

Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (Text with EEA relevance) (repealed)

CHAPTER II

ORGANISATION OF BEREC

Article 2

Role of BEREC

BEREC shall:

- (a) develop and disseminate among NRAs regulatory best practice, such as common approaches, methodologies or guidelines on the implementation of the EU regulatory framework;
- (b) on request, provide assistance to NRAs on regulatory issues;
- (c) deliver opinions on the draft decisions, recommendations and guidelines of the Commission, referred to in this Regulation, the Framework Directive and the Specific Directives;
- (d) issue reports and provide advice, upon a reasoned request of the Commission or on its own initiative, and deliver opinions to the European Parliament and the Council, upon a reasoned request or on its own initiative, on any matter regarding electronic communications within its competence;
- (e) on request, assist the European Parliament, the Council, the Commission and the NRAs in relations, discussions and exchanges with third parties; and assist the Commission and NRAs in the dissemination of regulatory best practices to third parties.

Article 3

Tasks of BEREC

- 1 The tasks of BEREC shall be:
 - a to deliver opinions on draft measures of NRAs concerning market definition, the designation of undertakings with significant market power and the imposition of remedies, in accordance with Articles 7 and 7a of Directive 2002/21/EC (Framework Directive); and to cooperate and work together with the NRAs in accordance with Articles 7 and 7a of Directive 2002/21/EC (Framework Directive);
 - b to deliver opinions on draft recommendations and/or guidelines on the form, content and level of details to be given in notifications, in accordance with Article 7b of Directive 2002/21/EC (Framework Directive);
 - c to be consulted on draft recommendations on relevant product and service markets, in accordance with Article 15 of Directive 2002/21/EC (Framework Directive);

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- d to deliver opinions on draft decisions on the identification of transnational markets, in accordance with Article 15 of Directive 2002/21/EC (Framework Directive);
 - e on request, to provide assistance to NRAs, in the context of the analysis of the relevant market in accordance with Article 16 of Directive 2002/21/EC (Framework Directive);
 - f to deliver opinions on draft decisions and recommendations on harmonisation, in accordance with Article 19 of Directive 2002/21/EC (Framework Directive);
 - g to be consulted and to deliver opinions on cross-border disputes in accordance with Article 21 of Directive 2002/21/EC (Framework Directive);
 - h to deliver opinions on draft decisions authorising or preventing an NRA from taking exceptional measures, in accordance with Article 8 of Directive 2002/19/EC (Access Directive);
 - i to be consulted on draft measures relating to effective access to the emergency call number 112, in accordance with Article 26 of Directive 2002/22/EC (Universal Service Directive);
 - j to be consulted on draft measures relating to the effective implementation of the 116 numbering range, in particular the missing children hotline number 116000, in accordance with Article 27a of Directive 2002/22/EC (Universal Service Directive);
 - k to assist the Commission with the updating of Annex II to Directive 2002/19/EC (Access Directive), in accordance with Article 9 of that Directive;
 - l on request, to provide assistance to NRAs on issues relating to fraud or the misuse of numbering resources within the Community, in particular for cross-border services;
 - m to deliver opinions aiming to ensure the development of common rules and requirements for providers of cross-border business services;
 - n to monitor and report on the electronic communications sector, and publish an annual report on developments in that sector.
- 2 BEREC may, upon a reasoned request from the Commission, decide unanimously to take on other specific tasks necessary for the accomplishment of its role within the scope defined in Article 1(2).

3 NRAs and the Commission shall take the utmost account of any opinion, recommendation, guidelines, advice or regulatory best practice adopted by BEREC. BEREC may, where appropriate, consult the relevant national competition authorities before issuing its opinion to the Commission.

Article 4

Composition and organisation of BEREC

1 BEREC shall be composed of the Board of Regulators.

2 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 NRA established in each Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services.

When carrying out the tasks conferred upon it by this Regulation, BEREC shall act independently.

The members of the Board of Regulators shall neither seek nor accept any instruction from any government, from the Commission, or from any other public or private entity.

NRAs shall nominate one alternate member per Member State.

