Body of European Regulators for Electronic Communications (BEREC) and Agency for Support for BEREC (BEREC Office)

2016/0286(COD) - 14/09/2016 - Legislative proposal

PURPOSE: to strengthen the role of the Body of European Regulators for Electronic Communications (BEREC) in the area of electronic communications.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: Parliament decides in accordance with the ordinary legislative procedure on an equal footing with Council.

BACKGROUND: Regulation (EC) 1211/2009 established the setting up of BEREC and the BEREC Office. Their aim was to contribute to the development and better functioning of the internal market for electronic communications networks and services.

BEREC and the BEREC Office have made a positive contribution towards a consistent implementation of the regulatory framework for electronic communications. Notwithstanding, there are still significant disparities between Member States as regards regulatory practice. Moreover, the governance structure of BEREC and the

BEREC Office is cumbersome and gives rise to unnecessary administrative burden.

In order to ensure efficiency gains and synergies and to further contribute to the development of the internal market for electronic communications throughout the Union as well as to the promotion of very high capacity data connectivity, the Commission proposes to strengthen the role of BEREC and enhance its governance structure by establishing BEREC as a Union decentralised agency. BEREC would therefore become a key actor to serve the objective of achieving an internal telecoms market in the Union.

In its Communication of 6 May 2015 entitled A Digital Single Market Strategy for Europe, the Commission envisaged presenting proposals in 2016 for an ambitious overhaul of the regulatory framework for electronic communications. The communication pointed out that the changing market and technological environment make it necessary to strengthen the institutional framework by enhancing the role of BEREC.

In its resolution Towards a Digital Single Market Act, the European Parliament called on the Commission to integrate further the digital single market by ensuring a more efficient institutional framework by strengthening the role, capacity and decision-making powers of BEREC. Parliaments also stressed the need to improve the financial and human resources and further enhance the governance structure of BEREC.

IMPACT ASSESSMENT: the preferred option is to strengthen BERECs advisory role with certain pre-normative powers and better market review process and spectrum assignment of right of use for radio spectrum.

CONTENT: the proposal repealing Regulation (EC) 1211/2009 broadens the current mandate of BEREC and turns it into a fully-fledged agency equipped with the necessary tools and adequate resources to achieve its objectives and carry out its tasks. The proposal should be read together with the proposal for a directive of the European Parliament and of the Council establishing the European Electronic Communications Code.

Aims: BEREC should aim to achieve the same objectives as NRAs. In particular, it should:

- ensure a consistent implementation of the regulatory framework for electronic communications and thereby contribute to the development of the internal market;
- promote (i) access to, and take-up of, very high capacity data connectivity; (ii) competition in the provision of electronic communications networks, services and associated facilities; and (iii) the interests of the citizens of the Union.

Tasks: the proposal sets out additional tasks for BEREC, notably:

- powers to adopt binding decisions on the identification of transnational markets and on a contract summary template; quasi-binding powers in relation to the internal market procedures for draft national measures on market regulation (the double-lock system) and the establishment of a single maximum termination rate for the Union;
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- the issuing of guidelines in a number of areas: (i) geographical surveys, (ii) common approaches to meeting transnational demand, (iii) minimum criteria for reference offers, (iv) common criteria for the management of numbering resources, (v) quality-of-service parameters, (vi) applicable measurement methods and the technical details of the cost model to be applied by NRAs when setting maximum symmetric termination rates. It will also be given the power to request information directly from operators;

In addition, BEREC:

- will be in charge of setting up a register for the extraterritorial use of numbers and cross-border arrangements and another register of providers of electronic communications networks and services;
- assist the Commission and NRAs in the area of standardisation by helping them identify a threat to end-to-end connectivity or to effective access to emergency services.

In a double-lock system, if BEREC and the Commission agree on their position regarding the draft remedies an NRA proposes, the Commission could require the NRA to amend or withdraw the draft measure and, if necessary, to re-notify the market analysis.

A peer review system within BEREC will also be introduced as a new coordination mechanism to improve efficiency and coherence amongst Member States with regard to regulatory market aspects of assignments of rights of use for radio spectrum.

Administrative and management structure: this comprises a Management Board, an Executive Director, Working Groups and a Board of Appeal. The Executive Director manages the agency and will be its legal representative. The Executive Director is accountable to the Management Board and shall report to the European Parliament

BUDGETARY IMPLICATIONS: the total financial resources necessary for BEREC to fulfil its mission amount to EUR 14 135 million for the period 2019-2020. In addition to the contribution from the Union, BEREC may collect charges for publications and other services provided, contributions from third countries or the electronic communications regulatory authorities of third countries participating in the work of BEREC and voluntary contributions from the Member States and NRAs.