

RULES OF PROCEDURE OF THE BOARD OF REGULATORS

The Body of European Regulators for Electronic Communications (hereinafter, “**BEREC**”) has been established by Regulation (EC) 1211/2009 (hereinafter the “**Regulation**”) and its functioning shall be governed by the Regulation and these rules of procedure (hereinafter, the “**Rules of /Procedure**”). In case of inconsistency between these Rules of Procedure and the Regulation, the Regulation shall prevail.

The Board of Regulators shall exercise the relevant tasks assigned to BEREC by the Regulation, in accordance with the provisions of these Rules of Procedure.

Article 1 – Composition

Members

1. The Board of Regulators shall be composed of one member per member state who shall be the head or nominated high-level representative of the national regulatory authority established in each Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services (hereinafter NRA).
2. Each NRA shall nominate one alternate, whose names shall be communicated to the Office. When neither the Member nor the nominated alternate can attend a meeting of the Board of Regulators, a further alternate may attend and stand in for those representatives, provided that he/she is authorised to do so in writing and that the authorisation is communicated to the Chair and to the Administrative Manager of the Office in advance of the meeting concerned.
3. The Board of Regulators shall be assisted by a working group (Contact Network) composed of senior representatives of all members to prepare the decisions to be taken by the Board of Regulators. The European Commission and the other observers shall be represented at the Contact Network.

Observers

Heads (or their representatives) of the independent national regulatory authorities from EEA States that are not members of the European Union and from those States that are candidates for accession to the European Union shall have the right to participate in Board of Regulators meetings as observers (“**Observers**”).

The Commission and the EFTA Surveillance Authority shall attend as Observers and shall be represented at an appropriate level.

Upon the suggestion of Members or Observers, or on its own initiative, the Chair may invite Heads (or their representatives) of other independent national regulatory authorities to participate in Board of Regulators meetings as Observers.

Other participants

Upon suggestion of Members or Observers, or on its own initiative, the Chair may invite external experts to take part in meetings of the Board of Regulators. Such invitations should be made not later than four weeks before the meeting in question. A clear distinction should be made between experts, on the one hand, and interested parties (market participants, consumers and end-users or their representatives) on the other hand (whose participation in BEREC work shall be through consultations and/or public hearings).

Article 2 – Appointment and Term of the Chair and Vice-Chairs

1. Before serving her/his term as Chair for one year, the Chair shall first serve one year as Vice-Chair. She/he shall also serve as Vice-Chair for the year following her/his term as Chair. Every year the Board of Regulators shall appoint the Chair for the year subsequent to the following year according to the selection procedure described in this Article.
2. The Board of Regulators shall elect the Vice-Chair who shall become Chair the following year from among the members with voting rights. Candidacies for Vice-Chair shall be submitted to the Office in writing either by the candidates themselves or by other members of the Board of Regulators at least 2 months before the election. The Chair will circulate the list of candidates to the Members within five working days of that date.
3. A candidacy must be supported by at least 4 Members. The candidate shall have a record of active personal participation in BEREC and shall ensure that she/he is able to devote a significant part of her/his time to her/his position in the BEREC.
4. The election shall be by a secret ballot. A candidate shall be elected by a 2/3 majority of the Members. The election shall take place at the last ordinary plenary meeting of the year. Two tellers shall be designated from among the members to assist in the vote.
5. The election shall take place in accordance with the following procedure :
 - a. If the Office only receives one candidacy, this candidate shall be elected provided that she/he receives the support of 2/3 majority of all members. Should the candidate not receive that support in the first round, the vote shall be repeated once. Should the candidate not receive that support in the second round, a new invitation for candidacies shall open.

- b. If two or more candidacies are submitted and during the first vote no candidate obtains a 2/3 majority of the votes of all Members, the candidate with the least support shall be withdrawn from the selection process. Rounds will run until a candidate receives a 2/3 majority of votes of all members. Where there remains a sole candidacy that does not obtain the support of a 2/3 majority, a new invitation for candidacies shall open.
6. In addition to the support provided to the Chair by the two Vice-Chairs, the Board of Regulators may decide to elect other Members as additional Vice-Chairs for 1 year. The election of the additional Vice-Chairs will take place during the last ordinary Plenary meeting of the year for the following year in accordance with the voting rules set out in paragraph 3, 4 and 5.
7. The serving Chair shall inform the Board of Regulators of the voting results.
8. On an exceptional basis the Chair and Vice-Chairs for 2010 including the Vice-Chair becoming Chair in 2011, will be elected during the first meeting of the Board of Regulators. Candidacies supported by 4 members will be received at the beginning of the meeting. The Chair and the Vice-Chairs will be elected in accordance with paragraphs 3, 4 and 5 of this Article. The election shall take place after the Board of Regulators has adopted its Rules of Procedure.

