

Public Consultation on the draft BEREC Report on Over The Top (OTT) services - BoR (15) 142

EENA welcomes the opportunity to respond to the draft Report. This response relates to the section 4.4.1 Emergency Calling only.

BEREC: *A first option is to completely withdraw this obligation. In that case access to emergency services could be provided either by providers voluntarily offering this service or - in absence of voluntary offers - by an application that makes the 112 number accessible and that is provided by the organisation operating the public-safety answering point (PSAP).*

EENA's view: This would be a retrograde step from the current obligations and in EENA's opinion this would dilute the protection offered to citizens when accessing the emergency services. EENA believes this option should be rejected. Applications play an important role in the emergency management toolkit and EENA is working a lot in this area but withdrawing the current obligation and replacing it with an Application is not the solution.

BEREC: *A second option is that this obligation is limited to the provider that provides both voice services and access to the ECN. The provider that provides access to the ECN could be a good candidate to offer the service, since this provider is best positioned to make emergency calling easily accessible and could also take care of a possibility to bypass the usual unlocking procedure of mobile handsets when calling 112.*

EENA's view: In our opinion this option places the obligation in a restricted way on just the provider of both the voice service and ECN. However by doing so it will only serve the purposes of ensuring the OTT service providers remain without any obligations. OTT services providers, whilst may not be a direct replacement for traditional ECS, should still play an active part in the overall solution and discharge their responsibilities in proportion to their scale and size. EENA therefore believes this option should be rejected.

BEREC: *A third option is that the obligation is limited to providers of ECS that provide national calls to a number or numbers in a national numbering plan. This is the obligation as codified in the current legal framework. This obligation applies to all providers of voice services that provide outgoing calls to national numbers and does not apply to OTT-1 voice providers that only offer calling within a user group of a specific application. The legislator should consider whether the increased reach in application is proportionate given the extra cost of applying the obligation to more providers and the potential impact on the range of services available to consumers. In assessing the proportionality, consumer behaviour and consumer expectations are also relevant to the scope of the obligation: the provision of emergency services access by voice communications providers is a very long-established practice, e.g. first established in the UK in 1937 in central London. Consequently, consumers have a well-established expectation of easy access to emergency services – and any approach to the scope of the obligation should take that into account. However, consumer expectations are not fixed: expectations can and do change over time, as a result of practices in the market and consumer information campaigns, etc.*

EENA's view: In our opinion this is the very least that should be done as the framework put in place in 2009 is still valid today. OTT-0 voice providers have an obligation to provide access to the emergency services and despite this not many OTT-0 providers have done so. There are many reasons such as lack of a technical standard (being looked at within the ETSI M493 Working Group), lack of readiness on behalf of the PSAPs and lack of enforcement by the NRAs. That aside, the obligation should remain in place with a view to implementing

them as expeditiously as possible. There is evidence from the UK, Denmark and Finland where at least one OTT-0 provider has provided access to the emergency services proving that that it is technically possible to implement. The necessary requirements (and related control and sanction mechanisms) on OTT-0 providers should be laid down. But requirements should also be placed on internet-access providers as OTT-0 providers do not have control over the network and on PSAPs who should enable access from OTT-0 providers.

BEREC: *A fourth option is that the obligation is applied to all providers of voice services (so including OTT-1 voice). Again here the legislator should consider whether the increased reach in application is proportionate given the extra cost of applying the obligation to more providers.*

EENA's view: In our opinion this option should only be considered when the OTT provider's customer base has reached a critical mass. If the obligation was placed on all providers of OTT voice services, it would place a disproportionate obligation on the smaller emerging providers and stifle innovation and competition. This would be counter-productive.

Instead, BEREC should decide following further research and consultations what that critical mass point is and once the OTT-1 provider has reached that point then it should become obligated like in the third option above. This critical mass point is where, in practice, OTT services become a prominent part of telephony. EENA believes that under the Next Generation 112 model, there is a "shared responsibility" principle that should be followed but the sharing of responsibilities should be proportionate to the provider's size and scale. BEREC should set out clear guidelines to the NRAs as how to decide where the critical mass point is and allow NRAs to decide accordingly.

Summary:

Changing consumer behaviour and expectations means that OTT service providers will become more and more visible in the future. As such OTT services will be replacing traditional voice services or become prominent. Our emergency services therefore need to be reachable from not just traditional voice service providers but also from OTT providers and the decisions made in this Report will have fundamental implications. But we need to strike a balance between proportionate obligations that do not stifle competition and innovation and the shared responsibility models that are needed into the future - including the necessary requirements, control and sanction mechanisms on OTTs, internet-access providers and public authorities (PSAPs).

About EENA

EENA, the European Emergency Number Association, is a Brussels-based NGO set up in 1999 dedicated to promoting high-quality emergency services reached by the number 112 throughout the EU. EENA serves as a discussion platform for emergency services, public authorities, decision makers, researchers, associations and solution providers with a view to improving the emergency response in accordance with citizens' requirements. EENA is also promoting the establishment of an efficient system for alerting citizens about imminent or developing emergencies.

The EENA memberships include more than 1100 emergency services representatives from over 80 countries world-wide, 75 solution providers, 15 international associations/organisations, more than 180 Members of the European Parliament and 90 researchers.

EENA is a registered organisation in the official [EU transparency register](#) and we deeply believe that the transparency register should be mandatory rather than optional.