

BEREC E-news

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Brief summary of the results from the 19th Plenary in Dublin 5-6 June 2014

BEREC has held its 19th meeting on 5 and 6 June 2014 in Dublin (Ireland), kindly hosted by the Commission for Communications Regulation ([ComReg](#)). The plenary meeting has been chaired by the BEREC Chair 2014, Mr **Göran MARBY**, Director-General of PTS.

The Plenary was divided into 2 parts:

- the Board of Regulators meeting
- the Management Committee of the BEREC Office the meeting.

Board of Regulators (BoR)

The BoR approved for publication [BEREC's Opinion on the Commission Recommendation on Relevant Product and Service Markets Susceptible to ex ante Regulation](#) and a revised [BEREC Common Position on geographic aspects of market analysis \(definition and remedies\)](#).

The BoR also approved, among others, the following documents:

- [BEREC Annual Reports - 2013](#);
- [BEREC integrated snapshot on termination rates \(fixed, mobile and SMS\), as of January 2014](#).
- [BEREC Evaluation: recommendations and follow-up actions](#);

The BoR also approved the draft agenda for the 2nd meeting of the BEREC Stakeholder Forum to take place in Brussels on 16 October 2014. The 2nd stakeholder forum meeting will focus on the following topics:

- the future BEREC Strategy;
- the BEREC 2015 Work Programme;
- the margin squeeze test;
- the future model for roaming.

Furthermore, the BoR discussed the cooperation between BEREC and FCC, the Euro-Mediterranean Regulators Group (EMERG) and REGULATEL. At the invitation of the BEREC Chair a representative of FCC, Mrs Jessica Rosenworcel, joined the meeting and both sides discussed several topics of mutual interest, such as net neutrality, spectrum management and consumer empowerment.

BEREC Office Management Committee (MC)

The BEREC Office MC discussed current issues related to the functioning of the BEREC Office. The MC approved the following documents:

- [Decision on the appointment of the HR Officer](#);
- [BEREC Office 2013 annual activity report](#) (AAR);

- [MC opinion on the 2013 BEREC Office final accounts;](#)
- [Revised MC Rules of Procedure.](#)



BEREC opinion on the revised Commission Recommendation on relevant markets

On 24 March 2014, in accordance with Article 15(1) of the Framework Directive and Article 3(1)(c) of the BEREC Regulation, the European Commission requested BEREC's Opinion on a draft revised Recommendation on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation.

The draft Recommendation and accompanying Explanatory Note are the culmination of a review process undertaken by the European Commission that started in October 2012. There were several phases, including the issuing of a questionnaire to which BEREC and various stakeholders responded, and the preparation of a report by European Commission consultants, published in September 2013, entitled 'Future electronic communications markets subject to *ex ante* regulation'. BEREC has been involved throughout this review process.

Pursuant to Article 15(1) of the Framework Directive, the main purpose of the Recommendation is to '... identify [...] those product and service markets within the electronic communications sector, the characteristics of which may be such as to justify the imposition of regulatory obligations set out in the Specific Directives, without prejudice to markets that may be defined in specific cases under competition law.' Therefore, the Recommendation has significant implications for the tasks that NRAs must undertake in accordance with the electronic communications regulatory framework.

According to the draft Recommendation, Markets 1 and 2 of the 2007 Recommendation¹ would no longer be subject to *ex ante* regulation at a pan-European level. In addition, boundaries between current Markets 4, 5 and 6² are to be redefined as new Markets 3 and 4. New Market 3 is subdivided into Market 3(a), 'Wholesale local access provided at a fixed location', and Market 3(b), 'Wholesale central access provided at a fixed location for mass-market products'. The proposed new Market 4 is defined as 'Wholesale high-quality access provided at a fixed location'.

BEREC's Opinion is broadly supportive of the European Commission's draft Recommendation and Explanatory Note. Nonetheless, BEREC has requested some improvements to help NRAs to achieve their regulatory objectives as set out in the Framework Directive more effectively, and to encourage effective competition for the benefit of end users.

