REPORT


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.
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION</td>
<td>5</td>
</tr>
<tr>
<td>EXPLANATORY STATEMENT</td>
<td>45</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION</td>
<td>47</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION</td>
<td>121</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS</td>
<td>143</td>
</tr>
<tr>
<td>PROCEDURE – COMMITTEE RESPONSIBLE</td>
<td>162</td>
</tr>
<tr>
<td>FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE</td>
<td>163</td>
</tr>
</tbody>
</table>

(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 Protocol (No 1) of the Treaty on the Functioning of the European Union on the role of national Parliaments in the European Union,

– having regard to Protocol (No 2) of the Treaty on the Functioning of the European Union on the application of the principles of subsidiarity and proportionality,

– 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 25 January 2017¹,

– having regard to the opinion of the Committee of the Regions of ... ²,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on the Internal Market and Consumer Protection, the Committee on Culture and Education and the Committee on Civil Liberties, Justice and Home Affairs (A8-0305/2017),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the

¹ OJ C 125, 21.4.2017 p. 65.
² OJ C ...
national parliaments.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing the Body of European Regulators for Electronic Communications (BEREC) and
the Agency for Support for European Regulators for Electronic Communications (BEREC Office)
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

Communications Code’), 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 Council⁴ aim to create an internal market for electronic

¹ Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the
symbol [-]
³ OJ C [...].
personal data and the protection of privacy in the electronic communications sector (Directive on privacy and
communications within the Union while ensuring a high level of investment, innovation and consumer protection through enhanced competition.

(2) Regulation (EC) No 531/2012 of the European Parliament and of the Council, amended by Regulations (EU) No 2015/2120 and (EU) No 2017/920 of the European Parliament and of the Council, 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.

(3) Regulation (EU) No 2015/2120 moreover establishes additional tasks for BEREC in relation to open internet access.

(3a) The BEREC Guidelines of August 2016 on the Implementation by NRAs of European Net Neutrality Rules have been welcomed as valuable clarifications to guarantee a strong free and open internet by ensuring a consistent application of the rules to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services and related end-users rights.

(3b) 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 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.

(4) BEREC and the Office (‘BEREC Office’) were established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council. BEREC replaced the European Regulators Group and was meant to contribute on one hand to the development and on the other to the 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. BEREC was neither a Union agency nor did it have legal personality. It acted as a 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 to act independently and transparently.

---

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.

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.

By Decision 2010/349/EU, 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 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, it could be necessary to locate staff in another Member State.

In its Communication of 6 May 2015 entitled ‘A Digital Single Market Strategy for Europe’\(^2\), the Commission envisaged presenting proposals in 2016 for an ambitious overhaul of the regulatory framework for electronic communications focusing \textit{inter alia} on a more effective regulatory institutional framework in order to make the telecoms rules fit for purpose as part of the creation of the right conditions for the digital single market. These include the deployment of very high capacity connectivity networks, more coordinated management of radio spectrum for wireless networks and creating a level playing field for advanced digital networks and innovative services. The Communication pointed out that the changing market and technological environment make it necessary to strengthen the institutional framework by enhancing the role of BEREC.

In its Resolution of 19 January 2016 ‘Towards a Digital Single Market Act’, the European Parliament called on the Commission to integrate further the digital single market by ensuring that a more efficient institutional framework is in place. It \textit{specifically asked the Commission to strengthen} the role, capacity and decision-making powers of BEREC in order to allow it to foster the consistent implementation of the regulatory framework for electronic communications, to enable an efficient oversight of BEREC over the development of the single market and to help it to resolve cross-border disputes. The European Parliament also stresses, in this regard, the need to improve the financial and human resources and further enhance the governance structure of BEREC.

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, \textit{which is affecting companies engaged in cross-border business or active in a significant number of Member States, including in areas where BEREC guidelines exist but could be further developed}. 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 Regulation (EC) No 531/2012, Regulation (EU) No 2015/2120 and Directive [...] (‘Electronic Communications Code’).

(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 strengthen BEREC and the BEREC Office. 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 the new set of tasks assigned to BEREC, it is necessary to make changes in the organisation with view of strengthening the effectiveness of both BEREC and the BEREC Office.

(9a) In order to allow BEREC to adopt legally binding decisions, it should have legal personality. As a consequence, it should be a body of the Union, represented by the Chair of the Board of Regulators.

(9b) 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. The official name of BEREC Office should be changed to ‘Agency for Support for European Regulators for Electronic Communications’ (the ‘BEREC Office’).

(9c) 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 (‘Common Approach’).

(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, providing the necessary guidelines to NRAs in order to ensure common criteria and a consistent regulatory approach, and keeping certain registries at Union level.
BEREC’s tasks 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 NRAs. To make BEREC more powerful and more representative and to safeguard expertise, experience and knowledge of the specific situation of the full range 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.

The BEREC Office should provide all necessary professional and administrative support, including financial, organisational and logistical support, for the work of BEREC.

The BEREC Office should be adequately staffed to carry out its duties. An enlarged list of tasks assigned to BEREC and increased weight of content-related tasks vis-à-vis purely administrative ones 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.

In light of the increasing convergence between sectors providing electronic communication services and the horizontal dimension of regulatory issues related to their development, BEREC and the BEREC Office should be allowed 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 Group, established by Decision 2002/622/EC of the European Parliament and of the Council1, the European Data Protection Board, established by Regulation (EU) 2016/679 of the European Parliament2, the European Regulators Group for Audiovisual Media Services, established by Directive [...] of the European Parliament and of the Council3, the European Union Agency for Network and Information Security, established by Regulation (EU) No 526/20134, the Consumer Protection Cooperation Network, established pursuant to Regulation (EC) No 2006/2004 of the European Parliament and the Council5, and European standardisation organisations, 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.

BEREC should be composed of the Board of Regulators, which is supported by the

---

3 Directive [...].
Working Groups. The existing model of chairmanship of the Board of Regulators has helped to ensure continuity of BERECs’ work. In view of the additional tasks assigned to BEREC, the Chair should have a stable two-year term of office.

(11b) Experience has shown that most of BEREC’s tasks are better carried out through Expert Working Groups, which should always ensure equal consideration of all NRAs’ views and contributions. Therefore the Board of Regulators should be in charge of setting up Working Groups and appointing their 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. Lists of qualified expert members of working groups, together with their declaration of interests, should be made publicly available. The BEREC Office staff should support and contribute to the Working Groups’ activities.

(11c) As BEREC is competent for taking decisions with a binding effect, it is necessary to ensure that any natural or legal person subject to, or concerned by, a decision of BEREC has the right of appeal to a Board of Appeal, which is part of BEREC but independent from its administrative and regulatory structure. As the decisions issued by the Board of Appeal are intended to produce legal effects towards third parties, an action for review of their legality may be brought to the Court of Justice of the European Union.

(12) The Management Board should carry out the relevant administrative and budgetary management functions and should consist, in addition of the Head, or otherwise a member of the collegiate body, of each NRA and of one representative of 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 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 the Management Board, as well as the Chairperson and Deputy Chairperson, can concentrate on their functions.

(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 two-year term of office.

(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.

(16) The role of the Director, who would be the legal representative of the BEREC Office, is crucial for the adequate functioning of the agency and the implementation of the tasks assigned to it. The Management Board should appoint him/her, taking into account the opinion of the European Parliament, 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.

(20) In order to guarantee the BEREC Office’s autonomy and independence, 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 budget should reflect the additional tasks assigned and the enhanced role of the BEREC Office and BEREC. 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 management\(^2\).

(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, in particular those that have entered into agreements with the Union to that effect as EEA EFTA States and candidate countries.

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

(25) BEREC and the BEREC Office should have the right to request all necessary information from the Commission, the NRAs and, where necessary to perform their tasks, other authorities and undertakings. Requests for information should be proportionate and not impose an undue burden on the addressers. For that purpose, BEREC should establish a common information and communication system to avoid duplication of information requests and facilitate communication between all authorities involved. 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.

(25a) In order to ensure a high level of confidentiality and to avoid conflicts of interest,

---


the rules on these matters applying to members of the bodies of BEREC and the BEREC Office apply also to their alternates.

(25b) Since new tasks have been established for BEREC and legal acts of the Union might confer additional tasks on it in the future, the Commission should perform a regular evaluation of the operation of BEREC and the BEREC Office and the effectiveness of this institutional structure in a changing digital environment. If the outcome of that evaluation is that the institutional structure is not suited to the carrying out of the tasks, and particularly to ensure the consistent implementation of the regulatory framework for electronic communications, the Commission should explore all possible options for improving the structure, particularly the feasibility, financial implications and possible benefits of converting the structure into a single agency.

(26) Since the objectives of this regulation, namely the need to ensure a consistent implementation of the regulatory framework for electronic communications within the defined scope, in particular in relation to cross-border aspects and through efficient internal market procedures for draft national measures, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at the level of the Union, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this regulation does not go beyond what is necessary in order to achieve those objectives.

(27) This Regulation aims to amend and expand the provisions of Regulation (EC) 1211/2009. Since the amendments to be made are of a substantial nature, that act should, in the interests of clarity, be replaced and therefore repealed. References to the repealed regulation should be construed as references to this Regulation.

(28) The Office, which was established as a Community body with legal personality by Regulation (EC) No 1211/2009, is succeeded by the BEREC Office as regards all ownership, agreements, legal obligations, employment contracts, financial commitments and liabilities. In order to ensure continuity in the work of BEREC and the BEREC Office, it is necessary that their representatives, namely the Administrative 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.

HAVE ADOPTED THIS REGULATION:
CHAPTER I ESTABLISHMENT OF BEREC AND THE BEREC OFFICE

Article 1
Establishment of BEREC

1. The Body of European Regulators for Electronic Communications (‘BEREC’) is hereby established. BEREC shall be a body of the Union. It shall have legal personality.

1a. In each of the Member States BEREC shall enjoy the most extensive legal capacity accorded to legal persons in national law. It may, in particular, be party to legal proceedings.

1b. BEREC shall be represented by the Chair of the Board of Regulators.

1c. BEREC shall have sole responsibility for the tasks assigned to and the powers conferred on it.

Article 1a
Establishment of the BEREC Office

1. The Agency for Support for European Regulators for Electronic Communications (the ‘BEREC Office’) is hereby established. The BEREC Office shall be a body of the Union. It shall have legal personality.

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

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

4. The BEREC Office shall have sole responsibility for the tasks assigned to and the powers conferred on it.

5. The BEREC Office shall have its seat in Riga, Latvia.
CHAPTER Ia

OBJECTIVES

Article Ib

Objectives


2. The definitions laid down in Directive [...] (‘Electronic Communications Code’) shall apply for the purposes of this Regulation.

3. As its primary objective, BEREC shall ensure a consistent regulatory approach to the implementation of the regulatory framework for electronic communications within the scope referred to in paragraph 2 and shall thereby contribute to the development of the internal market. 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’). It shall also promote the principle of net neutrality and the open internet; access to, investment in, 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.

4. BEREC shall carry out its tasks independently, impartially, without undue delay and ensuring a transparent decision-making process.

5. BEREC shall draw upon the expertise available in the NRAs.

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

CHAPTER Ib
TASKS AND ORGANISATION OF BEREC

Article 2
Tasks

1. The tasks of BEREC shall be to:

(a) carry out tasks assigned to 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;

(b) assist, advise, including by means of reports, opinions or recommendations, the NRAs, the Commission, European Parliament and the Council, and cooperate with the NRAs and the Commission, on request or on its own initiative, on any matter regarding electronic communications within its competence;

(c) assist, on request, the NRAs, the Commission, the European Parliament and the Council, 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;

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

(e) issue guidelines ensuring the consistent implementation of the regulatory framework for electronic communications and consistent regulatory decisions by the NRAs on its own initiative or upon a request from an NRA, the European Parliament, the Council or the Commission, in particular for regulatory issues affecting a significant number of Member States or with a cross-border element;

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

(g) monitor market developments, evaluate the needs for regulatory innovation and coordinate actions between NRAs to enable the development of new innovative electronic communication services and ensure convergence, in particular in the areas of standardisation, numbering, and spectrum allocation;

(h) provide a framework within which NRAs can cooperate, and promote cooperation between the NRAs and between the NRAs and the Commission. BEREC shall take due into account of the outcome of such cooperation when formulating its opinions, recommendations and decisions. Where BEREC considers that binding rules on such cooperation are required, it shall make the appropriate recommendations to the Commission;

(i) launch a data innovation initiative to modernise, coordinate and standardise the collection of data by NRAs. Without prejudice to intellectual property rights and the required level of confidentiality, this data shall be made available to the public in an
open, reusable and machine-readable format on the BEREC website and the European data portal;

(i) cooperate with the Consumer Protection Cooperation Network and relevant European and national competent authorities, including the European Data Protection Supervisor and national data protection authorities, as regards matters related to the provision of electronic communication services which may affect consumers' interests in several Member States;

(j) advise the European Parliament, the Council and the Commission, on request or on its own initiative, on the relevant regulatory impact of any issue concerning the overall dynamics of digital markets;

(k) assist the Commission, as a consultative body in relation to the preparation and adoption of legal acts in the field of electronic communications.

2a. BEREC’s tasks shall be published on the website and updated as and when new tasks are assigned to it.

3. Without prejudice to compliance with relevant Union law, NRAs and the Commission shall comply with any binding decision and take the utmost account of any guideline, opinion, recommendation and best practice adopted by BEREC with the aim of ensuring a consistent implementation of the regulatory framework for electronic communications within the scope referred to in Article 1b(1). The NRA concerned shall, in any regulatory decision on the issue in question, take the utmost account of the guidelines adopted by BEREC in accordance with paragraph (1)(d) of this Article and shall provide reasons for any deviation from the guidelines. Where in exceptional cases the NRA deviates from the guidelines, its regulatory decision, including the duly justified reasons for the deviation, shall be notified to BEREC without undue delay for an assessment.

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

4a. BEREC shall, where appropriate, consult interested parties and give them the opportunity to comment within a reasonable period determined by the complexity of the matter, which shall not be shorter than 30 days. BEREC shall, without prejudice to Article 28, make the results of such public consultations publicly available. Such consultations shall take place as early as possible in the decision-making process.
CHAPTER II
ORGANISATION OF BEREC

Article 2a
Organisation of BEREC

BEREC shall consist of:

(a) a Board of Regulators;
(b) Expert Working Groups ('Working Groups');
(c) a Board of Appeal.

