

BEREC Report on the outcome of the public consultation on the draft BEREC Work Programme 2024



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I. INTRODUCTION

The Body of European Regulators for Electronic Communications (BEREC) during its 56th Plenary Meeting (5 October - 6 October 2023) approved for public consultation the draft BEREC Work Programme 2024. The role of the public consultation is to increase transparency and to provide BEREC with valuable feedback from all interested parties. This public consultation on the draft document follows BEREC's initial public consultation for inputs to the Work Programme 2024, which closed in April 2023 and prompted a wide spectrum of stakeholder engagement.

In accordance with BEREC's policy on public consultations, the current report is a summary of how stakeholders' views have been considered. In addition, BEREC also publishes all individual contributions on its website, taking into account stakeholders' requests for confidentiality. The public consultation was open until 6 November 2023.

This document summarises the responses received to the public consultation and presents BEREC's position with regard to suggestions and proposals put forward in those responses, as relevant. In total 13 responses were received, none of them considered as confidential based on the request of the respective respondents.

The non-confidential contributions were received from the following organisations: Amazon, Vantage Towers, EWIA, Open Fiber, ETNO, BEUC, Liberty Global, ecta, GSMA, MVNO Europe, EENA, FTTH Council Europe and GSOA.

BEREC welcomes all contributions and thanks all stakeholders for their submissions. The non-confidential contributions received from stakeholders will be published in their entirety on the BEREC website.

Generally, the responses of the stakeholders are supportive for the work programme of BEREC of 2024. The preparatory process of drafting this work programme involved stakeholders twice, first at an early stage with an initial call for early inputs in March and April and secondly in the public consultation in October-November on the draft WP document. BEREC notes that many stakeholders are keen to engage further with BEREC requiring additional consultations beyond those already planned by BEREC in 2024. BEREC will do so on an ongoing basis through BEREC's many interim consultations, webinars, workshops, questionnaires etc. on the work set out in the BEREC WP 2024. BEREC appreciates this willingness of its stakeholders to engage on its work in 2024 and is continually working to improve its transparency and engagement with all stakeholders.



II. BACKGROUND

General remarks

ETNO welcomes the opportunity to provide input towards BEREC's Work Programme 2024. ETNO believes that BEREC should in general focus on the ongoing tasks as mandated by EU legislation, as defined in the EECC, the BEREC Regulation, the Open Internet Regulation, the Roaming Regulation, Digital Markets Act for example. BEREC should also perform its activities aligned with the accomplishment of the targets of the Digital Decade Policy Program 2030. ETNO supports BEREC's commitment to establish structured cooperation mechanisms with EU institutions and other competent authorities.

The objectives of the Work Programme for 2024 are found to be in sync with the BEREC Strategy 2021-2025, emphasizing three high-level priorities: promoting full connectivity, supporting sustainable and open digital markets, and empowering end-users.

However, a notable concern is the limited emphasis on promoting efficient investment within the Work Programme. This aspect should be more prominently featured, given the challenges faced by the sector.

BEUC welcomes that BEREC considers universal service and consumer protection as important horizontal principles that form an essential part of the high-level priorities. However, in line with our suggestion made for the BEREC Work Programme 2023, BEUC must again point out that the commitment should be fully reflected in work programme activities. BEREC points out that, for three consecutive years, given the number of workstreams selected for the Work Programme 2024 and BEREC priorities, it was not possible to include several proposals. As already pointed out in our response in 2021, BEUC would like to stress that the increasing amount of workstreams should not reduce BEREC's focus on its key tasks, especially those related to consumer protection.

Liberty Global reiterates that with regards to BEREC's tasks under EU legislation, the powers and obligations of BEREC are assigned by the Code, where BEREC provides opinions around legislative proposals and undertakes any work, Liberty Global urges BEREC to remember that it's duties and responsibilities are defined in the Code. Anything beyond the Code maybe outside BEREC's remit.

GSMA generally welcomes and supports the work items planned by BEREC, in particular those with enabling potential for the delivery of the 2030 Digital Decade targets. However, in order to ensure the most efficient use of BEREC's resources in meeting its strategic objectives, GSMA considers that some refinements are required in the context of the anticipated tasks and in the context of the processes related to collaboration between BEREC and its stakeholders.

FTTH Council welcomes the publication of the BEREC Work Programme 2024. FTTH Council appreciates that BEREC published a less detailed outline earlier in 2023. This left room to take into consideration the responses to the call for inputs and the Council is pleased to see that several areas of concern for our work have been covered in the revised programme. This

also looks to be the most ambitious programme of work that BEREC have produced in a number of years reflecting the fact that less workflows result from legislation.

BEREC welcomes the feedback provided by stakeholders and has carefully considered the respondent's views related to strategic priorities.

As regards ETNO's concern of limited emphasis on promoting efficient investment, BEREC would like to emphasize that the promotion of investment is inseparable part of BEREC's work and is included as such in several work items (e.g. 1.1., 1.2., 1.3.). Furthermore, investment as a precondition for full connectivity, is an integral part of BEREC's strategic priority Promoting full connectivity.

Namely, BEREC reminds the stakeholders that the promotion of effective competition, which is naturally based on incentivising investments where they are needed and in which format they are needed (for instance, in state aid zones) is one of its main strategic priorities that is pursued to the highest level of involvement. If efficient competitive mechanisms are in place, on the one hand, and if consumers are knowledgeable and informed, on the other, the rollout of VHCN networks happens, electronic communications networks providers acting in an appropriate environment and being in a position to predictably and effectively reassess their business opportunities.

BEUC stressed the importance of more focus on consumer protection in BEREC's work. BEREC would like to reiterate that empowering end-users is one of the three strategic BEREC priorities and therefore a great part of BEREC's work is dedicated to end-users. This year's work programme also includes work items that focus on consumer protection (e.g. 3.1, 3.2, 3.3, 3.4), which underlines BEERC's focus on that topic as well.

Regarding Liberty Global's comment, BEREC would like to point out that although BEREC's duties mostly derive from the EECC, BEREC cannot disregard legislative and market developments, and consequently exclude from its scope items related to new powers of its members.

BEREC welcomes GSMA's general supports of the planned work items. As for the comments regarding collaboration between BEREC and its stakeholders, BEREC notes that many stakeholders are keen to engage further with BEREC. BEREC appreciates this willingness of its stakeholders to engage on its work in 2024 and is continually working to improve its transparency and engagement with all stakeholders on the basis of consultations planned in 2024 as well as through BEREC's many interim consultations, webinars, workshops, questionnaires etc.

BEREC appreciates the support expressed by FTTH Council.

III. BEREC WORK IN 2024

Strategic priority 1: Promoting full connectivity

Amazon shares BEREC's and the European Union's (EU) ambitious goal of achieving universal connectivity everywhere. Amazon Project Kuiper building a constellation of over 3,000 satellites in low Earth orbit (LEO) to provide fast, reliable and affordable internet to unserved and underserved places around the world, including in the EU.

EWIA notes that by the end 2024, Europe will be half-way through its course towards the Digital Decade. Wireless connectivity goals remain as warranted as when they were set, if not more. Yet, the geopolitical situation, energy availability and financial markets have changed dramatically in the past years. Securing the necessary upfront investment has become more of a challenge, necessitating efficient and sustainable business models. Therefore, EWIA members anticipate that their role in providing ubiquitous shared wireless infrastructure will become even more crucial for Europe's connectivity and sustainability.

ETNO appreciates BEREC's continued focus on promoting full connectivity, however ETNO finds that there is a general lack of emphasis on promoting investment within the context of the European Electronic Communications Code (EECC). Among the mentions of investment, most pertain to co-investment, regulatory conditions, and commitments. Only a few references relate to investment in submarine cables and monitoring key performance indicators (KPIs) for the Report on Connectivity Indicators.

BEUC welcomes the continuation of BEREC's commitment to full connectivity for consumers and businesses alike as a strategic priority for 2024. Although BEUC supports the commitment to facilitate the roll-out of very high-capacity networks (VHCNs) as a contribution to help addressing the digital divide, BEUC strongly recommends BEREC and the national regulatory authorities (NRAs) prudence when it comes to promoting VHCNs towards meeting the 2030 Digital Decade connectivity targets. The objective of full connectivity must always be in line with the principles of open competition, a level-playing-field internal market and the safeguard of end user interests.

BEUC welcomes the overall intention to prepare NRAs for potential future challenges related to the Gigabit Recommendation and to contribute to effective and coherent regulatory approaches ahead of its adoption. Full connectivity does not automatically mean a better connectivity. The majority of consumer complaints relate not to the absence of connectivity, but to the poor overall quality of service provided. Over the last few years, several BEUC member organisations have voiced their concerns regarding the lack of transparency and poor quality of service provided by telecom operators.

GSMA notes that the Policy Programme "Path to the Digital Decade" represents a significant milestone in the development of EU's policy on electronic communications and the digital topics in general. It sets new ambitious targets for digital connectivity and take up of services in Europe. GSMA continues to believe that BEREC should separately assess how its planned

key activities contributes to achieving the targets of the Digital Decade and whether any changes may be necessitated, given BEREC's central role and experiences.

Ecta recognises that BEREC's introductory reference to expansion and take-up of secure, competitive, and reliable high-capacity networks (both fixed and wireless) across Europe, while ensuring a smooth transition from legacy infrastructures is well-intended but asks for it to be boosted for more positive effect. This text could usefully be revised to explicitly include also access and citizens interests, reflecting the full scope of Article 3 EECC.

BEREC appreciates and thanks for the support of its work on this aspect and notes interest of stakeholders to be further involved in BEREC's work.

Regarding ETNO's comment that there is a lack of emphasis on promoting investment within the context of the EECC, BEREC would like to point out that it does not share this view for the following reasons. Physical Infrastructure Access (PIA) is one of the levers to reduce the costs of network deployment. Moreover in 2024, BEREC will start its work on updating the BEREC Guidelines on VHCNs with regard to Criterion 3 (Fixed networks). By defining the technical minimum characteristics of VHCN, the Guidelines will be important to inform investment decisions of operators as well as funding decisions of public bodies.

The recent work of BEREC on the issues draft Gigabit Infrastructure Act and the draft Gigabit Recommendation, the EC Guidelines on State aid for broadband networks covers a multitude of measures to promote VHCN investments. However there is little or no experience in the application of those measures because the instruments have been adopted only recently or have not been adopted and implemented at all. Revisiting these issues in 2024 would therefore be premature.

As regards BEUC comments, BEREC firstly points out that indeed, the objective of full connectivity and the principles of open competition, a level-playing-field internal market and the safeguard of end user interests should and is considered together in BEREC's work. Secondly, BEREC believes that the current work on QoS Guidelines should contribute to the improvement of the overall quality of service.

Regarding GSMA comment on assessing separately how its planned key activities contributes to achieving the targets of the Digital Decade and whether any changes may be necessitated, BEREC would like to point out that it's priorities defined in the strategy and work programme 2024 are fully aligned with digital decade goals.

BEREC accepted ecta's suggestions and amended the text accordingly.

1.1. Report on the regulation of physical infrastructure access

Open Fiber believes that a comprehensive report on the regulation of the physical infrastructure access could be very useful to take stock of current practices across the EU as well as to understand the interactions in case of the likely approval of the Gigabit Infrastructure Act (GIA). On the other hand, Open Fiber invites a careful approach on the possibility of

creating a new, separate “PIA” market and to do a proper assessment of the risk to disincentivize the creation of new infrastructure where needed. Due to the complexity of the topic, Open Fiber welcomes the possibility to proceed with a stakeholders’ consultation.

Liberty Global notes that physical infrastructure access (PIA) has become a greater focus of regulatory intervention in a number of different markets and Liberty Global welcomes BEREC’s intention to carry out an in-depth review of regulatory intervention in this area. Liberty Global encourages BEREC to engage with industry stakeholders at an early stage of this review to understand the market view of PIA and regulatory intervention in this area. Regulation is only one element which influences the value of PIA in encouraging VHCN rollout the quality of the PIA on offer is also critical. There are variations in the nature and quality of PIA product on offer across different Member States. In certain markets, the PIA offering available from the SMP operator is poor. Physical infrastructure access is of little value where the product is sub-standard, which can impede future rollout. Liberty Global urges BEREC to also examine these factors.

FTTH Council believes that Item 1.1, the Report on the regulation of physical infrastructure access could be extremely important. This report will inform not only Market 1 remedies (where a separate PIA market does not exist) but also how it might interact with the GIA. FTTH Council would note that incentives to create new infrastructure access should not be undermined by imposing access to legacy infrastructures. To ensure that there are no adverse impacts it might be best that this remedy is imposed via market 1 rather than the creation of a separate PIA market. FTTH Council welcomes and looks forward to participating in the public consultation process.

Ecta welcomes this proposed workstream with caution, given that the European Commission’s Recommendation on the regulatory promotion of Gigabit connectivity has not yet been released and its contents remain unknown, but that a push toward wholesale access to PIA as the primus inter pares SMP obligation is expected. It should be noted that, so far, the definition of a stand-alone PIA market remains very much exceptional in NRAs’ practice. The Report should therefore definitely also address PIA as a remedy for SMP on Markets 1 and 2/2020 (and Market 3b/2014 where applicable), as is indeed proposed by BEREC. Ecta asks BEREC to be more affirmative, and to actively pursue the explicit identification of best practices, both for the scenario in which PIA is defined as a stand-alone market, and for the scenario in which wholesale access to PIA is an SMP remedy.

Ecta wishes to make clear up-front its concerns about potential severe exclusionary effects resulting from a scenario in which a stand-alone PIA market is defined, and no other downstream market is defined.

BEREC welcomes the feedback of stakeholders. BEREC understands the issue raised as important to be considered during the development of this work item and, therefore, the assessment of the quality of the PIA offers will be factored in the report to the extent possible.

1.2. Workshops on ex ante regulatory experience concerning commitments, wholesale-only undertakings and commercial agreements review

EWIA members welcome the recognition in the EECC of the specificities and benefits of the wholesale only business model. EWIA will be keen to participate in the announced workshop to share our experience and views on the independent wireless infrastructure business model.

Open Fiber appreciates the intention to organize public workshops on such relevant topic. Indeed, it would be important to understand the implementation of artt. 76, 79 and 80 of the EECC in the various EU Member States, especially regarding co-investments. In this regard, it is particularly important that NRAs duly assess the benefit and the impact of co-investments as well as how to ensure transparent procedure for their approval. In addition to the workshop, Open Fiber suggests to consider the possibility to open a public consultation on the topic.

