

47th Virtual Plenary Meeting of the BEREC Board of Regulators (BoR)
Virtual Meeting

Conclusions

Chair **Michel Van Bellinghen**
BEREC Chair 2021 (BIPT)

10 June 2021

Contents

Main Results of the 47th Meeting of the BEREC Board of Regulators	3
Introduction and participation	5
List of documents	5
Items discussed	5
1 Opening of the meeting and adoption of the agenda	5
2 List of 'A' items	5
3 Information from the BEREC Chair including information on the election of the BEREC Chair 2023 and Vice Chairs 2022	6
4 Information from the BEREC Office	6
5 Information from the Commission	7
6 Update on the BEREC Work Programme 2022	7
7 Statistics and Indicators WG	8
8 Oral update on the work done by the Open Internet WG	9
9 Market and Economic Analysis WG	9
10 Remedies WG	10
11 Regulatory Framework	11
11.1 Draft BEREC Opinion on the national implementation and functioning of the general authorisation (article 122, paragraph 3 EECC)	11
11.2 Draft BEREC Report on COVID-19 crisis - lessons learned regarding communication networks and services for a resilient society	11
11.3 Oral update on the interim results of the study on post-Covid measures to close the digital divide	12
12 End-User	12
12.1 Draft BEREC Study on consumer behaviour and attitudes towards Digital Platforms	12
12.2 Scoping document on the BEREC Opinion on the market and technological developments and on their impact on the application of rights of end-users in the EECC	13
13 Sustainability WG – Oral update on the progress of the study	14
14 Summary of the 9 th BEREC Stakeholder Forum	14
15 BEREC International Cooperation	15
16 Voting tool	15
17 Independence of NRAs	16
18 Exchange of regulatory experience – Mobile wholesale market	17
19 AOB	17
19.1 Information on the 48th BoR ordinary meeting and workshop (29 September-1 October, Croatia)	17
19.2 Draft papers to support BEREC's proposals in the context of the European Commission's Digital Markets Act	17

Annex I – List of documents

Main Results of the 47th Meeting of the BEREC Board of Regulators

The BEREC Board of Regulators held its 47th Ordinary Plenary Meeting on 10 June, virtually. During the Meeting, the BoR discussed and/or approved the following documents:

1. Documents approved as 'A' items

1.1 For publication:

- BoR (21) 70 Draft BEREC Annual Reports 2020
- BoR (21) 71 Draft Report on termination rates at the European level - January 2021
- BoR (21) 72 Draft Decision No BoR/2021/xx of the Board of Regulators on the appointment of the Ad-hoc Sustainability Working Group (WG) Co-Chair
- BoR (21) 93 Draft paper on the institutional aspects
- BoR (21) 94 Draft paper on tailoring remedies and regulatory dialogue

1.2 For internal use:

- BoR (21) 73 Draft Scoping document on updating the Regulatory Assessment Methodology
- BoR (21) 74 Draft Scoping document for BEREC Report on the Internet ecosystem

2. Documents approved as regular items:

2.1. For publication:

- BoR (21) 82 Draft BEREC Guidelines on Geographical surveys - Verification of information
- BoR (21) 83 Draft BEREC Report on the outcomes of the Public consultation on the Draft BEREC Guidelines on Geographical surveys - Verification of information
- BoR (21) 85 Draft BEREC Report on the interplay between the EECC and the EC's proposal for a Digital Markets Act concerning number-independent interpersonal communication services
- BoR (21) 86 Draft BEREC Report on WACC parameters 2021
- BoR (21) 89 Draft BEREC Study on consumer behaviour and attitudes towards Digital Platforms

2.2. For internal use:

- BoR (21) 90 Draft Scoping document on the BEREC Opinion on the market and technological developments and on their impact on the application of rights of end-users in the EECC

3. Documents submitted for public consultation:

- BoR (21) 87 Information on the state of activities and proposal of a draft questionnaire for public call for input
- BoR (21) 88 Draft BEREC Report on COVID-19 crisis - lessons learned regarding communication networks and services for a resilient society

4. Documents submitted for information purposes:

- BoR (21) 75 Information about the deadlines for candidates for BEREC Chair 2023 and Vice Chairs 2022
- BoR (21) 76 Contact lists pack
- BoR (21) 77 Information on the electronic voting procedures since the last plenary meeting
- BoR (21) 78 Information on planned electronic voting procedures between P2 and P3
- BoR (21) 79 Work Programme 2022 update
- BoR (21) 80 BEREC Work Programme 2022 prioritisation exercise
- BoR (21) 81 Draft Preliminary schedule of the ordinary BoR and MB meetings and Contact Network meetings and public debriefings in 2022
- BoR (21) 92 Study on the environmental impacts of electronic communications – a literature review
- BoR (21) 91 Discussion paper on the BEREC voting tool

5. Other main topics discussed

The BoR was briefed on the recent activities of the BEREC Chair, important projects carried out by the BEREC Office in support of BEREC, and BEREC's recent and forthcoming international activities. In addition, the BoR was updated on the progress of work of the Open Internet WG, on the interim results of the study on post-Covid measures to close the digital divide, and the independence of NRAs. The BoR members also exchanged experiences on regulatory activities. The European Commission was invited to provide information on important recent developments and activities under its remit that have an impact on the digital sector. A short video from HAKOM, the host NRA of the 48th BoR ordinary meeting and workshop, was presented to the BoR members.