SECTION I
BOARD OF REGULATORS

Article 2b
Composition of the Board of Regulators

1. The Board of Regulators shall be composed of one member from 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 where more than one NRA is responsible under Directive [...] ('Electronic Communications Code'), those authorities shall agree on a common representative and the necessary coordination between the NRAs shall be ensured.

2. Members of the Board of Regulators shall act on objective grounds, in the interest of the Union and towards reducing market fragmentation with a view to creating a single market for telecommunications.

3. Each NRA shall nominate an alternate to represent its member in his or her absence from among the Heads, members of the collegiate body and staff of the NRA.

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. A list of members of the Board of Regulators, together with their declaration of interest, shall be made publicly available.

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.
Article 2c
Independence

1. When carrying out the tasks conferred upon them, the members of the Board of Regulators shall act independently and objectively in the interests of the Union as a whole, regardless of their national or personal interests.

2. Without prejudice to the powers of the Commission or NRAs, members of the Board of Regulators shall not seek or take instructions from the institutions or bodies of the Union, from any government of a Member State or from any other public or private body.

Members of the Board of Regulators shall, in particular, carry out the tasks conferred upon them free from undue political influence or commercial interference that could affect their personal independence.

Article 2d
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 shall be two years. To ensure the continuity of BEREC’s work, the incoming Chair shall serve at least six months as a Vice-Chair before his or her term of office as Chair and, where possible, at least six months as Vice-Chair at the end of his or her term office as Chair.

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.

Article 2e
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, 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. The Board of Regulators shall take decisions by a simple 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.

3. The Board of Regulators shall adopt, acting by a two-thirds majority of its members, 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 governed by 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 and other practical arrangements for the operation of the Board of Regulators.

**Article 2f**
**Tasks of the Board of Regulators**

1. The Board of Regulators shall fulfil the tasks of BEREC as set out in Article 2 and shall take all decisions relating to the organisation of BEREC’s work. In doing so, it shall also rely on the work carried out by the Working Groups.

2. 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.

3. The Board of Regulators shall give guidance to the BEREC Office regarding its professional and administrative support to BEREC.

4. 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.

5. The Board of Regulators shall adopt BEREC’s annual activity report and shall submit it to the European Parliament, the Council, the Commission and the European Economic and Social Committee by 15 June each year.

6. The European Parliament may invite, while fully respecting his or her 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.
SECTION 2
WORKING GROUPS

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 Working Groups shall be designated by the NRAs. The representatives of the Commission shall participate in the work of the Working Groups as observers.

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. The Board of Regulators shall appoint two Co-Chairs from different NRAs to each Working Group unless exceptional and temporary circumstances warrant otherwise.

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

SECTION 3
BOARD OF APPEAL

Article 2h
Establishment and composition of the Board of Appeal

1. A Board of Appeal is hereby established.

2. The Board of Appeal shall be composed of a Chair and two other members. Each member of the Board of Appeal shall have an alternate. The alternate shall represent the member in his or her absence.

3. The Board of Regulators shall appoint the Chair, the other members of the Board of Appeal and their alternates from the lists of qualified candidates provided by the NRAs, the Commission and the Director of the BEREC Office.

4. Where the Board of Appeal considers that the nature of the appeal so requires, it may request the Board of Regulators to appoint two additional members and their alternates from the lists referred to in paragraph 3.

5. On the proposal of the Board of Regulators, the Board of Appeal shall establish its rules of procedure. Those rules shall set out in detail the arrangements governing the
organisation and functioning of the Board of Appeal and the rules of procedures applicable to appeals before the Board.

Article 2i
Members of the Board of Appeal

1. The term of office of the members and alternates of the Board of Appeal shall be four years. Their terms of office may be extended by the Board of Regulators for additional four-year periods.

2. The members of the Board of Appeal shall be independent and shall not perform any other duties within BEREC or the BEREC Office. In making their decisions they shall neither seek nor take instructions from any government or from any other body.

3. The members of the Board of Appeal shall not be removed from office or from the list of qualified candidates during their term of office, unless there are serious grounds for such removal and the Board of Regulators takes a decision to that effect.

Article 2j
Exclusion and objection

1. The members of the Board of Appeal shall not take part in any appeal proceedings if they have any personal interest in the proceedings, if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the adoption of the decision under appeal.

2. If, for one of the reasons listed in paragraph 1 or for any other reason, a member of a Board of Appeal considers that he or she should not take part in any appeal proceeding, he or she shall inform the Board of Appeal accordingly.

3. Any party to the appeal proceedings may object to any member of a Board of Appeal on any of the grounds given in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a step in the proceedings or if it is based on the nationality of a member.

4. The Board of Appeal shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking that decision, the member concerned shall be replaced on the Board of Appeal by his or her alternate. If the alternate finds him or herself in a similar situation to that of the member, the Chair shall designate a replacement from among the alternates.

Article 2k
Decisions subject to appeal

1. An appeal may be brought before the Board of Appeal against binding decisions taken by BEREC pursuant to Article 2(1)(a).

Any natural or legal person, including NRAs, may appeal against a decision referred to in
the first subparagraph which is addressed to that person, or against a decision which, although in the form of a decision addressed to another person, is of direct and individual concern to that person.

2. An appeal, including the written statement setting out the grounds for appeal, shall be filed at BEREC within two months after notification of the decision to the person concerned, or, in the absence thereof, within two months after day on which BEREC published its decision. The Board of Appeal shall decide upon the appeal within four months of the lodging of the appeal.

3. An appeal brought pursuant to paragraph 1 shall not have suspensory effect. The Board of Appeal may, however, suspend the application of the decision against which the appeal has been brought.
CHAPTER IIa
TASKS AND ORGANISATION OF BEREC OFFICE

SECTION I
TASKS OF THE BEREC OFFICE

Article 21

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 assigned to BEREC pursuant to Article 2;

(c) to produce, on the basis of the information referred to in point (b), regular draft reports on specific aspects of developments of the European telecommunications market such as roaming and benchmarking reports, to be submitted to BEREC;

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

(e) to assist in the preparation of the work and provide other administrative and content-related support to ensure the smooth functioning of the of the Board of Regulators and the Working Groups;

(f) to participate in the activities of the Working Groups;

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

(h) to assist BEREC in conducting public consultations.
SECTION 2
ORGANISATION OF THE BEREC OFFICE

Article 3
Administrative and Management Structure of the BEREC Office

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

(a) a Management Board, which shall exercise the functions set out in Article 5;

(b) a Director, who shall exercise the responsibilities set out in Article 9.

SECTION 3
MANAGEMENT BOARD

Article 4
Composition of the Management Board

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

That person representing a Member State 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 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.

2. Each NRA shall nominate an alternate to represent its member in his or her absence from among the Heads and members of its collegiate body and its staff.

3a. A list of members of the Management Board, together with their declarations of interests, shall be made publicly available.

Article 5
Functions of the Management Board

1. The Management Board shall:

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

(c) adopt and proceed with an assessment of the consolidated annual activity report on the BEREÇ Office’s activities in accordance with Article 18a;

(d) adopt the financial rules applicable to the BEREÇ Office in accordance with Article 20;

(e) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

(f) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (‘OLAF’);

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

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

(i) adopt its rules of procedure;

(j) in accordance with paragraph 2, exercise, with respect to the staff of BEREÇ Office, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment1 (‘the appointing authority powers’);

(k) adopt implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;

(l) authorise the conclusion of working arrangements with competent Union bodies, agencies, offices and advisory groups; with competent authorities of third countries and/or with international organisations in accordance with Article 26;

(m) appoint the Director and where relevant extend his or her term of office or remove him or her from office in accordance with Article 9a;

(n) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of other servants, who shall be totally independent in the performance of his or her duties. The BEREÇ Office may appoint the same Accounting Officer as another Union Body. The BEREÇ Office may also agree with the Commission that the accounting officer of the Commission shall also act as Accounting Officer of the BEREÇ Office;

---

(p) take all decisions on the establishment of BEREC Office’s internal structures and, where necessary, their modification, taking into consideration BEREC Office's activity needs as well as having regard to sound budgetary management.

2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Director and defining the conditions under which this delegation of powers can be suspended. The Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Management Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Director.

Article 6
Chairperson and Deputy Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among members with voting rights representing Member States. The Chairperson and the Deputy Chairperson shall be elected by a majority of two thirds of the members of the Management Board with voting rights.

2. The Deputy Chairperson shall automatically replace the Chairperson if he/she is prevented from attending to his/her duties.

3. The term of office of the Chairperson and the Deputy Chairperson shall be two years.

3a. Without prejudice to the role of the Management Board in relation to the Chairperson’s tasks, the Chairperson and the Deputy Chairperson shall neither seek nor accept any instruction from any government or NRA, from the Commission, or from any other public or private entity.

3b. The Chairperson shall report to the European Parliament on the performance of BEREC Office when invited to do so.

Article 7
Meetings of the Management Board

1. The Chairperson shall convene the meetings of the Management Board.

2. The Director of the BEREC Office shall take part in the deliberations, without the right to vote.
3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, or at the request of at least one-third of its members.

4. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer.

5. The members and the alternates of the Management Board may, subject to its rules of procedure, be assisted at the meetings by advisers or experts.

6. The BEREC Office shall provide the secretariat for the Management Board.

Article 8

Voting rules of the Management Board

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

2. Each member with voting rights shall have one vote. In the absence of a member with the right to vote, his/her alternate shall be entitled to exercise his/her right to vote.

3. The Chairperson shall take part in the voting.

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

5. The Management Board’s rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.
SECTION 4

DIRECTOR

Article 9

Responsibilities of the Director

1. The Director shall be in charge of the management of the BEREC Office. The Director shall be accountable to the Management Board.

2. Without prejudice to the powers of the Management Board, the Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any Union institution, government, NRA, or from any other public or private entity.

3. The Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Director to report on the performance of his or her duties.

5. The Director shall be responsible for the implementation of the BEREC Office’s tasks following the guidance provided by the Management Board. In particular, the Director shall be responsible for:

(a) the day-to-day administration of the BEREC Office;
(b) implementing decisions adopted by the Management Board;
(c) preparing the single programming document and submitting it to the Management Board;
(d) implementing the single programming document, reporting to the Management Board on its implementation;
(e) preparing the consolidated annual report on the BEREC Office’s activities and presenting it to the Management Board for assessment and adoption;
(f) preparing an action plan following-up conclusions of internal or external audit reports and evaluations, as well as investigations by the OLAF and reporting on progress once a year to the Commission and regularly to the Management Board;
(g) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, by carrying out effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative measures, including financial penalties;
(h) preparing an anti-fraud strategy for the BEREC Office and presenting it to the Management Board for approval;
(i) preparing draft financial rules applicable to the BEREC Office;
(j) preparing the BEREC Office’s draft statement of estimates of revenue and expenditure and implementing its budget.

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

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.

6. The Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out the BEREC Office’s tasks in an efficient and effective manner to locate one or more staff in one or more Member States. The decision to establish a local office requires the prior consent of the Management Board and the Member State(s) concerned. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of BEREC. Before any such decision may be taken, the impact of the decision in terms of staff allocation and budget shall be set out in the multi-annual work programme referred to in Article 15(4).

Article 9a
Appointment of the Director

1. The Director shall be appointed by the Management Board, from a list of candidates proposed by the Chairperson, 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.

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

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

4. The term of office of the Director shall be four years. By the end of that period, the Chairperson shall undertake an assessment that takes into account an evaluation of the Director’s performance and BEREC’s tasks and challenges. This evaluation shall be forwarded to the European Parliament and the Council.

5. The Management Board, taking into account the assessment referred to in paragraph 4, may extend the Director’s term of office once, for no more than six years.
6. 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 European Parliament may issue a non-binding opinion on the extension. 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.

7. A 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.

8. Where the Director’s term of office is not extended, he or she shall remain in office until the appointment of a successor.

9. 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.

10. 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.
CHAPTER III
ESTABLISHMENT AND STRUCTURE OF THE BUDGET OF THE BERECC OFFICE

SECTION 1
SINGLE PROGRAMMING DOCUMENT

Article 15
Annual and multi-annual programming

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 Commission.1

By 31 January, the Management Board shall adopt the draft single programming document and forward it to the Commission for it to provide its opinion. The draft single programming document shall also be forwarded to the European Parliament and the Council.

The Management Board shall subsequently adopt the single programming document, taking into account the opinion of the Commission. It shall forward it to the European Parliament, the Council and the Commission, as well as any later updated version of that document.

The single programming document shall become definitive after final adoption of the general budget and if necessary shall be adjusted accordingly.

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 BERECC’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.

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

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Director.

4. The multi-annual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multi-annual budget and staff.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred

to in Article 38.

5. Annual and/or multiannual programming shall include the BEREC Office strategy for relations with competent Union bodies, agencies, offices and advisory groups; with competent authorities of third countries and/or with international organisations as referred to in Article 26, the actions linked to this strategy and the specification of associated resources.

Article 16

Establishment of the budget

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.

3. The draft estimate of the BEREC Office’s revenue and expenditure shall be sent by the Director to the Commission by 31 January each year. The information contained in the draft estimate of the BEREC Office’s revenue and expenditure and in the draft single programming document referred to in Article 15(1) shall be coherent.

4. The Commission shall send the draft estimate to the budgetary authority together with the draft general budget of the Union.

5. On the basis of the draft estimate, the Commission shall enter in the draft general budget of the Union the estimates it considers necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 of the Treaty.

6. The budgetary authority shall authorise the appropriations for the contribution to the BEREC Office.

7. The budgetary authority shall adopt the BEREC Office’s establishment plan.

8. The BEREC Office’s budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.

9. For any building project likely to have significant implications for the budget of the BEREC Office, the provisions of Commission Delegated Regulation (EU) No 1271/2013 shall apply.

SECTION 2

IMPLEMENTATION, PRESENTATION AND CONTROL OF THE BUDGET

Article 17

Structure of the budget
1. Estimates of all revenue and expenditure for the BEREC Office shall be prepared each financial year, corresponding to the calendar year and shall be shown in the BEREC Office’s budget.

2. The BEREC Office’s budget shall be balanced in terms of revenue and of expenditure.

3. Without prejudice to other resources, the BEREC Office’s revenue shall comprise:
   (a) a contribution from the Union;
   (b) any voluntary financial contribution from the Member States or the NRAs;
   (c) charges for publications and any other service provided by the BEREC Office;
   (d) any contribution from third countries or the regulatory authorities competent in the field of electronic communications of third countries participating in the work of the BEREC Office, as provided for by Article 26.

