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ARTICLE 19 response to BEREC's consultation on the data economy

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2.1 INTRODUCTION AND OBJECTIVES

ARTICLE 19 is an international human rights organisation founded in 1987 that defends and promotes the right to freedom of expression and freedom of information (freedom of expression) worldwide. It takes its mandate from the Universal Declaration of Human Rights, which guarantees the right to freedom of expression and information.

ARTICLE 19 welcomes this opportunity to respond to BEREC's consultation on the data economy. ARTICLE19 fully supports comments submitted by EDRI to this consultation and would like to offer additional comments, which are exposed following the structure of the consultation, omitting BEREC's text in occasions for brevity purposes.

Please provide the name (and website, if available) of your organisation, as well as the contact information (name, e-mail and/or phone number) for a contact person. In the case of personal contributions, please provide your name, nationality and contact information.

Name of the organisation/person, website, nationality and contact information

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Please indicate the place(s) of operation of your organisation and the sector(s) in which your organisation mainly operates. Please explain how you are involved in the data economy.

Place of operation, sector(s), involvement in the data economy

Digital Civil and Human Rights organisation (NGO)

Place of operation: worldwide.

Involvement on the data economy: ARTICLE 19 has over 30 years of experience in advising policy-makers and other stakeholders about human digital rights. In particular, ARTICLE 19 has extensive expertise concerning the implications of the data economy for people's right to freedom of expression and access to information.

1. GENERAL ISSUES

Question 1.1:

The term 'Data Economy' tries to capture the increase in the availability of data, the related business opportunities and the (potential) social value of the insights that can be generated. According to the EC report "Building a European Data Economy"¹, the *"data economy measures the overall impacts of the data market – i.e. the marketplace where digital data is exchanged as products or services derived from raw data – on the economy as a whole. It involves the generation, collection, storage, processing, distribution, analysis, elaboration, delivery, and exploitation of data enabled by digital technologies"*.

Do you agree on this general definition of the Data Economy? If you have an alternative definition or any comments on the proposed definition, please provide details below.

Answer to question 1.1

ARTICLE 19 endorses the answer submitted by EDRi and would like to add the following:

There is a number of markets that are currently data-driven, or where data constitute an essential input or asset. Nevertheless, BEREC does not appear to have competences with regard to all those markets. Therefore, ARTICLE 19 suggests BEREC to work on a different and more precise definition of its scope of work.

Question 1.2:

Data is an essential input to many newly emerging services. However, it is hard to assess the individual value of a single piece of data. It might be also considered that, in the context of the data economy, a single piece of data has a negligible value by itself and, therefore, data will start generating added value only when a significant amount of information is processed and structured in a meaningful manner. Insights derived from data, and thus its value, depend on the quality and reliability of data, as well as its ability to be combined with other data. Inherently, larger amounts of data tend to allow more far-reaching insights. The marginal cost of collecting digital data can also be particularly low (if not negligible); therefore, substantial

¹Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Building a European Data Economy" (SWD(2017) 2 final. Brussels, 10.1.2017 COM(2017) 9 final

economies of scale can be present. Moreover, the utilisation of data can lead to the provision of better services, and thereby increase the number of users, which in turn can generate even more data to be collected. Thus, the data economy is often associated with strong network effects, even sometimes leading to “winner-takes-all” situations.

Data has sometimes been referred to as the “new oil”, but a key difference is that data is non-rivalrous in consumption. That is, the same data about a consumer can be made available to many different companies, rather than only being used once: e.g. data on date of birth, gender, home address, telephone number, credit card details, etc. Even though data is essentially non-rivalrous, it cannot be regarded as a pure public good in economic terms because people or companies may be excluded from using it. For example, some types of data may be specific to a particular platform and can also be made exclusive through commercial or technical means.

Data is not a homogenous good and there are different types of “data” (e.g. personal and non-personal). Different types of data will in turn have different values to different types of businesses, as the value of data depends on its context and is affected by four key characteristics: volume, velocity, variety and veracity. For instance, the volume of data may be important when looking to establish patterns in consumer behaviour in aggregate. Conversely, the velocity of data – how quickly its usefulness depreciates – is more relevant to services that promote products based on what users are currently searching for.

In your opinion, what are the most important characteristics of data to be taken into account when analysing its economic properties? Are there elements missing in the previous list?

Answer to question 1.2

ARTICLE 19 supports the answer provided by EDRI, and would like to add the following comments.