Liberty Global welcomes the external stakeholder workshop with operators and national regulators to discuss the importance of Article 76 Code on the Regulatory treatment of new VHCN elements, Article 79 Code on the Commitments procedure and Article 80 Code on Wholesale-only undertakings and their application. Such provisions are helpful tools for NRAs to take into consideration the specific characteristics of SMP operators and adopt a more tailored approach when addressing prospective competition concerns under market analysis. Liberty Global believes it's also important to discuss the relevance of commercial agreements and commercial offers in the context of market analysis. Liberty Global has noticed that NRAs are more open to a conversation on these topics. Liberty Global welcomes this and urges to do this in an early state so the outcomes can be fully taken into account. The workshop will be a valuable moment of information sharing and discussion with national regulators on the applications of these provisions.

GSMA deems very useful an exchange of views on this very important topic. Therefore, GSMA would appreciate that also stakeholders are involved from the outset in the forum and not only afterwards in the workshop.

FTTH Council notes that a series of workshops on ex ante regulatory experience concerning commitments, wholesale-only undertakings and commercial agreements review is highly relevant to many FTTH Council Members who have direct experience of these matters. FTTH Council looks forward to participating in the external workshop and suggests that it might be appropriate to have a public consultation on these matters.

Ecta welcomes this proposed workstream with caution. It is particularly important for BEREC to be mindful that the threshold for fulfilling the conditions of Art 76(1) EECC is specific. The absence of cases in which this threshold is fulfilled does not constitute a justification for BEREC to consider softening its Co-Investment Guidelines, or for NRAs to deviate from the legally established standard or pursue procedurally 'easier routes' to granting regulatory relief to SMP operators.

Ecta welcomes that an external workshop is to be held before an internal workshop. This is the right sequence. Ecta insists that: (i) the workshop summaries distinguish clearly between each instrument (co-investment, SMP operator commitment, commercial agreement, wholesale-only), and (ii) that any review of the BEREC Co-Investment Guidelines is preceded by a full public consultation.

BEREC appreciates the support for this work item and acknowledges the expressed importance for stakeholders.

As regards the proposal to open a public consultation, in addition to the external workshop, BEREC would like to note that the results of the workshop (summary report notably) are not, due to their nature, subject to public consultation. However, according to BEREC's established practice, the summary of the external workshop is typically consulted with the speakers and participating stakeholders before approval for publication. Therefore, there will be an opportunity for the registered stakeholders to engage in the drafting of the summary report. In that vein, BEREC would like to strongly encourage stakeholders to actively engage in the planned workshop to the benefit of discussions that are relevant both for BEREC's possible future work and the stakeholders themselves for the successful completion of their tasks.

Furthermore, the planned workshops can be regarded as an inception of the deep dive into the concerned topics and do not preclude the decision of preparing future deliverables to detail the aspects/issued covered by the workshops, should the regulatory interest and market actors require.

BEREC would like to strengthen the idea that workshops are assemblies where regulatory experiences are shared and open discussions are taking place, to the benefit of the competitive scenery of the sector and, ultimately, the European consumers. To that end, the activities planned by BEREC are twofold – internal and external, through the engagement with stakeholders. Moreover, BEREC plans to first hold the external workshop, providing the opportunity for collecting relevant views and experiences that can, later on during the internal workshop, be disseminated and commented upon among NRAs during the internal workshop. Proceeding like this is seen as an opportunity to incorporate the knowledge in an efficient manner.

1.3. Report on the design, enforcement and monitoring of remedies in subnational markets with multiple SMP operators

Open Fiber notes that the EECC and the development of the wholesale business model positively contributed to the deployment of VHC networks and to push competition. However, the situation remains scattered across and intra- Member States. Therefore, Open Fiber welcomes the project to gather common practices and assess the situation in the various countries. Open Fiber also invites to take into duly consideration the different markets and business models which also have different needs. Moreover, it suggests also to consider the risks of deregulation when there is a sufficient competition only in certain areas of a country. In this regard, Open Fiber welcomes the provision of an open public consultation.

FTTH Council notes that in those countries that successfully promoted FTTH/B, regulated virtual access remedies on FTTH/B were often either not available or were greatly curtailed. In contrast, each country that achieved FTTH/B took care to ensure that the cost of deployment was minimised through sharing of expensive passive infrastructure and avoiding duplication of those passive network elements.

The FTTH Council notes that certain forms of business structures such as wholesale-only operators have different incentive structures to vertically integrated operators. The regulatory approach to such operators in the EECC makes sense in the Council's view and as a result, there has been a significant growth in Wholesale-Only operators. FTTH Council sees that public funding is justified given the benefits of fibre that go beyond the private considerations on operators and citizens such as enhancements to healthcare and education systems.

There has been increasing discussion about whether it is economically efficient to have multiple networks for most of the population while some parts don't have any. FTTH Council would like to see work from BEREC studying the impact of wholesale only operators, the effect of co-investment, which may often lead to different corporate structures, the new tendency towards separation even in integrated firms and finally, to express a view on the question of multiple network deployments.

Ecta welcomes this proposed workstream. Ecta wishes to caution against unduly amalgamating scenarios which have fundamentally different characteristics, e.g. (i) geographically distinct incumbency (multiple incumbents in Finland, Hungary, UK which have held SMP since the introduction of SMP regulation), (ii) SMP for different technologies and in different cable footprints (Belgium), and (iii) and markets where new entrant (fibre) network operators are found to hold SMP in particular geographic areas (Denmark – and being contemplated elsewhere). The focus should probably be placed on the last of the four. NRAs should be cautious in accepting voluntary commitments that result in structurally low competitive intensity or limit opportunities for the development of sustainable competition, limited service differentiation opportunities.

BEREC thanks for the support regarding this work item and will duly take into consideration the issues raised here during the preparation of this report.

As regards FTTH Council Europe's suggestions, BEREC would like to reiterate that in principle, the mentioned aspects represent the close focus of the activity envisaged at point 1.2. of the 2024 BEREC Work Programme and, indeed, BEREC has on its radar to expand the discussion to cover also the competition outcomes determined by wholesale-only operators or co-investments. Clearly, this discussion will be relevant also in the development of the deliverable on the design, enforcement and monitoring of remedies in subnational markets.

Regarding the particular aspect of the "tendency towards separation even in integrated firms" BEREC highlights that it has an ongoing work item on the topic, in which the evolution of the competition dynamics of tower and access infrastructure companies is studied. This deliverable looks exactly at the trend towards separation and how this impacts the traditional telecom sector. The Study is published at the same time with this document.



1.4. Workshop on economic replicability test practices in the context of Article 61(3) of the EECC

Open Fiber notes that Economic replicability test is a relevant topic, and it should be dealt with the greatest stakeholders' involvement. Open Fiber, therefore, recommends reconsidering the choice to foresee only an internal workshop for this item. Moreover, Open Fiber believes that it could be the occasion to open an exchange on the possibility to develop a wholesale replicability test that could guarantee a fair competition in the market as well as to clarify the role of wholesale operators on the determination of the network termination point.

Liberty Global welcomes the external stakeholder workshop with operators and national regulators to discuss current practice. Liberty Global urges BEREC to invite stakeholders to respond as well to the prior survey BEREC said to initiate. Liberty Global would welcome the broadening of the discussion to include whether the approaches and interpretations by BEREC in the Guidelines on the Criteria for Consistent Application of Article 61(3) of the Code are in line with the text and spirit of the symmetric access provisions. In response to the consultation on these guidelines Liberty Global urged BEREC to ensure that these measures would be designed and adopted in line with the text and spirit of the symmetric access provisions, in a way which ensures they truly support and foster sustainable competition, and investments in new and improved networks. Liberty Global also provided BEREC with a report by e-Conomics on the Symmetric access obligations under Article 61(3) Code.

GSMA welcomes the inclusion in the work programme of a topic that is already very relevant in large EU markets and could become more widespread once the upcoming Recommendation on the Promotion of GB connectivity is published. GSMA notes, however, that only an internal workshop is foreseen in Q4 2024. GSMA thinks there would be large value in prioritising the item and moving it to Q1 or Q2, and establishing appropriate procedures for stakeholder engagement. GSMA suggests that BEREC's work on such innovative and complex topic should provide for a possibility to submit opinions within a fully-fledged public consultation, as a stakeholder workshop alone in our view does not provide for enough transparency.

FTTH Council notes that a workshop on economic replicability test practices in the context of Article 61(3) of the EECC is too important but wonders whether this topic would not benefit from a more fulsome treatment, including a Report and public consultation. While there is a trade off between the number of topics covered in this way against resources that can be deployed this is a topic that many Members and other stakeholders would like to comment on. At a minimum, BEREC could consider making the workshop available to the public.

Ecta is not convinced that there is much value in pursuing this workstream, given that Article 61(3) has not been applied by NRAs. The case in The Netherlands resulted in the NRA not pursuing a symmetric access obligation.

BEREC thanks stakeholders for their support for this topic. BEREC starts looking into the topic with an internal workshop but not excluding an exchange with stakeholders in the future once more experiences have been gathered..

1.5. Managing copper network switch-off

Open Fiber welcomes the revamped attention of the BEREC on the issue of copper switch-off and it believes that it should be one of the main priorities for the 2024 because is a key element to accelerate the achievement of the Digital Decade targets as well as to ensure the necessary long-term visibility for investors. In particular, it would be essential to understand the different approaches and progresses in the various Member States and identify the best policy which may facilitate the switch off. Open Fiber regrets that for such an important item it is not foreseen an open public consultation and Open Fiber recommends reconsidering such choice, allowing an extensive and thorough participation of all the relevant stakeholders, especially in light of the dramatic take-up rate in several Member States.

BEUC welcomes the planned progress report on managing copper network switch-off. BEUC calls on BEREC to engage with all relevant stakeholders, including consumer organisations, to determine and anticipate the impacts of this technological shift on consumers, particularly those most vulnerable (for example, those living in more remote areas).

FTTH Council appreciates the work that has already been done by BEREC on the issue of copper switch off but notes that it is an evolving areas where concerns arise. This is particularly the case where entrant operators have deployed fibre networks but the incumbent operator continues to operate its copper network in parallel. The fact that the majority of VHCN networks built over the last 20 years have been built by the entrant community is important and the fact that many of these adopt a wholesale-only model is also very important. While this trend will continue, especially with the current entry of long-term investors from pension funds and other investment vehicles, it creates an important consideration for copper switch-off.

In the presence of a wholesale-only operator, the SMP operator does not need to delay its copper switch off while it builds out its own network. This dynamic, and in particular, potential strategic behaviours by SMPs in the face of competitive fibre network deployments is largely unaddressed to date and warrants urgent attention. The proposed work by BEREC could point to strategies NRAs could deploy to accelerate copper switch off and the measures NRAs can take to ensure a level competitive pitch.

FTTH Council is disappointed that there is no public consultation associated with this work and calls on BEREC to reconsider this approach. FTTH Council believes that the report proposed could go further and could benefit enormously from public input.

Ecta strongly welcomes further BEREC work on network copper switch-off, and indeed requested it in its response to the Call for Input. However, ecta considers that a 'Progress Report' to be adopted at Plenary 4, 2024, without prior public consultation, is not sufficient. BEREC should instead issue a best practices document on the modalities associated with the shut-down of copper networks and the related transition to VHCN. In addition, ecta considers it absolutely essential that all types of users, including business users' interests are assessed, and that the role of alternative operators providing B2C and B2B services is fully considered.



BEREC thanks stakeholders for their support in this matter.

The BEREC Progress report on managing copper network switch-off will describe and analyse the developments since the 2022 BEREC report on a consistent approach to migration and copper switch-off (BoR (22) 69).

BEREC publicly consulted the draft of this 2022 BEREC Report and, therefore, the stakeholders had already the opportunity to inform BEREC about their view on the topic migration and copper witch-off. For this reason, BEREC did not foresee a public consultation on the draft BEREC Progress report on managing the copper network switch-off in the 2024 draft BEREC work program. However, given that the report will i.a. seek to provide information on the current status and future plans of the SMPOs' copper switch off and the SMPOs' framework for migration an copper switch off and multiple respondents (ecta, ETNO, FTTH Council Europe and Open Fiber) raised the need to have a public consultation of this draft report, BEREC will amend the work program accordingly and foresee such a public consultation.

Regarding ecta's proposal to issue a best practices document instead of the progress report, BEREC would like to point out the following. The BEREC Report on a consistent approach to migration and copper switch-off (BoR (22) 69) published in June 2022 showed, on the one hand, that in 17 European countries the NRA already set rules for the migration process and copper switch-off and, on the other hand, the copper switch-off process is nearly in all countries still at an early stage (less than 10% of main distribution frames closed). Therefore, BEREC considers it most appropriate to focus on the progress made since the publication of this BEREC Report and to examine the experiences gained by the NRAs with the rules already set. This enables NRAs to learn from successful experiences and good examples in other countries. However, a successful example in one country may not necessarily be applicable or most appropriate in all other countries. Therefore, BEREC does not consider it appropriate, at least at this stage, to define best practices as, according to the BEREC Regulation (Art. 4(4)), all NRAs would have to take them into utmost account. Furthermore, the European Commission will publish soon its Gigabit Connectivity Recommendation which already provides further detailed guidance for NRAs.

1.6. Report on cloud services and edge computing

Ecta has actively contributed to BEREC's work in this area, including a meeting with the BEREC working group. ecta considers that cloud and particularly edge computing is closely related to electronic communications networks and services, and thus is a relevant topic for BEREC to look into. BEREC should firmly focus on B2B services closely related to electronic communications.

BEREC thanks ecta for supporting BEREC work in this matter.



1.7. BEREC Report on the authorisation and related framework for international connectivity infrastructures

Ecta has followed the BEREC workshop on international submarine connectivity in the EU and is aware that the European Commission intends to issue a Recommendation to EU Member States on secure submarine infrastructures for Europe, and instruments to facilitate financing. A question remains whether there are truly regulatory problems in need of solving in this area, and in particular whether licensing/authorisation/registration constitutes a substantial cost factor when taking the total cost of an undersea cable system into consideration. Ecta notes that the sharing and colocation issues at or near submarine cable landing stations seem more relevant, because these are known to have caused problems in the past. Security and resilience issues are clearly gaining in importance, although it is not readily evident whether there are meaningful solutions to these, other than diversifying supply on routes where supply is limited. A public consultation is therefore of interest, and ecta intends to participate.

BEREC takes note of the comments and welcomes ecta's intention to participate in public consultation.

1.8. Report on Connectivity Indicators for the Digital Decade Policy Programme

Amazon sees Project Kuiper as part and parcel of the EU's Digital Decade Policy Programme (DDPP) connectivity ambitions and shares the European Commission's (EC) concern that many countries in the EU are lagging on their path towards the 2030 targets. It is increasingly clear that we are at a crossroads and that a successful outcome will require employing all broadband technologies available. Amongst these, the EC has recognized the ability of Low Earth Orbit (LEO) satellite communications to provide high speed Internet in areas where networks are still unsuitable or unavailable.

