54th Ordinary Plenary Meeting of the BEREC Board of Regulators (BoR)

Hosted virtually

Conclusions

Chair: Konstantinos Masselos

President of the Hellenic Telecommunications
& Post Commission (EETT)

9-10 March 2023

Body of European Regulators for Electronic Communications (BEREC)

Contents

Annex I – List of documents

Main Results of the 54th Meeting of the BEREC Board of Regulators

The BEREC Board of Regulators held its 54th Ordinary Plenary Meeting virtually on 9-10 March 2023.

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

1.   Documents approved as 'A' items:

1.1   For publication:

- BoR (23) 22 BEREC Report on Comparison Tools and Accreditation

- BoR (23) 23 BEREC Report on the outcome of the public consultation on Draft BEREC Report on Comparison Tools and Accreditation

- BoR (23) 24 Revision of Procedures for the BEREC Databases of numbering ranges for value-added services and means of access to emergency services for roaming users

- BoR (23) 25 BEREC Summary Report on the Workshop on the application of rights of end-users in the EECC

1.2   For internal use:

- BoR (23) 26 Guidelines for organising and hosting high-level events of the Body of European Regulators for Electronic Communications (BEREC)

1.3   For information:

- BoR (23) 27 Overview of the comments received to the BEREC databases of numbering ranges for value-added services, means of access to emergency services for roaming users

2.   Documents approved as regular items:

2.1.   For publication:

- BoR (23) 48 BEREC Action Plan for 2030

- BoR (23) 47 BEREC Indicative calendar of international events for 2023

2.2.   For publication and submission to the European Commission:

- BoR (23) 44 BEREC Opinion on the Review of the Intra-EU Communications Regulation

- BoR (23) 50 BEREC input on the draft EC implementing decision on key performance indicators for the Digital Decade Policy Programme 2030

2.3.   For e-voting procedure by the end of March:

- BoR (23) 43 Draft 29th BEREC international Roaming Benchmark Data Report (including Annex on Western Balkan countries

- BoR (23) 45 Draft BEREC Opinion on the Commission Implementing Regulation (EU) 2016/2286 on fair use policy and the sustainability mechanism

2.4.	For e-voting procedure:

- BoR (23) 41 Study on wholesale mobile access connectivity, trends and issues for emerging mobile technologies and deployments

2.5.	For internal use:

- BoR (23) 53 PRD Input to the European Commission exploratory consultation on the future of the connectivity sector and its infrastructure

2.6.	For public consultation:

- BoR (23) 42 Draft BEREC Guidelines on Very High Capacity Networks

- BoR (23) 46 Draft BEREC Report on Indicators to measure environmental impact of electronic communication networks and services

**3.	Documents submitted for information purposes:**

- BoR (23) 28 Division of tasks among the Miniboard

- BoR (23) 29 Decision of the Board of Regulators to establish Working Arrangements between NRAs of Albania, Bosnia & Herzegovina, Kosovo[*], Montenegro, North Macedonia, Serbia, Ukraine and the Body of European Regulators for Electronic Communications (BEREC)

- BoR (23) 30 Working Arrangements concerning participation of the National Regulatory Authority of Albania in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

- BoR (23) 31 Working Arrangements concerning participation of the National Regulatory Authority of Bosnia & Herzegovina in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

- BoR (23) 32 Working Arrangements concerning participation of the National Regulatory Authority of Kosovo[*] in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

- BoR (23) 33 Working Arrangements concerning participation of the National Regulatory Authority of Montenegro in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

- BoR (23) 34 Working Arrangements concerning participation of the National Regulatory Authority of North Macedonia in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

- BoR (23) 35 Working Arrangements concerning participation of the National Regulatory Authority of Serbia in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

- BoR (23) 36 Working Arrangements concerning participation of the National Regulatory Authority of Ukraine in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

- BoR (23) 37 Contact lists pack

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[*] This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

- BoR (23) 38 Information on the planned electronic voting procedures
- BoR (23) 39 Information on the electronic voting procedures since the last plenary meeting
- BoR (23) 40 Work Programme 2023 status update

4.   Other main topics discussed

The BoR was briefed on the recent activities of the BEREC Chair, the important projects carried out by the BEREC Office in support of BEREC, and the BEREC's recent and forthcoming international activities. The BoR was also informed about the development of the BEREC Work Programme 2024. Furthermore, the BoR held a regulatory exchange session concerning Data Act.

The European Commission was invited to provide information on important recent developments and activities under its remit that have an impact on the electronic communications sector.

5.   Next Meeting

The next Ordinary Plenary Meeting of the BoR will take place in hybrid format on **8 June 2023, in Montenegro**.

