



Bundesnetzagentur

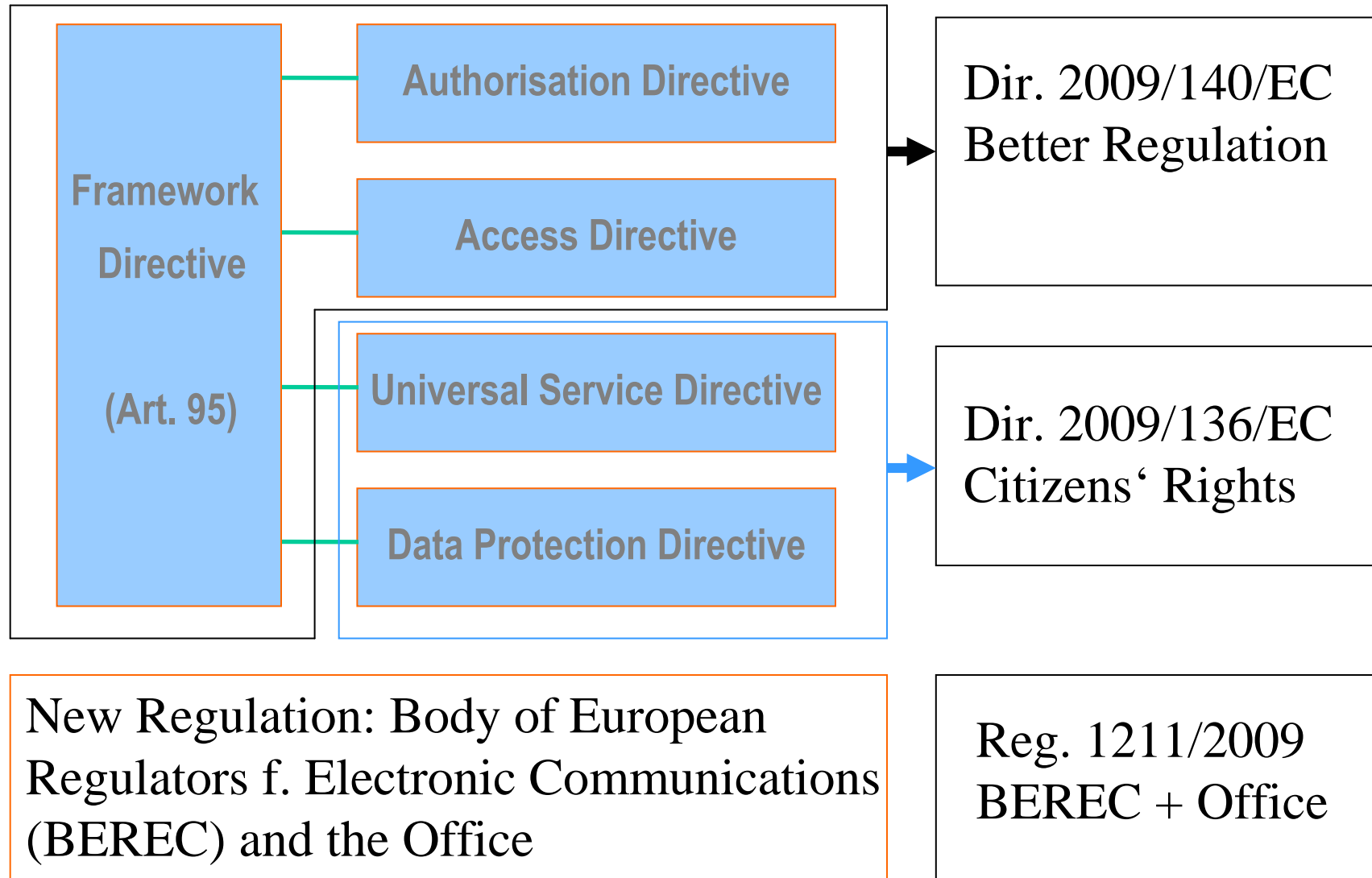
# **The Status of the Implementation: Institutional Perspectives**

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FSR Annual Conference – Roundtable III

# Agenda

- 2009 Framework
- Institutional changes: BEREC
- Procedural changes: Art. 7a procedure
- Role of BEREC and NRAs in the revised framework
- Conclusions

