Public debriefing

Outcomes of the 52nd BEREC ordinary meetings

6-7 October 2022

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Draft BEREC
Work Programme 2023

Kostas Masselos,
BEREC Chair 2023 (EETT, Greece)

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Draft WP2023

Customary: 9

Mandatory: 17

New ideas: 13

Carry overs: 9

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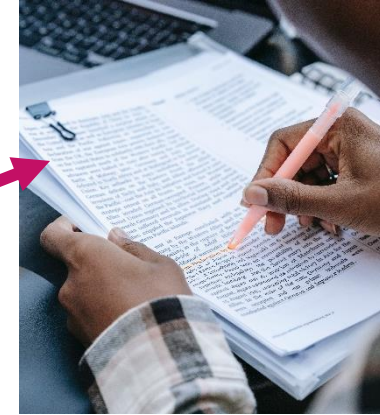
New Work items for 2023

|				
Tower and access infrastructure companies	Migration to VHCN/copper switch-off	Entry of large content and application providers in ECN/ECS	International connectivity infrastructures	NRAs' independence features
M2M and permanent roaming	Phasing out of 2G and 3G	Connectivity from low earth orbit satellite fleets	Cloud services and edge computing	Internet of Things
	New trends in telecommunication networks	Ad-hoc work on ICTs sustainability	Environmental transparency for end-users on digital markets	

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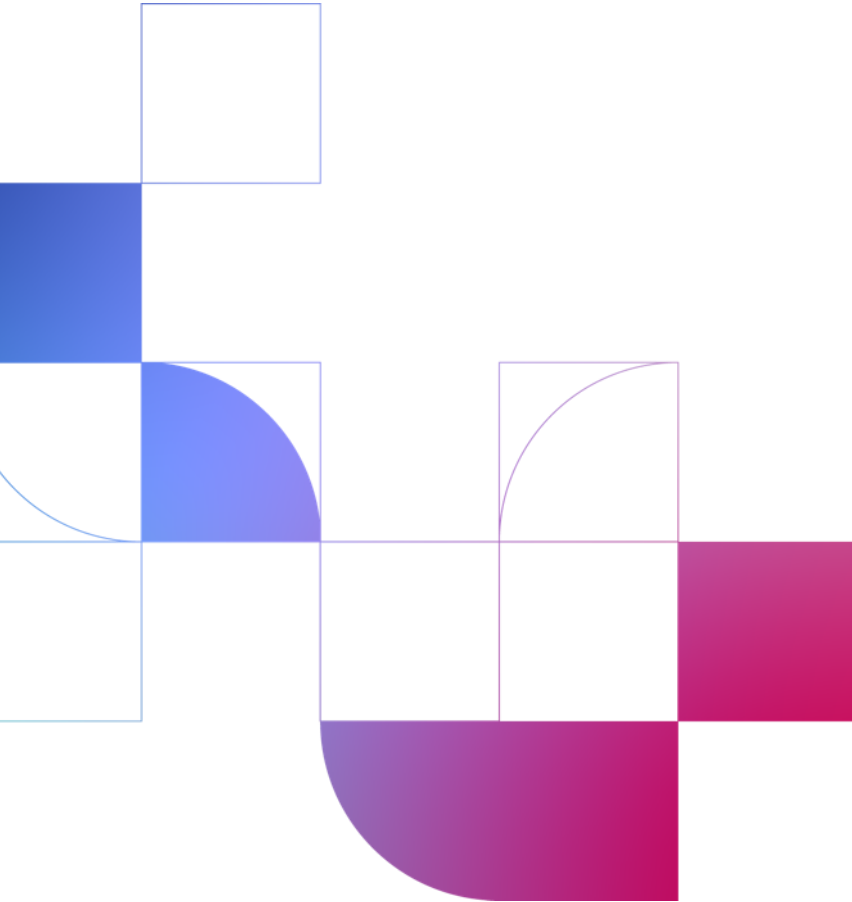
WP2023 preparation