Amazon welcomes BEREC's work on the Connectivity Indicators for the DDPP and its update of criterion 3 of the BEREC Guidelines on Very High Capacity Networks (VHCN). Amazon Project Kuiper believes that LEO satellite communications should be part of the DDPP's fixed broadband connectivity technologies. Furthermore, Amazon support BEREC's view that there should be consistency between BEREC's VHCN Guidelines and the EC's DDPP connectivity KPIs for fixed and mobile technologies, and that both should ensure technology neutrality.

Vantage Towers notes that that DDPP remains a very relevant tool to measure the progress achieved towards Europe's digital transformation and framing the right KPIs is therefore crucial for this exercise. In Vantage Tower's view the definition chosen by the EC would need to be amended as Vantage Towers share BEREC's concerns that the restriction to specific spectrum bands is not future proof. Moreover, the geographical scope of populated areas would need to be aligned with existing reporting procedures.

Vantage Towers notes that all citizens should be able to access the benefits brought by 5G. By sharing infrastructure cost can be reduced facilitating 5G deployment in all populated areas, not only for one network. EMF exhaustion issue has to be taken in to account in the

context of the KPIs for the DDPP with a view to harmonize national permit and measurement procedure in the EU. Vantage Tower strongly encourages BEREC to consider a KPI related to handover connectivity at border crossings of main traffic routes.

Open Fiber welcomes the close monitoring of the BEREC of the Digital Decade Programme and, above all, a clear technical assessment of the criteria and methodology to measure the connectivity KPIs. Open Fiber also invites BEREC to call the EC to be more transparent in sharing the relevant dataset, especially regarding the FTTP take-up.

ETNO notes that with regards to the Digital Decade Policy Programme (DDPP) and the proposed connectivity KPIs, ETNO agrees with BEREC on a technologically neutral approach. However, instead of simply monitoring data on investments in networks, in our view, it would be also important to monitor the policy measures to promote investments. For instance, the approach towards geographical segmentation of markets and/or remedies should lead towards consideration of impact on investment of using segmentation to relieve regulatory obligations instead of focusing on how to transpose the SMP regime at subnational market level. ETNO urges BEREC to take a more forward looking approach and consider adjusting relevant work items to truly promote connectivity and fibre roll-out in line with BEREC's strategic objectives and with the general policy and regulatory goals as stipulated in the DDPP and the EECC.

Liberty Global agrees with BEREC's assessment that the Key Performance Indicators (KPIs), intended to measure progress towards the achievement of the Digital Decade targets, are not consistent with the Code and the principle of technology neutrality. In the KPI for fixed networks, we see an unjustified focus on FTTP only. The Commission intends to monitor the evolution of the FTTP coverage separately when interpreting VHCN coverage data, leaving

behind other technologies such as DOCSIS, which is also considered a VHCN and relevant, widely used technology. Regulatory initiatives should not favour any specific technology, but should abide by the principles of appropriateness, proportionality, and technology neutrality. Liberty Global supports BEREC's monitoring activities in this regard and urges BEREC to involve stakeholders.

GSMA understands that BEREC will also discuss data related to investments in networks and to get the full picture we deem it essential that data is also collected from the wider ecosystem and not only telecommunications providers thus a wider approach to involving stakeholders is necessary. Under article. 20, p. 1 sub-para. 2 of the EECC, NRAs are entitled to ask for data from undertakings active in closely related sectors. GSMA suggests NRAs and BEREC start using this new regulatory tool under the EECC to ensure that the investments by different operations in the value chain is properly captured.

Ecta has, in recent weeks, been surprised to see several European Commission officials challenging the connectivity KPIs the Commission itself adopted as recently as 30 June 2023. Some operators are concerned that the Commission seems to be intent on developing KPIs that enable it to justify dismantling or altering the existing regulatory paradigm in the electronic communications sector or to artificially disrupt it. Therefore, ecta urges BEREC to focus on monitoring KPIs (as is understood to be the proposal) and not to accidentally feed a narrative of failure of EU policy in electronic communications, including as it concerns data on investments in networks. To such purpose, ecta respectfully asks that in case BEREC

prepares and issues a report on the investment figures of the sector, the investments between 2000 and 2023 are provided separately for: (i) fixed network deployment and upgrade, (ii) mobile network deployment and upgrade, with investment for spectrum identified separately.

Morover ecta respectfully requests that if BEREC works on investment figures, it prepares and issues a report on the sector's returns on equity, the share price evolution and the evidence on the dividends paid by the stock market quoted companies. Those two reports would be crucial in order to shed light on the current discussions regarding the changes advocated for the current regulatory framework.

BEREC appreciates and thanks the stakeholders for the support of its work on this aspect and understands the issues raised here as important to consider during the execution of this work item.

1.9. Implementation report on BEREC Guidelines on Geographical surveys of network deployments

FTTH Council notes that the implementation report on the BEREC Guidelines on Geographical surveys of network deployments is important to them. From the FTTH Council's perspective there are three main uses of geographic segmentation which can be classified as (a) the current Article 22 calculation with the attendant implications in the Code (b) determining geographic markets for the application of SMP analysis and remedies and (c) the application of State Aid rules. FTTH Council believes that there should be a consistent methodology used and applied for all three contexts and believes the draft guidelines push strongly in this direction. This is entirely appropriate and in line with the theme of the code and good regulatory practice generally. Article 22 of the code explicitly sees the geographic delineation of markets as being used to designate areas where VHCN will not become available in the foreseeable future.

FTTH Council is disappointed that there is no public consultation associated with this work and calls on BEREC to reconsider this approach. FTTH Council believes that the report proposed could go further and could benefit enormously from public input.

Ecta agrees that it is a good idea for BEREC to take stock of national experiences with geographical surveys. It seems likely that important differences exist between Member States, and that while the trajectories are national, there may be opportunities for learning and adjustment to ensure that the burdens on operators are kept to a reasonable level, and that the output is genuinely useful and leads to substantive improvements in light of the objectives pursued.

BEREC welcomes stakeholders support for this work item and the recognized value of having an exercise examining how different Member states have transposed and enabled the Article

22 EECC provisions and also BEREC Guidelines on Geographical surveys of network deployments.

Regarding FTTH Council proposal for organizing a public consultation on the implementation report, BEREC would like to point out that given the nature of the report (national experience in implementation of BEREC Guidelines) there is limited use of the public consultation, therefore it is not envisaged.

1.10. Safety and security opportunities and challenges for network resilience

Liberty Global supports BEREC's ongoing work in the context of coordinating and facilitating a common European approach towards tackling the challenges and opportunities as regards the security and resilience of Europe's communications networks and services. BEREC and national regulators are well positioned to ensure that the NIS Cooperation Group and other policymakers take informed decisions on matters affecting our sector. At the same time, however, Liberty Global notes that the level of engagement sought by national regulators, to further BEREC's work in this regard, can differ from country to country. The centralisation of consultations and stakeholders at the European level, i.e. through BEREC instead of indirectly via national regulators, can ensure a more consistent level of stakeholder engagement. Liberty global urges BEREC to hold a public consultation of the workshop summary report, to ensure full transparency and to enable those stakeholders unable to attend or to participate in the workshop to contribute as well.

GSOA notes that satellites will establish resilient 5G and 6G networks that protect connectivity requirements when TNs succumb to disasters. For example, climate change continues to showcase the failure of TNs when natural disasters occur. Additionally, anthropogenic disasters particularly warfare illustrate how TNs can rapidly devolve into military targets for cyber-attacks. Under traditional structures that treat NTN as supplemental, continuous 6G service cannot be reinstated, especially since 6G places greater demands on networks. In contrast, three-dimensional network architectures accomplished by fully integrating NTN and TNs can ensure service is agile to respond to these unexpected events and connectivity remains seamless for users. Space and satellite actors are already active in advancing cloud and software control and management of networks, as well as on quantum computing solutions in Europe and elsewhere. The role of satellite in the resilience of future communications networks cannot be underestimated. GSOA is therefore asking BEREC to be fully associated to the preparation of the external workshop to be held in Q4 2024.

Ecta agrees that it is relevant for BEREC to organise external workshop in Q4 2024 to discuss security challenges related to technological developments (cloudification/softwarisation, 6G, quantum computing, OpenRAN and use of AI-based tools) and changing climate conditions.

BEREC appreciates the support for this work item

As regards the proposal to open a public consultation, in addition to external workshop, BEREC would like to note that results of the workshop (summary report notably) are not, due to their nature, subject to public consultation. However, BEREC would like to encourage

stakeholders to actively engage in a planned workshop so as to collect relevant feedback that could be helpful for BEREC's possible future work on this topic.

1.11. BEREC Report on the evolution of private and public 5G networks in the Europe

ETNO notes that a factual overview on the extent of the use of private and public 5G networks in Europe would be helpful for the discussion on the spectrum decisions related to local networks. So far, ETNO has not seen analysis e.g. on demands or cost-benefits to justify plans to harmonize 400 MHz in 3.8-4.2 GHz band for local networks in EU. Also, national decision to reserve mobile spectrum for local/private networks have not been backed by such analysis. In countries which have reserved spectrum for local/private networks ETNO has not yet seen very high demand for local licenses. Spectrum is a valuable resource, and ETNO supports factual analysis on demands and socio-economic benefits to ensure its efficient use. This work should recognize that private solutions are to be provided also within public networks and in spectrum awarded for MNOs. ETNO believes that when 5G stand-alone networks expand, network slicing solutions becomes a popular and efficient method to serve private network demands.

BEUC welcomes the planned report on the evolution of private and public 5G networks in Europe, and recommends that BEREC continues monitoring developments, addresses misleading practices and ensures the proper development of 5G for all consumers. BEUC would like to recall its previous suggestion for a workshop on 5G for consumers. This workshop would be an opportunity to bring together regulatory bodies and civil society organisations, including consumer organisations, to discuss all aspects that can potentially impact European consumers.

Liberty Global commends BEREC for investigating this and associated trends, such as satellite communication, small cells, infrastructure, and spectrum sharing and neutral hosting. Liberty Global is of the opinion that BEREC's report has the potential to contribute to a principled and technology neutral application of current and nascent regulatory frameworks.

Liberty Global emphasizes that the providers of both public and private networks can provide the same set of services to e.g., verticals. This concerns inter alia bespoke connectivity services, commonly known as Networks-as-a-Service (NaaS). Spectrum license conditions but also regulatory requirements should not favour one form of delivery of such services over another, in order to avoid distortions of competition. Therefore, careful analysis is required in the setting of such conditions and requirements, to ensure spectrum an inherently scarce resource is allocated in accordance with maximum efficient use and broad coverage, and to ensure that regulatory frameworks are applied in accordance with the principle of technology and service neutrality.

GSMA notes that a factual overview on the extent of the use of private and public 5G networks in Europe to serve business users, as foreseen in the draft programme, is in GSMA's view a valuable exercise that we support. Those factual data should be the basis for a broader welfare analysis on the benefits and costs of reserving large amount of valuable spectrum frequencies for local networks. In preparing such a report, BEREC should ensure that operators of public

networks are appropriately involved, including the possibility to participate in discussions with claimants from the private network community.

MVNO Europe has a strong interest in the forthcoming BEREC Report on the evolution of private and public 5G networks in Europe. MVNO Europe looks forward to the public consultation on the draft Report. MVNO Europe may well have substantive elements to contribute, relating both to public 5G networks (in terms of wholesale access requirements), and private 5G networks as well given that some of our members are directly active in this space, and these and other members are also interested in enabling users/operators of private 5G networks to roam outside the limited footprint of private 5G networks.

FTTH Council notes that there are a number of trends happening in the communications space and while consumer trends are apparent and the driver of the market changes, there are a series of important network evolutions and changes underlying these market changes. In practice, telecom operators across Europe are putting networks in place to deliver this ubiquitous connectivity albeit at very different speeds. One of the features of these new networks is their ability to offer differentiated forms of access depending on the service requirements. Other technologies are also emerging in networks which portend big changes in the future. For instance Software Defined Networks (SDN) and Network Function Virtualisation (NFV) may change the very way we understand networks and undermine basic concepts such as interconnection and network ownership.

FTTH Council believes it is important to know whether there are sufficient enablers of these network developments in place. For instance, while integrated operators will be able to coordinate FTTH network and Mobile network investments (mobile being dependent on fibre backhaul), whether network investments by non-integrated operators can be co-ordinated may need an external intervention. Whether there is sufficient over-provisioning of fibre networks to support the growth of private networks is not obvious. There may also be implications for 5G SA coming from the growth in private networks and this may need to be addressed or at least monitored. The FTTH Council welcomes the proposed work report and looks forward to participating fully in the public consultation.

Ecta agrees that private 5G networks, and the question of their different or overlapping use cases with public 5G networks, is a relevant topic for discussion. In its response to a RSPG consultation on Draft Opinion RSPG23-026 FINAL, filed on 1 August 2023, ecta has challenged the notion, prevalent throughout the RSPG's Draft Opinion, that additional EU harmonized and locally licenced spectrum for local/vertical use cases would be needed, for 6G, or even before 6G is deployed. It is preferable to take stock of the situation, given that many Member States have reserved spectrum for local or vertical use, and that usage is modest at best, and certainly is limited to specific small geographic areas. Certainly, reserving >100 MHz for local/vertical use cases across the EU is unnecessary and is unduly wasteful of mid-band spectrum. Similarly, the argument for reserving large quantities of 26 GHz or higher spectrum for local/vertical use cases needs to be tested against objective reality.

BEREC welcomes the support for this work item and provided feedback. All stakeholders are encouraged to provide their input in the public consultation on the report.

1.12. BEREC external workshop about the usage of satellite technologies in mobile communications

BEUC welcomes BEREC's intention to continue its work on the role of satellite technologies in mobile communications. Holding another external workshop would allow a continuation of the discussion to determine how this new technology can become an integral part of European connectivity and provide affordable, high-quality connections to consumers in remote locations where terrestrial networks are unable to reach.

MVNO Europe will take an active interest in the External workshop about the usage of satellite technologies in mobile communications. As indicated during the BEREC workshop of 26 October 2023 entitled "Internet of Things, perspectives and competition", some of MVNO Europe members are concerned that satellite operators are entering into exclusive deals with MNOs, notably because some satellite system need permission to use the relevant MNOs' terrestrial radio spectrum for direct satellite to handset communications. There is growing concern that MVNOs could be sidelined from adding a satellite component to their services, since, contrary to MNOs, they have no radio spectrum to bring to the table. Wholesale access obligations may need to be given consideration.

