



Full fibre for a digital and sustainable Europe

Response to the consultation on the 'BEREC Work Programme 2023'

7 November 2022

## **Introduction and Comment**

The FTTH Council Europe welcomes this Work Programme document and the opportunity to give further comments.

The FTTH Council Europe is pleased to see that Connectivity and Access to High Capacity networks remains a priority area as well as the new emphasis on competition and digital markets.

The FTTH Council Europe notes that there is a considerable regulatory evolution underway with the implementation of the Regulatory Framework. However, there are a number of broad trends taking place today which are driven by market dynamics and which will evolve independently of the change in the regulatory environment but which have significant impacts on regulation. There is a very strong push towards VHCN in Europe – this is driven by a number of factors over and above the inherently superior performance characteristics of these networks (for instance much lower operational costs, lower environmental impact, growing demand for higher bandwidth and the evolution of higher bandwidth services). However, the increased availability of FTTH/B is not matched by increased take-up. Since European NRAs objective under Article 3 of EECC is to promote not just investment in, but also take-up of VHCN, the failure of VHCN take-up to match its availability should be more of a concern.

The FTTH Council Europe believes that it is important that BEREC are looking at how the widespread availability of VHCN is going to change trends in the market – three items in particular (a) the Report on cloud services and edge computing (b) the BEREC Report on the entry of large content and application providers into the markets for electronic communications networks and services and (c) the External study on the trends and policy/regulatory challenges of cloudification, virtualisation and softwarisation in telecommunications, will be very important.

The rapid investment in fibre networks is driving a significant change to the market structure as investors in VHCN are often new entrant operators (not existing smaller operators but genuinely new entrants) in the market. These new entrants do not suffer from the replacement effects of existing operators and so, very often what is seen in the market is multiple fibre network operators. According to the FTTH Council Europe data, in 2021 there were over 50% of all homes in Europe passed with fibre – what is more remarkable is that, on average, each home passed is passed by 2.7 fibre lines. While often there is only one fibre provider, it is much more common in European context that there exists significant network competition. It is important that BEREC are looking at how competition is evolving in the presence of multiple fibre network operators (1.10 Deliverable: BEREC Report on competition amongst multiple operators of NGA-networks in the same geographical region).

The FTTH Council Europe also believes that the type of operator may be an important consideration in a way that is also new. By ‘type of operator’ the question is whether that operator structure, for instance wholesale-only, lends itself to different regulatory considerations. One example might be the role of terminating contracts and switching provider. Different considerations should apply where the wholesale only operator has a longer term access contract whilst switching service providers ought to continue to be enabled.

The FTTH Council Europe welcomes in this regard the proposed study “BEREC study on evolution of competition dynamics of tower and access infrastructure companies not directly

providing retail services” but believes it is a topic that could usefully be put to a public consultation. The separation of network and services is important – the emergence of Wholesale-Only operators has transformed the fixed line business in Europe, creating investible products for long term investors for the first time, and these operators have, through their investments, added enormous impetus to the market dynamics. In mobile, the creation of TowerCo’s and their emerging interest in climbing back up the value chain through the use of Open-RAN technologies (for example the Vantage provision of services to 1&1 in Germany<sup>1</sup>) makes them look very much like Wholesale-Only fibre network operators.

The FTTH Council Europe is conscious that this is a very busy work programme for all parties.

While most comments in the following sections concern the first two pillars because these are of most relevance to our Members and their interests, the FTTH Council Europe equally recognises the importance of the other pillars.

## **Consultations**

The FTTH Council Europe recognises that a certain amount of flexibility in the work programme is required given the dynamics of the legislative framework and ad-hoc inputs to the Commission for Article-7 cases, which puts all stakeholders under pressure to respond appropriately where they can and so a limitation on public consultations is both necessary and welcomed. The FTTH Council Europe also sees it as prudent to make provision for potential ad-hoc work on ICTs sustainability in the frame of the European Green Deal implementation. BEREC may also have to address other topics that spring up from the European Commission’s initiatives (such as ‘fair share’ issue). Within that constraint, which may alter some deliverables and their timetables, the FTTH Council Europe believes that BEREC has outlined a work programme which is consistent with its mandate and with its medium term strategy document.