➢ Public Consultation

7 October – 7 November 2022

➢ Adoption of Final WP 2023

December 2022

BEREC Report on the implementation of the Open Internet Regulation (BoR (22) 128)

6th BEREC Report on the Implementation of the Open Internet Regulation

- **Main body** → activities in the reporting period 01.05.2021 – 30.04.2022:
  - NRAs' activities on monitoring and ensuring compliance
  - Rulings of the European Court of Justice (ECJ) and related NRA actions
  - EU sanctions to block Russian media outlets (RT and Sputnik)
  - Covid-19 special reporting mechanism and network status in November 2021

- **Annex I**
  - All relevant national rules, regulations and specifications in force
  - Internet access service (IAS) quality monitoring tools provided
  - Open Internet Regulation (OIR) related court proceedings

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Some highlights

- Monitoring has become an ongoing activity and NRAs often use multiple methods

- Number of NRAs reporting zero-rating offers decreased, mainly due to the ECJ rulings

- Few NRAs found that ISPs' contractual documents require clear and comprehensible information

- 6 NRAs introduced additional remedies for end-user complaints

- 19 NRAs provide an IAS quality measurement tool

- 4 NRAs reported updates on applicable penalties in cases of infringements, based on a new national legislation (transposition of the EECC)

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NRA coordination related to discontinuing zero-rating offers

NRA coordination related to discontinuing zero-rating offers

- Context
  - Rulings of the European Court of Justice (Sept. 2021)
  - Updated BEREC Open Internet Guidelines (mid-June 2022)

- Forum for NRAs
  - to share information and to enable the consistent application of the OIR

- Observed changes in the market
  - No zero-rating anymore in some Members States
  - Marketing and selling of new zero-rating subscriptions ended in several Member States, while migration to new contracts is still ongoing
  - Ongoing discussions / pending decisions in some Member States
  - Further developments to be expected by end 2022 and Q1 2023

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BEREC's preliminary assessment on the underlying assumptions of payments from large CAPs to ISPs (BoR (22) 137)

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1st part of the IP-IC work stream

July/September 2022	• Workshops with invited stakeholders
October 2022	• BEREC preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs
1st half 2023	• 2nd deliverable and contribution to the foreseen EC public consultation
June 2023	• Launch of the public consultation on the draft IP-IC report
December 2023	• Publication of the final IP-IC report

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Scope of the first paper

- Preliminary assessment in relation to the discussion on the mechanism for "direct compensation" in a holistic manner
  - to assess the grounds for such a proposal and similar approaches

- Focus only on the underlying assumptions regarding the need to regulate remunerations of large content and application providers (CAPs) to internet service providers (ISPs)
  - beyond this scope BEREC remains available to provide further and broader analysis to the European institutions

How has internet traffic evolved?

- Internet traffic has grown steadily over the years
    - current traffic volumes are notably higher than those analysed in 2012
    - no fundamental change in the general growth tendency
    - changes in traffic patterns: most internet traffic is now carried via content delivery networks (CDNs) and the role of the biggest CAPs has increased

- Internet has proven its ability to self-adapt to changing conditions, such as increasing traffic volume and changing demand patterns

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Are earlier findings still valid?

- BEREC analysed "sending party network pays" (SPNP) proposal in 2012
  - would provide ISPs the ability to exploit their termination monopoly
  - might be of significant harm to the internet ecosystem and quality of service

- BEREC is of the opinion that underlying assumptions regarding the proposal have not changed and considers 2012 conclusions still valid
  - SPNP *would* require regulatory oversight and *could* require regulatory intervention
  - adequate justification needed for any measure intervening in the market

Traffic causation and dependencies

- Traffic is requested and thus "caused" by ISPs' customers
  - access networks are often built to receive more traffic than they send
  - CAPs are also able to optimise the data efficiency of the content and applications they provide with various levers

- CAPs and ISPs are mutually dependent on each other
  - demand for content drives demand for broadband access
  - availability of broadband access drives demand for content

What costs are traffic sensitive?

