

REVIEW OF THE FUNCTIONING OF THE ROAMING REGULATION (REGULATION (EC) NO 544/2009)

European Commission's public consultation

BEUC, the European Consumers' Organisation's response

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Summary

The European Consumers' Organisation (BEUC) welcomes the European Commission's public consultation on the review of the functioning of the Roaming Regulation. BEUC encourages the European Commission to adopt additional regulatory measures with the aim of ensuring fair prices and promoting competition to the benefit of consumers. In particular, we urge the European Commission to:

- Extend decreases of regulated maximum average charges of Eurotariffs for wholesale as well as retail, reflecting more accurately the real cost of providing roaming services and introduce "per second" charging intervals instead of initial charging intervals of 30 seconds for **voice roaming services**;
- Decrease further the Euro-**SMS** tariff, both at the wholesale and retail level;
- Reduce wholesale price caps for **data roaming**, while introducing retail price caps and considering KB as the billing unit;
- Enhance transparency of roaming charges and ensure the provision of clear information to consumers;
- Consider additional regulatory interventions which could contribute to a smooth-functioning Internal Market of roaming services in **the long term**.

Introduction

In a globalised world, the importance of a well established and well functioning roaming market is no more a wish but a necessity. Although mobile communications have undergone significant changes in recent years, real price competition has not emerged in the market of roaming services.

Despite the commitment of the EU to ensure consumers will be able to use the full functionality of their mobile devices - for calls, messages, emails - when travelling abroad, the reality is that the establishment of a competitive market for roaming services has yet to respond to consumers' expectations. The majority of consumers are still not confident using their mobiles or advanced smart phones abroad, and may even prefer to turn their phones off in order to avoid high bills. This reality is also supported by Eurobarometer survey concluding that 72% of mobile users continue to limit their mobile voice calls when being abroad because they are concerned about the costs.¹

BEUC considers the forthcoming revision of Roaming Regulation as the milestone towards the achievement of the objectives set out in the EU Digital Agenda.² We firmly believe that the new regulatory framework should be based on current rules and complemented by further regulatory measures in order to be seen as the most effective short and medium-term approach which can deliver benefits to consumers.

Question 1: To what extent do you believe that the current regulation achieved its objectives in terms of:

- (a) Contributing to the single market for roaming services?
- (b) Ensuring consumer protection?
- (c) Promoting competition?

Please explain and substantiate your response with data where possible.

Question 2: Do you consider that regulatory intervention for roaming services is needed beyond June 2012? Please consider voice, SMS and data roaming services separately. In particular, if you consider that the Roaming Regulation should expire in June 2012, please, explain why and describe how you consider that the market for roaming services will evolve in the absence of regulation.

Three and a half years after the entry into force of Regulation (EC) No 717/2007³ and almost two years after Regulation (EC) No 544/2009⁴, despite some positive developments, the objective of establishing a single market for roaming services is still far from reality and therefore European consumers are continuously experiencing excessive prices for regulated roaming services as well as the negative effects of a lack of fair competition in the Telecoms market.

¹ Special Eurobarometer 356, Roaming in 2010.

² <http://ec.europa.eu/europe2020/pdf/digital-agenda-communication-en.pdf>

³ The Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC.

⁴ The Regulation (EC) No 544/2009 is 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 network and services.

According to the European Commission, the implementation of the amended Regulation has gone smoothly in terms of reduced prices for voice and SMS roaming services. However, the prices for data roaming services are still too high and do not reflect the real costs of providing this service.⁵

In addition to the Commission's assessment, we are concerned that the transparency provisions of the Regulation have not been properly implemented by all operators because there are still cases when consumers are not effectively informed about the applicable charges, not only for Community-wide roaming services⁶, but also for roaming services provided in non-EU countries.⁷ The absence of clear information on the price of voice, SMS as well as data roaming services runs contrary to consumer protection and may result in bill shocks. Therefore, real 'protective' Eurotariffs have to be applied and clearly communicated to consumers. The information on roaming services should be easy to find and provided in simple and understandable way (SMS, websites, invoices).

