

BoR (22) 47

50th Ordinary Plenary Meeting of the BEREC Board of Regulators (BoR)

Hosted virtually

Conclusions

Chair: Annemarie Sipkes

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10-11 March 2022

Contents

Mai	n Results of the 50 th Meeting of the BEREC Board of Regulators	.3
Intr	oduction and participation	.5
List	of documents	.5
lten	ns discussed	.5
1	Opening of the meeting and adoption of the agenda	.5
2	Armed conflict in Ukraine	.5
3	List of 'A' items	.6
4	Information from the BEREC Chair	.6
5	Information from the BEREC Office	.7
6	Information from the Commission	.7
7	Open Internet	.8
8	Market and Economic Analysis	.9
9	Planning and Future Trends	.9
8.1.	Calendar of international events for 2022	.9
8.2.	Oral update on the development of BEREC Work Programme 2023	0
10	Regulatory Framework - Oral update on the Study on Independence	0
11 (NO	5G Cybersecurity WG – Oral update concerning the survey on Network Operations Cent C)/Security Operations Center (SOC)1	
12	WG on Sustainability1	2
12	2.1 External Sustainability Study on Environmental impact of electronic communications	2
	2.2 Draft BEREC Report on Sustainability: Assessing BEREC's contribution to limiting the pact of the digital sector on the environment1	
13	BEREC International Cooperation1	3
14	Strategic discussion about "BEREC 2030"1	
15	AOB 16.20-16.35 CET1	4
15.1	Information on the 51 st BoR ordinary meeting and workshop (8-10 June, Cyprus)1	4
15.2	2 Information update from ANACOM related to the cyberattack on Vodafone1	4
16	Celebration of the 50 th Plenary meeting1	5

Annex I – List of documents

Main Results of the 50th Meeting of the BEREC Board of Regulators

The BEREC Board of Regulators held its 50th Ordinary Plenary Meeting virtually on 10-11 March 2022.

During the Meeting, the BoR discussed and/or approved the following documents:

1. Documents approved as 'A' items

- 1.1 For publication:
 - BoR (22) 22 28th BEREC International Roaming Benchmark Data Report 1 April 2021 to 30 September 2021
 - BoR (22) 23 Public summary of the BEREC work on the Open Radio Access Network (RAN)

1.2 For internal use:

- BoR (22) 24 Summary update on the draft WACC parameters Report 2022
- BoR (22) 38 Report on the unauthorised disclosure of confidential information of Article 32 Phase II case: CZ/2021/2351

2. Documents approved as regular items:

- 2.1. For publication:
 - BoR (22) 32 BEREC Report on the outcome of the public consultation on the Draft BEREC Report on the regulatory treatment for fixed and mobile backhaul
 - BoR (22) 33 BEREC Report on regulatory treatment for fixed and mobile backhaul
 - BoR (22) 34 External Sustainability Study on Environmental impact of electronic communications
 - BoR (22) 39 Calendar of international events for 2022
- 2.2. For public consultation:
 - BoR (22) 30 Draft Update to the BEREC Guidelines on the Implementation of the Open Internet Regulation
 - BoR (22) 31 Explanatory document on the Public Consultation on the draft BEREC Guidelines on the Implementation of the Open Internet Regulation
 - BoR (22) 35 Draft BEREC Report on Sustainability: Assessing BEREC's contribution to limiting the impact of the digital sector on the environment

4. Documents submitted for information purposes:

- BoR (22) 25 Division of tasks among Miniboard
- BoR (22) 26 Contact lists pack
- BoR (22) 27 Information on the electronic voting procedures since the last plenary meeting
- BoR (22) 28 Information on planned electronic voting procedures between P1 and P2
- BoR (22) 29 2022 BEREC Work Programme status update

- BoR (22) 43 Cover letter
- BoR (22) 44 NCEC letter to EC

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. The BoR was also informed on the development of BEREC Work Programme 2023. In addition, the BoR Members received an update concerning the work of the RF WG and 5GCS WG, as well as information update related to the cyber-attack on Vodafone Portugal. 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. In addition, the BoR members exchanged their experiences and views during the Strategic discussion about "BEREC 2030" and market the occasion of the 50th Plenary meeting.

