

Telecom Industry Association – Denmark – responses to the BEREC questionnaire on the General Authorisation regime pursuant to Article 122.3 EECC.

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On 14th June 2021, BEREC launched a call for input for preparation of the BEREC Opinion on the General Authorisation regime welcoming any input from interested stakeholders that might contribute to identify strengths and weaknesses of the current EU General Authorisation scheme, both in terms of possible areas for improvement in the EU discipline and relevant conceptual operation of the system, as well as of nationally rooted issues.

While the Danish Telecom Industry Association (TI) is happy to participate in the public consultation, we wish to focus on the Danish authorization scheme which naturally is of special interest to us. It is our hope that the learnings from the Danish authorization scheme can be of use to the rest of EU.

TI represents 31 telecommunication companies in Denmark including all the major companies in Denmark and their sub-brands. The responses to the questionnaire represent the general experience of the member companies in the association.

The EU GA legislative framework

- 1. What is your experience so far with the EU General Authorisation regime stemming from the Authorisation Directive and its implementation into national legislation for the functioning of the internal market - including market entry - in Member States where you are operational?*

TI response: The Danish authorization scheme introduced after the liberalization in 1996 of the Danish telecommunications sector is probably of the most minimalistic within the European context. Thus, no authorization is needed when acting as a provider of telecommunications networks or services in Denmark. The only prerequisite is that all providers must register their business to the National Danish Police to

ensure compliance with the Danish rules on data retention. Licenses are also needed if for instance a company wish to obtain access to spectrum.

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In the view of TI, the minimalistic Danish authorization scheme has been a great success. By lowering the administrative barriers to entry, the Danish telecom market, although small in scale, has been characterized by a generally high level of competition, a substantial number of providers, fast uptake and roll-out of new technologies and business schemes, and low prices – all to the benefit of the end-users and the digital readiness of the country as such.

a. Did you consider this regime effective for reducing requirements for market entry?

TI response: Yes. As an industry, we very much appreciate that the administrative burdens when entering and functioning in the market have been reduced to a minimum and the choice made in the 90's to adopt a very light Danish authorization scheme was a bold and forward-looking one – and in hindsight also a very beneficial one, reducing costs and administrative burdens both in the industry and in the public sector.

b. Did you face any obstacles stemming from this regime while entering a market? Which ones?

TI response: No.

c. Did you experience the GA scheme in more than one Member State? If so, which ones? What is your experience in each Member State, especially regarding the following aspects?

TI response: It is unfortunately difficult for the TI to respond in a general manner to the question on behalf of its members as many of them are represented in other Member States. TI generally recommends that the administrative burdens are reduced to a minimum in all Member States.

i. Did the obligations that you have been subject to differ from a Member State to another, in terms of scope of information to provide in the context of the notification?

TI response: Please see the above listed response.

ii. Did the scope of the activities to be notified differ among Member States? If so, what activities have been exempted from the notification fulfilment in some Member States which have not in other Member States?

TI response: Please see the above listed response.

iii. What was the sanctioning regime envisaged in Member States where you are active for non-compliance with the GA obligations?

TI response: Please see the above listed response.

d. Please share your views on the overall effectiveness of the EU GA system as designed so far by the EU legislator, best practices you might want to point to, as well as views on the advantages and areas for improvement of the current register of operators' regime.

TI response: When tasked to form an opinion on the national implementation and functioning of the general authorization and their impact on the functioning of the internal market as well as working to improve the authorization systems across the EU, TI encourages BEREC to look towards Denmark when it comes to striking the right balance between rights and obligations while at the same time securing easy and equal access to the Danish telecom market.

2. In light of the experience with the EU GA regime so far that you have outlined under question 1, considering the legislative changes introduced in 2018, could you please elaborate on the above matters by pointing to any changes detected on the background of the adoption of the EECC?

TI response: The implementation in Denmark of the EU GA regime did not lead to any legislative changes as no authorization was needed in Denmark prior to the adoption of Directive 2018/1972 of the European Parliament and of the Council.

3. Do you consider the changes of the GA regime introduced by the EECC to be helpful in order to improve the functioning of the internal market, including making market entry easier and less burdensome? Please, explain.

TI response: It is generally considered by TI that the GA regime has improved the internal market as well as the specific markets in those Member States where market access has been made easier and less burdensome.

The notification template as in the BEREC Guidelines for the notification template and the EU GA database held by BEREC

1. What are your views regarding the new standardised set of information that NRAs/other competent authorities may ask operators to provide in the context of the notification (art. 12.4 EECC) and the relevant BEREC template?

TI response: TI strongly supports the use of a unified standardised set of information that NRAs/other competent authorities may ask operators.

a. Have you got already some experience in this respect?

TI response: In the Danish context, the Danish National Police uses a notification template in conformity with the BEREC guidelines. No other notification or information is needed in Denmark for market access. Please find the English version of the template here:

https://politi.dk/-/media/mediefiler/landsdaekkende-dokumenter/blanketter/oevrige/skema-til-indberetning-om-udbydervirksomhed_engelsk-

b. Do you expect your market entry-related fulfilments might benefit from these novelties introduced by the EECC in 2018?

TI response: Although the novelties introduced by the EECC in 2018 have had little effect on the Danish legislative requirements it is foreseen that it will have a positive effect in the wider European context.

2. Although the BEREC GA database is yet to be supplied with data from several Member States, what are your preliminary views on its functioning so far?

TI response: Generally positive. But the experiences with the usefulness of the database are so far limited.

3. According to your experience, to what extent might the procedure designed by the EECC (articles 12-19) effectively help develop the Single Market?

TI response: TI generally recommends that the administrative burdens and the level of information needed should be reduced to a minimum in all Member States.

a. Is the current design for market entry (notification as the maximum requirement, fixed amount of information that can legitimately be asked from operators, collection of national notifications at EU level in the BEREC GA database) fit for the pursuit of the sectoral regulatory goals?

TI response: TI generally recommends that the level of information needed should be reduced to a minimum in all Member States as is the case in Denmark.

b. Do you have any proposal to make it more efficient and fit for the new challenges posed by the new digital world?

TI response: Simplifying table 4 would help to reduce administrative burdens.

Further issues

1. Could you please share any additional consideration on the whole GA-related system as designed in articles 12-19 EECC?

TI response: The level of information needed should be reduced to a minimum and be kept on a generic level.

2. Please share any further ideas you wish on the GA regime as well as on the BEREC notification Template and relevant GA database and their potential improvement in the future.

TI response: The TI finds that the level of information needed in the Table 4 (Short description of the network(s) and service(s)) is unnecessarily detailed and will prove difficult to provide. TI recommends that the information is limited to general information about the market

segment (mobile provider, fixed line provider or internet provider etc.)
and that information about the providers network is kept to a minimum.