Introduction and participation

The BEREC Board of Regulators held its 54th Ordinary Plenary Meeting virtually on 9-10 March 2023.

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 operations 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 Annex I 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.

1   Opening of the meeting and adoption of the Agenda

Document(s)	BoR (23) 21 Draft BEREC BoR Agenda
Introduction by	BEREC Chair (EETT)

Information presented	The BEREC Chair welcomed the Meeting participants and provided practical information on the logistics of the Meeting.
	The BEREC Chair welcomed the new BoR members and invited them to introduce themselves.
	
	   - Patrícia Alexandra Silva Gonçalves - ANACOM, Portugal;
	   - Marek Ebert - CTU, Czech Republic.
	
	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 the requested changes.

2   List of 'A' items

Document(s)	Approval for publication: BoR (23) 22 Draft BEREC Report on Comparison Tools and Accreditation BoR (23) 23 Draft BEREC Report on the outcome of the public consultation on Draft BEREC Report on Comparison Tools and Accreditation BoR (23) 24 Revision of Procedures for the BEREC Databases of numbering ranges for value-added services and means of access to emergency services for roaming users BoR (23) 25 Draft BEREC Summary Report on the Workshop on the application of rights of end-users in the EECC Approval for internal use:

	BoR (23) 26 Draft Guidelines for organising and hosting high-level events of the Body of European Regulators for Electronic Communications (BEREC)
	<u>For information:</u>
	BoR (23) 27 Overview of the comments received to the BEREC databases of numbering ranges for value-added services, means of access to emergency services for roaming users
Introduction by	BEREC Chair (EETT)
Information presented	The BEREC Chair presented the list of 'A' items as set out above. The list of 'A' items was drawn up based on 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, then 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.

3   Information from the BEREC Chair

Document(s)	BoR (23) 28 Division of tasks among the Mini-Board
Introduction by	BEREC Chair (EETT)
Information presented	The BEREC Chair briefed the BoR on the outcome of recent important meetings he held.
	Furthermore, the BEREC Chair informed the BoR members about the results of the following elections:
	- Mr Wilhelm Eschweiler, Vice President of the Bundesnetzagentur (BNetzA), had been elected as BEREC Vice-Chair for 2023;
	- Dr Klaus M. Steinmaurer, Managing Director at RTR, had been elected as the 6th BEREC representative to the DMA High-Level Group.
	In conclusion, the BEREC Chair informed the BoR members that item 1.7 of the Work Programme would be postponed by six months, i.e. to the 57th Plenary Meetings for approval for public consultation and to the 59th Plenary Meetings for final approval.
Conclusion	The BoR took note of the information and raised no objection about postponing item 1.7 of the Work Programme by six months.

4   Revision of Working Arrangements (WAs) with NRAs participating in the work of BEREC and BEREC Office

Document(s)	BoR (23) 29 Decision of the Board of Regulators to establish Working Arrangements between NRAs of Albania, Bosnia & Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia, Ukraine and the Body of European Regulators for Electronic Communications (BEREC)
	BoR (23) 30 Working Arrangements concerning participation of the National Regulatory Authority of Albania in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC

	BoR (23) 31 Working Arrangements concerning participation of the National Regulatory Authority of Bosnia & Herzegovina in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC
	BoR (23) 32 Working Arrangements concerning participation of the National Regulatory Authority of Kosovo* in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC
	BoR (23) 33 Working Arrangements concerning participation of the National Regulatory Authority of Montenegro in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC
	BoR (23) 34 Working Arrangements concerning participation of the National Regulatory Authority of North Macedonia in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC
	BoR (23) 35 Working Arrangements concerning participation of the National Regulatory Authority of Serbia in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC
	BoR (23) 36 Working Arrangements concerning participation of the National Regulatory Authority of Ukraine in the Body of European Regulators for Electronic Communications and the Agency for Support for BEREC
Introduction by	BEREC Chair (EETT)
Information presented	In March 2019, the Commission adopted six decisions concerning the participation of the NRAs of those countries in BEREC. In particular, it allowed the NRAs of Western Balkans (including Kosovo*) to participate in the Board of Regulators and working groups of BEREC and in the management board of the BEREC Office. A few months later, the BoR and MB adopted relevant decisions about the working arrangements which were then signed. A similar procedure was followed recently with the Ukrainian NRA.
	In June 2019, Spain brought an action for annulment of that decision before the General Court of the European Union. That action was dismissed by judgment of 23 September 2020, Spain vs Commission (T-370/19). Spain appealed against that judgment in November 2020.
	As a result, the Court of Justice annulled the Commission's decision as the Commission did not have the power to adopt it (see Provisional text of the Judgement of the Court in Case C-632/20 P). According to the Court of Justice, the power to draw up working arrangements applying to the participation of NRAs of third countries lies with BEREC and the BEREC Office.
	However, in order not to jeopardise the participation of the NRA of Kosovo* in BEREC, the Court of Justice rules that the effects of the Commission's decision are to be maintained until the entry into force of any new working arrangements concluded between BEREC, the BEREC Office and the NRA of Kosovo*. The effects of that decision may not, however, be maintained beyond a reasonable period of six months from the day of the decision.

