Electronic communications: roaming on public mobile telephone networks within the Community; regulatory framework for networks and services

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This communication concerns the outcome of the review of the functioning of Regulation (EC) No 717 /2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC.

This Communication reports on the results of the Commission's review of the functioning of Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and explains the main policy changes it proposes to give effect to its conclusions and is accompanied by a legislative proposal for the Regulation to be amended accordingly.

Regulation (EC) No 717/2007 entered into force in June 2007 and will expire on 30 June 2010. The Regulation's stated objectives were to introduce a common approach to ensuring that users roaming within the Community do not pay excessive prices when making and receiving calls.

Achievement of objectives: the report states that the implementation and the transition to the "Eurotariff" in particular went smoothly, with only a few exceptions. Customers have benefited from cheaper roaming tariffs for making and receiving calls. In particular, prior to the entry into force of the Regulation, the average price for making a call was €0.7692 while the price for an incoming roaming call was €0.417. The entry into force of the Regulation meant customers benefited from lower rates for both making and receiving calls since the maximum price limits for the Eurotariff were set at €0.49 (excluding VAT) for making a call and €0.24 (excluding VAT) for receiving a call. These have since been reduced to €0.46 (excluding VAT) and €0.22 (excluding VAT) respectively.

When the Regulation entered into force, 400 million customers benefited from the Eurotariff, making it the standard default tariff in the EU. As a result, consumers under the Eurotariff on average save 36.4% for outgoing calls and 42.9% for incoming calls when compared to prices for EU roaming services that prevailed in early 2007. The Regulation has also succeeded in improving transparency for consumers despite the fact that a minority of operators were unable to resolve technical problems related to the transparency provisions on time.

However, the problems such as switching costs and lack of adequate substitutability that prevail in the voice roaming market have remained intact, competition has not developed and prices have in general clustered around the caps.

Extension of the Regulation in time and scope: despite the results achieved by the Regulation, the dynamics of the roaming market have not changed sufficiently since the introduction of the Regulation to enable the Commission to recommend that the Regulation be allowed to expire in 2010.

The EU market for mobile roaming services can be divided into three segments: voice services, SMS and data services. The Commission lays down the following measures:

1) Voice calls: the fundamental problems which existed prior to the Regulation still remain. There is some competition but these offers have made only small inroads into the market. While the price limits in the Regulation are expressed in terms of amounts "per minute", it has become evident that the billing practices of certain operators, whereby they charge for voice calls by reference to minimum periods of up to 60 seconds rather than on a per second basis, are diluting the effects of the Regulation and that some operators have changed their billing practices since the adoption of the Regulation to increase this diluting effect.

- ***Proposals***: the Commission is proposing to extend the Regulation by a further three years from 2010 to 2013 to ensure that consumers are not charged excessive prices while providing sufficient time for competition to develop. The maximum levels of the Eurotariff for both calls made and calls received will continue to decrease annually in a linear fashion during the extended period of validity of the Regulation. To try and facilitate further competition, the Commission has sought to provide a greater margin at the retail level by reducing wholesale rates more aggressively. This should increase the scope for operators to compete on price at the retail level, thereby maximising the chances that a properly competitive market will emerge. To tackle the unitisation issue, at the retail level operators will be required to bill their customers on a per second basis subject only to the possibility to apply an initial charging period of 30 seconds for calls made.

2) SMS: Prices for roaming SMS services have shown little movement over the past years, despite political pressure.. The average price for an SMS while roaming in the EU has only decreased marginally from €0.29 in the third quarter of 2007 to €0.285 in the first quarter of 2008. Moreover, there seems little prospect of prices decreasing significantly in the future on the basis of industry action alone, given the responses from operators to the public consultation.

- ***Proposals***: the Commission is proposing to extend the Regulation in scope by proposing a price cap at both wholesale and retail levels for SMS roaming. It is also proposing that customers should be automatically alerted, by means of a message service, each time they enter a Member State other than their own, to basic personalised pricing information that applies to the sending of an SMS message by that customer in the visited Member State.

3) Data roaming services: prices for roaming data services continue to be high even though prices at wholesale and retail level have shown a downward trend. There is a particular problem relating to the lack of transparency for data roaming prices and the resulting "bill shocks". However, in this case, competitive prices for data roaming are essential in order to remove barriers to accessing mobile Internet services when crossing borders.

- ***Proposals***: the Commission is proposing measures to ensure that roaming customers are kept adequately informed of the charges that apply for data roaming services by means of an automatic message. By 1 July 2010 at the latest, operators must also provide customers with a facility to set a financial limit in advance for their data roaming. The Commission is also proposing that in order for operators to be able to adopt transparent pricing arrangements with the assurance that they can anticipate with more certainty their wholesale costs, a safeguard wholesale price limit on data roaming services should be set at a level which does not exceed €1 per MB on average between any two operators. Lastly, the Commission intends to do its utmost to assist the European Parliament and the Council in reaching an agreement on the abovementioned elements in the shortest possible timeframe to ensure that European users of mobile communications services can benefit from these proposals by the summer of 2009.