



2016/0286(COD)

27.2.2017

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council establishing the Body of European Regulators for Electronic Communications (COM(2016)0591 – C8-0382/2016 – 2016/0286(COD))

Committee on Industry, Research and Energy

Rapporteur: Evžen Tošenovský

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council establishing the Body of European Regulators for Electronic Communications (COM(2016)0591 – C8-0382/2016 – 2016/0286(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0591),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0382/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of...¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Directive [...] of the European Parliament and of the Council²¹ (*‘the Directive’*), which establishes a number of

Amendment

(1) Directive [...] of the European Parliament and of the Council²¹ (*‘Electronic Communications Code’*),

tasks for the Body of European Regulators for Electronic Communications ('BEREC'), and Directive 2002/58/EC of the European Parliament and of the Council²² aim to create an internal market for electronic communications within the Union while ensuring a high level of investment, innovation and consumer protection through enhanced competition.

²¹ Directive [...] of the European Parliament and of the Council of [...] establishing the European Electronic Communications Code (OJ L [...]).

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

which establishes a number of tasks for the Body of European Regulators for Electronic Communications ('BEREC'), and Directive 2002/58/EC of the European Parliament and of the Council²² (*'ePrivacy'*) aim to create an internal market for electronic communications within the Union while ensuring a high level of investment, innovation and consumer protection through enhanced competition.

²¹ Directive [...] of the European Parliament and of the Council of [...] establishing the European Electronic Communications Code (OJ L [...]).

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

Or. en

Amendment 2

Proposal for a regulation Recital 2

Text proposed by the Commission

(2) Regulation (EC) No 531/2012 of the European Parliament and of the Council²³ complements and supports, in so far as Union-wide roaming is concerned, the rules provided for by the regulatory framework for electronic communications and establishes certain tasks for BEREC.

²³ Regulation (EC) No 531/2012 of the European Parliament and of the Council of

Amendment

(2) Regulation (EC) No 531/2012 of the European Parliament and of the Council²³ (*'Roaming III'*) complements and supports, in so far as Union-wide roaming is concerned, the rules provided for by the regulatory framework for electronic communications and establishes certain tasks for BEREC.

²³ Regulation (EC) No 531/2012 of the European Parliament and of the Council of

13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p.10).

13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p.10).

Or. en

Amendment 3

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Regulation (EU) No 2015/2120 of the European Parliament and of the Council²⁴ ***establishes common rules to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services and related end-users' rights and sets up a new retail pricing mechanism for Union-wide regulated roaming services. This regulation*** establishes additional tasks for BEREC, ***in particular the issuing of guidelines on the implementation of national regulatory authorities ('NRAs') obligations in relation to open internet access as well as reporting and consultation on draft implementing acts to be adopted by the Commission in relation to Union-wide roaming.***

²⁴ Regulation (EU) No 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (OJ L 310, 26.11.2015, p.1)

Amendment

(3) Regulation (EU) No 2015/2120 of the European Parliament and of the Council²⁴ (***'Telecommunications Single Market'***) ***moreover*** establishes additional tasks for BEREC, in relation to open internet access.

²⁴ Regulation (EU) No 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (OJ L 310, 26.11.2015, p.1)

Or. en

Amendment 4

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) In view of the need to ensure the development of consistent regulatory practice and the consistent application of the Union's regulatory framework, the Commission established, by Commission Decision 2002/627/EC, the European Regulators Group (ERG)^{1a} to advise and assist the Commission in the development of the internal market and, more generally, to provide an interface between national regulatory and other competent authorities ('NRAs') and the Commission.

^{1a} *Commission Decision 2002/627/EC of 29 July 2002 establishing the European Regulators Group for Electronic Communications Networks and Services (OJ L 200, 30.7.2002, p. 38).*

Or. en

Amendment 5

Proposal for a regulation

Recital 4

Text proposed by the Commission

Amendment

(4) BEREC and the Office ('BEREC Office') were established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council²⁵. BEREC replaced the European Regulators Group ('**ERG**')²⁶ and was meant to contribute to the development and better functioning of the internal market for electronic communications networks and services by aiming to ensure a consistent implementation of the regulatory

(4) BEREC and the Office ('BEREC Office') were established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council²⁵. BEREC replaced the European Regulators Group²⁶ and was meant to contribute to the development and better functioning of the internal market for electronic communications networks and services by aiming to ensure a consistent implementation of the regulatory

framework for electronic communications. *The BEREC Office was established as a Community body with legal personality to carry out the tasks referred to in Regulation (EC) No 1211/2009, in particular the provision of professional and administrative support services to BEREC.*

²⁵ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (OJ L 337, 18.12.2009, p.1).

²⁶ Commission Decision 2002/627/EC of 29 July 2002 establishing the European Regulators Group for Electronic Communications Networks and Services (OJ L 200, 30.7.2002, p. 38).

framework for electronic communications. *BEREC was neither a Union agency nor did it have legal personality. It acted as an exclusive forum for cooperation among NRAs, and between NRAs and the Commission, in the exercise of the full range of their responsibilities under the Union regulatory framework. BEREC was established to provide expertise and establish confidence by virtue of its independence, the quality of its advice and information, the transparency of its procedures and methods of operation, and its diligence in performing its tasks.*

²⁵ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (OJ L 337, 18.12.2009, p.1).

²⁶ Commission Decision 2002/627/EC of 29 July 2002 establishing the European Regulators Group for Electronic Communications Networks and Services (OJ L 200, 30.7.2002, p. 38).

Or. en

Amendment 6

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) BEREC also served as a body for reflection, debate and advice for the European Parliament, the Council and the Commission in the electronic communications field. BEREC, accordingly, advised the European Parliament, the Council and the Commission, at their request or on its own initiative.

(See wording of recital 9 of Regulation (EC) No 1211/2009)

Amendment 7

Proposal for a regulation

Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) The BEREC Office was established as a Community body with legal personality to carry out tasks referred to in Regulation (EC) No 1211/2009, in particular the provision of professional and administrative support services to BEREC. In order to efficiently support BEREC, the BEREC Office has legal, administrative and financial autonomy.

Or. en

(See wording of recital 11 of Regulation (EC) No 1211/2009)

Amendment 8

Proposal for a regulation

Recital 4 c (new)

Text proposed by the Commission

Amendment

(4c) By Decision 2010/349/EU^{1a}, the Representatives of the Governments of the Member States decided that the BEREC Office would have its headquarters in Riga. The Seat Agreement between the Government of the Republic of Latvia and the BEREC Office was signed on 24 February 2011 and entered into force on 5 August 2011. For the purpose of carrying out the BEREC Office's tasks in an efficient and cost-effective manner, the Director should be responsible for deciding to locate the staff members in

another Member State. Experience has shown that in this regard in particular there is a need for one or more liaison officers located in Brussels.

^{1a} Decision taken by common accord between the Representatives of the Governments of the Member States of 31 May 2010 on the location of the seat of the Office of the Body of European Regulators for Electronic Communications (BEREC) (2010/349/EU) (OJ L156, 23.6.2010, p.12).

Or. en

Amendment 9

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) 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 access to, and take-up of, very high capacity data connectivity, competition in the provision of electronic communications networks, services and associated facilities and the interests of the citizens of the Union, this regulation aims to strengthen the role of

Amendment

(7) 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. 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 access to, and take-up of, very high capacity data connectivity, competition in the provision of electronic communications networks, services and associated facilities and the interests of the citizens of the Union, this regulation aims to strengthen the role of BEREC and ***the BEREC Office and enhance their governance structure.*** This also corresponds to the need to reflect the enhanced role played by BEREC following

BEREC and *enhance its governance structure by establishing BEREC as a Union decentralised agency*. This also corresponds to the need to reflect the *significantly* enhanced role played by BEREC following Regulation (EC) No 531/2012 *which establishes tasks for BEREC in relation to Union-wide roaming*, Regulation (EU) No 2015/2120 *which establishes tasks for BEREC in relation to open internet access and Union-wide roaming*, and the Directive *which establishes a significant number of new tasks for BEREC such as issuing decisions and guidelines on several topics, reporting on technical matters, keeping registers and delivering opinions on internal market procedures for draft national measures on market regulation as well as on assignments of rights of use for radio spectrum*.

Regulation (EC) *No 531/2012*, Regulation (EU) *No 2015/2120* and Directive [...] (*'Electronic Communications Code'*).

Or. en

Amendment 10

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) The need for the regulatory framework for electronic communications to be consistently applied in all Member States is essential for the successful development of an internal market for electronic communications throughout the Union and the promotion of access to, and take-up of, very high capacity data connectivity, of competition in the provision of electronic communications networks, services and associated facilities and of the interests of the citizens of the Union. In view of market and technological developments, which often entails an increased cross-border dimension, and to the experience so far in ensuring a

Amendment

(8) The need for the regulatory framework for electronic communications to be consistently applied in all Member States is essential for the successful development of an internal market for electronic communications throughout the Union and the promotion of access to, and take-up of, very high capacity data connectivity, of competition in the provision of electronic communications networks, services and associated facilities and of the interests of the citizens of the Union. In view of market and technological developments, which often entails an increased cross-border dimension, and to the experience so far in ensuring a

consistent implementation in the electronic communications field, it is necessary to build on the work of **BEREC and the BEREC Office and further develop them into a fully-fledged agency.**

consistent implementation in the electronic communications field, it is necessary to build on the work of **well-established governance structure composed of BEREC and the BEREC Office.**

Or. en

Amendment 11

Proposal for a regulation Recital 9

Text proposed by the Commission

Amendment

(9) The agency should be governed and operated in line with the principles of the Joint Statement of the European Parliament, the Council and the European Commission of 19 July 2012 on decentralised agencies ('Common Approach')²⁸. Due to the established image of BEREC and the costs that a modification of its name would entail, the new agency should retain the name of BEREC.

deleted

²⁸ *Joint Statement of the Parliament, Council and the Commission on decentralised agencies of 19 July 2012.*

Or. en

Amendment 12

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The BEREC Office should be independent as regards operational and technical matters and should enjoy legal, administrative and financial autonomy.

To that end, it is necessary and appropriate that it should be a body of the Union having legal personality and exercising the powers conferred upon it. As a decentralised Union agency, the BEREC Office should operate within its mandate and the existing institutional framework. It should not be seen as representing a Union position to an outside audience or as committing the Union to legal obligations.