# Revised European Regulatory Framework (2009)



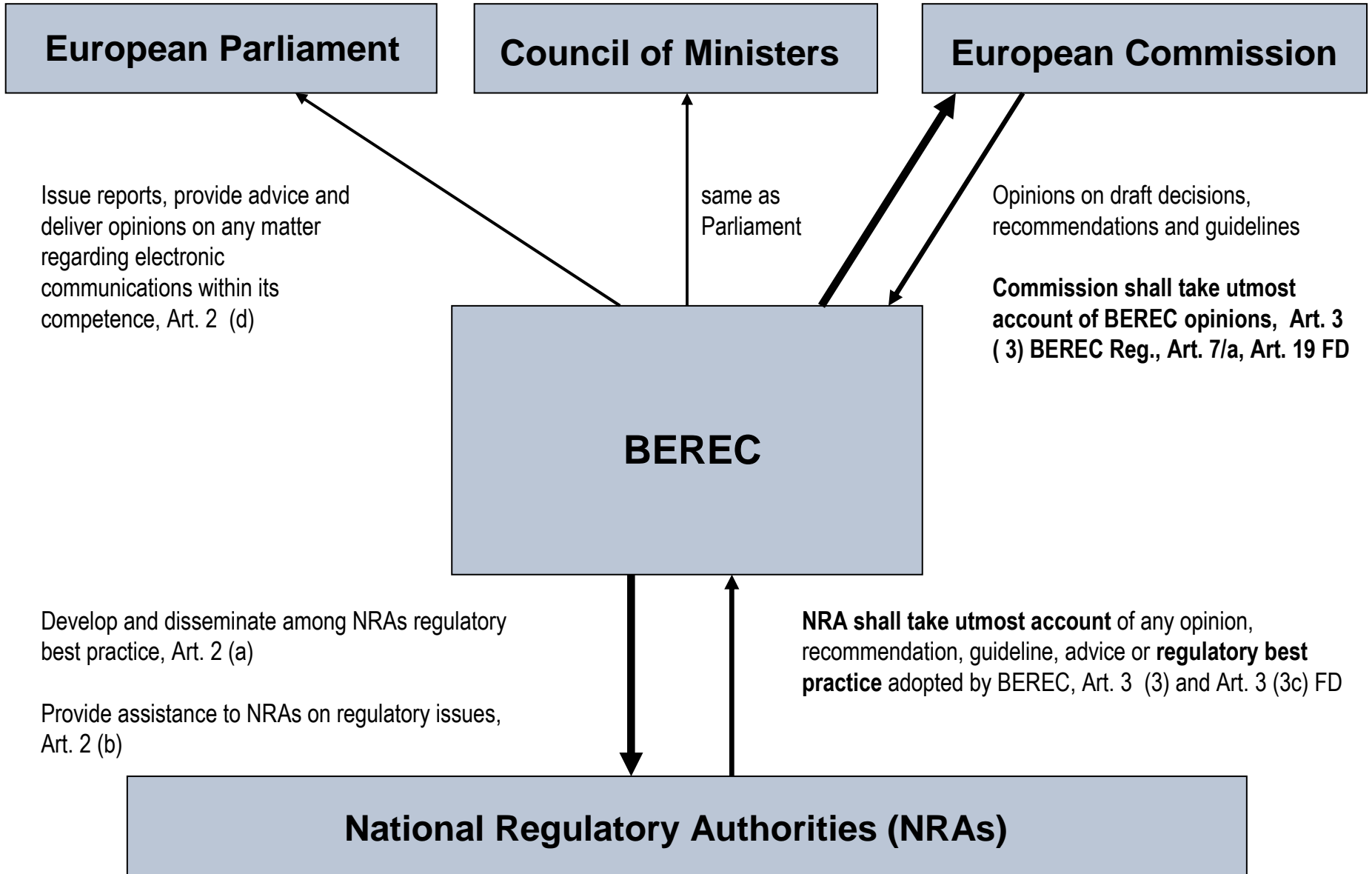
# Regulatory objectives and priorities

- **Regulatory objectives remain the same:**
  - Promote *effective competition* for the benefit of the European citizen
  - Promote *efficient investment* through predictability
  - Promote the **internal market** through a **consistent application** of the regulatory framework (new Art. 7a FD co-regulation procedure introduced)
- **Regulatory priorities:**
  - maintain level of competition (avoid re-monopolization) and incentivise efficient investment in NGA and NGN core (IP)
  - maintain balance of service and infrastructure competition
  - maintain the institutional balance in Europe
  - ensure effective implementation by strengthening the NRA's independence and providing for an adequately resourced NRA (Art. 3a FD)
  - basic principles of the 2002 ECNS framework apply (reliance on competition law principles), but are adjusted in 2009 to deal with the new challenges
- Investing in new technologies: beginning of the investment cycle, and overcoming at the same time the effects of the financial crisis for financing of new investments in NGA / NGN is a challenge, therefore more emphasis is put on the **dynamic** aspects (additional initiative: European Digital Agenda – May 2010)

