



Response to BoR (24) 148

Draft BEREC Work Programme 2025

4 November 2024

Contents

I. Introduction.....	3
II. 2025 Review of the EU Roaming Regulation.....	3
III. 2025 Evaluation of specific aspects of the European Electronic Communications Code and planned EC legislative proposal for a Digital Networks Act.....	5
IV. Implementation of the Digital Markets Act.....	7
V. Additional specific comments on the draft WP2025.....	7
VI. Potential BEREC work for 2026 and beyond	10
VII. Stakeholder engagement	10
VIII. About MVNO Europe	11
IX. MVNO Europe Contact Details	12

I. Introduction

1. MVNO Europe welcomes the opportunity to provide its brief comments on the draft BEREC Work Programme 2025 - BoR (24) 148 (hereafter 'draft WP2025'). We thank BEREC for having given consideration to the requests we expressed in our response to BEREC's Call for Input.
2. MVNO Europe expresses its support for the contents of the draft WP2025.

II. 2025 Review of the EU Roaming Regulation

Section 5.3.1: BEREC Opinion about the functioning of the Roaming Regulation

3. MVNO Europe looks forward with keen interest to the BEREC Opinion about the functioning of the Roaming Regulation. We note with satisfaction that its adoption has been advanced to the Q1 2025 BEREC Plenary, as per our request at the Call for Input stage.
4. MVNO Europe trusts that its responses to BEREC's Call for Input on M2M and (permanent) roaming, and to the Call for Input on the Roaming Regulation, will have proven useful to BEREC. These MVNO Europe responses contain clear messages advocating, among other: (i) modifications to the Roaming Regulation to support pan-European Internet of Things (IoT) services, (ii) rejection of the suggestions by large MNO Groups for the introduction of higher wholesale data roaming charges for M2M and/or signalling fees or per-SIM monthly fees for IoT, (iii) substantial reduction of wholesale roaming caps (with tangible proposed values for reduced voice/sms/data caps), and (iv) a sustainability mechanism at wholesale level.
5. Our expectation is that BEREC will express itself in its Opinion on each of the items listed in Article 21(1) of the Roaming Regulation, and in particular that BEREC will make tangible proposals to facilitate the provision of pan-European Internet of Things (IoT) solutions by all providers (including MVNOs in particular), and will be prepared to state publicly that there are justifications for substantial reduction of wholesale roaming caps.
6. The need for reduction of wholesale roaming caps is motivated by the fact that MVNOs (which are unilateral buyers of wholesale roaming/resale and often make payments at or very near the level of the wholesale caps) are incurring yearly increasing systematic financial losses from providing Roam-Like-At-Home (RLAH) to their retail customers. In addition, MVNOs active on IoT markets need reduced wholesale data caps to be able to compete with MNOs, which are able to exchange traffic on an intra-group basis or exchange and trade traffic bilaterally.
7. Justifications for reduction of wholesale caps include: (i) data collected by BEREC showing that wholesale roaming is being exchanged and traded by MNOs at prices situated far below the

regulated wholesale caps (and far below those paid by MVNOs), (ii) the draft AXON cost model, which shows that the cost of providing wholesale roaming is far lower than previously calculated, and (iii) the level of retail prices in many EU Member States, which are situated far below the wholesale caps.

8. A point of serious concern for MVNO Europe is that large MNO Groups are calling for the introduction of new or differentiated (i.e. higher) wholesale roaming charges for data where it concerns M2M traffic, and/or are calling for the introduction of signalling-specific fees and/or monthly per-SIM fees, etc. in the context of IoT. Please allow us to state clearly that the effect of the introduction of such differentiations and/or additional fees would be to damage innovation and competition, notably as provided by MVNOs focused on IoT solutions. Negative effects on European business users would be a further consequence. MVNO Europe therefore calls on BEREC to categorically reject these demands from large MNO Groups.
9. Given that there has been surprisingly little debate on the review of the Roaming Regulation so far, it will be important for BEREC to ensure that its Opinion is not only taken into account by the European Commission in preparing its Report due by 30 June 2025. MVNO Europe calls on BEREC to also proactively communicate BEREC's Opinion to the co-legislators (ahead and after the European Commission publishing its report). The preparation of short briefing notes, explaining the issues at stake and BEREC's Opinion, would be most welcome.

