

At Apple, we believe that privacy is a fundamental human right. We design our products and services with this in mind and incorporate strong privacy protection in every step of this process. We take privacy very seriously and support privacy rights for all our users, wherever they are located.

Apple devices and Apple services are designed with privacy and data minimisation in mind. Apple's commitment to data minimisation reflects a conviction that Apple should only collect the data it actually needs to provide a particular service.

We are aware that the Swedish Government has ordered a review of the legislation that imposes obligations for providers of electronic communications services to retain information relating to electronic communications for law enforcement and has invited companies to comment.

We appreciate the opportunity to submit our comments. We assume that the offer to Apple to participate in these conversations might be based on the assumption that Apple would qualify as a provider of number-independent interpersonal communications services in Sweden. We have taken your inquiry to potentially refer to FaceTime, iMessage and iCloud Mail. Please note that Apple Distribution International Limited, Ireland is the provider of these services in the European Economic Area. Our local Swedish entity Apple AB is not involved in the provision of these services.

FaceTime, iMessage and iCloud Mail are not number-independent interpersonal communications services

The European Electronic Communications Code establishes that an electronic communication service is normally provided for remuneration, making remuneration an essential characteristic for a service to qualify as a number-independent interpersonal communications service. In order to determine whether a service is provided for remuneration, only the specific service under consideration is relevant. It is not relevant whether other services which might be considered similar or might not be provided for remuneration.

We believe it was not the EU Legislature's intention to make the qualification of a service as a number-independent interpersonal communications service dependent on how other providers deliver their services, including other providers' approach to remuneration. In fact the legislature sought to distinguish between services as otherwise it would not have added the remuneration criteria. This provides for a distinction between those services which are offered free of charge and additionally do not commercialise user data. In any way. In addition, whether a specific service is provided for remuneration has to be assessed on the basis of whether the service is provided in expectation of a specific remuneration related to the service. Hence, a direct link between the provision of a service and the consideration is required. Remuneration is not given simply because the provider of a service is an economic actor.

Accordingly, we take the view that FaceTime, iMessage and iCloud Mail do not fulfil the characteristics of number-independent interpersonal communication services as they are not provided for remuneration. For the use of these services, neither a direct nor an indirect monetary fee is charged to users. Apple does also not subject user access to advertisement financed by third parties that fund the cost of the services. Neither is it the case that Apple processes personal or other data of the users of these services to monetise the services, users do not "pay with data". The data processed by Apple when providing the services is not equivalent to a monetary consideration as it is strictly limited to the data necessary for the functioning of the respective service, which is to facilitate the communication between users.

For the sake of good order, the application "Mail" as installed on Apple devices is an email client, which allows users to access and manage their individual email service. The Mail application on Apple devices can be set up with any email service a user chooses, either manually or by signing in to a variety of third-party services. The application alone does not enable direct interpersonal and interactive exchange between persons.

Continuous cooperation with governmental authorities

Notwithstanding the foregoing, Apple, as we have demonstrated on many occasions, has been and will continue to support law enforcement agencies in fulfilling their tasks to the best of our ability.

At Apple, we believe that law enforcement agencies play a critical role in keeping our society safe and we've always maintained that if we have information we will make it available when presented with valid legal process. We share nations' goals of creating a safer world and protecting the rule of law, and we work closely with governmental authorities including those from Sweden every day.

In recognizing the ongoing digital evidence needs of law enforcement agencies, we have a team of dedicated professionals within our legal department who manage and respond to all legal requests received from law enforcement agencies globally. Our team also responds to emergency requests globally on a 24/7 basis.

We publish legal process guidelines for government and law enforcement agencies globally and we publish transparency reports twice a year detailing the types of requests we receive and how we respond.

In addition, we regularly provide training to law enforcement officers on the types of data available from Apple and how to obtain it consistent with our legal process guidelines, which are available at: <https://www.apple.com/legal/privacy/law-enforcement-guidelines-outside-us.pdf>.