GSOA fully appreciates that mobility services, that are increasingly dependent on satellite technologies, is a focus of BEREC. There is no single technology that alone can meet the evolving connectivity needs of European citizens. Only by relying on a variety of technologies can Europe really strive towards a network of networks that truly benefits citizens in all Member States for 5G and 6G. Satellite systems are part of NTN: 3GPP Release 17 and the future Release 18 will both be key to pave the way to further integrate satellite communications into the 5G/6G ecosystem. Innovation in the satellite industry ensures that both GSO networks and non-GSO systems to contribute to 6G networks in providing coverage, resilience, security and energy-efficiency/sustainability. BEREC should understand that satellite communications are a key element of connectivity not only for mobile communications, but also for fixed communications including broadband services.

Concerning 6G, satellites will be part of the solution to provide immersive communications that satisfy European efforts to tackle digital inequity and achieve sustainable growth. GSOA would therefore welcome that, in the Proposed BEREC satellite workshop to be held at Q2 2024, BEREC encompasses the role of satellite in fixed and mobile services, and in resilient communication systems; plus the future role of satellite in 6G.

Ecta agrees with BEREC that, following the workshop on 13 April 2023, it is relevant for stakeholder engagement to continue, not only as regards broadband connectivity, but also in the light of increasing development of direct satellite to handset communications, satellite-based Internet of Things developments.

BEREC thanks the stakeholders for their interest in the satellite workshop.

As regards MVNOs concern, BEREC notes that the relation between satellite operators, MNOs and MVNOs is still developing, hence the need to explore and understand different

value chains, also during the workshop. We understand the concerns made but BEREC is at this stage limited in the attention we can give to this subject at the workshop.

Regarding GSOA comments, BEREC emphasizes that the workshop will be primarily aimed at the evolving role of satellite networks towards mobile services, but there may also be attention on other aspects; resilient communications, backhaul, IoT and future trends.

1.13. Update of criterion 3 of the BEREC Guidelines on very high capacity networks

Amazon welcomes BEREC's work on the Connectivity Indicators for the DDPP and its update of criterion 3 of the BEREC Guidelines on Very High Capacity Networks (VHCN). Amazon Project Kuiper believes that LEO satellite communications should be part of the DDPP's fixed broadband connectivity technologies. Furthermore, Amazon supports BEREC's view that there should be consistency between BEREC's VHCN Guidelines and the EC's DDPP connectivity KPIs for fixed and mobile technologies, and that both should ensure technology neutrality.

Amazon notes that the tests currently used to define VHCNs do not account for the actual speeds that are experienced by customers. As new technologies with a different topology than that of the traditional fixed and mobile networks become available to customers, Amazon encourages BEREC to explore whether the current design of the network performance tests is appropriate and comparable across different technologies. As a business that has customer obsession as one of its tenets, Amazon thinks it is worth exploring whether the focus of the performance tests should be on the actual quality of service experienced by end users, which is what ultimately matters most for citizens and regulators. On this, publicly available information from websites such as www.speedtest.net show that median speeds experienced by customers using fibre-to-the-home (FTTH) or DOCSIS 3.1 are not significantly higher than those experienced by customers of LEO constellations.

Open Fiber welcomes the initiative to revise the BEREC Guidelines on very high-capacity networks and, especially, criterion 3 for fixed networks through an open process involving stakeholders and gathering the relevant data from operators.

ETNO notes that significant resources are allocated to reporting on Physical Infrastructure Access (PIA) in contrast to the limited attention given to promoting investments in very high capacity networks (VHCN). VHCN is often referenced in context rather than as a standalone policy item. There is a lack of focus on investment in VHCN networks.

Liberty Global welcomes the revision of criterion 3 of the BEREC Guidelines on VHCN. Liberty Global expressed significant concerns in the past regarding BEREC's approach to setting the performance thresholds in criterion 3. In the Guidelines BEREC defined the performance of a "gold standard" FTTB network as the VHCN benchmark network based on a "best technology" approach. By doing so, BEREC discriminated against non-FTTB operators, which would need to invest in their networks further to be able to meet this gold standard. The performance thresholds are not appropriate nor proportionate, go beyond the wording and spirit of the Code and are inconsistent with Code's key principle of technological neutrality.

According to Liberty Global BEREC should not set a gold standard VHCN with future network performance in mind, but rather define a VHCN that reflects the current market realities (including the current network technologies and performance). In its workstream, Liberty Global urges BEREC to consult fixed network operators and involve them in every step of the data gathering process.

GSOA fully understands the importance of deploying Very High-Capacity Networks (VHCN) in Europe that will contribute to Europe's competitiveness and international leadership. The EU decision-makers should ensure that fostering new technologies will not be done by neglecting the digital divide. As a reminder, many rural and remote areas of Europe still do not benefit from a high-quality, always-on 4G level of connectivity. While at the same time there has been significant recent technological evolution in GSO and NGSO satellite technologies, which offer broadband capacity across the globe, bringing reliable connectivity to the hardest-to-reach across Europe.

GSOA therefore urges BEREC to consider all technologies to achieve the goal towards closing the digital divide as part of its discussions and areas of expertise, including both GSO and NGSO satellite solutions, no matter whether they (yet) meet the stringent requirements of VHCN in terms of symmetric bitrates and super-low latency.

Ecta recalls that, in the 2020 Guidelines, criterion 3 was defined for copper networks (G.fast 212 MHz) on the basis of information provided by equipment vendors, which was deemed by some operators as not reflecting real-world conditions, and that there were high variations in the data collected for other fixed network types. Ecta invites BEREC to initiate not only data collection through a questionnaire NRAs send to selected operators, but to ensure that all interested operators are given an opportunity to contribute, in terms of discussing the methodology to be applied, and in terms of providing data.

BEREC thanks stakeholders for the feedback provided.

BEREC would like to clarify that the update of criterion 3 of the BEREC Guidelines needs to be based on the provisions of the European Electronic Communications Code (EECC Art. 2(2), Art. 82, Rec. (13)) from which follow, that criterion 3 needs to be based on the network performance which is achievable by a network providing a fixed-line connection with fibre roll-out up to the multi-dwelling building (see BEREC Guidelines on VHCNs, BoR (23) 164, paragraphs 14c, 16a). For this reason, criterion 3 needs to be based on the most advanced access technology used in the multi-dwelling building and not, as proposed by Amazon and Liberty Global, on actual speeds that are experienced by customers and current market realities, which are not limited to the most advanced access technologies and include also less advanced access technologies.

Furthermore, there is no need and possibility to change the methodology for the determination of criterion 3, as considered by Ecta, because the provisions of the EECC have not changed since the publication of the BEREC Guidelines on VHCNs in 2020 (BoR (20) 165) and 2023 (BoR (23) 164).

BEREC would also like to clarify that the BEREC Guidelines on VHCNs define the threshold values of criterion 3, which networks have to meet in order to qualify as a VHCN according

to criterion 3, however, they do not define network performance tests, as assumed by Amazon.

Finally, BEREC would like to point out that the draft BEREC WP 2024 (section 1.13, p. 19) explicitly states that the update of criterion 3 will be based on data from fixed network operators. Therefore, the fixed network operators will be involved in the data gathering process, as proposed by Liberty Global, and all interested operators will have the opportunity to contribute to the determination of criterion 3, as proposed by ecta and BEREC kindly encourages them to do so.

Strategic priority 2: Thriving sustainable and open digital markets

2.1. Implementation of the Open Internet Regulation and the BEREC Open Internet Guidelines

BEUC strongly welcomes the work of BEREC on net neutrality and supports its efforts to ensure an open and non-discriminatory internet for all consumers. However, BEUC regrets that a clear stance from previous work programmes, mentioning that the open internet is an important building block in the current EU telecom rules, has been left out of the current draft.

BEUC welcomes BEREC's commitment to the implementation of the Open Internet Regulation and the BEREC Open Internet Guidelines and its emphasis on supporting the NRAs' obligation to closely monitor and ensure compliance with the Regulation, including on cases related to zero-rating. BEUC welcomes the intention to hold a discussion forum and the possibility for continued activities such as workshops, surveys, and questionnaires, including the planned internal workshop on the use of DNS-blocking.

Liberty Global broadly supports BEREC's continued efforts to monitor the implementation and application of the Open Internet Regulation and the associated Guidelines. Liberty Global notes that the national reports upon which BEREC's report is based are frequently also adopted and published without prior public consultation. Given the importance of these national reports, as well as BEREC's pan-European report, in the furthering of a harmonized application of the Regulation, Liberty Global, at a minimum, urges BEREC to hold a public consultation prior to the adoption of the pan-European report.

GSMA notes that BEREC plan to further analyse DNS blocking in the context of the Open Internet Regulation. DNS blocking has been identified by the industry as one of the areas where there is lack of a consistent approach to OIR implementation. The GSMA would therefore encourage BEREC to involve stakeholders in this work stream in addition to the yearly OIR report to ensure that all nuances are captured in the report.



GSMA finds it particularly relevant that the forum BEREC intends to hold to exchange national experiences seek input from the industry to seize new emerging trends. This is more important as new products and new business cases enabled by 5G networks emerge.

BEREC thanks the stakeholders for their support in this matter.

Regarding BEUC's comment, indeed, BEREC considers open internet an important building block in the current EU telecom rules, so BEREC highlighted this in the Work Programme document.

As regards Liberty Global's suggestion to hold a public consultation on this report, BEREC considers that given the nature of the report (i.e. summary of NRAs' inputs) there is little value in having a public consultation as stakeholders will have addressed any matters with NRAs directly.

BEREC welcomes GSMA's support for DNS blocking analysis and would like to note that it plans to first take stock of NRAs' views and experiences on this matter and to identify if there is a need for any further actions in this regard.

2.2. Collaboration on net neutrality measurement tools

2.3. BEREC workshop on the perspectives and regulatory/competition challenges of Internet of Things

MVNO Europe expects BEREC's working groups on International Roaming and on Planning and Future Trends to provide deliverables, during 2024, which support European MVNOs' ambitions to provide domestic and EU Single Market services, and indeed global solutions, to enterprise customers. Enterprise IoT customers must be able to select MNOs or MVNOs as their service provider of choice. This requires assurance that MVNOs are not structurally disadvantaged by MNOs' practices on wholesale markets (domestic MVNO access markets and wholesale roaming/roaming resale markets).

Determined BEREC positions are therefore requested by MVNO Europe on ensuring that any wholesale data roaming, roaming resale charges to be paid to visited MNO networks cannot, in globo, exceed the wholesale roaming caps for data set by the Roaming Regulation.

MVNO Europe suggests resisting MNOs' calls to introduce new wholesale charges for signalling and or monthly per-SIM fees, the only effect of which will be to damage competitors. MVNO Europe asks to remove limitations resulting from the definition of M2M, which continue to enable restrictive commercial practices by MNOs in their wholesale (domestic and roaming) contracts with MVNO to the detriment of competition. Furthermore MVNO Europe suggests pursuing full harmonization of the NRAs' set of regulatory obligations applied to M2M/IoT, i.e. the notification requirements, statistical reporting requirements, numbering and applicable fees.

Ecta thanks BEREC for inviting our member Transatel's CEO as a panellist. The discussions were dynamic and relevant, with direct debate allowing for contradictory positions to be expressed and for rebuttals where panellists disagreed, which is most welcome. Also, the discussion's focus was on B2B IoT (in its response to the 2023 BEREC WP consultation, ecta explicitly requested for this workshop to not only address B2C issues but also to have a B2B focus, which is indeed what occurred). Ecta looks forward to the workshop summary report as well as to the forthcoming BEREC call for input on M2M/IoT in the context of the Review of the Roaming Regulation.

BEREC welcomes the support of stakeholders for this work item. As regards MVNO Europe comments, BEREC will take this into consideration when working on the M2M and permanent roaming report. In any case, we appreciate your inputs also during our call for input that will be launched end of November.

As regards GSOA's comment, BEREC welcomes the call for full attention for the role of satellite in the analysis of the perspectives and challenges for the deployment of IoT. The role of satellite was discussed at the IoT workshop that BEREC organized and therefor will be included in the workshop report (workstream 2.3). IoT will also be a topic in the planned workshop that is specifically dedicated to the usage of satellite technologies (workstream 1.12).

2.4. BEREC Report on the IP interconnection ecosystem

BEUC highlights the importance of BEREC's assessment work of the IP interconnection ecosystem and its translation into an upcoming report. BEUC very much appreciates BEREC's invitation to contribute to the dedicated workshop on this issue in September 2023, and welcomes BEREC's openness to hold further surveys or workshops.

BEUC strongly welcomes BEREC's active contribution to the discussion on the impact of potential network fees measures on the Internet ecosystem and on end-users. We encourage BEREC to continue this valuable engagement given the growing possibility of an upcoming regulatory intervention on the telecoms market, coinciding with calls from operators to deregulate and concentrate the market. It is fundamental that BEREC provides a clear and independent analysis on the potential impacts of such a regulatory intervention, with a special focus on end-users/consumers.

GSMA considers it essential that BEREC broadens the scope of enquiry and develops a forward-looking assessment of the present IP Interconnection ecosystem, instead of focusing exclusively on IP interconnection, which manifestly does not capture all the complexities of the internet ecosystem. Also, BEREC needs to address the significantly unbalanced bargaining power between providers of Internet Access Services and large content providers, clearly and urgently.

GSMA points out that the term sending party pays principle, as used in previous editions, is not appropriate as this principle has traditionally been associated with the voice market and

the existence of individual monopolies in terminating networks. Digital connectivity networks are not monopolies. It would therefore be appropriate not to prejudge the outcome of the report and apply a more neutral approach to the analysis of the Internet ecosystem.

GSMA considers this revised timeline positive as no legislative initiatives in this area are expected in 2023/2024. It will also allow BEREC to align work in the IP-IC stream with the outcome of the work stream dealing with entry of large CAPs into the electronic communication sector in order to fully capture all the relevant evidence coming from the two reports. Unfortunately, despite the revised timeline, BEREC remained very strict with the timelines for data collection by network operators.

MVNO Europe confirms its strong interest in the forthcoming BEREC Report on the IP interconnection ecosystem. Indeed, MVNO Europe has taken a clear position, kindly reflected in footnote 21 of BEREC's 2022 preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs. MVNO Europe understands that workshops have been held with stakeholders on the topic in the Autumn of 2023, and regrets that MVNO Europe was not invited to participate.

Ecta notes that this Report is eagerly anticipated. A set of BEREC workshops has been held, including one in which ecta's chairman and members participated, on 23 October 2023. Ecta thanks BEREC for the invitation and its good offices, but regrets that the workshop was limited to a limited set of stakeholders, not permitting debate with the entire set of stakeholders interested in the topic. Opportunities for substantive stakeholder debate need to be actively created by BEREC, however complicated and controversial the subject matter is.