Or. en

Amendment 13

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) BEREC, as a technical body with expertise on electronic communications and composed of representatives from NRAs and the Commission, *is best placed to be entrusted with tasks such as deciding on certain issues with a cross-border dimension, contributing to efficient internal market procedures for draft national measures (both as regards market regulation and assignments of rights of use for radio spectrum), providing the necessary guidelines to NRAs in order to ensure common criteria and a consistent regulatory approach, and keeping certain registries at Union level. This is without prejudice to the tasks established for NRAs, which are closest to the electronic communications markets and their local conditions. In order to carry out its tasks, the agency would require adequate financial and human resources and would also continue the pooling of expertise from NRAs.*

Amendment

(10) *The tasks of* BEREC, as a technical body with expertise on electronic communications and composed of representatives from NRAs and the Commission, *are without prejudice to the tasks established for NRAs, which are closest to the electronic communications markets and their local conditions. In order to carry out its tasks, BEREC should continue to pool expertise from the NRAs. To make BEREC more powerful and more representative and to safeguard expertise, experience and knowledge of the specific situation from variety of national markets, each Member State should ensure that its NRA has adequate financial and human resources required to participate in the work of BEREC, in particular in the work of the Working Groups and chairmanship of the Board of Regulators.*

Or. en

Amendment 14

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) BEREC should be allowed if necessary to cooperate with, and without prejudice to the role of, other Union bodies, agencies, offices and advisory groups, in particular the Radio Spectrum Policy Group²⁹, the European Data Protection Board³⁰, the European Regulators Group for Audiovisual Media Services³¹ and the European Union Agency for Network and Information Security³²; as well as with existing committees (such as the Communications Committee and the Radio Spectrum Committee). It should also be allowed to cooperate with competent authorities of third countries, in particular, regulatory authorities competent in the field of electronic communications and/or groups of those authorities, as well as with international organisations when necessary for the performance of its tasks.

²⁹ Decision 2002/622/EC establishing a Radio Spectrum Policy Group (OJ L 198, 27.7.2002, p. 49).

³⁰ Established under Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p.1).

³¹ Directive [...].

³² Regulation (EU) No 526/2013 of the European Parliament and of the Council of

Amendment

(11) BEREC **and BEREC Office** should be allowed if necessary to cooperate with, and without prejudice to the role of, **NRAs**, other Union bodies, agencies, offices and advisory groups, in particular the Radio Spectrum Policy Group²⁹, the European Data Protection Board³⁰, the European Regulators Group for Audiovisual Media Services³¹ and the European Union Agency for Network and Information Security³²; as well as with existing committees (such as the Communications Committee and the Radio Spectrum Committee). It should also be allowed to cooperate with competent authorities of third countries, in particular, regulatory authorities competent in the field of electronic communications and/or groups of those authorities, as well as with international organisations when necessary for the performance of its tasks. **BEREC should also be allowed to consult interested parties by means of public consultations.**

²⁹ Decision 2002/622/EC establishing a Radio Spectrum Policy Group (OJ L 198, 27.7.2002, p. 49).

³⁰ Established under Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p.1).

³¹ Directive [...].

³² Regulation (EU) No 526/2013 of the European Parliament and of the Council of

21 May 2013 concerning the European Union Agency for Network and Information Security (ENISA) and repealing Regulation (EC) No 460/2004 (OJ L 165, 18.6.2013, p.41).

21 May 2013 concerning the European Union Agency for Network and Information Security (ENISA) and repealing Regulation (EC) No 460/2004 (OJ L 165, 18.6.2013, p.41).

Or. en

Amendment 15

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The organisational structures of BEREC and of the BEREC Office should be streamlined and suitable for the tasks they are to perform. Taking into account settled procedures and new set of tasks assigned to BEREC, it is necessary to make minor changes in the organisation with view of strengthening effectiveness of both BEREC and the BEREC Office.

Or. en

(See wording of recital 12 of Regulation (EC) No 1211/2009.)

Amendment 16

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) Moreover, the rules governing the BEREC Office should, where appropriate, be aligned with the principles of the Joint Statement of the European Parliament, the Council and the Commission of 19 July 2012 on decentralised agencies.

Or. en

Amendment 17

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) ***Compared to the situation in the past where both a Board of Regulators and a Management Committee were running in parallel, having a single board giving general orientations for the activities of BEREC, deciding on regulatory and operational as well as on administrative and budgetary management matters should help improving the efficiency, coherence and performance of the agency. To this end, the Management Board should carry the relevant functions and should consist, in addition of two representatives of the Commission, of the Head, or otherwise a member of the collegiate body, of each NRA, who are protected by dismissal requirements.***

Amendment

(12) ***The Management Board should carry the relevant administrative and budgetary management matters functions and should consist, in addition of the Head, or otherwise a member of the collegiate body, of each NRA and of a representative of the Commission.***

Or. en

Amendment 18

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) In the past the appointing authority powers were exercised by the Vice-Chair of the Management Committee of the BEREC Office. The Management Board of the new agency should delegate relevant appointing authority powers to the ***Executive*** Director, who would be authorised to sub-delegate those powers. This would contribute to an efficient management of the BEREC staff as well as

Amendment

(13) In the past the appointing authority powers were exercised by the Vice-Chair of the Management Committee of the BEREC Office. The Management Board of the new agency should delegate relevant appointing authority powers to the Director, who would be authorised to sub-delegate those powers. This would contribute to an efficient management of the BEREC staff as well as to ensuring that

to ensuring that the Management **Committee**, as well as the Chairperson and Deputy Chairperson, can concentrate on their functions.

the Management **Board**, as well as the Chairperson and Deputy Chairperson, can concentrate on their functions.

Or. en

Amendment 19

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) ***In the past the term of office of the Chair and of the Vice-Chairs of the Board of Regulators was one year.*** In view of the additional tasks assigned to BEREC and the need to ensure annual and multiannual programming for its activities, it is crucial to ensure that the Chairperson and Deputy Chairperson benefit from a stable and long-term mandate.

Amendment

(14) In view of the additional tasks assigned to BEREC and the need to ensure annual and multiannual programming for its activities, it is crucial to ensure that the Chairperson and Deputy Chairperson ***of the Management Board*** benefit from a stable and long-term mandate.

Or. en

Amendment 20

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) The Management Board should hold at least two ordinary meetings a year. In view of past experience and the enhanced role of BEREC, the Management Board may need to hold additional meetings.

Amendment

(15) The Management Board ***of the BEREC Office*** should hold at least two ordinary meetings a year. In view of past experience and the enhanced role of BEREC, the Management Board may need to hold additional meetings.

Or. en

Amendment 21

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) The role of the **Executive** Director, who would be the legal representative of BEREC, is crucial for the adequate functioning of the new agency and the implementation of the tasks assigned to it. The Management Board should appoint him/her **on the basis of a list drawn up by the Commission** following an open and transparent selection procedure in order to guarantee a **rigorous** evaluation of the candidates and a high level of independence. Moreover, in the past the term of office of the Administrative Manager of the BEREC Office was three years. It is necessary that the **Executive** Director has a sufficiently long mandate in order to ensure stability and delivery of a long-term strategy for **the agency**.

Amendment

(16) The role of the Director, who would be the legal representative of **the BEREC Office**, is crucial for the adequate functioning of the new agency and the implementation of the tasks assigned to it. The Management Board should appoint him/her following an open and transparent selection procedure in order to guarantee a **rigorous** evaluation of the candidates and a high level of independence. Moreover, in the past the term of office of the Administrative Manager of the BEREC Office was three years. It is necessary that the Director has a sufficiently long mandate in order to ensure stability and delivery of a long-term strategy for **the BEREC Office**.

Or. en

Amendment 22

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) BEREC should be composed of the Board of Regulators, which is supported by the Contact Network and the Working Groups. The existing model of chairmanship of the Board of Regulators, based on 'Troika' system of annual rotation of Chairs and Vice-Chairs, has helped to ensure continuity of BERECs' work and has thus contributed to the smooth operation of Board of Regulators. An appointee as Chair must first serve a one-year term as Vice-Chair, followed by

a one-year term as Chair, and thereafter, where possible, a further one-year term as Vice-Chair.

Or. en

Amendment 23

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Experience has shown that most of BEREC's tasks are better carried out through working groups, therefore the **Management Board** should be in charge of setting up working groups and appointing their members. ***In order to ensure a balanced approach, the working groups should be coordinated and moderated by members of the BEREC staff.*** Lists of qualified experts should be prepared in advance to ensure a quick set-up of certain working groups, in particular those related to ***internal market procedures for draft national measures on market regulation and on assignments of rights of use for radio spectrum, due to the time limits of those procedures.***

Amendment

(17) Experience has shown that most of BEREC's tasks are better carried out through Working Groups, therefore the ***Board of Regulators*** should be in charge of setting up Working Groups and appointing their members ***and Co-Chairs.*** Lists of qualified experts should be prepared in advance to ensure a quick set-up of certain Working Groups, in particular those related to procedures ***with time limits.*** ***Any conflict of interests of the members of Working Groups or observers should be avoided.***

Or. en

Amendment 24

Proposal for a regulation

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Experience has shown usefulness of intermediate level between the Working Groups and Board of Regulators. The Contact Network should prepare documents for the plenary meetings of the

Amendment 25

**Proposal for a regulation
Recital 17 b (new)**

Text proposed by the Commission

Amendment

(17b) The BEREC Office should provide all necessary professional and administrative support, including financial, organisational and logistical support, for the work of BEREC, such as preparation of agendas and minutes, reimbursement of the travel costs as well as, where necessary, the costs relating to the meetings of the Board of Regulators, Contact Network and Working Groups, workshops and other meetings, financing of studies and communication activities.

Amendment 26

**Proposal for a regulation
Recital 19**

Text proposed by the Commission

Amendment

(19) Commission Delegated Regulation (EU) No 1271/2013 of the European Parliament and of the Council³⁴ should apply to BEREC.

(19) Commission Delegated Regulation (EU) No 1271/2013 of the European Parliament and of the Council³⁴ should apply to ***the BEREC Office***.

³⁴ Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the

³⁴ Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the

Amendment 27

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19 a) The BEREC Office should be adequately staffed to carry out its duties. An enlarged list of tasks assigned to BEREC and complexity of the tasks increasingly requested from the BEREC Office, including the contribution to the expertise, should be duly reflected in resource programming of the BEREC Office. Furthermore, the BEREC Office's composition of human resources should reflect the need for adequate balance between the temporary agents and external personnel.

Amendment 28

Proposal for a regulation Recital 20

Text proposed by the Commission

Amendment

(20) In order to guarantee **BEREC's** autonomy, **it** should have its own budget, most of which comes essentially from a contribution from the Union. The financing of BEREC should be subject to an agreement by the budgetary authority as set out in point 31 of the Inter-institutional Agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management³⁵.

(20) In order to guarantee **the BEREC Office's** autonomy, **and in order to provide support to the work of BEREC, the BEREC Office** should have its own budget, most of which comes essentially from a contribution from the Union. The financing of **the BEREC Office** should be subject to an agreement by the budgetary authority as set out in point 31 of the Inter-institutional Agreement on budgetary discipline, on cooperation in budgetary

matters and on sound financial management³⁵.

³⁵ Inter-institutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).

³⁵ Inter-institutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).

Or. en

Amendment 29

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) BEREC should be independent as regards operational and technical matters and should enjoy legal, administrative and financial autonomy. To that end, it is necessary and appropriate that BEREC should be a body of the Union having legal personality and exercising the powers conferred upon it.

