



Creating a brighter future

Response to the consultation on the 'Draft BEREC Work Programme 2013'

25 October 2012

Introduction

The FTTH Council Europe welcomes the opportunity to comment on the draft BEREC work programme 2013.

The FTTH Council Europe is an industry organisation with a mission to accelerate the availability of FTTH access networks to consumers and businesses. The Council promotes this technology because it will deliver a flow of new services that enhances the quality of life, contributes to a better environment and increased competitiveness. The FTTH Council Europe consists of more than 150 member companies. Its members include leading telecommunications companies and many world leaders in the telecommunications industry (additional information is available at www.ftthcouncil.eu). Telecoms operators are not members of the FTTH Council and we have our own perspectives regarding the appropriate regulatory policies to accelerate NGA deployments.

The FTTH Council's interest is to see the benefits of FTTH made available to the greatest extent possible and in the shortest possible period of time. A competitive market dynamic is central to achieving our objective both for accelerating FTTH deployment directly where competitive deployment is possible and also indirectly, by driving service innovation and demand, where competitive deployment is not possible.

Comment

The FTTH Council finds the thematic approach in the draft BEREC work programme useful and clear in highlighting BEREC's priorities for the year ahead.

With regard to the subject of the work programme, the FTTH Council wishes to work with BEREC in areas related to FTTH and other factors affecting network development. The FTTH Council sees that Theme A dealing with measures to boost NGA are most relevant for the Council's own work. The FTTH Council notes that BEREC has not commented on Mrs Kroes' Policy initiative announced on 12 July 2012 and believes a reaction from BEREC would be appropriate. It is acknowledged that BEREC will comment and give opinion on the specific Recommendations put forward to implement that policy, but the fact is that the market has already forming its opinion and the views of BEREC would help inform that opinion.

The FTTH Council welcomes the proposed opinion on the forthcoming Costing Recommendation but believes that there should be room for a public consultation in that response.

The FTTH Council strongly welcomes the proposed update to the common position on geographic markets and the Council notes in its own work on costing FTTH networks that geographic aspects can be critical to the cost function and thereby, to deployment considerations.

Finally on theme A, the FTTH Council believes that three further areas of work should be considered. The first is to close a gap in current policy making which has

largely avoided market based evidence and has instead relied on different theoretical models and their derivatives (Plum, Wik, CRA etc.) largely without reference to actual market outcomes. BEREC and its members are uniquely placed to assess the current state of competition in different EU countries after 15 years from liberalization distinguishing fixed from mobile and seeing which regulatory models have worked best. Where good results have been achieved, what were the necessary conditions? What were the financial results for new entrants/incumbents, what were the results for consumers, what were the results in the general economy? Are there common threads, broader lessons to be learned/applied? Such an assessment would provide an invaluable tool for policy makers in the EU.

A second possible gap concerns the forthcoming proposal from the Commission concerning cost reduction measures. The FTTH Council has actively supported this initiative and believes that BEREC may have an important role to play in reviewing the Commission's proposals due in 2013.

Finally the FTTH Council believe that BEREC should schedule activities around the Recommendation on Relevant Markets which will be a centrepiece of activities in 2013 (even if the action is ultimately delivered in 2014). BEREC should consider how to deal with fixed network evolution in different market circumstances. It is clear that national factors will be very important and that a monorail approach may be inappropriate. The treatment of access remedies over NGA in policy and legal instruments may have a determinative impact on the definition of Markets 4 and 5. The FTTH Council believes there is a need for a careful assessment of impacts on competition models (stranded assets for LLU operators to be addressed and foreclosure effect both on fibre and copper markets). What would be the impact of weakening competition be on sector performance, can such impacts be mitigated through different regulatory approaches?

Regarding Theme B on Consumer empowerment the FTTH Council Europe welcomes the proposed actions regarding both Transparency and QoS. The FTTH Council believes that the work on transparency should be co-ordinated with the measures being brought forward by the Commission in this area in 2012.

The FTTH Council also believes that the QoS deliverable would benefit from a public consultation. The FTTH Council would also like to see the QoS Guidelines deal with the current interpretation of technological neutrality which does not appear to be a correct one in the Council's opinion. The FTTH Council believes that net neutrality implies choosing a target for QoS parameters, upload and download speeds and let the technologies fall where they may. Too often the FTTH Council sees measures and targets set which are designed to include specific technologies rather than choosing the targets based on realistic future needs. This indeed is clear not technologically neutral. The FTTH Council believes technological neutrality should also be reinterpreted or re-envisioned with an economic efficiency test which would avoid wasteful short term investments which need to be rebuilt in the medium term.

The FTTH Council sees the non-discrimination opinion as important but as with the opinion on cost accounting, there should be a public consultation to gather stakeholder views.

The FTTH Council see BEREC's work in the Article 7 process as critical to ensuring the implementation of regulatory best practice across the EU. Since the timelines involved in this process are very short, pre-identified best practice will be important to guiding decisions. The Council suggests that therefore potential tie-ins with the opinions on the costing and non-discrimination Recommendations could form part of this best-practice identification.

The Council is pleased with the emphasis being placed on NGA issues both as an implementation issue and on broadband as a future issue. The Council believes that accelerating NGA and specifically FTTH deployments and ensuring competitive outcomes should continue to be the top priority for NRAs.

The FTTH Council would like to make clear that we as an organisation wish to support and work constructively with BEREC and that the Council is available to provide input and assistance on technical or policy parameters should a need arise.

FTTH Council Europe



President of the Board



Chair Policy & Regulation Group



Director General