4. The expenditure of the BEREC Office shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

   Article 18
   Implementation of the budget

1. The Director shall implement the BEREC Office’s budget.

2. Each year the Director shall send to the budgetary authority all information relevant to the findings of evaluation procedures.

   Article 18a
   Consolidated Annual Activity Report

1. Each year, the Director shall draw up a draft consolidated annual activity report of the BEREC Office in accordance with Article 47 of Commission Delegated Regulation (EU) No 1271/2013 and taking into account guidelines set by the Commission. The Management Board shall adopt and proceed with an assessment of the consolidated annual activity report and submit both the report and its assessment, by 1 July each year, to the European Parliament, the Council, the Commission and the Court of Auditors. The consolidated annual report on the activities of the BEREC Office shall be presented to the Parliament and Council by the Director during a public session. The consolidated annual activity report shall be made public.

2. The consolidated annual activity report shall in particular comprise information on the implementation of the BEREC Office annual work programme, budget and staff

resources, management and internal control systems, the observations of the European Court of Auditors, the accounts and the report on budgetary and financial management and a declaration of the authorising officer stating a reasonable assurance.

Article 19
Presentation of accounts and discharge

1. By 1 March of the following financial year, the BEREC Office’s accounting officer shall send the provisional accounts to the Commission’s Accounting Officer and to the Court of Auditors.

2. By 31 March of the following financial year, the BEREC Office shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

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 the BEREC Office’s final accounts under his/her own responsibility. The Director shall submit the final accounts to the Management Board for an opinion.

4. The Management Board shall deliver an opinion on the BEREC Office’s final accounts.

5. The Director shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board’s opinion.

6. The BEREC Office shall publish the final accounts in the Official Journal of the European Union by 15 November of the following year.

7. The Director shall send the Court of Auditors a reply to its observations by 30 September. The Director shall also send this reply to the Management Board.

8. The Director shall submit to the European Parliament, at the latter’s request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Financial Regulation 1.

9. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Director in respect of the implementation of the budget for year N.

Article 20
Financial rules

The financial rules applicable to the BEREC Office shall be adopted by the Management Board after consulting the Commission. They shall not depart from Regulation (EU) No 1271/2013 unless such a departure is specifically required for the BEREC Office’s operation and the Commission has given its prior consent.

CHAPTER IV

STAFF

Article 21

General provision

The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the BEREC Office.

Article 22

Director

1. The Director shall be engaged as a temporary agent of the BEREC Office in accordance with Article 2(a) of the Conditions of Employment of Other servants.

Article 23

Seconded national experts and other staff

1. The BEREC Office may make use of seconded national experts or other staff not employed by the BEREC Office. The Staff Regulations and the Conditions of Employment of Other Servants shall not apply to such staff.

2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the BEREC Office.

CHAPTER V

GENERAL PROVISIONS

Article 25

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Union shall apply to the BEREC Office and its staff.

Article 26

Cooperation with Union bodies, third countries and international organisations
1. 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 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.

2. BEREC and 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.

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 and the BEREC Office, including representation of the third countries in the Board of Regulators and the Working Groups and the Management Board, as well as 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.

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 the BEREC Office is competent.

Article 27
Access to documents


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.

---


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 BEREC and 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.

Article 27a
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 appropriate, objective, reliable and easily accessible information, in particular in relation to their tasks and the results of their work.

2. BEREC, supported by the BEREC Office, may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities within the BEREC Office’s budget shall not be detrimental to the effective exercise of BEREC’s 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.

Article 28
Confidentiality

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.

2. Members of the Management Board, the Board of Regulators and the Working Groups, and observers or other participants in the meetings of those bodies, the Director, seconded national experts and other staff not employed by the BEREC Office shall comply with the confidentiality requirements under Article 339 of the Treaty, even after their duties have ceased.

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.

Article 29
Security rules on the protection of classified and sensitive non-classified information

---

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) 2015/443\(^1\) and 2015/444\(^2\). Alternatively, the BEREC Office may adopt a decision to apply the Commission’s rules on a mutatis mutandis basis.

**Article 30**

**Exchange of information**

1. 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.

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.

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.

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.

4. 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 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.

BEREC shall inform the relevant NRAs of requests in accordance with this paragraph. At the request of BEREC, the NRAs shall assist BEREC in collecting the information.

4a. The BEREC Office shall establish and manage an information and communications system with at least the following one-stop-shop functions:

(a) a single entry point through which an undertaking subject to general authorisation, where required by the Member State, shall submit its notification to be forwarded by BEREC to the NRAs;

---


(b) a common information-exchange platform, providing BEREC, the Commission and NRAs with the necessary information for the consistent implementation of the Union framework for electronic communications;

(c) an early-warning system able to identify at an early stage the needs for coordination between decisions to be taken by NRAs.

The Management Board shall adopt the technical and functional specifications and a plan to establish this system. It shall be developed without prejudice to the intellectual property rights and the required confidentiality level.

That information and communication systems shall be operational by ... [12 months after the date of entry into force of this Regulation].

**Article 31**

**Declaration of interest**

1. Members of the Management Board and the Board of Regulators, members of the Board of Appeal, 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.

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.

2. Members of the Management Board, the Board of Regulators and the Working Groups, and observers or other participants in the meetings of those bodies, members of the Board of Appeal, the Director, seconded national experts and 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.

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.

**Article 32**

**Combating fraud**

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 Council\(^1\), by ...
six months after the entry into force of this Regulation, the BEREC Office shall accede to the Interinstitutional Agreement of 25 May 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.

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.

3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the BEREC Office, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with competent authorities of third countries and international organisations, contracts, grant agreements and grant decisions of the BEREC Office shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Article 33

Liability

1. The BEREC Office’s contractual liability shall be governed by the law applicable to the contract in question.

2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the BEREC Office.

3. In the case of non-contractual liability, the BEREC Office shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.

5. The personal liability of its staff towards the BEREC Office shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 34

Administrative inquiries


1 Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).
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.

Article 35
Language arrangements

1. The provisions laid down in Regulation No 1/58\(^1\) shall apply to the BEREC Office.

2. The translation services required for the functioning of the BEREC Office shall be provided by the Translation Centre of the bodies of the European Union.

CHAPTER VI
FINAL PROVISIONS

Article 37
Headquarters Agreement and operating conditions for the BEREC Office

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 host Member State.

2. The BEREC Office’s host Member State shall provide the necessary conditions to ensure the smooth and efficient functioning of the BEREC Office, including multilingual, European-oriented schooling and appropriate transport connections.

Article 38
Evaluation

1. By ... [five years after the date 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 shall be assessed in relation to its objectives, mandate, tasks and location(s). The evaluation shall, in particular, address the effectiveness of the institutional and organisational structure of BEREC and the BEREC Office and its capability to carry out all the tasks, and in particular to ensure the consistent implementation of the regulatory framework for electronic communications, the possible need to modify the structure or mandate of BEREC and the BEREC Office, and the financial implications of any such modification.

2. Where the Commission considers that the continuation of BEREC and the BEREC Office is no longer justified with regard to its assigned objectives, mandate and tasks, it may

---
\(1\) Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ L 17, 6.10.1958, p. 385).
propose that this regulation be amended accordingly or repealed.

3. The Commission shall report to the European Parliament, the Council and the Management Board on the findings of the evaluation. The findings of the evaluation shall be made public.

Article 39

Transitional Provisions

1. **The BEREC Office** shall succeed the Office that was established by Regulation (EC) No 1211/2009 as regards all ownership, agreements, legal obligations, employment contracts, financial commitments and liabilities.

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 the BEREC Office.

3. 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 or her term of office. The Management Board may appoint him or her as Director for no more than four years. The provisions of Article 9a(4), (5), (6) shall apply mutatis mutandis.

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.

4a. The Chair and 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.

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.
Article 40
Repeal

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

Article 41
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [...].

Articles 2h to 2k shall apply from ... [six months after the date of entry into force of this Regulation]

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
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 extent directly linked with the other proposal on the ‘Electronic Communications Code’ and both dossiers should be proceeded 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.
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Industry, Research and Energy


Rapporteur: Ivan Štefanec

SHORT JUSTIFICATION

The Rapporteur welcomes the Commission’s proposal to update the regulation on the Body of European Regulators of Electronic Communications (BEREC) as part of its wider telecoms package. The single market for electronic communications is at the heart of the Digital Economy and therefore it is crucial to strengthen the electronic communication sector and provide innovation and high-quality connectivity across all sectors of the European economy.

The proposal seeks to enhance regulatory harmonisation and strengthen the provisions around the independence of NRAs. The rapporteur believes that the current institutional set-up (independence of NRAs from the Commission and other EU institutions) and the rootedness of BEREC to its constituent members (the NRAs) allow BEREC to provide independent and expert advice and to continue in cooperating with other EU institutions.

Strengthening of the independence requirement on NRAs should remain central to ensure impartial and predictable regulation in the future. Moreover, the rapporteur also welcomes the proposal to broaden the minimum set of core competences attributed to NRAs. He believes that a reduction in BEREC’s independence and the creation of an EU fully fledged agency could decrease the effectiveness and value-added of BEREC and slower the development and dissemination of harmonised best practices.

Therefore, the rapporteur has decided to maintain the current two-tier governance structure with BEREC on the one hand and BEREC Office on the other. He considers this to be the best way of ensuring the continued effective work of BEREC and of maintaining a balance between the Commission, the NRAs and BEREC. BEREC would continue to be composed of the representatives of each of the Member States’ NRA, thus allowing all NRAs to actively contribute to BEREC’s work. As such, it would complement the regulatory tasks performed at national level by the regulatory authorities. BEREC should be fully accountable and transparent to the relevant European Union institutions.

The Rapporteur has therefore re-introduced into the proposed regulation the dual structure of BEREC and BEREC Office and has set out the appropriate tasks and organisational set-up for
each. The draft opinion therefore introduces a new Article 2a on the establishment and tasks of BEREC Office as well as new articles 14a to 14d on the organisation of the BEREC Office. As regards both BEREC Office and BEREC, the Rapporteur has taken on board a number of the Commission’s suggested improvements, including the extension of competences of BEREC in the regulatory field.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

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 roles of BEREC and the BEREC Office and enhance their 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

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 roles of BEREC and the BEREC Office and enhance their governance structure. 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
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.

Amendment 2

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 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.

Amendment

(8) The need for the regulatory framework for electronic communications to be consistently applied in a balanced and non-discriminatory manner 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.

Amendment 3

Proposal for a regulation
Recital 9
(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.

\(^{28}\) Joint Statement of the Parliament, Council and the Commission on decentralised agencies of 19 July 2012.

\begin{align*}
\text{Amendment 4} \\
\text{Proposal for a regulation} \\
\text{Recital 10 a (new)}
\end{align*}

\begin{align*}
(10a) \text{BEREC also serve as a body for reflection, debate and advice for the European Parliament, the Council and the Commission in the electronic communications field. BEREC should, accordingly, provide advice to the European Parliament, the Council and the Commission, on their request or on its own initiative.}
\end{align*}

\begin{align*}
\text{Amendment 5} \\
\text{Proposal for a regulation} \\
\text{Recital 11}
\end{align*}

\begin{align*}
(11) \text{BEREC should be allowed if necessary to cooperate with, and without prejudice to the role of, other Union}
\end{align*}
bodies, agencies, offices and advisory groups, in particular the Radio Spectrum Policy Group\textsuperscript{29}, the European Data Protection Board\textsuperscript{30}, the European Regulators Group for Audiovisual Media Services\textsuperscript{31} and the European Union Agency for Network and Information Security\textsuperscript{32}; 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.


\textsuperscript{31} Directive [...].


Amendment 6

Proposal for a regulation
Recital 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 7

Proposal for a regulation
Recital 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 to ensuring that the Management Committee, as well as the Chairperson and Deputy Chairperson, can concentrate on their functions.
Amendment 8
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 benefit from a stable and long-term mandate.

Amendment 9
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 Board of Regulators should hold at least four ordinary meetings a year. In view of past experience and the enhanced role of BEREC, the Board of Regulators may need to hold additional meetings.

Amendment 10
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

Amendment

(16) The role of the Director, who would be the legal representative of the BEREC Office, is crucial for the adequate functioning of BEREC 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
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 11**

**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. 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 12**

**Proposal for a regulation**

**Recital 18**

*(Text proposed by the Commission)*

(18) As **BEREC is competent for taking decisions with a binding effect,** it is necessary to ensure that any natural or legal person subject to, or concerned by, a decision of BEREC has the right of

*deleted*
appeal to a Board of Appeal, which is part of the agency but independent from its administrative and regulatory structure. As the decisions issued by the Board of Appeal are intended to produce legal effects towards third parties, an action for review of their legality may be brought to the General Court. In order to ensure uniform conditions as regards the rules of procedure of the Board of Appeal, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council\footnote{Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).}.\footnote{Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).}

Amendment 13
Proposal for a regulation
Recital 19

\textit{Text proposed by the Commission}


\textit{Amendment}

Amendment 14
Proposal for a regulation
Recital 20

\textit{Text proposed by the Commission}

(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 management\textsuperscript{35}.

\textsuperscript{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).

\textit{Amendment}

(20) In order to guarantee the BEREC Office’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 management\textsuperscript{35}.

\textsuperscript{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).

Amendment 15
Proposal for a regulation
Recital 21

\textit{Text proposed by the Commission}

(21) BEREC should be independent as regards operational and technical matters and should enjoy legal, administrative and financial autonomy. \textit{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.}

\textit{Amendment}

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

Amendment 16
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 outside audience or as committing the Union to legal obligations.

Amendment

deleted

Amendment 17

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 within the scope of BEREC, BEREC and the BEREC Office 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 EFTA States and candidate countries.

Amendment 18

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

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 and should be carried out in accordance with relevant communication and dissemination plans
BEREC’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.

Amendment 19

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 are able to fulfil their 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.

Amendment 20

Proposal for a regulation
Recital 28

Text proposed by the Commission

(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

Amendment

(28) The Office, which was established as a Community body with legal personality by Regulation (EC) No 1211/2009, is succeeded by the BEREC
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.

Office as regards all ownership, agreements, legal obligations, employment contracts, financial commitments and liabilities. The BEREC Office should take over the staff of the Office whose rights and obligations should not be affected.

Amendment 21
Proposal for a regulation
Article 1

Text proposed by the Commission

Article 1
Establishment and objectives

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


The definitions laid down in those Directives, Regulations and Decision shall apply for the purposes of this regulation.

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

Amendment

Article 1
Establishment and objectives of BEREC

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


The definitions laid down in those Directives, Regulations and Decision shall apply for the purposes of this regulation.