BEREC thanks the stakeholder for their interest and feedback on this topic.

As regards GSMA comments, BEREC notes that the work of this report is on-going (as part of the WP 2023) and thus the scope of the report has already been defined. For the preparation of this report, BEREC also intends to apply a forward-looking approach to the extent objective data is available.

2.5. BEREC Report on the entry of large content and application providers into the markets for electronic communications networks and services

BEUC notes that the new report on the entry of large content and application providers into the markets for electronic communications networks and services will be a useful addition. BEUC remains at BEREC's disposal to engage in a constructive dialogue on this important issue for consumers.

Ecta wholeheartedly welcomed the addition of this workstream to the draft WP2023, and asked for its acceleration. Ecta eagerly anticipates the public consultation on the draft Report. Plenary 2, 2024 for consultation and Plenary 4, 2024 for adoption is very late. Given ongoing policy discussions, it still appears imperative for BEREC to accelerate this work and to deliver at least a draft Report within Q1 2024.

BEREC thanks stakeholders for their feedback provided.

In line with what is referred by ETNO, the report will provide a more in-depth analysis of three areas, in particular CDNs, “Enhanced” VPN-like services provided by Big Tech companies/large CAPs (e.g. iCloud Private Relay by Apple), and Big Tech companies’ strategies the field of submarine cables (e.g. investments, submarine cable sharing with competitors and/or partners or for exclusive usage, etc.).

Regarding ecta’s proposal to accelerate work on this item and to deliver at least a draft Report within Q1 2024, BEREC would like to note that, given the ongoing work on this report, the anticipated plan is to have the report prepared for Plenary 1 for public consultation, with the view to have it ready for adoption for Plenary 3, therefore slightly accelerating work on this item.

2.6. BEREC Report on Infrastructure sharing as a lever for ECN/ECS environmental sustainability

EWIA shares the view that efficient infrastructure sharing is a powerful lever for sustainability gains. EWIA have gathered evidence that the independent towerco business model is an enabler to that end, fostering sizable economic and environmental gains simultaneously, without compromising on regulatory objectives regarding competition. EWIA has been in fruitful contacts in 2022 and 2023 with the BEREC sustainability working group regarding those matters and is looking forward to the announced report and associated public consultation.

Liberty Global notes that environmental sustainability is a pressing policy objective and Liberty Global supports the increased emphasis on sustainability in the ECN/ECS sector. Infrastructure sharing could be a key tool to increase the sustainability of the sector under the right circumstances. Greater clarity on how the potential environmental benefits should be weighed against other regulatory considerations would be useful for operators. It is important that discussions surrounding this issue remain transparent and open for discussion, and Liberty Global urges BEREC to ensure that dialogues with stakeholders continue.

FTTH Council believes that infrastructure sharing can be an important component in lowering the cost of network deployment and also the environmental cost of deployment. However, in certain circumstances, network sharing can actually increase the environmental costs, this is particularly the case where there is appropriate access to virtual access products. Access-seeking operators generally prefer to take virtual access products when they are provisioned correctly and priced appropriately this is particularly true when an area is less densely populated and the economics are more challenging.

A second reason for encouraging virtual access products is environmental, reopening and deploying new network is unnecessary where appropriate virtual wholesale access products are available. Some wholesale only providers have based their business case around

providing virtual access products. For these providers an obligation to provide dark fibre or fibre unbundling would have a negative impact on their incentives to invest. Incumbent operators can use this provision to crowd out competitors in markets that they wish to dominate. FTTH Council welcomes the proposed work report and looks forward to participating fully in the public consultation.

Ecta, whilst confirming many of its members' industry leading environmental performance, detailed in responses to previous BEREC consultations, expresses that extreme caution is needed with regard to the policies and regulatory decisions governing network sharing, including on environmental grounds. Ecta submits that network sharing, for instance between the two leading MNOs, to the exclusion (rather than inclusion) of third, fourth or subsequent MNOs and/or fixed-wireless access operators in the same (environmentally motivated) sharing/pooling agreement, could have a destructive effect on competition, and concomitantly on end-user interests. Any proposed agreements (relating to mobile networks, fixed-wireless access networks, and for fixed networks) which are based on, or which include, environmental motivations, need to be assessed with utmost care. The solution is the inclusion of all operators interested in being included in agreements that are aimed at being a lever for environmental sustainability, not the exclusion of any operators from any relevant agreements.

BEREC thanks stakeholders for the support expressed to this item and BEREC's work, as well as participation in BEREC's activities.

BEREC will make sure to take into account the feedback from stakeholders while working on this report with special attention to representativeness. Furthermore, BEREC would like to recall that this report is firstly aimed at describing existing practices at national level.

2.7. BEREC Workshop on telecom regulators' role in the development and implementation of sustainability indicators in the ICT sector

GSMA welcomes BEREC's work on sustainability. The consistent use of the latest mobile technologies and the decisions of mobile operators to transition to green energy have been a testament to the importance of the industry to reduce its carbon footprint and eliminate it by 2050. The mobile industry is tackling climate change, voluntarily developed a decarbonisation pathway. GSMA members are working to improve energy efficiency across their operations, transition to renewable energy and make supply chains more sustainable. Therefore, GSMA calls on BEREC to take into due account the work done to date at global level by the mobile industry.

GSOA notes that while satellite connectivity is starting to compare favourably with terrestrial wired solutions in many developed and developing country environments. Satellites are promoting sustainable 5G and 6G network growth and facilitate projects that aim to further ecologically sound progress. As terrestrial networks become difficult to construct in many localities, carbon costs associated with the projects increase. By having solar-powered

satellites part of 6G network architectures, carbon costs by terrestrial network expansion can be nullified by satellite connectivity in the same area.

Furthermore, the global nature of climate change requires devices and sensors to be globally connected such that meaningful monitoring efforts can ensue to contribute to sustainability goals. NTN must be fully integrated into terrestrial networks (TNs) to achieve this reality. GSOA notes that “BEREC wishes to continue contributing to the work on the implementation and collection of relevant and harmonised environmental indicators in the telecom sector.” We ought to highlight the importance to have all actors of the telecommunications ecosystem to be involved in this task, so we’re asking BEREC to enable our members to contribute to their future activities on this regard by inviting the satellite industry to be included in the workshop to be held at Q3 2024.

Ecta is on record with BEREC in advocating that BEREC is best placed to ensure that there is a single coordinated set of indicators for the environmental sustainability in the electronic communications sector, aligned with the Science Based Targets initiative (SBTi). Ecta has observed that whilst BEREC has been a leader on this topic for the past several years, BEREC now appears rather to be deferring to the European Commission on this topic. The draft BEREC WP2024 remains focused on ECN/ECS (and more broadly the ICT sector’s) own problems and areas for improvement. Whilst this is definitely an area for action, ecta reiterates its repeated request that BEREC and NRAs should also conduct work on identifying the positive impact that ECN/ECS operators have on the overall greening of the economy and society, notably through digitalisation of processes in public administrations and businesses, including their interaction with citizens.

BEREC appreciates and thanks the stakeholders for the support on its work on this aspect.

BEREC continuously expresses the importance of digital sector to enable the decarbonisation of other sectors together with emphasising that it must undergo its own green transformation by minimising its direct footprint and possible rebound effects. Regarding indirect effects of digitalisation on other sector, BEREC follows closely the work of European Commission through its European Green Digital Coalition and the implementation of the EU Action Digitising the Energy Sector. If relevant and appropriate, it could support with its expertise the above-mentioned work in addition to its workstream focusing on direct impact of the ICT sector on the environment. BEREC acknowledges the existing efforts of the telecom industry to optimise its environmental footprint and will keep accompanying the sector’s efforts towards the achievement of ICT-related part of European and global environmental targets. It also emphasizes the need to work with all relevant stakeholders including civil society organisations and the academic community.

2.8. BEREC internal workshop on the implementation of the Digital Services Act

BEUC argues that BEREC's contribution to the implementation of the Data Act to ensure coherence and effective complementarity in the implementation of the Data Act is also welcome. In addition, BEUC also welcome the intention to hold an internal workshop on the practical implementation of the Digital Services Act. BEUC reiterates its availability to engage with BEREC in further discussions on these matters.

Ecta notes that where NRAs are designated as the national Digital Services Coordinators (DSCs), human resources and budgets for this should be assigned separately, not in any way to the detriment of NRAs' and BEREC's continuing mandates relating to electronic communications networks and services.

BEREC appreciates support for its work on this aspect.

2.9. Digital Radar

Liberty Global supports BEREC's work examining how wider technological advancements are affecting the development of the ECN market. Understanding the wider movements in the market are essential for effective regulation. Liberty Global would recommend also including Network-as-a-Service as a critical technological development which should be included in this Digital Radar. Given the pace of change of these developments, Liberty Global would caution against the Digital Radar becoming the single source of truth as to how these developments influence the ECN market, there should be flexibility in how this document is used in application of regulation. Liberty Global would once again like to reiterate that Liberty Global encourages BEREC to consult and engage with stakeholders at every relevant opportunity.

GSMA welcomes the development of a digital radar to take stock of the different developments in the digital ecosystem (intersection between digital and telecom) and to support the analysis required in the coming review of the EECC. To the extent that BEREC envisages the radar to support the analysis required in the coming review of the EECC, it should be made clear along which lines such support is envisaged and the proposed lines themselves be made subject to consultation.

Ecta welcomes BEREC's initiative to produce a "Digital Radar", in a similar manner to the "5G Radar" and related "Guide to the BEREC 5G Radar" presented in 2020. As is stated in this and in previous ecta responses to BEREC Calls for Input and Work Programme consultations, ecta expects BEREC to produce Common Positions and Best Practices and not limit itself to monitoring and reporting.

BEREC thanks the stakeholders for the feedback.

BEREC considers monitoring and reporting as important and core tasks of BEREC. Analyses about how the sector is evolving and identifying potential gaps of regulation or just to



understand the impact of regulation can be the starting point for formulating Best Practices or Common Positions.

With the Digital Radar BEREC will be looking ahead, scanning future developments in digital markets. The Digital Radar will be a tool to identify and prioritize digital developments that may need regulatory attention from BEREC and/or its members and thereby supportive of the development of future Work Programmes and implementation of 'BEREC 2030'.

BEREC always tries to find a balance in the different types of products in its Work Programme.

2.10. BEREC contribution to the implementation of the Data Act

Ecta notes NRAs' expected new responsibilities in the context of the Data Act, being designated as the national competent authority responsible for the application and enforcement of (some chapters of) the Data Act. Ecta has a firm position on switching between data processing services and has communicated this position to BEREC. A BEREC contribution to the implementation of the Data Act (covering the monitoring of switching charges, interoperability, complaints handling, IoT, etc.) is clearly relevant. Where NRAs are designated as national competent authorities, human resources and budgets for this should be assigned separately, not in any way to the detriment of NRAs' and BEREC's continuing mandates relating to electronic communications networks and services.

As far as IoT is concerned, ecta wishes to emphasise that IoT should not only be considered as an area for the imposition of new regulatory obligations (e.g. resulting from the Data Act) but that there are also evident needs to carefully examine, sensibly harmonise and simplify the set of regulatory obligations (authorisation, reporting requirements, Know Your Customer Requirements, data retention and lawful interception, contractual requirements, etc.), in a manner to enable a genuine EU Single Market for IoT-based services.

BEREC welcomes the feedback from ecta.

Strategic priority 3: Empowering end-users

BEUC welcomes that BEREC considers the strengthening of end user empowerment as a strategic priority. However, BEUC recommends caution regarding the growing number of workstreams in the BEREC work programme, underlining the importance that BEREC continues to prioritise its work on the most relevant workstreams for end-users.

Looking ahead, BEUC reiterates the importance that BEREC develop a coherent vision and strategy to ensure that the electronic communications sector works for consumers. BEUC welcomes the recognition that there is an important role for regulators to play for consumers.

However, this role should not be limited to simply ensuring transparency for consumers, increasing and maintaining consumer awareness and further improving digital skills. The goal of empowering consumers simply cannot be achieved with more transparency and digital skills alone.

Ecta asks BEREC to be systematically mindful, when referring to end-users and their empowerment, to the differences between consumers (B2C markets) and business users (B2B markets – including services provided to public administrations), in particular to avoid that NRAs impose undue and impracticable obligations on providers that are only serving B2B customers.

BEREC thanks the stakeholders for the feedback and takes note of the issues raised.

Regarding BEUC comment, BEREC notes that empowering end-users is one of the 3 strategic BEREC priority and certainly a great part of BEREC's work is dedicated to end-users.

3.1. BEREC Report on Member States' best practices to support the defining of adequate broadband Internet Access Services (IAS)

Ecta considers that caution is needed. In particular, there is a need to avoid that Member State governments invoke a future BEREC Report in order to define broadband internet access service requirements at national level that go well beyond what is in reality needed to support the minimum set of (internet-based) services contained in Annex V of the EECC. A concern is that national governments will be motivated up the ante on each other, by specifying (with reference to the BEREC Report) ever greater downstream/upstream broadband internet access speeds, because some other EU Member States have decided to set particular parameters, without real reference to the list of (internet-based) services contained Annex V EECC or without real reference to actual bandwidth consumption of users of internet-based services. The reality is that, in practice, all the internet-based services contained in Annex V EECC, and essentially all other widely used ones, work readily over all fixed networks.

Ecta considers that there is no evidence of a need to extend the list contained in Annex V EECC. Network operators and service providers readily support the most used internet-based services, including their simultaneous use by several members of the same household, as well as various non-essential but widely used services going well beyond the list.

BEREC thanks ecta for the feedback provided.

Regarding expressed concern that this report could be used at national level to set service requirements that go well beyond than what is in reality needed, BEREC would like to point out that this report is a best practices report, not serving as a basis for additional obligations.



3.2. BEREC Guidelines detailing Quality of Service (QoS) parameters

3.3. BEREC Report on empowering end-users through environmental transparency on digital products and services

Ecta welcomes the fact that BEREC has taken-up ecta's suggestion that informing and motivating end-users to take their share of responsibility for the environmental impact of their behaviour is of key importance. Participation in a BEREC workshop on end-users' empowerment, if it has not yet occurred (the draft WP2024 states that it was scheduled for Q3 2023), should not be limited to BEUC and the European Environmental Bureau, but open also to industry. As regards a suggested BEREC communications campaign on key facts about the environmental impact of devices and services, ecta believes that this could be welcome, but it seems difficult to see how this is part of BEREC's mandate as contained in Regulation (EU)2018/1971. Overall, ecta keenly looks forward to the BEREC draft Report at Plenary 4, 2023 for public consultation.