6. Next Meeting

The next Ordinary Plenary Meeting will take place on **30 September – 1 October in Dubrovnik, Croatia and will be** hosted by [the Croatian Network Regulatory Agency](#) (HAKOM).

Introduction and participation

The BEREC Board of Regulators held its 47th Ordinary Plenary Meeting on 10 June, virtually.

The Meeting was attended by the Heads and/or high-level representatives of the National Regulatory Authorities (NRAs) from each EU Member State that have primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. The European Commission also took part in the Meeting. Heads and high-level representatives of the NRAs with whom BEREC has concluded working arrangements were also present.

List of documents

The list of final documents approved by the meeting for publication, in compliance with the BEREC Regulation and the BoR transparency rules, is presented in Annex to the Conclusions.

Items discussed

A short overview of the information presented under each agenda item, a summary record of the proceedings and a record of the conclusions reached by the BoR are presented below.

1 Opening of the meeting and adoption of the agenda

Document(s)	BoR (21) 69 Draft BEREC BoR Agenda
Introduction by	BEREC Chair (BIPT) Michel Van Bellinghen (michel.van.bellinghen@IBPT.be)
Information presented	The BEREC Chair welcomed the Meeting participants and provided practical information on the logistics of the Meeting. He also introduced a new BoR member, Mr Jacek Oko from UKE. The BEREC Chair opened the Meeting and present the draft Agenda for approval by the BoR. The BoR was invited to suggest any additional issues to be raised or presented under 'Any Other Business' (AOB).
Conclusions	The BoR adopted the agenda without changes.

2 List of 'A' items

Document(s)	<u>Approval for publication:</u> BoR (21) 70 Draft BEREC Annual Reports 2020 BoR (21) 71 Draft Report on termination rates at the European level - January 2021 BoR (21) 72 Draft Decision No BoR/2021/xx of the Board of Regulators on the appointment of the Ad-hoc Sustainability Working Group (WG) Co-Chair <u>Approval for internal use:</u> BoR (21) 73 Draft Scoping document on updating the Regulatory Assessment Methodology BoR (21) 74 Draft Scoping document for BEREC Report on the Internet ecosystem;
Introduction by	BEREC Chair (BIPT)

	Michel Van Bellinghen (michel.van.bellinghen@IBPT.be)
Information presented	<p>The BEREC Chair presented the list of 'A' items, as set out above. The list of 'A' items had been drawn up based on the conclusions of the Contact Network (CN), according to which BoR approval of the documents should be possible without further discussion. The BEREC Chair informed the BoR members that they could make statements for the minutes on any of the 'A' items.</p> <p>The BEREC Chair firstly requested the consent of the BoR members to include all the items in the list and, secondly, asked the BoR to approve the documents in the list of 'A' items.</p>
Conclusions	The BoR approved the documents included in the 'A' item list.

3 Information from the BEREC Chair including information on the election of the BEREC Chair 2023 and Vice Chairs 2022

Document(s)	BoR (21) 75 Information about the deadlines for candidates for BEREC Chair 2023 and Vice Chairs 2022
Introduction by	BEREC Chair (BIPT) Michel Van Bellinghen (michel.van.bellinghen@IBPT.be)
Information presented	<p>The BEREC Chair briefed the BoR about important meetings in which he was participating and recent developments. He recalled the BEREC News Flash, which contains an update on his recent activities and meetings he held.</p> <p>He reported on the GSMA MWC in Barcelona taking place on 28 June – 1 July 2021, which would have a hybrid format.</p> <p>In addition, the BEREC Chair provided information on the procedure for electing the BEREC Chair 2023 and the Vice-Chairs for 2022, in line with the Rules of Procedure. He informed the BoR that the call for candidates would be opened after the plenary meeting and that the elections would take place during Plenary 3 2021 in Dubrovnik.</p>
Conclusions	The BoR took note of the information.