First, BEREC agrees with the long-term trends identified by the European Commission in the market (or markets) for wholesale line rental and call origination (current Markets 1 and 2). However, BEREC believes that wholesale line rental and call origination will continue to be important drivers of competition in downstream retail markets in the short to medium term in most Member States and that it is premature to remove Markets 1 and 2 from the list of markets susceptible to *ex ante* regulation. While BEREC welcomes the acknowledgement by the European Commission that Market 2 will remain susceptible to *ex ante* regulation for

¹These are the retail market for access to the public telephone network at a fixed location for residential and non-residential customers, and the wholesale market for call origination on the public telephone network provided at a fixed location.

²These are the wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location, wholesale broadband access, and wholesale terminating segments of leased lines, irrespective of the technology used to provide leased or dedicated capacity.

another review period in some Member States, it requested that the European Commission mirrors this acknowledgment with respect to Market 1 and includes a transitional period.

Second, BEREC welcomes the degree of flexibility given to NRAs in the draft Recommendation and Explanatory Note for the market definition and analysis of the broadband markets (proposed Markets 3(a), 3(b) and 4). However, BEREC has asked the European Commission to clarify certain points when it finalises the draft Explanatory Note.

Finally, BEREC has asked the European Commission to clarify a number of points in the draft Explanatory Note regarding horizontal, methodological and transitional issues.

Relevant link:

[BEREC opinion on the revised Commission Recommendation on relevant markets](#)

[Press release from the 19th BEREC Plenary meeting in Dublin](#)

[Presentation on BEREC opinion on the revised Commission Recommendation on relevant markets](#)



Archive:

[BEREC Stakeholder Workshop on Relevant Markets, 26.02.2014](#)

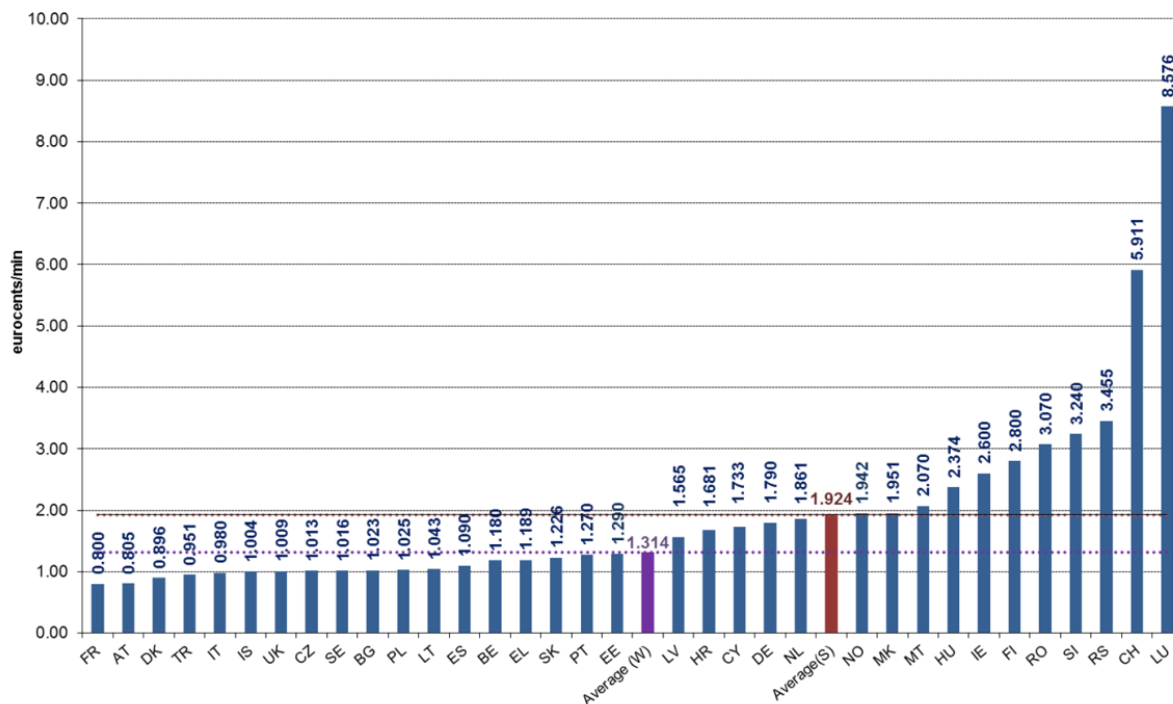
BEREC termination rates (TR) benchmark snapshot (as of January 2014) - integrated report on fixed, mobile and SMS TR

The BEREC Integrated Report on Termination Rates in Europe – BoR (14) 55 – provides an overview of Mobile Termination Rates (MTR), Fixed Termination Rates (FTR) and SMS Termination Rates (SMS TR) per country, based on the results of a request for information sent to all NRAs. The data reflects the situation as of 1 January 2014.