BEREC thanks for the feedback and intention to participate in public consultation.

3.4. BEREC Opinion on Article 123 EECC

BEUC is looking forward to working closely with BEREC regarding the review on end-user rights following Article 123 of the EECC. Given the experience of Member States struggling to transpose this legislation, it is critical that the consistent implementation of the EECC continues to be at the forefront of BEREC's work. BEUC therefore welcomes BEREC's planned workstream towards issuing its Opinion on Article 123 of the EECC. Although BEUC regrets that this opinion will not be open for public consultation, BEUC welcomes BEREC's openness to conduct studies, workshops and exchanges. BEUC especially welcomes the intention to hold an external workshop with BEUC, representatives of Member States, operators and other relevant stakeholders. In particular, the announced focus of the discussion on switching and termination of contracts is very important for consumers.

BEUC suggests the organisation of a joint workshop between BEUC and BEREC on the application of rights of end-users of the EECC. BEUC also recommends BEREC to carry out a study about the situation for consumer rights in electronic communications markets and related providers' legal obligations.

Liberty Global supports BEREC's initiative to host a workshop with BEUC and other stakeholders, and organisations of persons with disabilities. We consider it is important to involve consumers and consumer organisations when assessing the effectiveness of the Code provisions on end-user rights. Liberty Global also urges BEREC to ensure that service

providers and all industry associations are given the possibility to participate as the discussion can benefit from their first-hand experience, and to inform them about the outcomes, as well as its intended follow-up on this subject.

EENA notes that since the publication of the last opinion, the regulatory landscape in the European Union has changed with the entry into force of Commission Delegated Regulation (EU) 2023/444. EENA would like to contribute to the proposed workshop scheduled for Q.2. 2024. EENA considers that its expertise and insights on emergency communications could assist BEREC in fully informing its opinion on this matter.

Ecta is mentioned as a participant to a planned BEREC workshop (page 32, para 3) scheduled for Q2 2024, and awaits the invitation. Ecta cautions against BEREC suggesting changes to the EECC, given that transposition remains recent in many Member States, and effects have yet to be assessed.

BEREC appreciates and thanks the stakeholders for the support of its work in this item and encourages them to participate in the planned workshop.

As regards BEUC suggestion to organize a joint BEREC-BEUC workshop, BEREC appreciates the BEUC engagement related to the consumer protection in electronic communications sector and always sees BEUC as a partner and valuable contributor to BEREC's activities. BEUC intention to contribute to the workshop as well as EENA's and ecta's, will be taken into account when shaping the workshop's agenda.

Cooperation with EU institutions and institutional groups

4.1. Implementation of BEREC's Medium-Term Strategy for relations with other institutions and international cooperation

BEUC welcomes the emphasis on breaking the silos, improving and structuring institutional cooperation by joining forces on certain topics in which synergies can be obtained. BEUC particularly appreciate the continuation of its efforts to further engage with external bodies under its Medium-Term Strategy, and the establishment of a team to support the Chair and incoming Chair in maintaining an active relationship with external bodies.

Ecta simply wishes to comment that it can be observed that BEREC appears to be seeking to extend its areas of activity well beyond electronic communications, including on the international stage. This may result in unjustified de-prioritisation of the activities that are core to BEREC and NRA mandates under the applicable EU legislation.



BEREC welcomes the acknowledgment of its efforts to engage with other institutions and organizations.

Es regards ecta comment, BEREC would like to note that BEREC cannot disregard legislative and market developments and consequently exclude from its scope items related to new powers of its members.

BEREC's other tasks

5.1. BEREC strategies beyond 2025

BEREC strategies is of great interest to *MVNO Europe*. Clearly, the role of mobile and wireless communications need to be at the heart of BEREC's strategies, with a focus not only on VHCN deployment, but also on continued promotion of competition, the EU internal market and citizens' interests. MVNO Europe reiterates a statement it has repeatedly made in the past, i.e. that promoting competition is the most tangible way in which end-users' empowerment can be achieved.

Ecta considers that BEREC's strategies to set its objectives for the period 2026-2030, to be merged in a single document, are of crucial importance, and should be subject to a Call for Input and to a full public consultation on the drafts document(s). Ecta expects BEREC to continue to focus, first and foremost, on its legally established remit. BEREC's new duties in application of the Digital Markets Act, whilst relevant, are an additional responsibility, which is narrowly specified. NRAs' expected new responsibilities in the context of the Data Act are relevant as well, but do not justify BEREC shifting its focus away from electronic communications. ecta expects BEREC to maintain the steady course it has followed since its first Medium-Term Strategy in 2012, updated in 2014, 2017 and 2020.

The timing for BEREC adopting its 2026-2030 Mid-Term strategy should not be subject to the EU's political calendar. BEREC should clearly set out its Mid-Term Strategy based on existing legislation, and not await the outcome of a potential and inevitably lengthy co-legislative process, which may be expected to run from late 2025 until late 2026 and more likely into 2027.

BEREC welcomes the feedback received on this topic and would like to encourage stakeholders to contribute to the public consultation that is planned to be launched on BEREC strategic document.

As regards to the ecta comment, BEREC work on strategic document will be based on the existing legislation.



5.2. BEREC ad hoc work

5.2.1. Ad hoc input to the EU institutions/NRA's

Ecta agrees that BEREC is likely to be called upon to support the EU institutions with regard to important (legislative) proposals. ecta relies on BEREC to ensure that the fundamentals of the EU regulatory model, and in particular the promotion of competition (through wholesale access regulation where justified) and the defence of citizens' interests are not undermined. BEREC is uniquely placed to articulate the continued importance of regulator predictability, and the need to be able to apply ex-ante regulation where justified, which is what has led to an EU electronic communications sector which delivers clear benefits to end-users of all types (consumers, businesses and public administrations).

BEREC welcome ecta comments on this topic.

5.2.2. Potential ad hoc work on ICTs sustainability in the frame of the European Green Deal implementation

BEUC welcomes that BEREC will be further exploring its role in promoting sustainability policies in the framework of the European Green Deal implementation, engaging more actively on the issues of circular economy, especially in relation to life cycle of devices and electronic equipment and their impact on energy consumption and electronic waste. Consumer organisations also remain at BEREC's disposal on this important topic.

Ecta agrees that BEREC is likely to be called upon to support the EU institutions in this regard, and calls on BEREC to exercise leadership, notably on emphasising the positive contributions that electronic communications networks and services will definitely bring to greening other industries, to public administrations, and to society at large.

BEREC welcomes stakeholders feedback on this topic.

As regards ecta request to emphasise the positive contributions that electronic communications networks and services have in promoting sustainability, BEREC would like to point out that it acknowledges the existing efforts of the telecom industry to optimise its environmental footprint and will keep accompanying the sector's efforts towards the achievement of ICT-related part of European and global environmental targets.



5.2.3. Ad hoc work on cybersecurity related matters

Ecta agrees that BEREC is likely to be called upon to support the EU institutions in this regard and welcomes its role.

BEREC appreciates the feedback on this matter.

5.2.4. Peer review process and engaging with RSPG

ETNO supports BEREC's engagement with RSPG on peer review process and future of radio spectrum policies, especially from the perspective of supporting investments. Spectrum licensing and radio spectrum policy are in the core of ensuring investments in the mobile networks. In practice, ETNO have not yet seen evidence on that peer review process had contributed to harmonizing spectrum licensing processes within EU by spreading "best practices".

GSMA welcomes increased cooperation and sharing of experiences to facilitate peer learning and ultimately aid in ensuring that the conditions for spectrum assignment support network deployment. This is especially important in the context of the Digital Decade, as spectrum policy is one of the key levers in the hands of policy makers to help deliver the EU's ambitious digital vision for 2030.

GSMA therefore urges BEREC experts participating in peer review forums to encourage a long-term view regarding spectrum prices that is decoupled from the objective of maximising state revenues, thereby prioritising investments in 5G capacity and coverage. In addition, license durations, access conditions and coverage obligations should not inhibit the speed and scale of investment in network rollout. License obligations and conditions should be designed to minimise the cost of covering non-profitable areas.

MVNO Europe notes that the spectrum peer review process, is in the context of the strategic priority on promoting connectivity. MVNO Europe insists that much more is at stake in spectrum peer reviews, notably in terms of promoting competition and citizens' interests. In MVNO Europe response to the Call for Input, it was requested a workstream proceeding to an evaluation of BEREC's involvement in spectrum peer reviews.

Ecta notes that the RSPG-led peer review process on radio spectrum assignment has continued to occur only very occasionally, when Member States ask for it. When it did happen, it was in a closed forum. Further, ecta explains that the fact that BEREC does not mention the competitive dimension, or that it also should be pursuing its Strategic Priority 2 (e.g. by means spectrum assignments that are aimed at promoting competition, for instance by ensuring that all operators can obtain a proper spectrum portfolio, notably including <1 GHz spectrum and equal quantities of mid-band spectrum) is worrisome and should be corrected.



Ecta therefore asks BEREC to modify section 5.2.4, to underscore its commitment not only to promoting full connectivity, but also to competition and to end-user interests.

BEREC thanks the stakeholders for supporting BEREC's engagement in RSPG.

For the avoidance of doubt, BEREC is aware that spectrum managers do not have revenue raising objectives. Sharing of information between peers and peer learning facilitates the long term view which GSMA requests.

In this regard, experts in BEREC and RSPG will continue to liaise on all topics of mutual interest.

BEREC thanks ecta for once again setting out its interest about the Peer Review process. As stated previously BoR(22) 194 (page 33 therein), BEREC considers that the Peer Review process aligns with all its objectives as set out by Article 3(2) of EEC (and as also described at Section II. Background in the 'Work Programme 2024'). BEREC would also point out that it is a matter for operators to create spectrum portfolios according to their requirements. As a result, BEREC sees no basis to use the term 'proper' spectrum portfolio (ecta's words) in the context of any of the work items in this Work Programme, particularly in the Peer Review Process.

5.3. Other tasks under EU legislation

5.3.1. BEREC contribution to the implementation of the Digital Markets Act

BEUC notes that BEREC's contribution within the High-Level Group for the enforcement of the Digital Markets Act (DMA) to ensure coherence and effective complementarity in the implementation of the DMA is also welcome. As BEREC shows its openness to contribute to the implementation of the DMA in different forms, such as conducting studies, workshops, and bilateral exchanges, BEUC reiterates its availability to engage with BEREC in further discussions on these matters.

MVNO Europe welcomes that BEREC mentions the implementation of the Digital Markets Act, and welcomes the internal workshop and BEREC's planned contribution to implementation. MVNO Europe is aware that BEREC's formal remit in application of the DMA is limited. However, that does not prevent BEREC expressing itself, especially where markets are not functioning properly, and in particular where there is negative impact on markets for electronic communications. A case in point, mentioned by MVNO Europe on several previous occasions to BEREC, concerns restrictions imposed by Apple at the Operating System level, degrading the user experience where customers choose MVNOs as their electronic communications service provider, compared to when they choose a leading MNO as their electronic communications service provider.

Ecta welcomes that BEREC is carrying out its new duty in the context of the Digital Markets Act. As indicated throughout this response, this additional function should not go to the

detriment of BEREC exercising its core mandate set out in the BEREC Regulation and in the EECC.

BEREC welcomes the feedback on this item and understands the issues raised here as important to consider in further work on this topic.

BEREC has already expressed its views in regards to new duties and existing regulatory framework.

5.3.2. BEREC Opinion on the national implementation and functioning of the general authorisation regime

Ecta is not convinced that BEREC's actions on this topic have significantly moved the needle so far, and the database seems of limited use. BEREC should not be surprised if the European Commission proposes a restructuring of the authorisation regime in its White Paper scheduled for Q1 2024.

BEREC takes note of ecta comment.

5.3.3. BEREC report on M2M and permanent roaming

GSMA notes that mobile providers increasingly enter into alternative M2M/IoT roaming agreements with innovative pricing models, reflecting the differences between these services and interpersonal services. Experience shows that most of these agreements are working well, and suppliers of IoT/M2M can negotiate commercial wholesale agreements with several different providers in each Member State. However, absent commercial agreements, the provisions in the wholesale roaming regulation still apply to M2M/IoT. These provisions, in particular the volume-based charging, are typically not optimal for these applications. GSMA therefore stresses that the wholesale roaming regulation should explicitly exclude M2M and IoT services in permanent roaming.

MVNO Europe looks forward to a Call for Input to be organised by the Roaming working group, and to the subsequent report. For reference, MVNO Europe reiterates its detailed expectations regarding definitional issues, M2M is defined restrictively in recitals, whilst IoT remains undefined. MVNO Europe expects the imposition through wholesale service contracts, due to insufficiently clear definitions: 1) restrictions on the services to be provided (type of services, bandwidth made available less than that of the Host MNO's own retail services or contractual partners' retail) 2) Wholesale data prices de-facto exceeding the wholesale data caps set by the 2022 EU Roaming Regulation (including through the application of up-front and recurring fees for wholesale contracts, the application of monthly fees per SIM card services).

Ecta awaits the BEREC call for input on this topic. It is unclear why this has been delayed, even beyond the workshop in IoT held on 26 October 2023. Ecta agrees that several types of M2M/IoT devices will increasingly be in a state of 'permanent roaming', be they (quasi) immobile or moving very frequently across borders. Clearly, some parts of the M2M/IoT market have pan-European or even global dimensions, and some legitimate use cases may

face obstacles. Bringing to light where potential problems occur, drilling down to the origin of potential problems, and identifying potential solutions (be they commercial, regulatory, or legislative) may prove valuable, also in the light of the upcoming 2025 review of the 2022 Roaming Regulation. *ecta* therefore supports this workstream and looks forward to contributing and seeing the output.

BEREC appreciates stakeholders interest in this topic and understands the issues raised here as important to consider during work on this report.

Regarding GSMA proposal that the wholesale roaming regulation should explicitly exclude M2M and IoT services in permanent roaming, BEREC notes that this is not within the remit of BEREC, this is up to legislators to decide.

5.3.4. Update of BEREC retail Guidelines on the Roaming Regulation

BEUC welcomes BEREC's intention to open a public consultation as soon as possible on the update of the retail Guidelines on the Roaming Regulation, and of the Guidelines on Intra-EU communications. Depending on the outcome of the legislative discussions, BEREC's work will be essential to ensure an adequate interpretation of the EU rules and ensure legal certainty for both consumers and operators. *BEUC* encourages BEREC to engage with relevant stakeholders on this matter, including consumer organisations.