3. BEREC shall, as primary objective, contribute to the development and better functioning of the internal market for electronic communications networks and services by ensuring a consistent implementation of the Union regulatory framework for electronic communications within the scope referred to in paragraph 2. BEREC shall, in cooperation with national regulatory authorities (‘NRAs’), contribute to the objectives referred to in Article 3 of Directive […], and in particular shall 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.

3 a. **BEREC shall carry out its tasks independently, impartially and transparently. It shall draw upon the expertise available in the NRAs.**

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

---

**Amendment 22**

**Proposal for a regulation**

**Article 2**

*Text proposed by the Commission*

**Tasks**

1. The tasks of BEREC shall be to:

   (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;

   (aa) *promote cooperation between NRAs, and between NRAs and the Commission*;

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

---

(b) issue decisions:

- 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;

(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;

(d) issue opinions as referred to in the 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;

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

- 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;

2. BEREC shall also carry out the following tasks:

(ea) 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, the evolution of retail and wholesale charges for roaming services and the transparency and comparability of tariffs, and where necessary make recommendations to the Commission;

(eb) report on technical matters within BEREC’s competence;

2. BEREC shall also carry out other tasks conferred to it by legal acts of the Union, in particular by the Directive, Regulation (EC) No 531/2012 and
(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.

(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
3. Without prejudice to compliance with relevant Union law, NRAs shall comply with any decision and take the utmost account of any opinion, guideline, recommendation and best practice adopted by BEREC with the aim of ensuring a consistent implementation of the regulatory framework for electronic communications within the scope referred to in Article 1(2).

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.

4a. BEREC may consult relevant stakeholders in the preparation of its decisions, reports or other types of deliverables. Without prejudice to Article 28, the main results of that consultation shall be made public.

4b. Without prejudice to Article 27, BEREC shall make relevant information related to the result of its work available and easily accessible to the public and interested parties.
1. The BEREC Office is hereby established as a body of the Union. It shall have legal personality.

2. In each Member State, the BEREC Office shall enjoy the most extensive legal capacity accorded to legal persons under that Member State’s law. It may in particular acquire and dispose of movable and immovable property and be party to legal proceedings.

3. The BEREC Office shall be managed by its Director.

4. Under the guidance of the Board of Regulators, the BEREC Office shall, in particular:
   
   (a) provide professional and administrative support services to BEREC;
   
   (b) collect information from the NRAs and exchange and transmit information in relation to the role and tasks set out in Articles 2 and 5;
   
   (c) disseminate regulatory best practices among the NRAs in accordance with Article 2;
   
   (d) assist the Chair in the preparation of the work of the Board of Regulators;
   
   (e) provide support to ensure the smooth functioning of working groups.

---

**Amendment 24**

Proposal for a regulation
Chapter II – Subheading A (new)

*Text proposed by the Commission*

---

**Amendment**

A. Organisation of BEREC

---

**Amendment 25**

Proposal for a regulation
Article 3 – title
1. The administrative and management structure of BEREC shall comprise:

- a Management Board, which shall exercise the functions set out in Article 5;

- a Board of Regulators;

- an Executive Director, which shall exercise the responsibilities set out in Article 9;
Amendment 30

Proposal for a regulation
Chapter II – section 1 – title

Text proposed by the Commission

MANAGEMENT BOARD

Amendment

BOARD OF REGULATORS

Amendment 31

Proposal for a regulation
Article 4

Text proposed by the Commission

Composition of the Management Board

1. 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.

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.

2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his/her absence. Each NRA shall be responsible

Amendment

Composition of the Board of Regulators

1. The Board of Regulators shall be composed of one representative from each Member State, with voting rights, and one representative of the Commission, without voting rights. Each NRA shall be responsible for nominating its representative amongst the Head or members of the collegiate body of the NRA with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services.

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.

2. Each member of the Board of Regulators shall have an alternate. The alternate shall represent the member in his/her absence. Each NRA shall be
for nominating the alternate amongst the Heads, members of the collegiate body and staff of the NRA.

3. Members of the Management Board and their alternates shall be appointed in light of their knowledge in the field of electronic communications, taking into account relevant managerial, administrative and budgetary skills. All parties represented in the Management Board shall make efforts to limit turnover of their representatives, in order to ensure continuity of the board’s work. All parties shall aim to achieve a balanced representation between men and women on the Management Board.

3. Members of the Board of Regulators and their alternates shall be appointed in light of their knowledge in the field of electronic communications, taking into account relevant managerial, administrative and budgetary skills. All parties represented in the Board of Regulators shall make efforts to limit turnover of their representatives, in order to ensure continuity of the board’s work. All parties shall aim to achieve a balanced representation between men and women on the Board of Regulators.

3a. Members of the Board of Regulators and their alternates shall neither seek nor take instructions from any government, institution, person or body.

3b. The Board of Regulators may invite high-level representatives of the EFTA surveillance authority and of regulatory authorities of third countries, and any other person whose opinion may be of interest, to attend its meetings with an observer status, on a permanent or ad-hoc basis.

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

Amendment 32

Proposal for a regulation

Article 5 – title

Text proposed by the Commission

Amendment

Functions of the Management Board

Tasks of the Board of Regulators
Amendment 33

Proposal for a regulation
Article 5 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. The Board of Regulators shall fulfil the tasks of BEREC set out in Article 2 and take all decisions relating to the performance of its functions.

Amendment 34

Proposal for a regulation
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The Management Board shall:

1. The Board of Regulators shall:

Amendment 35

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;

Amendment 36

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) adopt and proceed with an assessment of the consolidated annual activity report on BEREC’s activities and send both the report and its assessment, by 1 July each year to the European

(c) adopt and proceed with an assessment of the consolidated annual activity report on BEREC’s activities and send both the report and its assessment, by 1 July each year to the European
Parliament, the Council, the Commission and the Court of Auditors. The consolidated annual activity report shall be made public;

Parliament, the Council, the Commission and the Court of Auditors. The annual report on BEREC's activities shall be presented to the Parliament and Council by the Director during a public session. The consolidated annual activity report shall be made public;

Amendment 37

Proposal for a regulation
Article 5 – paragraph 1 – point d

Text proposed by the Commission

(d) adopt the financial rules applicable to BEREC in accordance with Article 20;

Amendment

deleted

Amendment 38

Proposal for a regulation
Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

Amendment

deleted

Amendment 39

Proposal for a regulation
Article 5 – paragraph 1 – point f

Text proposed by the Commission

(f) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (‘OLAF’);

Amendment

deleted
Amendment 40

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

deleted

Amendment 41

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

deleted

Amendment 42

Proposal for a regulation
Article 5 – paragraph 1 – point i

Text proposed by the Commission

(i) adopt its rules of procedure;

Amendment

(i) adopt and make public 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 guarantee that the members of the Board of Regulators are always 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 urgent voting procedures:

Amendment 43

Proposal for a regulation
Article 5 – paragraph 1 – point j

Text proposed by the Commission

(j) in accordance with paragraph 2, exercise, with respect to the staff of BEREC, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment37 (‘the appointing authority powers’);

__________________

Amendment 44

Proposal for a regulation
Article 5 – paragraph 1 – point k

Text proposed by the Commission

(k) adopt implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
Amendment 45

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 46

Proposal for a regulation
Article 5 – paragraph 1 – point n

Text proposed by the Commission

(n) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of other servants, who shall be totally independent in the performance of his/her duties. BEREC may appoint the Commission’s Accounting Officer as the Accounting Officer of BEREC;

Amendment 47

Proposal for a regulation
Article 5 – paragraph 1 – point o

Text proposed by the Commission

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

Amendment 48

Proposal for a regulation
Article 5 – paragraph 1 – point p

Text proposed by the Commission

(p) take all decisions on the
establishment of BEREC’s internal structures and, where necessary, their modification, taking into consideration BEREC’s activity needs as well as having regard to sound budgetary management.

Amendment 49

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Board of Regulators shall, on behalf of BEREC, adopt the special provisions on the right of access to documents held by BEREC, in accordance with Article 27.

Amendment 50

Proposal for a regulation
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Amendment 51

Proposal for a regulation
Article 5 – paragraph 2 – subparagraph 2
Where exceptional circumstances so require, the Management Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Amendment 52
Proposal for a regulation
Article 6

Chairperson and Deputy Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among members with voting rights representing Member States. The Chairperson and the Deputy Chairperson shall be elected by a majority of two thirds of the members of the Management Board with voting rights.

2. The Deputy Chairperson shall automatically replace the Chairperson if he/she is prevented from attending to his/her duties.

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.

3a. To ensure continuity of the work of the Board of Regulators, the elected
Chairperson shall have served at least one year as Deputy Chairperson before his or her election, whenever possible.

3b. Without prejudice to the role of the Board of Regulators in relation to their tasks, the Chairperson and the Deputy Chairperson shall be independent in the performance of their duties and shall neither seek nor take instructions from any government, NRA, institution, person or body.

3c. The Chairperson or Deputy Chairperson shall report to the European Parliament on the performance of their duties and the performance of BEREC when invited to do so. The Council may invite the Chairperson or Deputy Chairperson to report on the performance of their duties and the performance of BEREC.

Amendment 53
Proposal for a regulation
Article 7 – title

Text proposed by the Commission
Meetings of the Management Board

Amendment
Plenary meetings and voting rules of the Board of Regulators

Amendment 54
Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission
1. The Chairperson shall convene the meetings of the Management Board.

Amendment
1. Plenary meetings of the Board of Regulators shall be convened by its Chairperson and shall occur at least four times a year in ordinary session. Extraordinary meetings shall also be convened at the initiative of the Chairperson, 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 Chairperson and shall be made public.

Amendment 55
Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. The Executive Director of BEREC shall take part in the deliberations, without the right to vote.

Amendment

2. The Director of the BEREC Office shall participate, without having the right to vote, in the plenary meetings of the Board of Regulators.

Amendment 56
Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, or at the request of at least one-third of its members.

Amendment

deleted

Amendment 57
Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

4. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer.

Amendment

4. The Board of Regulators may invite any person whose opinion may be of interest to attend its meetings as an observer.

Amendment 58
Proposal for a regulation
Article 7 – paragraph 4 a (new)
4a. Where appropriate to safeguard the independence of BEREC or to avoid the conflict of interest, the Chairperson and the Deputy Chairperson may indicate point(s) on the agenda where the observers shall not participate in the plenary meeting.

Amendment 59

Proposal for a regulation
Article 7 – paragraph 4 b (new)

4b. The Board of Regulators shall act by a two-thirds majority of all its members unless otherwise provided for in this Regulation, in the Directive or in other legal acts of the Union. Each member or alternate member 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.

Amendment 60

Proposal for a regulation
Article 7 – paragraph 5

5. The members and the alternates of the Management Board may, subject to its rules of procedure, be assisted at the meetings by advisers or experts.

Amendment 61

Proposal for a regulation
Article 7 – paragraph 6
Text proposed by the Commission

6. BEREC shall provide the secretariat for the Management Board.

Amendment

6. The BEREC Office shall provide the secretariat for the Board of Regulators.

Amendment 62

Proposal for a regulation
Article 8

Text proposed by the Commission

Article 8

Amendment

Voting rules of the Management Board

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.

2. Each member with voting rights shall have one vote. In the absence of a member with the right to vote, his/her alternate shall be entitled to exercise his/her right to vote.

3. The Chairperson shall take part in the voting.

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

5. The Management Board’s rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.

Amendment 63

Proposal for a regulation
Chapter II – section 2

Text proposed by the Commission

[...]
Amendment 64

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Where justified and in particular to implement the annual work programme of BEREC and to develop the initial drafts of BEREC documents, the Board of Regulators may set up the necessary working groups.

Amendment 65

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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

Amendment 66

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Where appropriate to safeguard the independence of BEREC or to avoid the conflict of interest, the Chairperson or Deputy Chairperson may indicate point(s) on the agenda where the experts from the Commission or from the NRAs of third countries shall not participate in the meeting of the working group.

Amendment

Where appropriate to safeguard the independence of BEREC or to avoid the conflict of interest, the Chairperson or Deputy Chairperson may indicate point(s) on the agenda where the experts from the Commission or from the NRAs of third countries shall not participate in the meeting of the working group.
Amendment 67

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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.

Amendment

deleted

Amendment 68

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 3

Text proposed by the Commission

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.

Amendment

deleted

Amendment 69

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 4

Text proposed by the Commission

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.

Amendment

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.
Amendment 70

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The Board of Regulators shall appoint a Chair or Co-Chairs from among the members of the working groups.

Amendment 71

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

Amendment

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.

deleted

Amendment 72

Proposal for a regulation
Article 10 – paragraph 4

Text proposed by the Commission

Amendment

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

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

Amendment 73

Proposal for a regulation
Article 10 – paragraph 5

Text proposed by the Commission

Amendment

5. BEREC shall provide support to the working groups.

5. The BEREC Office shall provide support to the working groups. A member of staff of the BEREC Office shall assist
the Chair or Deputy Chair and shall provide other professional and administrative support services to the working groups.

Amendment 74

Proposal for a regulation
Chapter II – section 4

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 75

Proposal for a regulation
Chapter II – Subheading B (new)

Text proposed by the Commission

Amendment

B. Organisation of the BEREC Office

Amendment 76

Proposal for a regulation
Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Administrative and Management Structure

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

(a) a Management Board, who shall exercise the functions set out in Article 14c;

(b) a Director, who shall exercise the responsibilities set out in Article 14d;
Amendment 77
Proposal for a regulation
Chapter II – section 4 a (new)

Text proposed by the Commission

SECTION 4a - MANAGEMENT BOARD

Amendment

Amendment 78
Proposal for a regulation
Article 14 b (new)

Text proposed by the Commission

Article 14b

Composition of the Management Board

1. The Management Board shall be composed of one representative from each Member State with voting rights and one representative of the Commission with voting rights. Each NRA shall be responsible for nominating its respective representative amongst the head or other high-level representative of the NRA.

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.

2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his or her absence. Each NRA shall be responsible for nominating the alternate amongst the heads, members of the collegiate body and staff of the NRA.

3. Members of the Management Board and their alternates shall be appointed in light of their knowledge in the field of electronic communications, taking into account relevant managerial, administrative and budgetary skills. All parties represented in the Management
Board shall make efforts to limit the turnover of their representatives, in order to ensure continuity of the Management Board's work. All parties shall aim to achieve a balanced representation between men and women on the Management Board.