Amendment

deleted

Or. en

(See amendment relating to recital 9b.)

Amendment 30

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) As a Union decentralised agency, BEREC should operate within its mandate and the existing institutional framework. It should not be seen as representing a Union position to an

Amendment

deleted

outside audience or as committing the Union to legal obligations.

Or. en

(See amendment relating to recital 9b.)

Amendment 31

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) In order to further extend the consistent implementation of the provisions of the regulatory framework for electronic communications *within the scope of BEREC, the new agency* should be open to the participation of *regulatory authorities* of third countries competent in the field of electronic communications *that have entered into agreements with the Union to that effect, in particular those of EEA EFTA States and candidate countries.*

Amendment

(23) In order to further extend the consistent implementation of the provisions of the regulatory framework for electronic communications, *BEREC and the BEREC Office* should be open to the participation of *NRAs* of third countries competent in the field of electronic communications.

Or. en

Amendment 32

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) BEREC should be allowed to engage in communication activities within *its* field of competence, which should not be detrimental to BEREC's core tasks *and* should be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board. The content and implementation of BEREC's communication strategy should

Amendment

(24) *BEREC and the BEREC Office* should be allowed to engage in communication activities within *their* field of competence, which should not be detrimental to BEREC's *and the BEREC Office's* core tasks. *The BEREC Office's communication activities* should be carried out in accordance with relevant communication and dissemination plans

be coherent, relevant and coordinated with the strategies and activities of the Commission and the other institutions in order to take into consideration the broader image of the Union.

adopted by the Management Board. The content and implementation of BEREC's **and the BEREC Office's** communication strategy should be coherent, relevant and coordinated with the strategies and activities of the Commission and the other institutions in order to take into consideration the broader image of the Union.

Or. en

Amendment 33

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) In order to carry out its tasks effectively, BEREC should have the right to request all necessary information from the Commission, the NRAs and, as a last resort, other authorities and undertakings. Requests for information should be proportionate and not impose an undue burden on the addressees. NRAs, which are closest to the electronic communications markets, should cooperate with BEREC and have a timely and accurate provision of information to ensure that BEREC is able to fulfil its mandate. BEREC should also share with the Commission and the NRAs the necessary information based on the principle of sincere cooperation.

Amendment

(25) In order to carry out its tasks effectively, BEREC **and the BEREC Office** should have the right to request all necessary information from the Commission, the NRAs and, as a last resort, other authorities and undertakings. Requests for information should be proportionate and not impose an undue burden on the addressees. NRAs, which are closest to the electronic communications markets, should cooperate with BEREC **and the BEREC Office** and have a timely and accurate provision of information to ensure that BEREC **and the BEREC Office** is able to fulfil its mandate. BEREC **and the BEREC Office** should also share with the Commission and the NRAs the necessary information based on the principle of sincere cooperation.

Or. en

Amendment 34

Proposal for a regulation Recital 28

Text proposed by the Commission

Amendment

(28) *The BEREC Office, which was established as a Community body with legal personality by Regulation (EC) No 1211/2009, is succeeded by BEREC as regards all ownership, agreements, legal obligations, employment contracts, financial commitments and liabilities. BEREC should take over the staff of the BEREC Office whose rights and obligations should not be affected,*

(28) *In order to ensure continuity in the work of BEREC and the BEREC Office, it is necessary that their representatives, namely the Executive Manager and Chair and Vice-Chairs of the Board of Regulators and Management Committee serve, for the whole period of their current term of office,*

Or. en

Amendment 35

Proposal for a regulation Chapter I – title

Text proposed by the Commission

Amendment

Objectives *and tasks*

Objectives

Or. en

Amendment 36

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. The Body of European Regulators for Electronic Communications ('BEREC') *is* hereby established.

1. The Body of European Regulators for Electronic Communications ('BEREC') *and the 'BEREC Office' are* hereby established.

Or. en

Amendment 37

Proposal for a regulation

Article 1 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. BEREC shall act within the scope of Directive [...], Directive 2002/58/EC, Regulation (EC) No 531/2012, Regulation (EU) No 2015/2120 **and** Decision 243/2012/EU³⁶ (Radio Spectrum Policy Programme).

³⁶ Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

Amendment

2. BEREC shall act within the scope of Directive [...] (***'Electronic Communications Code'***), Directive 2002/58/EC (***'ePrivacy'***), Regulation (EC) No 531/2012 (***'Roaming III'***), Regulation (EU) No 2015/2120 (***'Telecommunications Single Market'***), Decision 243/2012/EU **of the European Parliament and of the Council**³⁶ (Radio Spectrum Policy Programme), **and other legal acts of the Union conferring on it tasks referred to in Article 2 of this Regulation.**

³⁶ Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

Or. en

Amendment 38

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

3. BEREC shall ***pursue the same objectives as those*** of national regulatory authorities ('NRAs') referred to in Article 3 of ***the*** Directive. In particular, BEREC shall ensure a consistent implementation of the regulatory framework for electronic communications within the scope referred to in paragraph 2 and thereby contribute to the development of the internal market. It shall also promote access to, and take-up of, very high capacity data connectivity;

Amendment

3. BEREC shall ***contribute to the achievement of the objectives*** of national regulatory ***and other competent*** authorities ('NRAs') referred to in Article 3 of Directive [...] (***'Electronic Communications Code'***). In particular, BEREC shall ***cooperate with the NRAs to*** ensure a consistent ***regulatory approach for the*** implementation of the regulatory framework for electronic communications within the scope referred to in paragraph 2

competition in the provision of electronic communications networks, services and associated facilities; and the interests of the citizens of the Union.

and thereby contribute to the development of the internal market. It shall also promote access to, and take-up of, very high capacity data connectivity; competition in the provision of electronic communications networks, services and associated facilities; and the interests of the citizens of the Union.

Or. en

Amendment 39

Proposal for a regulation

Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. BEREC shall carry out its tasks independently, impartially and transparently.

Or. en

Amendment 40

Proposal for a regulation

Article 1 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. BEREC shall draw upon expertise available in the NRAs.

Each Member State shall ensure that its NRAs have adequate financial and human resources to participate in the work of BEREC.

Or. en

Amendment 41

Proposal for a regulation Chapter I a (new)

Text proposed by the Commission

Amendment

Chapter Ia:

TASKS AND ORGANISATION OF BEREC

Section 1:

TASKS OF BEREC

Or. en

(To be added before Article 2)

Amendment 42

Proposal for a regulation Article 2 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) assist, advise and cooperate with the *Commission as well as NRAs*, on request or on its own initiative, on any *technical* matter *within its mandate*, and *assist and advise the European Parliament and the Council on request*;

(a) assist, advise, *including by means of reports*, and cooperate with the *NRAs and the Commission*, on request or on its own initiative, on any matter *regarding electronic communications within its competence*;

Or. en

Amendment 43

Proposal for a regulation Article 2 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) *assist and advise, including by means of reports, the European Parliament and the Council, following a*

*reasoned request or on its own initiative,
on any matter regarding electronic
communications within its competence;*

Or. en

Amendment 44

Proposal for a regulation

Article 2 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) assist, on request, the NRAs, the European Parliament, the Council and the Commission, with regard to their relationship, discussions and exchanges with third parties, and assist the NRAs and the Commission in the dissemination of regulatory best practices to third parties;

Or. en

(See wording of Article 2(e) of Regulation (EC) No 1211/2009.)

Amendment 45

Proposal for a regulation

Article 2 – paragraph 1 – point a c (new)

Text proposed by the Commission

Amendment

(ac) promote cooperation among the NRAs, and between the NRAs and the Commission;

Or. en

(See wording of the second sentence of Article 1(4) of Regulation (EC) No 1211/2009.)

Amendment 46

Proposal for a regulation

Article 2 – paragraph 1 – point a d (new)

Text proposed by the Commission

Amendment

(ad) issue recommendations and disseminate regulatory best practices addressed to the NRAs in order to encourage consistent implementation of the regulatory framework for electronic communications;

Or. en

(See amendment relating to point c of Article 2(2). The wording proposed by the Commission has been slightly modified.)

Amendment 47

Proposal for a regulation

Article 2 – paragraph 1 – point a e (new)

Text proposed by the Commission

Amendment

(ae) report on the electronic communications sector by means of the publication of an annual report on developments in that sector;

Or. en

Amendment 48

Proposal for a regulation

Article 2 – paragraph 1 – point a f (new)

Text proposed by the Commission

Amendment

(af) advise the European Parliament, the Council and the Commission, on request or on its own initiative, on the outcome of its analysis of the regulatory impact of any matter regarding the

dynamics of the market development on the electronic communications framework;

Or. en

Amendment 49

Proposal for a regulation

Article 2 – paragraph 1 – point a g (new)

Text proposed by the Commission

Amendment

(ag) assist the Commission, where relevant, as a consultative body in relation to the preparation and adoption of legal acts in the field of electronic communications;

Or. en

Amendment 50

Proposal for a regulation

Article 2 – paragraph 1 – point a h (new)

Text proposed by the Commission

Amendment

(ah) carry out tasks conferred on it by legal acts of the Union in particular by Directive [...]('Electronic Communications Code'), Regulation (EC) No 531/2012 and Regulation (EU) No 2015/2120.

Or. en

(See amendment relating to point e of Article 2(2). The wording proposed by the Commission has been slightly modified.)