At the same time, consumers travelling to non-EU countries should receive information regarding available roaming tariffs and services free of charge. As the difference between roaming prices within the EU and 'third countries' has dramatically increased since the introduction of the Regulation⁸, we do believe that the information requirements regarding applicable tariffs need to be further strengthened. The same rule should also apply to candidate countries and countries of the European Economic Area, as consumers may get confused about prices when roaming in these countries.

According to available data⁹, the retail and wholesale prices remained at or fairly near the limits set by the Regulation. For instance, our Spanish member noted that 99% of companies adjust their roaming rates to the maximum limit imposed by the EU (Eurotariff for voice and Euro-SMS tariff). As limited competition is a significant structural problem, it is necessary to adopt effective measures enabling the development of a fully integrated pan-European market and competitive cross-border services, which will increase consumers' trust.

We are concerned that in the absence of regulation, the price of roaming services¹⁰ will rise and operators will limit transparency on offers and conditions. Therefore, we firmly believe that regulated, maximum average wholesale charges, as well as retail charges, should constantly decrease - both for voice and SMS services - also after the

⁵ Commission's Communication on the interim report on the state of development of roaming services within the European Union (June 2010)

⁶ The survey prepared by our UK member in July 2010 showed that:

- Only 56% of those using their phone in Europe and 43% using it outside of Europe were told how much it would cost to use it while they were away;
- Six in ten mobile phone owners are aware that it could cost more to make calls from outside of the EU and 85% are aware that they will also be charged for any call they receive while being abroad;
- Around nine in ten (88%) believe their mobile phone provider should actively keep them informed about the costs of using their phone in EU/non-EU countries.

⁷ For instance, our Dutch member reported that although consumer protection was improved by the Roaming regulation and consumers are better informed when crossing borders within the EU, there are numerous signs that consumers travelling to non-EU countries are often not aware of local charges and are less well informed.

⁸ This has happened both because of the fall in intra-European prices and rise of extra-European rates by operators who use this strategy to compensate themselves for European price-falls.

⁹ International Roaming - BEREC Benchmark Data Report for January 2010 – June 2010.

¹⁰We assume that data roaming would be especially hit by higher prices as this market develops and consumers are still struggling to understand how their use of data affects their bill.

expiration of the current regulation in 2012. Moreover, the wholesale as well as retail price ceiling for data roaming should be set at an appropriate level (wholesale charges not higher than €0.25/1MB; retail price cap around 1€/1MB - for more details, please see BEUC's response to Question 4).

Therefore, BEUC calls for the next regulation to be adopted for a period of at least three years. Within this regulatory framework, fair competition among operators needs to be promoted for the benefit of consumers and the functioning of the single market. An evaluation of the effectiveness of future regulation should take place in 2014, on the basis of which the decision whether a further extension is needed should be taken.

Question 3: Do you consider that the current model of regulation would be effective in the future in light of the desired objectives? Will this approach ensure adequate consumer protection and help stimulate competition? Is it efficient and coherent with EU policies?

Question 4: If this model is suitable in principle, what modifications may be required in order to achieve a well functioning single market for roaming services? Should this approach be combined with other options?

BEUC considers the current regulatory framework, which is based on wholesale and retail caps and amended by the regulation of retail data roaming, as the most effective short and medium-term approach.¹¹

As regards the adoption of complementary non-regulatory measures, we are concerned about their effectiveness given the lack of competition in the roaming market. Therefore, under present conditions, regulatory intervention is the only way to guarantee effective consumer protection.

1. Voice roaming services:

BEUC supports the extension of the regulated maximum average wholesale and retail charges of a Eurotariff. We also consider it highly important to set the price ceiling at a more reasonable level which reflects the real cost of providing roaming services. Already the provisions of the Regulation No 717/2007 on Eurotariffs for voice did not reflect the decrease of mobile termination rates caused by national regulatory intervention.¹² Unfortunately, the current Eurotariff continues in this trend¹³ and therefore we believe the Eurotariff for voice should be set at a significantly lower wholesale as well as retail level. In addition, a more penetrative, continuous, annual step decline in price caps should be promoted.