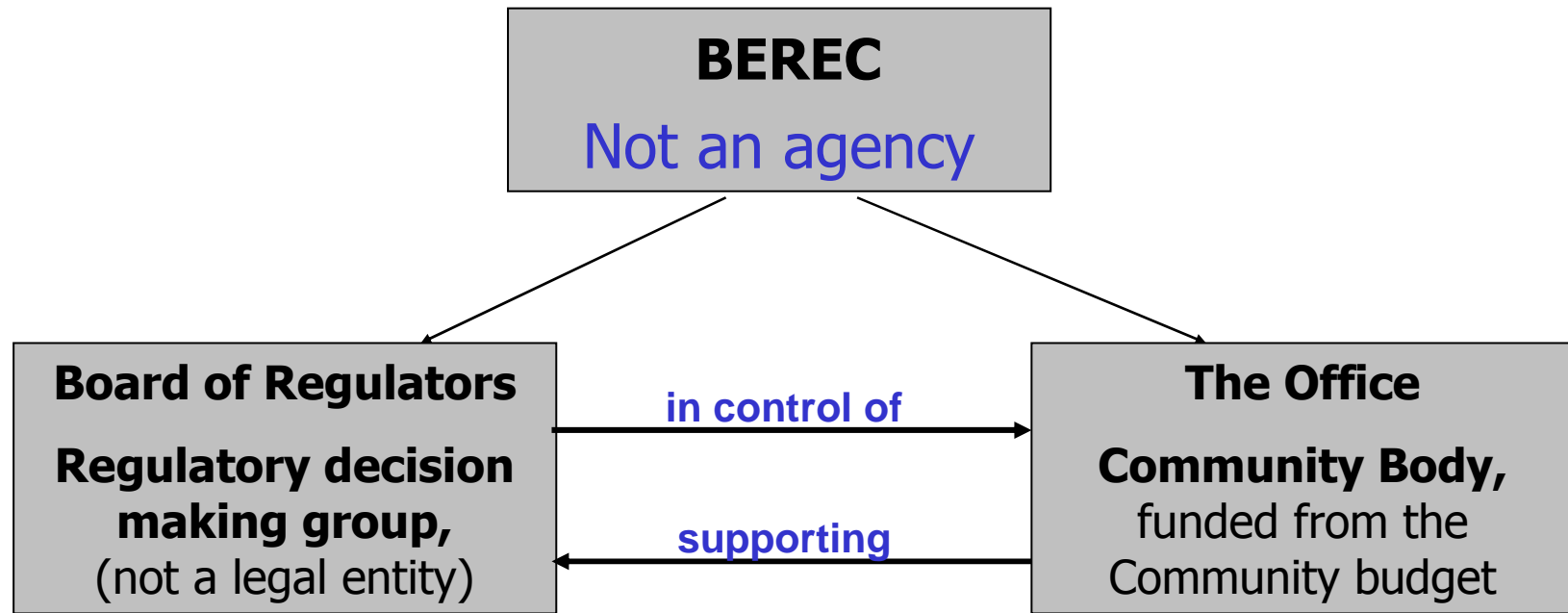
# **BEREC – Role and characteristics**

- **BEREC key player in regulatory approach: cooperation strengthened in order to ensure consistent application of the framework for the development of the internal market by developing best practice principles (common approaches)**
- **Formal Role in relation to specific measures – Art 7/7a FD notifications and Art. 19 FD**
- **Role in approach – C'ion and NRAs to take utmost account of BEREC positions/opinions**
- **Two tiered approach to BEREC – BoR and Office**
- **1st Plenary meeting of BEREC held in January 2010**
- **Concentration now on getting Riga Office up and running (AM started on 1st Oct 2010), official opening planned with a workshop on 14 October 2011**
- **Timely national transposition is key to ensuring that full elements of package can operate from May 2011 (end of transposition period)**
- **Deliver on busy 2011 work programme**