It is possible to identify two different bottlenecks concerning data-driven markets where artificial intelligence is ever more implied. First, companies using machine learning need vast amount of data. However, only a handful of companies possess such vast databases, which are difficult to replicate and therefore can attribute a strong competitive advantage. The second bottleneck concerns capacity and skills: companies must have experts who can manage data, tune the algorithms and manage the entire process

So far, competition law has not been applied properly to address these bottlenecks. For example, in the Facebook/Whatsapp merger DG COMP, if on the one hand recognised that data protection and privacy can be parameters of competition, on the other hand it failed to take into account the effects that the merger could have had on that competition parameter. In other words, DG COMP failed to take into account whether, after the merger, Facebook could have altered WhatsApp data protection conditions to the detriment of consumers.

To avoid similar mistakes, DG COMP and national competition authorities (NCAs) should carefully assess, on a case-by-case basis, the availability and the value of data assets, in order to identify cases where these assets can raise barriers to entry and other obstacles to effective competition in the market. It remains to be seen if the GDPR will be able to help in similar circumstances. In any case, ARTICLE 19 encourages BEREC, given its deeper knowledge and understanding of the electronic communication markets, to work together with competition and

data protection authorities to complement each other's work. However, ARTICLE 19 joins EDRI in urging caution in BEREC's work in this area. BEREC should focus not bypass its regulatory functions, but support other authorities to achieve the objective of guaranteeing sustainable competition in EU the internal market for electronic communication networks and services.

Question 1.3:

Different types of data can be distinguished and a taxonomy of data is useful to structure the analysis of the data economy. For example, one common distinction is that between personal and non-personal data. BEREC would be interested in respondents' input regarding more detailed or alternative classifications that can be made, especially those that are more relevant in relation to the analysis to be done by BEREC.

What classification of data do you consider to be most relevant (in the context of BEREC work on the data economy)? Please elaborate below.

Answer to question 1.3

ARTICLE 19 fully supports EDRI's answer to this question.

Question 1.4:

The ability to access data may be important in terms of reinforcing existing network effects in certain circumstances. As a result, there may be concerns about the exercise of market power in online markets and the ability of firms with market power to foreclose or restrict competition. For instance, concerns could include:

- exclusive control of certain data that creates a significant barrier to entry;
- leverage of market power into adjacent markets;
- lack of competition over non-price features, e.g. privacy.

Which kind of competition concerns are likely to be of relevance in the data economy? Answer to question 1.4

ARTICLE 19 supports EDRI's answer to this question and would like to add the following:

In addition, mergers strategies aimed at acquiring control of specific databases or datasets could create concerns in competition terms, and have to be carefully scrutinised.

Question 1.5:

Do you think that 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.)?

Answer to question 1.5

ARTICLE 19 supports EDRI's answer to this question and would like to add the following:

With regard to competition, ARTICLE 19 believes that EU relevant rules provide a good set of tools to ensure that competition is safeguarded in data driven markets. Nevertheless, ARTICLE

19 calls for a more careful application of those rules, which has to take into account the specificities of each case.

2. ECS AS AN ENABLING FACTOR FOR THE DATA ECONOMY

Electronic communications services (ECS) are an enabling factor for the data economy, as they provide the infrastructure upon which the data economy is developing. For data to be collected and distributed everywhere, networks must be ubiquitous, reliable, interoperable, secured and offer high speed transmission. Therefore, the development of ECS should both directly and indirectly support the growth of the data economy.

ECS providers can also develop innovations and new services that will allow them to play a new role in the data economy, going further than being the infrastructure on which the data economy relies. Some telecommunications network providers already offer services such as cloud storage and analytics solutions, which actors in the data economy can use to develop their businesses, but telecommunications network providers can also directly participate in the data economy by developing data-based services of their own. For example, they may offer mobile network location-based services. Moreover, with the development of the Internet of Things (IoT), ECS providers are enabling connectivity to billions of devices that can collect data.

This creates an opportunity for ECS providers to play a major role in the collection and analysis of a large volume of data. With the following set of questions, BEREC intends to identify the services and innovations provided by ECS providers that contribute to the development of the data economy.

Question 2.1:

Services provided by network operators can be assessed based on various parameters (latency, bandwidth, reliability, security, ubiquity, etc.). Considering that the development of the data economy is supported among others by the electronic communication networks, which parameters are the most relevant for the development of the data economy in your view?