Amendment 51

Proposal for a regulation

Article 2 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) issue decisions: *deleted*

- *on the identification of transnational markets in accordance with Article 63 of the Directive;*

- *on a contract summary template in accordance with Article 95 of the Directive;*

Or. en

Amendment 52

Proposal for a regulation

Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) develop an economic model in order to assist the Commission in determining the maximum termination rates in the Union in accordance with Article 73 of the Directive; *deleted*

order to assist the Commission in determining the maximum termination rates in the Union in accordance with Article 73 of the Directive;

Or. en

Amendment 53

Proposal for a regulation

Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) issue opinions as referred to in the Directive and Regulation (EU) No 531/2012, in particular: *deleted*

Directive and Regulation (EU) No 531/2012, in particular:

- *on the resolution of cross-border disputes in accordance with Article 27 of*

the Directive;

- *on draft national measures related to the internal market procedures for market regulation in accordance with Articles 32, 33 and 66 of the Directive;*

- *on draft national measures related to the internal market procedures for radio spectrum peer review in accordance with Article 35 of the Directive;*

- *on draft decisions and recommendations on harmonisation in accordance with Article 38 of the Directive;*

Or. en

Amendment 54

Proposal for a regulation

Article 2 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) issue guidelines as referred to in the Directive, Regulation (EC) No 531/2012 and Regulation (EU) No 2015/2120: deleted

- *on the implementation of NRAs' obligations as regards geographical surveys in accordance with Article 22 of the Directive;*

- *on common approaches to the identification of the network termination point in different network topologies in accordance with Article 59 of the Directive;*

- *on common approaches to meet transnational end-user demand in accordance with Article 64 of the Directive;*

- *on the minimum criteria for a reference offer in accordance with Article 67 of the Directive;*

- *on the technical details of the cost model to be applied by NRAs when setting maximum symmetric termination rates in accordance with Article 73 of the Directive;*
- *on common criteria for the assessment of the ability to manage numbering resources and the risk of exhaustion of numbering resources in accordance with Article 87 of the Directive;*
- *on relevant quality of service parameters and the applicable measurement methods in accordance with Article 97 of the Directive;*
- *on the implementation of NRAs' obligations as regards open internet access in accordance with Article 5 of Regulation (EU) No 2015/2120;*
- *on wholesale roaming access in accordance with Article 3 of Regulation (EU) No 531/2012;*

Or. en

Amendment 55

Proposal for a regulation Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. BEREC shall also carry out the following tasks: *deleted*

(a) monitor and coordinate the action of NRAs in applying Regulation (EU) No 531/2012, in particular as regards the provision of regulated retail roaming services at domestic prices in the interests of end-users;

(b) report on technical matters within its competence, in particular:

- *on the practical application of the opinions and guidelines referred to in*

Article 2(1)(d) and 2(1)(e);

- **on the level of interoperability between interpersonal communications services, threat to effective access to emergency services or to end-to-end connectivity between end-users in accordance with Article 59 of the Directive;**

- **on the evolution of retail and wholesale charges for roaming services and on transparency and comparability of tariffs in accordance with Article 19 of Regulation (EU) No 531/2012;**

- **on the outcomes of the annual reports that NRAs shall provide in accordance with Article 5 of Regulation (EU) No 2015/2120, through the publication of an annual synthesis report.**

(c) issue recommendations and best practices addressed to the NRAs in order to encourage consistent implementation on any technical matter within its mandate;

(d) keep a register of:

- **undertakings providing electronic communications networks and services in accordance with Article 12 of the Directive. BEREC shall also issue standardised declarations on notifications by undertakings in accordance with Article 14 of the Directive;**

- **numbers with a right of extraterritorial use in accordance with Article 87 of the Directive;**

(e) carry out other tasks conferred on it by legal acts of the Union in particular by the Directive, Regulation (EC) No 531/2012 and Regulation (EU) No 2015/2120.

Or. en

Amendment 56

Proposal for a regulation Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *BEREC may, upon a reasoned request from the Commission, take on other specific tasks necessary for the accomplishment of its role in accordance with Article 1(2).*

Or. en

(See wording of Article 3(2) of Regulation (EC) No 1211/2009.)

Amendment 57

Proposal for a regulation Article 2 – paragraph 4

Text proposed by the Commission

Amendment

4. In so far as is necessary in order to achieve the objectives set out in this regulation and perform its tasks, BEREC may cooperate with competent Union bodies, agencies, offices and advisory groups, with competent authorities of third countries and/or with international organisations, *in accordance to Article 26.*

4. In so far as is necessary in order to achieve the objectives set out in this regulation and perform its tasks, BEREC may, *where appropriate, consult the relevant NRAs and* cooperate with competent Union bodies, agencies, offices and advisory groups, with competent authorities of third countries and/or with international organisations.

Or. en

Amendment 58

Proposal for a regulation Article 2 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. BEREC may, where appropriate, consult interested parties and give them the opportunity to comment within a reasonable period. BEREC shall, without prejudice to Article 28, make the results of such consultations publicly available.

Or. en

(See wording of Article 17 of Regulation (EC) No 1211/2009.)

Amendment 59

Proposal for a regulation Section 2 (new)

Text proposed by the Commission

Amendment

SECTION 2 ORGANISATION OF BEREC

Or. en

(To be added before Article 2a)

Amendment 60

Proposal for a regulation Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a
Organisation of BEREC
BEREC shall consist of:
(a) a Board of Regulators;
(b) a Contact Network;
(c) Working Groups.

Or. en

Amendment 61

Proposal for a regulation Section 3 (new)

Text proposed by the Commission

Amendment

SECTION 3 BOARD OF REGULATORS

Or. en

(To be added before Article 2b)

Amendment 62

Proposal for a regulation Article 2 b (new)

Text proposed by the Commission

Amendment

Article 2b

Composition of the Board of Regulators

1. The Board of Regulators shall be composed of one member for each Member State. That person shall be the head or other high-level representative of the NRA established in the Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services.

In Member States with more than one NRA in accordance with Directive [...] ('Electronic Communications Code'), those NRAs shall agree on a common representative and the necessary coordination between the NRAs shall be ensured.

2. When carrying out the tasks conferred upon it by this Regulation, the Board of Regulators 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 entity.

3. The NRAs shall nominate one high-level alternates as member for each Member State.

4. The Commission shall attend the meetings of the Board of Regulators as an observer and shall be represented at an appropriately high level.

5. Any third-country regulatory authorities that are invited by the Board of Regulators shall have observer status and shall be represented at an appropriately high level.

6. The Board of Regulators may invite any person whose opinion may be of interest to attend its meetings on a case-by-case basis as an observer.

Or. en

(See wording of Article 4(2) of Regulation (EC) No 1211/2009.)

Amendment 63

Proposal for a regulation Article 2 c (new)

Text proposed by the Commission

Amendment

Article 2c

Chair and Vice-Chairs of the Board of Regulators

1. The Board of Regulators shall appoint a Chair and up to four Vice-Chairs from among its members, subject to BEREC's rules of procedure. The Vice-Chairs shall automatically assume the duties of the Chair if the latter is not in a

position to perform those duties. The term of office of the Chair and of the Vice-Chairs shall be one year.

2. Without prejudice to the role of the Board of Regulators in relation to the Chair's tasks, the Chair shall neither seek nor accept any instruction from any government or NRA, from the Commission, or from any other public or private entity.

Or. en

(See wording of Article 4(4) and Article 4(5) of Regulation (EC) No 1211/2009.)

Amendment 64

Proposal for a regulation Article 2 d (new)

Text proposed by the Commission

Amendment

Article 2d

Meetings and Voting rules of the Board of Regulators

- 1. Meetings of the Board of Regulators shall be convened by its Chair and shall occur at least four times a year in ordinary session. Extraordinary meetings shall also be convened at the initiative of the Chair, at the request of the Commission or at the request of at least one third of the Board's members. The agenda of the meeting shall be set by the Chair and shall be made public.*
- 2. Where appropriate to safeguard the independence of BERECA or to avoid any conflict of interests, the Chair may decide that certain items are to be discussed in the absence of the observers.*
- 3. The Board of Regulators shall adopt decisions by a two-thirds majority of its members unless otherwise provided for in this Regulation or in another Union legal act. Each member or alternate shall*

have one vote. The decisions of the Board of Regulators shall be made public, and shall indicate the reservations of an NRA at its request.

4. The Board of Regulators shall adopt and make publicly available its rules of procedure. The rules of procedure shall set out in detail the arrangements governing voting, including the conditions under which one member may act on behalf of another member, the rules governing quorums, and the notification deadlines for meetings. Furthermore, the rules of procedure shall ensure that the members of the Board of Regulators are provided with full agendas and draft proposals in advance of each meeting so that they have the opportunity to propose amendments prior to the vote. The rules of procedure may, inter alia, set out a procedure for urgent votes.

Or. en

(See wording of Article 4(6), Article 4(9) and Article 4(10) of Regulation (EC) No 1211/2009.)

Amendment 65

Proposal for a regulation Article 2 e (new)

Text proposed by the Commission

Amendment

Article 2e

Tasks of the Board of Regulators

- 1. The Board of Regulators shall fulfil the tasks of BEREC set out in Article 2 and shall take all decisions relating to the organisation of the work of BEREC.*
- 2. The Board of Regulators may adopt decisions unanimously on behalf of BEREC with regard to other specific tasks referred to in Article 2(2a).*

3. *The Board of Regulators shall adopt, on behalf of BEREC, the special provisions on the right of access to documents held by BEREC, in accordance with Article 27.*
4. *The Board of Regulators shall give guidance to the BEREC Office regarding its professional and administrative support to BEREC.*
5. *The Board of Regulators shall, after consulting interested parties in accordance with Article 2(4a), adopt BEREC's annual work programme before the end of the year preceding that to which the work programme relates. The Board of Regulators shall transmit the annual work programme to the European Parliament, the Council and to the Commission as soon as it is adopted.*
6. *The Board of Regulators shall adopt BEREC's annual activity report and shall submit it to the European Parliament, the Council, the Commission, the European Economic and Social Committee by 15 June each year.*
7. *The European Parliament may invite, while fully respecting his independence, the Chair or a Vice-Chair of the Board of Regulators to make a statement before its competent committee on relevant issues relating to BEREC's activities and answer questions put by the members of the European Parliament.*

Or. en

(See wording of paragraphs 1, 3, 4 and 5 of Article 5 of Regulation (EC) No 1211/2009.)

Amendment 66

Proposal for a regulation Section 4 (new)

Text proposed by the Commission

Amendment

SECTION 4
CONTACT NETWORK

Or. en

(To be added before Article 2f)

Amendment 67

Proposal for a regulation
Article 2 f (new)

Text proposed by the Commission

Amendment

Article 2f

Contact Network

- 1. The Contact Network shall be composed of one senior NRA representative for each Member State and representatives of all observers to the Board of Regulators.**
- 2. The Contact Network shall assist the Board of Regulators in the fulfilment of its tasks, particularly by making the necessary preparations for the meetings of the Board of Regulators, such as processing of the documents developed by the Working Groups.**
- 3. The Board of Regulators shall adopt rules of procedure laying down the practical arrangements for the operation of the Contact Network.**

Or. en

Amendment 68

Proposal for a regulation
Section 5 (new)

Text proposed by the Commission

Amendment

SECTION 5
WORKING GROUPS

Or. en

(To be added before Article 2g)

Amendment 69

Proposal for a regulation

Article 2 g (new)

Text proposed by the Commission

Amendment

Article 2g

Functioning of the Working Groups

1. Where justified and in particular to implement BEREC's annual work programme, the Board of Regulators may set up the necessary Working Groups.

2. The members of the expert Working Groups shall be designated by the NRAs, the Commission, the BEREC Office and third-country regulatory authorities that participate as observers in the work of Board of Regulators.

The Board of Regulators may invite individual experts recognised as competent in the relevant field to participate in the Working Groups if necessary on a case-by-case basis.

3. Where appropriate to safeguard the independence of BEREC or to avoid the conflict of interest, the Co-Chairs may decide that certain items are to be discussed in the absence of the experts of the Commission, third-country regulatory authorities and other invited bodies.

4. The Board of Regulators shall appoint two Co-Chairs from different NRAs to each Working Group unless

exceptional and temporary circumstances warrant otherwise..