Article 3 – Duties of the Chair and Vice Chair

1. The Chair shall be responsible for external relations on behalf of BEREC. She/he shall inform all Members of any planned external engagements and contacts and report on their results.
2. The Board of Regulators may decide to grant the Chair a clearly defined mandate to speak and act on behalf of the BEREC.
3. A Vice-Chair shall assume the duties of the Chair if the latter is not in a position to perform her/his duties. The Vice-Chair(s) will assist the Chair, at her/his request, in the performance of her/his duties.

Article 4 – Plenary meetings of the Board of Regulators

1. The ordinary plenary meetings of the Board of Regulators shall be convened by the Chair in writing not less than ten days prior to the proposed meeting date and shall occur at least four times a year.

2. Extraordinary plenary meetings of the Board of Regulators may also be convened at the initiative of the Chair in consultation with the Administrative Manager, or at the request of at least one third of the Board of Regulators' members. Extraordinary meetings shall be convened by the Chair in writing not less than three days before the date of the meeting
3. Any Member wishing to host a Board of Regulators meeting shall submit a proposal to the Office. In the event of more than one proposal being received for a particular meeting, the Member planned to Chair BEREK for the concerned period shall have the final decision. In the event that no proposal for hosting a meeting is presented by a Member, the Board of Regulators may request the Office to make a proposal to organise the meeting at a suitable place.
4. Notices of the meetings shall indicate the date, time and place of the proposed meeting and shall contain the agenda and the working documents, the draft proposals and all relevant material which are needed for the meeting. The Office shall be responsible for distributing the agenda and relevant documents.
5. The Administrative Manager shall be entitled to take part, without having the right to vote, in meetings of the Board of Regulators.
6. Each member may be represented at the meeting by another member, provided that written authorisation from the absent member is submitted to the Chair. A member may represent a maximum of two other members.

Article 5 – Agenda

1. A provisional agenda shall be drawn up by the Chair assisted by the Administrative Manager. It shall contain, in addition to those items the inclusion of which is requested by a Member, any item the inclusion of which is requested by the Administrative Manager.
2. Any request made by Members for including, deleting or substituting an item on the agenda shall state the reasons on which it is based. The Chair shall inform the other members of any such request.
3. The agenda shall be adopted at the beginning of each meeting.

Article 6 – Documents for meetings

1. The provisional agenda and draft proposals, documents, submission notes and other relevant material shall be prepared in accordance with the decisions of the Contact Network, together with any additional material considered necessary by the Administrative Manager. As the case may require, the material shall be prepared either by the Office or by a Working Group with the assistance of the Office. The material shall be distributed by the Office not less than 10 days before ordinary meetings and not less

than 3 days before extraordinary meetings, so that members have the opportunity to propose amendments prior to the vote.

2. Exceptionally, documents such as short statements or press releases may be prepared and agreed during meetings of the Board of Regulators.
3. Documents submitted to the Board of Regulators shall be accompanied by a covering submission note prepared either by the Office or by a Working Group with the assistance of the Office, which outlines the key issues and the decision being sought by the Board of Regulators.

Article 7 – Minutes and follow-up

1. The Office shall prepare the draft minutes of the meetings of the Board of Regulators.
2. The minutes of each meeting shall as a general rule indicate in respect of each item :
 - a. Documents submitted to the Board of Regulators
 - b. A summary record of the proceedings
 - c. A record of the decisions adopted or the conclusions reached by the Board of Regulators, summarising the main arguments together with the reservations of a member at its request
 - d. The list of attendees
3. The draft minutes shall be approved electronically by the Members no later than 15 working days after that meeting. The minutes of all meetings shall be kept by the Office in a register, which shall be accessible to any Member upon request.
4. The follow-up actions to be undertaken after the meeting will be summarised by the Chair in the end of the meeting and will be circulated electronically within 3 working days.
5. Until the Office is operational, the duties related to this article will be performed by the Chair of the Board of Regulators.

