

Business services PC

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General information

During the 53rd BEREC plenary meeting (8 December 2022), the Board of Regulators has approved the draft BEREC Report on the regulatory treatment of business services for public consultation.

This report provides a snapshot of the regulatory treatment of business services by BEREC members and observers, based on a comprehensive questionnaire responded in June 2022 by all BEREC members and six observers (33 NRAs). It focuses on wholesale regulation for M2/2020, M1/2020 and M3b/2014, the upstream markets for business services, including when relevant information on passive infrastructure access and symmetric regulation in the context of business services. Aspects as geographical scope and the remedies applied in the context of business services, as well as of the challenges on data collection and references to good practices by NRAs are also addressed.

You are hereby invited to participate in the below public consultation on the draft report.

Your details

* Language of your contribution

English

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Organisation name (in case you are replying on behalf of your organisation)

GSMA

* Country of origin

Belgium

I agree with the [personal data protection provisions](#).

Practical details of the public consultation

Stakeholders are invited to comment and provide their views on the different chapters of the draft report following its structure:

Executive summary

Chapter 1 - Introduction and objectives

Chapter 2 - General overview of regulated markets used as an input for retail business services

Chapter 3 - Retail business products and related wholesale markets

Chapter 4 - M2/2020

Chapter 5 - M1/2020 in the context of business services

Chapter 6 - M3b/2014 in the context of business services

Chapter 7 - Relevance of passive infrastructure access for business services

Chapter 8 - Symmetric regulation in the context of business services

Chapter 9 - Data collection, reports, and good practices by NRAs

Chapter 10 - Conclusions

Chapter 11 - Future work

Annex I: Questionnaire sent to NRAs

Annex II: NRAs responding to the questionnaire

Stakeholders may also upload a document as a part of their contribution, see below.

In order to facilitate the processing of the responses, the comments provided should clearly refer to certain sections/subsections/paragraphs of the draft report.

Contributions should preferably be sent in English.

Stakeholder may submit their contributions **by 3 February 2022 close of business**.

In accordance with the BEREC policy on public consultations, BEREC will publish all contributions and a summary of the contributions, respecting confidentiality requests. Any such requests should clearly indicate which information is considered confidential, see the respective section at the very end below.

Public consultation

Please indicate comments on the Executive summary and Chapter 1 - Introduction and Objectives

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The GSMA welcomes the opportunity to comment on the draft report of the regulatory treatment of business services. The report provides a useful factual summary of how business services are treated by different regulatory authorities across member states and how these markets are developing. We hope that the following comments can serve as a constructive contribution to BEREC's further deliberations on its draft.

Developments and trends in the markets for business services

The market for business services is seeing increasing diversification and intensified competition. There's an acceleration and continuous shift to online and the wider trend in digitalisation in government and enterprises is shifting from on/premise IT stacks towards cloud-based services. IP products have become more and more relevant in the provision of business services with integrators using IP services and WAN (wide area network) as input. OTT and IP services have changed the boundaries of the market. While edge data centres are not a replacement for connectivity, in environments where mobility is not crucial to operations (e.g. an airport), the lines can blur.

The dominance of large global content providers in the business markets like Meta (WhatsApp), Microsoft (Teams), Cisco (Webex), Zoom and Amazon is growing. It leads to increasing pressure on telecom operators to buy and integrate their services and applications because of the sheer dominance of those providers on the communications markets. BEREC should specifically consider the increasing market power of global content providers and the impact on the regulated Wholesale market 2/2020.

Another trend and a consequence of this development is that most high-quality business services do not necessarily require underlying high quality network infrastructure and bespoke network solutions. High quality virtual private network services aimed at business users are increasingly being built based on software solution provided by non-telecom players in the internet ecosystem than can run over plain broadband IP networks.