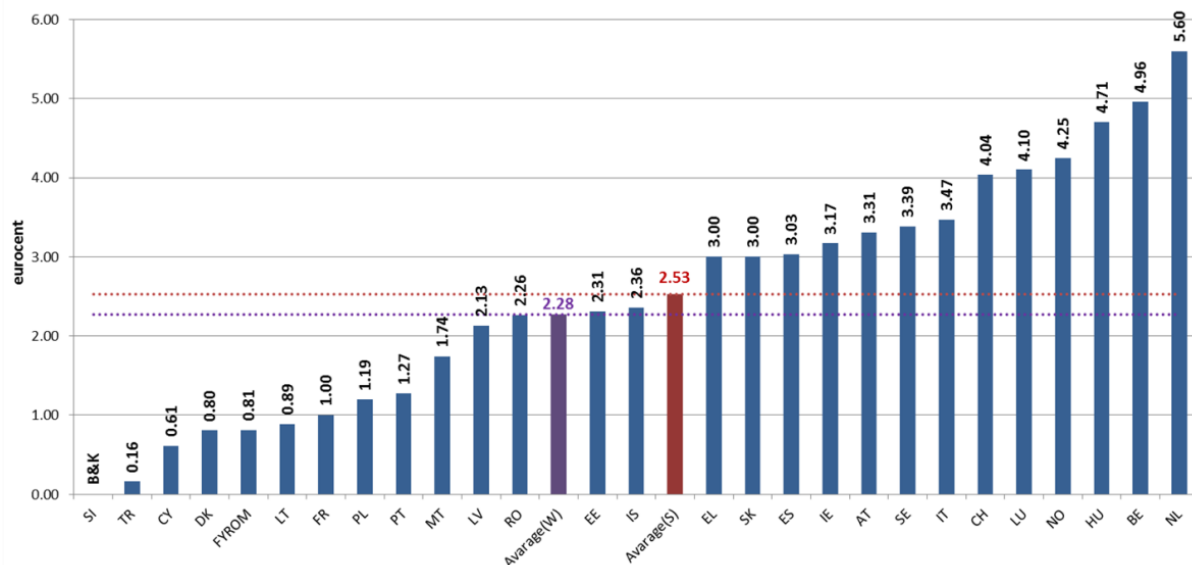
The aim of this report is to offer a picture of the interconnection and termination prices in the cases of mobile, fixed and SMS communications in Europe, thus continuing the work started by ERG (European Regulators Group). Overview reports on MTRs and SMS TRs are carried out twice a year, while data collection on the monitoring of FTRs is performed once a year.

As of January 2014, the situation regarding Termination Rates in Europe is as follows:

