

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

2008/0187(COD) - 22/04/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 646 votes to 22, with 9 abstentions, a legislative resolution amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services.

The amendments were the result of a compromise negotiated by the members of the parliamentary committee responsible with the Council Presidency.

The compromise does not fix roaming prices at rates set by the EU, but sets ceilings beneath which mobile operators can compete by offering lower prices.

The main amendments were as follows:

Wholesale charge: under the compromise, the average wholesale charge applied between any pair of operators, decreased to €0.28 and €0.26 on 30 August 2008 and on 1 July 2009 respectively, shall further decrease to:

- €0.22 on 1 July 2010;
- €0.18 on 1 July 2011.

Cutting the charges for roaming phone calls (retail charges): the 2007 roaming regulation lays down that from 1 July 2009 consumers will have to pay a maximum of €0.43 per minute (excluding VAT) for outgoing and a maximum of €0.19 per minute (excluding VAT) for incoming roaming calls.

The new legislative text sets roaming phone call caps for 2010 and 2011 and stipulates that home operators may charge their customers for a roaming phone call:

- from 1 July 2010: a maximum of **€0.39** per minute (excluding VAT) for outgoing and a maximum of **€0.15** per minute (excluding VAT) for incoming roaming calls;
- from 1 July 2011: a maximum of **€0.35** per minute (excluding VAT) for outgoing and a maximum of **€0.11** per minute (excluding VAT) for incoming roaming calls.

From 1 July 2009, operators would have to charge their customers by the second but can apply an initial minimum charging period of **30 seconds**.

By 1 July 2010, home providers shall not levy any charge on their roaming customers for the receipt by them of a roaming voice mail message. This shall be without prejudice to other applicable charges such as those for listening to such messages.

MEPs and the Council Presidency also agreed with the Commission that a roamed text message (SMS) should cost a maximum of **€0.11** (excluding VAT) from 1 July 2009.

Transparency of retail charges for regulated roaming calls and SMS messages: the basic personalised pricing information shall include information on the possibility of accessing emergency services by dialling the European emergency number 112 free-of-charge.

Transparency and safeguard mechanisms for regulated data roaming services: home providers shall ensure that their roaming customers, both before and after the conclusion of a contract, are kept adequately informed of the charges which apply to their use of regulated data roaming services. Where appropriate, home providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, they shall explain to their customers, in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

Monthly limits: to prevent “bill shocks”, mobile operators should define one or more maximum monthly financial and/or volume limits for their outstanding charges for data roaming services (expressed in the currency in which the roaming customer is billed) and which they should offer to all their roaming customers, free of charge, with an appropriate warning message when this limit is being approached. One of these limits (the default financial limit) shall be close to, but not exceeding **€50 of outstanding charges per monthly billing period** (excluding VAT).

Upon this maximum limit being reached, the customer should no longer receive and be charged for those services unless he or she specifically requests continued provision of those services. Roaming customers should be given the opportunity to opt for any of these maximum monthly financial or volume limits within a reasonable period or to choose not to have such a limit.

Unless the customers state otherwise, they should be put on a default limit system. By 1 July 2010, the default limit shall be applicable to all customers who have not opted for another limit.

Warning customers: each home provider shall ensure that an appropriate notification is sent to the roaming customer's mobile telephone or other device, for example by an SMS message, an email or a pop-up window on the computer, when the data roaming services have reached **80% of the agreed financial or volume limit**.

When this financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer's mobile telephone or other device. This notification shall indicate the procedure to be followed if the customer wishes to continue provision of those services and the cost associated with each additional unit to be consumed. If the roaming customer does not respond as prompted in the notification received, the home provider shall immediately cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

As of 1 November 2010, whenever a roaming customer requests to opt for or to remove a “financial or volume limit” facility, the change must be made within one working day of receipt of the request, free of charge, and shall not entail conditions or restrictions pertaining to other elements of the subscription.

Wholesale charges for roaming data services: with effect from 1 July 2009, the average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer's home network for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of:

- from 1 July 2009: a maximum of **€1.00** per megabyte;
- from 1 July 2010: a maximum of **€0.80** per megabyte;
- from 1 July 2011: a maximum of **€0.50** per megabyte.

Review: the Commission shall review the functioning of this Regulation and, after a public consultation, shall report to the European Parliament and the Council no later than 30 June 2011. In so doing, the Commission shall review, inter alia:

- the availability and quality of services including those which are an alternative to roaming (voice, SMS and data), in particular in the light of technological developments;
- the extent to which consumers have benefited through real reductions in the price of roaming services or in other ways from reductions in the costs of the provision of roaming services and the variety of tariffs and products which are available to consumers with different calling patterns;
- the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly started operators, including the competition effects of commercial agreements and the degree of interconnection between operators.

The Commission shall also assess methods other than price regulation which could be used to create a competitive internal market for roaming and in so doing shall have regard to an analysis carried out independently by BEREC. On the basis of this assessment the Commission shall make appropriate recommendations.

Moreover, the Commission shall, no later than 30 June 2010, prepare an interim report to the European Parliament and the Council, which shall include a summary of the monitoring of the provision of roaming services in the Community and an assessment of the progress towards achieving the objectives of this Regulation.

Entry into force: under the compromise, the regulation will expire by **30 June 2012**. The existing regulation for roaming phone calls would otherwise expire by the end of June 2010.