

BEREC PUBLIC CONSULTATION ON THE DRAFT REPORT ON CLOUD AND EDGE COMPUTING SERVICES

CCIA Europe contribution to BEREC public consultation

April 2024

Executive Summary

CCIA Europe (“CCIA”) welcomes the opportunity to contribute to BEREC’s public consultation on the Draft BEREC Report on Cloud and Edge Computing Services (the “Draft Report”). In particular, CCIA would like to present a series of observations related to:

- ECN/S and cloud/edge computing convergence;
- Network cloudification;
- Regulatory implications of the above trends.

1. There is no convergence between ECN/S operators and cloud computing service providers: they are complementary but different services.

Cloud computing providers offer a vast range of horizontal services which are available to the cloud provider’s customers, to carry out different range of activities, such as big data analytics, use storage capacity, development and testing of softwares. On the other hand, ECN/S operators provide access to the internet as their main service. Cloud providers rely on ECN/S operators as the means through which cloud’s customers can reach their services, as cloud providers do not provide access to the internet themselves.

Cloud services are thus generic building blocks, provided in the same way to all their customers. A huge number of industries are cloud providers’ customers: healthcare, automotive companies, but also telecommunications, logistics and retail companies, that are in turn able to access the cloud services through the services provided by telecoms. Cloud is thus not converging with the telecoms sector, as much as it is not converging with all the other sectors which use their services, such as the healthcare or retail sector.

2. ECN/S operators network cloudification is not a specific phenomenon: “cloudification” is happening horizontally in all sectors that are starting to use cloud technologies.

Cloudification is the progressive migration of applications, data, and/or services of an industry from on-premises to cloud-based infrastructure. This trend is evident across various industries that use cloud computing services, including healthcare,

telecoms, automotive, finance, logistics, and retail. In the telecom industry, cloud adoption is going at the same pace as other sectors: companies are slowly starting to move low-risk enterprise workloads to the cloud, leaving the most important workloads to on-premise infrastructure. To date, a significant portion of network workloads continues to be hosted in private cloud environments within telecom operators' data centres.

3. Regulatory considerations

The use of cloud services in the telecom sector does not trigger any specific concern from either an economic or security perspective that would require targeted regulatory intervention.

Cloud services are, as above-mentioned, horizontal building blocks that telecom operators can use to provide their services. If any, economic and security concerns related to cloud are already addressed by regulations that have been introduced in the last years. For example: the EU Data Act and DMA address switching, interoperability and anti-competitive practices. The NIS2 directive poses cybersecurity and incident management requirements on cloud providers, with the aim of achieving a high common level of cybersecurity across the EU.

The above legislations already cover the potential risks that BEREC identifies in the Draft Report, such as network security and interoperability. And these are on top of other pieces of regulations such as DORA, the Cyber Resilience Act, the Data Governance Act, as well as regulations posing obligations for consumer protections, such as the Product Liability Directive, the Digital Content Directive, or the Consumer Rights Directive.

In this context, it is thus pivotal to assess the functioning and the effectiveness of the existing laws, before reflecting on the need of potential new regulations. Additionally, any consideration for new regulatory measures should be based on the presence of market failure, which is not currently evident.

These considerations are extremely relevant, not only to understand whether any issue is not addressed by EU regulation, but also with respect to the upcoming review of the European Electronic Communications Code (EECC).

CCIA urges to avoid any unjustified extension of the EECC to cloud service providers: such regulatory stretch could not only create even more a patchwork of legislations applicable to cloud (with following implementing difficulties falling on NRAs and companies) but also lead to the threat of network usage fees.

In fact, should cloud providers be included in the scope of the EECC, they would fall under the arbitration mechanism provided for by Article 26 of the EECC. This mechanism is just another means for incumbent telecom operators to obtain network fees. Should cloud providers be forced to pay higher fees to ECN/S operators due to this arbitration, these fees would trickle down to the whole value chain of European businesses and consumers using cloud services, with evident detrimental consequences for all stakeholders and Europe's overall digitalisation.