5. The Board of Regulators shall adopt rules of procedure laying down the practical arrangements for the operation of the Working Groups.

Or. en

(See amendment relating to Article 10 - Working Groups.)

Amendment 70

Proposal for a regulation Chapter I b (new)

Text proposed by the Commission

Amendment

**CHAPTER Ib
TASKS AND ORGANISATION OF
BEREC OFFICE
SECTION 1
TASKS OF THE BEREC OFFICE**

Or. en

(To be added before Article 2h)

Amendment 71

Proposal for a regulation Article 2 h (new)

Text proposed by the Commission

Amendment

Article 2h
The BEREC Office shall, in particular, have the following tasks:
(a) to provide professional and administrative support services to

BEREC;

(b) to collect information from NRAs and exchange and transmit information in relation to the tasks of BEREC set out in Article 2;

(c) to disseminate regulatory best practices among NRAs, in accordance with point ad of Article 2(1);

(d) to assist in the preparation of the work and provide other support to ensure the smooth functioning of the of the Board of Regulators, the Contact Network and the Working Groups.

(e) to participate in the technical activities of the Working Groups upon decision by their Co-Chairs;

(f) to assist in the preparation and provide other support to ensure the smooth functioning of the Management Board;

(g) to assist BEREC in public consultations.

Or. en

(See wording of Article 6(2) of Regulation (EC) No 1211/2009.)

Amendment 72

Proposal for a regulation

Chapter II – title

Text proposed by the Commission

Amendment

Chapter II

deleted

Organisation

Or. en

Amendment 73

Proposal for a regulation

Section 2 (new)

Text proposed by the Commission

Amendment

SECTION 2

**ORGANISATION OF THE BEREC
OFFICE**

Or. en

Amendment 74

**Proposal for a regulation
Article 3 – title**

Text proposed by the Commission

Amendment

Administrative and Management Structure

Administrative and Management Structure
of the BEREC Office

Or. en

Amendment 75

**Proposal for a regulation
Article 3 – paragraph 1 – introductory part**

Text proposed by the Commission

Amendment

1. The administrative and management structure of BEREC shall comprise:

1. The administrative and management structure of *the* BEREC *Office* shall comprise:

Or. en

Amendment 76

**Proposal for a regulation
Article 3 – paragraph 1 – indent 2**

Text proposed by the Commission

Amendment

- *an Executive* Director, which shall exercise the responsibilities set out in

- *a* Director, which shall exercise the responsibilities set out in Article 9.

Article 9;

Or. en

Amendment 77

Proposal for a regulation Article 3 – paragraph 1 – indent 3

Text proposed by the Commission

Amendment

- **Working Groups;** *deleted*

Or. en

Amendment 78

Proposal for a regulation Article 3 – paragraph 1 – indent 4

Text proposed by the Commission

Amendment

- **a Board of Appeal.** *deleted*

Or. en

Amendment 79

Proposal for a regulation Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The Management Board shall be composed of one **representative** from each Member State and **two representatives** of the Commission, all with voting rights. Each NRA shall be responsible for nominating its respective representative amongst the Head or **members of the collegiate body** of the NRA.

The Management Board shall be composed of one **member** from each Member State and **one representative** of the Commission, all with voting rights.

Each NRA shall be responsible for nominating its respective representative

amongst the Head or *other high-level representative* of the NRA.

Or. en

Amendment 80

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

In Member States where more than one NRA is responsible under the Directive, those authorities shall agree on a common representative and the necessary coordination between the NRAs shall be ensured.

Amendment

In Member States where more than one NRA is responsible under the Directive [...] (*'Electronic Communications Code'*), those authorities shall agree on a common representative and the necessary coordination between the NRAs shall be ensured.

Or. en

Amendment 81

Proposal for a regulation

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Third-country regulatory authorities invited by the Management Board shall have observer status and shall be represented at an appropriately high level.

Or. en

Amendment 82

Proposal for a regulation

Article 4 – paragraph 4

Text proposed by the Commission

Amendment

4. *The term of office for members and their alternates shall be four years. That term shall be extendable.*

deleted

Or. en

Amendment 83

Proposal for a regulation

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) *give the general orientations for BEREC's activities and* adopt each year *BEREC's* single programming document by a majority of two-thirds of members entitled to vote, taking into account the opinion of the Commission and in accordance with Article 15;

(a) adopt each year *the BEREC Office's* single programming document by a majority of two-thirds of members entitled to vote, taking into account the opinion of the Commission and in accordance with Article 15;

Or. en

Amendment 84

Proposal for a regulation

Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) adopt, by a majority of two-thirds of members entitled to vote, the annual budget of BEREC and exercise other functions in respect of *BEREC's* budget pursuant to Chapter III;

(b) adopt, by a majority of two-thirds of members entitled to vote, the annual budget of *the BEREC Office* and exercise other functions in respect of *the BEREC Office's* budget pursuant to Chapter III;

(This amendment applies throughout the article. Adopting it will necessitate corresponding changes throughout the Article 5)

Or. en

Amendment 85

Proposal for a regulation

Article 5 – paragraph 1 – point g

Text proposed by the Commission

(g) adopt rules for the prevention and management of conflicts of interest as referred to in Article 31, **as well as in respect of members of the Board of Appeal**;

Amendment

(g) adopt rules for the prevention and management of conflicts of interest as referred to in Article 31;

Or. en

Amendment 86

Proposal for a regulation

Article 5 – paragraph 1 – point h

Text proposed by the Commission

(h) adopt and regularly update the communication and dissemination plans referred to in Article 27, based on an analysis of needs;

Amendment

(h) adopt and regularly update the communication and dissemination plans referred to in Article 27**a(2)**, based on an analysis of needs;

Or. en

Amendment 87

Proposal for a regulation

Article 5 – paragraph 1 – point m

Text proposed by the Commission

(m) appoint the **Executive** Director and where relevant extend his/her term of office or remove him/her from office in accordance with Article 22;

Amendment

(m) appoint the Director and where relevant extend his/her term of office or remove him/her from office in accordance with Article 22;

(This amendment applies throughout the article. Adopting it will necessitate corresponding changes throughout the

Amendment 88

Proposal for a regulation

Article 5 – paragraph 1 – point o

Text proposed by the Commission

Amendment

(o) *appoint the members of the Board(s) of Appeal;*

deleted

Amendment 89

Proposal for a regulation

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. The term of office of the Chairperson and the Deputy Chairperson shall be *four years, with the exception of the first term of office of the Deputy Chairperson elected after the entry into force of this regulation which shall be two years*. Their term of office may be renewed *once*.

3. The term of office of the Chairperson and the Deputy Chairperson shall be *one year*. Their term of office may be renewed.

Amendment 90

Proposal for a regulation

Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. The *Executive* Director of BEREC shall take part in the deliberations, without

2. The Director of *the* BEREC *Office* shall take part in the deliberations, without

the right to vote.

the right to vote.

(This amendment applies throughout the article. Adopting it will necessitate corresponding changes throughout the Article 7.)

Or. en

Amendment 91

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

1. ***Without prejudice to Articles 5(1) (a) and (b) and 22(8)***, the Management Board shall take decisions by majority of members with voting rights.

Amendment

1. The Management Board shall take decisions by ***a*** majority of members with voting rights, ***unless otherwise provided for in this Regulation.***

Or. en

Amendment 92

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. The ***Executive*** Director shall not take part in the voting.

Amendment

4. The Director shall not take part in the voting.

Or. en

Amendment 93

Proposal for a regulation Chapter II – Section 2 – title

Text proposed by the Commission

Executive director

Amendment

Director

Amendment 94

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. The **Executive** Director shall manage BEREC. The **Executive** Director shall be accountable to the Management Board.

Amendment

1. The Director shall manage **the BEREC Office**. The Director shall be accountable to the Management Board.

(This amendment applies throughout the article. Adopting it will necessitate corresponding changes throughout the Article 9.)

Or. en

Amendment 95

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. Without prejudice to the powers of the **Commission and the** Management Board, the **Executive** Director shall be independent in the performance of his/her duties and shall neither seek nor take instructions from any government, institution, person or body.

Amendment

2. Without prejudice to the powers of the Management Board, the Director shall be independent in the performance of his/her duties and shall neither seek nor take instructions from any government, institution, person or body.

Or. en

Amendment 96

Proposal for a regulation Article 9 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Director shall assist the Chair of BEREC in preparing the agenda of the Board of Regulators and to the Chairperson of the Management Board. The Director shall participate, without having the right to vote, in the work of the Board of Regulators and the Management Board.

Or. en

(See wording of Article 9(2) of Regulation (EC) No 1211/2009.)

Amendment 97

**Proposal for a regulation
Article 9 – paragraph 5 b (new)**

Text proposed by the Commission

Amendment

5b. The Director shall, under the supervision of the Management Board, take the necessary measures, in particular with regard to adopting internal administrative instructions and publishing notices, in order to ensure the functioning of the BEREC Office in accordance with this Regulation.

Or. en

(See wording of Article 9(5) of Regulation (EC) No 1211/2009.)

Amendment 98

**Proposal for a regulation
Article 9 a (new)**

Text proposed by the Commission

Amendment

Article 9a

Appointment of the Director

1. The Director shall be appointed by the Management Board, following an open and transparent selection procedure, on the basis of merit, management skills and the skills and experience relevant to electronic communications networks and services.

For the purpose of concluding the contract with the Director, the BEREC Office shall be represented by the Chairperson of the Management Board.

Before appointment, the suitability of the candidate selected by the Management Board may be subject to a non-binding opinion of the European Parliament. To that end, the competent committee of the European Parliament may invite the candidate selected by the Management Board to make a statement before its competent committee and to answer questions put by its members.

2. The term of office of the Director shall be three years. By the end of that period, the Management Board shall undertake an assessment that takes into account an evaluation of the Director's performance and BEREC's tasks and challenges.

3. The Management Board, taking into account the assessment referred to in paragraph 2, may extend the Director's term of office once, for no more than six years.

4. The Management Board shall inform the European Parliament if it intends to extend the Director's term of office. Within one month before any such intended extension, the Management Board may be subject to a non-binding opinion of the European Parliament. To that end, the Director may be invited to make a statement before the competent committee of the European Parliament and to answer questions put by its members.

5. *A Director whose term of office has been extended shall not participate in another selection procedure for the same post at the end of the overall period.*
6. *Where the Director's term of office is not extended, he or she shall remain in office until the appointment of a successor.*
7. *The Director may be removed from office only upon a decision of the Management Board acting on a proposal from one-third of its members.*
8. *The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Director on the basis of a two-thirds majority of its members with voting rights.*

Or. en

(See amendment relating to Article 22 - Appointment of Executive Director.)

Amendment 99

Proposal for a regulation Chapter II – Section 3

Text proposed by the Commission

Amendment

Section 3

deleted

Working groups

Article 10

Functioning of the working groups

1. Where justified and in particular to implement the work programme of BEREC, the Management Board, may set up the necessary working groups.