- In this paper BEREC considers that the e.g. costs of
  - building an additional capacity base stations is traffic-sensitive
  - upgrading core network routers and switches is traffic-sensitive
  - building new network (e.g. 5G or FTTH) coverage is *not* traffic-sensitive

- Based on these assumptions BEREC concludes that
  - fixed access networks costs exhibit a very low traffic-sensitivity
  - mobile access networks experience some degree of traffic-sensitivity
  - IP interconnection disagreements are typically about increasing IP interconnection link capacity
  - costs of network upgrades necessary to handle increased IP traffic volume are very low compared to the total network costs

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Are CAPs "free-riding"?

- BEREC has found no evidence of CAPs "free-riding" on ISPs' infrastructures
  - costs for internet connectivity are typically covered by ISPs' customers
  - under competitive conditions, there is typically no room for free-riding
  - if there had been such a significant free-riding, this would have been reflected in ISPs' financial statements and also in loss warnings
  - it is essential to consider contributions from the different stakeholder categories to the internet ecosystem

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Draft BEREC Report Comparison tools and accreditation

Art 103 EECC
Principles and requirements

Regulatory authorities shall ensure that end-users have access free of charge to at least one independent comparison tool.

The tool must enable end-users to compare and evaluate different IASs and publicly available NB-ICSs, and, where applicable, publicly available NI-ICSs, with regard to prices and tariffs of services and the quality-of-service performance.
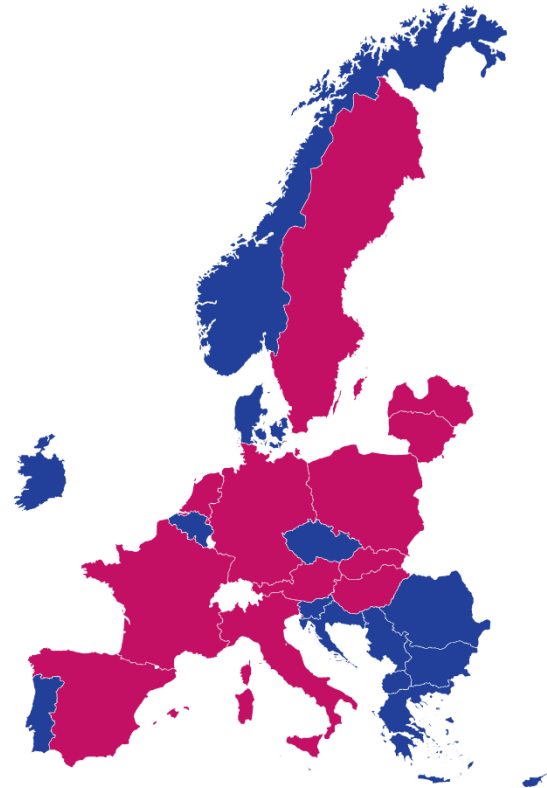
The tool must satisfy a set of requirements including independence from providers, set out clear and objective criteria, provide accurate and updated information, open to any type of IAs and ICs, provide an effective procedure to report incorrect information, etc.

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The questionnaire and the structure of the report

- On 10 June 2022 BEREC circulated a questionnaire among 36 countries aimed at gathering information from NRAs to offer insights on comparison tools. 28 responses were received in total.

- The results of the questionnaire are shown in report, that is divided in four sections.

