

Business services PC

Fields marked with * are mandatory.

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

* First name

Ines

* Surname

Nolasco

* Email

██████████@vodafone.com

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

Vodafone Group

* Country of origin

N.A.

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

5000 character(s) maximum

We welcome BEREC's initiative which provides a useful snapshot of the regulatory treatment of business services by NRAs.

As highlighted in the draft report (see page 9), a large majority of NRAs consider the following wholesale markets to be upstream of the retail business market :

- Market 1/2020 - local access provided at a fixed location
- Market 2/2020 - dedicated capacity
- Market 3b/2014 - central access provided at a fixed location

The draft report also highlights that most NRAs regulate the above markets and mandate the availability of wholesale products which are then used by alternative operators to compete with incumbents in the provision of services to large companies, SMEs and all types of public administrations (see p.4 and 32).

In fact, not only high-quality services, with symmetrical and guaranteed bandwidths, improved SLAs and repair times, are needed to ensure retail business service provision. Mass market type of products are also necessary and used e.g. as "backup" to ensure reliability of the overall retail business customer solutions. Therefore, the regulation of Markets 1 and 3b is also key for the business segment.

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

5000 character(s) maximum

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

5000 character(s) maximum

The draft report recalls that markets for retail business services are highly concentrated in the majority of countries, showing market shares above 50% for the SMP operator, and, in most of them, also a market share lower than a 30% for the main alternative operator (see p. 7-8 and 31). In some countries – e.g. Germany - market shares of the incumbent are increasing.

Deregulation of the relevant wholesale markets/inputs at this point in time could prove premature and risk recreating bottlenecks and obstacles for industry 4.0 and the ability to offer high quality services to business markets. A careful analysis by the NRAs is thus warranted.

Please indicate comments on Chapter 4 - M2/2020

5000 character(s) maximum

The definition of business retail and wholesale markets (e.g. Market 2) must be fully aligned with actual bandwidth usage and reflect the shift in demand to higher bandwidths and even gigabit speeds (e.g. Germany has stuck to a regulatory threshold of 150 Mbps for the last 20 years).

With regard to the definition of the geographic market, it is telling that 82% of the NRAs define Market 2 as national in scope. Caution should be had regarding the premature geographic segmentation of the wholesale market of high-quality services as multi-site demand and sourcing from a single supplier, play a key role. In light of prevailing local bottlenecks, access to the SMP's network on a national basis remains necessary.

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

5000 character(s) maximum

While the wholesale access products imposed on Markets 1 and 3b usually address both the residential and the business segment, the draft report does state that several of the products have specific business features such as better QoS, SLAs or a lower level of contention / overbooking, specific bandwidth profiles and/or symmetric bandwidth which primarily target the business segment (see p. 24 and 25). These features must be safeguarded. This is in particular relevant with regard to SMP FTTH networks which can offer increased quality and improved SLAs compared to copper-based services.

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

We would like to point out a few features which are essential to safeguard competition in the regulation of business markets:

- Ensuring high quality business players can get access to dark fibre- most concerns with high quality business services that are transnational relate to inconsistent dark fibre access on the national level and therefore lack of harmonised offers due to a variety of national remedies.
- The availability of a register/map of passive infrastructure owned by the SMP operator - indeed, 39% of the NRA 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.
- Appropriate wholesale access pricing to enable effective retail competition - most NRAs apply cost-orientation in the regulation of Market 2 wholesale products ; it is essential that prices are set in a transparent way and that access seekers can assess that this principle is effectively applied - instead of what sometimes could be seen as calculating wholesale costs to justify the level of regulated prices.
- Application of an effective non-discrimination obligation – is key to prevent non-discriminatory treatment of access seekers.
- A few improvements needed e.g.:
 - o Greater flexibility regarding modification processes for capacity update and/ or premises location
 - o Improvement of KPI-related processes for more effective auditing by the NRA and thus proper detection and tackling of discriminatory practices.

Please indicated your comments on the Annexes

5000 character(s) maximum

Please upload your file, if any.

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

N.A.

Thank you for your participation in this public consultation.

Contact

pm@bereg.europa.eu