2. The Management Board shall appoint the members of the working groups, which may be participated in by experts from the NRAs, the Commission, BEREC staff and the NRAs of third countries participating in the work of

BEREC.

In the case of the working groups which are set up to carry out the tasks referred to in the third indent of Article 2(1)(d), their members shall be appointed from the lists of qualified experts provided by the NRAs, the Commission and the Executive Director.

In the case of the working groups which are set up to carry out the tasks referred to in the second indent of Article 2(1)(d), their members shall be appointed exclusively from the lists of qualified experts provided by the NRAs and the Executive Director.

The Management Board may invite individual experts recognised as competent in the relevant field to participate in the working groups if necessary on a case-by-case basis.

3. The working groups shall be coordinated and moderated by a member of the staff of BEREC, who shall be designated according to the internal rules of procedure.

4. The Management Board shall adopt internal rules of procedure laying down the practical arrangements for the operation of the working groups.

5. BEREC shall provide support to the working groups.

Or. en

(See amendment relating to Article 2g - Working Groups)

Amendment 100

Proposal for a regulation Chapter II – Section 4

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 101

Proposal for a regulation Chapter III – title

Text proposed by the Commission

ESTABLISHMENT AND STRUCTURE
OF THE BUDGET

Amendment

ESTABLISHMENT AND STRUCTURE
OF THE BUDGET **OF THE BEREC
OFFICE**

Or. en

Amendment 102

Proposal for a regulation Article 15 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Each year, the **Executive** Director shall draw up a draft programming document containing annual and multiannual programming ('single programming document') in line with Article 32 of Commission Delegated Regulation (EU) No 1271/2013 and taking into account guidelines set by the Commission³⁸.

³⁸ Commission Communication on the guidelines for programming document for decentralised agencies and the template for the Consolidated Annual Activity Report for decentralised agencies (C(2014) 9641).

Amendment

1. Each year, the Director shall draw up a draft programming document containing annual and multiannual programming ('single programming document') in line with Article 32 of Commission Delegated Regulation (EU) No 1271/2013 and taking into account guidelines set by the Commission³⁸.

³⁸ Commission Communication on the guidelines for programming document for decentralised agencies and the template for the Consolidated Annual Activity Report for decentralised agencies (C(2014) 9641).

(This amendment applies throughout the article. Adopting it will necessitate corresponding changes throughout the Article 15.)

Or. en

Amendment 103

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year.

Amendment

2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the ***BEREC's annual work programme as referred to in Article 2f(4) and with the*** multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year.

Or. en

Amendment 104

Proposal for a regulation Article 15 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. The Management Board shall amend the ***adopted*** annual work programme ***when*** a new task is given to BEREC.

Amendment

3. The Management Board shall amend the ***annual work programme after adoption of BEREC's*** annual work programme ***and whenever*** a new task is given to BEREC.

Or. en

Amendment 105

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

1. Each year, the **Executive** Director shall draw up a provisional draft estimate of **BEREC's** revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board.

Amendment

1. Each year, the Director shall draw up a provisional draft estimate of **the BEREC Office's** revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board.

(This amendment applies throughout several articles. Adopting it will necessitate corresponding changes throughout the Article 16, Article 17, Article 18, Article 20, Article 21, Article 22 and Article 23.)

Or. en

Amendment 106

Proposal for a regulation Article 19 – paragraph 3

Text proposed by the Commission

3. On receipt of the Court of Auditors' observations on **BEREC's** provisional accounts, **BEREC's** accounting officer shall draw up BEREC's final accounts under his/her own responsibility. The **Executive** Director shall submit the final accounts to the Management Board for an opinion.

Amendment

3. On receipt of the Court of Auditors' observations on **the BEREC Office's** provisional accounts, **the BEREC Office's** accounting officer shall draw up BEREC's final accounts under his/her own responsibility. The Director shall submit the final accounts to the Management Board for an opinion.

(This amendment applies throughout the article. Adopting it will necessitate corresponding changes throughout the article 19.)

Or. en

Amendment 107

Proposal for a regulation Article 22 – title

Text proposed by the Commission

Amendment

Appointment of Executive Director

Director

Or. en

Amendment 108

Proposal for a regulation Article 22 – paragraph 2

Text proposed by the Commission

Amendment

2. The Executive Director shall be appointed by the Management Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure. *deleted*

For the purpose of concluding the contract with the Executive Director, BEREK shall be represented by the Chairperson of the Management Board.

Before appointment, the candidate selected by the Management Board may be invited to make a statement before the competent committee of the European Parliament and to answer questions put by its members.

Or. en

(See amendment relating to Article 9a (Appointment of Director).)

Amendment 109

Proposal for a regulation Article 22 – paragraph 3

Text proposed by the Commission

Amendment

3. *The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and BEREC's future tasks and challenges.* **deleted**

Or. en

(See amendment relating to Article 9a (Appointment of Director).)

Amendment 110

Proposal for a regulation Article 22 – paragraph 4

Text proposed by the Commission

Amendment

4. *The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for no more than five years.* **deleted**

Or. en

(See amendment relating to Article 9a (Appointment of Director).)

Amendment 111

Proposal for a regulation Article 22 – paragraph 5

Text proposed by the Commission

Amendment

5. *The Management Board shall inform the European Parliament if it intends to extend the Executive Director's term of office. Within one month before any such extension, the Executive Director may be invited to make a* **deleted**

statement before the competent committee of the Parliament and to answer questions put by its members.

Or. en

(See amendment relating to Article 9a (Appointment of Director).)

Amendment 112

Proposal for a regulation Article 22 – paragraph 6

Text proposed by the Commission

Amendment

6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period. *deleted*

Or. en

(See amendment relating to Article 9a (Appointment of Director).)

Amendment 113

Proposal for a regulation Article 22 – paragraph 7

Text proposed by the Commission

Amendment

7. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission. *deleted*

Or. en

(See amendment relating to Article 9a (Appointment of Director).)

Amendment 114

Proposal for a regulation Article 22 – paragraph 8

Text proposed by the Commission

Amendment

8. *The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of its members with voting rights.*

deleted

Or. en

(See amendment relating to Article 9a (Appointment of Director).)

Amendment 115

Proposal for a regulation Article 24 – title

Text proposed by the Commission

Amendment

Legal status

Legal status *of the BEREC Office*

Or. en

Amendment 116

Proposal for a regulation Article 24 – paragraph 1

Text proposed by the Commission

Amendment

1. *BEREC shall be a body of the Union. It shall have legal personality.*

1. *The BEREC Office shall have legal personality.*

Or. en

Amendment 117

Proposal for a regulation

Article 24 – paragraph 2

Text proposed by the Commission

2. In each of the Member States BEREC shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.

Amendment

2. In each of the Member States **the BEREC Office** shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be party to legal proceedings.

(This amendment applies throughout several articles. Adopting it will necessitate corresponding changes throughout the Articles 24 and 25.)

Or. en

Amendment 118

Proposal for a regulation

Article 24 – paragraph 3

Text proposed by the Commission

3. BEREC shall be represented by the **Executive** Director.

Amendment

3. **The BEREC Office** shall be represented by the Director.

Or. en

Amendment 119

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 1

Text proposed by the Commission

In so far as is necessary in order to achieve the objectives set out in this regulation and perform its tasks, and without prejudice to the competences of the Member States and the institutions of the Union, BEREC may

Amendment

In so far as is necessary in order to achieve the objectives set out in this regulation and perform its tasks, and without prejudice to the competences of the Member States and the institutions of the Union, BEREC **and**

cooperate with competent Union bodies, agencies, offices and advisory groups, with competent authorities of third countries and/or with international organisations.

the BEREC Office may cooperate with competent Union bodies, agencies, offices and advisory groups, with competent authorities of third countries and/or with international organisations.

Or. en

Amendment 120

Proposal for a regulation

Article 26 – paragraph 2 – subparagraph 1

Text proposed by the Commission

BEREC shall be open to the participation of regulatory authorities of third countries competent in the field of electronic communications that have entered into agreements with the Union to that effect.

Amendment

The BEREC Office shall be open to the participation of regulatory authorities of third countries competent in the field of electronic communications that have entered into agreements with the Union to that effect.

Or. en

Amendment 121

Proposal for a regulation

Article 26 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Under the relevant provisions of these agreements, arrangements shall be developed specifying, in particular, the nature, extent and manner in which those regulatory authorities of the third countries concerned will participate in the work of BEREC, including provisions relating to participation in the initiatives undertaken by BEREC, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.

Amendment

Under the relevant provisions of these agreements, arrangements shall be developed specifying, in particular, the nature, extent and manner in which those regulatory authorities of the third countries concerned will participate in the work of *the BEREC Office*, including provisions relating to participation in the initiatives undertaken by *the BEREC Office*, financial contributions and staff. As regards staff matters, those arrangements shall, in any event, comply with the Staff Regulations.

Amendment 122

Proposal for a regulation Article 26 – paragraph 3

Text proposed by the Commission

3. As part of the single programming document, the Management Board shall adopt a strategy for relations with competent Union bodies, agencies, offices and advisory groups, with competent authorities of third countries and/or with international organisations concerning matters for which BEREC is competent. ***The Commission and the agency shall conclude an appropriate working arrangement aiming at ensuring that BEREC operates within its mandate and the existing institutional framework.***

Amendment

3. As part of the single programming document, the Management Board ***of the BEREC Office*** shall adopt a strategy for relations with competent Union bodies, agencies, offices and advisory groups, with competent authorities of third countries and/or with international organisations concerning matters for which ***the BEREC Office*** is competent.

Or. en

Amendment 123

Proposal for a regulation Article 27 – title

Text proposed by the Commission

Transparency and communication

Amendment

Access to documents

Or. en

Amendment 124

Proposal for a regulation Article 27 – paragraph 1

Text proposed by the Commission

1. Regulation (EC) No 1049/2001 of

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Amendment

1. Regulation (EC) No 1049/2001 of

69/89

PE600.889v01-00

the European Parliament and of the Council⁴⁰ shall apply to documents held by BEREC. ***The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.***

⁴⁰ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

the European Parliament and of the Council⁴⁰ shall apply to documents held by BEREC ***and the BEREC Office.***

⁴⁰ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Or. en

Amendment 125

Proposal for a regulation Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Board of Regulators and the Management Board shall, by... [six months after the date of the application of this Regulation], adopt the detailed rules for applying Regulation (EC) No 1049/2001.

Or. en

(See amendment relating to Article 27(1).)

Amendment 126

Proposal for a regulation Article 27 – paragraph 2

Text proposed by the Commission

Amendment

2. The processing of personal data by BEREC shall be subject to Regulation (EC) No 45/2001 of the European

2. The processing of personal data by BEREC ***and the BEREC Office*** shall be subject to Regulation (EC) No 45/2001 of

Parliament and of the Council⁴¹. ***The Management Board shall, within six months of the date of its first meeting, establish measures for the application of Regulation (EC) No 45/2001 by BEREC, including those concerning the appointment of a Data Protection Officer of BEREC. Those measures shall be established after consultation of the European Data Protection Supervisor.***

⁴¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

the European Parliament and of the Council⁴¹.