¹¹ 'International mobile roaming: competition, economics and regulation' paper by Ewan Sutherland, p. 28 (2010).

¹² ERG's Common Position on symmetry of fixed call termination rates and symmetry of mobile call termination rates.

¹³ For instance, the Belgian regulators have decided on drastic price reductions on termination rates in July 2010, but these wholesale reductions have not been transferred to consumers and we did not see any strong fall in retail prices.

According to the data provided by our members, we are concerned that not all operators have respected the minimum initial charging period of “no more than 30 seconds for calls made”.¹⁴ It is crucial that the European Commission and the regulators (both national and BEREC¹⁵) monitor the practices of operators and intervene in a timely manner. Furthermore, we consider the initial maximum charging interval of 30 seconds as irrelevant as the tariffs are high enough to cover the originating costs and consumers should not be charged for calling time they have not used. We would instead support a system based on ‘per second’ charging intervals. Concerning voicemail, this service should remain free of charge.

2. SMS roaming services:

Since the Euro-SMS tariff is still higher than is economically justifiable and operators gain exceptionally high margins, we believe that the current price caps of €0.04 at wholesale level and €0.11 at retail level should be gradually lowered. BEUC supports further decline of both the wholesale and retail caps which will bring prices for consumers closer to the real costs.¹⁶

3. Data roaming services:

BEUC has repeatedly highlighted the need for a ‘protective’ Eurotariff for consumers.¹⁷ Nevertheless, European consumers are still charged high prices for data roaming.¹⁸

As highlighted by the European Commission¹⁹, the introduction of a wholesale price cap has resulted in significantly lower wholesale prices; however, this decline has not been passed on to retail prices. Considering the fact that the average price per 1MB was half of the current price limit at the end of 2009 and that some smaller communications operators in Germany, Belgium and France offer wholesale rates at €0.25/1MB and retail rates at €0.50/1MB and many others (e.g. in UK, Austria, Czech Republic, Spain) are providing data roaming services for less than €2/1MB²⁰, we do consider the wholesale price cap of €0.80/1MB (2010) as too high and therefore propose a cap not higher than €0.25/1MB.

Moreover, since the real cost of providing data roaming are very low and the profit margin of operators is beyond the reasonable norm, we believe it is fair to set a ceiling for retail prices at around €1/1MB. We do think this is an appropriate level of price which will enable operators to cover all costs and gain very reasonable profit on the top.

¹⁴ Our Spanish member has noticed that some operators did not follow the rule and charged consumers for 60 seconds as an initial cost and then per 30 secs. instead of 1 sec. Also, some operators in Greece rose the minimum chargeable time from 30 secs. to 45 secs.

¹⁵ Body of European Regulators for Electronic Communications (BEREC).

¹⁶ Though some of our members reported that national prices of SMS are higher than Euro-SMS tariffs in some countries, we do believe these two issues should be considered separately.

¹⁷ Does a European Internal Market mean high communication costs when travelling between Member States? - BEUC’s position on the review of the voice roaming regulation 1 (2008)

¹⁸ According to the Eurobarometer survey, 35% of respondents do not consider the price of data roaming as reasonable.

¹⁹ http://ec.europa.eu/information_society/activities/roaming/docs/interim_report2010.pdf

²⁰ http://ec.europa.eu/information_society/activities/roaming/data/index_en.htm#belgium

Considering the different billing practices, consumers are often not charged per 1KB, but per 10KB or even 100KB without any legitimate justification. Moreover, when downloading data, most users download only a few KB of data per session²¹ and would benefit from lower billing intervals. Therefore, in order to solve both the above mentioned issues, BEUC proposes to use KB as the billing unit.

Moreover, the home operator should always provide his customer with basic personalised tariff information on the charges applicable to the provision of regulated data roaming services. In addition, any roaming network connection should be created with the consumer's consent. The home provider should also be required to provide information to its customer on how to avoid uncontrolled data roaming when using his mobile phone abroad.

Question 5: Would regulation of wholesale prices charged to MNOs, combined with transparency measures, be effective, efficient and coherent in light of the single market objective? Would the benefits of regulated wholesale rates be passed through to consumers?