# BEREC's role in interacting with the institutions

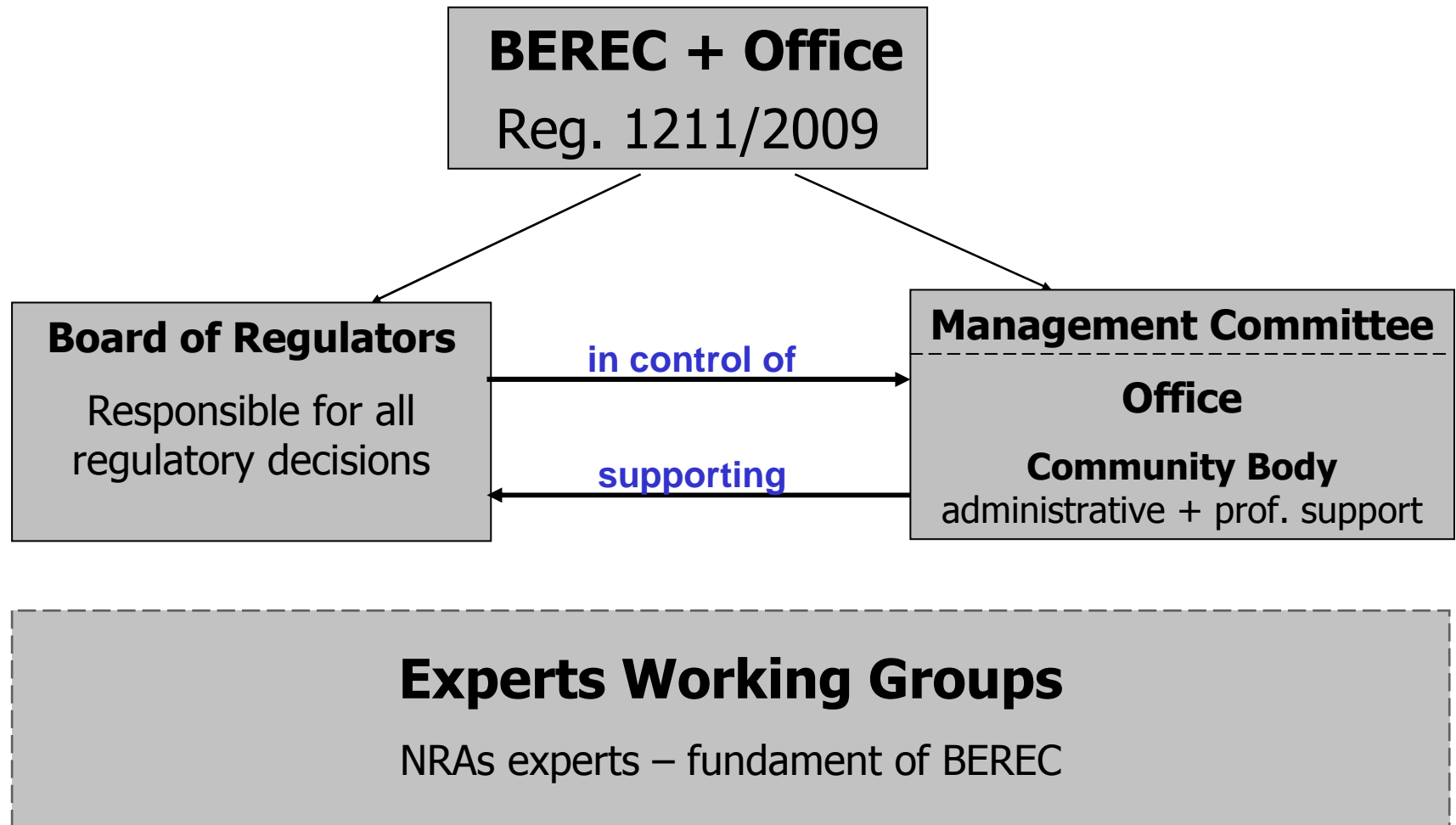


# BEREC – 2-tier model - 1



- Office is controlled by the Management committee
- Office is accountable to Management committee
- Management committee replaces Administrative Board in regular European agencies, identical with BoR (+1 Cion), thus NRAs are in full control of the supporting Office

