

PRESS RELEASE

BEREC expresses deep concern over Italian legislature moves to undermine regulator's independence

It is with great concern that BEREC, the network of European telecoms regulators, has learned of the recent passage by the lower house of the Italian Parliament of a government decree purporting to regulate the terms of access to Telecom Italia's network.

Under European law, the imposition of economic regulation, including access obligations, on Italian operators is the exclusive province of the national regulator, AGCOM. This has been clear since the adoption of the revised European Framework in November 2009, pursuant to which national regulators must operate independently from any other body in relation to the performance of their regulatory tasks. This means that regulators' powers and discretion to design appropriate economic regulation for their markets must not be fettered by national legislation.

This issue was already considered by the European Court of Justice in December 2009, when it ruled that the Framework clearly confers on the regulator – and not the national legislature – the task of determining the need for regulation of national telecoms markets. Regulators, when carrying out the regulatory functions assigned to them under the Framework, have a "broad discretion in order to be able to determine the need to regulate a market according to each situation on a case-by-case basis".

This is not the first time the integrity and independence of national telecoms regulators has been threatened by the actions of national governments or legislators. In previous cases the European Commission has expressed its concerns and taken appropriate legal action. We call upon the European Commission to speak out against what can only be described as a worrying trend, and trust that the Commission will closely monitor developments in Italy and promptly launch infringement procedures if the decree becomes law.

12 March 2012

Note for the editor:

About the Body of European Regulators for Electronic Communications (BEREC)

BEREC is composed of a Board of Regulators consisting of the Heads of the 27 national regulatory authorities (NRAs) with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services. BEREC will advise the European Commission and the NRAs, and assist the European Parliament and Council, on issues related to the application of the EU regulatory framework for electronic communications. BEREC will help to ensure fair competition and consistency of regulation in the internal market for electronic communications to benefit consumers. In particular providing expert advice on market definitions, analysis and remedies, definition of transnational markets, cross-border disputes and numbering issues. Furthermore, BEREC will provide expert opinions on emerging challenges such as the promotion of broadband, net neutrality and converging markets, and is ready to play an active role in the discussions in the public domain on these issues.

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