



Contribution to public consultation on the draft BEREC Work Programme 2023 7 November 2022

1. Introduction

The Computer & Communications Industry Association (CCIA Europe) thanks the Body of European Regulators for Electronic Communications (BEREC) for the opportunity to comment on its draft 2023 work programme. CCIA Europe represents a wide range of companies in the digital ecosystem, including providers of online content and applications, as well as hosting and content and delivery network services.

CCIA Europe welcomes BEREC's ambitious 2023 draft work programme. Our comments focus on section 2.7. "Assessment of the IP interconnection ecosystem and impact of the potential sending party network pays principle on Internet ecosystem and on end-users (carry-over)".

We stand ready to further contribute in the upcoming public consultation scheduled for June 2023.

2. Comments to section 2.7. "Assessment of the IP interconnection ecosystem and impact of the potential sending party network pays principle on Internet ecosystem and on end-users (carry-over)"

CCIA Europe fully concurs with BEREC's analysis of the IP interconnection ecosystem.

Evidence-based and inclusive policy making are of great importance to CCIA Europe. We appreciate that all stakeholders will have the opportunity to take part in BEREC's forthcoming public consultation. As already noted by BEREC in its preliminary assessment¹, all players in the digital market are largely interconnected and dependent on one another. Hence levying any tax or fee on a few players would effectively impact all other businesses that are part of the Internet ecosystem, regardless of their size, and have an indirect negative effect on consumers, service availability, innovation, and the market's competitiveness.

Europe's internet ecosystem is diverse and we note that many stakeholders have recently expressed their concerns about the potential introduction of a Sending Party Network Pays (SPNP) principle in the European Union. The European Consumer Organisation (BEUC), for

¹ BEREC, *BEREC preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs*, 11 October 2022, available [here](#).

instance, recently warned that “for consumers in particular, the risks or potential disadvantages of establishing measures such a SPNP system would range from a potential distortion of competition on the telecom market, negatively impacting the diversity of products, prices and performance, to the potential impacts on net neutrality, which could undermine the open and free access to Internet as consumers know it today”². CCIA Europe shares these concerns.

Notably, not all Internet service providers (ISPs) have sided with the incumbent telecommunications network operators that are calling for the introduction of EU network usage fees. In a recent statement, the European Association of Mobile Virtual Network Operators (MVNO) warned that: “suggestions for network investment contributions entail risks of hampering competition and consumer wellbeing. [...] It is likely that the companies asked to make contributions [will] pass on fees to their own subscribers.”³ The European Competitive Telecommunications Association (ECTA) made similar points.⁴ Leading academics⁵ have expressed their grave concerns regarding the issue, along with civil society representatives.⁶ It appears that a vast majority of stakeholders, including smaller ISPs, oppose the campaign led by the largest European telecom incumbents.

CCIA Europe welcomes BEREC’s plan to analyse the regulatory interventions in South Korea, which is the only concrete example of an implemented SPNP system. The evidence shows that this model has *undermined* the success of the Korean IP interconnection system.⁷ WIK Consult’s report for the German Telecom Regulator⁸ found that the introduction of network fees in South Korea has weakened competition between ISPs, increased the cost of connectivity for all users, forced content and application providers (CAPs) out of the Korean market, with a consequent deterioration in the quality and offer of content consumers can access.

Similarly, the Internet Society pointed out that “the [SPNP] rules not only harm users in South Korea, but also pose a direct threat to the networking model itself”.⁹ The evidence from South Korea demonstrates that “the few fundamental principles that underpin the Internet must remain untouched. What makes the Internet a global accessible infrastructure must be preserved and

² BEUC, The European Consumer Association, *Connectivity infrastructure and the open internet*, 16 September 2022, available [here](#).

³ MVNO, Mobile Virtual Network Operators Association, *Network Investment Contribution, MVNO Europe Position Paper, August 2022*, available [here](#).

⁴ ECTA, the European Competitive Telecommunications Association, *ECTA statement on suggested contribution to network investment*, 13 September 2022, available [here](#).

⁵ Letter to the Commission urging to abandon the “Sending-Party-Network-Pays” proposal, 5 October 2022, available [here](#).

⁶ Civil society letter to Commissioner Vestager and Breton, 8 June 2022, available [here](#).

⁷ Carnegie Endowment for International Peace, *The Korean Way With Data*, August 2021, available [here](#).

⁸ WIK Consult, *Competitive conditions on transit and peering markets Implications for European digital sovereignty*, 28 February 2022, available [here](#).

⁹ Internet Society, *Sender Pays: What Lessons European Policy Makers Should Take From The Case of South Korea*, 30 September 2022, available [here](#).

critical rules that protect its users, like the Open Internet Regulation, must not be watered down for the commercial interests of a few.”¹⁰

We look forward to BEREC’s analysis of CAPs’ massive investments in network infrastructure and their associated benefits for European consumers and telecommunication operators. A new study by Analysys Mason¹¹ found that CAPs invest €22 billion per year in Europe’s internet infrastructure, generating nearly €1 billion in annual savings for internet providers, including EU telecom operators. Between 2011 and 2021 tech firms spent €183 billion in infrastructure (e.g. delivery, transport, and hosting) in Europe. These infrastructure investments continue to increase, and come on top of CAPs’ existing spending on content and applications.

We hope BEREC’s evidence-based approach will clarify some of the outlandish claims made by the proponents of an SPNP, such as, just to cite an example, the flawed idea that it is tech companies that are *driving* data traffic growth¹². Indeed, BEREC already clarified this in 2012: “ETNO’s proposals do not seem to have taken account of the fact that the request for the data flow usually stems not from the CAP but from the retail Internet access provider’s own customer”¹³, and has reiterated this in its 2022 preliminary assessment.¹⁴ In addition to that, it is indeed CAPs’ exciting content and applications which drive consumer demand for ISPs’ own services such as data plans. Services which their customers have already paid for, as also reiterated by BEREC in 2012.¹⁵

Moreover, claims about “exponential traffic growth”¹⁶ contradict recent reports and BEREC’s 2012 findings that the “Internet traffic has grown steadily over the years” and that “there has been no fundamental change in the general growth tendency.”¹⁷ Indeed, Europe has instead seen a “trend of stable annual growth rates.”¹⁸

If Europe wants to reach its ambitious 2030 digital targets, it should incentivise rather than penalise data flows, which are an expression of consumer demand for connectivity offerings and a key driver for digital innovation in Europe.

¹⁰ *Ibidem*.

¹¹ Analysys Mason, *The impact of tech companies' network investment on the economics of broadband ISPs*, 12 October 2022, available [here](#).

¹² Axon Partners Group, *Europe's internet ecosystem: socioeconomic benefits of a fairer balance between tech giants and telecom operators*, May 2022, available [here](#).

¹³ BEREC, *BEREC's comments on the ETNO proposal for ITU/WCIT or similar initiatives along these lines*, 15 November 2012, available [here](#).

¹⁴ BEREC, *BEREC preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs*, 11 October 2022, available [here](#).

¹⁵ BEREC, *BEREC's comments on the ETNO proposal for ITU/WCIT or similar initiatives along these lines*, 15 November 2012, available [here](#).

¹⁶ Axon Partners Group, *Europe's internet ecosystem: socioeconomic benefits of a fairer balance between tech giants and telecom operators*, May 2022, available [here](#).

¹⁷ BEREC, *BEREC preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs*, 11 October 2022, available [here](#).

¹⁸ WIK Consult, *Competitive conditions on transit and peering markets Implications for European digital sovereignty*, 28 February 2022, available [here](#).