Amendment 79

Proposal for a regulation
Article 14 c (new)

Text proposed by the Commission

Amendment

Article 14c

Functions of the Management Board

1. The Management Board shall:

(a) adopt, as part of the single programming document, the annual work programme of the BEREC Office;

(b) provide guidance to the Director in the execution of his or her tasks;

(c) 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;

(d) adopt the financial rules applicable to BEREC in accordance with Article 20;

(e) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

(f) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (OLAF);

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

(h) adopt its rules of procedure;

(i) in accordance with paragraph 2, exercise, with respect to the staff of the BEREC Office, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment (the appointing authority powers);

(j) adopt implementing rules in order to give effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;

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

(l) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of other servants, is totally independent in the performance of his or her duties and who may be the Commission's Accounting Officer;

(m) take all decisions on the establishment of the BEREC Office's internal structures and, where necessary, their modification, taking into consideration the BEREC Office's activity needs as well as having regard to sound budgetary management.

Articles 6 and 7 shall apply mutatis mutandis.

2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Director and defining the conditions under which this delegation of
powers can be suspended. The Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Management Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Director.

Amendment 80

Proposal for a regulation
Chapter II – section 4 b (new)

Text proposed by the Commission

Amendment

SECTION 4b - DIRECTOR

Amendment 81

Proposal for a regulation
Article 14 d (new)

Text proposed by the Commission

Amendment

Article 14d

Responsibilities of the Director

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

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

3. The Director shall report to the European Parliament on the performance of his or her duties when invited to do so.
The Council may invite the Director to report on the performance of his or her duties.

4. The Director shall be the legal representative of the BEREC Office.

5. The Director shall be responsible for the implementation of the BEREC Office’s tasks following the guidance provided by the Management Board. In particular, the Director shall be responsible for:

(a) the day-to-day administration of the BEREC Office;

(aa) assisting with the preparation of the agenda of the Board of Regulators, the Management Board and the working groups;

(b) implementing decisions adopted by the Board of Regulators and the Management Board;

(c) preparing the single programming document and submitting it to the Board of Regulators;

(d) under the guidance of the Board of Regulators, contributing to the implementation of the single programming document, in particular the annual work programme of the BEREC Office; reporting to the Board of Regulators on its implementation;

(e) under the guidance of the Board of Regulators, preparing the consolidated annual report on BEREC’s activities and presenting it to the Board of Regulators for assessment and adoption;

(f) preparing an action plan following-up conclusions of internal or external audit reports and evaluations, as well as investigations by the OLAF and reporting on progress twice a year to the Commission and regularly to the Management Board;

(g) protecting the financial interests of the Union by applying preventive
measures against fraud, corruption and any other illegal activities, by carrying out effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative measures, including financial penalties;

(h) preparing an anti-fraud strategy for the BEREC Office and presenting it to the Management Board for approval;

(i) preparing draft financial rules applicable to the BEREC Office;

(j) preparing the BEREC Office's draft statement of estimates of revenue and expenditure and implementing its budget.

6. The Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out the BEREC Office's tasks in an efficient and effective manner to locate one or more staff in one or more Member States. The Director shall request the prior consent of the Commission, the Management Board and the Member State(s) concerned before establishing such a local office. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the BEREC Office.

Amendment 82

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

Text proposed by the Commission

Each year, the Executive Director shall draw up a draft programming document containing annual and multiannual programming (‘single programming

Amendment

Each year, the Director shall draw up a draft programming document containing annual and multiannual programming (‘single programming document’) in line
document’) in line with Article 32 of Commission Delegated Regulation (EU) No 1271/2013 and taking into account guidelines set by the Commission\textsuperscript{38}.

\textsuperscript{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 83

Proposal for a regulation
Article 15 – paragraph 1 – subparagraph 2

\textit{Text proposed by the Commission}

By 31 January, the Management Board shall adopt the draft single programming document and forward it to the Commission for it to provide its opinion. The draft single programming document shall also be forwarded to the European Parliament and the Council.

\textit{Amendment}

By 31 January, the Board of Regulators shall adopt the draft single programming document and forward it to the Commission for it to provide its opinion. The draft single programming document shall also be forwarded to the European Parliament and the Council.

Amendment 84

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

\textit{Text proposed by the Commission}

The Management Board shall subsequently adopt the single programming document taking into account the opinion of the Commission. It shall forward it to the European Parliament, the Council and the Commission, as well as any later updated version of that document.

\textit{Amendment}

The Board of Regulators shall subsequently adopt the single programming document taking into account the opinion of the Commission. It shall forward it to the European Parliament, the Council and the Commission, as well as any later updated version of that document.
Amendment 85

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

Text proposed by the Commission

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

Amendment

The Board of Regulators shall amend the adopted annual work programme when a new task is given to BEREC.

Amendment 86

Proposal for a regulation
Article 15 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

Amendment

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Board of Regulators may delegate the power to make non-substantial amendments to the annual work programme to the Director.

Amendment 87

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.

Amendment 88

Proposal for a regulation
Article 16 – paragraph 2
2. The Management Board shall, on the basis of that provisional draft, adopt a draft estimate of BEREC’s revenue and expenditure for the following financial year.

Amendment 89
Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

3. The draft estimate of BEREC’s revenue and expenditure shall be sent by the Executive Director to the Commission by 31 January each year. The information contained in the draft estimate of BEREC’s revenue and expenditure and in the draft single programming document referred to in Article 15(1) shall be coherent.

Amendment 90
Proposal for a regulation
Article 16 – paragraph 6

Text proposed by the Commission

6. The budgetary authority shall authorise the appropriations for the contribution to BEREC.

Amendment

6. The budgetary authority shall authorise the appropriations for the contribution to the BEREC Office.

Amendment 91
Proposal for a regulation
Article 16 – paragraph 7

Text proposed by the Commission

7. The budgetary authority shall adopt

Amendment

7. The budgetary authority shall adopt
BEREC’s establishment plan.

Amendment 92
Proposal for a regulation
Article 16 – paragraph 8

Text proposed by the Commission
8. BEREC’s budget shall be adopted
by the Management Board. It shall become
final following final adoption of the
general budget of the Union. Where
necessary, it shall be adjusted accordingly.

Amendment
8. The BEREC Office’s budget shall
be adopted by the Management Board. It
shall become final following final adoption
of the general budget of the Union. Where
necessary, it shall be adjusted accordingly.

Amendment 93
Proposal for a regulation
Article 16 – paragraph 9

Text proposed by the Commission
9. For any building project likely to
have significant implications for the budget
of BEREC, the provisions of Commission
Delegated Regulation (EU) No 1271/2013
shall apply.

Amendment
9. For any building project likely to
have significant implications for the budget
of the BEREC Office, the provisions of
Commission Delegated Regulation (EU)
No 1271/2013 shall apply.

Amendment 94
Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission
1. Estimates of all revenue and
expenditure for BEREC shall be prepared
each financial year, corresponding to the
calendar year and shall be shown in
BEREC’s budget.

Amendment
1. Estimates of all revenue and
expenditure for the BEREC Office shall be
prepared each financial year,
corresponding to the calendar year and
shall be shown in the BEREC Office’s
budget.
Amendment 95

Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission
2. BEREC’s budget shall be balanced in terms of revenue and of expenditure.

Amendment
2. The BEREC Office’s budget shall be balanced in terms of revenue and of expenditure.

Amendment 96

Proposal for a regulation
Article 17 – paragraph 3 – introductory part

Text proposed by the Commission
3. Without prejudice to other resources, BEREC’s revenue shall comprise:

Amendment
3. Without prejudice to other resources, the BEREC Office’s revenue shall comprise:

Amendment 97

Proposal for a regulation
Article 17 – paragraph 3 – point c

Text proposed by the Commission
(c) charges for publications and any other service provided by BEREC;

Amendment
deleted

Amendment 98

Proposal for a regulation
Article 17 – paragraph 3 – point d

Text proposed by the Commission
(d) any contribution from third countries or the regulatory authorities competent in the field of electronic communications of third countries participating in the work of BEREC, as provided for by Article 26.

Amendment
(d) any contribution from third countries or the regulatory authorities competent in the field of electronic communications of third countries participating in the work of the BEREC Office, as provided for by Article 26.
Amendment 99
Proposal for a regulation
Article 17 – paragraph 4

Text proposed by the Commission

4. The expenditure of BEREC shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

Amendment

4. The expenditure of the BEREC Office shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

Amendment 100
Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. By 1 March of the following financial year, BEREC’s accounting officer shall send the provisional accounts to the Commission’s Accounting Officer and to the Court of Auditors.

Amendment

1. By 1 March of the following financial year, the BEREC Office’s accounting officer shall send the provisional accounts to the Commission’s Accounting Officer and to the Court of Auditors.

Amendment 101
Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. By 31 March of the following financial year, BEREC shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

Amendment

2. By 31 March of the following financial year, the BEREC Office shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

Amendment 102
Proposal for a regulation
Article 19 – paragraph 3
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 103

Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. The Management Board shall deliver an opinion on BEREC’s final accounts.

Amendment

4. The Management Board shall deliver an opinion on the BEREC Office’s final accounts.

Amendment 104

Proposal for a regulation
Article 19 – paragraph 5

Text proposed by the Commission

5. The Executive Director shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board’s opinion.

Amendment

5. The Director shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board’s opinion.

Amendment 105

Proposal for a regulation
Article 19 – paragraph 6

Text proposed by the Commission

6. BEREC shall publish the final accounts in the Official Journal of the

Amendment

6. The BEREC Office shall publish the final accounts in the Official Journal of
European Union by 15 November of the following year.

Amendment 106

Proposal for a regulation
Article 19 – paragraph 7

Text proposed by the Commission

7. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September. The Executive Director shall also send this reply to the Management Board.

Amendment

7. The Director shall send the Court of Auditors a reply to its observations by 30 September. The Director shall also send this reply to the Management Board.

Amendment 107

Proposal for a regulation
Article 19 – paragraph 8

Text proposed by the Commission

8. The Executive Director shall submit to the European Parliament, at the latter’s request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Financial Regulation\(^\text{39}\).

Amendment

8. The Director shall submit to the European Parliament, at the latter’s request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Financial Regulation\(^\text{39}\).


Amendment 108

Proposal for a regulation
Article 19 – paragraph 9
9. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

Amendment
9. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Director in respect of the implementation of the budget for year N.

Amendment 109
Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission
The financial rules applicable to BEREC shall be adopted by the Management Board after consulting the Commission. They shall not depart from Regulation (EU) No 1271/2013 unless such a departure is specifically required for BEREC’s operation and the Commission has given its prior consent.

Amendment
The financial rules applicable to the BEREC Office shall be adopted by the Management Board after consulting the Commission. They shall not depart from Regulation (EU) No 1271/2013 unless such a departure is specifically required for BEREC Office’s operation and the Commission has given its prior consent.

Amendment 110
Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission
The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of BEREC.

Amendment
The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the BEREC Office.
Amendment 111

Proposal for a regulation

Article 22

Text proposed by the Commission

Article 22

Appointment of Executive Director

1. The Executive Director shall be engaged as a temporary agent of BEREC in accordance with Article 2(a) of the Conditions of Employment of Other servants.

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.

For the purpose of concluding the contract with the Executive Director, BEREC 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.

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.

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.

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

Amendment

Article 22

Appointment of the Director

1. The Director shall be engaged as a temporary agent of the BEREC Office in accordance with Article 2(a) of the Conditions of Employment of Other servants.

2. The Management Board shall appoint the Director following an open and transparent selection procedure.

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 candidate selected by the Management Board shall make a statement before the competent committee of the European Parliament and answer questions put by its members.

3. 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 future tasks and challenges.

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

5. 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 extension, the Director may be invited to
may be invited to make a statement before the competent committee of the Parliament and to answer questions put by its members.

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.

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

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.

**Amendment 112**

**Proposal for a regulation**

**Article 23 – paragraph 1**

*Text proposed by the Commission*

1. BEREC may make use of seconded national experts or other staff not employed by BEREC. The Staff Regulations and the Conditions of Employment of Other Servants shall not apply to such staff.

*Amendment*

1. The BEREC Office may make use of seconded national experts or other staff not employed by the BEREC Office. The Staff Regulations and the Conditions of Employment of Other Servants shall not apply to such staff.

**Amendment 113**

**Proposal for a regulation**

**Article 23 – paragraph 2**

*Text proposed by the Commission*

2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to BEREC.

*Amendment*

2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the BEREC Office.
Amendment 114

Proposal for a regulation
Article 24

Text proposed by the Commission

Amendment

Article 24

Legal status

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

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.

3. BEREC shall be represented by the Executive Director.

4. BEREC shall have sole responsibility for the tasks and powers assigned to it.

Amendment 115

Proposal for a regulation
Article 25 – paragraph 1

Text proposed by the Commission

Amendment

The Protocol on the Privileges and Immunities of the European Union shall apply to BEREC and its staff.

The Protocol on the Privileges and Immunities of the European Union shall apply to the BEREC Office and its staff.

Amendment 116

Proposal for a regulation
Article 26 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

To this end, BEREC may, subject to prior deleted
approval by the Commission, establish working arrangements. These arrangements shall not create legal obligations incumbent on the Union and its Member States.

Amendment 117

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 Board of Regulators 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 BEREC shall conclude an appropriate working arrangement aiming at ensuring that BEREC operates within its mandate and the existing institutional framework.

Amendment 118

Proposal for a regulation
Article 27 – title

Text proposed by the Commission

Transparency and communication

Amendment

Access to documents, transparency and communication

Amendment 119

Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission


Amendment

Council 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.

Article 27 – paragraph 2

Text proposed by the Commission

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

Amendment


Proposal for a regulation

Amendment 120


Amendment 121

Proposal for a regulation
Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. 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.

Amendment 122

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.

Amendment 123

Proposal for a regulation
Article 28 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to Article 27(1), 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 in part, has been made.

Amendment 124

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 have ceased.

Amendment

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

Amendment 125

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) 2015/443 and 2015/444. Alternatively, BEREC may adopt a decision to apply the Commission’s rules on a mutatis mutandis basis.

Amendment

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) 2015/443 and 2015/444. Alternatively, the BEREC Office may adopt a decision to apply the Commission’s rules on a mutatis mutandis basis.

43 Commission Decision (EU, Euratom)

Amendment 126

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 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 127

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 or 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.

Amendment 128

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

Amendment

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

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 129

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 or the BEREC Office shall take account of any relevant existing information publicly available.

Amendment 130

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 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.

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 burdensome, BEREC or 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.

Amendment 131

Proposal for a regulation
Article 30 – paragraph 4 – subparagraph 2
BEREC shall inform the relevant NRAs of requests in accordance with this paragraph.