Article 8 – Quorum

The quorum necessary for meetings shall be achieved when at least two-thirds of all voting members are present or represented by proxy in accordance with Article 9 (2). In order to determine whether the quorum is met, an attendance list shall be drawn up by the Office at the beginning of each meeting.

Article 9 – Voting procedures for meetings

1. The Board of Regulators shall act by a two-thirds majority of all its members unless otherwise provided in the Regulation, in the Framework Directive or in the Specific Directives, voting in accordance with the procedures in this article and Article 10.
2. In addition to his own vote, each voting member may cast a maximum of two votes received by written proxy. The proxy shall be submitted to the Chair at the beginning of the meeting and shall be recorded in the minutes.
3. Voting shall be by a show of hands or by secret ballot. A request for a secret ballot must be made by at least two voting members present and supported by a majority of members.
4. The Chair shall submit a proposal for a decision to the Members, who shall vote by “yes” if they are in favour of it, or “no”, or “abstention”.
5. If at least the requisite number of members has voted in favour of the proposal the Chair shall declare the proposal approved.
6. If the number of members who have either voted against the proposal or who have formally abstained results in the threshold for approval not having been met, the Chairman shall declare that the proposal has not been approved.
7. The adopted documents or decisions shall include the reservations of an NRA at its request

Article 10 – Electronic voting procedure

1. The Chair may seek a decision of the Board of Regulators by means of an electronic voting procedure when a meeting is not possible or practicable and cannot wait until the next plenary meeting.
2. The Chair shall inform the Members as soon as possible of the need and justification for an electronic voting procedure. Where a future need can be foreseen, the Chair shall, if possible, inform Members at a meeting of its intended use.
3. The electronic voting may be initiated by the Chair in consultation with the Administrative Manager. Draft decisions together with the relevant documents shall be addressed to members and, for information, to observers, after approval of the Chair. The minimum period which must be given for comments to be submitted is 5 working days, except in

case of justified extreme urgency where the time-limit is of one working day. All comments received within the deadline shall be distributed to the Members.

4. If significantly different opinions are expressed in the comments, the Chair with the support of the Administrative Manager, shall attempt to resolve the differences between the respective Members. The Chair shall prepare a final proposal and submit it to the vote. She/he shall send it to the members and shall lay down a time-limit which must not be less than 7 calendar days, except in cases of justified extreme urgency where the time-limit is of one working day.
5. For any voting round to be valid, at least the majority of the Members must have cast their vote or formally abstained.
6. If the number of members who have either voted against the proposal or who have formally abstained prevent the required threshold for approval being met, the Chair shall declare the proposal not approved. In this case the Chair, in consultation with the Administrative Manager, shall inform the Members of the number of votes cast for and against the proposal, as well as the number of formal abstentions, in the first round and shall organise a second and last round of electronic voting.
7. In the second round, the votes of members who have not cast their vote and the abstention will be counted as representing support for the position taken by the majority of those who have voted. The proposal will be approved if the required majority of the votes are considered to be in favour of the proposal.
8. A full report on the outcome of the procedure will be made available to members. The report will indicate in particular:
 - a. The detailed results of the voting (i.e., number of votes cast – specifying the number of negative and positive votes and abstentions); and
 - b. The remarks and reservations of Members upon their request.
9. Members can make public use of their part of the voting report if they want.
10. If the electronic procedure remains undecided, an extraordinary meeting shall be convened at the initiative of the Chair.

Article 11 – Expert Working Groups

The Board of Regulators may decide to create Expert Working Groups to assist with the performance of the tasks and functions of BEREC and request the Office to provide support. The Chair of each Expert Working Group shall be designated by the Board of Regulators. Expert Working Groups shall be open to all members and observers.

Article 12 – Contact Network

The Contact Network is a specific type of Expert Working Group, composed of senior representatives of all Members, chaired by a representative of the Chair of the Board of Regulators. Its members shall have a mandate to speak on behalf of their NRAs. The Administrative Manager attends Contact Networks meetings.

The Contact Network ensures coordination of proposals to be considered by the Board of Regulators. The Board of Regulators may decide to delegate some of its duties to the Contact Network. However this mandate shall be clearly defined in advance.

