

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

2008/0187(COD) - 06/07/2011 - Follow-up document

This report from the Commission concerns the outcome of the functioning of Regulation (EC) No 717/2007 of the European Parliament and of the Council on roaming on public mobile communications networks within the Community, as amended by Regulation (EC) No 544/2009.

Regulation (EC) No 717/2007 (amended by Regulation (EC) No 544/2009) on roaming on public mobile communications networks, which entered into force in June 2007, will expire on 30 June 2012, unless extended - possibly in a modified form – by Parliament and Council on the basis of a proposal from the Commission.

The Regulation requires the Commission to review its functioning and report to the European Parliament and the Council no later than 30 June 2011. Under Article 11 of the Regulation, the Commission is charged with evaluating whether the Regulation has achieved its objectives, which are to ensure **that consumers do not pay excessive prices for EU-wide roaming services in comparison with competitive national prices**, thereby contributing to the smooth functioning of the internal market while achieving a high level of consumer protection, fostering competition and transparency in the market and offering both incentives for innovation and consumer choice.

This report presents the results of the Commission's review of the functioning of the Regulation, explains the main policy changes it proposes in order to give effect to its conclusions and is accompanied by a legislative proposal for the Regulation to be amended accordingly.

Overview of the market: the EU market for mobile roaming services can be divided into voice services, SMS and broadband data services. In terms of size, in 2009, the retail EU roaming market accounted for EUR 4.777 billion in revenues (71 % for voice, 17 % for data and around 11 % for SMS). For wholesale revenues, figures differ only slightly, with respectively 69%, 15% and 16% of wholesale non-group roaming revenues coming from voice, SMS and data services. The total wholesale market size in 2009 amounted to EUR 1.253 billion. With a total EU mobile market size of about EUR 164 billion in 2008, EU (retail and wholesale) roaming revenues appear to represent around 3.68% of the total EU mobile market. Between 2007 and 2009, revenues for voice roaming fell quite significantly as a result of both lower prices and lower volumes of traffic (-3.2%). For SMS roaming, the impact of the Regulation can already be clearly seen as total revenues in 2009 compared to 2008 decreased significantly despite a large increase in volume (+23.1 %). Finally, for data services, the increase in volume of 43.6% between 2008 and 2009 combined with the decrease in wholesale prices, due to the Regulation, led to an **overall decrease in revenues**.

However, at the retail level, where no price ceilings were imposed for data roaming, total revenues in 2009 remained at the same level as in 2008.

Developments since the adoption of the Regulation: the Commission has been monitoring developments in the roaming market carefully and in its interim report⁵ on the functioning of the Regulation noted that competition was still not strong enough. In that report the Commission found that,

overall, implementation of the Roaming Regulation had gone smoothly and operators had complied with the new provisions. Consumers are benefiting from reductions in the prices for voice and SMS roaming services and from increased transparency and protection against bill shocks. However, both average prices for the Eurotariff offered by operators and alternative tariffs are clustered around the levels of the regulated caps.

The prices for data roaming have also fallen but consumers are not yet enjoying fully the reductions seen at wholesale level.

Review: the Commission is proposing that the Regulation be revised by **introducing pro-competitive structural measures and that its validity be extended until 30 June 2022**. The proposed structural measures aim to tackle the root of the problem, i.e. the lack of competition and consumer choice that lie at the heart of the issue of high roaming prices.

This will be done by:

- ensuring that the market is open to different types of providers (thereby increasing roaming offers);
- raising consumers' awareness of roaming prices and increasing consumers' choice by allowing them to purchase roaming also as a stand-alone service.

These measures are expected to lead to a sustainable competitive solution to the roaming market problem, since it is considered that the competitive pressure that they promote will be sufficient in the future to guarantee low retail prices without the need for long-term regulation.

However, these structural solutions will take time to be implemented and deliver results, which is why the Commission is proposing that **wholesale caps be retained until the market exhibits sufficient competition and that safeguard retail caps be kept for a limited period of time** in order to ensure stability and predictability for operators and continued consumer protection. In addition, it is proposing that the transitional retail price caps be extended to the provision of retail data roaming services.

Roaming markets display unique characteristics which justify exceptional measures. Therefore, this intervention should be limited in time so as to expire on 30 June 2022. The Commission will regularly report to Council and Parliament, taking into account the opinion of BEREC, on the functioning of the Regulation and, if necessary, will consider possible amendments (including the possibility to extend the duration of any of the transitory retail caps foreseen).

It is the Commission's intention to do its utmost to assist the European Parliament and the Council in reaching an agreement on the above-mentioned points in the shortest possible time-frame to ensure that European users of mobile communications services can benefit from these proposals by **1 July 2012**.