



By email:

Chairman Johannes Gungl

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Cc:

Vice-President Andrus Ansip

Commissioner Mariya Gabriel

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Copenhagen, 12 October 2018

Dear Chairman Gungl,

We write to you and your EU colleagues as representatives of the Danish telecom sector.

As BEREC stakeholders, we have a keen interest in engaging in the policy making process that establishes the framework conditions for the EU Digital Single Market. However, as BEREC embarks on an ambitious work program to implement the European Electronic Communications Code, address European connectivity challenges and access to high capacity networks, enable 5G networks, review EU net neutrality regulation, and other critical topics, we are finding it challenging to gain insight into BEREC's policy development work.

On several recent occasions, we have experienced that stakeholders have disproportional access to BEREC's decision-making process. In some instances, insight depends on whether national regulators happen to participate in a specific working group or workstream, which grants access to key Working Group documents and decisions. In others, NGOs and advocacy organizations are invited to contribute to policy development, thereby gaining an opportunity to directly access and shape the policy making process. When other stakeholders are not able to participate in this process, they are left without detailed insight, or an opportunity to present their perspective.

We acknowledge BEREC's right to consult directly with stakeholders of their choosing, but we believe BEREC has an obligation to ensure that consultations or policy development processes do not result in disproportional access to insight amongst stakeholders. This conclusion is consistent with the findings of the public consultation conducted in preparation for the proposed Regulation 2016/0286 establishing the Body of European Regulators for Electronic Communications, where

almost half of the respondents urged measures such as a high level of transparency in decision-making. Article 27 of the proposed regulation specifically applies Regulation (EC) 1049/2001 on public access to EU institutions to BEREC documents.

We would therefore like to urge BEREC to increase its level of transparency, by ensuring that BEREC Working Group agendas, participants (invited and present), minutes and working documents are made available on BEREC's website, in order for stakeholders to gain insight into on-going processes. Such a step would increase BEREC's opportunity to receive timely and relevant input from stakeholders, and dispel potential misunderstandings amongst stakeholders and media, through increased transparency. We also urge BEREC's Management Board to conduct an evaluation of BEREC's current compliance with Regulation (EC) 1049/2001, and present the results of this evaluation to the public.

We respect BEREC's ability to conduct its work, and do not imply that every single internal working document has to be made public, but the current level of access and transparency, in our view, does not meet the minimum standards for an EU institution with significant policy making influence, and calls for adjustment.

Thank you in advance for your attention to this matter. We look forward to receiving your response to our request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jakob Willer', with a small flourish at the end.

Jakob Willer

Director

Danish Telecom Industry Association