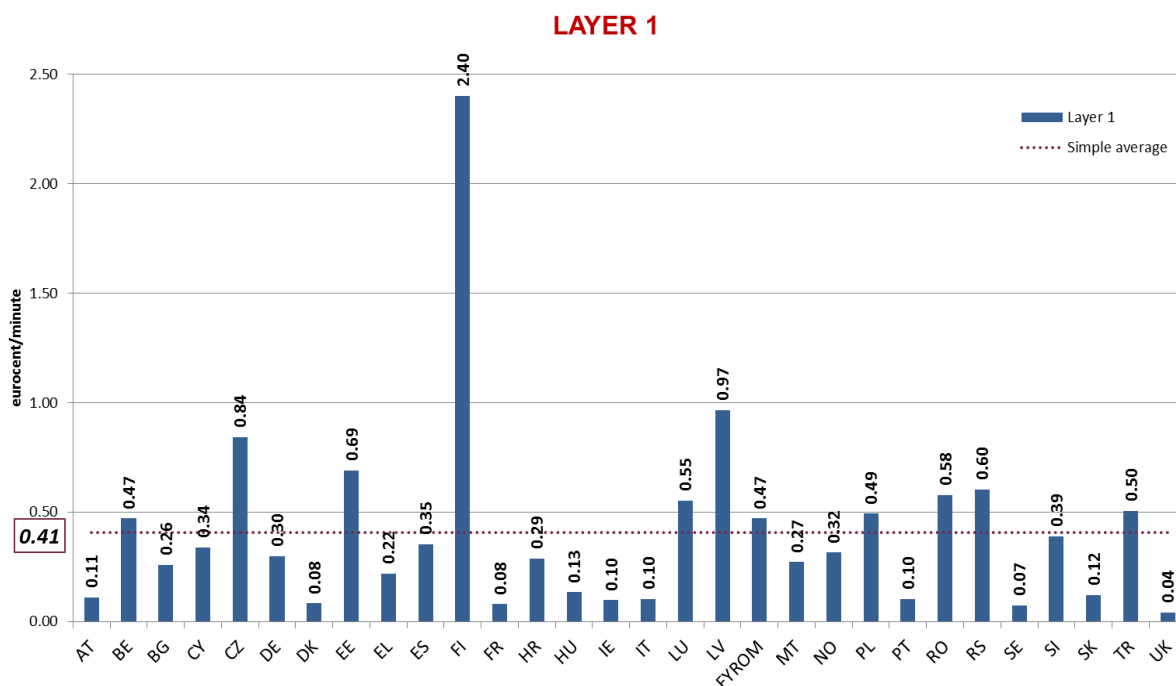
- MTRs - the simple average for the EU stands at Eurocents 1.92 per minute, whereas the EU weighted average is estimated at Eurocents 1.31 per minute.

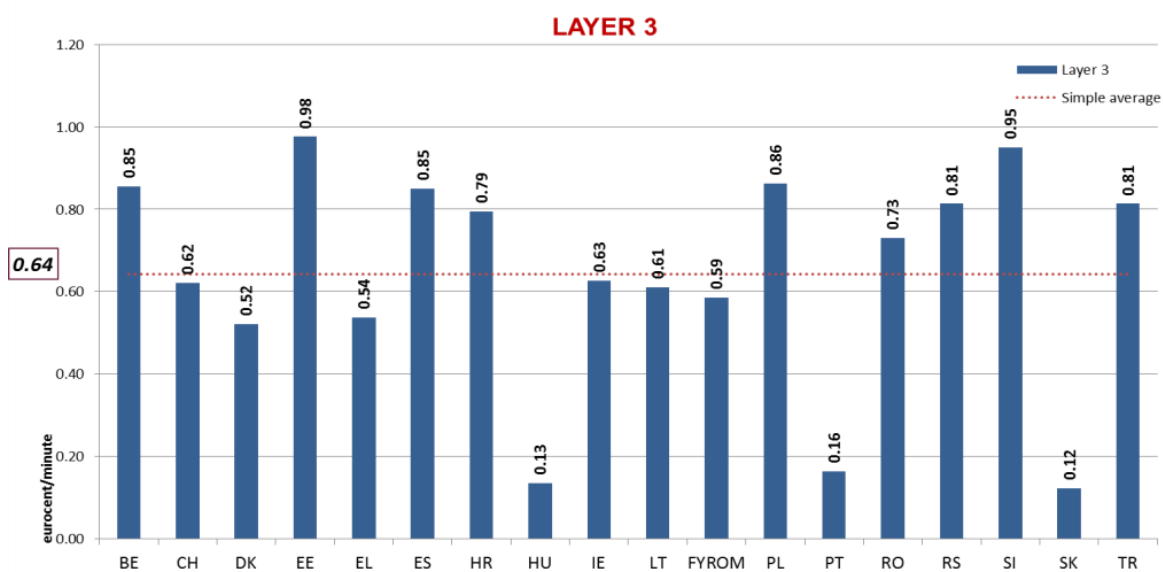
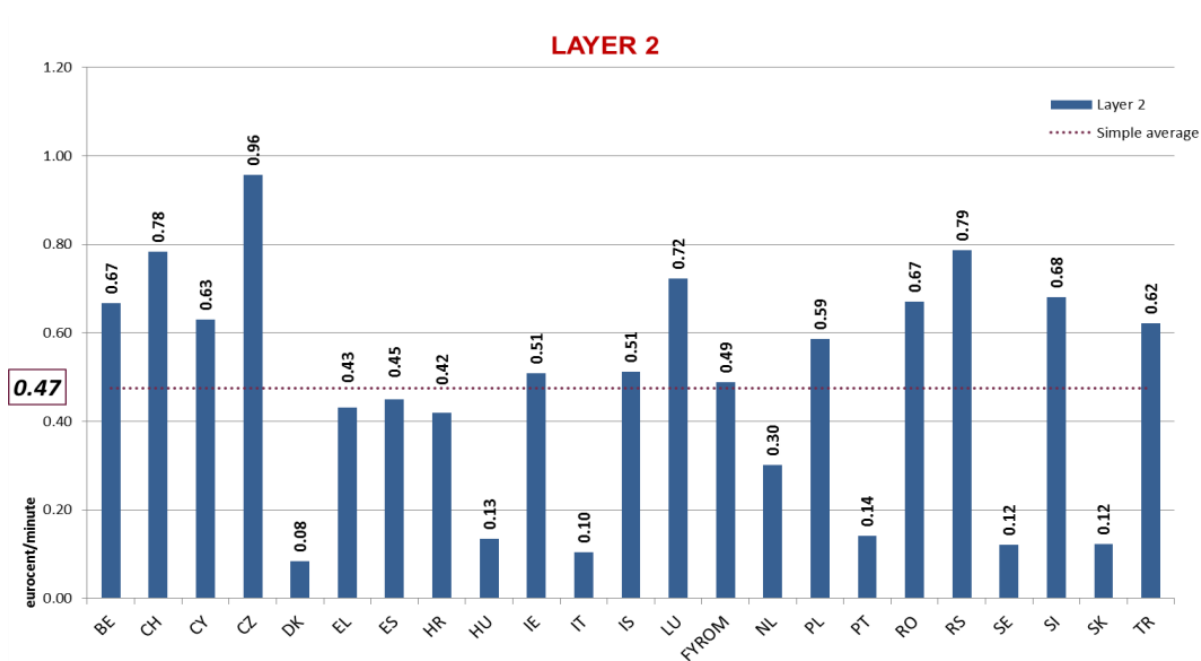


