

## **BREKO submission on the draft BEREC Report on Switching and Termination of contracts (BoR (25) 183)**

BREKO welcomes the draft Report and supports efforts to improve switching and contract termination in a way that facilitates efficient market processes and accelerates copper to fibre migration.

The Report confirms that Member States rely on different organisational models. BREKO supports flexibility in switching implementation and considers decentralised, industry-agreed processes an appropriate basis in many practical cases. The focus should be on harmonising key safeguards and outcomes, not prescribing a single system design. Further, switching and termination requirements must remain proportionate and implementable for alternative network operators.

From BREKO's perspective, progress will come from a limited set of outcome oriented minimum safeguards that improve predictability and prevent tactical delays, without creating additional layers of process complexity or compliance costs. The focus should be on measures that are operationally necessary, scalable for smaller providers, and supportive of fibre activation.

### **Comments on Section 1 | Switching and porting procedures**

Germany applies a well-established, industry-led decentralised switching approach. The priority is therefore not to introduce a central platform, but to finetune a small number of critical process elements so that decentralised models remain fully predictable and enforceable. This includes a clear starting point for when a switching request is considered submitted, consistent timestamps for the core steps and clear deadlines for each phase. It also includes an objective and clearly defined rejection logic so that rejections are traceable and cannot be used as a delaying tool. These minimum safeguards strengthen decentralised processes rather than replacing them.

In the context of copper to fibre migration, BEREC should recognise that copper and fibre are technically independent access technologies. Any loss of service is therefore not inherent to migration, but mainly a matter of process design and execution. Switching procedures should enable efficient fibre activation and avoid unnecessary dependencies that slow down migration. BREKO does not see a need for an additional layer of prescriptive obligations beyond Article 106 (1) EECC, as disproportionate detail rules would risk slowing down implementation and burdening smaller operators without clear added value for end-users.

However, BEREC should acknowledge a closely linked practical issue: many copper-to-fibre transitions happen without any change of provider (same provider, new access technology). In Germany, incumbent practices and long-term wholesale "commitment"

contracts (often structured as 10+3 years) can create a strong lock-in effect where major wholesale customers are contractually steered into upgrading to the incumbent's fibre when it becomes available, while being effectively prevented from migrating to an alternative fibre provider. Even if this is not "provider switching" in the narrow sense, it undermines the same objectives of timely fibre activation, predictability and competitive fibre take-up. BEREC should caution against migration designs that rely on such lock-in.

### **Comments on Section 2 | Disincentives to provider switching or number portability**

In BREKO's view the most relevant disincentives are practical financial and contractual barriers that end-users experience directly. Double billing and the late termination of billing by the losing provider are particularly harmful because they undermine trust in switching and create avoidable disputes. BEREC should make clear that billing must end after a confirmed switch and that corrections and reimbursements must be provided quickly and without undue burden on end-users.

Bundles and terminal equipment can also create strong disincentives when discounts or device restrictions make switching more expensive or more complex. BEREC should require clear, pro rata charging for any remaining device costs so switching does not lead to hidden penalties. In the context of copper to fibre migration, it is especially important that bundle adjustments are not used to relock customers through renewed minimum contract terms.

From BREKO's perspective, tackling these bundle-driven switching disincentives requires that alternative fixed network operators can actually compete on convergent offers. This is only realistic if they can obtain wholesale access to mobile networks on fair and comparable terms. BREKO therefore advocates for an effective, non-discriminatory access obligation to mobile networks so that fixed operators can replicate convergent bundles and competition is not distorted by mobile-input foreclosure that entrenches lock-in effects.

### **Comments on Section 3 | End-user rights in switching and porting processes**

BREKO supports enforceable end-user rights in switching and porting. Especially switching to fibre is in the end-users' interest, because it enables higher performance and more future proof connectivity. Switching procedures should therefore support efficient activation of fibre services without creating unnecessary dependencies that slow down migration.

Effective end-user rights also require financial fairness and transparency. End-users should receive clear, timely information on contract termination to avoid double-billing, as well as on the implications for bundles and terminal equipment, so that switching does not result in hidden lock-in effects. However, addressing such risks cannot rely on switching processes alone but also requires that retail offers and product design do not

create undue or opaque barriers to switching. BEREC should therefore focus on outcome oriented minimum safeguards while leaving sufficient implementation flexibility across national models.

### **Concluding remarks**

BREKO encourages BEREC to focus the final Report on a small set of outcome-oriented safeguards that work across different national models. The Report should recognise decentralised, industry agreed switching arrangements as a legitimate implementation option and avoid conclusions that indirectly drive re-monopolisation.

Switching and portability should be framed as key support mechanisms for copper to fibre migration. BEREC should recognise that copper and fibre are technically independent access technologies and that procedures should facilitate timely fibre activation without unnecessary dependencies on legacy services that slow down migration and take up. Finally, beyond retail switching, the Report should address practical disincentives to switching, in particular double billing and barriers linked to bundles and terminal equipment, to strengthen end-user trust and support effective competition and fibre migration. BEREC should also note that copper-to-fibre take-up can be slowed by wholesale migration lock-in, including long-term “commitment” contracts with incumbent-controlled fibre upgrade clauses, which can significantly delay migration decisions.

### **About BREKO**

As Germany’s leading fibre-optic association, BREKO advocates for fair and effective competition in the German telecommunications market. With more than 500 members including over 260 network operators, BREKO’s membership is firmly committed to future-proof fibre connectivity and accounts for more than 60% of fibre deployment in Germany.

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*BREKO is registered in the lobby register (R002215) for the representation of interests vis-à-vis the German Bundestag and the Federal Government and in the European transparency register (028570718529-43) for the representation of interests vis-à-vis the EU institutions.*