⁴¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

Or. en

Amendment 127

Proposal for a regulation

Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Board of Regulators and the Management Board shall, by... [six months after the date of the application of this Regulation], establish measures for the application of Regulation (EC) No 45/2001 by the BEREC Office, including those concerning the appointment of a Data Protection Officer of the BEREC Office. Those measures shall be established after consultation of the European Data Protection Supervisor.

Or. en

(See amendment relating to Article 27(2).)

Amendment 128

Proposal for a regulation Article 27 – paragraph 3

Text proposed by the Commission

Amendment

3. BEREC may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 2(1) and 2(2) of this Regulation. Communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

deleted

Or. en

(See amendment relating to Article 27a(2).)

Amendment 129

Proposal for a regulation Article 27 a (new)

Text proposed by the Commission

Amendment

Article 27 a

Transparency and communication

1. BEREC and the BEREC Office shall carry out their activities with a high level of transparency. BEREC and the BEREC Office shall ensure that the public and any interested parties are given objective, reliable and easily accessible information, in particular in relation to the results of their work.

2. BEREC and the BEREC Office may engage in communication activities on their own initiative within their field of competence. The allocation of resources

to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 2.

Communication activities of the BEREC Office shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

Or. en

(See amendment relating to Article 27(3). The wording of the text proposed by the Commission has been slightly modified.)

Amendment 130

Proposal for a regulation Article 28 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 27(1), BEREC shall not disclose to third parties information that it processes or receives in relation to which a reasoned request for confidential treatment, in whole or in part, has been made.

Amendment

1. Without prejudice to Article 27(1), BEREC **and the BEREC Office** shall not disclose to third parties information that it processes or receives in relation to which a reasoned request for confidential treatment, in whole or in part, has been made.

Or. en

Amendment 131

Proposal for a regulation Article 28 – paragraph 2

Text proposed by the Commission

2. Members of the Management Board, **the Executive Director, members of the Board of Appeal**, seconded national experts, other staff not employed by BEREC **and experts participating in working groups** shall comply with the confidentiality requirements under Article 339 of the Treaty, even after their duties

Amendment

2. Members, **observers or other participants of the meetings** of the Management Board, **the Board of Regulators, the Contact Network, the Working Groups, the Director**, seconded national experts, other staff not employed by **the BEREC Office** shall comply with the confidentiality requirements under

have ceased.

Article 339 of the Treaty, even after their duties have ceased.

Or. en

Amendment 132

Proposal for a regulation Article 28 – paragraph 3

Text proposed by the Commission

3. The Management Board shall lay down the practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.

Amendment

3. The **Board of Regulators and the** Management Board shall lay down the practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.

Or. en

Amendment 133

Proposal for a regulation Article 29 – paragraph 1

Text proposed by the Commission

BEREC shall adopt its own security rules equivalent to the Commission's security rules for protecting European Union Classified Information ('EUCI') and sensitive non-classified information, inter alia provisions for the exchange, processing and storage of such information as set out in Commission Decisions (EU, Euratom) 2015/443⁴² and 2015/444⁴³. Alternatively, BEREC may adopt a decision to apply the Commission's rules on a mutatis mutandis basis.

Amendment

BEREC **and the BEREC Office** shall adopt its own security rules equivalent to the Commission's security rules for protecting European Union Classified Information ('EUCI') and sensitive non-classified information, inter alia provisions for the exchange, processing and storage of such information as set out in Commission Decisions (EU, Euratom) 2015/443⁴² and 2015/444⁴³. Alternatively, **the** BEREC **Office** may adopt a decision to apply the Commission's rules on a mutatis mutandis basis.

⁴² Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p.

⁴² Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p.

41).

⁴³ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

41).

⁴³ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

Or. en

Amendment 134

Proposal for a regulation

Article 30 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Upon a duly justified request from BEREC, the Commission and the NRAs shall provide BEREC with all the necessary information, in a timely and accurate manner, to carry out *its* tasks, provided that they have legal access to the relevant information and that the request for information is necessary in relation to the nature of the task in question.

Amendment

Upon a duly justified request from BEREC *or the BEREC Office*, the Commission and the NRAs shall provide BEREC *or the BEREC Office* with all the necessary information, in a timely and accurate manner, to carry out *their* tasks, provided that they have legal access to the relevant information and that the request for information is necessary in relation to the nature of the task in question.

Or. en

Amendment 135

Proposal for a regulation

Article 30 – paragraph 1 – subparagraph 2

Text proposed by the Commission

BEREC may also request the NRAs information to be provided at recurring intervals and in specified formats. Such requests shall, where possible, be made using common reporting formats.

Amendment

BEREC *and the BEREC Office* may also request the NRAs information to be provided at recurring intervals and in specified formats. Such requests shall, where possible, be made using common reporting formats.

Or. en

Amendment 136

Proposal for a regulation

Article 30 – paragraph 2

Text proposed by the Commission

2. Upon a duly justified request from the Commission or an NRA, BEREC shall provide in a timely and accurate manner any information that is necessary to enable the Commission or the NRA to carry out its tasks, based on the principle of sincere cooperation.

Amendment

2. Upon a duly justified request from the Commission or an NRA, BEREC **and the BEREC Office** shall provide in a timely and accurate manner any information that is necessary to enable the Commission or the NRA to carry out its tasks, based on the principle of sincere cooperation.

Or. en

Amendment 137

Proposal for a regulation

Article 30 – paragraph 3

Text proposed by the Commission

3. Before requesting information in accordance with this article and in order to avoid the duplication of reporting obligations, BEREC shall take account of any relevant existing information publicly available

Amendment

3. Before requesting information in accordance with this article and in order to avoid the duplication of reporting obligations, BEREC **and the BEREC Office** shall take account of any relevant existing information publicly available

Or. en

Amendment 138

Proposal for a regulation

Article 30 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Where information is not available or is not made available by the NRAs in a timely fashion or in circumstances where a direct request by BEREC would prove more efficient and less burdensome, BEREC

Amendment

Where information is not available or is not made available by the NRAs in a timely fashion or in circumstances where a direct request by BEREC **or the BEREC Office** would prove more efficient and less

may address a duly justified and reasoned request to other authorities or directly to the relevant undertakings providing electronic communications networks, services and associated facilities.

burdensome, BEREC *and the BEREC Office* may address a duly justified and reasoned request to other authorities or directly to the relevant undertakings providing electronic communications networks, services and associated facilities.

Or. en

Amendment 139

Proposal for a regulation

Article 30 – paragraph 4 – subparagraph 2

Text proposed by the Commission

BEREC shall inform the relevant NRAs of requests in accordance with this paragraph.

Amendment

BEREC *and the BEREC Office* shall inform the relevant NRAs of requests in accordance with this paragraph.

Or. en

Amendment 140

Proposal for a regulation

Article 30 – paragraph 4 – subparagraph 3

Text proposed by the Commission

At the request of BEREC, the NRAs shall assist BEREC in collecting the information.

Amendment

At the request of BEREC *or the BEREC Office*, the NRAs shall assist BEREC *and the BEREC Office* in collecting the information.

Or. en

Amendment 141

Proposal for a regulation

Article 31 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Members of the Management Board, *the Executive* Director, seconded national experts and other staff not employed by BEREC shall each make *a* declaration indicating their commitment and the absence or presence of any direct or indirect interest which might be considered prejudicial to their independence.

Amendment

Members, *their alternates, and observers* of the Management Board, *the Board of Regulators, the Contact Network, the Working Groups, the* Director, seconded national experts and other staff not employed by *the* BEREC *Office* shall each make *an annual* declaration indicating their commitment and the absence or presence of any direct or indirect interest which might be considered prejudicial to their independence.

Or. en

Amendment 142

Proposal for a regulation

Article 31 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The declarations shall be accurate and complete, made in writing and updated whenever necessary. The declarations of interests made by the members of the Management Board and the *Executive* Director shall be made public.

Amendment

The declarations shall be accurate and complete, made in writing and updated whenever necessary. The declarations of interests made by the members of the *Board of Regulators, members of the* Management Board and the Director shall be made public.

Or. en

Amendment 143

Proposal for a regulation

Article 31 – paragraph 2

Text proposed by the Commission

2. Members of the Management Board, *the Executive* Director, seconded national experts, other staff not employed by BEREC *and experts participating in*

Amendment

2. Members *and their alternates, observers, other participants of* the Management Board *meetings, the Board of Regulators, the Contact Network, the*

working groups shall each accurately and completely declare, at the latest at the start of each meeting, any interest which might be considered prejudicial to their independence in relation to the items on the agenda, and shall abstain from participating in the discussion of and voting upon such points.

Working Groups, the Director, seconded national experts, other staff not employed by *the* BEREC *Office* shall each accurately and completely declare, at the latest at the start of each meeting, any interest which might be considered prejudicial to their independence in relation to the items on the agenda, and shall abstain from participating in the discussion of and voting upon such points.

Or. en

Amendment 144

Proposal for a regulation Article 31 – paragraph 3

Text proposed by the Commission

3. The Management Board shall lay down the rules for the prevention and management of conflicts of interest and, in particular, for the practical arrangements for the provisions referred to in paragraphs 1 and 2.

Amendment

3. The *Board of Regulators and the* Management Board shall lay down the rules for the prevention and management of conflicts of interest and, in particular, for the practical arrangements for the provisions referred to in paragraphs 1 and 2.

Or. en

Amendment 145

Proposal for a regulation Article 32 – paragraph 1

Text proposed by the Commission

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁴⁴, within six months after the entry into force of this regulation, *it* shall accede to the Interinstitutional Agreement of 25 May 1999 concerning

Amendment

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁴⁴, within six months after the entry into force of this Regulation, *the BEREC Office* shall accede to the Interinstitutional Agreement of 25 May

internal investigations by the OLAF and adopt appropriate provisions applicable to all employees of BEREC using the template set out in the Annex to that Agreement.

1999 concerning internal investigations by the OLAF and adopt appropriate provisions applicable to all employees of *the* BEREC *Office* using the template set out in the Annex to that Agreement.

⁴⁴ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 of September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁴⁴ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 of September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

Or. en

Amendment 146

Proposal for a regulation Article 32 – paragraph 2

Text proposed by the Commission

2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from BEREC.

Amendment

2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from *the* BEREC *Office*.

(This amendment applies throughout several articles. Adopting it will necessitate corresponding changes throughout the Article 32, Article 33, Article 35 and Article 38).

Or. en

Amendment 147

Proposal for a regulation Article 34 – paragraph 1

Text proposed by the Commission

The activities of BEREC shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the Treaty.