- SMS TRs - the EU simple average is Eurocents 2.53 per SMS, whereas the weighted average is reported to be Eurocents 2.28 per SMS.



- FTRs - taking into account the three main levels of fixed interconnection layers and the two types of interconnection (time and capacity-based), the EU average for Layer 1 was reported to be Eurocents 0.41€ per minute. Regarding Layers 2 and 3, the EU average stands at Eurocents 0.47 per minute and Eurocents 0.64 per minute, respectively.





In the report, all assumptions adopted in the benchmarking activity and in the calculation of simple and weighted averages are stated clearly.

Relevant link

[BEREC termination rates \(TR\) benchmark snapshot \(as of January 2014\) - integrated report on fixed, mobile and SMS TR](#)

BEREC common position on geographical aspects of market analysis (definition and remedies)

BEREC has updated its Common Position on geographical aspects of market analysis in the light of new market developments.

In October 2008, the European Regulators Group (ERG) had adopted a Common Position on geographical aspects of market analysis. The 2008 Common Position explored under what circumstances a geographically differentiated approach to market analysis (definition and remedies) could be deemed appropriate and how such an approach could be implemented.

BEREC believes that the main ideas expressed in the 2008 Common Position are still relevant and fit for purpose in relation to copper-driven competition. However, there have been several developments since 2008 that raise new issues about geographical segmentation.

The revised Common Position first considers Article 7 Phase II cases launched by the European Commission since 2008 which have concerned geographical aspects of market analysis, and also refers to other experiences of national regulatory authorities (NRAs) with this issue as part of the market review process.

The revised Common Position then refers to the market developments that have occurred since 2008, in particular the increasing coverage of networks and operations of alternative providers, which is a result of (i) increased unbundling of the copper access networks of the incumbents; (ii) the increased importance of technologies other than xDSL (cable, Wi-Fi, mobile broadband, etc.); and (iii) the development of high-speed fibre networks (next-generation access (NGA) roll-out). As geographical market analysis is a burdensome process, both for the NRA and operators, reference is made to a number of indicators which may be relevant when assessing whether to undertake a detailed geographical analysis that involves setting the boundaries of local markets.

