



**TRANSATEL'S RESPONSE TO
BEREC'S CONSULTATION ON THE**

**DRAFT BEREC OPINION ON
THE NATIONAL IMPLEMENTATION AND FUNCTIONING OF THE
GENERAL AUTHORISATION, AND ON THEIR IMPACT ON THE
FUNCTIONING OF THE INTERNAL MARKET, PURSUANT TO
ARTICLE 122, PARAGRAPH 3 EECC
BoR (24) 101**

**The entirety of Transatel's contribution may be published by
BEREC**

26 July 2024

Introduction

Transatel appreciates the opportunity to submit its response to the Body of European Regulators for Electronic Communications (**BEREC**) on its consultation on draft BEREC opinion on the national implementation and functioning of the general authorisation, and on their impact on the functioning of the internal market, pursuant to article 122, paragraph 3 of the European Electronic Communications Code (**EECC**) - BOR (24) 101 (**Draft Opinion**).

The General Authorisation (**GA**) regime is a key element of the EECC. The GA was introduced into the regulatory framework for electronic communications by Directive 96/19/EC,¹ consolidated by Directive 2002/20/EC,² and confirmed by the EECC.³ The main objective of the GA regime is to remove regulatory barriers and facilitate the entry of new operators in the European Union's electronic communications market.

Transatel acknowledges the tremendous effort made by BEREC and National Regulatory Authorities (**NRA**) to implement the GA regime since the adoption and subsequent transposition of the EECC by Member States.⁴ Transatel, however, does not share the conclusion of BEREC and the NRAs expressed in the Draft Opinion, that the GA regime has facilitated market entry through consistent and lean notification duties. Until such time as all inconsistencies, no matter how small, are eliminated across the entirety of the European Economic Area (**EEA**) the objectives of the GA regime to facilitate market entry by the removal of barriers to entry is not met. While Transatel understands that some of these inconsistencies do not fall within the remit of BEREC or the NRAs, Transatel urges BEREC to include these inconsistencies in the GA regime in the opinion it issues pursuant to Article 112 of paragraph 3 of the EECC, as they hinder the functioning of the internal market. Failure to include these inconsistencies in the BEREC opinion impacts the ability of the European Commission to address the identified issues. Transatel also respectfully urges BEREC to develop a score card highlighting the inconsistencies in implementation of the GA regime by each Member State in the EEA.

Inconsistencies

Transatel welcomes the view expressed by BEREC:

... that the EECC, while confirming the General Authorisation Directive's approach as to the notification to the national competent authority being the maximum

¹ Commission Directive 96/19/EC of 13 March amending Directive 90/388/EEC on competition in the markets for telecommunications services and abolishing all special and exclusive rights restricting the provision of telecommunications services and associated networks by undertakings established in the Community.

² Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services ("Authorisation Directive").

³ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.

requirement that can be imposed on providers to enter the market, intervened on the list of information that may be included in national notification forms, turning it into an exhaustive one, hence further constraining Member States' room of manoeuvre when transposing the relevant acquis (Article 12 EECC), so to limit the range of data that national authorities can ask notifying operators to provide.⁵

While Transatel acknowledges the efforts made by BEREC and National Regulatory Authorities (**NRA**) since the adoption and subsequent transposition of the EECC, to transpose the GA regime, Transatel does not share the conclusion by BEREC that its efforts have resulted in:

... streamlining and standardising GA related fulfilments throughout the Union, with a view to facilitating market entry in all Member States and getting to as consistent and lean as possible notification duties bearing down on providers.⁶

Nor does Transatel share the view of the NRAs that:

... the GA regime has been properly working so far in regulating market entry and facilitating NRAs' monitoring activities, without creating barriers or providers in entering individual markets.⁷

In its 2021 Opinion, BEREC noted inconsistencies in the application of the GA regime in relation not only to the notification form but also the materials to be attached to the notification forms, undertakings' identifiers, and contact person in the country.⁸ Unfortunately, these inconsistencies in the GA regime are still prevalent in many Member States of the EEA. Such inconsistencies do not allow pan-European players, such as Transatel, to run an identical notification process in each Member States of the EEA and thereby hinder the functioning of the internal market. The inconsistencies identified by Transatel in the GA regime include, but are not limited to, the following:

- requiring an address within the Member State of the EEA for the sending of notifications - Malta, Norway and Liechtenstein.
- requiring digital identities to submit the GA form that is difficult if not impossible to obtain for a company incorporated outside the jurisdiction - Italy and Greece.
- requirement to submit translated and legalised corporate documents and if applicable powers of attorneys – Greece, Spain and Czech Republic.
- requirement to submit criminal records of the company and legal representatives which must be translated – Czech Republic.

⁵ BEREC draft Opinion on the national implementation and functioning of the general authorisation, and on their impact on the functioning of the internal market, pursuant to Article 122, paragraph 3 EECC, Ibid. page 3.

⁶ Ibid. page 4.

⁷ Ibid. page 9.



⁸ BEREC Opinion on the national implementation and functioning of the general authorisation, and on their impact on the functioning of the internal market, pursuant to Article 122, paragraph 3 EECC, document BoR (21) 178 of December 2021/

Transatel urges BEREC to include these inconsistencies and others identified as a result of this consultation in the opinion that it will issue pursuant to Article 112 of paragraph 3 of the EECC. These inconsistencies not only hinder the functioning of the internal market but may also be an infringement of the freedom to provide services enshrined in Article 56 of the Treaty on the Functioning of the European Union based on established case law of the European Court of Justice.⁹

Transatel respectfully urges BEREC to develop a score card highlighting the inconsistencies in of the GA regime by each Member State in the EEA. Such a score card, in Transatel's view, will make it easier to assess the implementation of the GA regime in each Member State of the EEA and the progress being made by Member States to comply with the Article 12 of the EECC and facilitate the functioning of the internal market.

Contact Details

Should BEREC require any implementation additional information or clarification on any elements set out in Transatel's views on the Consultation, please do not hesitate to contact:


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About Transatel

[Transatel](#) is a global cellular IoT connectivity solutions provider and a leading Mobile Virtual Network Operators Enabler (**MVNE**) with over 120 MVNO managed on its own full core network. A Pioneer of M2M connectivity, Transatel simplifies global IoT deployments through a single integration to its connectivity management platform by leveraging LTE-M, 3G, 4G, and 5G network access agreements with 250+ MNOs. Today, Transatel's SIMs and eSIM securely connects millions of vehicles, industrial and consumer devices to public and private cellular networks across the world for clients such as BMW, Airbus, Worldline, Stellantis, and Jaguar Land Rover. Transatel also provides global cellular data connectivity for international travellers and distributed workforce through its [Ubigi](#) eSIM solution.

⁹ Judgement of 30 April 2014, UPC DTH Sàrl v Nemzeti Média- és Hírközlési Hatóság Elnökhelyettese, C-475/12, EU:C:2014:285.