BEUC believes that if the European Commission was to opt for a system where only wholesale and transparency measures are in place, this would be a huge step backwards. As the market for roaming is much less competitive than national telecom markets, we do not believe this approach would bring any benefits to consumers. We are also concerned about the real impact on the consumers, as mobile price plans are often very complicated and operators do not see any significant benefit from being transparent.

We therefore support a regulatory approach towards retail prices combined with measures to improve competition and transparency.

Question 6: Do you consider that retail regulation of data roaming prices is necessary? If not, what are the likely market developments post-June 2012?

Question 7: If retail regulation of data roaming prices was necessary, what would be an appropriate model for such regulation?

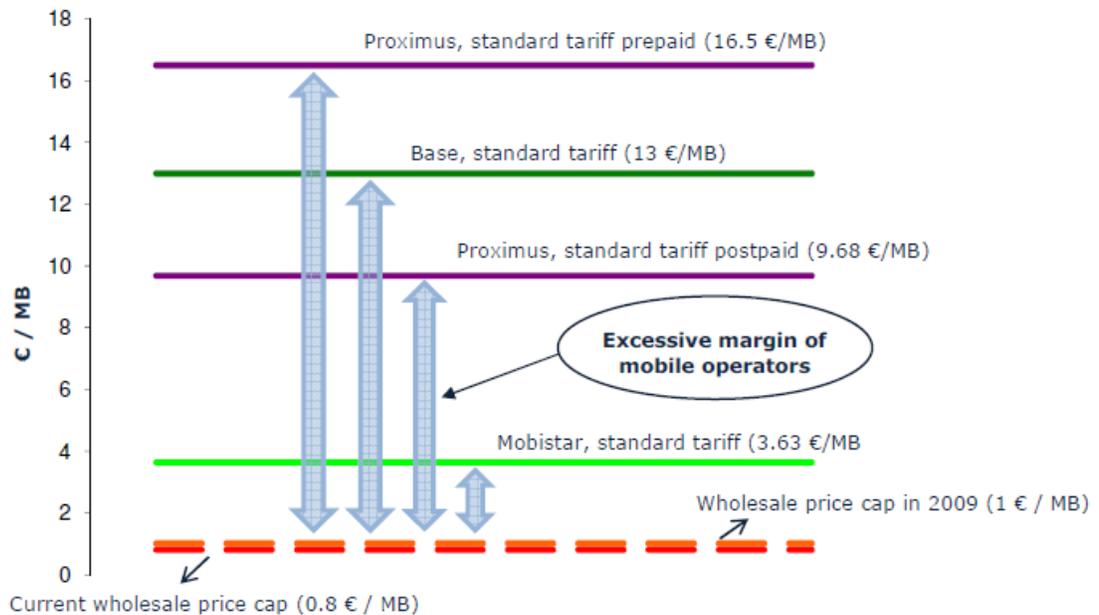
As already explained above, BEUC firmly believes that the regulation of data roaming prices at retail level can enhance consumers' trust and encourage a greater take-up of roaming services. Before default cut-off for data roaming applied in July 2010, we have noticed many excessive bill shocks, caused particularly by data roaming. High amounts of data downloaded in combination with excessive pricing were the most frequent reasons. After the implementation of the cut-off limit, the number of complaints decreased significantly, but complaints did not disappear.²²

²¹ For instance WAP, e-mail checking, location and navigation services.

²² For instance, as reported by our Danish member, operators have introduced various ceilings for maximum usage but this does not completely solve the problem of forbiddingly high rates. This development has been helped along by the growing number of smart phones, which introduce uncontrollable data-usage from mail-updates, software updates etc.

From the graphic below, which describes the Belgian situation on the market regarding data roaming in July 2010, one can conclude that without a retail cap, consumers will have to pay unreasonably high prices which will discourage them from using this service.

Standard tariffs and margins of Belgian mobile operators for data roaming



Source: Test-Achats, July 2010

To summarise, BEUC considers the following points as the only way to ensure fair prices for data roaming services (for more details, please see BEUC's response to Question 4):

- Wholesale charges not higher than €0.25/1MB;
- Retail price cap around €1/1MB;
- KB as the billing unit.

