

BEREC's position on net neutrality in the DNA

Key messages

- Increase legal certainty by integrating the recitals of the Open Internet Regulation into the DNA.
- Should the Commission's empowerment to adopt implementing acts be considered necessary, BEREC requests that the empowerment be conditioned on an opinion from BEREC that the EC should be obliged to take utmost account of.
- In order to reduce administrative burdens — both for the market as well as NRAs/BEREC — BEREC supports replacing the proposed reporting framework with the current framework laid down in the OIR, amended to transform the annual reporting duty of NRAs into a biennial exercise.
- Ensure that open internet obligations relating to transparency (Article 96) remain fully enforceable by replacing “consumer” with the wider notion of “end-user”.

Commission proposal:

The DNA proposal maintains net neutrality as a fundamental principle of the electronic communications legislative framework, in continuity with the current Open Internet Regulation (EU) 2015/2120. The DNA proposal contains most of the provisions of the latter, while it does not cover the mentioned Regulation's recitals.

Furthermore, Article 93(6) of the DNA proposal introduces the Commission's power to adopt implementing acts detailing the conditions for the offering of specialised services.

The supervision and enforcement provisions of the DNA proposal foresee amended reporting obligations for, respectively, providers of electronic communications to the public, including providers of internet access services (Article 94(2)), and BEREC (Article 94(3)), as well as new related obligations for BEREC (Article 94(4) [template] and Article 94(5) [guidelines]).

BEREC's assessment:

BEREC welcomes the confirmation of **net neutrality** as a **fundamental principle** in the DNA proposal and appreciates the almost complete coverage of the substantive provisions of the Open Internet Regulation by it. However, BEREC is **concerned** that the **Recitals** from the Open Internet Regulation are not taken up in the DNA proposal, given their importance as an interpretative tool.

BEREC questions whether integrating the Open Internet Regulation within the DNA effectively contributes to the simplification objective, given that such integration is addressed in different sections of the DNA and its annexes and is incomplete (as Recitals have not been integrated).

Regarding Article 93(6) (European Commission implementing acts detailing the conditions “for the offering of services other than internet access services which are optimised for specific content, applications or services, or a combination thereof” (specialised services)), **BEREC believes that its** Open Internet Guidelines already provide strong expert guidance in this area. It should therefore be ensured that such implementing acts complement, and do not undermine

or duplicate, BEREC's guidance documents (e.g., upcoming BEREC guidance on 5G network slicing - see [BEREC Work Programme 2026](#), Chapter 2.2).

Should the Commission's empowerment to adopt implementing acts be considered necessary, **BEREC requests foreseeing its involvement in the** adoption process.

BEREC **supports** the proposed **transformation** of BEREC's current obligation to publish yearly open internet monitoring reports (under Article 5(1) Open Internet Regulation) **into a bi-annual reporting exercise (Article 94(3))**.

Regarding Article 94(2) (revised reporting obligations for providers of electronic communications to the public, including providers of internet access services), BEREC **questions its necessity and coherence with the simplification goal**, given that it would add rather than reduce administrative burdens for both providers — especially smaller ones — and NRAs. Therefore, should the provision be maintained, the new reporting obligations should include minimum thresholds for participation in the data collection exercise. Similar concerns hold for the related administrative burdens upon BEREC pursuant to the new obligations of Article 94(4).

BEREC welcomes the fact that the current **transparency measures** are maintained to ensure an Open Internet access. Nevertheless, BEREC flags with **concern** that – in contrast with Article 4(3) Open Internet Regulation - **Article 96(2)** implies that Member States would lose the opportunity to keep or introduce additional monitoring, information provision or transparency obligations.

BEREC is furthermore concerned regarding the narrower scope for end-user protection, considering the replacement of the notion of **“end-user”** with the **more limited** one of **“consumer”** in e.g. **Article 96** on Transparency.

Alternative proposals:

- Should the Open Internet Regulation be integrated into the DNA, its recitals should be taken up.
- **Article 93(6)**: should the EC — despite BEREC's concerns — wish to empower itself to adopt implementing acts on specialised services, BEREC requests that the adoption of such acts be conditioned on an opinion from BEREC that the EC should be obliged to take utmost account of.
- **Article 94**: In order to reduce administrative burdens — both for the market as well as NRAs/BEREC — BEREC suggests replacing Article 94 with the current framework laid down in Article 5(1) and (2) OIR, amended to transform the annual reporting duty of NRAs (Article 5(1), last sentence) into a biennial exercise.
- **Article 96**: (transparency): BEREC invites the co-legislators to reinstate the possibility for member states to maintain or introduce (as in Article 4(3) OIR) more protective measures and suggests replacing “consumer” with the wider notion of “end-user”.