Body of European Regulators for Electronic Communications (BEREC) and the Office. 'Telecoms Package'

2007/0249(COD) - 06/05/2009 - Text adopted by Parliament, 2nd reading

The European Parliament approved with amendments, under the second reading of the codecision procedure, the Council's common position for adopting a regulation of the European Parliament and of the Council establishing the Group of European Regulators in Telecoms (GERT).

The amendments adopted in plenary are the result of a compromise negotiated with the Council.

As part of the compromise, the **Body of European Regulators for Electronic Communications (BEREC)** shall be established, as well as the **Office** to provide BEREC with professional and administrative support.

Tasks: BEREC shall draw upon expertise available in the national regulatory authorities (NRAs) and shall carry out its tasks in cooperation with the NRAs and the Commission. It shall promote cooperation between NRAs, and between NRAs and the Commission. Furthermore, BEREC shall advise the Commission, and upon request, the European Parliament and the Council. The tasks of BEREC shall be:

- to deliver opinions on draft measures of NRAs concerning market definition, designation of undertakings with significant market power and imposition of remedies, and to cooperate and work together with the NRAs;
- to deliver opinions on draft recommendations and/or guidelines on the form, content and level of details to be given in notifications;
- to be consulted on draft recommendations on relevant product and service markets;
- to deliver opinions on draft decisions on the identification of transnational markets;
- on request, to provide assistance to NRAs, in the context of the analysis of the relevant market;
- to deliver opinions on draft decisions and recommendations on harmonisation;
- to be consulted and to deliver opinions on cross-border disputes;
- to deliver opinions on draft decisions authorising or preventing a NRA from taking exceptional measures, in accordance with the Access Directive;
- to be consulted on draft measures relating to effective access to the emergency call number 112;
- to be consulted on draft measures relating to the effective implementation of the 116 numbering range, in particular the missing children hotline number 116000;
- to assist the Commission with the updating of Annex II of Directive 2002/19/EC (Access Directive);
- on request, to provide assistance to NRAs on issues relating to fraud or the misuse of numbering resources within the Community in particular for cross-border services;
- to deliver opinions aiming to ensure the development of common rules and requirements for providers of cross-border business services;
- to monitor and report on the electronic communications sector, including publishing of an annual report on the developments in the sector.

NRAs and the Commission shall take the utmost account of any opinion, recommendation, guidelines, advice or regulatory best practice adopted by BEREC. BEREC may, where appropriate, consult the relevant national competition authorities before issuing its opinion to the Commission.

Composition and organisation of BEREC: BEREC shall be composed of the Board of Regulators. The Board of Regulators shall be composed of one member per Member State who shall be the head or nominated high-level representative of the NRA established in each Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. The Commission shall attend as observer and shall be represented at an appropriate level.

The Board of Regulators shall act by two-thirds majority of its all members unless otherwise provided in this Regulation or in the Framework Directive or the Specific Directives. Each member or alternate shall have one vote. These decisions shall be made public, and shall indicate the reservations of an NRA at its request.

When carrying out its tasks conferred upon it by this Regulation, BEREC shall act independently. The Members of the Board of Regulators shall neither seek nor accept any instruction from any government, from the Commission, or from any other public or private group.

The Office: to provide BEREC with professional and administrative support, the Office should be established as a Community body with legal personality and should exercise the tasks conferred on it by this Regulation. This Office should have legal, administrative and financial autonomy, in order efficiently to provide BEREC with its support. The Office should comprise of a Management Committee and an Administrative Manager.

The revenues and resources of the Office shall consist notably of: (a) a subsidy from the Community, entered under the appropriate headings of the general budget of the European Union (Commission Section); (b) financial contributions from Member States or from their NRAs made on a voluntary basis.

Evaluation and review: within three years of the effective start of operations, the Commission shall publish an evaluation report on the experience acquired as a result of the operation of BEREC and the Office. The evaluation report shall cover the results achieved by BEREC and the Office and their respective working methods, in relation to their respective objectives, mandates and tasks defined in this Regulation and in their respective annual work programmes. The European Parliament shall issue an opinion on the evaluation report.

Note that this proposal is part of the "telecom package" which includes the revision of the electronic communications framework and the citizens' rights directive. Given that MEPs could not reach a compromise with the Council on the framework directive and that all three proposals are interlinked, it is likely that the whole package will go to conciliation in the next legislature.