The revised Common Position is relevant to all electronic communications markets covered by the *ex ante* review process, but the focus is on broadband services. Market 5 has generally been considered the market most likely to be susceptible to geographical segmentation, as the competitive pressure that local loop unbundling (LLU) may exert in this market often varies across one country. The development of own infrastructure (in particular, in the context of fibre roll-out) may lead to more than one network being rolled out in certain regions, but not necessarily throughout the whole country. As a result, the revised Common Position deals not only in Market 5 but also with Market 4.

The revised Common Position foresees two main competitive situations: (i) Member States where wholesale remedies, in particular LLU, represent an important source of competition, possibly strengthened by the presence of alternative infrastructures; and (ii) Member States where LLU is not so extensive, but where an important source of competition is derived from the presence of alternative platforms (inter-platform competition).

The revised Common Position recommends that in both instances, NRAs examine the relevant variables for a geographical analysis, choosing the appropriate geographical unit and aggregating the geographical areas so that conditions in areas that are deemed equivalent are homogenous. For the purposes of geographical segmentation, the greater the importance

of LLU in the market, the larger the role of the local exchange/main distribution frame (MDF) of the operator with significant market power (SMP).

In its revised Common Position, BEREC notes an increased deployment of NGA networks since 2008, and considers that fibre roll-out by dominant and alternative operators may have a significant impact on the competitive dynamics of the broadband markets. This includes effects on the potential definition of subnational geographical markets and on the obligations that may have been imposed with regard to the SMP operator's copper-legacy network. The revised Common Position also considers the scenarios included in the European Commission Recommendation on Regulated Access to NGA Networks¹ when dealing with the issue of geographical segmentation.

Finally, the revised Common Position refers to the two possible ways of dealing with geographical differences in competitive conditions across one country. These are: (i) market differentiation; and (ii) differentiation of remedies. There is a discussion of the risks and benefits associated with a geographical analysis. In doing this, NRAs aim to prevent two types of errors: 'type 1 errors', in which there is deregulation (or lighter regulation) where in fact regulation (or stronger regulation) would be justified; and 'type 2 errors', in which there is regulation (or stronger regulation) where no (or lighter) regulation would be justified.

Relevant link:

[BEREC common position on geographical aspects of market analysis \(definition and remedies\)](#)

[Presentation on BEREC common position on geographical aspects of market analysis \(definition and remedies\)](#)

Archive:

[ERG Common Position on Geographic Aspects of Market Analysis \(definition and remedies\)](#)
[ERG \(08\) 20](#)



¹ OJ L 251/35, 25.9.2010, p. 35, Commission Recommendation of 20 September 2010 (2010/572/EU).

BEREC Annual Report on developments in the electronic communications sector in 2013 and Annual Report on BEREC activities in 2013

BEREC Annual Reports for 2013 – BoR (14) 60 – contains a report on BEREC activities in 2013 and another on the developments in the electronic communications sector in 2013.

In compliance with Article 5(5) of the BEREC Regulation, the report on BEREC activities gives a brief overview of the activities of BEREC in 2013. It corresponds to the tasks and activities set out in the Work Programme 2013 – BoR (12) 142 – and provides an updates on the work of the Expert Working Groups (EWGs) and ad-hoc teams. Its principal aims are to facilitate the assessment of the overall effectiveness of BEREC activities and constitute an accountability tool, which will be submitted to the EU institutions by 15 June 2014.

Each section has a description of the work performed during 2013, followed by a list of all documents produced by the team in question. The same presentation structure is followed in relation to Article 7/7a cases.

Following a Foreword by the BEREC Chair 2013, the main sections of the report are as follows:

- Boosting the roll-out of Next Generation Networks (NGN) (Section 2):
- Consumer empowerment and protection (Section 3)
- Services: Boosting the internal market (Section 4)
- Engagement with the European Institutions in the implementation of the European Framework (Section 5)
- Other internal and external activities (Section 6)
- Article 7/7a FD procedures(Section 7)
- Representation and cooperation (Section 8)
- Organisational issues (Section 9)

The report on the electronic communications sector, in compliance with Article 3(1)(n) of the BEREC Regulation, examines developments in the sector in 2013 focusing particularly on topics such as economic and regulatory remedy trends (Sections 2 and 3), NGN regulatory challenges (Section 4), the neutrality of the internet (Section 5), international roaming and termination prices (Sections 6 and 7), M2M communications (Section 8), and access to electronic communications services for disabled end-users (Section 9).