6. Next Meeting

The next Ordinary Plenary Meeting of the BoR will take place on 9-10 June 2022 in Cyprus.

Introduction and participation

The BEREC Board of Regulators held its 50th Ordinary Plenary Meeting virtually on 10-11 March 2022.

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 the 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.

Document(s)	BoR (22) 21 Draft BEREC BoR Agenda
Introduction by	BEREC Chair (ACM)
Information presented	 The BEREC Chair welcomed the Meeting participants and provided practical information on the logistics of the Meeting. The BEREC Chair presented the newcomers to the BoR: Andras Koltay, NMHH; Dana Radionova, SPRK. The BEREC Chair opened the Meeting and presented 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).
Conclusion	The BoR adopted the agenda with proposed changes.

1 Opening of the meeting and adoption of the agenda

2 Armed conflict in Ukraine

Document(s)	BoR (22) 40 NCEC Letter to BEREC BoR (22) 41 EC Letter to BEREC BoB (22) 42 Information undets after the BoB brainsterming accession of 4
	BoR (22) 42 Information update after the BoR brainstorming session of 4 March 2022
Introduction by	BEREC Chair (ACM)
	OI Co-Chairs (ILR/TRAFICOM)

Information presented	In the context of the Russian aggression on Ukraine, BEREC held an informal BoR discussion on 4 March 2022. It was followed by a meeting held between BEREC, EC and several Associations on 7 March 2022. The BoR was also informed about the work done by specific WGs in response to the current crisis, especially by WNE, IR and OI WGs.
Conclusion	The BoR agreed to issue a communication on the implementation of sanctions targeting RT and Sputnik.

3 List of 'A' items

Document(s)	Approval for publication:
	BoR (22) 22 28th BEREC International Roaming Benchmark Data Report – 1 April 2021 to 30 September 2021
	BoR (22) 23 Public summary of the BEREC work on the Open Radio Access Network (RAN)
	For information for internal use:
	BoR (22) 24 Summary update on the draft WACC parameters Report 2022
	BoR (22) 38 Report on the unauthorised disclosure of confidential information of Article 32 Phase II case: CZ/2021/2351
Introduction by	BEREC Chair (ACM)
Information presented	The BEREC Chair presented the list of 'A' items, as set out above. The list of 'A' items was drawn up on the basis of the conclusions of the Contact Network (CN), according to which the BoR approval of the documents should be possible without further discussion.
	The BEREC Chair firstly requested the consent of the BoR members to include all the items in the list and, secondly, she asked the BoR to approve the documents in the list of 'A' items.
Conclusion	The BoR approved the documents included in the 'A' item list.

4 Information from the BEREC Chair

Document(s)	BoR (22) 25 Division of tasks among Miniboard
Introduction by	BEREC Chair (ACM)
Information presented	The BEREC Chair briefed the BoR about recent developments and important meetings she participated in.
	Firstly, she noted that information on the BEREC participation in the MWC in Barcelona will be provided under item 13 of the Agenda.
	She informed the BoR that following the CN meeting held on 31 January, the BEREC response to the public consultation on the draft revised European Commission Guidelines on State aid for broadband networks have been adopted and were submitted to the European Commission (EC) on 11 February 2022.
	The MEA Co-Chairs and Chair's team contacted the European Parliament (EP) and the European Commission (EC) during the ongoing DMA trialogue, and informed them that BEREC supports the EP's proposal regarding the NI-ICS. The BEREC team also made a proposal to have this included in the DMA and the legislation, and offered its help if needed.

	Lastly, she informed the BoR regarding her participation on the Informal Council of EU Ministers in charge of digital affairs and electronic communications, which took place on 8 and 9 March 2022. The exchange was related to the resilience of telecom infrastructure and BEREC Chair informed the Ministers on available information and exercises that BEREC conducted, especially related to the 5G toolbox, the fibre rollout and the regulatory treatment for backhaul. In addition, a document explaining the division of tasks among the BEREC Vice-Chairs was submitted to the BoR.
Conclusion	The BoR took note of the information.