In general terms the FTTH Council Europe welcomes the continued and deepened transparency which BEREC seeks to achieve through consultation with stakeholders.

In addition to the items already mentioned, for the FTTH Council Europe looks forward to participating in a number of the work items as they are particularly relevant for our Members:

- Update of criterion 4 of the BEREC Guidelines on Very High Capacity Networks
- BEREC Report on the authorisation-related framework for international connectivity infrastructures
- Report on cloud services and edge computing
- BEREC Report on interoperability for number-independent interpersonal communication services (NI-ICS) (carry-over)
- BEREC’s role in supporting sustainable and open digital markets
- BEREC Report on Indicators to measure environmental impact of electronic communication networks and services (carry-over)
- BEREC Report on the entry of large content and application providers into the markets for electronic communications networks and services

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<sup>1</sup> <https://www.vantagetowers.com/sites/tower-co-v2/files/media/20211209-press-release-vt-final-eng.pdf>

- Report on the impact of Artificial Intelligence (AI) solutions in the telecommunications sector on regulation
- Assessment of the IP interconnection ecosystem and impact of the potential sending party network pays principle on Internet ecosystem and on end-users (carry-over)
- BEREC Report on the assessment of the IP interconnection ecosystem and the impact of the potential sending party network pays principle on Internet ecosystem and on end-users
- External study on the trends and policy/regulatory challenges of cloudification, virtualisation and softwarisation in telecommunications
- BEREC workshop on the perspectives and regulatory/competition challenges of Internet of Things
- BEREC report on empowering end-users through environmental transparency on digital products and services

Nevertheless, the FTTH Council Europe would ask BEREC to reconsider its decision not to put certain work programme items to a public consultation.

Those items are 1.1. BEREC study on evolution of competition dynamics of tower and access infrastructure companies not directly providing retail services and 2.10 Study on the trends and policy/regulatory challenges of cloudification, virtualisation and softwarisation of telecommunications. The FTTH Council Europe finds more public workshops welcome and in the event that more public consultations are not possible, would request that their use be extended to cover these topics. The proposed workshop looking at copper switch off could be usefully made into a public workshop (1.4. BEREC internal workshop on the migration to VHCN networks and copper switch-off with a focus on the needs of the end-users) as many FTTH Council Europe Members (and others) may have valuable experiences to share.

With regard to the subject of the work programme, the FTTH Council Europe recognises the emphasis which is being extended to “thriving sustainable and open digital markets”. This is important for the FTTH Council Europe. As FTTH deployment advances, take-up and usage of networks to deliver on their promise is the next challenge for policy makers.

The FTTH Council Europe believes that this is a gap in the Work Programme, even in the context of suggestions in section 7 regarding significant projects for consideration in 2024. The FTTH Council Europe therefore believes that there are certain additional areas for input that should be considered:

### **Examining the drivers of VHCN Take-Up**

The FTTH Council Europe suggests that BEREC should consider a study looking at the drivers of demand and the determinants of take-up once VHCN networks are available. The FTTH Council Europe has been collecting data on deployment and take up of FTTH and FTTB since 2007 and has forecasts that go up to 2027. The FTTH Council Europe has noted the wide variety of outcomes that emerge in terms of take-up and believes that a deeper understanding of the causes of those difference is important to policy development. The FTTH Council Europe has consistently sought and promoted policies that would accelerate the deployment of VHCN networks – that positioning is reflected in the EECC and what can be seen is that countries who adhere to the spirit of the EECC for the longest, will reach close to 100% coverage by the end of the forecast period (that is not to say that there are no challenges or

threats to these forecasts). Even those Member States that did not promote or facilitate fibre networks (notably Germany, Belgium and the former Member State of the UK) have adapted their policies and are now seeing significant investment in FTTH/B.

While almost all attention has been on achieving the availability of VHCN and certainly, Europe today is on a good trajectory, little attention has been paid to what drives take-up when VHCN is available.

In order for appropriate policies to be developed to promote VHCN take-up, the drivers (and inhibitors) of take-up must be understood. The FTTH Council Europe is conducting a study on these drivers which will be delivered in 2023. We would recommend that BEREC should, at least in its 2024 indicators, already start work on the VHCN take-up.