MVNO Europe expects from BEREC to continue monitoring and reporting on the wholesale international roaming outpayments actually made by MNOs on the one hand, and actually made by MVNOs on the other hand, taking into account the fact that MVNOs are unilateral buyers. It is essential for BEREC to continue to inform policy-makers in concrete terms on any differential treatment between what is paid by MNOs and what is paid by MVNOs for wholesale roaming access and wholesale roaming resale access.

MVNO Europe also expects the reduction of the wholesale roaming caps, in particular for data, as MNO production costs per Gigabit continue to fall on account of more spectrum being put to use by MNOs, advances in technology and modulation (dynamic spectrum sharing, 5G, MIMO, etc.). Continued reduction of wholesale roaming caps is essential for all MVNOs, as data traffic rises and MVNOs' outpayments at wholesale level outpace the retail prices they can charge their customers.

Ecta awaits the European Commission review of the Implementing Regulation on the Roaming fair use policy and the sustainability mechanism. This is a highly sensitive topic for operators, and *ecta* therefore asks BEREC to be cautious and considerate with any proposals.

BEREC welcomes the support from the stakeholders in this matter. All stakeholders are encouraged to provide their input on a public consultation.

5.3.5. International roaming benchmark data and monitoring report

MVNO Europe explicitly asks BEREC to extend its data gathering on wholesale roaming (availability, terms, problems encountered) specifically including 5G, IoT (including its pan-European dimension), cross-border network slicing. Furthermore additional data collection on IoT and 5G MVNO access and other forms of wholesale access enabling MVNOs to provide 5G services. MVNO Europe suggest data collection 5G network slices: data collection and reporting on availability and whether bilateral agreements have been concluded between network operators, whether agreements have been concluded between network operators and MVNOs, and whether agreements have been concluded between operators and industrial users, for the provision of network slices.

MVNO Europe is strongly of the view that the wholesale caps established in the 2022 EU Roaming Regulation do not match market realities. Wholesale caps should be further reduced. Already back in 2020, when the institutions started discussing the current caps, BEREC data showed that the caps that have been set in the 2022 EU Roaming Regulation should have been set lower. MVNO Europe urges BEREC to take into account retail market prices when assisting the European Commission in the draft of the first assessment report on the functioning of the 2022 EU Roaming Regulation.

Ecta considers that this is a now a standard deliverable, on which it has no comments to make at this time. That being stated, the data contained in this report is highly relevant, and operators continue to benefit from its publication.

BEREC thanks MVNO Europe for the input provided and would like to point out that any inputs concerning M2M/IoT and roaming can be submitted in the call for input launched in November this year. With regard to updating the data collection template, for the next data collection, the template is already sent to operators, but BEREC will see what can be included in addition in next year's data collection.

5.3.6. Roaming Regulation Report

ETNO calls for a fully-fledged public consultation on the future BEREC Roaming Regulation Report, tentatively scheduled for 2025. The rules that apply to EU roaming, wholesale and retail levels, over the last decade have grown to be a separate branch of EU rules for electronic communications services. BEREC's inputs into their possible review should be based on a properly consulted analysis of the market circumstances, and reflect the broader perspective, namely, to which extent the EU roaming rules may stifle the competitiveness and the innovation potential of the EU electronics communications industry and the ecosystems it enables. Otherwise, the risk that BEREC suggestions will focus on particularities and secondary aspects and miss the big picture will be too high.

GSMA suggests running a fully-fledged public consultation on a draft outcome under the section 5.3.6. (Roaming Regulation Report), given the complexity of the topic and especially

given that BEREC's input is expected to be among the key drivers for the 2025 evaluation of EU roaming rules.

Ecta considers it essential that BEREC produces its input to the review of the Roaming Regulation during 2024, not just start preparing its analysis in 2024. This is necessary for BEREC to provide the factual basis to the EU institutions, notably the European Commission in time for their substantive considerations prior to political deliberations.

BEREC thanks the stakeholders for the feedback provided.

BEREC notes that it will examine all the aspects foreseen in the review provisions of the Roaming Regulation when preparing its Opinion which, as it is the case with BEREC's Opinions, will not be subject to public consultation. However, BEREC may consider launching a call for input to gather the views of stakeholders about the functioning of the Roaming Regulation.

5.3.7. 4th Ukraine Monitoring Report

5.3.8. Update of BEREC Intra-EU communications Guidelines

BEUC welcomes BEREC's intention to open a public consultation as soon as possible on the update of the retail Guidelines on the Roaming Regulation, and of the Guidelines on Intra-EU communications. Depending on the outcome of the legislative discussions, BEREC's work will be essential to ensure an adequate interpretation of the EU rules and ensure legal certainty for both consumers and operators. BEUC encourages BEREC to engage with relevant stakeholders on this matter, including consumer organisations.

Ecta agrees in principle that BEREC guidelines will be of immediate relevance, in case the regime is subject to material changes. For reference, *ecta* considers it justified for the existing regime to be discontinued and disagrees with the European Parliament's ITRE Committee Report on the legislative proposal for the Gigabit Infrastructure Act being used as a vehicle for legislative change (both as a matter of principle and as regards the substance of the proposed text).

BEREC thanks the stakeholders for the feedback provided.



5.3.9. Intra-EU communications Benchmark Report

ETNO notes that concerning intra-EU calls and the benchmark mentioned in the 5.3.9 section, it could be valuable to integrate in the analysis the influence of the OTT applications used as substitutes of traditional telco services. Also, it could be useful to evaluate the share of population impacted by the regulation on intra-EU calls, taking notably into consideration that the population not using intra-EU calls may represent a larger part of the targeted population.

GSMA welcomes BEREC's commitment to develop the 5th Intra-EU communications Benchmark. GSMA continues to believe that BEREC should strive for more accurate data in terms of the actual use and quantitative market share of Number-Independent Interpersonal Communications Services (NI-ICS) in intra EU-Communications to adequately reflect the level of substitution existing in the provision of these services.

MVNO Europe is of the view that it is important for BEREC to continue this work, to inform policy-makers of the actual state of affairs. MVNO Europe considers that there is no justification to renew direct EU Regulation of Intra-EU calls and sms, to reduce the existing retail caps, or to proceed to the replacement of the caps by a system in which domestic retail prices for calls and sms would also apply for Intra-EU communications. In particular the text adopted by the European Parliament, as part of the negotiation mandate on the Gigabit Infrastructure Act, is deeply concerning for MVNOs, and notably those providing unlimited domestic call/sms bundles, but charge for Intra-EU communications. This is the case because these MVNOs incur a wholesale call/sms origination cost for every communication, in many cases very excessive wholesale transit charges, in addition to the regulated wholesale call termination outpayments and unregulated sms termination outpayments.

Ecta considers that this is a now a standard deliverable, on which it has no comments to make at this time. That being stated, the data contained in this report is highly relevant, and operators continue to benefit from its publication. Evidently, in case the regime is subject to material changes, the report will have to be adjusted accordingly.

BEREC welcomes the support from stakeholders and understands the issues raised here as important to consider during the preparation of this report.

Regarding the ETNO suggestion to integrate additional elements in the benchmark, BEREC emphasizes that depending on the outcome of the legislative process, the data collection template might be updated taking into account potential new obligations. When updating the template, BEREC will evaluate the suggestions received.



5.4. Monitoring quality, efficiency and sustainability

5.4.1. Inventory of the evolution of NRAs' competencies

Ecta sees no reason why the planned inventory would not be published.

BEREC thanks ecta for the feedback provided and would like to note that BEREC will come up first with an internal inventory and then assess publishing some factual subsequent considerations.

5.4.2. BEREC Report on national experiences of the implementation of the EECC

ETNO notes that among the forthcoming BEREC activities in 2024, ETNO sees opportunities to put more focus on network investment, for example, in the external workshop scheduled for the second quarter, which builds upon the NRA (National Regulatory Authority) workshop conducted in 2023. This event aims to facilitate an exchange of perspectives with various stakeholders regarding the effectiveness of the EECC thus far. ETNO believes this exchange should include a deep-dive into the impact of the EECC on network investment levels in Europe, especially in light of the Digital Decade 2030 targets for connectivity. In this regard, ETNO supports the analysis of commercial agreements between the operators as a trend gaining momentum in the context of regulatory reviews, and an opportunity to explore further the way in which those have been taken into account in the market analyses.

ETNO supports BEREC's intention to take stock of national experiences of the implementation of the EECC and to exchange good practices in this regard. As suggested during the early call for input on the work programme 2023, ETNO would also encourages BEREC to include stakeholders in this exercise to capture different perspectives in the initial assessment or at the very least make the outcomes of the exchange public. In that regard, ETNO welcomes the BEREC workshop with stakeholders planned on Q2 2024.

BEUC welcomes the continuous interest in monitoring the implementation of the EECC with its report on the national experiences of the implementation of the EECC and the manifested interest in organising a public workshop in Q2 2024 to exchange views with stakeholders. Nonetheless, BEUC recommends that this workshop is prioritised and organised as soon as possible, preferably in early 2024.

Although the implementation of the EECC was due to be finalised by the end of 2020, Member States have struggled to transpose the legislation in a timely way. Therefore, the focus of BEREC's work must continue to be the consistent implementation of the EECC, by providing knowledge and sharing of experience and best practices between the NRAs, in order to ensure a better monitoring of the key elements of the functioning of the EECC.

GSMA welcomes BEREC's open approach to assessing the functioning of the EECC. Given the pace of the technological developments that have taken place, which is likely continue in

the coming period, GSMA deems it important that BEREC maintains a holistic view when analysing whether the EECC is fit for purpose by closely aligning its assessment with the intentions that will be reflected in the Commission's White Paper.

Ecta urges BEREC to conduct this exercise on a strictly factual basis, but with the knowledge that there are political pressures to dismantle or alter the existing regulatory paradigm in the electronic communications sector or to artificially disrupt it. ecta advocates that this work should include an assessment as to whether specific EECC provisions have increased or decreased competition (for business-to-consumer (B2B), business-to-business (B2B) and business-to-business-to-consumer (B2B2C) markets), in which direction end user prices and quality have evolved (making abstraction of the recent high inflation), what the impact has been on take-up (incl. affordability) of VHCN connectivity, 5G, etc.

Ecta welcomes that BEREC plans to organise an external workshop in Q2 2024, but worries that the timeframe would make it prone to political rather than factual considerations (the White Paper announced by EC Commissioner Breton is scheduled for Q1 2024).

BEREC welcomes the feedback provided by stakeholders.

Regarding ecta comments, BEREC notes that it will probably be difficult to isolate what specific provisions have resulted in what consequences (in terms of prices, competition, take-up...), but certainly BEREC intends to assess whether and how those dimensions have changed after the EECC entered into force.

The timing of the workshop stems from the need to collect sufficient evidence on national implementation experiences throughout the EU.

5.4.3. Article 32/33 Phase II process

MVNO Europe notes, with reference to on the Article 32/33 Phase II process, that BEREC refers to an exchange of information with the BEREC Office about the effectiveness of the updated Internal Guidelines, and also refers to a (tentative) internal workshop. In MVNO Europe's response to the Call for Input, it was requested a workstream proceeding to a deeper re-examination, and for BEREC to provide active support to NRAs, assisting them prior to their notifications of draft measures. MVNO Europe would therefore wish to reiterate the detailed requests contained in paragraph 6 of the response to the Call for Input.

Ecta reiterates its request, made in previous contributions to BEREC Work Programme calls for input and consultations, for BEREC to involve stakeholders in this workstream. Experience has shown that the Phase II process leading to a BEREC Opinion is a black box for stakeholders, with BEREC actively resisting stakeholder input. A moment of self-reflection by BEREC, and taking input from stakeholders, is appropriate as the EECC is by now transposed into the national law of nearly all Member States, and notifications are effectively be made in application thereof. In addition, ecta expects that BEREC's guidelines on how it works on

Phase II cases should not be internal and confidential, but instead be public and open to comments from interested stakeholders. An internal BEREC workshop may be relevant for self-reflection, but it would be preferable for such a workshop to be preceded by a workshop with industry stakeholders, for stocktaking purposes, and examining potential improvements to how BEREC carries out this duty.

BEREC thanks stakeholders for their feedback and notes that stakeholders can comment Phase II cases decisions directly to the European Commission (Notice to third parties for comments issued by the Commission). However, both the EECC and the internal BEREC procedures do not foresee the possibility for stakeholders to influence BEREC's independent opinions within Phase II process. BEREC also notes that in 2022 internal procedures for conducting Phase II processes have been updated to align with the EECC provisions, what should also address some of the comments received.

5.4.4. Report on Regulatory Accounting in Practice

Ecta continues to highly appreciate the value of this recurring report. It should definitely continue to be published annually and continue to be improved, whilst maintaining strictly factual content. *ecta* also wishes to express that there should be no reduction of its contents. A particular concern is that BEREC suggests that the 2024 RA report will be based on the EECC list of remedies (but will aim for consistency over time).

Ecta finds its deeply concerning that the report may be limited to covering Market 1/2020, Market 2/2020 and Market 3b/2014, and may no longer cover areas that are in fact subject to regulation and regulatory accounting obligations that continue to be in place in many Member States, and which deserve to continue to be documented and compared. *ecta* therefore formally asks BEREC not to abandon monitoring and reporting on topics that have been covered well so far. As regards the WACC calculation practices among NRAs, *ecta* urges BEREC to keep the report factual. It should not encourage NRAs to deviate from the EC WACC notice, as some have done in the past several months, leading to artificial and unjustified increases in wholesale prices which, in turn, continue to artificially fuel the inflation that is so damaging to the European economy.

BEREC thanks *ecta* for the feedback provided.



5.4.5. Calculation of Weighted Average Cost of Capital (WACC) parameters according to the European Commission Notice

GSMA notes that no engagement with industry stakeholders is foreseen. GSMA believes this would be relevant and requests BEREC to reconsider its approach.

Ecta considers that it is absolutely imperative that this Report becomes subject to public consultation. This is the case because BEREC will make choices, for instance in the companies eligible for the peer group. Such choices will affect the outcomes of WACC calculations in Member States, and thus should be open to contradictory debate.

BEREC thanks the stakeholders for the feedback provided and emphasizes that, regarding the request to foresee a public consultation in the process of delivering this item, BEREC follows the tasks given to BEREC in the EC WACC Notice and public consultation is not envisaged.

Stakeholder engagement

ETNO thinks that BEREC's functioning can greatly benefit from more transparency on its processes and a more open debate on its internal work, including at its earliest stages. This could be supported by increased interaction between BEREC and industry members.

In ETNO's view, the inconsistent dialogue between BEREC and stakeholders is also partially an unintended consequence of the way of working of the office, planning only four plenaries a year to release all its output. The third plenary that is typically in June automatically brings a lot of workload for the stakeholders during the summer break. We believe that a better planning of plenaries or a different process with in between approvals and launches of consultations would remedy this.