5 Information from the BEREC Office

Document(s)	BoR (22) 26 Contact lists pack
	BoR (22) 27 Information on the electronic voting procedures since the last plenary meeting
	BoR (22) 28 Information on planned electronic voting procedures between P1 and P2
	BoR (22) 29 2022 BEREC Work Programme status update
Introduction by	BEREC Office representative
Information presented	The BEREC Office submit 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 implementation status of the 2022 BEREC Work Programme.
	The representative of the BEREC Office updated the BoR members about ongoing projects and in particular:
	 What progress the WGs made in 2021;
	• The plans of the WGs for 2022;
	The BO survey on the quality of support to WGs;
	Statistics from the Authorisation Database;
	Ongoing and future studies;
	Upcoming regulatory training.
	In addition, he pointed out that a request for members for the three ENGs has been sent. Also, he stated that the back-up list of rapporteurs for Phase-II cases is more than two years old and that an update is needed.
Conclusion	The BoR took note of the information.

6 Information from the Commission

Document(s)	BoR (22) 43 Cover letter
	BoR (22) 44 NCEC letter to EC
Introduction by	Commission representative

Information presented	The EC representative congratulated BEREC on its 50 th Plenary meeting and important work done since 2010. He stated that BEREC has become a recognised brand and an important institution in Europe, well appreciated for the quality and independence of its work. He thanked BEREC for including the discussion on the armed conflict in Ukraine on the agenda and for the work done so far. He noted that the response of Europe is united, cohesive and determined. The response is the result of a joined effort of all European partners, and BEREC is a part of it. In addition, the EC representative informed the BoR about the European Commission's main activities and latest developments in the area of electronic communications and draw the attention on what could be the implication of the BEREC current and future work. The letter from Ukrainian regulator (NCEC) sent to the EC, as well as the information paper on the main Commission activities related to electronic communications policy since the last Plenary meeting was submitted to the BoR before the meeting.
Conclusion	The BoR took note of the information.

7 Open Internet

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Document(s)	BoR (22) 30 Draft Update to the BEREC Guidelines on the Implementation of the Open Internet Regulation
	BoR (22) 31 Explanatory document on the Public Consultation on the draft BEREC Guidelines on the Implementation of the Open Internet Regulation
Introduction by	OI Co-Chairs (ILR/TRAFICOM)
Information presented	The Co-Chairs presented the draft Update BEREC Guidelines on the Implementation of the Open Internet Regulation, and the main changes that have been introduced. They outlined the key messages of the draft updated Guidelines:
	 Zero tariff options are incompatible with the obligation to treat all traffic equally;
	 Non application-agnostic differentiated pricing practices;
	 There is still room for price differentiation when traffic is treated equally;
	 OIR Art. 3(3), exception a) may apply to non-technical discriminatory measures.
	In addition, the Co-Chairs presented the explanatory document on the public consultation, which provides information on BEREC's reasons for updating the Guidelines, information on the duration of the public consultation, the description of the proposed major clarifications and BEREC's interpretation of the CJEU rulings.
	Lastly, the Co-Chairs presented progress report on the coordination of NRA supervision and enforcement actions. 21 NRAs provided information on their national actions and plans to an internal database. The NRAs achieved common understanding to take actions after launching the public consultation, and committed to actively contribute to the OI WG discussion on 31 March.
	The status update on this exercise would be provided at the next Plenary meeting.

Conclusion	The BoR approved the documents for public consultation.
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8 Market and Economic Analysis

Document(s)	BoR (22) 32 BEREC Report on the outcome of the public consultation on the Draft BEREC Report on the regulatory treatment for fixed and mobile backhaul BoR (22) 33 Draft BEREC Report on regulatory treatment for fixed and mobile backhaul
Introduction by	MEA WG Co-Chair (CNMC)
Information presented	The draft Report on the regulatory treatment for fixed and mobile backhaul presents the legal provisions applicable to mobile and fixed backhaul, the regulation in force and the use of different types of backhaul networks and services in Europe, as well as views expressed by operators on their current and future needs for backhaul. It analyses legal provisions applicable to backhaul regulation in the European Electronic Communications Code (EECC), the 2020 EC recommendation on relevant markets and the Broadband Cost Reduction Directive (BCDR). The report is based on the responses received to a BEREC questionnaire for the National Regulatory Authorities (35 NRA respondents) and another questionnaire for operators, which was completed by 60 operators around Europe and two operators' associations. The report addressed following issues: The legal framework for backhaul regulation (chapter 3);
	 Insights on present and expected use of backhaul regarding type of provision, speeds, type of inputs and relevance of regulation for operators (chapter 4);
	 A comprehensive view on how backhaul is regulated by NRAs (chapter 5).
	The draft BEREC report was open for public consultation from 4 October to 5 November 2021. 11 written comments were submitted by stakeholders, but the inputs only slightly changed the draft report since the responses were focused on the case for regulating backhaul and not in the content of the report. The Co-Chair presented the final report and provided a short summary of the issues raised during the public consultation.
Conclusion	The BoR approved the document for publication.