Answer to question 2.1

ARTICLE 19 supports EDRI's answer to this question and would like to add the following:

More in general, ARTICLE 19 calls for the inclusion, in the assessment of services provided by network operators, of human rights considerations, privacy and freedom of expression *in primis*. This will help triggering competition on quality, and drive innovation accordingly.

Question 2.2:

What more can ECS providers do to help the development of the data economy? Conversely, do you identify any bottlenecks for the development of the data economy that are related to ECS providers and, if so, what, in your view, could be done to address this issue?

Answer to question 2.2

BEREC could play a role in performing studies about dynamics and behaviours concerning data, whose effects and impact on electronic communications markets are not yet clear.

Question 2.3:

What kind of evolution do you foresee regarding the role of ECS providers in the value chain? For example, with regard to the development of the Internet of Things or mobile network location-based services, could new revenue models for ECS providers emerge based on the data economy?

Answer to question 2.3:

No comment.

3. IMPACT OF THE DATA ECONOMY ON COMPETITION IN ECS MARKETS

The provision of electronic communication networks and services generates a significant amount of data that, in some cases, cannot be obtained by other sources. The availability of processing this data might create some opportunities for telecommunication operators. For instance, data can potentially be used to improve the services provided to the users, gain internal efficiencies, deliver innovative services, create new business models or, in the cases and conditions allowed by privacy regulation, commercialise this asset.

A distinction can be made between network or infrastructure data on the one hand and content or usage data on the other hand.

Data related to the network itself are of great relevance in optimising the network operations of telecommunications operators². Analysis of this type of data can help to make network operations more efficient.

Telecommunications operators can also benefit from the analysis of usage data. For example, customer loyalty and churn can be examined with data analytics methodologies. The aim could be, for example, to identify the factors affecting churn and, based on these findings, take action to reduce it over time. Another area where data analytics could be of use is fraud detection. Consumers could also benefit from innovative products and services based on data collection and analysis. The development and implementation of smart home services, for example, could improve safety, energy efficiency and comfort.

The growing importance of data collection and analysis may also affect competition in the telecommunications sector. For example, ECS providers with a large number of customers could possibly benefit from economies of scale in terms of data collection and analysis. Moreover, some ECS providers are vertically integrated across different levels of the value chain and might thus benefit from economies of scope, as they act both as network operators in the fixed or mobile network and as service providers at wholesale and retail level. A telecommunications company with a broad product portfolio, for instance encompassing fixed network services, mobile services, IPTV or even Smart Home services, can collect significantly more data than those providing just stand-alone services, which it can then use to better serve their customers and optimise their business operations while reducing costs. Overall, having access to a wide

²For example, the analysis of topography data for planning network deployment can help increase the range and transmission capacity of mobile radio base stations.

variety of data may facilitate innovation or optimisation when combined with data analytics techniques. ECS and data services (such as cloud computing) may also be combined to make new service proposals that could affect competition dynamics.

With regard to mobile services, it should be noted that network operators have exclusive access to additional network data compared to resellers or MVNOs. Therefore, a question may arise about whether network operators are able to extend their advantages from (exclusive) data collection and analysis to other areas.

Instant messaging services and voice over IP (VoIP) services have been widely adopted by consumers and are increasingly competing with traditional telecommunications services, such as SMS or voice telephony. The Privacy and Electronic Communications Directive (2002/58/EC) established ECS sector-specific data-protection rules. This Directive will be replaced by the EU e-Privacy Regulation, which will then apply directly in the member states and will not need to be transposed into national law.

Question 3.1:

What is the significance of data for the telecommunications value chain today? How would you expect this significance to change in the future?

Q Answer to question 3.1

ARTICLE 19 supports EDRI's answer to this question.

Question 3.2:

How are ECS providers making use of (anonymised) data? Are they buying/selling it from/to third parties? Please elaborate. Answer to question 3.2

ARTICLE 19 supports EDRI's answer to this question and would like to add the following:

ARTICLE 19 highlights the risks related to reverse anonymisation, which has the potential to violate people's right to privacy and data protection.

Question 3.3:

Are you aware of cross-sectoral initiatives carried out by ECS providers with regard to data analytics? Please provide examples of (big) data analytics projects/initiatives carried out by ECS providers³.

Answer to question 3.3

No.