The Commission shall attend BEREC meetings as observer and shall be represented at an appropriate level.

3 NRAs from European Economic Area (EEA) States and from those States that are candidates for accession to the European Union shall have observer status and shall be represented at an appropriate level. BEREC may invite other experts and observers to attend its meetings.

4 The Board of Regulators shall appoint its Chair and Vice-Chair(s) from among its members, subject to the rules of procedure of BEREC. The Vice-Chair(s) shall automatically assume the duties of the Chair if the latter is not in a position to perform those duties. The term of office of the Chair and of the Vice-Chair(s) shall be one year.

5 Without prejudice to the role of the Board of Regulators in relation to the tasks of the Chair, the Chair shall neither seek nor accept any instruction from any government or NRA, from the Commission, or from any other public or private entity.

6 Plenary meetings of the Board of Regulators shall be convened by its Chair and shall occur at least four times a year in ordinary session. Extraordinary meetings shall also be convened at the initiative of the Chair, at the request of the Commission or at the request of at least one third of the Board's members. The agenda of the meeting shall be set by the Chair and shall be made public.

7 The work of BEREC may be organised into Expert Working Groups.

8 The Commission shall be invited to all plenary meetings of the Board of Regulators.

9 The Board of Regulators shall act by a two-thirds majority of its all members unless otherwise provided for in this Regulation, in the Framework Directive or in the Specific Directives. Each member or alternate member shall have one vote. The decisions of the Board of Regulators shall be made public, and shall indicate the reservations of an NRA at its request.

10 The Board of Regulators shall adopt and make publicly available the rules of procedure of BEREC. The rules of procedure shall set out in detail the arrangements governing voting, including the conditions under which one member may act on behalf of another member, the rules governing quorums, and the notification deadlines for meetings. Furthermore, the rules of procedure shall guarantee that the members of the Board of Regulators are always provided with full agendas and draft proposals in advance of each meeting so that they have the opportunity to propose amendments prior to the vote. The rules of procedure may, inter alia, also set out urgent voting procedures.

11 The Office referred to Article 6 shall provide administrative and professional support services to BEREC.

Article 5

Tasks of the Board of Regulators

1 The Board of Regulators shall fulfil the tasks of BEREC set out in Article 3 and take all decisions relating to the performance of its functions.

2 The Board of Regulators shall approve the voluntary financial contribution from Member States or NRAs before they are made in accordance with Article 11(1)(b) subject to the following arrangements:

- a by unanimity where all Member States or NRAs have decided to make a contribution;

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- b by simple majority where a number of Member States or NRAs acting unanimously have decided to make a contribution.

3 The Board of Regulators shall adopt, on behalf of BEREC, the special provisions on right of access to documents held by BEREC, in accordance with Article 22.

4 The Board of Regulators shall, after consulting interested parties in accordance with Article 17, adopt the annual work programme of BEREC before the end of each year preceding that to which the work programme relates. The Board of Regulators shall transmit the annual work programme to the European Parliament, the Council and the Commission as soon as it is adopted.

5 The Board of Regulators shall adopt the annual report on the activities of BEREC and shall transmit it to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Court of Auditors annually by 15 June. The European Parliament may request the Chair of the Board of Regulators to address it on relevant issues relating to the activities of BEREC.

Article 6

The Office

1 The Office is hereby established as a Community body with legal personality within the meaning of Article 185 of the Financial Regulation. Point 47 of the IIA of 17 May 2006 shall apply to the Office.

2 Under the guidance of the Board of Regulators, the Office shall in particular:

- provide professional and administrative support services to BEREC,
- collect information from NRAs and exchange and transmit information in relation to the role and tasks set out in Articles 2(a) and 3,
- disseminate regulatory best practices among NRAs, in accordance with Article 2(a),
- assist the Chair in the preparation of the work of the Board of Regulators,
- set up Expert Working Groups, upon request of the Board of Regulators, and provide support to ensure the smooth functioning of those Groups.

3 The Office shall comprise:

- a a Management Committee;
- b an Administrative Manager.