  - Introduction and policy principles

  - Independent price comparison tool

  - Certification process

  - Conclusions

- The report will be submitted to a public consultation for 6 weeks until the 23 November 2022

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Price comparison tool
Availability & Highlights

No/Not yet
Yes

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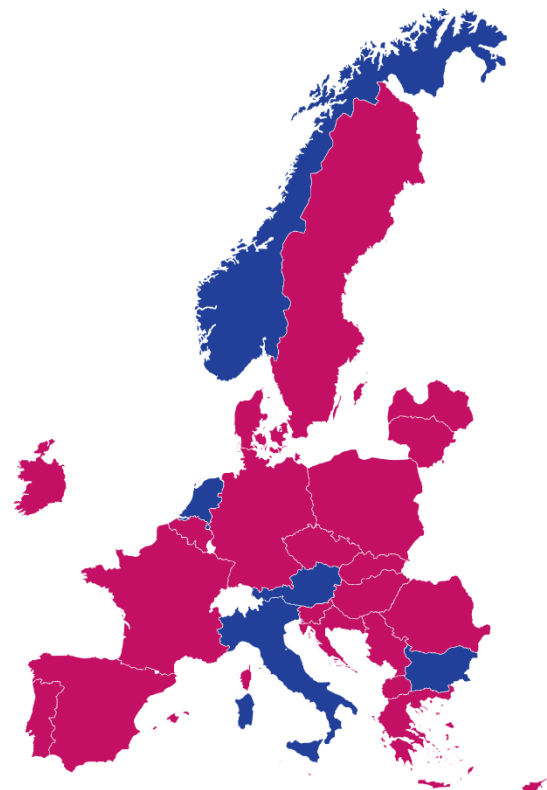| CTs are available in 15 countries. In 8 of them the tool is fully compliant with the EECC. | Where available, CTs compare mobile IAS, in 14 countries also mobile NB-ICS. In Cyprus also NI-ICS | In 12 countries the CT is able to compare and evaluate offers which include bundles of services or products | In 11 countries the CT takes into account the speed of Internet access and in 6 countries the IAS technology | In 3 countries the comparison is possible at the sub-national level, in 1 country at the zip code level and in 2 at the single premise level |

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The certification regime
Availability & Highlights

- **No/Not yet**
- **Yes**

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In most countries the certification regime is not yet in place (only 5 out of 28 countries)	Most regimes require certified CT to cover at least IAS and NB-ICS. No regime requires coverage of NI-ICS	Coverage of bundles of services and/or discounted equipment is not yet required.	Independence of CT requirements are in 3 out of the 5 certification regimes.	2 out of 5 regimes only require coverage of offers to consumers, one requires coverage of offers to other categories of users.

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BEREC Summary Report Workshop on Digital Divide

Aim of the Workshop

Heads of National Regulatory Authorities Workshop, held in 8 of June 2022, in Cyprus, to exchange views and practices on closing the digital divide, following-up from:

❖ **Study on post Covid measures to close the digital divide**, developed by Iclaves-Esade, published in October 2021.

This Study identifies three levels of digital divide:

1. Differences in access to digital technologies and the Internet

2. Differences in skills and usage patterns

3. Differences in the outcomes of internet and digital technologies' usage

❖ **Lessons learned during the Covid-19 pandemics** in 2020 and 2021 regarding the digital resilience of networks and digital inclusiveness.

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The presentations

Kick-of video: interviews of stakeholders fighting the digital divide and its consequences in their daily or professional life.

Carlota Tarin, iClaves: explained the three levels of digital divide and main conclusions of the Study on post Covid measures to close the digital divide.

Cláudio Teixeira, BEUC: called for an answer at the European level to ensure improved and secure connectivity for EU citizens, prioritising the digital empowerment of citizens.

Frank Siebern-Thomas, DG for Employment, Social Affairs and Inclusion of the European Commission: highlighted the damage that a push towards digitalization, without a strong social anchor, could produce to the social fabric.

National experiences – CTU and AGCOM: sharing different perspectives of the digital divides during the Covid-19 pandemic and national level initiatives.

The roundtable

Three Groups / Three Questions

1. How to improve broadband coverage and accelerate network rollouts in underserved areas?

2. How to secure affordability of telecom services for disadvantaged groups?

3. How to promote digital skills and motivation for digitally excluded people and ensure accessibility of digital services?

Main results

❖ Review of national initiatives as well as the legal instruments available to Member States to accelerate network rollout, like state aid programs, broadband cost reduction directive solutions as access to passive infrastructures and co-sharing.