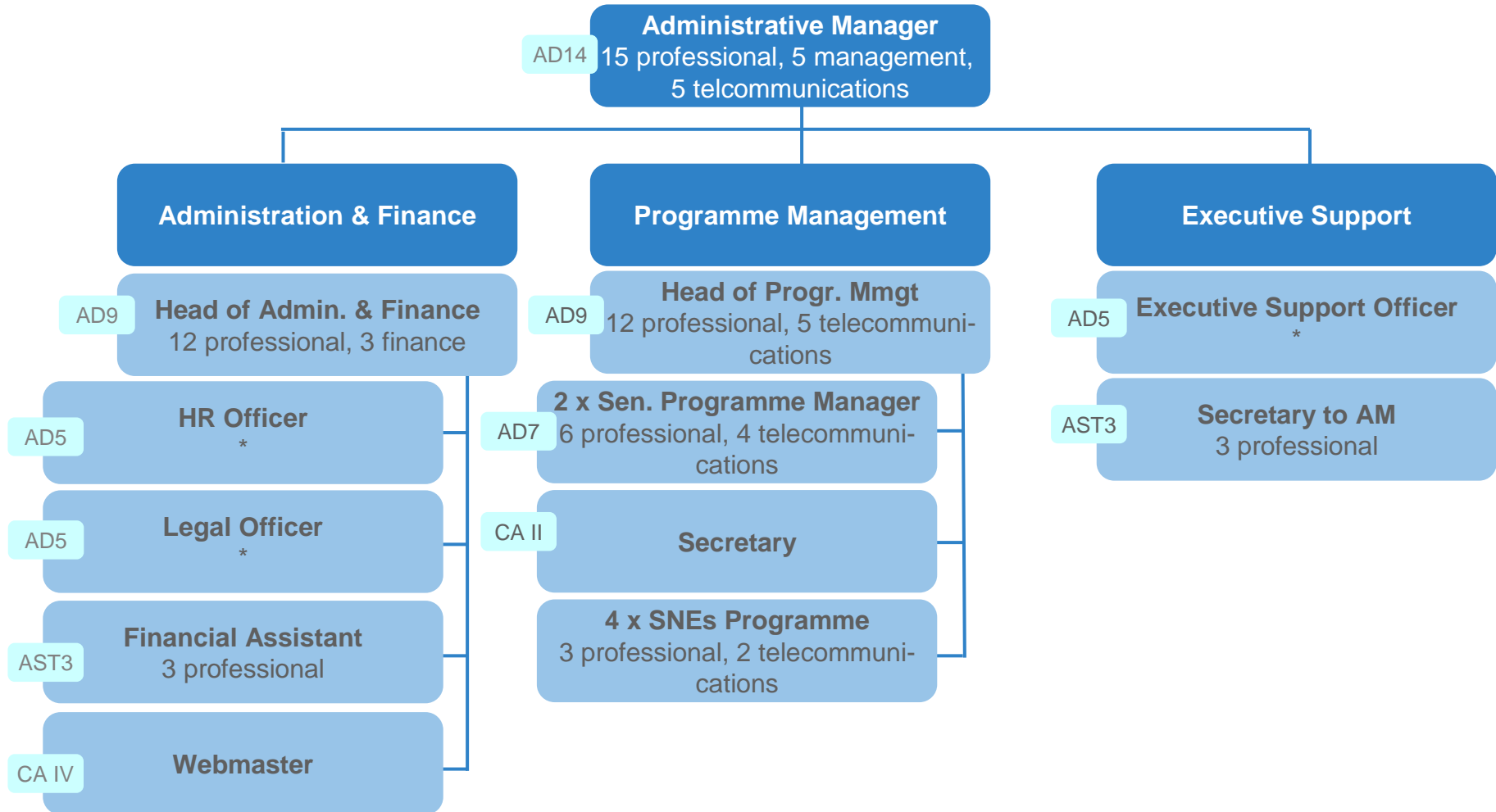
## BEREC – 2-tier-model - 2



# BEREC Office organisation structure

Q1/ Q2 2011

(Work experience requirements for BEREC posts in years)