4 In every Member State the Office shall enjoy the most extensive legal capacity accorded to legal persons under national law. The Office may, in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.

5 The Office shall be managed by the Administrative Manager and shall have staff strictly limited to the number required to carry out its duties. The number of staff shall be proposed by members of the Management Committee and the Administrative Manager in accordance with Article 11. Any proposal to increase the number of staff may only be taken by unanimous decision of the Management Committee.

Article 7

Management Committee

1 The Management Committee shall be composed of one member per Member State who shall be the head or nominated high level representative of the independent NRA established in each Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services, and one member representing the Commission.

Each Member shall have one vote.

The provisions of Article 4 shall apply, *mutatis mutandis*, to the Management Committee.

2 The Management Committee shall appoint the Administrative Manager. The Administrative Manager designated shall not participate in the preparation of, or vote on, such a decision.

3 The Management Committee shall provide guidance to the Administrative Manager in the execution of the Administrative Manager's tasks.

4 The Management Committee shall be responsible for the appointment of staff.

5 The Management Committee shall assist in the work of the Expert Working Groups.

Article 8

The Administrative Manager

1 The Administrative Manager shall be accountable to the Management Committee. In the performance of his or her functions, the Administrative Manager shall neither seek nor accept any instruction from any Member State, any NRA, the Commission or any third party.

2 The Administrative Manager shall be appointed by the Management Committee, by means of an open competition, on the basis of merit and the skills and experience relevant to electronic communications networks and services. Before appointment, the suitability of the candidate selected by the Management Committee may be subject to a non-binding opinion of the European Parliament. To this end, the candidate shall be invited to make a statement before the responsible committee of the European Parliament and answer questions put by its members.

3 The Administrative Manager's term of office shall be three years.

4 The Management Committee may extend the term of office of the Administrative Manager once for not more than three years, taking into account the evaluation report undertaken by the Chair and only in those cases where it can be justified by the duties and requirements of BEREC.

The Management Committee shall inform the European Parliament of any intention to extend the Administrative Manager's term of office.

Where the term of office is not extended, the Administrative Manager shall remain in office until the appointment of a successor.

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Article 9

Tasks of the Administrative Manager

- 1 The Administrative Manager shall be responsible for heading the Office.
- 2 The Administrative Manager shall assist with the preparation of the agenda of the Board of Regulators, the Management Committee and the Expert Working Groups. The Administrative Manager shall participate, without having the right to vote, in the work of the Board of Regulators and the Management Committee.
- 3 Every year the Administrative Manager shall assist the Management Committee with the preparation of the draft work programme of the Office for the following year. The draft work programme for the following year shall be submitted to the Management Committee by 30 June, and shall be adopted by the Management Committee by 30 September without pre-empting the final decision on the subsidy taken by the European Parliament and the Council (together referred to as the budgetary authority).
- 4 The Administrative Manager shall, under the guidance of the Board of Regulators, supervise the implementation of the annual work programme of the Office.
- 5 The Administrative Manager shall, under the supervision of the Management Committee, take the necessary measures, notably the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Office in accordance with this Regulation.
- 6 The Administrative Manager shall, under the supervision of the Management Committee, implement the budget of the Office pursuant to Article 13.
- 7 Each year, the Administrative Manager shall assist with the preparation of the draft annual report on the activities of BEREC referred to in Article 5(5).

Article 10

Staff

- 1 The Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68⁽¹⁾ and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of employment shall apply to the staff of the Office, including to the Administrative Manager.
- 2 The Management Committee, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations of Officials of the European Communities.
- 3 The powers conferred on the appointing authority by the Staff Regulations of Officials of the European Communities and the powers conferred on the authority entitled to conclude contracts by the Conditions of employment of other servants of the European Communities, shall be exercised by the Vice-Chair of the Management Committee.
- 4 The Management Committee may adopt provisions to allow national experts from Member States to be appointed on secondment to the Office on a temporary basis and for a maximum of three years.

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(1) OJ L 56, 4.3.1968, p. 1.

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