

13th April 2020

Public Consultation on Draft BEREC Strategy 2021 – 2025

Elaborated by CMG-AE Action Group Gigabit Fiber Access - AGGFA

1 Our focus

We restricted our consultation to connectivity and VHCN. The figures Px refer to the numbers given in the web “BEREC Consultation Platform”.

2 Analysis

2.1 Significance of one area-wide passive fiber infrastructure

Main statements in the Draft Strategy refer to connectivity. They are very important but they do not underline enough the following fact which shall be promoted, monitored and if necessary in the future be regulated:

The absolute precondition for all aspects of digitalization and for the Gigabit Society is one area-wide fiber infrastructure, VHCN, giving access to all kind of end users and end points and connecting them among each other: homes, enterprises, all kind of “machines”, antennas, sensors, street furniture’s etc. This network serves as basic infrastructure for all digital applications. And 5G/6G is nothing more than one of these applications admittedly one the most important. This networks, therefore, can be regarded as general-purpose networks (GPN)¹ that enables the deployment of platforms that offer a broad range of services, traffic types, applications, content, and devices.

2.2 New evolving business models and their influence on the BEREC Draft Strategy

The Draft Strategy does not include different business models and their impact on strategies and regulatory tools. It looks the mind-set sticks only to vertical models, mostly applying to incumbents. The draft is not regarding the gradual change in the market where wholesale only physical infrastructure providers and neutral network providers emerge. They use Open Layer Models and separate passive physical infrastructure (Layer 1) from active operation (Layer 2) and service provision (Layer 3)². This proves to be successful and is favored by investors and banks.

¹[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/ICCP/CISP\(2015\)2/FINAL&doc_Language=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/ICCP/CISP(2015)2/FINAL&doc_Language=En)

² <https://ec.europa.eu/digital-single-market/en/news/broadband-investment-guide>

Layer 1 and Layer 2 providers are wholesale only companies having no commercial relation with end-users. Wholesale only business models shift competition from the physical layer to the service layer, where a maximum of innovation takes place.

Consequently the strategic goals and the regulatory tools have different influence for the providers dependent on the particular business model.

Concerning competition there is great difference between the layers concerning public interest criteria, market power, market behavior etc. and cannot be compared between the layers. The regulatory tools should be matched accordingly. E. g. infrastructure competition in rural areas is mostly inefficient, it should be regulated differently as competition between vertical operators.

Investors prefer physical infrastructure providers and should be motivated with a "smooth" competition regulation on the physical infrastructure layer.

Especially symmetric regulation may be applied differently in the 3 layers.

The passive physical infrastructure of the VHCN (Layer 1) is actually an essential public service due to its importance for all social and economic areas of our lives, though the existing SGEI EU documents do not meet the objectives for this overall important physical infrastructure of a future GPN and they should be adopted accordingly.

3 Our Suggestion

3.1 Additional Policy Goals

Agreeing on the above conclusions the BEREC Draft Strategy should express more clearly the promotion of the VHCN as a general-purpose networks (GPN), i. e. the area-wide fiber network as the basic physical infrastructure and seen in future as an essential public service.

Therefore the list of the policy goals for the digital market (P24) shall be complemented by:

- Creating the right framework to allow Europe the roll out of one wide-area basic fiber infrastructure accessing all kinds of end-users, enabling an integrated planning for fixed and mobile, avoiding double investments at least in rural areas, utilizing all kinds of cost reduction and infrastructure sharing, and avoiding digital gaps and motivating investors and banks by reducing their risks when investing in passive fiber infrastructure.
- Competition in broadband markets should be evaluated with respect to its implications and effects at all 3 layers of GPNs by creating a framework for wholesale only providers and service providers, their cooperation with vertical operators and enable standard technical, operational and legal interfaces. The consistent application of regulatory tools such as co-investment and symmetric regulation and competition rules should be carefully analyzed and differently adopted in the 3 layers by taking into account their different public interest criteria, market size, market behavior etc.

- In the long term the passive physical infrastructure of the VHCN should be considered as an essential public service and the supporting frameworks and legal conditions shall be elaborated.

3.2 Statements to be modified:

3.2.1 In P12 of the Draft:

Original text: "This modus operandi will evolve, because the technical development towards fixed mobile convergence and virtualisation now enables stronger structural convergence and cost-benefits from deploying and operating a shared infrastructure."

Modified text: "This modus operandi will *undergo a change*, because the technical development towards fixed mobile convergence, towards a common fiber infrastructure for all kind of services including 5G and virtualisation now enables stronger structural convergence and cost-benefits from deploying and operating a shared infrastructure."

3.2.2 In P32 of the Draft:

Original text: "BEREC is also finalising the guidelines on new instruments to promote connectivity on the fixed network side (e.g. roll-out of fibre networks) and to monitor the implementation of these guidelines, which NRAs are obliged to take into account."

Modified text: "BEREC is also finalising the guidelines on new instruments to promote connectivity on the fixed network (roll-out of fibre networks) *seen as the basic physical infrastructure for all digital applications including 5G* and to monitor the implementation of these guidelines, which NRAs are obliged to take into account. *These guidelines will take into account the different impact considering the viewed business model.*"