	This Judgement refers only to a specific Commission decision. However, it has implications for all the other Commission decisions concerning the participation of NRAs in the work of BEREC and the BEREC Office.
	After analysing the Judgment, the Mini-Board concluded that the existing WAs between BEREC/BEREC Office and participating NRAs must be revised to fulfil the requirements of this ruling.
	In this respect, a preliminary set of new WAs had been prepared by the BEREC Office for further discussion. As the next steps, the WAs have to be agreed upon with the participating NRAs and sent to the EC for approval in line with Article 35.1 of BEREC Regulation.
	The BEREC Chair also informed the BoR about the request for joining BEREC received from the NRA of Moldovia and Georgia. He reported that before addressing these requests current work on the revision of the existing WAs has to be finalised.
Conclusion	The BoR approved the draft working arrangements of the Western Balkan countries for the next steps that need to take place before their publication and signature.

5   Information from the BEREC Office

Document(s)	BoR (23) 37 Contact lists pack
	BoR (23) 38 Information on the planned electronic voting procedures
	BoR (23) 39 Information on the electronic voting procedures since the last plenary meeting
	BoR (23) 40 Work Programme 2023 status update
Introduction by	BEREC Office Representative
Information presented	The BEREC Office submitted to the BoR, for information, the updated contact lists for the BEREC heads, CN members and the BEREC Office, the voting procedures since the last plenary meeting, the planned electronic voting procedures and the implementation status of the 2023 BEREC Work Programme.
	The BEREC Office Representative briefed the BoR on the most important ongoing projects and studies run by the BEREC Office in support of BEREC, namely:
	− Status update 2023 (10 new deliverables -1 Phase-II case);
	− Number of Working Groups meetings held so far and, meetings planned for 2023 with an overview of physical and online participation;
	− Survey on the quality of support to WGs and Phase-II cases.
	− Studies in 2023:
	1) Evolution of the competitive dynamics of the tower and access infrastructure companies not directly providing retail services.
	2) Trends and policy/regulatory challenges of cloudification, virtualisation and softwarisation in telecommunications.
	− Training for the Co-Chairs of Working Groups and ENGs;
	− BERECnet+ account cleaning-up and a proposal for the introduction of MFA;
	− Modifications to the AVC facility in Brussels.

Conclusion	The BoR took note of the information.

6 Information from the European Commission

Document(s)	No documents
Introduction by	European Commission Representative
Information presented	The EC representative informed the BoR about the European Commission's main activities in the area of electronic communications and other relevant activities since the last plenary meeting. She focused on the following topics: **Gigabit Connectivity package** On 23 February, the Commission presented a set of initiatives aimed to make Gigabit connectivity available to all citizens and businesses across the EU by 2030. **a. Proposal for a Gigabit Infrastructure Act** The Commission adopted on 23 February a Proposal for a Regulation called the 'Gigabit Infrastructure Act' as a result of the review of the 2014 Broadband Cost Reduction Directive. The EC Representative reported that the package was presented in the Council WP on 8 March 2023 and that the Presidency is interested in proceeding towards the next meeting with the discussion on the impact assessment. The proposal will be examined article by article and if the process goes smoothly in Parliament and Council, negotiations could be closed before the end of this Commission's term. **b. Draft Gigabit Recommendation** The draft new Recommendation on the regulatory promotion of Gigabit connectivity has been submitted for an opinion to BEREC on 23 February 2023. The EC representative informed the BoR members that a meeting with the working group will be held next week to discuss and answer questions from BEREC experts. Finally, she added that the EC awaits BEREC's opinion before adopting the document no later than the end of June. **c. Exploratory consultation on the future of the connectivity sector and infrastructure** On 23 February, the Commission launched a broad exploratory consultation on the future of the connectivity sector and infrastructure, which will run until 19 May 2023. Regarding this exploratory consultation, the EC representative affirmed the role BEREC can play as an important partner. She confirmed that the public consultation results will be shared with BEREC and discussed further. Lastly, the EC representative said that further collaborations with BEREC will be welcomed. **Digital Decade Policy Programme** The EC representative reported that a Digital Decade Board was held on 9 March 2023 during which the results of the expression of interest for European infrastructure consulting were discussed. The EC received 48 proposals from MS and good feedback from stakeholders. Moreover, the EC representative said that these proposals are being analysed and that

