



Response to

BoR (16) 169

Draft BEREC Work Programme 2017

2 November 2016

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I. About MVNO Europe

1. MVNO Europe represents various types of Mobile Virtual Network Operators, with different business models, addressing retail consumers, business users, the public sector, machine-to-machine (M2M) and Internet of Things (IoT), etc. <http://www.mvnoeurope.eu/members>
2. Our members provide mobile-only offers, fixed-mobile convergent offers and offers incorporating media content, financial services, machine-to-machine communications including connected cars, embedded data SIMs for tablets, laptops and other devices, etc. Our members are also active on wholesale markets as MVNE (Enabler) / MVNA (Aggregator). MVNO Europe does not represent branded resellers.
3. MVNOs currently represent +/- 10% of SIM cards in the European Union.
4. MVNOs contribute strongly to competition and provide clear B2C and B2B end-user benefits. MVNOs also contribute to financing mobile networks through payment of wholesale charges which assure revenues to mobile network operators, whilst avoiding costly duplication of network assets.

II. A sincere THANK YOU to BEREC

5. MVNO Europe first wishes to take this opportunity to thank BEREC for its 13 October 2016 [Input to the European Commission Implementing Act on Fair Use Policy and Sustainability of the Abolition of Retail Roaming Surcharges – BoR \(16\) 167](#). BEREC's emphasis on the objective underlying economics for operators, BEREC advancing the principle of '*retail price ≥ wholesale charge ≥ wholesale cost*', and BEREC's related references to MVNOs, were most welcome. Hopefully this will contribute to putting EU policy on mobile international roaming policy back on a sound footing.
6. We ask BEREC to continue to play its role as an expert body and voice of reason in policy discussions on EU mobile international roaming, including on a pro-active basis, and including where it concerns M2M/IoT.

III. Introduction and Elements of Key Importance

7. MVNO Europe welcomes BEREC's initiative to consult interested parties on its draft Work Programme for the year 2017 (hereafter 'draft WP2017'), and is pleased to provide this brief contribution.
8. BEREC will be defining its Mid-Term Strategy for the period 2018-2020 (*Section II, paragraph 4, and Section III, D.6 of the consultation document*). **MVNO Europe urges BEREC to make its Mid-Term Strategy an explicit top priority item, and to actively consult stakeholders well ahead of finalising it.**
9. The extent to which pro-competitive policies, legislation and regulation will continue to be pursued in the years to come is at stake, as is the shape of EU telecommunications and ICT/Digital markets going forward. We expect BEREC to maintain and enhance its **pro-competitive** stance, and continue to pursue an EU internal market on a basis which makes sense for Europe-based challenger operators, ultimately for the benefit of end-users. Indeed, MVNO Europe expects BEREC to be instrumental in enabling challenger operators such as MVNOs to continue to play their role in delivering innovative solutions for all types of customers, building on MVNOs' lead in areas such as attractive data-led offers, fixed-mobile convergence (for professional users and for consumers), connected cars and embedded SIMs.
10. We note with satisfaction that BEREC will be devoting particular attention to specific issues relating to **business customers** in the relevant work streams (*Section II, paragraph 5*). We ask BEREC to explicitly take account of the B2B segment in mobile markets and converged markets involving mobile connectivity. We especially ask BEREC to ensure that its actions enable and foster a viable and diversified European-led ecosystem for M2M and IoT, without undue fragmentation along national lines.
11. MVNO Europe's **areas of key concern** for the remainder of 2016 and for 2017 are:
 - a) Ensuring a **workable solution for EU mobile international roaming**, enabling the abolition of retail roaming charges in mid-2017 **whilst avoiding exclusionary effects and taking a forward-looking approach which promotes rather than restricts customers' usage of mobile services**. Please refer to the [statement dated 26 October 2016, made by MVNO Europe together with a wider coalition of market participants including Mobile Network Operators, representing more than 70 million SIM cards](#). In this statement, we refer to BEREC's Opinion and we advocate reduced wholesale roaming caps.

