



24.7.2020

NOTICE TO MEMBERS

Subject: Petition No 0585/2019 by Jürgen Wippler (German) on mobile phones with dual sim card and the use of different mobile phone providers

1. Summary of petition

The petitioner calls for a prohibition to manufacturers and telephone companies to install software on mobile phones - capable of supporting the hardware for use of several mobile phone contracts - that eventually blocks cards of different providers. The petitioner sees in this limitation that some companies provoke, a clear abuse with the aim of enforcing disadvantageously higher tariffs for the EU consumer. Especially, as for the petitioner, in the border triangle Germany-France-Switzerland, users are more affected by such problems as they have several mobile phone contracts for the respective countries.

2. Admissibility

Declared admissible on 14 November 2019. Information requested from Commission under Rule 227 (6).

3. Commission reply, received on 24 July 2020

The petition

The petitioner calls for manufacturers and telephone companies to be prohibited from installing software on mobile phones that disables the dual subscriber identity module (SIM) functionality in dual SIM capable phones. By disabling this functionality in dual SIM capable phones, the mobile phones in question cannot then support the use of more than one mobile telecommunications provider at the same time. The petitioner considers that this limitation is an abuse that has the aim of forcing disadvantageously higher tariffs onto EU consumers. The petitioner is particularly concerned by the potential impact on the border triangle of Germany-France-Switzerland, where users may have several mobile phone contracts for the respective

countries..

The Commission's observations

The Commission understands that the petitioner expresses concerns in relation to the disabling of hardware-supported features via software that is installed in mobile phones.

In the Commission's view, the Commission Directive 2008/63/EC of 20 June 2008¹ on competition in the markets in telecommunications terminal equipment provides safeguards to protect consumers by prescribing transparency of the technical specifications (Article 5).

In the environment of transparency created by the aforementioned Directive, end users are free to choose the mobile phone that best suits their needs. There is no information on a general prohibition of the dual SIM capability at Member State level and no formal complaints have been submitted concerning the lack of availability of dual SIM devices.

Within its policy on electronic communications, the Commission pursues the objective that users derive maximum benefit in terms of choice, price and quality, which is in accordance with Directive 2002/21/EC² last amended by Directive 2009/140/EC of 25 November 2009. In this context, potential commercial practices by electronic communication providers to disable dual SIM functionalities would be unhelpful. The Commission has no competence to intervene in disputes between end users and their providers and refers users to the possibility to contact their national regulatory authorities in Germany, France or Switzerland. If they are not satisfied with the replies they receive from their actual and potential providers they should then report back to the Commission.

Conclusion

In view of the foregoing, the Commission considers that the information submitted by the petitioner does not warrant any further action by the Commission for the time being.

¹ Commission Directive 2008/63/EC of 20 June 2008 on competition in the markets in telecommunications terminal equipment (Codified version) (Text with EEA relevance), *OJ L 162*, 21.6.2008, p. 20–26.

² Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), *OJ L 108*, 24.4.2002, p. 33–50.