	the EC will try to support the MS on this issue. Another Digital Decade Board will take place at the end of April.
	War in Ukraine and extension of the Joint Statement
	The EC representative reported about the 'Laptops for Ukraine' initiative and that with the help of Digital Europe, a considerable number of laptops had already been collected, which are necessary especially for schools and students. The EC representative said that the first shipment had been made and that this initiative would be further developed and continued. The Commission is looking to expand the initiative to include other collection hubs across Europe.
	As far as the Joint Statement is concerned, it has been extended and is valid until 8 July 2023. The EC representative thanked BEREC for the monitoring work it is doing and noted that further extensions of the Joint Statement will be necessary. She emphasised that the inclusion of roaming provisions in the Association Agreement will take time before the formal process is finalised by both sides, the EU and Ukraine.
Conclusion	The BoR took note of the information.

7   Open Internet (OI)

7.1   BEREC's further steps regarding the discussion on CAPs contribution to network investments

Document(s)	BoR (23) 53 PRD Input to the European Commission exploratory consultation on the future of the connectivity sector and its infrastructure
Introduction by	OI Working Group Co-Chairs (BIPT/ILR)
Information presented	On 23 February 2023, the European Commission launched an exploratory consultation to gather views on the potential developments of the connectivity sector and its infrastructure. It is comprised of four sections and is broad in scope, which requires the involvement and coordination of many WGs, and could be challenging from the management point of view. At the CN meeting that took place on 16 and17 February 2023, it was discussed how BEREC could approach this consultation.
	The Co-Chairs informed the BoR members of the ongoing work and presented the Project Requirements Document on the BEREC's Input to the European Commission exploratory consultation on the future of the connectivity sector and its infrastructure.
	The Co-Chairs reported that the questionnaire consists of 62 questions grouped into 4 sections. It is possible also to upload a written contribution not exceeding 10 pages. Contributions to EC's public consultation are expected on 19 May 2023. The BoR was informed by the Co-chairs that the EC wants to discuss the results of the consultation with BEREC and possibly select relevant topics for further EC-BEREC collaboration.
	The Co-Chairs presented a proposal for the way forward and coordination and collaboration mechanism among the WGs aiming to prepare BEREC input for the consultation. A dedicated PRD was drafted in this respect which would require additional resources. The Co-Chairs also presented a proposal for the split of the work/themes among the BEREC WGs and the schedule of work.
	They asked the BoR for feedback on the following topics:
	1. The proposal regarding the general coordination among the WGs.

	2. Preference concerning how the questions should be addressed:
	− Option A: Respond to (some of) the questions;
	− Option B: Respond to (some of) the questions and upload one additional document (10 pages) for Section 4 on "Fair Share";
	− Option C: in addition to the responses to the questionnaire, publish annex(es) on the BEREC website with further information/details.
	− Option D: Prepare only a 10-pager covering all topics of the public consultation
	3. The proposed schedule of work and validation process.
Conclusion	The BoR took note of the information and agreed to approve the PRD subject to agreed changes.
	The BoR agreed with the proposed coordination among the WGs and the schedule of work. It also agreed to submit BEREC input to the public consultation, including a 10-pager document containing the main messages for all 4 sections (to be also published) and by replying to the consultation questions when deemed useful, as well as preparing additional information (if deemed necessary) in the form of a broader document to be published and sent to the EC.

8 Fixed Network Evolution (FNE)

8.1 Update of criterion four of the BEREC Guidelines on very high capacity networks

Document(s)	BoR (23) 42 Draft BEREC Guidelines on Very High Capacity Networks
Introduction by	FNE WG Co-Chair (RTR)
Information presented	According to Article 82 of the EECC, BEREC published the first version of the Guidelines on very high capacity networks (VHCN) in October 2020. They define four criteria and any network that meets at least one of them is considered to be a VHCN. Specifically, Criterion 4 provides that any network providing a wireless connection which is capable of delivering, under usual peak-time conditions, services to end-users with a certain quality of service is considered to be a VHCN. Criterion 4 is based on data collected from mobile network operators on LTE Advanced (4G). Since it was not yet possible to take 5G fully into account, as it had not yet reached mature deployment and significant penetration, the Guidelines state that BEREC will update Criterion 4 as soon as possible and not later than 2023. Therefore, the Co-Chairs briefed the BoR members on the update of criterion 4 based on data collected from mobile network operators on 5G. The Co-Chairs reported that 44 operators completed the questionnaire used for the data collection out of which 19 were taken into account. The other questionnaires were not considered because the mobile network operators answered that they:
	- do not yet deploy a 5G mobile network (6 operators) or
	- do not have the data requested by BEREC (4 operators) or
	- the data they provided does not fulfil the conditions of the questionnaire (8 operators) or they did not confirm this (7 operators).
	The Co-Chairs then presented a table with the updated threshold values of Criterion 4.This table included both "old" (LTE-4G) and new (5G) thresholds for comparison. They noted that the update is based on the

	median of the data on 5G received from the mobile network operators. The threshold values refer to outdoor locations only and to the average value within the coverage area considered.
Conclusion	The BoR approved the document for public consultation.