❖ Affordability is a dynamic concept that can change over time, linked to quality and speed of connection: connectivity is dependent on the amount of people and on the amount of equipment of a household.

❖ The EECC contains provisions than can be used to limit telecom tariffs with the final aim of making them affordable, and that establish independent comparison tools for prices and quality of service. Coverage could also be useful, by means of broadband mapping tools.

❖ The review of national initiatives promoting digital skills led to the conclusion that one size does not fit it all.

❖ Some general principles: collaboration with other subjects and institutions, like NGO's, local governments, schools, churches; importance of the correct design of digital interactions, and consumers should always be given the "right to be offline" or the "right to opt-out".

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BEREC Wholesale Roaming Guidelines

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Wholesale Roaming GLs preparation

May-June
- Public consultation of wholesale GLs

30 September
- Publication of final wholesale GLs

1 July 2022
- Regulation gets into force

13 Contributions in total (1 confidential)

| 3 Associations | 5 MNOs | 4 MVNOs | 1 Confidential |

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Main comments/adjustments

- Guidance on QoS   ⟶   No change
- Emergency services   ⟶   Adapted GL16/GL 26
- Prioritization of requests   ⟶   Clarification added in GL6
- Timing issues   ⟶   No change
- Negotiation issues   ⟶   Adapted GL 1
- Previous generations' phasing out   ⟶   More transparency for indirect access in GL 25
- Dispute resolution   ⟶   Footnote added in some relevant GLs
- M2M services   ⟶   Only minor changes in GL 12

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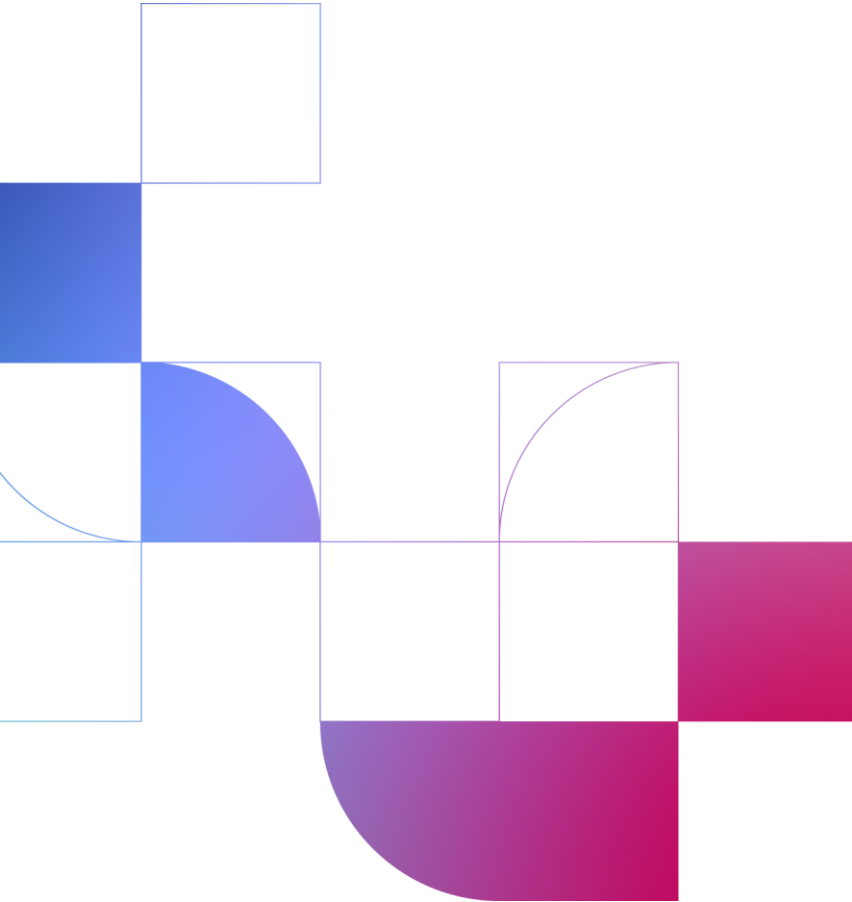
1. Draft BEREC opinion on the draft Commission implementing decision amending Decision 2007/116/EC as regards the introduction of an additional reserved number beginning with 116–new helpline for victims of violence against women