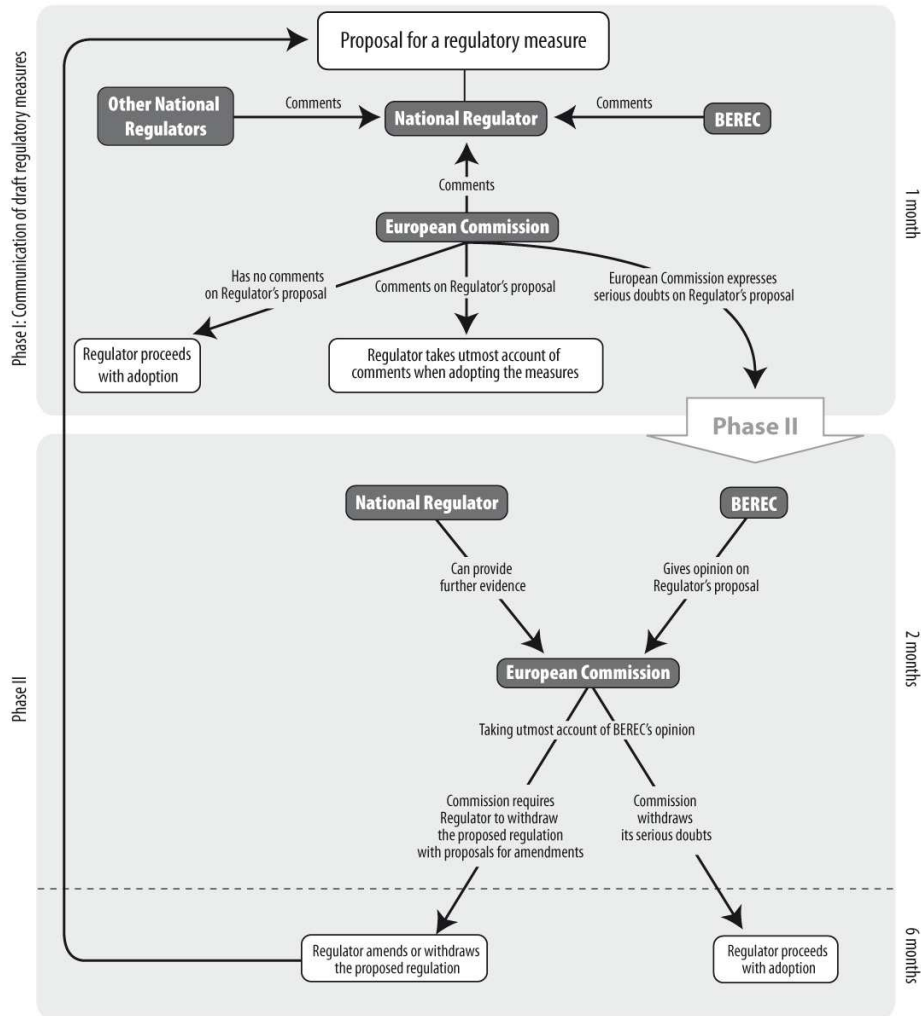


\* It will be an asset if he/she has professional experience in a similar function.

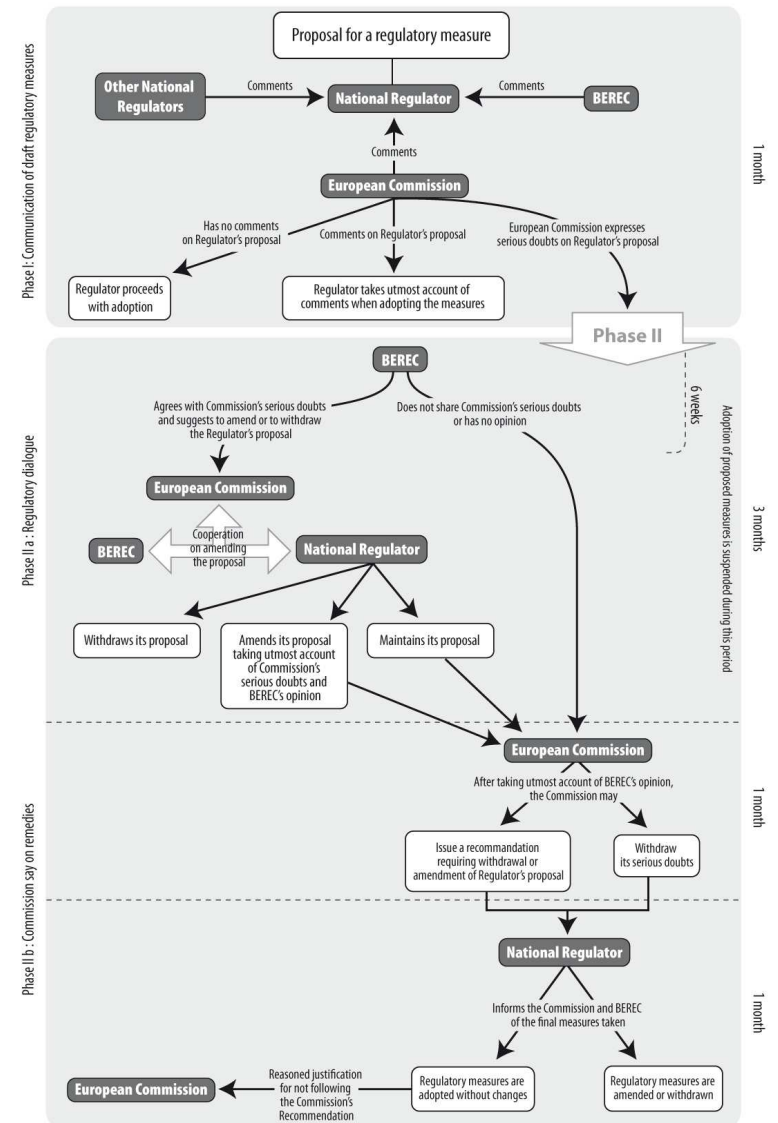
Ultimately 28 staff members will be recruited