Section 5.3.2: 31st International roaming benchmark data and monitoring Report

10. MVNO Europe notes with satisfaction that the next edition of the Report will be published as part of the Q1 2025 Plenary package of BEREC documents.
11. It remains of crucial importance for BEREC to continue regular data collection and benchmarking relating to retail and wholesale mobile international roaming in full detail (as per Article 21(2) of the Roaming Regulation and beyond), notably to inform policymakers of the actual state of affairs, implications of the roaming component for bundles of voice/sms/data, and for M2M/IoT and permanent roaming.
12. This must cover the wholesale international roaming outpayments made by MNOs on the one hand (balanced and unbalanced traffic), and which are made by MVNOs on the other hand (taking into account the fact that MVNOs are unilateral buyers). It is essential for BEREC to continue to inform policymakers in concrete terms on any differential treatment between what is paid by MNOs and what is paid by MVNOs for wholesale roaming access and wholesale roaming resale access.

III. 2025 Evaluation of specific aspects of the European Electronic Communications Code and planned EC legislative proposal for a Digital Networks Act

Sections 1.9, 1.16, 3.1 and 5.2.1 of the draft WP2025

13. MVNO Europe expresses its appreciation for BEREC's robust response to European Commission's consultation on the White Paper entitled *'How to master Europe's digital infrastructure needs?'*¹, and for its commitment, contained in the draft WP2025, to provide the required Opinions, Ad Hoc support, and other materials to the EU institutions in the run up to the evaluation of specific aspects of the EECC and the expected European Commission legislative proposals, including for a Digital Networks Act².
14. We also note with satisfaction that BEREC will keep one project team available during 2025 to work on expected European Commission proposals, as announced by BEREC during the Debriefing session on 9 October 2024. We urge BEREC to stand at the ready to express itself on both legislative and non-legislative proposals emanating from the European Commission.
15. BEREC's much-needed fact-based input, not only to the European Commission, but to all EU institutions, and notably the co-legislators, will be crucial in 2025 and beyond in the context of likely legislative proposals for revisions to the EU legal and regulatory framework for electronic communications. The quote attributed to the incoming BEREC Chair for 2025 on 31 October 2024³ in this regard is very significant, and very welcome from MVNO Europe's perspective:
- "We have committed to play a very strong advisory role to the European Parliament, the Council, and, of course, in particular to the European Commission because we believe in strong, fact-based legislation. If we are going to oversee markets as regulators, we need high-quality legislation that is fit for purpose. BEREC is not afraid of change, but it has to be change that will drive the EU and the internal market forward."*
16. Overall, MVNO Europe calls on BEREC to proactively communicate BEREC's Opinions and other materials to the co-legislators (ahead and after the European Commission publishing impact assessments and legislative proposals). The preparation of short briefing notes, explaining the

¹ BEREC Input: <https://www.berec.europa.eu/en/document-categories/berec/others/berecs-input-to-the-ec-public-consultation-on-the-white-paper-how-to-master-europes-digital-infrastructure-needs>

² Page 7 of the Mission Letter addressed to EC Commissioner-designate Henna Virkkunen: https://commission.europa.eu/document/download/3b537594-9264-4249-a912-5b102b7b49a3_en?filename=Mission%20letter%20-%20VIRKKUNEN.pdf

³ BEREC webpage: Connectivity - safe, secure and accessible to all: <https://www.berec.europa.eu/en/news/latest-news/connectivity-safe-secure-and-accessible-to-all>

issues at stake, the facts informing the debates, and BEREC's Opinion(s), would be most welcome. We refer to the scheduled BEREC Opinions on the Universal Service regime (Section 3.1), and on the EC Recommendation on Relevant Markets (Section 1.16), to Ad Hoc Input referred to in Section 5.2.1, as well as to the proposed Fact Finding Report on the competition indicators and regulatory highlights in different jurisdictions, provided for in Section 1.9 of the draft WP2025.

17. Specifically with regard to Section 1.9, MVNO Europe actively supports the preparation of the proposed Fact Finding report. In case other stakeholders would ask for this to be removed from the WP2025, we call on BEREC to firmly hold its ground, because this Fact Finding report is expected to inform co-legislative debates for at least the next couple of years.