In particular, the Contact Network shall perform the following tasks:

1. The Contact Network shall make the necessary preparations with the support of the Office for each meeting of the Board of Regulators. To this end it shall:
 - a. aim to resolve outstanding differences of opinion between the Members,
 - b. ensure that proposed papers to be submitted for consideration by the Board of Regulators are duly and timely prepared, and
 - c. with the assistance of the Administrative Manager, agree the draft agenda for each meeting of the Board of Regulators, which shall then be proposed to the Chair of the Board of Regulators for approval.
2. The Contact Network shall act as a filter and facilitator between Expert Working Groups, on the one hand, and the Board of Regulators, on the other hand, with the assistance of the Office. To this end, it shall, inter alia:
 - a. assess the completeness and the consistency of papers proposed to the Board of Regulators, and ensure that these papers are ready for discussion and decision by the Board of Regulators, and
 - b. facilitate the arrangements and coordination with the Office.
3. The Contact Network can delay items being considered by the Board of Regulators where issues need further work and can make recommendations to the Board, for example in setting priorities for the execution of the Work Programme.
4. The Contact Network also operates as an informal network whose members are the key contact points between NRAs for seeking and exchanging information on regulatory issues.
5. The Contact Network shall meet three to four weeks prior to the ordinary meetings of the Board of Regulators, and may, if requested by the Chair of the Contact Network, meet prior to any extraordinary meetings.

Article 13 – Article 7 Expert Groups (establishment – functioning – reports- voting)***TO BE COMPLETED BEFORE THE TIME LIMIT FOR TRANSPOSITION*****Article 14 – Preparation and approval of the Work Program**

1. The draft Work Programme of BEREC shall be prepared by the Chair with the assistance of the Office, if required, and of the Expert Working Groups, which can make proposals to the Chair.
2. The draft Work Programme shall then be submitted for the consideration and comments of Members and Observers through the Contact Network, after which an amended draft shall be submitted for the approval of the Board of Regulators.
3. Once approved by the Board of Regulators, the draft Work Programme shall be published for public consultation, which shall take the form of both a public hearing and written comments.
4. Having taken account of the responses, the Chair, with the assistance of the Administrative Manager, shall finalize the Work Programme. Before submitting to the Board of Regulators for final approval, she/he shall inform the Contact Network and, in relation to the attribution and/or confirmation of the Chairs of the Expert Working Groups as well as regarding the commitment of NRAs resources, the Expert Working Groups.
5. The Board of Regulators shall adopt the annual Work Programme of BEREC before the end of each year preceding that to which the work Programme relates.
6. The Board of Regulators shall transmit the Work Programme to the European Parliament, the Council and the Commission each year as soon as it is adopted

Article 15 – Project Requirements Definition

1. Once the Work Programme has been approved and work items have been assigned to the Expert Working Groups, the Chair of each Expert Working Group shall prepare, with the assistance of the Office, a Project Requirements Definition (PRD) for each work item for which they are responsible.
2. The PRD shall provide a clear statement of the purpose and scope of the planned activity, taking into account the objectives set in the Work Programme. It shall set out :
 - a. the form which the deliverable(s) will take
 - b. the list of Members actively contributing to the Expert Working Group
 - c. the anticipated dates of interim and final delivery.

Article 16 – Public Consultations

1. Public consultations shall be organised in such cases where the input and comments of stakeholders is required.
2. Subject to Article 16.3 of these Rules of Procedure, the Board of Regulators shall agree on a case-by-case basis, whether to organise a public consultation, by a written procedure, and/or a public hearing, to gather either comments on a draft document and/or opinions in a preliminary phase of analysis.
3. The consultation procedure shall in principle be restricted to one round of written comments in the case of a consultation document, unless specific circumstances require otherwise.
4. In deciding on whether and how to consult, the Board of Regulators shall take into account considerations such as the nature of the specific subject, possible alternatives to consultation, confidentiality issues, the interests of third parties, and the urgency of the matter.
5. Public consultations/hearings will be organised by the Office in coordination with the Chair of the relevant Expert Working Group, or with the Chair of the Board of Regulators in the case of Article 16(2).
6. The procedure for consultation and the time-scale for responses will be made available on the BEREC website.
7. The time-scale for responses will in principle be a minimum of 15 working days and a maximum of 20 working days.
8. Comments, to be addressed to the Office in written form, preferably by e-mail, will be made available on the BEREC's website, except where confidentiality has been requested.