Question 8: Please indicate the advantages and disadvantages of 'Roaming prices based on domestic prices in the home market' and 'Roaming prices based on domestic prices in the visited country' approaches, relative to each other and to the current model of price capping, considering also competition aspects such as the possibility of margin squeeze?

We do share the same view with BEREC²³ that neither 'Roam like at home', nor 'Roam like a local' is a suitable option in the short or medium-term and definitely not after 2012.

Although 'Roam like at home' links roaming prices to domestic prices, it could deliver benefits to consumers only if domestic prices of mobile phone services are at similar levels across all EU Member States and if the wholesale prices are oriented around the level of costs. Since this objective has yet to be achieved, one can expect that operators would set higher charges to cover additional costs of roaming provision. Consequently, domestic tariffs would rather reflect roaming prices than the other way around. However, if appropriate measures are taken (e.g. if the difference between domestic and roaming tariffs is regulated) and the above-mentioned conditions are met, this option could be reconsidered in the future.

Regarding the option 'Roam like a local'²⁴, despite the potential positive effect in reducing margin squeeze, we are concerned that it would create additional confusion for consumers since they would have to pay different prices across Europe.

Question 9: In general, would decoupling approaches (such as Carrier Pre-select in the domestic market, Carrier Pre-select in the visited network, Choosing operator at the boarder) be effective in terms of stimulating greater competition for roaming services? Would all customer segments be able to benefit? Would such increased competition be sufficient to give consumers an effective choice of roaming services at (near) domestic prices?

Question 10: Would such 'structural' approaches be efficient? What are the technical implementation issues associated with these approaches?

BEUC is concerned that the decoupling of roaming from mobile services is not sufficient to deliver European consumers roaming services which are user-friendly and reasonably priced, never mind the fact that the impact of promoting fair competition will be limited. As BEREC has clearly stated,²⁵ the impact of these alternative approaches will be restricted by several factors such as the unwillingness of large operators to compete with each other to attract new customers or the way smaller operators will design their tariffs. In addition, all decoupling options would significantly increase the administration costs and costs related to technical specificities.

From the consumer point of view, this approach would require consumers to either actively search for a new provider of roaming services in their country and compare services of different home providers, or else choose a provider in the visited network and arrange a new contract despite the language barriers and the fact that they are unfamiliar with the new operator. As regards the option where the home provider would supply its customer with information on the operator in the visited country, we do not consider it as an effective solution, as consumers would still have to pay higher prices for roaming services.

²³ BEREC report on International Mobile Roaming Regulation (December 2010).

²⁴ According to this approach, consumers would pay a price similar to the national domestic price in the visited country.

²⁵ BEREC report on International Mobile Roaming Regulation (December 2010).

Therefore, we are concerned that decoupling would weaken consumer protection and discourage consumers from using roaming services when being abroad.

Question 11: How feasible/efficient is the establishment of a spot trading market for wholesale roaming? Would this approach lead to competitive wholesale rates? How effective would this approach be in terms of achieving competitive retail rates?

The idea of spot-trading of wholesale roaming (spot market or an electronic platform) could be considered only as a tool to foster the development of competition on the market. However, for this solution to produce results, the full anonymity of operators needs to be safeguarded. It also needs to be borne in mind that roaming is not a usual commodity and represents certain specifications in terms of quality of network coverage for instance. We are also concerned that the impact on reducing retail prices will be very limited.

Question 12: For access-based approaches, please, indicate whether such approaches can stimulate additional competition for roaming services. In order to achieve significant reductions in roaming prices do you consider that these 'access-based' approaches may need to be combined with other forms of wholesale price regulation (i.e. between MNOs) and/or retail price regulation? Please explain.