Amendment

The activities of BEREC **and the BEREC Office** shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the Treaty.

Or. en

Amendment 148

Proposal for a regulation Article 36

Text proposed by the Commission

Article 36
Committee

1. *The Commission shall be assisted by a Committee ('the Communications Committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.*

2. *Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.*

3. *Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides.*

Amendment

deleted

Or. en

Amendment 149

Proposal for a regulation Chapter VI – title

Text proposed by the Commission

Amendment

**TRANSITIONAL AND FINAL
PROVISIONS**

FINAL PROVISIONS

Or. en

Amendment 150

**Proposal for a regulation
Article 37 – title**

Text proposed by the Commission

Amendment

Headquarters Agreement and operating
conditions

Headquarters Agreement and operating
conditions *for the BEREC Office*

Or. en

Amendment 151

**Proposal for a regulation
Article 37 – paragraph 1**

Text proposed by the Commission

Amendment

1. The necessary arrangements concerning the accommodation to be provided for BEREC in the host Member State and the facilities to be made available by that Member State as well as the specific rules applicable in the host Member State to the *Executive* Director, members of the Management Board, BEREC staff and members of their families shall be laid down in a Headquarters Agreement between BEREC and the Member State where the seat is located, concluded after obtaining the approval of the Management Board and no later than two years after the entry into force of this regulation.

1. The necessary arrangements concerning the accommodation to be provided for *the BEREC Office* in the host Member State and the facilities to be made available by that Member State as well as the specific rules applicable in the host Member State to the Director, members of the Management Board, *the BEREC Office* staff and members of their families shall be laid down in a Headquarters Agreement between *the BEREC Office* and the Member State where the seat is located, concluded after obtaining the approval of the Management Board and no later than two years after the entry into force of this regulation.

(This amendment applies throughout the article. Adopting it will necessitate

corresponding changes throughout the Article 37.)

Or. en

Amendment 152

Proposal for a regulation Article 38 – paragraph 1

Text proposed by the Commission

1. No later than five years from the day of entry into force of this regulation, and every five years thereafter, the Commission shall perform an evaluation in compliance with the Commission guidelines *to assess BEREC's* performance in relation to its objectives, mandate, tasks and location(s). The evaluation shall, in particular, address the possible need to modify the mandate of BEREC, and the financial implications of any such modification.

Amendment

1. No later than five years from the day of entry into force of this regulation, and every five years thereafter, the Commission shall perform an evaluation *of the experience acquired as a result of the operation of BEREC and the BEREC Office*. In compliance with the Commission guidelines, *the BEREC Office's* performance *should be assessed* in relation to its objectives, mandate, tasks and location(s). The evaluation shall, in particular, address the possible need to modify the mandate of *the BEREC Office*, and the financial implications of any such modification.

Or. en

Amendment 153

Proposal for a regulation Article 39 – title

Text proposed by the Commission

Succession to the Office established by Regulation (EC) No 1211/2009

Amendment

Transitional Provisions

Or. en

Amendment 154

Proposal for a regulation Article 39 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to paragraph 2, BEREC shall succeed the Office that was established by Regulation (EC) No 1211/2009 ('BEREC Office') as regards all ownership, agreements, legal obligations, employment contracts, financial commitments and liabilities. *deleted*

In particular, this regulation shall not affect the rights and obligations of the staff of the Office established under Regulation (EC) No 1211/2009. Their contracts may be renewed under this regulation in accordance with the Staff Regulations and the Conditions of Employment and in accordance with the budgetary constraints of BEREC.

Or. en

Amendment 155

Proposal for a regulation Article 39 – paragraph 2

Text proposed by the Commission

Amendment

2. With effect from [the date of entry into force of this regulation] and until the Executive Director takes up his/her duties following his/her appointment by the Management Board in accordance with Article 22, the Administrative Manager appointed on the basis of Regulation (EC) No 1211/2009 shall, for the remaining period of his/her term of office, act as interim Executive Director with the functions provided for in this regulation. The other conditions of the Administrative Manager's contract shall remain *deleted*

unchanged.

As interim Executive Director, he/she shall exercise the appointing authority powers. He/she may authorise all payments covered by appropriations entered in BEREC's budget after approval by the Management Board and may conclude contracts, including staff contracts, following the adoption of BEREC's establishment plan.

Or. en

Amendment 156

Proposal for a regulation

Article 39 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The contract of employment of the Administrative Manager appointed on the basis of Regulation (EC) No 1211/2009 shall be terminated at the **the** end of his/her term of office or the day when the **Executive** Director takes up his/her duties following his/her appointment by the Management Board in accordance with Article 22, **whichever is the earlier**.

Amendment

The contract of employment of the Administrative Manager appointed on the basis of Regulation (EC) No 1211/2009 shall be terminated at the end of his/her term of office or **later**, the day when the **new** Director takes up his/her duties following his/her appointment by the Management Board in accordance with Article **9a**;

The Administrative Manager shall remain in office as Director with the functions provided for in this Regulation until the appointment of the new Director.

Or. en

Amendment 157

Proposal for a regulation

Article 39 – paragraph 3 – subparagraph 2

Text proposed by the Commission

An Administrative Manager appointed on

Amendment

An Administrative Manager appointed on

the basis of Regulation (EC) No 1211/2009 whose term of office has been extended ***shall abstain from participating*** in the selection procedure for the ***Executive*** Director referred to in Article 22.

the basis of Regulation (EC) No 1211/2009 whose term of office has been extended ***may participate*** in the selection procedure for the Director referred to in Article 22 ***for only one term of office***.

Or. en

Amendment 158

Proposal for a regulation Article 39 – paragraph 4

Text proposed by the Commission

4. The Management Board referred to in Article 4 shall be composed of the members of the Management Committee referred to in Article 7 of Regulation (EC) No 1211/2009, until new representatives are ***nominated***.

Amendment

4. The Management Board referred to in Article 4 shall be composed of the members of the Management Committee referred to in Article 7 of Regulation (EC) No 1211/2009, until new representatives are ***appointed***.

Or. en

Amendment 159

Proposal for a regulation Article 39 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Chair and the Vice-Chairs of the Board of Regulators referred to in Article 2d who have been appointed on the basis of Regulation (EC) No 1211/2009 shall remain in office for the remaining period of their one-year term. Subsequent appointments of the Chair and of the Vice-Chairs that are made by the Board of Regulators before... [the date of entry into force of this Regulation] shall be respected.

Or. en

Amendment 160

Proposal for a regulation Article 39 – paragraph 5

Text proposed by the Commission

Amendment

5. *The discharge procedure in respect of the budget approved on the basis of Article 11 of Regulation (EC) No 1211/2009 shall be carried out in accordance with the rules established by Regulation (EC) No 1211/2009.*

deleted

Or. en

Amendment 161

Proposal for a regulation Article 40 – title

Text proposed by the Commission

Amendment

Entry into force

Repeal

Or. en

Amendment 162

Proposal for a regulation Article 40 – paragraph 2

Text proposed by the Commission

Amendment

References to Regulation (EC) No 1211/2009 *and to the BEREC Office* shall be construed as references to this regulation *and to BEREC*.

References to Regulation (EC) No 1211/2009 shall be construed as references to this Regulation.

Or. en

EXPLANATORY STATEMENT

Current situation

The Body of European Regulators for Electronic Communications (BEREC) and the Office were established by Regulation (EC) No 1211/2009, as part of the 'Telecommunications package'.

BEREC is not an EU agency. Instead, it is made up of a Board of Regulators, composed of the representatives of the national regulatory authorities (NRA) established in each Member State. As a consequence, BEREC is well anchored in the realities of 28 national telecoms markets to provide relevant expertise. BEREC is aiming to ensure a consistent implementation of the regulatory framework for electronic communications, for instance through dissemination of best practices and issuing guidelines and opinions, provides advice to the NRAs and EU institutions and carries out other tasks assigned to it by the regulatory framework.

The BEREC Office is an EU decentralised agency, based in Riga. The main task of the Office is to provide professional and administrative support services to BEREC.

Commission proposal

The main thrust of the Commission proposal is to convert BEREC and BEREC Office into a single EU Agency. The Board of Regulators would become the Management Board of the Agency and the Administrative Manager of the Office would become the Executive Director.

According to the Commission, its proposal would provide BEREC with an appropriate and efficient governance structure, mandate and the tools it needs to ensure a consistent implementation of the regulatory framework. Another aspect of the proposal is to align BEREC's structure and governance, operation, programming and accountability with the Joint Statement of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012 - the so-called 'Common Approach'.

Maintaining the institutional balance

Your rapporteur believes that institutional upheaval should be avoided except when absolutely necessary. In the case of BEREC, he is of the opinion that the current structure is functioning well and makes it possible to take advantage of national know-how at the European level. This is because the members of the Board of Regulators have hands-on quotidian experience of telecoms regulation in their home countries and can bring this together in BEREC to provide a highly effective synergy.

On that account, the main objective of the draft report is to retain the Board of Regulators as an independent body, instead of allowing it to be drawn into a fully-fledged EU Agency. BEREC should be kept at a remove from influence by the Commission, to avoid disturbing the current institutional balance.

Furthermore, the rapporteur proposes, compared to the Commission proposal, that the role of the European Parliament in relation to the appointment of the Director of BEREC Office

should be maintained.

Flexibility and future proofness

The Commission's proposal on BEREC regulation is to certain extend directly linked with the other proposal on the 'Electronic Communications Code' and both dossiers should be proceed though the legislative procedure in parallel. Nevertheless, the rapporteur considers that the need for alignment could be minimised at this early stage. It applies particularly for the new tasks to be assigned to BEREC by the Code. In addition, the report seeks to ensure that the Regulation does not need to be amended every time another piece of EU legislation is changed to give BEREC a new task. The long list of BEREC tasks is therefore shortened and made more general.

Effectiveness of the governance structure

The draft report also includes amendments to enshrine current structures in EU regulation. For example, the Contact Network plays an important role in the present work of BEREC but has no official status. Similarly, the rapporteur endorses the successful contribution of expert Working Groups, and subsumes them under the organisational structure of BEREC. Other provisions setting the rules for both BEREC's Board of Regulators and Management Board of BEREC Office are adjusted to reflect the existing situation and need for continuity with minor improvements making them even more effective.

Moreover, your rapporteur does believe that many of the Commission proposals to bring the current situation into line with the so-called 'Common Approach' are to be welcomed for the BEREC Office, except of where they entail imposing excessive administrative burden or giving unjustified powers to the Commission.

Finally, the rapporteur suggest that the BEREC Office should have adequate staff required to carry out its duties, envisioning an overall staff figure of 40-45 staff members by the end of the period 2019-2020, and striking adequate balance between the temporary agents and external personnel.

To sum up, the draft report is intended to be a balance and compromise between keeping the best of the current structure and the best of the Commission proposal, and your rapporteur hopes that it will be serve as the basis for a compromise within Parliament.