ETNO also believes that longer consultation periods, avoiding periods of holidays would enhance the quality of the responses to the BEREC consultations. At the same time, this should enhance the output and credibility of the consultation of stakeholders. ETNO has long been advocating for more transparency in the BEREC processes. ETNO welcomes the increase in the number of stakeholder events and the possibility to engage, but this is neither a prevailing nor standard practice across the different BEREC EWGs. The current BEREC arrangements leave a vast amount of discretion especially for the EWG co-chairs regarding the transparency of their work. As a result, we have seen consultations on the draft outputs with relatively minor significance, while e.g. on the BEREC Opinion on the draft EC Gigabit Connectivity Recommendation, an output which has the potential to shape the market for decades, the level of transparency was unacceptably low.

BEUC strongly recommends BEREC to place all its efforts in retaining and asserting its independence vis-à-vis policy makers and private stakeholders. Following the policy

developments in the telecoms sector over the past year and the upcoming policy debate on a potential regulatory intervention in this sector, BEUC encourages BEREC to proceed with its work by making its consultations as inclusive as possible, listening to the greatest possible diversity of stakeholder views.

In this regard, BEUC strongly welcomes the commitment of BEREC to reinforce its dialogue with civil society and ensure its position as a highly trusted independent party. BEUC welcomes the focus on organising the yearly BEREC Stakeholder Forum and strongly encourages BEREC to continue organising similar stakeholder events.

BEUC would like to reiterate its recommendation that public consultations should take place over longer periods of time. Unfortunately, a four-week period is not enough for an umbrella organisation with limited resources, simultaneously working over a variety of topics, to properly and fully address all issues raised towards producing an added-value contribution. Short deadlines for public consultations on documents of such complexity risk excluding smaller stakeholders with more limited resources from adequately participating, therefore jeopardising the ultimate objective of collecting balanced, representative feedback from all stakeholders. This is particularly important in the case of consultations that are particularly relevant for consumer protection.

Liberty Global welcomes BEREC's commitment to continuously improving its interaction with all stakeholders to ensure that its output stays relevant, through ensuring transparent work processes, targeting relevant audiences as well as via the involvement of stakeholders at both early and advanced stages of BEREC's work. To further improve the relevance of stakeholders' contributions to BEREC's work, Liberty Global would particularly like to emphasize the need for (and merits of) involving stakeholders in e.g., defining the contents of questionnaires and of data requests. For example, in the context of a BEREC questionnaire on IP Interconnection, Liberty Global and other market participants recently were requested to provide data using a methodology which deviated significantly from industry standard practice. Liberty Global fears that, particularly when data is requested, the lack of adherence to industry standard practice or to a common methodology will have significant negative repercussions for the quality of the resulting (and aggregated) data.

Involving stakeholders in the determination of the appropriate methodology can mitigate that risk and therefore contribute significantly to the quality and relevance of BEREC's data-driven work. Therefore, when developing its WP2024, Liberty Global urges BEREC to incorporate regular points of contact for stakeholder engagement, including workshops and one-on-one meetings, keeping in mind that the need for these opportunities must be truly bi-directional (e.g., through information sharing and open discussion of issues) to facilitate full transparency and effective communication.

GSMA welcomes BEREC's continued focus on communication and stakeholder engagement via plenary debriefings, stakeholder forums and numerous workshops to allow for continued and effective engagement with industry and other stakeholders. GSMA appreciates that BEREC intends to enhance collaboration with stakeholders e.g., with focus on civil society. GSMA wishes to stress that less than a calendar month worth of consultation on next year's Work Programme is not sufficient to allow for efficient coordination to provide thoughtful feedback on the many items presented in the draft.

BEREC's communication efforts and stakeholder engagement could benefit from establishing a best practise approach to systematically involving industry stakeholders in BEREC's deliverables (opinions, common positions, guidelines etc.). GSMA considers it especially important that the industry is involved in complex issues like the ongoing work in the IP-Interconnection workstream that require deep technical expertise and involvement of the different players in the value chain. GSMA encourages BEREC to continue the cooperation on this topic. GSMA also encourages BEREC to continue to ensure that when working on this and similar topics, different parts of the value chain are given the opportunity to take part in discussions with each other, for example through workshops. Further, GSMA also considers it important that where BEREC plans to tender and publish external studies.

Ecta thanks BEREC for continuing to engage actively with industry stakeholders, including invitations to ecta to speak during workshops and at the stakeholder fora. This should clearly continue in 2024. However ecta encourages BEREC, in 2024, to organise longer workshops (also by foreseeing whole day workshops), with sufficient time allocated for active substantive discussions among stakeholders. Ecta considers it very important for BEREC Opinions to be subject to substantive (pre)consultations with stakeholders.

BEREC thanks the stakeholders for their inputs and would like to note the following regarding the comments received.

BEREC would like to reiterate that it puts significant effort into preparing deliverables and coordinating its members, and is keen in continuing with an open dialog with all interested parties.

BEREC Regulation also includes provisions (see for example Article 11) about the meetings of the Board of Regulators. BEREC Regulation foresees at least 2 meeting per year while BEREC usually has 4 ordinary meeting plus 1-2 extraordinary Plenary meetings.

Furthermore, BEREC always tries to allow more time (than the 30 days foreseen by the BEREC Regulation) for consultations especially when time allows and/or during vacation periods. In addition, BEREC notes that many stakeholders are keen to engage further with BEREC requiring additional consultations beyond those already planned by BEREC in 2024. BEREC will do so on an ongoing basis through BEREC's many interim consultations, webinars, workshops, questionnaires etc. on the work set out in the BEREC WP 2024.

BEREC appreciates this willingness of its stakeholders to engage on its work in 2024 and is continually working to improve its transparency and engagement with all stakeholder.

6.1. Stakeholder Forum

EWIA participated in the past annual Stakeholder Fora and wishes to express appreciation for the effort of organizing such a large-scale event again in 2024. This provides a wider view of current and upcoming BEREC activities and the opportunity through the Meet and Greet to have in-depth exchanges with working group leaders and other interested stakeholders.

BEREC welcomes the feedback and the continuous support provided by EWIA.

6.2. BEREC Annual Reports

6.3. BEREC Communications Plan 2023

BEREC

6.4. Developing the BEREC Work Programme 2024



IV. POTENTIAL BEREC WORK FOR 2025 AND BEYOND

Potential work

7.1. Further work on 5G cybersecurity

BEUC welcomes that BEREC continues its work on 5G cybersecurity and its commitment to continue to provide support to the European Commission, NIS Cooperation Group and ENISA on this important work stream.

GSMA supports BEREC in this work. The GSMA is looking forward to future cooperation with BEREC on this important topic and stands ready to continue sharing industry's knowledge and expertise. Overall, foreseeable, and stable cybersecurity regulation is vital to encourage significant cybersecurity investments in resilient networks. Short-term, or late in the day policy or regulation change can drive significant costs.

Ecta welcomes BEREC work in this area, providing support rather than substituting itself for EU institutions (EC, ENISA, NIS Cooperation Group). BEREC can usefully bring the work together into a cogent deliverable that is readily understandable for stakeholders.

BEREC welcomes the feedback and support provided by stakeholders.

7.2. BEREC review of the Guidelines on Symmetric Access Obligations

Ecta agrees that it is a good idea for BEREC to take stock of national experiences with geographical surveys. It seems likely that important differences exist between Member States, and that while the trajectories are national, there may be opportunities for learning and adjustment to ensure that the burdens on operators are kept to a reasonable level, and that the output is genuinely useful and leads to substantive improvements in light of the objectives pursued.

Ecta is not convinced that there is much value in pursuing this workstream, given that Article 61(3) has not been applied by NRAs (the case in The Netherlands resulted in the NRA not pursuing a symmetric access obligation). A review of the Guidelines should not aim at enabling NRAs to deviate from the legally established standard or pursue procedurally 'easier routes' to imposing symmetric regulation.

BEREC welcomes the feedback provided and will consider the issues raised when planning possible future workstream.

7.3. BEREC review of the Guidelines on Co-Investment Criteria

Ecta is not convinced that there is much value in pursuing this workstream. The absence of cases in which the Article 76(1) threshold is fulfilled does not constitute a justification for BEREC to consider softening its Co-Investment Guidelines, or for NRAs to deviate from the legally established standard or pursue procedurally 'easier routes' to granting regulatory relief to SMP operators.

BEREC welcomes the feedback provided and will consider the issues raised when planning possible future workstream.

7.4. Universal services review

Ecta is not convinced that the universal service regime, which was substantially modified by the EECC, which has only recently been transposed in several Member States, is in need of review. ecta encourages BEREC and NRAs to refrain from pushing for the extension of the regime, unless unequivocally justified. In its response to the EC Exploratory Consultation on the future of the electronic communications sector and its infrastructure, ecta did not support extension of the regime, on account of its limited success in achieving its objectives, and it causing market distortions (i.e. financial transfers to incumbent operators).

BEREC thanks for the feedback provided and would like to reiterate that the EC obligation for conducting a universal services review stems from Article 122 (2) of the EECC. Therefore, BEREC intends to provide the EC its support in this process, if requested. BEREC takes note of the issues raised by ecta.

7.5. Report on IoT/6G

BEUC especially welcome BEREC's openness to further review the BEREC report on Internet of Things (IoT), following the positive discussions at its workshop on the challenges for IoT in October 2023.

MVNO Europe strongly welcomes the proposal to prepare a BEREC Report on IoT/6G, reviewing the 2016 BEREC Report. In fact, it would be highly desirable for this work to be

accelerated, so that its deliverable arrives in time for the preparatory work on the 2025 Review of the 2022 Roaming Regulation.

GSOA notes that the global coverage of satellites is expanding the reach of 5G and 6G to all sensors and devices that transmit and receive data for immersive applications. Rather than merely having a supplemental role in network connectivity, satellites in 5G and, in the future, 6G, do and will facilitate that fully interconnected devices are accessible by anyone, anywhere, at any time. Such connectivity ensures that sensory experiences do not fall short of providing real-time communications.

GSOA would therefore welcome that the role of satellite is getting duly considered in BEREC's future analysis of the perspective and challenges for the deployment of Internet of Things.

Ecta participated in the BEREC Workshop on IoT regulatory/competition challenges on 26 October 2026, and the CEO of ecta member Transatel was a speaker. There is definitely a need for a more harmonized set of operating conditions for B2B IoT in the EU Member States, and there are definitely further challenges to be addressed. As such, ecta would welcome work on this topic, sooner rather than later.

BEREC welcomes the feedback provided and will consider the issues raised when planning possible future workstream.

7.6. BEREC work on the review of the Delegated act relating to Article 75 of the EECC on the termination rates for mobile and fixed voice calls

BEUC welcomes BEREC's commitment to engage in the review of the Delegated act relating to Article 75 of the EECC on the termination rates for mobile and fixed voice calls.

MVNO Europe asks for BEREC to provide factual evidence, and to avoid any suggestion that wholesale Eurorates may need to increase, or could conceivably be deregulated. MVNO Europe is on record with BEREC in emphasising that wholesale transit rates, post-deregulation, have risen to very high and problematic levels, and would need to be looked at again, and the same is the case for nonregulated wholesale sms termination rates, which are in some cases also problematic.

Ecta would support BEREC being involved in any envisaged review of the Delegated act. There remain serious issues and divergences between NRA practices and operator practices, notably resulting from the interpretation of Recital 15 and specifically where the CLI is deemed missing, invalid or fraudulent. In this context, the manner in which SIP headers are labelled is causing difficulties in many Member States. Overall, these issues are causing serious headaches to many operators, and interpretations and implementations differ, both between operators within countries and between countries. This area is thus a clear candidate for BEREC-led harmonisation. Related to this, there are increasing NRA decisions and operator decisions resulting in the blocking certain calls and call types, based on the type of CLI, the

interpretation of the CLI (as mentioned above). Again, this area is worthy of investigation, taking a harmonisation perspective.

BEREC welcomes the support provided by stakeholders regarding this item and regarding MVNO comments would like to emphasize that the decision on the termination rates is out of scope of BEREC.

Other

GSMA suggests that as an outcome of the workstream 1.2, BEREC prepares a report on the current market practices of co-investments and makes an assessment on whether EECC new rules have been applied and if they have pursued art. 3 EECC objectives. This report would support the Commission's review of the EECC planned for the year 2025. Possible new BEREC guidelines could be issued, if needed, after the conclusion of the EECC review, but not before.

MVNO Europe confirms its strong interest in a BEREC Report on best practices for termination of contracts and switching providers. This item was mentioned in the Outline WP2024, but MVNO Europe does not see it in the draft WP2024. MVNO Europe requests that a Report is issued, and that BEREC makes this Report as explicit as possible, in terms of what constitutes best practice, and what constitutes poor practice, to provide a real impetus to Member States, NRAs and other competent authorities to genuinely facilitate switching for customers.

BEREC welcomes the interest expressed for this item and would like to note that the termination of contracts and switching providers is envisaged as a part of the workshop that will be organized in relation to work item 3.4 (Opinion on Article 123 EECC).

MVNO Europe wishes to express that it had requested, in its response to the Call for Input, for tangible follow-up work in 2024 to the Study on Wholesale Mobile access, in the form of 4 BEREC Reports. Based on our analysis of the draft WP2024, no explicit follow-up seems to be planned in 2024.

BEREC appreciates MVNO contribution to this public consultation as well as to early call for input. BEREC acknowledges MVNO request to include in WP further work on Wholesale Mobile Access Study. However, BEREC considers premature to continue with follow up work based on the Study findings already in 2024. Potential follow up work could be part of BEREC's work in the following years.



FTTH Council believes that one major gap in the work programme is the lack of emphasis on demand side measures. While the Council is concerned with demand for gigabit access over fibre networks in particular, the paucity of demand is not limited to fixed networks but is also true of mobile services. Many of the problems identified in the sector (e.g. low returns) can be traced back to the lack of demand for VHCN capacity.

FTTH Council has consistently sought and promoted policies that would accelerate the deployment of VHCN networks since the Council's inception – that positioning is reflected in the EECC and more recently in the GIA and GCR and the FTTH Council believes that, barring a major shock to the market, Europe is well on its way to achieving full FTTH coverage or its equivalent by 2030 or very shortly thereafter. However, despite the success in putting the necessary network in place, little or no attention has been paid to what drives take-up when VHCN is available and more importantly why demand for VHCN is so subdued.

BEREC thanks the feedback provided and would like to reiterate that, as stated in previous comments, demand side is an integral part of BEREC analysis in all related work streams.