Section 2.11: Stock taking of NRAs application of Article 52(2) for wholesale access obligations

18. Section 2.11 may have been included in the draft WP2025 on BEREC's own initiative, or in response to requests from stakeholders seeking either the confirmation or the removal/reduction of Article 52(2) of the EECC.
19. The wording: "*The purpose of this project is to gauge the extent to which NRAs/competent authorities, if any, have utilised the provisions of Article 52(2) of the EECC*" (page 32, para 2, with our underlining) is potentially worrisome from MVNO Europe's perspective, as it may suggest that utilisation so far of the article would be exceptional, perhaps of limited importance, or of less importance going forward. Based on these considerations, MVNO Europe asks BEREC to delete the words 'if any' in the text of the final Work Programme 2025.
20. For reference, in MVNO Europe's response to the EC White Paper consultation⁴, MVNO Europe made the case for confirming Article 52(2) EECC, in the following terms (paragraph 11 of the MVNO Europe response):

It is essential to maintain and enhance pro-competitive conditions associated with the licensing of scarce radio spectrum contained in Article 52(2) of the European Electronic Communications Code (EECC), making it expressly obligatory for the authorities granting radio spectrum licences (be they national or European) to give adequate and reasoned consideration to the appropriateness of imposing wholesale access obligations to networks utilizing radio spectrum.

⁴ MVNO Europe response, paragraph 11: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14168-White-Paper-How-to-master-Europes-digital-infrastructure-needs?F3470771_en

21. Please allow MVNO Europe to note in this context that Article 122 of the EEC Directive delineates the scope of the EEC Directive's scheduled evaluation, and that the scope does not include radio spectrum policy.

IV. Implementation of the Digital Markets Act

Section 2.10: BEREC contribution to the implementation of the Digital Markets Act

22. MVNO Europe expresses its sincere thanks to BEREC for acknowledging, and now confirming in a final BEREC Report dated 3 October 2024⁵, that Operating Systems can sometimes restrict ECS/ECN providers' ability to correctly provide access to services or to the network.
23. BEREC's proposed workstream, contained in Section 2.10 of the draft WP2025, which indicates BEREC's continued active participation in DMA High-Level Group meetings, BEREC opinions, workshops, knowledge-building, etc. constitutes necessary follow-up to the BEREC Report and to BEREC's participation in the High-Level Group so far.
24. MVNO Europe expects the initiatives that form part of this BEREC workstream to result in concrete improvements for those MVNOs which continue to face serious problems. Fact is that, for at least the past decade, Operating System functionalities, notably on iOS devices, are being wilfully withheld by Apple where the service provider has not entered into a commercialisation agreement for Apple devices (so-called "Carrier Partner Agreement").

V. Additional specific comments on the draft WP2025

25. Section 1.7: BEREC Report on the evolution of private and public 5G networks in Europe. MVNO Europe intends to file a brief response to the relevant consultation, by 29 November 2024. A key point is that companies which have invested in the capabilities needed to be a full MVNO/MVNE also have relevant capabilities to bring to bear in the context of the deployment and management of private 5G networks, and their interworking with public mobile networks and public mobile communications services.
26. Section 1.12: Follow up internal workshop on direct-to-mobile device satellite connectivity. MVNO Europe confirms its continued interest in this topic. In particular, and as indicated during the BEREC workshop of 26 October 2023 entitled "*Internet of Things, perspectives and competition*", some of our members are concerned that satellite operators are entering into

⁵ Pages 49-50 of the BEREC Report on the entry of large content and application providers into the markets for electronic communications networks and services – BoR (24) 139: <https://www.berec.europa.eu/en/all-documents/berec/reports/berec-report-on-the-entry-of-large-content-and-application-providers-into-the-markets-for-electronic-communications-networks-and-services>

exclusive deals with MNOs, notably because some satellite systems need permission to use the relevant MNOs' terrestrial radio spectrum for direct satellite to handset communications. In this context, there is growing concern that MVNOs could be sidelined from adding a satellite component to their services, given that, contrary to MNOs, they have no radio spectrum to bring to the negotiating table.