# Art. 7/7a Procedure

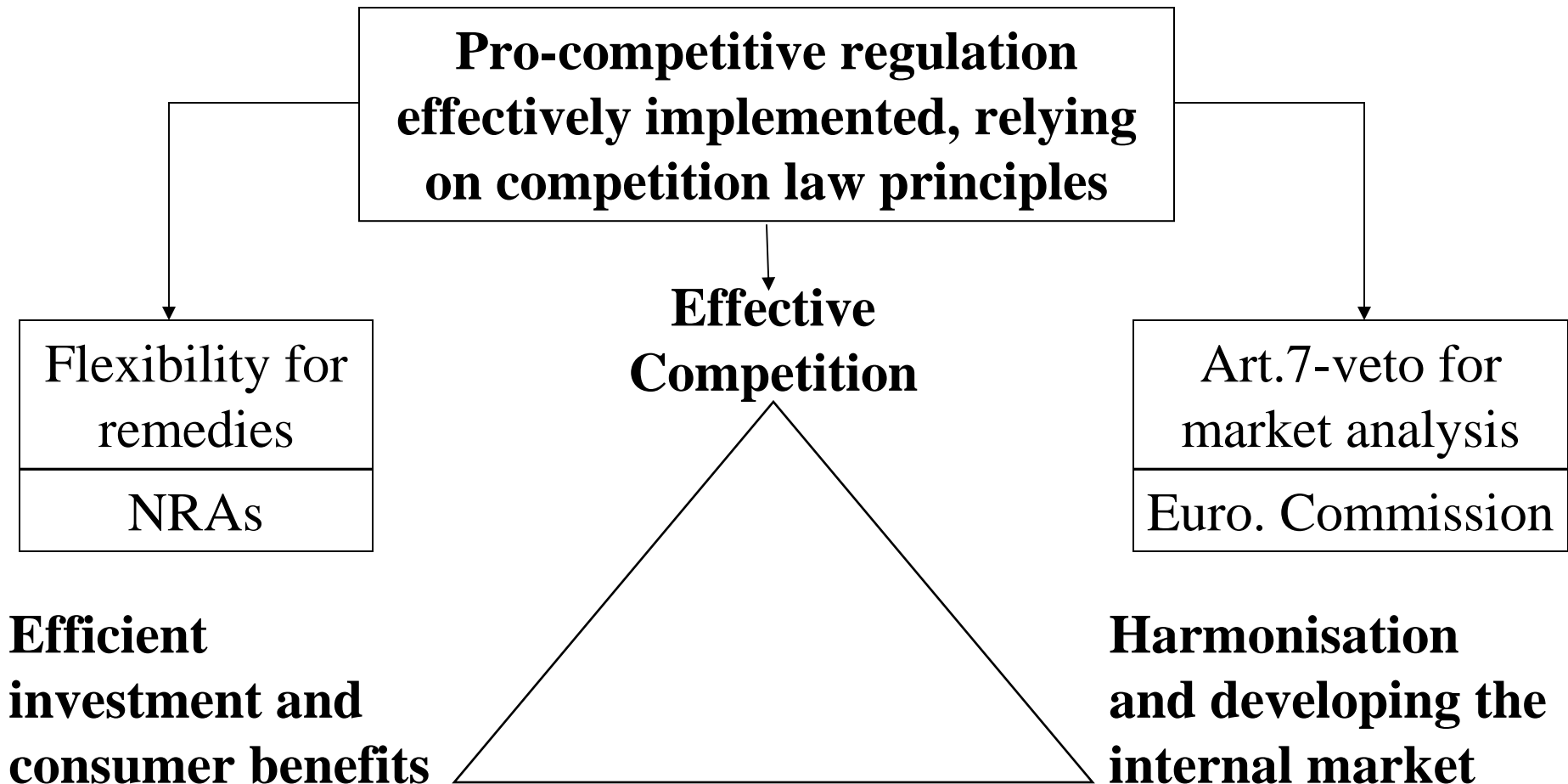
## Market definition and SMP-finding – Art. 7 RRL