4 Information from the BEREC Office

Document(s)	<p>BoR (21) 76 Contact lists pack</p> <p>BoR (21) 77 Information on the electronic voting procedures since the last plenary meeting</p> <p>BoR (21) 78 Information on planned electronic voting procedures between P2 and P3</p> <p>BoR (21) 79 Work Programme 2022 update</p>
Introduction by	BEREC Office Representative Panos Karaminas (Panos.KARAMINAS@berec.europa.eu)
Information presented	<p>The BEREC Office submitted to the BoR for information the updated contact lists for the BEREC Heads, CN members and the BEREC Office, the recent and planned electronic voting procedures, and the draft BEREC Annual Reports 2020.</p> <p>The representative of the BEREC Office updated the BoR on the main projects and studies run by the BEREC Office in support of BEREC:</p>

	<ul style="list-style-type: none"> – WG activities in 2021; – Phase-II case concerning the Estonian markets for wholesale local access and wholesale central access provided at a fixed location; – Results of the BEREC Office survey on the quality of support to WGs; – Studies on ‘Consumer behaviour on Digital Platforms’, ‘Sustainability’ and ‘Post COVID measures to close the digital divide’; – Closure of the NN tool project. <p>In addition, he informed the BoR about the phase-II cases.</p>
Conclusions	The BoR took note of the information.

5 Information from the Commission

Document(s)	No documents
Introduction by	Commission representative Roberto Viola (Roberto.Viola@ec.europa.eu)
Information presented	<p>The EC representative informed the BoR about the main European Commission activities in the area of electronic communications and other relevant activities that had taken place since the last Plenary.</p> <p>A paper on the main Commission activities was submitted to the BoR for information before the meeting. The EC representative reported on the following topics:</p> <ul style="list-style-type: none"> - EU digital COVID certificate; - Europe’s digital decade; - EU digital identity; <ul style="list-style-type: none"> a. Delegate relations on Union-wide voice-call termination rates b. New Roaming Regulation proposal
Conclusions	The BoR took note of the information.

6 Update on the BEREC Work Programme 2022

Document(s)	BoR (21) 80 BEREC Work Programme 2022 prioritisation exercise BoR (21) 81 Draft Preliminary schedule of the ordinary BoR and MB meetings and Contact Network meetings and public debriefings in 2022
Introduction by	Incoming BEREC Chair (ACM) Annemarie Sipkes (Annemarie.Sipkes@acm.nl)
Information presented	The Incoming BEREC Chair briefed the BoR on the progress of work on the draft BEREC Work Programme 2022. She presented the outcomes of

	the prioritisation exercise, which was launched on 19 May 2021. The list of projects proposed for the BEREC WP 2022 contained 75 projects, of which roughly 30 were compulsory. The input had been gathered from BEREC (the Co-Chairs, CN and BoR members) and stakeholders. The BEREC members were invited to provide their input by 31 May 2021. Based on the qualitative and quantitative input, the list of projects was shortened. The goal of the exercise was to choose the projects that make a balanced WP 2022.
Conclusions	The BoR took note of the information.

7 Statistics and Indicators WG

Document(s)	BoR (21) 82 Draft BEREC Guidelines on Geographical surveys - Verification of information BoR (21) 83 Draft BEREC Report on the outcomes of the Public consultation on the Draft BEREC Guidelines on Geographical surveys - Verification of information
Introduction by	Sal Co-Chairs (CNMC/ANCOM) Begoña García Mariñoso (begona.garcia@cnmc.es) Iulia Zaim-Grigore (iulia.zaim@ancom.ro)
Information presented	<p>The Draft BEREC Guidelines on Geographical surveys - Verification of information were approved by the BoR for public consultation at Plenary 4 2020. The public consultation took place from 15 December 2020 to 27 January 2021. In total, seven responses from operators, operators' associations, public authorities and others were received.</p> <p>In the Draft Guidelines submitted to the BoR, BEREC deals with the verification of QoS-1 indicators as defined in the Core Guidelines (BEREC Guidelines on Geographical surveys of network deployments – BoR (20) 42). This is the verification of the current reach of broadband networks and the quality of the services that they could offer as declared by the operator, including verifying the declaration of an area or grid as being covered with a VHCN. The validation of address databases and information regarding planned deployments are outside the scope of the current Guidelines.</p> <p>The Draft Guidelines describe different verification methods and provide recommendations to be considered by authorities when assessing the quality of QoS-1 data provided by operators. Authorities may choose verification methods depending on the information available and their needs. The Guidelines stress that authorities should publish their verification methodologies and outline the verification results in order to establish transparency and help make their proceedings plausible to market participants.</p> <p>The Co-Chairs presented the final Guidelines and the Report on the outcomes of the Public consultation to the BoR.</p> <p>Furthermore, the Co-Chairs informed the BoR that the three sets of Guidelines would be compiled in a BEREC handbook for ease of reference.</p>
Conclusions	The BoR approved the document for publication.