In MVNO Europe's response to the EC White Paper consultation, MVNO Europe made the following statement (paragraph 13 a) of the MVNO Europe response):

For satellite communications, a single procedure seems to make logical sense. Given the growing importance of satellite communications, as a complement to terrestrial networks as well as for IoT delivered by generic and specific satellite constellations, it is essential that licensees are explicitly required to provide fit-for-purpose wholesale access on a non-discriminatory basis. This is necessary to ensure that satellite services, or mobile services with a satellite component, are not reserved only to the owner of the satellite constellation relying on scarce spectrum resources, or to Mobile Network Operators that allow the satellite service to operate within their scarce licensed terrestrial spectrum, to the exclusion of MVNOs which do not have spectrum to barter with satellite operators. For the avoidance of doubt, MVNO Europe considers that this should apply to all satellite systems licensed (at national and/or EU level), including IRIS2 and future EU-driven satellite projects.

27. Section 2.4: Report on Infrastructure sharing as a lever for ECN/ECS environmental sustainability. MVNO Europe wishes to highlight that ensuring fit-for-purpose wholesale access for MVNOs (Full and Light MVNO models) is a way to promote competition and to safeguard end-user interests, whilst avoiding costly duplication of network assets. Enabling and promoting MVNOs is by far more environmentally responsible than promoting the build-out and operation of additional parallel physical mobile infrastructures and is thus consistent with the twin green and digital transitions. This being stated, and with reference to BEREC's sentence "*Finally, strategic reflections could be raised concerning potential trade-offs that will arise in terms of regulatory objectives and competition, as well as regarding the future of the pooling of networks with regard to environmental targets and market developments*" (page 27, para 2), MVNO Europe states firmly that competition between MNOs on wholesale markets is crucial for functioning wholesale and retail markets, and is formally considered in 4 to 3 MNO merger proceedings. The provision of wholesale access to MVNOs therefore must be an essential dimension for this BEREC workstream. MVNO Europe asks BEREC to reflect the wholesale dimension in the text of the final Work Programme 2025.

28. Section 2.7: Internal workshop on the consideration of 5G differentiated services and network slicing. MVNO Europe has previously raised the fact that, to its knowledge, MNOs have not offered 5G network slicing to MVNOs. In addition, care is needed to ensure that network slicing is positioned as a positive innovation, and not as a way to discriminate between what the MNO self-supplies, or supplies to specific end-users, whilst withholding it from MVNOs, which could result in MVNOs not being able to compete for the provision of equivalent services to customers.
29. Section 3.5: Internal workshop on aspects of 2G and 3G phaseout. MVNO Europe has raised this topic repeatedly with BEREC in the past several years, expressing that there is a need for caution in the context of 2G and 3G phaseout, notably including potential disruptions relating to emergency communications, but also noting that these could be a symptom of a wider issue, which could particularly negatively affect MVNOs and their customers. We trust that BEREC will bear these specific elements in mind when conducting its internal workshop. Please refer in particular to MVNO Europe's response to BoR (23) 111⁶.
30. Section 5.1: BEREC Strategies 2026-2030: Mid-term strategy, International and Institutional. These strategies are of great importance for MVNO Europe and its members. Clearly, the role of mobile and wireless communications needs to be at the heart of BEREC's strategies, with a focus not only on VHCN deployment, but also on continued promotion of competition, the EU internal market and citizens' interests. MVNO Europe reiterates a statement it has repeatedly made in the past, i.e. that promoting competition is the most tangible way in which end-users' empowerment can be achieved.
31. Section 5.2.2: Peer review process and engagement with RSPG. BEREC refers to its activity in the RSPG-led peer reviews only in the context of its strategic priority on promoting connectivity (*page 44, para 4*). MVNO Europe insists that much more is at stake in spectrum peer reviews, notably in terms of promoting competition and citizens' interests. MVNO Europe asks BEREC to modify the text of Section 5.2.2 in such a manner as to confirm that it will in future participate in the spectrum peer reviews considering all objectives contained in Article 3(2) EEC as well as BEREC's own strategic priorities.
32. Section 5.3.5: Update of BEREC Guidelines on Intra-EU communications. MVNO Europe regrets that there is currently a dearth of information on the European Commission's expected implementing act on Intra-EU Communications, to be adopted before the end of 2024 after

⁶ Contribution of MVNO Europe to the public consultation on the draft BEREC Report on practices and challenges of the phasing out of 2G and 3G: <https://www.berec.europa.eu/en/document-categories/berec/public-consultations/contribution-of-mvno-europe-to-the-public-consultation-on-the-draft-berec-report-on-practices-and-challenges-of-the-phasing-out-of-2g-and-3g>

consulting BEREC. We trust that BEREC will play a positive role in this dossier, providing regulatory certainty to operators.

