

IoT Update: BEREC launches public consultation on the 'Data Economy'

Friday, October 19, 2018

On the 10th October 2018, BEREC (the Body of European Regulators for Electronic Communications) launched its [public consultation](#) on the 'Data Economy'. This comes at a time when different regulators are increasingly discussing the importance of big data, including the opportunities and risks that it brings about, how these may evolve, and how (and increasingly *who* should take the responsibility) to regulate. While the data protection and competition authorities have so far been most vocal in this deepening regulatory debate, the opening of this consultation represents a clear and decisive move by European telecom regulators to 'throw their hat' into the ring and get included in the discussion – and potentially future regulation – of Europe's data economy.

All interested stakeholders, including public organisations, industry actors, consumers, associations, academics, financial advisers, and other stakeholders with expertise or interest in the data economy are strongly encouraged to have their say. BEREC's consultation video can be accessed [here](#), and the consultation is open until [21 November 2018](#).

BEREC recognises that in recent years, data has become a key resource for companies, civil society and governments. Advances in technologies have allowed for cost reductions in data processing and storage, which in turn has led to the progressive incorporation of different economic actors into the data economy. As a result, this has led to an exponential increase in data generated by customers, private and public entities and more recently by objects and the Internet of Things (IoT).

The increasing availability of data, and the development of collection and analysis tools, is changing a large portion of the economy – which in turn is enabling innovative business models, cost reductions, more informed decision-making, and increased economic growth. BEREC therefore wishes to study the impact of the data economy on the electronic communications sector in Europe – as it explains is within its regulatory scope – as well as looking at the role that national telecoms regulators could play in the context of the data economy.

The introduction to the [public consultation](#) document references a number of important pieces of already existing and pipeline legislation for data and the telecoms sector. This includes *The EU telecommunications Policy Package*, expected to be replaced in January 2019 by *The EU Directive on the European Electronic Communications Code* (which BEREC highlights will notably widen the definition of communications services to include over-the-top services). It also includes *The General Data Protection Regulation*, and the more sector specific data protection rules covered by the *Privacy and Electronic Communications Directive*, which is also soon to be replaced by the *EU e-Privacy Regulation* (see our recent IoT Update on that [here](#)).

BEREC explains that it is interested in deepening its knowledge of how the data economy could affect its own traditional line of work – both in terms of reshaping the electronic communications markets, tools that can be used by national regulators to conduct their activities, and how BEREC could contribute to the development of the data economy. Once the current consultation is closed, BEREC will review all submissions and prepare a report to be published on the 'Data Economy' in mid-2019. Five main issues are addressed in the consultation document, and can be summarised as follows:

1. General issues regarding the data economy to be taken into account by BEREC



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Section 1 discusses data as an input to many newly emerging services, the assessment of the value of data, the relevant factors for assessment, and key characteristics – the four V’s: volume, velocity, variety and veracity.

BEREC sets out general questions on the definition of the data economy, characteristics of data, different types of data, and the classification of data through a taxonomy. Observations on potential network effects and market power lead to competition related questions including: which kind of competition concerns are likely to be of relevance – and whether “*competition issues regarding the power of market data can be sufficiently addressed by current competition law and the upcoming regulatory framework (EECC, GDPR, e-Privacy Regulation, PSI Directive, etc.)?*”

2. Electronic Communications Networks (ECNs) and Services (ECSs) as enablers for the data economy

Section 2 recognises that telecoms networks are the ‘base structure’ which enable data flows, and consequently that this infrastructure is key to facilitate the transition towards a data driven economy in Europe. BEREC notes that ECS providers can develop innovations and new services that will allow them to play a new role in the data economy, going further than simply being the infrastructure on which the data economy relies. Some already offer services including cloud storage and analytics solutions, but it is proposed that telecom network providers can also develop data-based services of their own. Additionally with the development of IoT, ECS providers are enabling connectivity to billions of devices that can collect data.

BEREC is interested in the characteristics and future revolution of ECSs, and to ensure that Europe benefits from the opportunities associated with the data economy. Questions are included on relevant parameters for the measurement of ECS for the development of the data economy, the identification of any bottlenecks, and evolution of ECS in the value chain – for example with IoT devices, “*could new revenue models for ECS providers emerge based on the data economy?*”.

3. Impact of the data economy and competition in ECS markets

Section 3 looks at whether the use of data could be an important factor affecting the dynamics of competition in ECS markets. It recognises the future widening of ECS to include over-the-top services – which it notes are often provided in return for the commercialising of data, instead of billing users. It also notes that vertically integrated ECS providers may benefit from economies of scale, and have access to a wide variety of data (i.e. fixed home, mobile, and smart home services) which may facilitate innovation or optimisation when combined with data analysis techniques. It observes that for mobile services, network operators have exclusive access to additional network data compared to resellers or MVNOs.

BEREC invites stakeholders’ views on the use of data in the telecoms sector – including the significance of data in the telecoms value chain, how ECS providers are making use of anonymised data and who they buy/sell it from/to for cross sectoral initiatives. It asks whether the use of data may change the competition dynamics among ECS providers, and whether there is any risk of market leverage or conglomerate effects.

BEREC would also like to understand any issues regarding exclusive ownership of data or other potential data hurdles restricting competition or the development of new telecoms business models – including potential competitive differences regarding data collection between MVNOs and MNOs, fixed line infrastructure and retailers relying on wholesale access, and traditional ECS and over-the-top providers respectively. It concludes with the question “*What opportunities and/or risks do you see for consumers linked to an increase in data collection and analysis in the telecommunications sector?*”.

4. The data economy in national regulators’ activities

Section 4 recognises that national regulators can also benefit from the tools developed in the context of the data economy in order to take well-informed regulatory decisions, and also share part of that data with the public.

BEREC invites proposals from stakeholders to improve national regulators’ activities i.e. using digital tools to enhance regulatory decisions and to help consumers, companies and other institutions optimise their decisions – in line with what is expected from 21st century institutions. It also asks “*What kind of data, or which specific data, should NRAs collect and publish which could facilitate the development of the data economy?*”.

5. National regulators’ experience applied to the data economy

Finally, BEREC is interested in knowing whether national regulators’ experiences could be of help in the context of the data economy regarding (i) monitoring the evolution of markets, (ii) the assessment of market power and the potential need for regulation, (iii) application of *ex-ante* regulation, (iv) development of portability schemes that introduce switching costs for consumers, (v) supervision of standardisation for interoperability, aiming to maximise network effects, and (vi) the protection of the development of wholesale access markets. Feedback is

also welcomed in relation to potential collaborations with other regulatory bodies such as data protection authorities, which could be of help in the field of the data economy.

Submissions

BEREC requests stakeholders to submit contributions that are as complete and detailed as possible – although confirms that stakeholders are *not* required to answer all sections and questions. Non-confidential submissions will be published on BEREC website shortly after the end of the consultation period. Stakeholders wishing to submit contributions with confidential contents have the option of either providing a non-confidential response for publication, or withholding the response from publication in its entirety – which should be clearly stated at the time of submission.

Responses should be addressed to PC_Data_Economy@berec.europa.eu and submitted by **14.00pm CET** on the **21 November 2018**.

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