Given the low market share of Mobile Virtual Network Operators (MVNOs) in national markets, providing them with wholesale access for roaming only, will not have any remarkable impact on competition and would not result in desired and reasonable prices for the roaming services. It is equally important to also examine the demand side of the roaming market and how important roaming is for consumers when they decide on their mobile operator. In our opinion, it is unlikely to expect that the simple fact the MVNOs will be offering attractive prices for roaming will considerably influence consumers' decisions. Moreover, this option would require new rules and a right to network access.

As regards the option of enabling Mobile Network Operators (MNOs) to provide MVNOs with access to the network for a small mark-up to the wholesale price, we believe that this option is worth exploring. However, it must be ensured that the levy charged for using MNOs' networks should not be higher than maximum wholesale price.

Regarding the last proposed scenario, where MVNOs would have full wholesale access to mobile networks in the home market for all services (not only roaming), we do believe that this approach might be interesting in theory, but has to be thoroughly analysed in order to identify possible externalities.

Question 13: In the medium to long term, markets and technologies will possibly evolve to the point where roaming services can be provided by different competing technologies. Such developments seem to be unlikely to be sufficient to eliminate or minimize roaming problems within 5 years. Do respondents share this view? Please explain.

BEUC agrees with the assessment of the European Commission as regards the possible impact of new technologies on roaming. The development of VoIP²⁶ technologies and the increasing popularity of VoIP-enabled cell phones indeed have the potential to provide an alternative to roaming, to the benefit of consumer while being abroad. Nevertheless, the benefits have to be assessed in accordance to the regulatory developments in the field of telecoms, particularly net neutrality. Net neutrality interferences already occur in Europe. A number of cases have been reported where network operators have used their power over the control of traffic in order to block the transmission of data, prioritise their own services at the expense of their competitors, restrict the use of certain applications or charge online service providers a premium to guarantee fast delivery of their content. Discriminatory traffic management on mobile internet is already a reality, with VoIP and peer-to-peer services being blocked or throttled by mobile networks, while VoIP functionality is removed from mobile handsets. It is therefore unlikely that, in the absence of a strong commitment of the European Commission to protect net neutrality as a regulatory principle, such technologies will provide an effective alternative to roaming. In the absence of such, the risk to net neutrality and competition will certainly increase.

Furthermore, it needs to be kept in mind that not all Europeans using roaming have the adequate level of digital literacy to make use of these new technologies and applications. As stated in the EU Digital Agenda, the divide between digital natives and non-natives still must be addressed. BEUC is concerned that not all European consumers will benefit from alternatives to roaming and urges the European Commission to adopt a gradual approach, first by putting in place concrete policies aiming at increasing the digital literacy of all European consumers and then carefully assessing the possible effectiveness of the new VoIP technologies in the field of roaming.

Question 14: Do respondents think that the Commission should pursue measures to accelerate these developments (e.g. to encourage the massive deployment of interconnected Wifi networks)? What other measures could be considered? What will the impact be of the transition to an 'all IP' environment on roaming services?

BEUC supports the European Commission's intention to further develop measures to speed up the broader use of VoIP technologies. As the quality of VoIP services highly depends on Wifi connection and radio access technology, EU Member States should include plans for ultra-high speed networks in their National Broadband Strategy and take concrete implementing measures to realise this target. Although only a few EU Member States so far have fully operational plans for broadband, specific measures need to be adopted with the aim of assisting EU Member States in achieving this objective. Ensuring fast and very fast broadband for all requires significant investment. The use of EU funds and the development of public-private partnerships can be helpful tools in this direction, together with the adoption of concrete measures regarding spectrum coverage, capacity and the coordination of spectrum management across the EU.

²⁶ Voice over Internet Protocol.

In addition, hotspots are hard to find and are often based on a pay-per-hour basis. Therefore, the development of network of free wireless access hotspots could be beneficial to a great number of consumers when travelling abroad. Specific solutions regarding the communication of this information to consumers need to be designed. Nevertheless, this option has to be carefully assessed especially in terms of security and associated problems such as lack of encryption which have to be overcome. We also believe that technical aspects related to the development of the hotspot network²⁷ should be the subject of analysis. Moreover, hotspots are often not very easy to use. Most systems require password login or the acceptance of terms of service (ToS). This needs to be done on the tiny screen of a mobile phone. Therefore, more practical systems need to be developed.

