is addressed in market analysis by NRAs. We understand that BEREC assumes that backhaul for cell sites is regulated in the EU countries or will need regulation in the coming years. In reality, up to now, except for very few cases, NRAs have not deemed necessary to regulate mobile backhaul, as markets are competitive, also due

to the presence of alternatives (mobile operators often use their own infrastructures or radio link) and to the fact that mobile operators usually enjoy a strong countervailing buying power. Any additional regulation in new markets shall be preceded by a thorough analysis demonstrating the absence of competition and the need to address market failures.

- In the light of the European Commission's new Digital Strategy, 5G remains a political priority for Europe and BEREC's role in enabling 5G can be an important one in helping to clarify specific aspects related to 5G deployment through stakeholder engagement and studies. However, as already indicated in the ETNO submission, ETNO believes that 5G does not trigger a general need for additional regulation as many issues such as privacy are typically covered by existing horizontal regulation. ETNO acknowledges that 5G is important for the European economy and society as a whole, and while it is still early days, the commercial deployment of 5G has begun. We would urge BEREC to let the 5G ecosystem reach a certain maturity and to then carry out a proper analysis of the backhaul market and other infrastructure elements before concluding on any regulatory action. ETNO members are open to contribute to the discussion on the current status and experiences of 5G deployment based on existing pilots and early launches.
- As stated in BEREC's draft WP, the factors currently impacting the levels of investment and deployment of new digital networks also include public concerns about Electromagnetic Field (EMF) emissions. A speedy and broad roll-out of investment-heavy 5G networks can only be assured if European spectrum policies support economically sustainable telecommunications market and receive support from users, citizens, and politicians. Governments and regulators should work towards public acceptance for 5G as health-related concerns linked to 5G have become more prevalent in many European countries. ETNO welcomes the proactive stance taken by BEREC and RSPG in this regard. In parallel, governmental intervention is urgently needed to fight against the mis- and disinformation related to 5G. Furthermore, in order to ensure efficient spectrum allocation and 5G roll-out, governments should not set overly strict EMF norms that are not based on scientific evidence.
- Finally, ETNO expresses its support to harmonise broadband coverage indicators across the EU, including the criteria and methodologies used at national level. This is critical to provide accurate and comparable data in the EU level reports such as the EC's DESI report.

Strategic priority 2 – thriving sustainable and open digital markets

- With respect to the proposed actions under BEREC's strategic priority 2: "Supporting sustainable and open digital markets", we believe that BEREC could add value on the ongoing debate concerning the role of platforms in the digital communications market. As the market dynamics are becoming increasingly complex, we welcome BEREC's intention to conduct a market and economic analysis of digital platforms and to monitor the effects of the internet value chain. While the mandate of most NRAs is limited to ECS, we nevertheless welcome BEREC's effort to gain a deeper knowledge of digital markets and how they impact ECS providers and other players in the ecosystem, fully exploiting the new power of data collection from other actors as foreseen by the EECC. In particular, taking into account NRAs' practical experience of implementing the regulatory framework for telecommunications, as far as relevant for online platforms their expertise in designing, enforcing and monitoring remedies can be a valuable input for the ongoing broader considerations on how to define an effective

digital markets regulatory framework. Moreover, as digital markets are mainly European or global in scope, BEREC's experience in coordinating NRAs' actions could play a key role in contributing to a harmonized enforcement of the regulatory framework for digital markets.

- We particularly welcome the planned Report on the Internet Value Chain. As new gatekeepers have appeared on several layers of the value chain other than connectivity, we are pleased that BEREC will study the broader concept of digital neutrality, to ensure the principle of open, fair and non-discriminatory markets along the digital value chain. Together with the ongoing Report on digital platforms - Market & Economic analysis, this study will bring valuable impact to the DMA debate.

Strategic priority 3 – empowering end-users

- We also believe that some of the planned work items relating to BEREC's strategic priority 3: "Empowered end-user", would benefit from assessment by BEREC. However, this needs to take into account that the EECC is currently already in the implementation period at national level. BEREC should refrain from making new proposals that risk to hamper required legal stability for operators. Accordingly, a cautious approach should be considered when assessing for instance regulation of third-party billing. With regard to the opinion on the review of end-user rights, considering the potential relevance of the impact of dynamically evolving services and commercial practices on the application of end-user rights, ETNO urges BEREC to engage with stakeholders on the issue, and to submit the opinion for public consultation.

BEREC Ad Hoc Work

Monitoring quality, efficiency and sustainability

Impact of COVID-19: ETNO welcomes the initiative of BEREC to study, monitor and report on the impact of COVID-19 on the electronic communications markets, and welcomes the opportunity to share our experiences with BEREC in the context of a forthcoming public consultation. We particularly welcome the forward-looking perspective of such an exercise, in the understanding that network resilience is not only about managing the increased demand and supporting new trends in work, education and communication *during* the crisis, but also about learning lessons to ensure a robust and resilient network for the future.

BEREC's contribution to limiting the impact on the environment

ETNO supports BEREC's work focused on sustainability that started in 2020 with the creation of the Expert Network Group (ENG) on Sustainability, and that that will continue to be developed in 2021. ETNO members are closely following the trends in inter alia energy consumption and circular economy and exploring innovative ways in which the telecoms and digital sector at large can help mitigate the impact on climate change.

Regarding the proposed areas of work indicated the draft Work Programme 2021:

- In general, we share the first objective to incentive info sharing and best practices exchange among NRAs with specific focus to energy efficient and circular economy solutions. However, we urge BEREC to perform this exercise in close collaboration with stakeholders and experts in the targeted sectors, taking into account their profound expertise and established good practices. Additionally, not only each Members States' specificities should be considered and analysed, but also the variety of the methodology implemented and of the measuring systems to assess infrastructures' environmental footprint. This can be done for example with the

involvement of experts in the listed NRA's workshops planned in 2021 or with the organization of ad-hoc roundtables with the BEREC ENG on sustainability.

We would like also to highlight the need for BEREC to closely coordinate with the Commission and the several Directorates-General involved while carrying on the above-mentioned objective, as the impact of the digital sector on the environment is a recurring focus area in many policy dossiers that are currently under evaluation/will be soon be reviewed.

- With respect to the decision to develop a study aimed at identifying the key areas in which NRAs' regulatory decisions/actions might have the potential to impact sustainability, we would like to stress the need for the study to be embedded and get synchronized with all the other institutional and national initiatives already on-going. ETNO confirms its availability for this exercise with interviews with the consultants and other forms of inputs gathering.
- On the contrary, it seems not fully clear what are the boundaries of the BEREC Report that will include an overview of NRA initiatives with positive impacts on the environment, which should be finalized adopted at plenary 2 2022. Suggesting NRAs' actions/options that positively impact or minimise the negative impact of the sector on the environment is a delicate exercise and it can include various aspects like the networks design and operation, adaptation of business practices, digital content and services.
To better clarify the report objectives, we would encourage BEREC to include more information regarding when finalizing its Work Programme.

Finally, we highly appreciate the interest of BEREC to those initiatives the telecom sector has performed in relation to the UN's SDGs. More specifically, ETNO has already started to closely cooperate with the Global Enabling Sustainability Initiative's (GeSI) on how to best use ICT tools to boost the achievement of the SDGs¹.

¹ https://gesi.org/storage/files/DIGITAL%20WITH%20PURPOSE_Summary_A4-WEB_watermark.pdf