

## **ANNEX 1**

# **Draft BEREC Procedures to address requests of NRAs of third countries to participate in the work of BEREC and the BEREC Office**

31 January 2024

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## **1. Application**

1. Where the national regulatory authority of a third country (hereinafter ‘the Applicant’) intends to participate in the work of BEREC and the BEREC Office, pursuant to Article 35.2 of Regulation 2018/1971 (hereinafter the BEREC Regulation), it shall submit a request to the BEREC Chair, the BEREC Office, in the person of the Director, and in carbon copy the European Commission. All information shall be submitted in English.
2. The BEREC Office shall inform the Board of Regulators and the Management Board about any requests received.
3. The request by the Applicant shall indicate:
  - The national legislation designating the Applicant as the national regulatory authority with primary responsibility for electronic communications in the country concerned.
  - The agreement (hereinafter “the Agreement”) in place between the Applicant’s country and the European Union, which the NRA considers as the legal basis for such participation in accordance with Article 35.2 of the BEREC Regulation.
  - Any provisions in the agreement in place concerning the electronic communications legislative framework, including any deadlines for the approximation of national law with such framework, if applicable, as well as the progress made in such approximation, also as regards the Applicant’s institutional layout and its independence features.
  - The nature, extent and manner in which the NRA intends to participate without the right to vote in the work of BEREC and of the BEREC Office, including provisions relating to participation in the initiatives carried out by BEREC, financial contributions and staff to the BEREC Office.
  - In addition to the information to be provided under this provision for the initiation of the procedure, BEREC shall be able to request additional information or clarification at any stage of the procedure.

## 2. Eligibility analysis and procedure

1. The eligibility analysis of the received applications shall be carried out by an ad hoc group of 3-5 members which shall be established pursuant to art. 11.11 of the Rules of Procedure of the Board of Regulators; the group shall be composed of experts in institutional matters and supplemented by experts from the BEREC Office Advisory Group and the BEREC Office.
2. The ad hoc group as in paragraph 1 shall define the timeframe for concluding its activities under the guidance of the BEREC Mini Board.
3. The ad hoc group shall analyse whether the Applicant is eligible based on the following cumulative criteria:
  - The Applicant is the regulatory authority with primary responsibility in the field of electronic communications in the country concerned;
  - The agreement in place between the Union and the relevant third country covers cooperation on the EU electronic communications framework.
4. Upon conclusion of the eligibility analysis, the ad hoc group shall submit its recommendations to the Board of Regulators and the Management Board for their approval.
5. The Board of Regulators and the Management Board shall adopt a decision either rejecting the Applicant's request as ineligible or accepting it as eligible.
6. After the voting by the Board of Regulators and the Management Board, the Applicant shall be informed of the outcome of the assessment. This notification shall include comprehensive justifications for the decision, outlining the factors and consideration that led to the outcome.
7. The European Commission shall be informed of the outcome of the BEREC/BEREC Office's assessment.
8. If the Board of Regulators and the Management Board come to a positive decision, they shall propose to the Applicant to enter into working arrangements. The Applicant shall be informed that these working arrangements are subject to prior approval by the European Commission.
9. Working arrangements shall be drafted by the ad hoc group as in paragraph 1.
10. Prior to their conclusion, the BEREC Chair shall submit the draft working arrangements to the European Commission for approval according to article 35.1 and recital 20 of Regulation 2018/1971.

11. The working arrangements, subject to the authorisation by the Board of Regulators, shall be signed by the BEREC Chair, the Director of the BEREC Office and the third country NRA's Head or high-level representative.

These Procedures are without prejudice to the Agreement, the BEREC Regulation, the respective Rules of Procedure of the BEREC Board of Regulators and of the BEREC Office Management Board.

The Decision to allow participation in the work of BEREC and BEREC Office does not create any legally binding or financial obligations for BEREC or the BEREC Office and shall not be interpreted as having such intention or effect.

The participation in the work of BEREC and BEREC Office is permitted only once the working arrangements with BEREC and BEREC Office are concluded.

These procedures shall be reviewed within one year of their adoption.