Lastly, the use of Long Term Evolution (LTE)²⁸ technologies should be also considered as a way to support wide use of VoIP technologies in the future.

Question 15: To what extent is the problem of inadvertent roaming still a concern for citizen's living close to borders? What measures could be taken to avoid the adverse effects of inadvertent roaming, whether by means of voluntary co-operation between operators or by means of regulatory or legislative action?

Inadvertent roaming²⁹ might still be considered as a problem within the EU. For instance, there were cases in the UK and Republic of Ireland where regulators together with operators have tried to minimise the negative impact of inadvertent roaming on consumers and introduced special tariffs³⁰ or improved the network coverage in border areas and it is possible that these cases might still occur. The introduction of buffer areas around borders where consumers pay their local tariff could be considered a possible solution, but reliable data on the scope of the problem is needed.

We fear that inadvertent roaming could be also a serious problem when travelling in regions along the borders with non-EU countries, especially after the Roaming Regulation was introduced and prices outside the EU have gone up. Therefore, BEUC asks European regulators to continuously monitor the situation at border areas and take immediate actions if the problem of inadvertent roaming is recognised.

Moreover, following the technological development of mobile industry, inadvertent data roaming might represent a considerable risk. Although the settings of GSM can be manually changed, not all consumers know how to do it (especially in case of smart phones). It is clear that all mobile operators should ensure safe and trouble free use of

²⁷ In countries like the Netherlands with high broadband penetration and almost country-wide 3G coverage, it would be hard to build enough support for large WiFi investments especially when public funds are used.

²⁸ LTE' (3GPP Long Term Evolution) is the next-generation network which will bring a number of benefits over the existing 3G mobile broadband networks, especially in terms of the speed and connection reliability. Moreover, LTE networks will also provide the capacity to support an explosion in demand for connectivity from a new generation of consumer devices.

²⁹ Inadvertent roaming can occur when a consumer is close to a border and his mobile phone switches to a neighbouring country's mobile network without actually being in the country of the foreign operator.

³⁰ Vodafone Ireland has introduced a "home pricing principle" (when using Vodafone's network) to their business and personal post-pay subscribers. o2 Ireland offers the add-on service "All Ireland" (no roaming tariffs when using o2's network, no receiving-call charges) to their personal post-pay subscribers. Hutchison 3, "Ireland's newest mobile phone network", offers to some extent a home pricing principle. Receiving calls are charged, however.

mobile phones for all customers, by providing information and protective tariffs in these regions. In cases of a high bill caused by inadvertent roaming, it is the operator who should bear the responsibility for not securing the network in the border area.

Question 16: If you are an operator, what measures (technical or otherwise) have you taken to deal with the issue of inadvertent roaming, both to prevent it happening and to compensate for the adverse effects once it has been shown to have occurred? How do you raise awareness of the problem and the potential remedies on the part of your customers?

N/A

Question 17: What has been the impact on mobile users and service providers of the implementation of the Regulation as far as roaming within, from or between the outermost regions is concerned?

As the European Regulators Group and the Independent Regulators Group (I/ERG) stated,³¹ given the fact that local termination rates in outermost regions are higher and that calls made and received require higher transit costs, the focus should be put on the decrease of voice roaming caps. Therefore, we call upon the European Commission and regulators to carefully analyse the quality, price of roaming services and possible impact on consumers roaming in these regions.

Question 18: What additional measures (if any) have been taken by the Member States or their NRAs to address roaming between the outermost regions and other parts of the EU?

Question 19: What has been the financial impact (revenues, costs, profits, volumes etc.) on smaller mobile telephony providers of the application of the Regulation since its entry into force on 30 June 2007 and amended in 2009? Please provide financial data and any other information in this respect wherever possible (which will be treated as confidential if so requested).

Question 20: Has any operator encountered problems when seeking to agree a wholesale roaming agreement with an operator in another Member States? What kind of problems were there (e.g. for SMS interworking)? Were they resolved in the end? Was the issue referred to an NRA? If so, what action has been taken or is in train to address those problems?