8.2 Oral update on the Draft BEREC analysis of the European Commission legislative proposal for a Gigabit Infrastructure Act

Document(s)	No document
Introduction by	FNE WG Co-Chair (RTR)
Information presented	The European Commission (EC) published its legislative proposal for a Gigabit Infrastructure Act (GIA) on 23 February. The GIA will repeal the Broadband Cost Reduction Directive (BCRD) of 2014
	The EC opened a feedback round on 27 February. The stakeholders have an eight-week period to submit their feedback, starting after the proposal has been translated into all EU languages. After the deadline, the EC will summarise the feedback received and it will feed back into the legislative debate.
	The Co-Chair presented the main differences between the proposed GIA and the 2014 BCRD
	He reported that BEREC will analyse the EC legislative proposal for a GIA according to BEREC WP 2023 and based on PRD approved at P4 2022. The analysis will be based on the BEREC Opinion on the revision of the BCRD published in March 2021.
	The Co-Chair informed the BoR that FNE had already held several drafters' meetings and coordinates its work with the WNE WG and the SUS WG. Drafters' meetings with representatives of the EC are planned for the week after.
	He then presented the CN and BoR approval process as follows: • The draft BEREC analysis will be submitted to the regular CN2 meeting on 2 May; • The draft BEREC analysis will be analyzed and discussed at the regular CN2 meeting on 11 May; • The approval by the BoR is foreseen by means of an e-voting procedure including a 'comments round'; • The BEREC analysis will be submitted to the European Parliament, the Council and the EC and a presentation including a Q&A session will be offered to the co-legislators.
	The submission of the BEREC Analysis is planned for the end of May and depending on the progress of the work it may be submitted earlier.
Conclusion	The BoR took note of the information.

9   Roaming (IR)

9.1   29th BEREC international Roaming Benchmark Data Report

Document(s)	BoR (23) 43 Draft 29th BEREC international Roaming Benchmark Data Report (including Annex on Western Balkan countries)
Introduction by	IR WG Co-Chair (RTR)
Information presented	The Co-Chair presented the 29th BEREC international Roaming Benchmark Data Report which includes data collected by NRAs on roaming prices, services and usage, as well as information about transparency measures taken by roaming providers. Moreover, the Report includes an Annex about the Western Balkan (WB) roaming.
	The Co-Chair presented the following main findings of the report to the BoR:
	− recovery of the roaming market from the COVID-19 pandemic has been observed;
	− only a small percentage of volumes in the EEA is surcharged;
	− there are new obligations for non-terrestrial networks and the average retail prices above roaming retail prices are quite high;
	− wholesale roaming rates are further decreasing.
	In terms of service quality, at the retail level, almost all roaming providers offer 4G, even if there are still differences among Member States regarding 5G implementation. However, at the wholesale level, operators report problems regarding VoLTE implementation and 5G stand-alone. Based on the findings, it was observed that there was no price differentiation between technologies. Concerning the Fair Use Policy (FUP), the Co-Chair pointed out that FUP measures had been widely implemented by the operators and the most popular FUP was the open data limit. Regarding consumer complaints, the Co-Chair said that they were rather low, while the number of derogations continued to decline.
	Finally, the Co-Chair reported that the benchmarking report also included an annex about roaming in the Western Balkans. She briefed the BoR on the introduction of the RLAH, which had led to increases in volumes per subscriber for voice, SMS and data. Moreover, a significant decrease in wholesale roaming prices for all roaming services was persistent.
Conclusion	The BoR agreed to approve the document for publication via the e-voting procedure by the end of March 2023.

9.2   BEREC Opinion on the Review of the Intra-EU Communications Regulation

Document(s)	BoR (23) 44 Draft BEREC Opinion on the Review of the Intra-EU Communications Regulation
Introduction by	IR WG Co-Chair (RTR)
Information presented	According to recital 53 of the Roaming Regulation, the Commission, with the support of BEREC, should assess the existing measures introduced

	on intra-EU communications and determine whether and to what extent there is an ongoing need to reduce the caps to protect consumers.
	The Co-Chair presented the BEREC Opinion focusing on the following key conclusions:
	- the Regulation supported price decrease, but no significant impact on consumption; - OTT applications were broadly used for cross-border communications, however, there were some limitations for users over the age of 55; - the difference between roaming and intra-EU pricing might not be easily understandable for consumers; - the current price caps were significantly higher than a rough estimate of the costs required to offer intra-EEA calls. Moreover, issues could arise from SMS termination and transit; - some changes with regard to (a) the drafting of Article 5a (4); (b) switching between tariffs; and (c) simplification of derogation mechanism were needed.
Conclusion	The BoR approved the document for publication and submission to the European Commission.