8 Oral update on the work done by the Open Internet WG

Document(s)	BoR (21) 84 Draft BEREC Internal Report on the Assessment of tool components
Introduction by	OI Co-Chairs (ILR/TRAFICOM) Klaus Nieminen (klaus.nieminen@traficom.fi) Véronique Ney (Veronique.Ney@ilr.lu)
Information presented	<p>This internal report assesses the components that are available for NRAs to deploy a national Net Neutrality Measurement tool. The objective of the report is to support NRAs in their national measurement tool deployments by providing information and to support the work towards a harmonised measurement framework.</p> <p>This document is the first of two related deliverables. It gives an overview of the different tools used by NRAs and their source code, and covers other open-source and commercial tools available on the market.</p> <p>The key findings of the report reveal that 22 NRAs provide or promote their national measurement tool to monitor the performance of internet access services. These measurement tools are available to end users through web browsers, with some NRAs offering an app for Android and iOS for monitoring purposes. Likewise, the report shows that approximately two thirds of the tools are used for the NRAs' certified monitoring mechanism according to Article 4(4) of the Open Internet Regulation, while about half of the NRAs have decided on an Open Source approach.</p> <p>The Co-Chairs presented the information collected from the internal report identifying the number of different tools and options available with different measurement algorithms and different levels of maturity. The results suggest that the Netztest family has the broadest support across the NRAs due to its shared code.</p> <p>This document will be enhanced by the OI WG with further guidance for NRAs regarding components that are recommended for new deployments. The final results are expected to be delivered to CN3/Plenary 3 2021.</p>
Conclusions	The BoR took note of the information.

9 Market and Economic Analysis WG

Document(s)	BoR (21) 85 Draft BEREC Report on the interplay between the EECC and the EC's proposal for a Digital Markets Act concerning number-independent interpersonal communication services
Introduction by	MEA WG Co-Chairs (Arcep/CNMC) Jorge Infante (jorge.infante@cnmc.es) Chiara Caccinelli (chiara.caccinelli@arcep.fr)
Information presented	<p>The DMA proposal by the EC includes in its scope number-independent interpersonal communication services (NI-ICS onwards), considering these services as one of the 'core platform services' (CPS) subject to regulation. NI-ICS are also regulated, among other legal instruments, under the European Electronic Communications Code (EECC).</p> <p>As expressed in BEREC Opinion BoR (21) 35, published in mid-March, BEREC believes that the inclusion of NI-ICS among the CPSs should be considered with caution, and legal overlap should be avoided in order to</p>

	<p>reduce regulatory uncertainty for market players and consumers, compromising an analysis on this matter. In this regard, the BoR mandated the MEA-WG to prepare a report on this subject.</p> <p>The document submitted to the BoR constitutes this further analysis on the inclusion of NI-ICS in the DMA and its interplay with the EECC.</p> <p>The WG Co-Chairs presented to the BoR the main issues addressed in the document, together with recommendations for amending the scope of the DMA obligations targeting NI-ICS in order to avoid potential overlap with the EECC. In particular, BEREC proposes:</p> <p>a) amending Art. 1(3)(a) of the DMA proposal to i) clarify the interpretation of the expression 'markets related to';</p> <p>b) amending Art. 1(3)(b) of the DMA proposal to exclude NB-ICS from the scope of the DMA;</p> <p>c) amending Art. 1(4) to clarify that the DMA is without prejudice to the powers and tasks granted to the national regulatory and other competent authorities by virtue of the EECC, and not only by virtue of Article 61 EECC as it stands now;</p> <p>d) adding a Recital (10a) to the DMA proposal, stating that the DMA should complement the EECC by addressing competition and fairness concerns of NI-ICS which are part of a platform ecosystem.</p>
Conclusions	The BoR approved the document for publication.

10 Remedies WG

Document(s)	BoR (21) 86 Draft BEREC Report on WACC parameters 2021
Introduction by	Remedies WG Co-Chairs (UKE/BNetzA) Annegret Groebel (Annegret.Groebel@BNetzA.de)
Information presented	<p>On 6 November 2019 the Commission published a Notice on the calculation of the cost of capital for legacy infrastructure as part of its review of national notifications in the EU electronic communications sector. It will be applied by the Commission as of 1 July 2021 to assess notifications of NRAs.</p> <p>As the Notice has not changed, the WACC parameters Report 2021 will follow the same methodology as last year.</p> <p>The BEREC Report on WACC parameters 2021 contains for each of the WACC parameters the results of BEREC's calculations, following the Notice as closely as possible. The NRAs are assumed to take into account those parameter values in their own WACC calculations.</p> <p>The EU-ERP for the EU-27 NRAs has been calculated without the UK, i.e. EU27-ERP; additionally EU/EEA-ERP is included in the report i.e. the EU27 plus Norway and Iceland.</p> <p>The Co-Chair presented the draft report to the BoR for discussion and approval for publication.</p>
Conclusions	The BoR approved the document for publication.