N/A

³¹ IRG/ERG Response to the Commission's Public Consultation on Review of the Functioning of Regulation (EC) No 717/2007.

Question 21: To what extent is the use of traffic steering accompanied by a lower retail price for the roaming customer? Where lower roaming prices are conditional upon the use of a preferred visited network, how effective is the traffic steering in practice in ensuring that the preferred network is used? Please provide detailed data where possible.

Question 22: What techniques are applied to implement traffic steering in practice? Is the roaming customer informed in advance about the steering and does he have the possibility to override it?

Traffic steering³² has been widely used over the last few years.³³ However, BEUC has serious concerns about the effectiveness of this service that requires consumers to roam only on the network of their provider's partner or the network their operator prefers. At the same time, we also fear that consumers are not always offered a good deal at a reasonable price.

For instance, Vodafone is offering to its customers 'Vodafone Passport', according to which consumers can roam only with Vodafone partners. When using voice service, the customer has to pay a set up fee (e.g. 75p in UK).³⁴ We do believe that this fee should be currently much lower and should consequently disappear. Furthermore, all operators should guarantee that their partner network will have adequate network coverage (e.g. in case when the home operator has only one partner or preferred operator per country). Last but not least, we have noticed that, in some cases, traffic steering is not working properly and consumers have to manually choose the partner of their mobile operator.³⁵

Moreover, traffic steering techniques could lead to preferred tariffs for consumers. But these techniques do not offer the same protection as the 'Eurotariff'. One of the substantial advantages of the Eurotariff is to be applicable on every network in a specific country. Consumers do not have to think about technical handling on their phone while abroad or check every time the network on which they are roaming.³⁶

³² Traffic steering is a technique used by mobile operators to steer traffic on to a preferred or partner network. The result is that the consumer is roaming onto the foreign network chosen by their home operator.

³³ Traffic Steering And Data Roaming, article by Jenny Birkin available at: <http://www.articlesnatch.com/Article/Traffic-Steering-And-Data-Roaming/1432005>

³⁴ <http://www.vodafone.co.uk/personal/price-plans/managing-my-costs/travelling-abroad/ways-to-save/index.htm>

³⁵ For instance in Austria, cheap roaming deals of Orange are provided only with specific network partners and the consumer has to manually select the partner network as he might be automatically redirected to other operator with stronger network coverage.

³⁶ For instance, in Belgium there are two operators applying traffic steering techniques: Proximus and Base. The latter operator offers significant price reductions for data roaming services, but also mentions that these reductions cannot be always guaranteed, especially not in cases when the customer does not have access to the preferred network. Moreover, BASE operator asks its customers to manually select the preferred network in case this network was not automatically selected, warning that customers roaming on networks other than the preferred network cannot benefit from the cheaper offer, can be considered as quite low and not visible enough. More information available at: <http://www.base.be/fr/mobile/international/data-roaming>.

Question 23: Have you identified any significant effects on domestic prices or changes in an operator's tariff structure for domestic voice calls or other mobile services introduced after or shortly before the entry into force of the Regulation? If so, please explain providing details of the changes in terms of timing, scope and prices.

It is very difficult to isolate the possible roaming effect on domestic prices. We have to consider a variety of effects such as possible market distortions, operators' market shares and the regulation of mobile termination rates. Nevertheless, we have noticed that for instance in the Netherlands, operators have switched from second units to minute units for national billing. This has consequently led to a considerable increase of turnover on domestic mobile calls.

Apart of that, we can only conclude that operators remain more conservative in their price strategy and are less ready to make price reductions.

Question 24: What, if any, has been the impact of the Regulation on reciprocal roaming arrangements between EU/EEA mobile operators and their counterparts in other third countries?

N/A

Question 25: Have any Community-based providers of mobile roaming services negotiated agreements with third country operators concerning a reduction of wholesale roaming tariffs comparable to those set up in the Regulation?

BEUC would urge the European Commission to consider the adoption of appropriate regulatory measures to ensure the extension of the rules set by the EU Regulation (such as providing customers with information about applicable tariffs) to operators outside of Europe.

END