BEREC
Body of European Regulators
for Electronic Communications

Public Consultation BoR (22) 187 Draft BEREC Report on Interoperability of Number- Independent Interpersonal Communication Services (NI-ICS)

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General information

During the 53rd BEREC plenary meeting (8 December 2022), the Board of Regulators approved the Draft BEREC Report on interoperability of NI-ICS for public consultation.

The objectives of this report are to present the main economic features and the state of the market for some NI-ICS and to analyse i) the objectives, the scope and the "triggers" of interoperability obligations under both the DMA and the EECC, ii) the potential technical approaches and the implementation challenges to be taken into account when applying these measures, as well as iii) the interplay between the two regulatory frameworks. The current work focuses on messaging services, but other NI-ICS may be further analysed by BEREC in the future.

Your details

* First Name and Surname

Dr Anna Schneider

* Email

█████████████████

Organisation name (in case you are replying on behalf of your organisation)

* Country of origin

Language of your contribution

English

☑ I agree with the personal data protection provisions.

Practical details of the public consultation

Stakeholders are invited to comment and provide their views on the different chapters of the draft report following its structure:

Executive summary
Chapter 1 - Introduction
Chapter 2 - NI-ICS and scope of the report
Chapter 3 - Economic and behavioral features of messaging services
Chapter 4 - The state of the market for messaging services
Chapter 5 - Interoperability measures
Chapter 6 - Interoperability of NI-ICS under the DMA
Chapter 7 - Interoperability of NI-ICS under the EECC
Chapter 8 - Interplay between the DMA and the EECC
Chapter 9 - Conclusions
Chapter 10 - Future work

Stakeholders may also upload a document as a part of their contribution, see below.

In order to facilitate the processing of the responses, the comments provided should clearly refer to certain sections/subsections/paragraphs of the draft report.

Contributions should preferably be sent in English.

Stakeholders may submit their contributions **by 03 February 2023 close of business.**

In accordance with the BEREC policy on public consultations, BEREC will publish all contributions and a summary of the contributions, respecting confidentiality requests. Any such requests should clearly indicate which information is considered confidential and be accompanied by a non-confidential version.

Public consultation

Please indicate comments on Executive summary and Chapter 1- Introduction
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The sentence "Their use has drastically increased in the last decade and NI-ICS have now become a crucial means of communication for a variety of different users throughout Europe." suggests that NI-ICS have not been popular before 2012 which understates the role that they played in the form of instant messaging services during the first decades of the World Wide Web and, in fact, even as part of the first computer networks.

https://www.wik.org/fileadmin/Studien/2017/CCIA_RIA_Report.pdf provides a concise historical account of the evolution of Ni-ICS. The literature cited there provides further insights.

Please indicate comments on Chapter 2 - NI-ICS and scope of the report

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In section 2.1, the draft report rightly observes that the categories of NI-ICS covered in the DMA are not clear-cut. Next to the example of messaging services integrating voice and video call functionalities, BEREC may consider underlining the issue by also mentioning that most videoconferencing services integrate messaging functionalities.

While BEREC clearly states that "messaging services" in their interpretation are NI-ICS and not NB-ICS in footnote 13 of the draft report, an actual definition of the term is missing. Table 1 in the draft report sheds some light on key features associated with (1) messaging, (2) videoconferencing, and (3) e-mail services. Arguably, any or all the mentioned features could however be integrated into any of the three "types" of services implied in the table. Insofar, the differentiation is not informative as regards the specific delineating features between the three. As BEREC use the term "messaging services" throughout the draft report frequently and attach important implications to it as regards the implementation of interoperability obligations, a clear definition (or at least a specific delineation from the other two 'types' of NI-ICS) would be desirable.

Footnote 13 categorises Multimedia Messaging Services (MMS) as NB-ICS. This is interesting and may benefit from some additional clarification either in this report or elsewhere. In my (albeit limited) understanding, MMS is much closer to the IP-based messaging than to traditional SMS. Although SMS play a role in the delivery of MMS, the actual message content is realised on HTTP. The mobile phone's web browser functionality correspondingly enables the viewing of the delivered content. MMS rely on both E.164 numbers in the numbering plan of the Public Land Mobile Network (PLMN) and RFC 2822 referring to the e-mail addressing system for addressing.

Consequently, MMS does not only offer interoperability across operators, but also across NB- and NI-ICS. For instance, a message sent on an e-mail client can be received as an MMS on a mobile phone and vice versa. Correspondingly, MMS interoperability rests on agreements between operators, but also on the capabilities of the specific devices used in the exchange of messages as laid out in 3GPP TS 23.140 version 6.16.0 Release 6.

Please indicate comments on Chapter 3 - Economic and behavioral features of messaging services

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While the text here is generally quite nuanced and to the point, it implies that messaging services emerged after SMS (and MMS) when, in fact, services that can be subsumed under the concept of NI-ICS predate SMS by several decades. If anything, SMS offered a welcome first mobile application of text messaging at a time when consumers already had used instant messaging (as well as email) on their desktop and laptop computers for many years.

Please indicate comments on Chapter 4 - The state of the market for messaging services

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See my comment on Chapter 3.

Please indicate comments on Chapter 5 - Interoperability measures

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Horizontal interoperability hinges on the substitutability of specific services. As my empirical research clearly showed, substitutability however cannot be solely achieved by functional equivalence of allowing end-to-end communications irrespective of the context, means, and purpose of such communications. The opposite is true. Actional horizontal interoperability should only comprise such services that enable communications for the same context, and the same purpose. Only then can users be protected from unsolicited messages. Such a targeted approach to interoperability would also safeguard their personal choices of selecting, and separating target audiences for their communications forming various online persona. In fact, firms compete for differentiation along such seams of separation based on context, means, and purpose of communications.

In section 5.3.2, BEREC make the observation that "SMS functionalities have hardly evolved in the past." This is certainly correct. However, Rich Communications Services (RCS) which were developed prior to the launch of WhatsApp and offered significantly more functionalities than SMS with the objective of supplying a successor of the SMS are not mentioned here. This seems like a foregone opportunity for this BEREC report to shed light on issues that may prevent the success of an innovative service despite its interoperability across providers which could hold important lessons for the coming implementation of the DMA and EECC rules concerning interoperability of NI-ICS. Such an elaboration might equally address the question of whether RCS could be a meaningful fallback default standard which, employed across NI-ICS of designated gatekeepers in a similar as SMS within iMessage (Apple), might offer a set of core functionalities within an agreed standard.

Please indicate comments on Chapter 6 - Interoperability of NI-ICS under the DMA

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Please indicate comments on Chapter 7 - Interoperability of NI-ICS under the EECC

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Please indicate comments on Chapter 8 - Interplay between the DMA and the EECC

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Please indicate comments on Chapter 9 - Conclusions

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Please indicate comments on Chapter 10 - Future work

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Please specify which part of your response should be treated as confidential, if any.

THANK YOU FOR YOUR CONTRIBUTION

Contact

NI-ICS_interoperability@berec.europa.eu