11 Regulatory Framework

11.1 Draft BEREC Opinion on the national implementation and functioning of the general authorisation (article 122, paragraph 3 EECC)

Document(s)	BoR (21) 87 Information on the state of activities and proposal of a draft questionnaire for public call for input
Introduction by	RF WG Co-Chairs (NMHH/AGCOM) Antonio de Tommaso (a.detommaso@agcom.it)
Information presented	<p>Pursuant to Article 122(3) of Directive (EU) 2018/1972 establishing the European Electronic Communications Code, 'BEREC shall, by 21 December 2021 and every three years thereafter, publish an opinion on the national implementation and functioning of the general authorisation [GA], and on their impact on the functioning of the internal market.'</p> <p>In this context, the RF WG has already gathered the NRAs' experience so far on the GA scheme via a questionnaire that was distributed to NRAs for completion between 17 and 30 March 2021. Building on the NRAs' responses, a preliminary report was drafted as an internal supporting document aimed at identifying the key subjects raised by the contributing NRAs to date.</p> <p>The WG has also prepared a call for input addressed to the stakeholders and submitted to the BoR. The WG Co-Chairs presented this document and its main questions to the BoR for approval for public consultation.</p> <p>The aim is to collect input from interested stakeholders that might contribute to identifying the strengths and weaknesses of the current EU General Authorisation scheme, both in terms of possible areas for improvement in the EU discipline and the relevant conceptual operation of the system, as well as of nationally rooted issues.</p> <p>The final Draft BEREC Opinion is scheduled for approval for publication for CN4/Plenary 4 2021.</p>
Conclusions	The BoR approved the document for public consultation.

11.2 Draft BEREC Report on COVID-19 crisis - lessons learned regarding communication networks and services for a resilient society

Document(s)	BoR (21) 88 Draft BEREC Report on COVID-19 crisis - lessons learned regarding communication networks and services for a resilient society
Introduction by	RF WG Co-Chairs (NMHH/AGCOM) Ervin Kajzinger (kajzinger.ervin@nmhh.hu)
Information presented	<p>The aim of this exercise is to compile a report on the measures that NRAs implemented during the COVID-19 pandemic and assess the impact of the crisis on the sector.</p> <p>The report collects case studies and draws regulatory lessons to ensure that European electronic communication networks are future-proof. The draft Report identifies additional necessary measures that NRAs could implement to increase preparedness for similar future events and to develop the long-term readiness of networks for crisis scenarios.</p> <p>The Co-Chairs presented the draft report to the BoR for discussion and approval for public consultation.</p>

	The final Draft BEREC Report is scheduled for approval for publication for CN4/Plenary 4 2021.
Conclusions	The BoR approved the document for public consultation.

11.3 Oral update on the interim results of the study on post-Covid measures to close the digital divide

Document(s)	No document
Introduction by	The Representative of consultant Iclaves-Esade Juan Pablo Villar García (juanpablovillar@iclaves.es)
Information presented	<p>The Representative of consultant Iclaves-Esade provided an oral update to the BoR on the status of the study on post-Covid measures to close the digital divide.</p> <p>The intention of the study is to help NRAs in designing the right conditions to improve digital inclusion for all citizens. It should thoroughly analyse the experience gained during the COVID-19 crisis. This will include quantitative and qualitative research on the impact of this crisis on the digital ecosystem, in particular its effect on the digital divide.</p> <p>The Study outlines 2 main recommendations to BEREC and NRAs:</p> <ul style="list-style-type: none"> - Reducing the digital divide and boosting digital inclusion in Europe; - Improving cooperation and coordination with other bodies to define and execute joint actions. <p>The kick-off meeting was held on 18 May 2021. The interim report is expected by the first half of July 2021, and the final report will be presented at Plenary 3 2021.</p>
Conclusions	The BoR took note of the information.

12 End-User

12.1 Draft BEREC Study on consumer behaviour and attitudes towards Digital Platforms

Document(s)	BoR (21) 89 Draft BEREC Study on consumer behaviour and attitudes towards Digital Platforms
Introduction by	Representatives of PPMI Vaida Gineikyte (vaida@ppmi.lt) Andrew Leming (andrew.leming@ppmi.lt)
Information presented	<p>BEREC recognised the need to gain a better understanding of digital platforms and consumers' views on them, and specifically of their role as providers and distributors of digital services. The tender was launched on 24 February 2020, inviting third parties to provide the service 'Study on Consumer Behaviour Towards Digital Platforms as a Means for Communication', with the aim of describing and analysing European consumer perceptions, behaviour and attitudes towards digital platforms as enablers of digital services. As a result, a contract was awarded in June 2020 to commence the project.</p> <p>The study examined usage of 17 digital platforms that facilitate communication services, with an emphasis on interpersonal</p>