## Remedies imposition – Art. 7a RRL applied since 26 May 2011

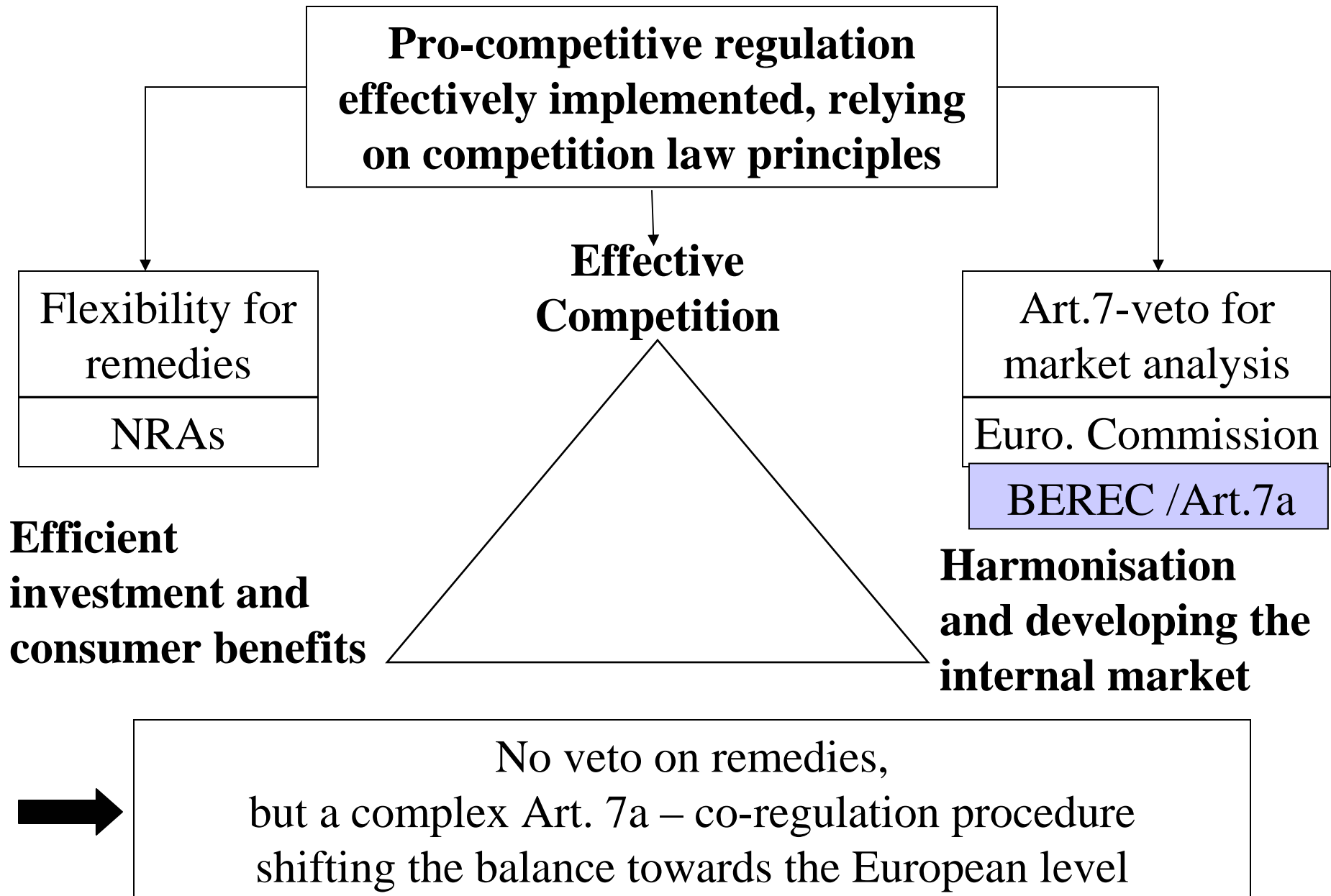


## Regulatory Balance (1) - 2002



Effective regulation on the national level by NRAs will avoid distortions that create barriers to the internal market, balance of **decentralized implementation** to be retained

## Regulatory Balance (2) - 2009



# Role of NRAs and BEREC

- NRAs: ensure that regulation is effectively implemented
- BEREC: main purpose is to ensure a **consistent application** of the European framework through the development of common approaches (best regulatory practice principles) in order to develop the internal market, stronger peer review element (Art. 7a FD co-regulation procedure) and improved coordination mechanisms
- BEREC has a stronger legal basis than ERG and is not only advising the Commission, but also the Council/EP (upon request during the legal procedure)
- Annual work programme; work of IRG/ERG/BEREC organised in **expert working groups** of NRAs experts preparing the documents (collective exp.)
- Draft documents are publicly consulted prior to adoption by Plenary, publication of final documents (on <http://berec.europa.eu>)
- Regular press releases and debriefings in Brussels after Plenaries
- BEREC Office seat in Riga, recruitment ongoing; the IRG Secretariat premises in Brussels are used for WG meetings, currently the IRG Secret. is providing administrative support while the Office is built up
- In 2010 IRG took the decision to continue to run IRG in parallel for the next 3 years (1 senior, 2 junior staff members, 1 administrative person)

# Conclusions

- BEREC: stronger role than ERG on the European level, interacting directly with the European institutions
- New relationship with the Commission that has the obligation to take utmost account of BEREC's opinions
- More complex bureaucratic procedure introduced: Art. 7/7a FD: risk of diffusion of responsibilities between the different levels, lack of certainty could undermine regulatory effectiveness
- Stronger peer review elements and the legal obligation of NRAs to take utmost account of common positions will certainly increase consistency of application of the regulatory framework further, but risk that NRAs' flexibility (discretion) to finetune regulation to national circumstances is limited too much
- Internal decision making procedures more formalized (voting for decision taking, see rules of procedure), helps to go beyond the „least common denominator“ and to have more ambitious Common Positions – enhances cooperation and harmonisation
- Strong engagement of NRAs is needed to make BEREC work