9 Planning and Future Trends

9.1 Calendar of international events for 2022

Document(s)	BoR (22) 39 Calendar of international events for 2022
Introduction by	The representative of BEREC Vice-Chair responsible for international activities (BIPT)
Information presented	The international team was set up at the PFT meeting of 13 January 2022. Guido Pouillon (BIPT) was appointed as the team leader. In order to facilitate contacts with other organisations and to increase transparency, a general e-mail address has been created for that purpose.

	 The representative of the BEREC Chair in charge of international activities presented the calendar of international events to the BoR for approval for publication. The calendar consists of two parts: A general overview containing a short description of each BEREC partner organisation and the major activities relevant for BEREC (for publication). A chronological overview of the international activities in 2022 (Excel table on BERECnet+) to be a living document accessible to the Contact network and continuously updated by the international team on BERECnet+.
	In addition, he informed the BoR members on the planned cooperation with regional networks (EaPeReg, EMERG, REGULATEL, PRIDA) and other international organisations and bilateral activities between BEREC and ITU, CEPT, FCC and CRTC. Lastly, he briefly presented the list of international activities planned by BEREC WG in 2022. Calendar of international events for 2023 will be presented on
	CN4/Plenary 4 2022.
Conclusion	The BoR approved the document for publication.

9.2 Oral update on the development of BEREC Work Programme 2023

Document(s)	No document
Introduction by	The Incoming BEREC Chair (EETT)
Information presented	The Outline BEREC Work Programme 2023 was adopted on 26 January 2022 by the BoR via an e-vote and submitted to the EU institutions. Based on the Outline, a call for inputs from the Co-Chairs/PFT WG members was launched on 17 February, with the deadline on 1 April 2022. The Incoming BEREC Chair informed that a request for early input from the stakeholders will be launched on 16 March 2022, following the public debriefing. This call for early input will be repeated during the upcoming Stakeholders Forum. The intention is to draft the list of proposals by mid-May, with a view to discuss and evaluate them at CN2/PL2. The launch of the public consultation on the draft BEREC WP 2023 is planned for October 2022 and the final adoption of the Work Programme 2023 and the list of PRDs will take place in December 2022. In addition, the Incoming BEREC Chair presented the programme of the Stakeholder forum to be held on 23 March 2022 in Brussels. He informed that more than 250 registrations have been received so far.
Conclusion	The BoR took note of the information.

10 Regulatory Framework - Oral update on the Study on Independence

Document(s)	No document
Introduction by	RF WG Co-Chairs (AGCOM/NMHH)
Information presented	The RF WG Co-Chairs provided a short update to the BoR members on the current status of the external Study on NRAs' independence.
	The Advisory Committee which follows the study and supports the BEREC Office was set up in September 2021. The deadline for consultants

	interested in sending their proposals was 31 January 2022. Two tenders were submitted and they are currently under evaluation by the Advisory Committee. A decision should be taken and consultant selected by the BEREC Office in the upcoming days. The adoption of the final report is envisaged in Plenary 4.
	Additionally, the Co-Chairs briefed the BoR on the numbering-related activities in 2022 and in particular on:
	 1 PRD stemming from the EECC - BEREC input to the European Commission pursuant to Art. 109(8) in view of the delegated acts to be adopted by the EC by 21 December 2022 in order to ensure effective access to emergency services;
	 2 PRDs (databases) streaming from the upcoming new IR Regulation, namely a Database on value-added services numbering ranges and a Database on means of access to emergency services. Ad-hoc request from the EC concerning potential prefix solution for
	marketing calls in e-Privacy Directive. The advice has been provided to the EC in a form of technical input by experts from several European NRAs, and not as a BEREC opinion per se.
	Lastly, he pointed out that a very limited drafting resources are available for the numbering-related activities.
Conclusion	The BoR took note of the information.