	<p>communication services, and the interactive exchange of information and media. The study used a mixed-method design for data collection and analysis, combining qualitative and quantitative approaches.</p> <p>Representatives of the contractor presented the key findings of the Study to the BoR:</p> <ul style="list-style-type: none"> - The study confirmed that in line with global trends, various products of Facebook Inc. dominate European consumer choices for both social networking sites and number-independent means of interpersonal communication. The main reasons for using application services are that they can be accessed and used free of charge and that they are easy and convenient to use. - The study found a very strong and unequivocal importance of the zero-cost of digital platform communication services for consumers, which is a more important feature in the choice of interpersonal communication services than specific functionalities, personal data collection and the display of advertising combined. - Respondents of all demographic segments indicated that the fact that messenger applications are free to use is one of their key motivations for using them. This is seen as one of the main advantages over number-based interpersonal communication services, and is a key point in deciding to adopt new applications for communication services. - This presents a great challenge to the traditional core business of telecommunications companies. Instead of providing direct services, they seem to become conduits for consumers to access digital platforms. - High-quality mobile connectivity, therefore, is set to become the core service of telecoms companies for increasing numbers of consumers.
Conclusions	The BoR approved the document for publication.

12.2 Scoping document on the BEREC Opinion on the market and technological developments and on their impact on the application of rights of end-users in the EECC

Document(s)	BoR (21) 90 Draft Scoping document on the BEREC Opinion on the market and technological developments and on their impact on the application of rights of end-users in the EECC
Introduction by	End-User WG Co-Chairs (AGCOM/ComReg) Paolo Lupi (p.lupi@agcom.it) Therese Hourigan (therese.hourigan@comreg.ie)
Information presented	According to Article 123(1) of the European Electronic Communications Code (the EECC), BEREC must publish, by 21 December 2021, an opinion on the market and technological developments and the impact on the application of rights of end users in the EECC, and specifically in Title III

	<p>of Part III (T3P3) on end-user rights. This allows for a limited period of 1 year to monitor the application of end-user rights. In addition, transposition of the EECC has not yet been completed in many Member States, resulting in limited experience.</p> <p>The Opinion will provide a first assessment of the provisions in Title III of Part III, mostly based on experiences within the previous regulatory framework and of the topics identified as more problematic by stakeholders and NRAs.</p> <p>The Co-Chairs presented the scoping document to the BoR and in particular, the proposition to focus in the 2021 Opinion on the analysis of the market and technological developments and on those issues – especially where the observed developments highlight this – that are explicitly mentioned in the second paragraph of Article 123 and the issues that are identified as being more problematic on the basis of relevant past and ongoing experiences within the previous regulatory framework.</p> <p>The Co-Chair requested steering from the BoR on the following:</p> <p>In the limited experience of NRAs, is the approach of the Outline document in the application of the EECC correct or there is any other way to produce an opinion, knowing that the majority of Member States have not yet transposed the Code?</p>
Conclusions	The BoR approved the document for internal use.

13 Sustainability WG – Oral update on the progress of the study

Document(s)	BoR (21) 92 Study on the environmental impacts of electronic communications – a literature review
Introduction by	Ad hoc SUS WG Co-Chair (CTU) Katerina Dekanovska (dekanovskak@ctu.cz)
Information presented	<p>The purpose of this study is to develop BEREC's basic knowledge of the different aspects of sustainability in the digital sector (in particular EC networks), with special emphasis on methodological (or lack thereof) elements that are available to characterise the impact of the digital sector on the environment, in particular in coordination with the work being done by the European Commission. Specific emphasis is being given to energy-efficient and circular economy solutions, but also indicators to monitor the impact and assess the improvements made by the sector.</p> <p>The study will provide BEREC and NRAs with key information that may become a decision support tool in the field of sustainability. The study should determine the impact on the environment of the digital sector in general and of the electronic communication sector in particular.</p> <p>The Sustainability WG Co-Chair briefed the BoR on the progress of the study on sustainability. The Sustainability WG Co-Chair presented the first results of the study and informed the BoR about the further work.</p>
Conclusions	The BoR took note of the information.

14 Summary of the 9th BEREC Stakeholder Forum

Document(s)	No documents.
Introduction by	Incoming BEREC Chair (ACM)

	Annemarie Sipkes (Annemarie.Sipkes@acm.nl)
Information presented	<p>On 1 April 2021, BEREC held its annual Stakeholder Forum to exchange ideas with stakeholders on BEREC's work and plans for 2022 and discuss topics relevant to the telecommunications market:</p> <ul style="list-style-type: none"> – the contribution of 5G technology to the UN Sustainable Development Goals (SDG); – the essential aspects of the regulation of 5G ecosystems; – the impact of market and technological developments on the application of end-user rights; <p>The outline of BEREC Work Programme for 2022 was also presented at the Stakeholder Forum.</p>
Conclusions	The BoR took note of the information.

