

Open Fiber contribution to the early call for input on the BEREC WP 2021

Open Fiber welcomes the opportunity to contribute to the early call for input on the BEREC WP 2021.

Open Fiber is of the view that overall the list of priorities indicated by BEREC reflects the main needs to be addressed and is consistent with the work that BEREC has carried out so far.

As we already had the chance to highlight by responding to the public consultation on the WP 2020, which also contained a first outline of the main activities that BEREC envisaged for 2021, we believe that a greater focus should be placed on the following aspects.

Copper switch-off and customers' migration

As one of the additional items, BEREC mentions that it will be following up on the 2019 internal workshop and summary report on the migration from legacy infrastructures to fibre-based networks and interacting with stakeholders. The transition from legacy copper networks to new VHCN ones will characterize the coming years and represent one of the main challenges to be addressed in order to promote high quality connectivity for all, which is the first strategic priority of BEREC. That is why work on this topic should not be considered as residual but on the contrary as fundamental. That is why further details on what BEREC actually plans to do would be important. If 2021 already looks very busy, still enough time should be dedicated to this topic, which will have to be the object of an action plan in the framework of the BEREC Strategy 2021-2025.

Workshops on wholesale replicability test, NRA experiences with 5G, IP peering

We welcome the inclusion of these workshops in the WP 2021.

With regard to the wholesale replicability test, we already had the chance to underline that selective price cuts and other lock-in practices put in place by the incumbent to discourage wholesale only operators in specific geographic areas are among the most serious anticompetitive behaviours that wholesale only operators are often facing. In order to prevent such exclusionary strategies, Open Fiber strongly supports the chance to introduce a wholesale

replicability test, which should ensure that the wholesale price charged by an incumbent operator does not exclude an equally efficient wholesale operator from the market and should take cost orientation principles as a reference. We would then request BEREC to elaborate on the potential instruments it expects to deliver following the workshop.

As far as NRAs experiences with 5G are concerned, Open Fiber believes that the related workshop would represent a good occasion to start a discussion on the topic of Neutral Hosts. Neutral Hosts act as wholesale-only operators building and managing relevant infrastructures for a plurality of network operators. The resulting cost sharing could prove effective both in maintaining competition among a higher number of operators and in extending network coverage, to the benefit of all customers. The topic should be addressed in more detail over the following years in the framework of the BEREC Strategy 2021-2025.

Phase II process

We welcome that BEREC is considering to review its Guidelines for the elaboration of opinions in Phase II cases.

In responding to the consultation opened by the European Commission on the proposed Recommendation for Internal Market Procedures under the European Electronic Communications Code, Open Fiber underlined the importance that together with their draft decisions NRAs should also notify a summary of the positions of the interested parties. This would allow both the European Commission and BEREC to have a better understanding of the issues at stake.

In addition to this, Open Fiber wishes that operators would be allowed to interact with BEREC, which is not allowed under the practice currently followed by BEREC. Although we understand the need to streamline the current procedure, we consider that in cases in which BEREC plays a role in an administrative process and in particular when a double-lock veto is applicable, it would instead be crucial to establish a close exchange between BEREC and operators in order to allow them to share relevant information, guaranteeing a full participation of the parties.