VI. Potential BEREC work for 2026 and beyond

33. Section 7.2: BEREC Report on connected and automated mobility. MVNO Europe strongly welcomes this proposal, and is certainly prepared to contribute, given that our members Cubic Telecom and Transatel are leading providers of M2M/IoT and in-vehicle connectivity. This being stated, MVNO Europe strongly requests bringing this workstream forward to 2025 by organising an External Workshop to be held in early Q2 2025, because it will be a relevant input in the context of the 2025 Review of the Roaming Regulation.
34. Section 7.6: Call for Inputs (CFI) on interfaces to mobile networks for developers and third-party services. MVNO Europe welcomes this proposed workstream, including in particular BEREC's reference to *"How the interface is kept uniform for all MNOs and MVNOs (worldwide), in what respects are vendor or operator lock-ins avoided, etc."* (page 55, para 3).
35. In the consultation on the BEREC WP2024, reference was made to a BEREC Report on IoT/6G, reviewing the 2016 BEREC Report. However, but this project seems not to have been taken forward. MVNO Europe considers it highly desirable for this work to be conducted, because it would be a relevant input in the context of the 2025 Review of the Roaming Regulation.
36. The draft WP2025 contains only an oblique reference to BEREC work in the context of the European Commission's scheduled review of the Delegated act relating to Article 75 of the EECC on the termination rates for mobile and fixed voice calls (page 46, para 1). MVNO Europe asks BEREC to actively prepare itself for this review, including by conducting a factual investigation of the costs concerned⁷. In MVNO Europe's view, it is important to ensure that wholesale Eurorates are not increased, and to ensure that their regulation is not phased out. In also note in this context that MVNO Europe is on record with BEREC in emphasising that wholesale transit rates, post-deregulation, have risen to very high and problematic levels, and would need to be looked at again, and the same is the case for non-regulated wholesale sms termination rates, which are in some cases also problematic.

VII. Stakeholder engagement

37. MVNO Europe appreciates all of BEREC's stakeholder engagement initiatives and will be pleased to continue to participate in the Stakeholder Forum, meet and greet sessions with

⁷ The draft AXON cost model prepared for the European Commission covers mobile networks but not fixed networks.

Working Group co-chairs, and to respond to selected public consultations and calls for input, and to have bilateral meetings with key officials where relevant and timely.

VIII. About MVNO Europe

38. MVNO Europe⁸ represents various types of Mobile Virtual Network Operators (MVNOs), with different business models, addressing consumers, business users (including start-ups/scale-ups)/medium/large businesses, the public sector, ICT service/systems integrators, and Internet of Things (hereafter 'IoT') markets, etc. <http://www.mvnoeurope.eu/members>
39. MVNOs currently represent +/- 10% of SIM cards in the European Union.
40. The term "virtual" refers to the fact that MVNOs do not control radio frequencies and related mobile physical infrastructure (antennas, base stations etc.). However, MVNOs do control the necessary hardware/software/resources to provide wireless/mobile services and may own other telecom infrastructures and networks depending on the extent of their business model.
41. Our members provide mobile-only offers, fixed-mobile convergent offers and offers incorporating audio-visual media content, financial services, machine-to-machine communications, embedded data SIMs for tablets, laptops and other devices, connected mobility for vehicles, IoT in a broad sense, etc. Some of our members are also active on wholesale markets as MVNE (E=Enabler) / MVNA (A=Aggregator) supporting other companies and brands that provide mobile/wireless services. MVNO Europe does not represent branded resellers.
42. MVNOs contribute strongly to innovation and competition and provide clear Business to Consumer (B2C) and Business to Business (B2B) end-user benefits.
43. MVNOs also contribute to financing mobile network infrastructure through payment of wholesale charges which assure revenues to Mobile Network Operators, whilst avoiding costly duplication of network assets. Enabling and promoting MVNOs is by far more environmentally responsible than promoting the build-out and operation of additional parallel physical mobile infrastructures and is thus consistent with the twin green and digital transitions.

⁸ <http://mvnoeurope.eu/>

IX. MVNO Europe Contact Details

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

Mr. Alessandro Denaro, Secretariat of MVNO Europe

Tel: +32 485 20 74 86 – alessandro@mvnoeurope.eu | www.mvnoeurope.eu

Rue de la Loi 38, 1000 Brussels – 5th floor.