Question 3.4:

What is your view on how the use of data (including the combination of data services and ECS) may change the competition dynamics among ECS providers? Do you see any risk of leveraging market power, or conglomerate effects caused by the use of data in the telecommunications

³As defined in the EECC, including providers of OTT-0 or OTT-1 services.

sector? If so, should the methodology to assess market power be reviewed to further consider access to data?

Answer to question 3.4

ARTICLE 19 supports EDRI's answer to this question and would like to add the following.

The key issues that need to be addressed are;

- exploitative conducts: (i) excessive pricing vis à vis industrial costumers (access to database as an essential facility); (ii) exploitation of consumers' personal data; (iii) price discrimination towards consumers; (iv) unfair contractual terms towards consumers;
- exclusionary conducts: market foreclosure and raise of high barriers to entry created by concentration of data sets;
- leverage of market power in adjacent markets;
- impact of market concentration on innovation

ARTICLE 19 shares EDRI's fear that current assumptions around the functioning of traditional markets frequently lead to inappropriate decisions being made by relevant authorities. Therefore, ARTICLE 19 urges BEREC to work together with competition authorities to ensure that specific features and dynamics of electronic communication markets are duly taken into account while performing assessments under competition rules.

Question 3.5:

Are there cases in which exclusive ownership of data or other potential hurdles related to data restrict competition or the development of new telecommunications business models? Please provide examples. Below are some specific examples of cases that may be of interest to BEREC:

- **Do you see any competitive differences with regard to data collection and analysis between MVNOs and MNOs?**
- **Do you see any competitive differences with regard to data collection and analysis between fixed line infrastructure operators and retailers that rely on wholesale access?**
- **Do you see any competitive differences with regard to data collection and analysis between "traditional" ECS and OTT-0/OTT-1 providers?**

Answer to question 3.5

No comment.

Question 3.6:

What opportunities and/or risks do you see for consumers linked to an increase in data collection and analysis in the telecommunications sector?

Answer to question 3.6

ARTICLE 19 supports EDRI's answer to this question and would like to add the following:

Among others, the widespread collection and exploitation of personal data, coupled with the use of AI-driven targeting, leads to the ever increasing recourse to profiling and targeting, which in turn exposes consumers to at least two major risks: manipulation, through the spread of disinformation, and discrimination, because targeting can exclude people from certain information of opportunities (like job or housing ads), and therefore perpetuate and reinforce discrimination towards certain minorities.

4. NRAs' ECS REGULATORY ACTIVITY IN THE CONTEXT OF THE DATA ECONOMY

The emergence of the data economy is characterised not only by an increase in the quantity of data available, but also by the availability and use of data analysis tools (e.g. Apache Hadoop, SAP HANA, etc.) that are capable of analysing rapid real-time flows of data. These new data and tools can greatly influence how NRAs take regulatory decisions.

The use of data in increased quantity and quality by NRAs, combined with new analytical tools, may have the potential to significantly improve the quality of regulatory decisions in various aspects (e.g. consumer protection and empowerment, fostering competition and investment, monitoring the quality of services and network deployment/coverage and the assessment of market power).

Furthermore, in the context of an evolution towards an open government data ecosystem, defined by the re-use of public sector information (PSI) Directive⁴, NRAs could have a significant role in contributing to the economic and social benefits that may be possible. In fact, the electronic communications sector alone is responsible for vast amounts of data being generated/collected and the nature of such information may allow for significant benefits beyond its use for strict regulatory purposes.

This section therefore addresses the dimensions of the relationship between NRAs and the data economy in the context of NRAs' duties and responsibilities, as established by the new European Electronic Communications Code (EECC) and the proposal for a revised BEREC Regulation.

In adapting to the data economy, NRAs should consider how to leverage data in order to enhance the quality of their work, their decisions and the accuracy of regulatory analysis (e.g. market definitions or market power assessments) as a step towards "data-driven" regulation (increased use of available relevant data).

With the increasing volumes of data generated by customers and operators, the quality of data used by NRAs – not only existing internal data but also data that can be collected from operators (respecting existing principles, such as proportionality) – can also be improved. Additionally, data collected and generated by NRAs (when not subject to confidentiality clauses and when

⁴Directive 2013/37/EU of the European Parliament and the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information, as well as proposal for a directive of the European Parliament and of the Council on the re-use of public sector information (Brussels, 25.4.2018). COM(2018) 234 final 2018/0111 (COD)

their publication is allowed by national legislation), may also be useful for different actors in the digital economy.