2. Draft BEREC opinion on draft EC Delegated Regulation with measures to ensure effective access to emergency services through emergency communications to the single European emergency number '112'

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Draft opinion on a harmonized Europe-wide helpline number (116 016) for violence against women

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- On February 2021, the German Presidency of the EU Council launched an initiative to reserve a harmonised **EU-wide helpline number (116 016) for victims of violence against women.**

- In line with the procedural guidelines for requesting, reserving and assigning harmonised numbers, MS provided a signed declaration of commitment and a declaration by a helpline service provider to show that the provision of the service in the MS would be feasible.

- On 10 August, the Commission submitted to BEREC a draft decision amending Decision 2007/116/EC as regards the introduction of an additional reserved number beginning with 116, requesting its formal opinion pursuant to Article 93.8 EECC by 14 October 2022.

- BEREC has **adopted an opinion supporting EC's act**, taking note of the political support expressed by MS for introducing a new 116 harmonised number and giving account of the absence of numbering issues at stake.

Draft opinion on EC's Delegated Regulation with measures to ensure effective access to emergency services through emergency communications to the single European emergency number '112'

- According to article 109(8) EECC, in order to ensure effective access to emergency services through emergency communications to the single European emergency number '112' in the Member States, the Commission shall, after consulting BEREC, adopt delegated acts in accordance with Article 117 supplementing paragraphs 2, 5 and 6 of this Article on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of emergency communications in the Union with regard to caller location information solutions, access for end-users with disabilities and routing to the most appropriate PSAP.

- The first such delegated act shall be adopted by 21 December 2022.

- BEREC was requested on 5th August 2022 to provide an opinion on the draft Commission delegated regulation.

- An urgent electronic clearance process has been launched on 11 October, in order to have the opinion approved and sent to the EC within the due deadline of 14 October

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Scope of the Report

Aim & scope of the report

- Fundamental elements of the 5G provision
  - The 5G stakeholders
  - The 5G value propositions
  - The cost structures and revenue streams
- 5G ecosystem **policy making considerations received from the stakeholders**

Calls for inputs

- A general one, addressed to all players in the 5G ecosystem
- To NRAs, to gather information on their regulatory experience related to 5G
- A specific questionnaire for new players (verticals, system integrators/ managed service providers (MSPs) and cloud providers).

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Main take aways (1)

- Increasing **complexity of the ecosystem** :

  - Emergence of new players

  - Relevance of partnerships

  ➢ Potential development of new competition dynamics where traditional telcos might not necessarily be the main players for the provision of the services.

- 5G provides numerous technical advantages that would enable **new revenues sources** by means of enhanced IAS and customized solutions for verticals (new products)

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Main take aways (2)

- **Uncertainties** might slow down investments:
  - Regarding the role to be played by new players
  - Regarding verticals willingness to pay
- BEREC takes note of the **policy considerations** raised by the stakeholders
  - Some are beyond BEREC's scope (e.g. spectrum policies)
  - Some are under BEREC scrutiny or have been in the past (e.g. level playing field)
  - Some will be considered in BEREC's future work (e.g. cloud providers switching)

BEREC Chair and Vice-chair elections

- **Tonko Obuljen** (HAKOM, Croatia) – elected BEREC Chair 2024

Vice-chairs

- **Hana Továrková** (CTU, Czech Republic)
- **Robert Mourik** (ComReg, Ireland)

- **Branko Kovijanić** (EKIP, Montenegro) – the representative of participants without voting rights

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Public consultations

Document title	Deadline
Draft BEREC Work Programme 2023	7 November 2022
Draft Report on Comparison Tools and Accreditation	23 November 2022

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