

The role of BEREC in the development of the single market

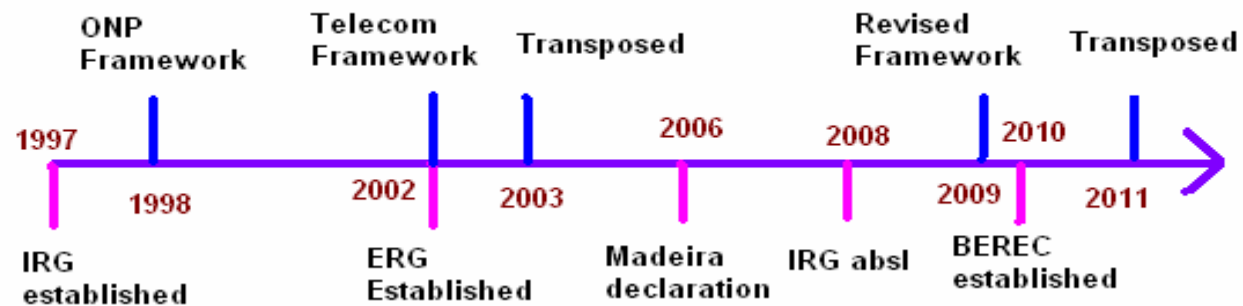
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Historical update

■ Milestones

- IRG – established
- ERG – established 1997
- Madeira declaration 2006
- IRG asbl incorporated 2008
- BEREC – established 28 January 2010
- BEREC-Office – opening 14 October 2011; Riga LV



Role and tasks of BEREC in general

- Set out in Art 2 and 3 of Regulation and the Directives
- Types of tasks
 - Advisory vis-à-vis the Commission
 - Article 7/7a Procedures
 - Harmonisation
 - Cooperation and assistance to NRA's
 - Cross-border dispute resolution
 - Information gathering and reporting
 - Certain Numbering tasks

Specific advisory functions of BEREC

- Advisory function to:
 - the European Commission,
 - the European Parliament and
 - the European Council

- In order to ensure
 - further development of EU-wide communications market
 - for the benefit of consumers and businesses

Specific advisory functions of BEREC



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Structure of BEREC

- Board of Regulators – 27 EU NRAs
 - C'ion, EEA, Accession NRAs & Switzerland are observers
- BoR as the decision making forum
- 4 Plenary meetings per year
- Expert Working Groups – conduct work for approval of BoR.
 - Experts from NRAs
 - 12 WGs for 2011 Work Program
- BEREC Office with Managing Director to ensure smooth functioning
- Management Committee to oversee Office

BEREC's harmonisation objectives

- Develop and disseminate best practices on EU-Framework implementation among NRA's
- Deliver opinions on documents, including draft Commission Recommendations/Guidelines
- Issues and provides reports and common positions in order to advice Electronic communications sector
- Meant for use as guidelines for harmonization and integration towards harmonized and common market

Article 7/7a procedures

- Under Art 3.1.a BEREC is to issue opinions on draft measures of NRAs concerning market definition, designation of undertakings with significant market power and imposition of remedies, and to cooperate and work together with the NRAs
- This task just became operative after due transposition date of the Directives – 25 May 2011
- The modified Article 7 and the new Article 7a imposes new obligations on NRAs and had therefore to be transposed into national law

BEREC's possibility as advanced harmonization tool

- Art. 13 of the BEREC RoP imposes that:
- BEREC shall issue an Opinion on opened EC-Phase 2 cases concerning:
 - Relevant market definition,
 - identification of SMP-operators
 - Imposition of regulatory obligations (remedies)

The role of BEREC-Office with Art 7/7a cases:

- Keeping track of all Art. 7 Notifications
- Identifying an Expert Working Group Coordinator
- Establishing a dedicated Expert Working Group composed of NRA/Office experts and chaired by a Rapporteur
- EWG shall closely cooperate with NRA concerned and EC on planned work
- EWG to deliver a Draft Opinion within 15/25 working days to BoR (Art. 7/7a)
- Opinion to be decided upon in BoR and be published
- EC to take utmost account of BEREC opinion, if divergent
- If EWG shares EC concerns – close cooperation EWG/NRA on “most suitable & effective remedies”

BEREC steps and activities for harmonisation

- Enhanced use of best practices, consultation and coordination
- BEREC Reports, Guidelines and Common Positions based on “direct to the market” – results and comparisons of its member NRAs
- However opinions will now have a greater impact – the Commission and NRAs are required to take the utmost account of BEREC opinions (and also recommendations, guidelines, advice or regulatory best practice)

Harmonisation, pointing towards common market?

- BEREC Common Positions compromise from national focus towards EU position
- Coordination procedures ensure enhanced application security
- BEREC EWG-Opinions protects from “unexpected surprises” on use of market definition and remedies
- Higher grade of harmonisation paves way towards common market, however respecting national characteristics

An example for harmonisation: Roaming

- Review roaming regulation due to expiry June 2012
- BEREC-Input:
 - Roaming Report with exact data by BEREC Expert Working Group, published Dec. 2010, also considering “other forms of regulations”
 - To facilitate Commission and Parliament for adjustment
 - Commitment towards harmonization within BEREC
 - Although lower Roaming prices are not equally favorable to market players in all Member States
 - “Other forms of regulation” now included in new EC-proposal

Conclusions

- BEREC is the key player in regulatory approach – reality
- Major Role in relation to specific measures – Art 7/7a notifications
- Enhanced Role of approach – C'ion and NRAs to take utmost account of BEREC positions
- Leads to a higher grade of harmonised use of regulation framework
- Stronger harmonisation comes closer towards common market
- National specifics and characteristics still respected, no “one size fits all” solution