15 BEREC International Cooperation

Document(s)	No document
Introduction by	BEREC Chair responsible for international activities (PTS) Dan Sjöblöm (dan.sjoblom@pts.se)
Information presented	<p>The BEREC Vice-Chair responsible for international activities briefed the BoR on recent and forthcoming BEREC international engagements.</p> <p>He thanked the BoR members for their participation in the Heads workshop on BEREC institutional and international cooperation held on 9 June 2021.</p> <p>He updated the BoR on the location of the upcoming four-party summit between BEREC, the European Mediterranean Regulators Group (EMERG), EaPeReg and REGULATEL, pointing out that it would be held in Dubrovnik, Croatia.</p> <p>He informed the BoR that with the support of the EU and in collaboration with the ITU, BEREC was starting a collaboration with the African Regulators Association, on different topics: pricing, quality of service, consumer protection, OTTs and market analysis.</p> <p>He also informed the BoR that the EaPeReg summit would be held in July 2021, so invitations will be sent shortly.</p> <p>He also reported that the work on the updating of the MoU with the Canadian Radio-television and Telecommunications Commission (CRTC) was progressing. Finally, he informed the BoR about the preparations for the programme for the study trip that would be held in Asia, depending on the COVID-19 situation.</p>
Conclusions	The BoR took note of the information.

16 Voting tool

Document(s)	BoR (21) 91 Discussion paper on the BEREC voting tool
Introduction by	BEREC Chair (BIPT) Michel Van Bellinghen (michel.van.bellinghen@IBPT.be)

<p>Information presented</p>	<p>During previous voting procedures and at the CN meetings in 2021, some NRAs have expressed suggestions for improving the tool by attaching to the voting report a list reflecting how the NRAs have voted. One of these suggestions was to disclose how NRAs have voted.</p> <p>The BEREC Chair presented the Discussion Paper to the BoR, reflecting on the considerations in favour of proposition, noting that:</p> <ul style="list-style-type: none"> - it would allow for a better understanding of the positions of other NRAs; - it would help to avoid surprises, strengthen NRA unity and contribute to the BEREC discussions. <p>Similarly, the BEREC Chair presented the arguments outlined in the Discussion Paper against adding such a list, noting that:</p> <ul style="list-style-type: none"> - there could be possible discomfort amongst the NRAs, causing a shift in their voting behaviour due to increased transparency; - the RoP do not specify that the voting report should include information about the votes of individual entities, and a list reflecting on 'who voted how' has never been provided to the BoR/MB in the past. <p>With this in mind, the BEREC Chair asked the BoR if the list with detailed voting results on 'who voted how' should be disclosed and shared with all NRAs. Currently, the BEREC Chair only informs the BoR of the result of the vote, stating how many NRAs have voted in favour, against and abstained.</p>
<p>Conclusions</p>	<p>The BoR took note of the information and agreed that the list containing detailed voting results on 'who voted how' would not be disclosed and shared with all NRAs.</p>

17 Independence of NRAs

<p>Document(s)</p>	<p>No document</p>
<p>Introduction by</p>	<p>Chairman of RÚ Ivan Martak (ivan.martak@teleoff.gov.sk)</p>
<p>Information presented</p>	<p>The Chairman of RÚ asked BEREC to assess the state of independence of NRAs and establish independence criteria to be applied at national level. The Chairman presented a list of actions and responsibilities that constitute the financial independence of NRAs. The Chairman of RÚ also noted that RÚ was aiming to point out the fact that the independence of NRAs as provided in the regulatory framework implemented in some countries significantly insufficient, which has a consequent impact on members and their activities at both BEREC and IRG.</p> <p>In light of this issue, the Chairman of RÚ asked BEREC members to assess the NRA independence factor, while suggesting establishing a basic NRA independence criteria that would provide a level of legal enforcement powers against those Member States that have decided not to implement these basic independence criteria, or to circumvent them.</p> <p>In this regard, the BEREC Chair invited the BoR members to exchange their views on this topic.</p>

Conclusions	The BoR took note of the information.
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18 Exchange of regulatory experience – Mobile wholesale market

Document(s)	No document
Introduction by	Representative of RTR Klaus Steinmaurer (Klaus.Steinmaurer@rtr.at)
Information presented	The representatives shared the experience of RTR concerning the mobile wholesale market and access of MVNOs to the market. In light of this issue, the representative of RTR sought to exchange experiences between the members of the BoR for the purpose of steering the market in the right direction.
Conclusions	The BoR took note of the information.