Article 17 – Right of access to BEREC's documents and confidentiality

Without prejudice to the right of access to BEREC documents under EU legislation, the publication or making available to the public or any stakeholder of any BEREC Documents requires the prior approval of the Board of Regulators.

Article 18 – BEREC websites

The Office shall run a BEREC internal website (intranet). It shall be used as a closed platform for the electronic exchange of documents between Members and in appropriate cases Observers, and shall be the preferred method of document circulation among Members.

In addition, BEREC shall also have an external website, also run by the Office, where all BEREC documents approved by the Board of Regulators for publication will be published.

Article 19 - Declarations

1. Members of the Board of Regulators shall make a declaration of commitment to fulfil their duties and a declaration of interests which could be prejudicial to their independence. These declarations shall be made annually in writing and be entered in a register held by the Office which is accessible to the public, on request, at the seat of the Office. In addition, declarations of interests shall be published on the website of BEREC. These Declarations shall be made in accordance with the models contained in Annex 1 and 2.
2. At each meeting, members shall declare any interest which could be considered to be prejudicial to their independence with respect to any point on the agenda. Anyone declaring such interests shall not participate in any vote on the relevant point.

Article 20- Duty of confidentiality

Members of the Board of Regulators shall be required, even after their duties have ceased, not to disclose information of the kind covered by the duty of professional secrecy.

Article 21 – Revision of the rules of procedure

1. The Chair of the Board of Regulators may propose, following a request from one of the Members or on his/her own initiative, amendments to these rules of procedure.
2. These amendments shall be adopted by the Board of Regulators, in accordance with article 9 of these Rules of Procedure. They may include in particular further specific provisions with regard to the Work Programme, article 7 and transparency requirements.

Article 22 – General provisions

These rules of procedure shall be published on the BEREC website.

Annex 1

ANNUAL DECLARATION OF COMMITMENT FOR MEMBERS OF THE BOARD OF REGULATORS acc. to Art. 21 of the BEREC Regulation (1211/2009)

I, hereby declare that I shall make all reasonable efforts to fulfil my duties as a member of the Board of Regulators (BEREC).

More particularly, I undertake to exercise the functions entrusted to me by BEREC and not to seek or accept any instructions incompatible with my individual tasks or with the tasks of BEREC from any other party.

I understand that this Declaration will be entered in a register held by the BEREC Office which is accessible to the public, on request, at the seat of the Office.

Done at _____ on ____/____ 201__

Signature: _____

Position: _____

Annex 2

ANNUAL DECLARATION OF INTERESTS OF THE MEMBERS OF THE BOARD OF REGULATORS

Title (Ms., Mr., Dr., Prof.):

First Name:

Surname:

Position:

hereby declares to have the following interests:

1. Work and activities in organisations relevant to the operating area of BEREC during the past 5 years¹: Name of organisation/Position/Period

.....

2. Financial interests in a company relevant to the operating area of BEREC² during the past 5 years and exceeding 50 000 € and/or voting rights of 5 % or more per company (Name of the company)

.....

3. Other interests or facts whether or not related to such organisations which you consider should be made known to BEREC, including matters relating to the members of your household:

.....

4. Work and activities, whether or not remunerated, for and/or on behalf of such a company or organisation and other links with the organisations relevant to BEREC.

.....

I,, hereby declare on my honour that, to the best of my knowledge, the only direct or indirect interests I have in organisations relevant to the operating area of BEREC related to my position referred to above are those listed above.

I further declare that should any changes occur and should it appear that I have or acquire additional interests that should be made known to BEREC I shall forthwith declare them and complete a new declaration of interests detailing the changes.

¹ Please include here any work/activities during the past 5 years you may have done in a public or private company operating within the electronic communications sector

² Please consider here any financial interests you may have had during the 5 past years in a public or private company operating in the electronic communications sector, exceeding the thresholds above-mentioned

I understand that this Declaration **will be published on BEREK's website** and entered in a register held by the Office, which is accessible to the public, on request at the seat of the Office.

Signature:..... Date:.....