11 5G Cybersecurity WG – Oral update concerning the survey on Network Operations Center (NOC)/Security Operations Center (SOC)

Document(s)	No documents
Introduction by	5G Cybersecurity WG Co-Chairs (AKOS/BIPT)
Information presented	In 2022, the 5G Cybersecurity WG continued the work on the national resilience of the network operations which had started with the survey on the Network Operations Centres (NOCs) and Security Operations Centres (SOCs) in Q2 2021, to understand how and where the MNOs are involved in some of the network security-related functions. An internal Report on the national resilience of network operations, containing the results of the survey, will be submitted to the Plenary 2 2022, for internal use. The Co-Chairs updated the BoR on the preliminary survey results, based on the responses received from 67 providers. In addition, the Co-Chairs briefed the BoR on the content of the Survey for NRAs on legal provisions for NOC, SOC, Fraud and LI teams. The main interest of this survey is to gather information on the primary and secondary legislation, but also on the specific requirements, such as
	Outsourcing, Geographical location, Contact point availability and CTI information sharing.
Conclusion	The BoR took note of the information.

12 WG on Sustainability

Document(s)	BoR (22) 34 External Sustainability Study on Environmental impact of electronic communications
Introduction by	External contractor (WIK/Ramboll)
Information presented	The final study report summarises the current level of research and understanding of the impact of electronic communications on the environment and what the challenges are for the sector, the emissions and the drivers of environmental impact and mitigating factors. It provides an overview of the actions that were already taken by public authorities, including NRAs and stakeholders. It proposes other possible actions and activities and assesses their impact. It provides an assessment of possible roles of the policy makers with a special focus on the NRA perspective. In the Annexes, the report provides an overview of the results of an extensive literature review, an overview of the relevant initiatives taken by the NRAs based on a questionnaire sent to the NRAs and the detailed results of the strategic environmental assessment methodology which was used for the research.
	The external contractor presented the final outcomes of the study to the BoR. She outlined the context and scoping of the problem, and the relevant impact of electronic communication networks on the environment. In this regard, she presented actions taken by the operators - some of them have set targets for net zero (between 2030 and 2050), or made commitments to use renewable energy, improve energy efficiency, reduce waste and limit toxic substances. In addition, she presented the regulatory/soft laws tools that could be used to address the problem. Lastly, she briefed the BoR on the initiatives taken by the NRAs, and examined what role NRAs could play.
Conclusion	The BoR approved the document for publication.

12.1 External Sustainability Study on Environmental impact of electronic communications

12.2 Draft BEREC Report on Sustainability: Assessing BEREC's contribution to limiting the impact of the digital sector on the environment

Document(s)	BoR (22) 35 Draft BEREC Report on Sustainability: Assessing BEREC's contribution to limiting the impact of the digital sector on the environment
Introduction by	SWG Co-Chairs (ARCEP/CTU)
Information presented	This report on environmental sustainability focuses on the environmental footprint of the digital sector. The report summarises BEREC's latest events and publications dealing with sustainability aspects and synthetizes some of the main findings from wide interview exercise on initiatives and measures already at place. It also shortly lays out main relevant results of the external study. The report concludes with key learnings and an outline for potential future work of BEREC on the issue based on a Heads' workshop organized for this purpose.
	The Co-Chairs presented the main findings of the draft report, which is divided into six chapters:
	1. Introduction - ICT-related goals at EU international level, key figures, BEREC's first approach.