19 AOB

19.1 Information on the 48th BoR ordinary meeting and workshop (29 September-1 October, Croatia)

Document(s)	No documents
Introduction by	BEREC Chair (BIPT) Michel Van Bellinghen (michel.van.bellinghen@IBPT.be) Representative of HAKOM Tonko Obuljen (tonko.obuljen@hakom.hr)
Information presented	The BEREC Chair and the representative of the meeting host, HAKOM, provided information on the logistics of the meeting.
Conclusions	The BoR took note of the information.

19.2 Draft papers to support BEREC's proposals in the context of the European Commission's Digital Markets Act

Document(s)	BoR (21) 93 Draft paper on the institutional aspects (on the set-up of an advisory board in the DMA) BoR (21) 94 Draft paper on tailoring remedies and regulatory dialogue
Introduction by	RF WG Co-Chairs (NMHH/AGCOM) Antonio de Tommaso (a.detommaso@agcom.it) Ervin Kajzinger (kajzinger.ervin@nmhh.hu) MEA WG Co-Chairs (Arcep/CNMC) Jorge Infante (jorge.infante@cnmc.es) Chiara Caccinelli (chiara.caccinelli@arcep.fr) REM WG Co-Chairs (BNetzA/UKE) Annegret Groebel (Annegret.Groebel@BNetzA.de) Sławomir Olszewski (slawomir.olszewski@uke.gov.pl)
Information presented	In the course of various meetings with MEPs, BEREC received a lot of questions on its proposals and Opinion on the DMA, in particular on how

ex-ante regulation works in the electronic communications sector and what could be usefully transferred to the DMA.

In this regard, the Co-Chairs of Regulatory Framework, Market and Analysis and Remedies WGs prepared two short advocacy papers for use in future meetings with MEPs:

1. Institutional set-up:

The draft paper develops on the merits of establishing an Advisory Board to the European Commission, composed of national independent authorities (NIAs) with relevant and cross-sectoral expertise in the digital markets to support the EC in enforcing the DMA Regulation.

The draft paper confirms that the DMA implementation will lie with the EC, and elaborates on an institutional layout proposal based on the experience gained by BEREC and the NRAs.

The RF WG Co-Chairs outlined a set of reasons in favour of setting up an Advisory Board to the European Commission, complementing the role of the DMAC, with a view to providing for specific support to the EC in enforcing DMA provisions. In particular, establishing the Advisory Board would enhance the acknowledgement of gatekeepers whose practices impact the activities of other digital players of a smaller size with a national or local footprint in the context of DMA. Similarly, the Advisory Board would support the EC in dispute resolution procedures, since BEREC considers it essential to include a dispute resolution mechanism in the DMA proposal to ensure that the obligations are effective. Similarly, the Advisory Board would allow constant monitoring of digital markets, including the collection of information and data, and regular exchange with all stakeholders. Lastly, the Advisory Board would ensure that EC decisions are built on existing and sound experience, and would guarantee the coherence of overlapping and complementary regulation.

The RF WG Co-Chairs also presented the list of tasks of the Advisory Board to the EC. As to the Advisory Board's features, the draft paper makes reference to positive experiences with similar advisory bodies to the EC currently in place and mentions the positive experience in the electronic communications field.

2. Tailoring remedies and a structured regulatory dialogue:

For this paper, BEREC draws on the example of the SMP regulation as laid down in Article 68 following of the EECC and explains the advantages of having ex-ante principles to be used when tailoring general remedies ('toolbox'). The advantage of this approach is greater flexibility for NRAs to deal with new practices of SMP operators (gatekeepers in the context of the DMA) that were unknown when the DMA was adopted.

BEREC generally supports the directly applicable obligations set out in the DMA proposal. However, in the draft paper, BEREC suggests complementing this approach with:

- a) a set of ex-ante general principles;
- b) a set of general remedies ('toolbox') that can be tailored using the ex-ante principles.

Moreover, in the draft paper, BEREC refers to the ex-ante principles of Article 68 of the EECC.

The Remedy Co-Chairs presented the main findings of the draft paper to the BoR, in particular:

	<ul style="list-style-type: none"> - BEREC draws on the example of the SMP regulation as laid down in Article 68 and the following of the EECC, and explains the advantages of having ex-ante principles to use when tailoring general remedies; - BEREC thinks that this approach would also work for the DMA, making it future-proof, and suggests adding a new article on tailoring remedies. BEREC provides a concrete amendment proposal of this new Art. 15a in the Annex to the paper; - Irrespective of the proposal of tailoring remedies, BEREC also suggests that a structured regulatory dialogue should take place involving all relevant parties – again drawing on the example of imposing remedies in the case of SMP regulation.
Conclusions	The BoR approved the documents for publication.