This report identifies the key-trends in the electronic communications sector, while addressing both the market dynamics as well as the development of EU public policies and regulatory practices. It sets out the view of BEREC, based on its members' expertise and knowledge, while describing BEREC's own contribution to the development of the sector.

The analysis includes qualitative reasoning, based on the key thinking from BEREC EWG activity, together with quantitative data, based on the two main periodic BEREC data collection exercises and on other public reports.

Relevant link:

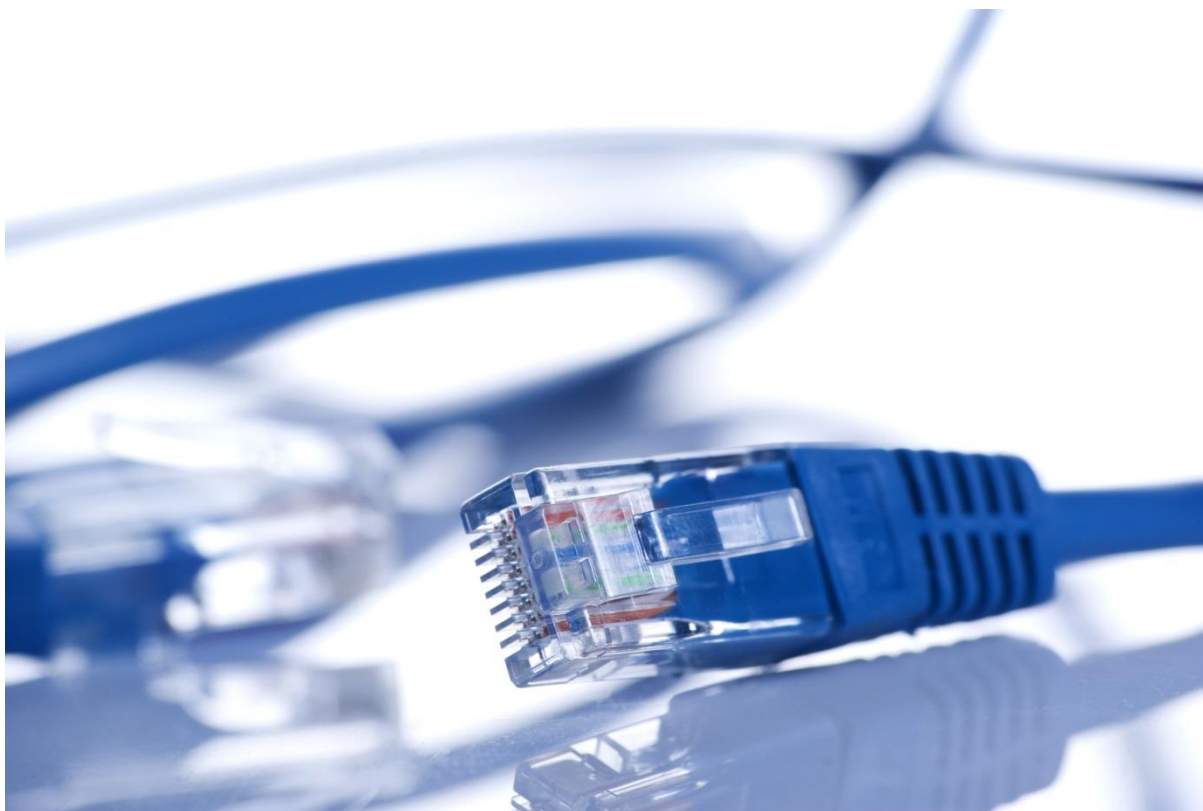
[BEREC Annual Report on developments in the electronic communications sector in 2013 and Annual Report on BEREC activities in 2013](#)

Archive:

[BEREC Annual reports 2012](#)

[BEREC Annual reports 2011](#)

[BEREC Annual report 2010](#)



Calendar of the future meetings and events

3rd Contact Network meeting for 2014 in Liechtenstein	04.09.2014	Information
20th BEREC Plenary Meeting in Italy	25.09.2014	Information
Public debriefing from the 20th BEREC plenary	02.10.2014	Information
2nd BEREC Stakeholder Forum Meeting	16.10.2014	Information Apply
4th Contact Network meeting for 2014 in Finland	13.11.2014	Information
21st BEREC Plenary Meeting in Turkey	04.12.2014	Information
Public debriefing from the 21st BEREC plenary	11.12.2014	Information

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