9.3 BEREC input to the Commission on the Review of the Commission Implementing Regulation on the Fair Use Policy and Sustainability of the Roaming Regulation

Document(s)	BoR (23) 45 BEREC Opinion on the Commission Implementing Regulation (EU) 2016/2286 on fair use policy and the sustainability mechanism
Introduction by	IR WG Co-Chairs (RTR)
Information presented	In July 2022, BEREC received a request from the European Commission to provide an opinion on the Commission Implementing Regulation on the Fair Use Policy (FUP) and the Sustainability of the Roaming Regulation.
	The Co-Chair reported that this Opinion was based on data collected by BEREC and information received from a short call for input. Moreover, the Co-Chair said that the analysis is updated with the latest data.
	Regarding the Fair Use Policy (FUP) measures identified, the Co-Chair concluded that:
	- Fair Use Policy measures had been used to prevent anomalous usage; - RLAH+ volumes were very low so that consumers could benefit from RLAH; - very few complaints about FUP measures had been observed, which meant that consumers were well informed; - the most effective FUP measure identified was the open data bundle limit; - other FUP measures were used less because of complex implementation.
	In terms of derogation, it ensured the sustainability of domestic charging models. Furthermore, the Co-Chair showed a decline in the number of derogations, also because of the decreasing wholesale rates and few declines in derogation applications, mainly because of incomplete data.

	Finally, the Co-Chair pointed out that there was no evidence of increased prices for domestic or roaming world services because of the 3% margin.
	In conclusion, several areas for improvement had been identified:
	− room for simplifying rules should be assessed carefully taking into account any technical implementation costs;
	− concerning an open data limit, the roaming FUP should not exceed the domestic allowance;
	− since pre-paying limits and other objective indicators had not been implemented, the European Commission could consider removing them from the Commission Implementing Regulation;
	− there could be proposals for minor adjustments to the derogation mechanism, also considering the BEREC Opinion 2019.
Conclusion	The BoR agreed to approve the document for publication via the e-voting procedure by the end of March 2023.

10   Sustainability

Document(s)	BoR (23) 46 Draft BEREC Report on Indicators to measure environmental impact of electronic communication networks and services
Introduction by	SUS WG Co-Chairs (Arcep/CTU)
Information presented	Following the discussion at the last Contact Network Meeting, the Co-Chairs reported that they had updated the document taking into account the responses received as regards:
	- the strategic question raised at CN regarding the conclusions related to NRA's mandate to collect environmental data;
	- the need to add supplementary information and main takeaways in Chapter 3 on workshops with stakeholders;
	- the table of indicators ('preliminary classification') proposed in Chapter 6.
	Regarding environmental transparency in the sector, the draft Report highlights the importance of comparable and standardised data on ECN/ECS' environmental footprint to support public decision-makers work, monitor and encourage environmental efforts from the industry and enlighten end-users' decisions. Moreover, the need for more multi-criteria assessments and more available data on environmental impacts from ICTs based on PEF/OEF methodologies is also stressed.
	Secondly, in terms of State-of-play in the industry, the draft Report highlights the need to encourage the publication of open data and foster harmonisation of standards. Furthermore, the low 'support' or 'adoption' from industry players should not hinder further work and assessment on these indicators.
	As far as the potential role of NRAs, the draft Report points out that while EECC does not prevent environmental data collection, a clearer mandate could represent a favourable development to examine, for instance in the frame of article 122 review procedure.
	As regards the next steps and future work for BEREC, the Co-Chairs pointed out that BEREC's aim to contribute to the efforts to reach better transparency in the electronic communications sector and to accelerate

	the green and digital transition, is reaffirmed. In light of this, the next work item will focus on end-user empowerment through environmental information on digital goods and services (in collaboration with BEUC and EEB).
Conclusion	The BoR approved the document for public consultation.

11 Ad hoc CN group BEREC 2030 Action Plan

Document(s)	BoR (23) 48 Draft BEREC Action Plan for 2030
Introduction by	Drafting Team Leader (BIPT)
Information presented	The drafting team leader recalled the five strategic orientations that had been identified by BEREC within the BEREC 2030 project: 1. Fostering national and international connectivity. 2. Facilitating an open and sustainable internet ecosystem. 3. Providing for the security and resilience of the networks and services. 4. Contributing to the achievement of sustainability goals. 5. Strengthening BEREC's agility, independence, inclusiveness and efficiency. Within these five strategic orientations, a total of 14 BEREC long-term strategic actions had been identified by the CN ad hoc group, which the drafting team leader briefly described.
Conclusion	The BoR approved the document for publication.