- b) Effectively implementing a **unified Mobile Termination Rate (MTR)** across the EU, **at a low rate**, not only in the context of mobile roaming, but also for cross-border calls.
- c) **Effective enforcement**, by BEREC and by its constituent NRAs, **of the wholesale roaming access obligations contained in Article 3 of the EU Roaming Regulation**. Some of our members consider that these obligations are not being adhered to, to the detriment of competition (see Section IV, below).
- d) MVNO Europe wishes to discuss specific **market entry/market development issues with BEREC, which strongly affect the ability to deliver IoT on a pan-European basis**. These include extremely high annual national authorisation fees for operators in a few instances, and Member States in which securing MVNO access on acceptable terms/within a reasonable timeframe appears to be highly problematic.
- e) We reiterate (see our response to the draft BEREC WP2016) that **fit-for-purpose wholesale access for MVNOs**, incl. in terms of network technologies and in terms of wholesale charges, is necessary in order to ensure sustainable competition and innovation (in technical and in commercial terms). MVNOs need to: (i) benefit from the **same RAN** technologies and the same RAN coverage as the Host MNO(s) on a non-discriminatory basis, and (ii) **not be subject to margin-squeeze**. In the context of 4G, several of our members have faced a situation in which their host MNOs(s) launched 4G retail services, but withheld 4G wholesale from MVNOs hosted on their network, for periods lasting several months to several years. If no action is taken, the same is likely to occur for 5G. Such as state of affairs will harm competition and innovation.

IV. Specific MVNO Europe Comments

- 12. Section III.A.1.1: MVNO Europe members interact with the device industry in different ways. Problems relating to achieving full functionality for some devices for customers using MVNOs' services have arisen. MVNO Europe has made progress on this issue by engaging directly with device suppliers on behalf of its membership. Concerns also exist with regard the development of standards (de jure and de facto standards) e.g. eSIM (Embedded SIM) and the implementation of standards and functionalities, e.g. 4G, VoLTE, and 5G in the future.
- 13. Section III.A.3.1: We welcome BEREC follow up of ongoing work on IoT and its impact on the EU regulatory framework for electronic communications. We request to be involved in the

planned BEREC workshop (it is unclear whether industry will be invited to participate in this workshop). In any case, we ask BEREC to recognise that several MVNO Europe members are world-leaders in the area of IoT, with specific developments in embedded devices, including connected cars (Cubic Telecom, Sierra Wireless, Transatel).

14. Section III.B.1.1: As stated in Section II of our response above, we have appreciated BEREC's voice of reason in recent policy discussions, notably on mobile international roaming. We ask BEREC to play the same role as an expert interlocutor for EU institutions when it comes to the review the EU regulatory framework for electronic communications. Article 52 of the EC legislative proposal establishing the European Electronic Communications Code, dated 14 September 2016, is particularly welcome from MVNO Europe's perspective. We ask BEREC to support it as and when it interacts with co-legislators.
15. Section III.B.1.3: As stated in Section III of our response above, we request the implementation of a unified Mobile Termination Rate (MTR) across the EU, at a low rate, not only in the context of mobile roaming, but also for cross-border calls.
16. Section III.B.2.1: As stated in Section III of our response above, we consider that there is a need to evaluate and ensure the effective enforcement, by BEREC and by its constituent NRAs, of the wholesale roaming access obligations contained in Article 3 of the EU Roaming Regulation. Some MVNOs are facing insinuated exceptions, discussions about such exceptions, and alleged timing constraints, which prevent progress towards the conclusion of wholesale roaming access agreements. Our concern about effective application of the EU Roaming Regulation is valid for traditional voice/sms/data offerings pursued by MVNOs, as well as for innovative offers by MVNOs in the M2M/IoT area.
17. Section III.C.1.1: MVNO Europe welcomes BEREC's intention to examine Universal Service policies/practices in EU Member States, and recent experiences in this regard. We ask BEREC to explicitly include an assessment of the effect of universal service measures on competition and on the financial transfers between market participants.
18. Section III.D.1.1: Some of our members call into question whether EU regulated MTRs are fully applied in practice in all EU Member States for calls originating from other EU Member States. We ask BEREC to examine whether some operators apply differential MTRs depending on the origin of the calls, where the origin is clearly within the EU.
19. Section III.D.3.8: MVNO Europe requests to be involved in the annual BEREC Stakeholders' Forum, and in all BEREC engagement with stakeholders going forward.

V. MVNO Europe Contact Details

Should you require any clarifications or further information on the elements and positions set out by MVNO Europe in this response, please contact:

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