Question 4.1:

What is your view on how NRAs can use data to better perform their duties (e.g. consumer protection, fostering competition, monitoring the quality of services and network deployment/coverage, the assessment of market power...)? Can the use of digital tools improve the capacity for action? If that is the case, please provide further explanation, as well as any proposals you may have.

Answer to question 4.1

ARTICLE 19 fully supports EDRI's answer to this question.

Question 4.2:

What kind of data, or which specific data, should NRAs collect and publish which could facilitate the development of the data economy?

Answer to question 4.2

See comments to question above.

Question 4.3:

Under the new EECC (art. 22) NRAs shall conduct surveys on NGN deployment, including relevant information on operators' intentions to invest (planned network deployments, upgrades and extensions) and QoS parameters.

When this information is not available in the market, NRAs shall also make data from the geographical survey available and easily accessible to allow for its re-use (when not subject to confidentiality). Such data may be particularly useful for end-users as it can support their choices (e.g. allowing them to check for connectivity options in different areas).

Regarding this provision, which relevant data (and to what level of detail) should NRAs collect (e.g. as QoS metrics) and which techniques could be applied, both in collecting data and in making it available to end-users?

Answer to question 4.3

No comment.

Question 4.4:

The PSI Directive set the framework for the re-use of public sector information, as part of an open data policy, recognising it as a major opportunity to stimulate innovation, economic growth and social engagement, adding value to users and the society in general.

Along the same line, the draft reviewed BEREC Regulation⁵ includes a mandate to BEREC to enforce an open data policy. According to this provision, BEREC shall “*promote the modernisation, coordination and standardisation of the collection of data by NRAs. Without prejudice to intellectual property rights, personal data protection rules and the required level of confidentiality, this data shall be made available to the public in an open, reusable and machine-readable format on the BEREC website and the European data portal.*”

Intensified by digitisation, the amount (and types) of public data has vastly increased. Both businesses and citizens now expect data within the scope of the PSI Directive to be online, readily available under non-restrictive conditions and easy to understand.

How can NRAs and BEREC contribute to increasing the availability of data in the spirit of the PSI Directive and the reviewed Regulation? In your opinion, what specific data should NRAs and BEREC publish (e.g. QoS indicators, consumer complaints, coverage, usage statistics)?

Answer to question 4.4

ARTICLE 19 supports EDRI’s answer to this question.

5. NRAs’ EXPERIENCE APPLIED TO THE CASE OF THE DATA ECONOMY

The data economy is governed by different regulatory instruments that address various aspects, such as the protection of personal data (the General Data Protection Regulation), re-use of public sector information (the PSI Directive), guidance on private sector data sharing, the free flow of non-personal data and e-Privacy, among other issues.

However, the data economy and regulations on access to data are in general not in the regulatory scope of NRAs in the electronic communications sector. This does not necessarily imply that there is no role for NRAs with regard to issues in the data economy. As addressed in previous sections of this public consultation, many sectors are involved in the data economy. In this respect data economy concerns the economy as a whole. The impact of the data economy on competition dynamics for ECSs should be considered and ECSs are a key enabling factor for the data economy.

For their part, NRAs have gained considerable experience from monitoring ECS markets, analysing them and designing remedies to encourage competition and investment. Although different to data markets, there could nonetheless be synergies to be harnessed from NRAs’ experience gained on ECS markets which may be useful in the context of encouraging competition and investment in the data economy.

In this context, BEREC is interested in areas where the experience of NRAs could be useful in addressing potential issues in the development of a data-based society in the future. As of today, powers on the data economy for NRAs are very limited as they are focused on ECS

⁵Article 2 of the Proposal for a Regulation of the European Parliament and of the Council establishing the Body of European Regulators for Electronic Communications. Inter-institutional File: 2016/0286 (COD).

markets, however it can be useful for BEREC to envisage potential future areas where NRAs could share their experience to help the development of the data economy, such as:

- Monitoring the evolution of the data markets
- Encouraging the development of wholesale markets for access to data.
- Fostering interoperability obligations (to maximize network effects while weakening winner takes all effects) and data portability (e.g. oriented towards reducing consumers' switching costs when moving from one digital ecosystem to another)
- Fostering transparency and non-discrimination (concerning either just the dominant players or all players).

