



**MVNO Europe Response to the BEREC consultation on the Draft BEREC Report on the entry of large content and application providers into the markets for electronic communications networks and services - BoR (24) 51**

**I) Introduction**

1. MVNO Europe welcomes the Draft BEREC Report on the entry of large content and application providers into the markets for electronic communications networks and services – BoR (24) 51.
2. In reference to Chapter 7, entitled: "Restrictions on access to services or functionalities by OS providers", MVNO Europe appreciates BEREC's wide recognition of the challenges faced by some MVNOs and smaller mobile operators. The challenges identified by MVNO Europe in previous submissions to BEREC include setting up certain device functionalities like APN-related services, Voice over LTE (VoLTE), and Voice over WiFi (VoWiFi), as well as configuring network profiles for eSIM technology, as correctly indicated by the Draft Report.
3. MVNO Europe's submission primarily concentrates on limitations to access to services or functionalities imposed by operating system providers, while acknowledging the significance of all the case studies explored by BEREC. Additionally, it focuses on BEREC's forthcoming initiatives in the context of topics explored in the Draft Report.

**II) Restrictions on access to services or functionalities by OS providers**

4. The Digital Markets Act (DMA) started producing legal effects for gatekeepers, such as Apple and its iOS, on 6 March 2024. Article 6.6 of the DMA emphasises the need for fair and non-discriminatory access to platforms and services accessed via the gatekeeper's core platform services, including the choice of Internet access services for end users. In this respect, Apple presented its compliance plan<sup>1</sup> on 7 March 2024.
5. Nonetheless, for what concerns the criticalities identified by BEREC's Draft Report, MVNO Europe expresses disappointment over the lack of tangible progress following Apple's compliance plan's implementation under the DMA and the release of iOS 17.4. Our members have not witnessed amendments that positively impact MVNOs' operations, including concerning the LPA-API, which is essential for utilizing eSIMs on Apple Watches. Currently, eSIM functionality on Apple Watches is limited to operators who have direct contracts with Apple, which excludes many of our members.
6. Additionally, some of MVNO Europe's members have been approached by a third-party company, presumably working with Apple, offering so-called "entitlement services" purportedly aimed at resolving certain issues MVNOs face with iOS. Our members are fully capable of self-providing the capabilities concerned. More substantially, the services offered fail to address serious issues that arise for companies that have not entered into a dedicated so-called Carrier Partner Agreement with Apple. For instance, they still do not enable our members to use features like Visual Voicemail or Apple Watch Enablement.
7. While we regret there are still many features available on iOS devices requiring manual configuration for customers of MVNOs that do not have a carrier partner agreement with Apple, MVNO Europe would like to denounce the fact that some features cannot even be configured manually by customers. This is for example the case of MMS APN, which results in customers being unable to send/receive MMS messages.
8. MVNO Europe reiterates that the technical problems that some MVNOs have to endure with Apple devices constitute a structural competitive disadvantage, prevent new entrants on the market and entail risks of evicting MVNOs from certain (especially

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<sup>1</sup> <https://www.apple.com/legal/dma/dma-ncs.pdf>

high-end) market segments. Such a situation is highly detrimental to MVNOs' end-users and is not acceptable in a digital single market. MVNO Europe is of the view that the implementation of the DMA can help tackling these issues.

9. Importantly, with the sunset of 2G and 3G networks, handsets are not able to access emergency communications unless they are compatible with VoLTE, and some cars' eCall systems may cease functioning properly. As MVNOs, we advocate for handset manufacturers and MNOs to remove any obstacle for end-users of MVNOs to have access to emergency calls. Moreover, the wholesale roaming dimension of 3G/2G shutdown definitely needs to be addressed, as there are cases where wholesale roaming and domestic MVNO access to 4G and 5G networks is denied, cases where VoLTE is not supported for MVNOs, etc. which notably can lead to lack of availability of emergency calling while roaming.

### **III) Future Work**

10. MVNO Europe notes with satisfaction that BEREC recognises the value of further analysis on OS providers' restrictions, and fully supports the idea of having dedicated questionnaires, interviews or workshops with MVNOs, OS providers and consumer associations.
11. Now that BEREC has identified and acknowledged these issues more than once, MVNO Europe reiterates its request to BEREC to come forward with tangible initiatives, in coordination with the European Commission, to effectively put an end to Apple's discriminatory practices, as already expressed in the association response to the [Outline BEREC Work Programme 2025](#) (BoR (24) 03).
12. MVNO Europe asks BEREC to provide clear interpretation of the Digital Markets Act (Article 6.6) and/or electronic communications legislation so that it can serve as basis for the European Commission and national authorities to require Apple to effectively put an end to discriminatory practices negatively affecting competition on electronic communications markets.
13. Finally, MVNO Europe expects BEREC to voice its concerns when it comes to unjustified OS restrictions, as identified in its Draft Report, in the framework of the DMA High-

Level Group and assistance to the European Commission to the implementation, evolution, and enforcement of the DMA.

## **Contacts**

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