

Submission in the BEREC Call for Input

Further Guidance on 5G Network Slicing

9. February 2026

Introduction

We want to thank the Body of European Regulators for Electronic Communications (BEREC) for the opportunity to participate in the Call for Input on Further Guidance on 5G Network Slicing¹. We want to reference our submission from 2019² in the previous 5G Open Internet Guideline reform of BEREC³.

Epicenter.works is a digital rights NGO working for over 15 years at the intersection of human rights and technology. We have been following the issue of net neutrality since 2012⁴, were involved in the creation of the Open Internet Regulation from 2013 till 2015, all subsequent BEREC reforms from 2016 till today and participated in the regulatory and judicial debates around net neutrality in Germany, Portugal, Austria, India, Brazil and Colombia⁵.

Upholding Net Neutrality

Net neutrality is a fundamental pillar of the European digital ecosystem. It ensures that consumers can access and use online content and services without discrimination, that new market entrants can compete on equal terms, and that innovation can occur without prior permission from network operators. These principles have been essential to the success of the open internet in Europe and continue to be highly relevant.

Regulation (EU) 2015/2120 and its implementation through the BEREC Guidelines have created a stable and predictable framework that balances technological innovation with the protection of end users and competitive markets. From this perspective, regulatory certainty and continuity are not obstacles to innovation but necessary preconditions for it.

In this context, it is necessary to critically assess the motivations behind recent calls for additional “legal clarity”, particularly with regard to 5G network slicing. From our perspective, these calls do not primarily stem from genuine regulatory uncertainty or newly arisen technological challenges. Instead, they appear to be driven by attempts from certain market actors to reopen and renegotiate settled interpretations of net neutrality rules.

Presenting this process as a neutral exercise in clarification risks obscuring the fact that some of the proposed changes would amount to a substantive rebalancing of the Open Internet framework.

1 <https://www.berec.europa.eu/en/public-consultations-calls-for-inputs/call-for-input-for-further-guidance-on-5g-network-slicing>

2 <https://epicenter.works/content/response-to-public-consultation-on-draft-berec-guidelines-on-the-implementation-of-the-open-internet-regulation>

3 <https://epicenter.works/en/content/the-new-eu-net-neutrality-guidelines-berec-responds-to-criticism>

4 <https://epicenter.works/en/thema/net-neutrality>

5 <https://netzbremse.de/en/>, <https://epicenter.works/content/submission-to-anacom-on-portuguese-net-neutrality-violations>, <https://epicenter.works/content/submission-to-indian-regulator-trai-on-regulatory-mechanism-for-over-the-top-ott-communication-services-and-selective-banning-of-ott-service>, <https://epicenter.works/content/submission-to-the-consultation-of-brazilian-telecom-regulator-anatel-on-network-fees> and <https://epicenter.works/content/submission-to-the-constitutional-court-of-colombia-about-the-constitutionality-of-zero-rating>

Additional guidance must therefore not become a vehicle for weakening end-user protections through reinterpretation or incremental exemptions. Legal clarity cannot be used as a pretext to undermine net neutrality through the back door.

The 2018–2020 Reform of the BEREC Guidelines Successfully Addressed 5G

BEREC's reform of the Open Internet Guidelines between 2018 and 2020 explicitly addressed emerging questions related to 5G, network virtualisation and network slicing. At the time, these technologies were frequently portrayed as fundamentally new challenges to the application of net neutrality rules.

The revised Guidelines responded to these claims in a measured and well-founded manner. They clarified that technological developments such as 5G do not alter the core principles of the Open Internet Regulation, that network slicing is not *per se* incompatible with net neutrality, and that existing regulatory concepts—such as reasonable traffic management and specialised services—are sufficient to assess new offerings.

Developments like CAMARA⁶ pose no fundamental challenge to the framework and concepts behind it were already discussed in the last reform. Principles like user control, reasonable traffic management and safeguards regarding the provision of specialised services still provide a clear and predictable framework for network slices.

This reform provided legal clarity while preserving the integrity of the net neutrality framework. In our assessment, BEREC addressed the challenges associated with 5G in a proportionate and forward-looking way, without overreacting to speculative concerns.

No Market or Technological Evidence Supporting Additional Guidance

Since the adoption of the revised BEREC Guidelines, there have been no relevant legal, technological or market developments that would call their adequacy into question. Regulation (EU) 2015/2120 remains unchanged, and its technology-neutral design continues to apply to evolving network architectures, including 5G and network slicing.

Despite repeated claims by the telecom sector regarding the transformative nature of 5G, there is still no evidence of widely deployed end-user products that rely on network slicing in a way that cannot be assessed under the existing framework. This observation is not limited to the European Union. Even in jurisdictions without comparable net neutrality protections, 5G has not resulted in the emergence of fundamentally new service categories that depend on preferential treatment of traffic.

At the same time, the quality of Internet Access Services continues to improve. Higher bandwidths, lower latency and more reliable connectivity have become standard for many users. As a result, many use cases that were previously cited as requiring optimised or specialised treatment can now be delivered over best-effort internet access. This trend further reduces the practical relevance of specialised services and weakens arguments for adapting the Guidelines to accommodate hypothetical future needs.

Taken together, the absence of concrete market demand for slicing-based services and the continuous improvement of the open internet strongly suggest that there is no factual basis for additional guidance or regulatory adjustments in response to 5G network slicing.

6 <https://camaraproject.org/network-slice-booking/>

Avoiding Unwarranted Changes to a Functioning Framework

It is appropriate and necessary for BEREC to monitor technological developments and to ensure that existing rules remain well understood in light of technical change. However, incorporating new technological knowledge does not automatically require amendments to the Guidelines.

Where a regulatory framework has proven effective in practice, restraint is particularly important. Revising the Guidelines without clear evidence of regulatory shortcomings risks creating legal uncertainty, inviting strategic reinterpretation by market actors, and weakening a well-established and functioning interpretation of the Open Internet Regulation.

In this context, calls for additional guidance should be treated with caution. **The burden of proof lies with those claiming that the current framework is insufficient.** To date, this burden has not been met.

Effective Enforcement by National Regulatory Authorities

National Regulatory Authorities, coordinated through BEREC, have demonstrated their ability to apply and enforce the Open Internet Regulation effectively, including with regard to new commercial offers that rely on advanced network management techniques.

While some regulatory assessments are still underway, there is no indication that NRAs lack the tools, expertise or legal basis to assess 5G-related offerings. On the contrary, enforcement practice shows that the current framework provides sufficient flexibility to address new cases while maintaining a high level of protection for the open internet.

Further revisions to the Guidelines risk undermining this successful enforcement record by reopening settled interpretations or creating new ambiguities where none currently exist.

Conclusion: No need for new guidance

To conclude, we do not see any evidence that would justify additional guidance or revisions to the BEREC Open Internet Guidelines in response to 5G network slicing. The existing framework already provides clear and sufficient criteria to assess slicing-based offerings in line with Regulation (EU) 2015/2120.

Revisiting settled interpretations in the absence of concrete legal, technological or market developments risks creating uncertainty and weakening established net neutrality protections. In particular, calls for greater “legal clarity” should not result in substantive changes that alter the balance of the Open Internet framework through reinterpretation.

Where specific technical questions arise in practice, they can be addressed through consistent application and enforcement of the existing Guidelines by BEREC and National Regulatory Authorities. At this stage, maintaining the current approach is the most effective way to safeguard net neutrality while allowing technological innovation to develop within a stable and predictable regulatory framework.