In view of these developments that we expect will only accelerate, the GSMA welcomes BEREC's intention to continue monitoring the business markets also beyond "relevant markets" to get a more holistic view of the market developments. We consider aspects related to the competitive dynamics, the effect of the increasing use and convergence with IT services by business users and large content access providers' entrance to the business markets of relevance to assess.

It should be borne in mind that there are other aspects of the existing regulatory framework that are important for a well-functioning market for business services where adaptations could be warranted. These include for example the distribution of liability in the end-to-end business communication services related to emergency calling obligations and the existing numbering framework that are not suited to modern communications use cases. The GSMA already raised these challenges separately during BEREC's workshop on Business Services in the autumn.

Please indicate comments on Chapter 2 - General overview of regulated markets used as an input for retail business services

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Variation in application of remedies

Although the report provides a helpful summary of the NRAs' regulatory treatment of business services, the report does not reflect further on the fact that there are (large) variations in the NRAs' application of remedies. The issue has been raised with BEREC during the stakeholder workshop and was also addressed during the consultant interviews. Different application of remedies affects companies providing pan-European services negatively by increasing compliance costs or preventing their cross-border service supply. There are concerns with high quality business services that are transnational relate e.g. to inconsistent or different regulatory rules on the national level and therefore lack of harmonised offers due to variation in national remedies. In this respect and regarding the application of non-discrimination obligations the GSMA notes that an overview of KPIs used by the NRAs to assess the regulated products on this market is not presented in this report.

Please indicate comments on Chapter 3 - Retail business products and related wholesale markets

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Please indicate comments on Chapter 4 - M2/2020

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Please indicate comments on Chapter 5 - M1/2020 in the context of business services

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Please indicate comments on Chapter 6 - M3b/2014 in the context of business services

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Please indicate comments on Chapter 7 - Relevance of passive infrastructure access for business services

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Please indicate comments on Chapter 8 - Symmetric regulation in the context of business services

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Please indicate comments on Chapter 9 - Data collection, reports, and good practices by NRAs

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Please indicate comments on Chapter 10 - Conclusions and Chapter 11 - Future work

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We take note of the following findings in the report:

- More than a third of countries analysed (12 out of 33) have no regulation for Market 4 (2014)
- Incumbent market shares are gradually declining in most countries (Table 3.) “With regard to the evolution of the incumbent’s market shares in the last years, the vast majority of NRAs report a trend towards a decrease or at least a stable situation of the market share (82% of overall responses).”) P.8
- 5 NRAs have defined sub-national markets and BEREC sees geographic segmentation as an important topic: “Although most NRAs do not define sub-national M2/2020 markets, an analysis of geographical aspects of market analysis in the context of business services may also be useful for NRAs in the medium and long term, and the analysis done in this report may be extended and be addressed in more depth.”
- A majority of NRAs consider the following wholesale markets to be upstream of the retail business market (p. 9):
 - o Market 1/2020 - local access provided at a fixed location)
 - o Market 2/2020 - dedicated capacity
 - o Market 3b/2014 - central access provided at a fixed location

The changing nature of the business markets is characterised not only by more complex products, but also by an increasing number of players involved in providing the solutions. A prime example is the relevance of suppliers of mass-market fibre with large regional or nation-wide networks, who are increasingly stronger competitors to the incumbent for the provision of dedicated capacity services than traditional niche business connectivity providers (e.g. Colt).

In this context, we support BEREC and NRAs to continue to monitor the market whilst taking into account broader competitive dynamics. It is also important to ensure the availability of a register/map of passive infrastructure. Indeed, 39% of the NRAs consider that wholesale passive infrastructure products are important for business services since these enable and facilitate the deployment of networks by alternative operators and thus offer the ability to reach business users and compete with the incumbent at a (quasi) national level, especially for multi-site customers (p. 27 and 31). This an important subject in relation to the Broadband Cost Reduction Directive.

Please indicated your comments on the Annexes

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Please upload your file, if any.

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* Please specify which part of your contribution should be treated as confidential, if any.

None

Thank you for your participation in this public consultation.

Contact

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