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

Amendment 132
Proposal for a regulation
Article 30 – paragraph 4 – subparagraph 3

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

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

Amendment 133
Proposal for a regulation
Article 31 – paragraph 1 – subparagraph 1

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.

Members of the Board of Regulators and of the Management Board, the Director, seconded national experts and other staff not employed by the BEREC Office 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 134
Proposal for a regulation
Article 31 – paragraph 1 – subparagraph 2

The declarations shall be accurate and complete, made in writing and updated whenever necessary. The declarations of

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 135

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 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.

*Amendment*

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

Amendment 136

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 Council, within six months after the entry into force of this regulation, it shall accede to the Interinstitutional Agreement of 25 May 1999 concerning 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.

*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 Council, by ... [please insert date: ... months after the entry into force of this Regulation], the BEREC Office shall accede to the Interinstitutional Agreement of 25 May 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.

RR\1137062EN.docx 109/163 PE600.889v02-00
Amendment 137
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.

Amendment 138
Proposal for a regulation
Article 32 – paragraph 3

Text proposed by the Commission

3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by BEREC, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/9645.

Amendment

3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the BEREC Office, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/9645.

45 Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning the financial interests of the Union in connection with grants or contracts funded by the BEREC Office.
on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

Amendment 139

Proposal for a regulation
Article 32 – paragraph 4

Text proposed by the Commission

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with competent authorities of third countries and international organisations, contracts, grant agreements and grant decisions of BEREC shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Amendment

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with competent authorities of third countries and international organisations, contracts, grant agreements and grant decisions of the BEREC Office shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Amendment 140

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. BEREC’s contractual liability shall be governed by the law applicable to the contract in question.

Amendment

1. The BEREC Office’s contractual liability shall be governed by the law applicable to the contract in question.

Amendment 141

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by

Amendment

2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by
Amendment 142

Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

3. In the case of non-contractual liability, BEREC shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

Amendment

3. In the case of non-contractual liability, the BEREC Office shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

Amendment 143

Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. The personal liability of its staff towards BEREC shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Amendment

5. The personal liability of its staff towards the BEREC Office shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Amendment 144

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 the BEREC Office shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the Treaty.
Amendment 145

Proposal for a regulation
Article 35 – paragraph 1

Text proposed by the Commission

1. The provisions laid down in Regulation No 1/58\(^6\) shall apply to BEREC.

Amendment

1. The provisions laid down in Regulation No 1/58\(^6\) shall apply to the BEREC Office.

\(^6\) Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ L 17, 6.10.1958, p. 385).

Amendment 146

Proposal for a regulation
Article 35 – paragraph 2

Text proposed by the Commission

2. The translation services required for the functioning of BEREC shall be provided by the Translation Centre of the bodies of the European Union.

Amendment

2. The translation services required for the functioning of the BEREC Office shall be provided by the Translation Centre of the bodies of the European Union.

Amendment 147

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)

deleted

Committee
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 148

Proposal for a regulation
Article 37 – paragraph 1

Text proposed by the Commission

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.

Amendment

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.

Amendment 149

Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

2. BEREC’s host Member State shall provide the necessary conditions to ensure the smooth and efficient functioning of BEREC, including multilingual, European-oriented schooling and appropriate transport connections.

Amendment

2. The BEREC Office’s host Member State shall provide the necessary conditions to ensure the smooth and efficient functioning of the BEREC Office, including multilingual, European-oriented schooling and appropriate transport connections.
Amendment 150

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 in compliance with the Commission guidelines to assess the performance of BEREC and the BEREC Office 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 BEREC Office, and the financial implications of any such modification.

Amendment 151

Proposal for a regulation
Article 38 – paragraph 2

Text proposed by the Commission

2. Where the Commission considers that the continuation of BEREC is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this regulation be amended accordingly or repealed.

Amendment

2. Where the Commission considers that the continuation of BEREC and the BEREC Office is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this regulation be amended accordingly or repealed.

Amendment 152

Proposal for a regulation
Article 39 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Without prejudice to paragraph 2, BEREC shall succeed the Office that was

Amendment

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

that was established by Regulation (EC) No 1211/2009 (‘BEREC Office’) as regards all ownership, agreements, legal obligations, employment contracts, financial commitments and liabilities.

Amendment 153

Proposal for a regulation
Article 39 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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.

Amendment

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 the BEREC Office.

Amendment 154

Proposal for a regulation
Article 39 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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 unchanged.

Amendment

With effect from [the date of entry into force of this regulation] and until the 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 Director with the functions provided for in this regulation. The other conditions of the Administrative Manager’s contract shall remain unchanged.
Proposal for a regulation
Article 39 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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.

Amendment

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

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 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 the day when the Director takes up his/her duties following his/her appointment by the Management Board in accordance with Article 22.

Proposal for a regulation
Article 39 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

deleted
Amendment 158

Proposal for a regulation
Article 40 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>References to Regulation (EC) No 1211/2009 and to the BEREC Office shall be construed as references to this regulation and to BEREC.</td>
<td>References to Regulation (EC) No 1211/2009 shall be construed as references to this Regulation.</td>
</tr>
</tbody>
</table>
## PROCEDURE – COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th><strong>Title</strong></th>
<th>Body of European Regulators for Electronic Communications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Committee responsible</strong></td>
<td>ITRE</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>24.10.2016</td>
</tr>
<tr>
<td><strong>Opinion by</strong></td>
<td>IMCO</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>24.10.2016</td>
</tr>
<tr>
<td><strong>Rapporteur</strong></td>
<td>Ivan Štefanec</td>
</tr>
<tr>
<td>Date appointed</td>
<td>11.10.2016</td>
</tr>
<tr>
<td><strong>Discussed in committee</strong></td>
<td>13.3.2017</td>
</tr>
<tr>
<td><strong>Date adopted</strong></td>
<td>11.5.2017</td>
</tr>
<tr>
<td><strong>Result of final vote</strong></td>
<td>+: 21</td>
</tr>
<tr>
<td></td>
<td>-: 13</td>
</tr>
<tr>
<td></td>
<td>0: 3</td>
</tr>
<tr>
<td><strong>Members present for the final vote</strong></td>
<td>Dita Charanzová, Carlos Coelho, Anna Maria Corazza Bildt, Daniel Dalton, Nicola Danti, Dennis de Jong, Pascal Durand, Ildikó Gáll-Pelcz, Evelyne Gebhardt, Lidia Joanna Geringer de Oedenberg, Sergio Gutiérrez Prieto, Robert Jarosław Iwaszkiewicz, Antonio López-Istúriz White, Eva Maydell, Jiří Pospíšil, Virginie Rozière, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Jasenko Selimovic, Ivan Štefanec, Catherine Stihler, Róża Gräfin von Thun und Hohenstein, Mylène Troszczynski, Anneleen Van Bossuyt, Marco Zullo</td>
</tr>
<tr>
<td><strong>Substitutes present for the final vote</strong></td>
<td>Lucy Anderson, Pascal Arimont, Birgit Collin-Langen, Edward Czesak, Kaja Kallas, Othmar Karas, Arndt Kohn, Julia Reda, Marc Tarabella, Ulrike Trebesius</td>
</tr>
<tr>
<td><strong>Substitutes under Rule 200(2) present for the final vote</strong></td>
<td>Anne-Marie Mineur</td>
</tr>
</tbody>
</table>
## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>21</th>
<th>+</th>
</tr>
</thead>
<tbody>
<tr>
<td>ECR</td>
<td>Edward Czesak, Daniel Dalton, Ulrike Trebesius, Anneleen Van Bossuyt</td>
</tr>
<tr>
<td>EFDD</td>
<td>Robert Jarosław Iwaszkiewicz, Marco Zullo</td>
</tr>
<tr>
<td>ENF</td>
<td>Mylène Troszczynski</td>
</tr>
<tr>
<td>GUE/NGL</td>
<td>Anne-Marie Mineur, Dennis de Jong</td>
</tr>
<tr>
<td>PPE</td>
<td>Pascal Arimont, Carlos Coelho, Birgit Collin-Langen, Anna Maria Corazza Bildt, Ildikó Gáll-Pelcz, Othmar Karas, Antonio López-Istúriz White, Eva Maydell, Jiří Pospíšil, Andreas Schwab, Ivan Štefanec, Róża Gräfin von Thun und Hohenstein</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>13</th>
<th>-</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALDE</td>
<td>Kaja Kallas, Jasenko Selimovic</td>
</tr>
<tr>
<td>S&amp;D</td>
<td>Lucy Anderson, Nicola Danti, Evelyne Gebhardt, Lidia Joanna Geringer de Oedenberg, Sergio Gutiérrez Prieto, Arndt Kohn, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Catherine Stihler, Marc Tarabella</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALDE</td>
<td>Ditá Charanzová</td>
</tr>
<tr>
<td>VERT/ALE</td>
<td>Pascal Durand, Julia Reda</td>
</tr>
</tbody>
</table>

Key to symbols:
- + : in favour
- - : against
- 0 : abstention
OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

for the Committee on Industry, Research and Energy


Rapporteur: Silvia Costa

SHORT JUSTIFICATION

Purpose and scope

The Telecoms Package was published in September 2016 and contains a set of legislative and non-legislative initiatives to overhaul the telecommunications regulatory framework. The centrepiece of the package is a proposed Directive establishing a European Electronic Communications Code, which sets out to modernise the telecommunications rules last updated in 2009. The Culture and Education Committee is also drawing up a separate opinion on that proposal (Rapporteur: Curzio Maltese).

This proposal forms part of that Telecoms Package and seeks to create a more consistent and effective institutional regulatory framework for electronic communications. It does so by establishing the Body of European Regulators for Electronic Communications (BEREC) as a fully-fledged EU decentralised agency (it is currently a hybrid structure with an essentially intergovernmental body bringing together national regulators to perform harmonised EU regulatory tasks supported by the BEREC Office, a small Community agency providing professional and administrative support to BEREC itself).

The proposal therefore contains primarily classic agency provisions in line with the 2012 ‘Common Approach to EU Decentralised Agencies’ agreed jointly by the Parliament, Council and Commission. It also groups together in one place (Article 2) the full list of tasks entrusted to BEREC under various pieces of legislation, including notably those assigned to it under the new European Electronic Communications Code. While some tasks are of interest to the CULT Committee (e.g. BEREC’s role in issuing opinions on draft national measures related to radio spectrum peer review), the substance of the tasks is regulated in the Code proposal.

BEREC: status quo or fully-fledged EU agency?

The Rapporteur is acutely aware that the proposal to dispense with the existing BEREC structure and create a full-fledged EU agency is contentious, having read a number of national
parliament submissions on the subject, not to mention BEREC’s own opinion on the proposal, and having consulted on the question. Nevertheless, it is the Rapporteur’s view that this question is so fundamental that it must be dealt with in the competent committee, the Industry, Energy and Research Committee (ITRE), which is clearly best placed to understand and take a view on the institutional structure that is best suited to the regulatory environment for electronic communications. As such, the amendments the Rapporteur has tabled are without prejudice to this fundamental question.

Nonetheless, the work of BEREC clearly has a bearing on policy areas that are of interest to CULT, especially in a world where converged regulators covering both telecommunications and broadcasting are the norm and where over-the-top (OTT) content provision is gaining prominence. The Rapporteur therefore aims to ensure the independence of National Regulatory Authorities and their members by ensuring that the BEREC proposal is fully aligned with the provisions in Article 7 of the proposed Directive establishing a European Electronic Communications Code.

**Position of the Rapporteur**

The Rapporteur has tabled a limited number of targeted amendments to the Commission proposal. Some amendments are designed to clarify certain provisions or improve their readability. The majority aim to underline that BEREC must perform its tasks and conduct its work with due regard for the general objectives of promoting cultural and linguistic diversity and media pluralism, as set out in Article 3 of the proposed Directive establishing a European Electronic Communications Code.

Specific amendments also seek to ensure that BEREC working groups represent as broad a range of policy interests as possible and operate in line with the general objectives mentioned above and that BEREC engages actively with the widest possible range of stakeholders in its work.

Finally, the Rapporteur underscores the rationale for BEREC to cooperate with other Union bodies, agencies, offices and working groups, namely to ensure policy coherence and effectiveness. She also stresses that such cooperation – notably with entities like the European Regulators Group for Audiovisual Media Services and the European Radio Spectrum Policy Group – should be allowed as part of BEREC’s work to ensure overall policy coherence and effectiveness.

**AMENDMENTS**

The Committee on Culture and Education calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:
Amendment 1

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. Nonetheless, 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 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

Amendment

(7) BEREC and the BEREC Office have made a positive contribution towards a consistent implementation of the regulatory framework for electronic communications. Nonetheless, 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 burdens. 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, of competition in the provision of electronic communications networks, services and associated facilities and of the interests of the citizens of the Union, this regulation aims to strengthen the role of 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 under 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 in several areas, 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
Amendment 2
Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

(7a) The implementation of the regulatory framework for electronic communications, together with the advances in communication technology and in software, have led to leaps forward in the way that culture and cultural content are distributed and accessed by European citizens. However, the uneven coverage of infrastructure and lock-in effects have also brought deep digital divides. To bridge those divides and prevent the emergence of new ones, in particular in relation to cultural diversity and multilingualism, BEREC, by using appropriate tools for the scale of the issues, is one of the institutions that need to factor in the broader cultural and social impact when issuing guidelines, opinions and other types of texts.

Amendment 3
Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission

(10a) BEREC should carry out the tasks assigned to it with due regard for Article 167 of the Treaty on the Functioning of the European Union, for the general objectives of promoting cultural and linguistic diversity and media pluralism set out in Article 3(1) of the Directive, as well as for the objectives established in the UNESCO Convention on the Protection and Promotion of the Diversity of
Cultural Expressions of 2005.

Justification

To emphasise that the general objectives of promoting cultural and linguistic diversity and media pluralism should guide the work of BEREC since decisions taken on electronic communications (e.g. on spectrum allocation) can have an impact on precisely these areas. Recalling, in this regard, the UNESCO Convention.

Amendment 4

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 Group, the European Data Protection Board, the European Regulators Group for Audiovisual Media Services and the European Union Agency for Network and Information Security; 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.


Amendment

(11) In order to ensure policy coherence and consistency and to perform its tasks effectively and with due consideration for broader Union policy objectives, BEREC should be allowed to cooperate with, and without prejudice to the role of, other Union bodies, agencies, offices and advisory groups, in particular the Radio Spectrum Policy Group, the European Data Protection Board, the European Regulators Group for Audiovisual Media Services and the European Union Agency for Network and Information Security; 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.
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 [...].