BEREC is therefore interested in collecting views from all actors on the potential need for the above mentioned tools in the context of the data economy. This could be in the short, medium and/or long-term, with the aim of addressing any potential bottlenecks for investment and competition that may not be sufficiently covered under ex-post competition law.

Question 5.1:

Do you consider the competitive conditions in data economy-related markets are optimal for the development of the data economy? For example, do you consider that there are efficient data-sharing mechanisms in place?

Answer to question 5.1

ARTICLE 19 supports EDRI's answer to this question.

Question 5.2:

If you consider that the competitive conditions in data economy-related markets could be improved, which of the potential tools measures (along the lines of the ones listed in the introduction to this section) would, in your view, be appropriate to foster the development of the data economy? Please also explain if you consider such tools to be ineffective or if you consider that they could even harm the data economy's development.

Answer to question 5.2

ARTICLE 19 supports EDRI's answer to this question and would like to add the following.

ARTICLE 19 urges NRAs and competition authorities do dedicate more attention to the behaviours of dominant players towards consumers. Due to the above mentioned "winners take all" dynamics, oftentime a single company holds a dominant or super dominant position in the market, being able to impose to consumers unfair commercial terms. Consumers are left with the choice of take it full or leave it all, and have to accept terms of services that, for example, collect way more personal data than it would be needed to properly provide the service, or more or less indirectly limit their freedom of expression.

Question 5.3:

Do you see the need for closer cooperation between the NRAs (that have a regulatory focus on ECSs) and other regulatory bodies, such as data protection authorities, competition law authorities (National Competition Authorities, which usually focus on ex-post regulation), consumer protection authorities or other bodies, on issues related to the data economy (such as data portability, market power assessments, merger control, rules on the treatment and sharing of data, etc.)? Please specify the area of potential collaboration, the roles that could be played by NRAs, within their competence, and which regulatory body or institution to collaborate with. Answer to question 5.3

ARTICLE 19 refers to EDRI's answer to this question and would like to add the following suggestions.

First, ARTICLE 19 believes that collaboration should be formalised, although it should not be shaped in a way that imposes too heavy administrative burdens and processes for authorities, nor for companies subject to regulation or competition rules. Mechanisms such as mandatory opinions or consultations are recommended.

Second, ARTICLE 19 would advise authorities to cooperate not only during specific cases, but also in market studies, sector enquiries and alike, to be able to understand phenomena in its entirety and to mutually gain from each other's specific expertise.

Question 5.4:

In relation to data markets, which are the key issues that should be taken into account when assessing competition dynamics? What should be the geographical scope for data markets (national/European/international/other) and what drivers should be taken into account?

Answer to question 5.3

ARTICLE 19 does not consider "data markets" a workable definition (it is not at all clear to which markets it refers to), therefore it is not able to provide an answer to this question.

Question 5.5:

In general, how can NRAs contribute to address competition/regulatory issues in order to foster the transition to a data economy? Answer to question 5.5

ARTICLE 19 supports EDRI's answer to this question and would like to add the following.

BEREC, while acting within the boundaries of its powers, shall focus on ensuring competition and consumer welfare in the electronic communications markets, looking at sustainability in a long term perspective and making sure that in these markets consumers' rights and freedoms are duly guaranteed.

Question 5.6:

Is there any other issue in relation to the application of NRAs' experience to the data economy that you would like to add?

Answer to question 5.6

No comment.

6. OTHER ISSUES

This section covers any other issues that have not been addressed in previous sections/questions and which stakeholders consider to be of potential interest to NRAs in the context of the report that will be prepared by BEREC.

Question 6.1:

**Is there any additional issue not included in previous questions that you would like to address?
For the sake of classification, please, differentiate between:**

- 1) Issues in relation to ECS regulation under the powers for NRAs in the new Electronic Communications Code;**
- 2) Areas where NRAs or BEREC could collaborate with other public bodies or organisations in the context of the data economy when applying existing regulation for the data economy; and**
- 3) Any additional issue relevant for NRAs that is not addressed in the existing regulation applicable to ECSs and/or the data economy.**

Answer to question 6.1

Electronic communications markets are highly technologically driven. There is a number of fora where the technologies to be used are developed and relative standards are set. We believe that BEREC, and possibly NRAs, should follow more closely the works of these fora, given the great impact technologies and standards will have on the way services are provided in electronic communications markets, and thus on business models and on consumers' rights and freedoms.