12 Planning and Future Trends (PFT)

12.1 Oral update on the draft BEREC Work Programme 2024

Document(s)	No documents
Introduction by	BEREC Chair 2024 (HAKOM)
Information presented	The BEREC Chair 2024 updated the BoR members on the draft BEREC Work Programme 2024 and provided some information about the next Stakeholders' Forum, which will take place on 30 March 2023. He presented the next steps in the process of drafting the BEREC Work Programme for 2024. Regarding the next Stakeholders' Forum, the BEREC Chair 2024 informed the BoR about the meeting's agenda.
Conclusion	The BoR took note of the information.

12.2 Exchange of views on Data Act

Document(s)	No documents
Introduction by	PFT WG Co-Chairs (ACM/CNMC)

Information presented	The BEREC Chair informed the BoR that the trilogies between the EC, EP and the Council are expected to take place soon. He recalled that BEREC published a Statement and a high-level opinion on Data Act. He also informed the BoR that during the Stakeholders' Forum, there will be a session dedicated to Data Act. He also recalled that EC welcomed BEREC and the NRAs' involvement on this topic. The Co-Chair recalled that the Data Act is meant to ensure fairness in the digital environment, stimulate a competitive data market, open opportunities for data-driven innovation and make data more accessible for all. It intends to lead to new, innovative services and more competitive prices for aftermarket services and repairs of connected objects. The Co-Chair presented to the BoR the most important elements of the recent version of the draft Data Act, focusing mainly on: - B2C and B2B data sharing; - Users' rights related to data generated by IoT and related services; - Access to data by public bodies; - Data processing services (i.e. cloud, edge) switching; - International data access and transfers; - Interoperability; - Governance aspects. The Co-Chair recalled the work done so far by BEREC i.e., BEREC's statement on the draft Data Act and its high-level opinion. He also informed the BoR about a workshop on switching to be held in April 2023. He noted that BEREC's experience may be useful in the implementation of the provisions of the Data Act, particularly regarding switching and interoperability, competitive access conditions and compensation provisions, dispute resolution procedures, ensuring a harmonized implementation across the EU, end users' rights and balancing competition and investment.
Conclusion	The BoR took note of the information.

12.3 BEREC International Cooperation

Document(s)	BoR (23) 47 Draft BEREC Indicative calendar of international events for 2023
Introduction by	Representative of BEREC Vice-Chair responsible for international activities (ACM)
Information presented	The representative of the BEREC Vice-Chair responsible for international activities provided an update on the indicative calendar of international events in 2023. Furthermore, the representative briefed the BoR members on recent and upcoming international events. He reminded them about the following events: - Regulatel Plenary meeting (14 - 15 December 2022); - the Mobile World Conference in Barcelona (23 February 2023 – 1 March 2023); - the Mini-Board Study Trip to South Korea (3-7 April 2023); - the BEREC – Regulatel joint WG meeting (18-20 April 2023); - 4-lateral in Madeira, Portugal (4 October 2023).

| Conclusion | The BoR approved the document for publication after an exchange of letters between BEREC and the European Commission. |

13. Remedies and Market Monitoring (RAMM)

13.1 BEREC input on the draft EC implementing decision on key performance indicators for the Digital Decade Policy Programme 2030

Document(s)	BoR (23) 50 Draft BEREC input on the draft EC implementing decision on key performance indicators for the Digital Decade Policy Programme 2030
Introduction by	RAMM WG Co-Chair (BNetzA)
Information presented	Since the European Commission is consulting with the public from 13 February to 13 March on its draft implementing decision on KPIs for the Digital Decade Policy Programme 2030, the Co-Chair briefed the BoR members on a possible BEREC response with the intention of approving it by the consultation deadline. The Co-Chair focused on KPIs number 3 and 4, relating to the fixed network and 5G coverage. She reported that these KPIs as proposed by the Commission in the draft implementing regulation were too narrowly defined and basically not technology-neutral.
	This is particularly relevant for KPI number 4, 5G coverage, because it only refers to one spectrum band rather than different definitions of this KPI independently of the spectrum. Therefore, in both cases, the Co-Chair proposed adjusting the definitions to bring them in line with the Code and the VHCN Guidelines. Furthermore, a lot of information on measurement methodologies is included in the broadband mapping guidelines in Article 22, where BEREC has provided considerable detail on how the connectivity targets of the Code can be measured in a methodologically sound manner. Finally, in terms of 5G coverage, the Co-Chair reiterated that it should be somewhat spectrum-neutral or technology-neutral.
Conclusion	The BoR approved the document for publication and submission to the European Commission.