Justification

To underscore the rationale for cooperation with other relevant bodies, including ERGA and the RSPG.

Amendment 5

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) 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 the representative of the Commission, of the Head, or otherwise a member of the collegiate body, of each NRA, who are protected by dismissal requirements.
**Amendment 6**

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 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. *Before appointment, the candidate selected by the Management Board should be invited to appear before the competent committees of the European Parliament so that they may give their consent.* 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 7**

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

*Amendment*

(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. *The composition of the working groups should properly reflect the different policy interests at stake and have due regard for the general objectives.*
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.

of promoting cultural and linguistic diversity and media pluralism set out in Article 3(1) of the Directive. 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.

Justification

To emphasise that working groups set up by BEREC should factor in the full range of policy interests and also act with the general objectives of promoting cultural/linguistic diversity and media pluralism in mind

Amendment 8

Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) In order to ensure that BEREC takes full account of the whole spectrum of policy interests and understands the possible impact of its measures, the Agency should actively engage with stakeholders through tools such as regular stakeholder consultations forums. BEREC's working groups should also engage actively with stakeholders from outside the regulatory community and covering as broad a range of interests as possible.

Justification

To make clear that BEREC and its working groups should develop tools to engage actively with stakeholders representing a broad spectrum of interests.
Amendment 9
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 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 provide timely and accurate 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 10
Proposal for a regulation
Article 1 – paragraph 2 – subparagraph 1

Text proposed by the Commission


Amendment


Amendment 11

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

Amendment

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 cooperate with the NRAs to ensure a consistent regulatory approach to the implementation of the regulatory framework for electronic communications within the scope referred to in paragraph 2, and with regard to the objectives set out in paragraph 1, and thereby contribute to the development of the harmonised internal market. It shall also promote non-discriminatory treatment of traffic in the provision of internet access services: open internet access; 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.

Amendment 12

Proposal for a regulation
Article 1 – paragraph 3 a (new)

Text proposed by the Commission

3a. BEREC shall carry out its tasks independently, impartially and transparently and shall draw upon the expertise available in the NRAs. Each Member State shall ensure that the NRAs have the adequate financial and human resources required to participate in the work of BEREC.

Amendment

3a. BEREC shall carry out its tasks independently, impartially and transparently and shall draw upon the expertise available in the NRAs. Each Member State shall ensure that the NRAs have the adequate financial and human resources required to participate in the work of BEREC.

Amendment 13

Proposal for a regulation
Article 2 – paragraph 1 – point a a (new)
Text proposed by the Commission

Amendment

(aa) advise the European Parliament, the Council and the Commission, on request or on its own initiative, on the outcome of its technical analysis of the regulatory impact of any matter regarding the dynamics of the market development on the electronic communications framework;

Amendment 14

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;

Justification


Amendment 15

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;

Justification

Amendment 16
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;

Amendment 17
Proposal for a regulation
Article 2 – paragraph 1 – point a e (new)

Text proposed by the Commission

Amendment

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

Amendment 18
Proposal for a regulation
Article 2 – paragraph 1 – point a f (new)

Text proposed by the Commission

Amendment

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

Amendment 19
Proposal for a regulation
Article 2 – paragraph 1 – point a g (new)

Text proposed by the Commission

Amendment

Amendment 20

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

Text proposed by the Commission

(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;

Amendment

(c) develop in very close cooperation with other NRAs 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

Amendment 21

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

Text proposed by the Commission

(d) issue opinions as referred to in the 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;

Amendment 22
Proposal for a regulation
Article 2 – paragraph 1 – point e – indent 1 a (new)

Text proposed by the Commission

– on the consistent implementation of the regulatory framework for electronic communications;

Amendment 23
Proposal for a regulation
Article 2 – paragraph 1 – point e – indent 7 a (new)

Text proposed by the Commission

– on non-discriminatory treatment of traffic in the provisions of internet access services according to Regulation (EU) No 2015/2120;

Amendment 24
Proposal for a regulation
Article 2 – paragraph 2 – point b – indent 1 a (new)

Text proposed by the Commission

– on market practices that might lead to a detrimental effect on non-discriminatory internet access, open internet, consumer rights and abusive practices;

Amendment 25
Proposal for a regulation
Article 2 – paragraph 2 a (new)

Text proposed by the Commission


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).

**Justification**

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

**Amendment 26**

**Proposal for a regulation**  
**Article 2 – paragraph 4**

*Text proposed by the Commission*

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**

*Amendment*

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

**Amendment 27**

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

*Text proposed by the Commission*

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

*Amendment*

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, **who may be either** the Head or **another high-level representative** of the NRA. **Third-country regulatory authorities invited by the Management**
Board shall have observer status.

Amendment 28
Proposal for a regulation
Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Chairperson or Deputy Chairperson shall report to the European Parliament on the performance of their duties and the performance of BEREC when invited to do so.

Amendment 29
Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The Chairperson shall take part in the voting.

3. The Chairperson shall be entitled to vote.

Justification

To clarify that the Chairperson is not obliged to, but entitled to, vote.

Amendment 30
Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

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

4. The Executive Director shall not be entitled to vote.

Justification

To clarify that the Executive Director is not entitled to vote, but may have, for example, an organisational role in the voting.
Amendment 31

Proposal for a regulation
Article 10 – title

Text proposed by the Commission

Functioning of the working groups

Amendment

Functioning of the working groups and stakeholder engagement

Amendment 32

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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.

Amendment

The Management Board shall appoint the members of the working groups, which may comprise experts from the NRAs, the Commission, BEREC staff and the NRAs of third countries participating in the work of BEREC. The composition of the working groups should properly reflect the different policy interests at stake and have due regard for the general objectives of promoting cultural and linguistic diversity and media pluralism set out in Article 3(1) of the Directive.

Justification

To emphasise that working groups set up by BEREC should factor in the full range of policy interests and also act with the general objectives of promoting cultural/linguistic diversity and media pluralism in mind

Amendment 33

Proposal for a regulation
Article 10 – paragraph 5 a (new)

Text proposed by the Commission

5a. BEREC shall, where necessary and including in the work of its working groups, seek the views of, and involve, relevant stakeholders in its work, for
example via consultations or stakeholder forums. In so doing, it shall ensure that stakeholders represent fully the different policy interests at stake. BEREC shall, without prejudice to Article 28, make the results of such consultations publicly available.

Amendment 34

Proposal for a regulation
Article 13 – paragraph 3

Text proposed by the Commission

3. Any party to the appeal proceedings may object to any member of a Board of Appeal on any of the grounds given in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a procedural step. No objection may be based on the nationality of members.

Amendment

3. Any party to the appeal proceedings may object to any member of a Board of Appeal on any of the grounds given in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has nonetheless taken a procedural step, such as filing an application or submitting observations, and thus already tacitly assented to the composition of the Board. Any objection based on the nationality of members shall be deemed inadmissible.

Justification

To specify more clearly the purpose of the provision, in line with Court of First Instance ruling in Case T-63/10.

Amendment 35

Proposal for a regulation
Article 22 – paragraph 2 – subparagraph 3

Text proposed by the Commission

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

Amendment

Before appointment, the candidate selected by the Management Board shall be invited to appear before the competent Committees of the European Parliament, so
to answer questions put by its members. that they may give their consent.

Amendment  36

Proposal for a regulation
Article 22 – paragraph 5

*Text proposed by the Commission*

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

*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 *shall* be invited to make a statement before the competent committees of the Parliament and to answer questions put by *their* members.

Amendment  37

Proposal for a regulation
Article 22 – paragraph 7

*Text proposed by the Commission*

7. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from 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 *and after hearing the opinion of the European Parliament*

Amendment  38

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 cooperate with competent Union bodies, agencies, offices and advisory groups, with

*Amendment*

In so far as is necessary in order to achieve the objectives set out in this regulation, perform its tasks *and contribute to broader Union policy objectives*, and without prejudice to the competences of the Member States and the institutions of the Union, BEREC may cooperate with
competent authorities of third countries and/or with international organisations.

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

**Justification**

*To explain the rationale for cooperation with Union bodies, agencies, offices and advisory groups.*
## PROCEDURE – COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th><strong>Title</strong></th>
<th>Body of European Regulators for Electronic Communications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Committee responsible</strong></td>
<td>ITRE</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>24.10.2016</td>
</tr>
<tr>
<td><strong>Opinion by</strong></td>
<td>CULT</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>24.10.2016</td>
</tr>
<tr>
<td><strong>Rapporteur</strong></td>
<td>Silvia Costa</td>
</tr>
<tr>
<td>Date appointed</td>
<td>11.10.2016</td>
</tr>
<tr>
<td><strong>Discussed in committee</strong></td>
<td>22.3.2017</td>
</tr>
<tr>
<td><strong>Date adopted</strong></td>
<td>4.5.2017</td>
</tr>
</tbody>
</table>
| **Result of final vote** | +: 15  
-: 13  
0: 0 |
| **Members present for the final vote** | Isabella Adinolfi, Andrea Bocskor, Silvia Costa, Angel Dzhambazki, María Teresa Giménez Barbat, Giorgos Grammatikakis, Petra Kammerevert, Svetoslav Hristov Malinov, Curzio Maltese, Luigi Morgano, John Procter, Michaela Šojdrová, Yana Toom, Helga Trüpel, Sabine Verheyen, Julie Ward, Bogdan Brunon Wenta, Bogdan Andrzej Zdrojewski, Milan Zver |
| **Substitutes present for the final vote** | Norbert Erdős, Eider Gardiazabal Rubial, Sylvie Guillaume, Emma McClarkin, Marlene Mizzi, Liadh Ní Riada, Algirdas Saudargas, Remo Sernagiotto |
| **Substitutes under Rule 200(2) present for the final vote** | Florent Marcellesi |
### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>15</th>
<th>+</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALDE Group</td>
<td>María Teresa Giménez Barbat, Yana Toom</td>
</tr>
<tr>
<td>EFDD Group</td>
<td>Isabella Adinolfi</td>
</tr>
<tr>
<td>GUE/NGL Group</td>
<td>Curzio Maltese, Liadh Ní Riada</td>
</tr>
<tr>
<td>S&amp;D Group</td>
<td>Silvia Costa, Eider Gardiazabal Rubial, Giorgos Grammatikakis, Sylvie Guillaume, Petra Kammerevert, Marlene Mizzi, Luigi Morgano, Julie Ward</td>
</tr>
<tr>
<td>Verts/ALE Group</td>
<td>Florent Marcellesi, Helga Trüpel</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>13</th>
<th>-</th>
</tr>
</thead>
<tbody>
<tr>
<td>ECR Group</td>
<td>Angel Dzhambazki, Emma McClarkin, John Procter, Remo Sernagiotto</td>
</tr>
<tr>
<td>PPE Group</td>
<td>Andrea Bocskor, Norbert Erdős, Svetoslav Hristov Malinov, Algirdas Saudargas, Sabine Verheyen, Bogdan Brunon Wenta, Bogdan Andrzej Zdrojewski, Milan Zver, Michaela Sojdrová</td>
</tr>
</tbody>
</table>

| 0 | 0 |

**Key to symbols:**
- + : in favour
- - : against
- 0 : abstention
OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Industry, Research and Energy


Rapporteur: Morten Helveg Petersen

SHORT JUSTIFICATION

The rapporteur fully supports the objectives of the proposal made by the European Commission and presents this opinion in order to ensure that, in the performance of its tasks, BEREC takes full account of the fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union, and in particular aim at achieving higher levels of connectivity with a modernised set of end-user protection rules, ensuring non-discriminatory access to any contents and services, including public services, helping promote freedom of expression and of business, and enabling Member States to comply with the Charter at a much lower cost in the future.

In light of the competences of the committee on civil liberties, justice and home affairs, the rapporteur notably introduce references to transparency and non-discrimination as key objectives implementation of the regulatory framework for electronic communications, which should apply in the composition and functioning of BEREC. On that basis, the rapporteur insists on measures aiming at reinforcing the transparency and accountability of processes, in particular when it comes to the composition of the Management Board and of the working groups, as well as the publication of the respective members’ declaration of interests.

Further safeguards are also introduced regarding the “structural” independence of BEREC. Guaranteeing the independence of BEREC implies that it neither seeks nor takes instruction from a government or any other executive power. In line with recently established governance model for regulation at EU level, such as the European Data Protection Board, BEREC’s Management Board should only be composed of representatives from independent authorities, while the Commission shall have the right to participate in the activities and meetings of the Board without voting right.

The rapporteur believes that the independence and accountability of BEREC can be further reinforced through a modification of the composition of its management board and of the
appointment procedure of its Executive Director.

In addition, the rapporteur introduces new tasks for BEREC, in particular in the field of security of networks and services and of fundamental rights, responding to the amendments to the Directive on the European Electronic Communication Code he will be presenting in its related draft report.

All these elements aim at ensuring that the decisions made at BEREC level do comply with the highest standards in terms of independence, transparency and accountability, and thus contribute to a compliant and right-based implementation of the regulatory framework for electronic communications.

**AMENDMENTS**

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

**Amendment 1**

Proposal for a regulation
Recital 5 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(5a) <strong>In its Digital Single Market strategy, the Commission announced a review of Directive 2002/58/EC in order to provide a high level of privacy protection for users of electronic communications services and a level playing field for all market players.</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Amendment 2**

Proposal for a regulation
Recital 7

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(7) BEREC and the BEREC Office</td>
<td>(7) BEREC and the BEREC Office</td>
</tr>
</tbody>
</table>
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 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.

Amendment 3

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 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.

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, transparency and non-discrimination 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.

Amendment 4

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

(8a) In the performance of its tasks, BEREC should take full account of the fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union (the Charter), and, in particular, aim to achieve higher levels of connectivity with a modernised set of end-user protection rules, ensuring non-discriminatory access to any contents and services, including public services, helping to promote freedom of expression and of business, and enabling Member States to comply with the Charter at a
much lower cost in the future.

Amendment 5
Proposal for a regulation
Recital 9

Text proposed by the Commission

(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.


__________________

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, in particular with regard to transparency and relations with stakeholders. 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.

__________________


Amendment 6
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

Amendment

(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, transparent and non-discriminatory internal market procedures for draft national measures (both as regards market regulation and assignments of rights of use for radio spectrum), providing the
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 7
Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission

In order to ensure inclusiveness, representativeness and transparency in the performance of its tasks, BEREC should ensure its consultation processes, as well as the composition of its working group and the selection of individual experts, takes into account the diversity of economic and civil society stakeholders operating on the electronic communication market, including SMEs and not-for-profit service providers.

