

Public Consultation on the Draft BEREC Report on the IP Interconnection ecosystem

CCIA Europe response

July 2024

The Computer & Communications Industry Association (CCIA Europe) welcomes the opportunity to participate in the public consultation on the 'Draft BEREC Report on the IP Interconnection ecosystem' conducted by the Body of European Regulators for Electronic Communications.

I. Introduction

CCIA Europe commends the Body of European Regulators for Electronic Communications (BEREC) for the detailed analysis of the IP interconnection market. In particular, CCIA Europe praises the strict evidence based approach, the openness towards stakeholders, and the transparency of the process.

CCIA Europe agrees with the conclusions of the 'Draft BEREC Report on the IP interconnection ecosystem' (the BEREC Report), most notably on the well functioning and adaptability of the open internet, as well as on the health of the IP Interconnection market. Importantly, BEREC notes the IP Interconnection market is competitive and collaborative, showcases no market failure and a balance between the bargaining power of players. It follows that no regulatory intervention is needed in this market.

CCIA Europe endorses the BEREC Report, and recommends that BEREC maintains its scrutiny over the IP Interconnection market, continuing to provide its independent and evidence based analyses.

II. CCIA Europe Comments to the BEREC Report

1. Comments to paragraphs three "traffic developments" and four "pricing and cost developments"

CCIA Europe concurs with the conclusions of paragraphs three and four of the BEREC Report, especially in relation to the overall competitiveness of the European market for peering and transit, as well as with the finding that the internet ecosystem is fully able "to cope with increasing traffic volumes".

In relation to traffic developments, CCIA Europe points out that while the BEREC Report rightly suggests that the increasing diffusion of live-streaming and ultra-high definition (UHD) videos could contribute to data traffic growth, we observe that any increase in UHD demand is already being mitigated by content and application providers (CAPs), both through partnership and technological developments.

Indeed, as reiterated in multiple instances, CAPs and Internet Service Providers (ISPs) showcase, in most cases, cooperative relationships, which result in an efficient

management of networks. Naturally, CAPs significantly invest in new technologies, such as new codecs, multicast technologies, adaptive bit rate technologies and compression algorithms, which guarantee an efficient and high quality delivery of content. On top of this, the use of Content Delivery Networks (CDNs) plays a fundamental role in the delivery of high quality content with low latency.

Furthermore, CCIA Europe maintains that the great investments¹ that CAPs have been making in the complementary internet infrastructure such as CDNs and subsea cables, greatly contribute to the efficient and smooth delivery of content, to the benefit of end users, ISPs, and the whole internet ecosystem.

2. Comments to paragraphs six “generic structure of IP-IC issues” and seven “bargaining situation (in particular) between CAPs and IAS providers”

CCIA Europe agrees with BEREC’s conclusions that the IP-IC ecosystem is driven by functioning market dynamics and by the cooperative behaviour of market players. Indeed, CCIA Europe has always stated and underlined² the cooperative and symbiotic relationship which ties CAPs and ISPs, given the mutual benefits that stem from the collaboration of these industries. The recent partnership announcements³ are only some examples of how the industry is autonomously cooperating and striving for better quality of content, efficient and sustainable delivery practices, and ultimately optimal end-users experience.

CCIA Europe is pleased to see BEREC's evidence-based data analysis, which not only demonstrates that the market is functioning effectively but also provides clarity on the bargaining power dynamics. While acknowledging that bargaining power may shift over time, the BEREC Report indicates that, overall, the bargaining situation among market players appears balanced.

Indeed, CCIA Europe holds that CAPs should not be presumed to possess bargaining power over ISPs simply because of the size or popularity of their services. Indeed, all available evidence on the disputes occurring in the IP Interconnection market shows the exact opposite. Since 2017, disputes have consistently shown a pattern where it is ISPs who exploit their termination monopoly over CAPs to impose higher fees onto them. As BEREC reports, workshop participants have repeatedly described how vertically integrated ISPs artificially congest interconnection links in order to decline the quality of services for end users. Consequently, these ISPs offer CAPs or CDN providers a “premium transit” service, often priced significantly higher than competitive transit rates. In addition, we believe that BEREC’s finding that smaller ISPs have generally a lower proportion of paid peering compared to larger ISPs is another telling element of the market power of larger ISPs in negotiations. CCIA sees this disparity as the clear evidence of the power that large ISPs hold in shaping terms for peering agreements and transit services, and maintains that these patterns reflect the real dynamics in the IP interconnection market.

¹ Analysys Mason, ‘The impact of tech companies' network investment on the economics of broadband ISPs’ October 2022, available [here](#).

² For example, see our position paper on network fees, May 2023, available [here](#).

³ For example, see examples of recent partnerships between Meta and Telefonica [here](#); and between Meta and Vodafone [here](#).

Finally, CCIA Europe emphasises that ensuring quality for end users should be the primary focus of these analyses. We reiterate that European consumers are those who ultimately suffer from IP interconnection disputes, as maintained by BEREC's observations.

We believe that any regulatory intervention, such as introducing an arbitration mechanism through the extension of Article 26 of the European Electronic Communications Code (e.g. as referenced in footnote n.8 of the BEREC Report), raises significant net neutrality concerns, and is furthermore unjustified, unnecessary, and detrimental to the functioning of the internet.

CCIA Europe continues to state, in line with BEREC's findings, that the IP Interconnection market is functioning effectively and is driven by competitive forces. The infrequent nature of the reported disputes does not warrant the introduction of a mandatory dispute resolution mechanism, which would be detrimental to the functioning of the open internet, the net neutrality principle, and European end users.

III. Conclusions

CCIA Europe thanks the Body of European Regulators for Electronic Communications network for the evidence based approach to this report, and agrees with the conclusions that the IP Interconnection market functions properly, driven by competitive dynamics between players.

CCIA Europe reiterates that the evidence available points to a relatively equal bargaining power of the players in the market, with the only disputes being borne out of the anticompetitive behaviours of ISPs, who hold and exploit their termination monopoly. Nonetheless, as BEREC's analysis reveals, no market failure is present in the market. Consequently, CCIA maintains that no regulatory intervention is needed on the IP interconnection market.

The internet is a complex and highly functioning ecosystem, whose dynamics shall not be altered by non-evidence based assumptions. CCIA Europe thus recommends BEREC continues its evidence based analysis and scrutiny over the IP Interconnection market, providing an independent oversight over the market developments.

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

Visit ccianet.org/hub/europe/ or x.com/CCIAEurope to learn more.

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