13.2 Oral update on the next steps regarding the BEREC opinion on the draft Gigabit Recommendation

Document(s)	No documents
Introduction by	RAMM WG Co-Chairs (BNetzA/ AGCOM)
Information presented	The Co-Chair presented to the BoR the structure of the BEREC opinion focusing on the main elements: • Chapters: aims and scope, non-discrimination, obligations, access to civil engineering infrastructure including monitoring, pricing flexibility (including ERT), price control and costing methodologies, price control obligations and costing methodologies, long-term pricing and volume discounts, the average cost of capital and migration; • 81 recommendations. She then gave an outline of the timeline for the next steps leading to the final approval: • March kick-off meeting; • 15 March, meeting with the Commission for clarifications;

	• 17 March, second drafting meeting; • 21 March, physical meeting with all experts on the Recommendation; • by the 6 April, the final draft has to be consolidated; • the week after Easter, send the consolidated draft for comments to RAMM and CN WGs in parallel; • from 18 April, submission of the consolidated document for the full electronic procedure (not urgent, two weeks); • 28 April, the deadline for the Commission's letter. The WG Co-Chair noted that there may be an extraordinary meeting followed by a fast electronic voting procedure so that the CN or the BoR can hold a virtual discussion before the voting procedure. The presented timeline is flexible and can be adjusted accordingly to allow further discussion.
Conclusion	The BoR took note of the information.

14. BEREC Chair 2022 study

14.1 Oral update on BEREC Chair 2022 Study on Wholesale mobile connectivity

Document(s)	BoR (23) 41 Study on wholesale mobile access connectivity, trends and issues for emerging mobile technologies and deployments
Introduction by	BEREC Chair 2022 (ACM) A representative of the contractor (Wik GmbH)
Information presented	The BEREC Chair 2022 introduced the representative of the contractor, who provided an oral update on the BEREC Chair 2022 External Study. The representative of the contractor focused on the new technologies and service opportunities offered by 5G and eSIMs, the implications for the value chain, the role played by verticals and MVNOs in fostering choice and innovation and the options for boosting competition in the mass market. She reported that by 2025, basic 5G networks are expected to be complete and one-third of smartphones' eSIM adopted. 5G and eSIM could enable new industrial applications and IoT as well as connected consumer devices, however, delays to 'full' (standalone) 5G network deployment could limit the industrial benefits. Moreover, although new technologies are likely to expand the mobile value chain since OEMs, OS, app providers and verticals themselves will play a more important role, the transition could impact competition in connectivity as well as introduce possible new bottlenecks at the OS/OEM level. In addition, specialist IoT MVNOs as well as verticals themselves could be drivers of innovation, and consumer MVNOs could play a valuable role in fostering competition in some situations. Furthermore, the representative of the contractor stressed that MVNO obligations through spectrum licences may be relevant where competition may otherwise not be effective. Under the EECC, further justification and impact assessment are required, but the analysis logically cannot require an assessment of (joint) SMP. Moreover, where mandated, MVNO access conditions could be important in enabling MVNOs to innovate: they should

	allow technical, operational and pricing flexibility, e.g., through capacity-based pricing and the provision to ensure that MVNOs have access to the latest technologies on reasonable terms, without undue delay.
	In conclusion, assigning spectrum to verticals or spectrum leasing could be considered to enable faster and more tailored deployment of 5G SA private networks, where there is demand. Obligations for MNOs could also be considered to meet reasonable requests for QoS-assured services, in addition to other issues that may require attention as roaming conditions and switching for (cross-border) IoT. Lastly, the DMA could provide a mechanism to act if control over OEM / OS is leveraged to limit options for connectivity.
Conclusion	The BoR agreed to approve the document for publication via the e-voting procedure.

15. AOB

15.1 Information on the 55th BoR ordinary meeting (8 June 2023, Montenegro)

Document(s)	No documents
Introduction by	Representative of the host NRA (EKIP)
Information presented	The Representative of the host NRA (EKIP) provided information on the logistics of the 55th BoR ordinary meeting which will take place on 8 June 2023 in Montenegro.
Conclusion	The BoR took note of the information.

15.2 Information on meetings in Brussels

Document(s)	No documents
Introduction by	Representative of the NRA (BiPT)
Information presented	The Representative of the NRA (BiPT) provided information on the upcoming meetings to be held in Brussels: - Conference on IIC in two weeks (organised by BIPT); - Conference on the NIS 2 Directive at the end of April (organised by BIPT and ILR).
Conclusion	The BoR took note of the information.