Amendment 8
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 Group\textsuperscript{29}, the European Data Protection Board\textsuperscript{30}, the European Regulators Group for Audiovisual Media

Amendment

(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 Group\textsuperscript{29}, the European Data Protection Supervisor, the European Data Protection Board\textsuperscript{30}, the European Data
Services\textsuperscript{31} and the European Union Agency for Network and Information Security\textsuperscript{32}; 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.


\textsuperscript{31} Directive [...].


Amendment 9

Proposal for a regulation
Recital 16

\textit{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

\textit{Amendment}

(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 10
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 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. Lists of qualified expert members of workings groups, as well as their declarations of interests, should be made publicly available.
Amendment 11
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**

(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. **BEREC should be legally distinct and functionally independent from the industry and government, neither seeking nor taking instructions from any government or body, operating in a transparent and accountable manner as set out in law and having sufficient powers.**

Amendment 12
Proposal for a regulation
Recital 26

**Text proposed by the Commission**

(26) Since the objectives of this regulation, namely the need to ensure a consistent implementation of the regulatory framework for electronic communications within the defined scope, in particular in relation to cross-border aspects and through efficient internal market procedures for draft national measures, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at the level of the Union, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this regulation does not go beyond what is

**Amendment**

(26) Since the objectives of this regulation, namely the need to ensure a consistent, **transparent and non-discriminatory** implementation of the regulatory framework for electronic communications within the defined scope, in particular in relation to cross-border aspects and through efficient internal market procedures for draft national measures, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at the level of the Union, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article,
necessary in order to achieve those objectives.

this regulation does not go beyond what is necessary in order to achieve those objectives.

Amendment 13

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

Text proposed by the Commission

Amendment

2 a. BEREC’s tasks shall be published on its website and shall be updated in order to indicate its new tasks.

Amendment 14

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

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

In order to guarantee a fully functioning and efficient regulatory framework for electronic communications, compliant with EU law, transparency and non-discrimination should also be key objectives for BEREC’s mission in ensuring the consistent implementation of such framework. Furthermore, the promotion of citizens’ rights in this context, and not only interests, should also be part of BEREC’s objectives.
Amendment 15
Proposal for a regulation
Article 2 – paragraph 1 – point e – indent 1 a (new)

Text proposed by the Commission

Amendment

- on minimum criteria and common approaches for the security of networks and information services, in accordance with Article 40 of Directive (EU) 2017/... [Electronic Communications Code],

Justification

The proposal for a Directive establishing the European Electronic Communications Code includes specific provisions on the security of networks and information (Article 40), which are of relevance for BEREC's tasks and attributions. The rapporteur intends to further specify this additional task when presenting its proposals on the related legislative proposal.

Amendment 16
Proposal for a regulation
Article 2 – paragraph 1 – point e – indent 6 a (new)

Text proposed by the Commission

Amendment

- on common approaches to ensure that national measures regarding end-users' access to, or use of, services and applications through electronic communications networks respect the fundamental rights and freedoms, as guaranteed by the Charter and general principles of Union law, in accordance with Article 93 of Directive (EU) 2017/... [Electronic Communications Code];

Justification

The proposal for a Directive establishing the European Electronic Communications Code includes specific provisions on Fundamental rights safeguard (Article 93), which are of relevance for BEREC's tasks and attributions. The rapporteur intends to further specify this additional task when presenting its proposals on the related legislative proposal.
Amendment 17

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

Text proposed by the Commission

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

Amendment

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

Amendment 18

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

Text proposed by the Commission

Amendment

4 a. The list of Members of the Management board, including an indication whether or not the member is a Chair or Vice-Chair of the Board, together with their declaration of interest, shall be made publicly available on BEREC’s website.

Amendment 19

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) adopt and proceed with an assessment of the consolidated annual activity report on BEREC’s activities and send both the report and its assessment, by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors. The consolidated annual activity report shall be made public;

(c) adopt and proceed with an assessment of the consolidated annual activity report on BEREC’s activities and send both the report and its assessment, by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors. The annual report on BEREC’s activities shall be presented to the European Parliament and to the Council by the Executive Director during a public session. The
consolidated annual activity report shall be made public;

Amendment 20
Proposal for a regulation
Article 7 – paragraph 6 a (new)

Text proposed by the Commission

6 a. Documents related to meetings of the Management Board, shall be made publicly available on BEREC’s website and shall include the list of participants and observers, agendas, minutes and decisions taken, with due respect for Article 28.

Amendment 21
Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

3. The Executive Director shall report to the European Parliament on the performance of his/her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his/her duties.

Amendment 22
Proposal for a regulation
Article 9 – paragraph 5 – point e a (new)

Text proposed by the Commission

(ea) presenting the annual report on BEREC’s activities to the European Parliament and Council during a public
Amendment 23
Proposal for a regulation
Article 9 – paragraph 5 – point f

Text proposed by the Commission
(f) preparing an action plan following-up conclusions of internal or external audit reports and evaluations, as well as investigations by the OLAF and reporting on progress twice a year to the Commission and regularly to the Management Board;

Amendment
(f) preparing an action plan following-up conclusions of internal or external audit reports and evaluations, as well as investigations by the OLAF and reporting on progress once a year to the Commission and regularly to the Management Board;

Amendment 24
Proposal for a regulation
Article 10 – paragraph 4 a (new)

Text proposed by the Commission
4a. The list of members of the working groups, together with their declaration of interests, shall be made publicly available.

Amendment
5a. Decisions of the Board of Appeal shall be made publicly available.

Amendment 25
Proposal for a regulation
Article 11 – paragraph 5 a (new)

Text proposed by the Commission

156/163

RR\1137062EN.docx
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.

The Executive Director shall be appointed by the Management Board, from a list of candidates proposed by the Commission, in accordance with the following cooperation (concertation) procedure:

(a) on the basis of a list drawn up by the Commission after a call for candidates and a transparent selection procedure, applicants will be asked before an appointment is made to address the Council and the competent European Parliament committee and to reply to questions;

(b) the European Parliament and the Council will then give their opinions and state their orders of preference;

(c) the Management Board will appoint the Director, taking those opinions into account and giving reasons in the event that it diverges from these opinions.

Justification

In line with the existing procedure for other EU Agencies, the appointment of BEREC's executive Director should be based on a procedure ensuring greater transparency and accountability.

Amendment 27

Proposal for a regulation

Article 22 – paragraph 5

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 statement before the competent committee of the Parliament and to answer questions put by its
Amendment 28

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) 2015/443\(^{42}\) and 2015/444\(^{43}\). Alternatively, BEREC may adopt a decision to apply the Commission’s rules on a mutatis mutandis basis.

Amendment

Without prejudice to Article 27(1), 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) 2015/443\(^{42}\) and 2015/444\(^{43}\). Alternatively, BEREC may adopt a decision to apply the Commission’s rules on a mutatis mutandis basis.


Amendment 29

Proposal for a regulation
Article 30 – paragraph 3 a (new)

Text proposed by the Commission

3a. Where such an exchange of information involves the transfer of personal data to a third country, Member States shall comply with Regulation (EU) 2016/679.

Amendment

3a. Where such an exchange of information involves the transfer of personal data to a third country, Member States shall comply with Regulation (EU) 2016/679.
**Amendment 30**

**Proposal for a regulation**  
**Article 31 – paragraph 1 – subparagraph 2**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>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 <em>and the Executive Director</em> shall be made public.</td>
<td>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, <em>the Executive Director and members of the working groups</em> shall be made public.</td>
</tr>
<tr>
<td>Title</td>
<td>Body of European Regulators for Electronic Communications</td>
</tr>
<tr>
<td>-------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>Committee responsible</td>
<td>ITRE</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>24.10.2016</td>
</tr>
<tr>
<td>Opinion by</td>
<td>LIBE</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>24.10.2016</td>
</tr>
<tr>
<td>Rapporteur</td>
<td>Morten Helveg Petersen</td>
</tr>
<tr>
<td>Date appointed</td>
<td>5.12.2016</td>
</tr>
<tr>
<td>Discussed in committee</td>
<td>25.4.2017  8.6.2017</td>
</tr>
<tr>
<td>Date adopted</td>
<td>8.6.2017</td>
</tr>
</tbody>
</table>
| Result of final vote | +: 38  
| -=: 2  
| 0: 0 |
| Members present for the final vote | Jan Philipp Albrecht, Malin Björk, Michal Boni, Caterina Chinnici, Rachida Dati, Monika Flašíková Beňová, Kinga Gál, Ana Gomes, Nathalie Griesbeck, Sylvie Guillaume, Monika Hohlmeier, Brice Hortefeux, Filiz Hyusmenova, Sophia in ’t Veld, Dietmar Köster, Barbara Kudrycka, Cécile Kashedu Kyenge, Marju Lauristin, Juan Fernando López Aguilar, Roberta Metsola, Claude Moraes, József Nagy, Birgit Sippel, Branislav Škripek, Csaba Sógor, Sergei Stanishev, Helga Stevens, Traian Ungureanu, Bodil Valero, Josef Weidenholzer, Kristina Winberg, Tomáš Zdechovský, Auke Zijlstra |
| Substitutes present for the final vote | Pál Csáky, Gérard Deprez, Teresa Jiménez-Becerril Barrio, Ska Keller, Andrejs Mamikins, Maite Pagazaurtundúa Ruiz, Barbara Spinelli |
### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>Party</th>
<th>Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALDE Group</td>
<td>Gérard Deprez, Nathalie Griesbeck, Filiz Hyusmenova, Maite Pagazaurtundúa Ruiz, Sophia in ’t Veld</td>
</tr>
<tr>
<td>ECR Group</td>
<td>Helga Stevens, Branislav Škripek</td>
</tr>
<tr>
<td>GUE/NGL Group</td>
<td>Malin Björk, Barbara Spinelli</td>
</tr>
<tr>
<td>PPE Group</td>
<td>Michal Boni, Pál Csáky, Rachida Dati, Kinga Gál, Monika Hohlmeier, Brice Hortefeux, Teresa Jiménez-Becerril Barrio, Barbara Kudrycka, Roberta Metsola, József Nagy, Csaba Sógor, Traian Ungureanu, Tomáš Zdechovský</td>
</tr>
<tr>
<td>S&amp;D Group</td>
<td>Caterina Chinnici, Monika Flašíková Beňová, Ana Gomes, Sylvie Guillaume, Cécile Kshetu Kyenge, Dietmar Köster, Marju Lauristin, Juan Fernando López Aguilar, Andrejs Mamiks, Claude Moraes, Birgit Sippel, Sergei Stanishev, Josef Weidenholzer</td>
</tr>
<tr>
<td>Verts/ALE Group</td>
<td>Jan Philipp Albrecht, Ska Keller, Bodil Valero</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Party</th>
<th>Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>EFDD Group</td>
<td>Kristina Winberg</td>
</tr>
<tr>
<td>ENF Group</td>
<td>Auke Zijlstra</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Vote</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>+</td>
<td>38</td>
</tr>
<tr>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Key to symbols:
+ : in favour
- : against
0 : abstention
## PROCEDURE – COMMITTEE RESPONSIBLE

<table>
<thead>
<tr>
<th>Title</th>
<th>Body of European Regulators for Electronic Communications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee responsible</td>
<td>ITRE 24.10.2016</td>
</tr>
<tr>
<td>Discussed in committee</td>
<td>6.2.2017, 22.3.2017, 22.6.2017</td>
</tr>
<tr>
<td>Date adopted</td>
<td>2.10.2017</td>
</tr>
<tr>
<td>Result of final vote</td>
<td>+: 46, -: 3, 0: 12</td>
</tr>
<tr>
<td>Substitutes present for the final vote</td>
<td>Pilar Ayuso, Pervenche Berès, Michał Boni, Rosa D’Amato, Jens Geier, Françoise Grossetête, Werner Langen, Olle Ludvigsson, Răzvan Popa, Dennis Radtke, Dominique Riquet</td>
</tr>
<tr>
<td>Substitutes under Rule 200(2) present for the final vote</td>
<td>Claudia Schmidt</td>
</tr>
<tr>
<td>Date tabled</td>
<td>16.10.2017</td>
</tr>
</tbody>
</table>
## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

<table>
<thead>
<tr>
<th>Number</th>
<th>Symbol</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>46</td>
<td>+</td>
<td>ECR: Edward Czesak, Evžen Tošenovský, Hans-Olaf Henkel, Nikolay Barekov, Zdzisław Krasnodębski</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PPE: Aldo Patriciello, Algirdas Saudargas, Anna Záborská, Bendt Bendtsen, Claudia Schmidt, Cristian-Silviu Bușoi, Dennis Radtke, Françoise Grossetête, Henna Virkkunen, Janusz Lewandowski, Krišjānis Kariņš, Michal Boni, Massimiliano Salini, Nadine Morano, Pilar Ayuso, Pilar del Castillo Vera, Seán Kelly, Sven Schulze, Vladimir Urutchev, Werner Langen</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S&amp;D: Adam Gierek, Carlos Zorrinho, Csaba Molnár, Dan Nica, Edouard Martin, Jens Geier, José Blanco López, Kathleen Van Brempt, Martina Werner, Mia Petra Kumpula-Natri, Miroslav Poche, Olle Ludvigsson, Patrizia Toia, Pervenche Berès, Peter Kouroumashev, Răzvan Popa, Theresa Griffin</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Verts/ALE: Claude Turmes, Jakop Dalunde, Michel Reimon, Rebecca Harms</td>
</tr>
<tr>
<td>3</td>
<td>-</td>
<td>EFDD: Jonathan Bullock</td>
</tr>
<tr>
<td></td>
<td></td>
<td>GUE/NGL: Neoklis Sylikiotis, Paloma López Bermejo</td>
</tr>
<tr>
<td>12</td>
<td>0</td>
<td>ALDE: Angelika Mlinar, Dominique Riquet, Fredrick Federley, Kaja Kallas, Lieve Wierinck</td>
</tr>
<tr>
<td></td>
<td></td>
<td>EFDD: Dario Tamburrano, David Borrelli, Rosa D’Amato</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ENF: Barbara Kappel, Christelle Lechevalier</td>
</tr>
<tr>
<td></td>
<td></td>
<td>GUE/NGL: Jaromír Kohlíček, Xabier Benito Ziluaga</td>
</tr>
</tbody>
</table>

**Key to symbols:**
- + : in favour
- - : against
- 0 : abstention