	2. Case studies - Analysis of NRAs' first initiatives (case studies on Arcep, ComReg, Traficom).
	3. BEREC initial findings - 2020 Workshops, BEREC's opinion on the BCRD and State Aid Guidelines recast.
	4. Summary of stakeholders' initiatives - Bilateral meetings' main outputs.
	5. External study key results - Relevant findings from BEREC's external study.
	6. Conclusions - Key lessons from the different parts of the report and outline for BEREC's future work on sustainability to create the necessary conditions for a common ambition on the topic. This Chapter includes the main conclusions of the Heads Workshop on Sustainability, held on 8 February 2022.
	Lastly, the Co-Chairs informed that the Workshop for stakeholders will be held on 4 April 2022, with a view to obtaining some early inputs.
Conclusion	The BoR approved the document for public consultation, with the proposed change.

13 BEREC International Cooperation

Document(s)	No document
Introduction by	BEREC Vice-Chair responsible for international activities (BIPT)
Information presented	The BEREC Vice-Chair responsible for international activities briefed the BoR about the meetings where BEREC participated during the MWC in Barcelona.
Conclusion	The BoR took note of the information.

14 Strategic discussion about "BEREC 2030"

Document(s)	BoR (22) 36 Discussion paper
Introduction by	BEREC Chair (ACM)
Information presented	 The representative of the BEREC Chair presented a summary of the outcomes of the breakout sessions. The summary, which was prepared by the PFT Co-Chairs, contains the main future-looking challenges observed and societal challenges detected, where BEREC can contribute to solving. The BEREC Chair presented the key challenges that BEREC deems relevant: Connectivity (national but also international); Digitisation and Internet Value Chain; Cybersecurity & network resilience; Environmental sustainability; The representative of BEREC Chair outlined the crossroad of competences, and noted that focus should be put on collaboration with other competent bodies, capacity building and end-users. On the

	inclusiveness of the regulation, he pointed out the need for awareness raising, communication and agility.
	The representative of the BEREC Chair asked the BoR members to discuss the list of challenges and agree if it provides a perspective towards which a SWOT assessment could be performed in Q2 2022.
Conclusion	The BoR agreed to initiate phase II of the strategic discussion.

15 AOB

15.1 Information on the 51st BoR ordinary meeting and workshop (8-10 June, Cyprus)

Document(s)	No documents
Introduction by	BEREC Chair (ACM)
Information presented	The BEREC Chair provided information on the next BoR Meeting.
Conclusion	The BoR note of the information.

15.2 Information update related to the cyber-attack on Vodafone Portugal

Document(s)	No documents
Introduction by	Representative of ANACOM
Information presented	One NRA informed the BoR that on the 7th February 2022 Vodafone Portugal suffered a major network outage that affected both mobile and fixed communication services. This included, among others, voice, data and TV services. Four million subscribers were without communication services during several hours. The NRA was promptly notified by Vodafone Portugal of this security incident and has been in close contact with the company ever since. Although this incident is still under investigation by national authorities, Vodafone Portugal hours reported that it was the result of a deliberate and
	Vodafone Portugal has reported that it was the result of a deliberate and malicious cyber-attack, aimed specifically at Vodafone's core network to maximize the impact and achieve the sole objective of disrupting its network. Vodafone Portugal also reported that, up until now, there is no evidence customer data has been accessed or compromised.
	Vodafone Portugal gradually restored the communication services over a period of 4 days. First 2G/3G mobile voice and data services were recovered, followed by fixed voice and TV. The 4G mobile service recovery was possible on the 11th February. That was also when the company managed to stabilize the situation.
	The NRA concluded that there is no doubt that other attempts to disrupt electronic communications services and networks are likely to occur again. The adoption of adequate measures in a coordinated manner is utmost importance to counteract similar incidents in the future, and invited BoR members to engage in activities with other authorities to mitigate this common security risk.
Conclusion	The BoR note of the information.

16 Celebration of the 50th Plenary meeting

Document(s)	No documents
Introduction by	BEREC Chair (ACM)
Information presented	The 1 st BEREC Plenary meetings were held on 28 January 2010 in Brussels, Belgium. The BoR members marked and celebrated the occasion of the 50 th BEREC Plenary meetings. Also, a short video was presented where the BEREC Chair, a few BoR/CN members, representative of the European Parliament, BEREC Office representatives and representative of the Latvian's Ministry of transport and communications outlined the most significant milestones that have been achieved since 2010 and looked at the way forward.
Conclusion	The BoR took note of the information.