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Committee on Economic and Monetary Affairs

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PE 384.546v01-00

AMENDMENTS 7-53

Draft opinion

(PE 382.555v02-00)

Andrea Losco

Roaming on public mobile networks within the Community

Proposal for a regulation (COM(2006)0382 – C6-0244/2006 – 2006/0133(COD))

Text proposed by the Commission

Amendments by Parliament

Amendment by Sharon Bowles

Amendment 7 RECITAL 14

(14) A common mechanism, to be called the European Home Market Approach, should be employed for ensuring that users of public mobile telephone networks when travelling within the Community do not pay excessive prices for international roaming voice services when making calls or receiving voice calls, thereby achieving a high level of consumer protection while safeguarding competition between mobile operators. In view of the cross-border nature of the services concerned, a common mechanism is needed so that mobile operators are faced with a single coherent regulatory framework based on objectively established criteria.

(14) A common mechanism, to be called the European Home Market Approach, should be employed for ensuring that users of public mobile telephone networks when travelling within the Community do not pay excessive prices for international roaming voice **and data** services when making calls or receiving voice calls **or using data services**, thereby achieving a high level of consumer protection while safeguarding competition between mobile operators. In view of the cross-border nature of the services concerned, a common mechanism is needed so that mobile operators are faced with a single coherent regulatory framework based on objectively established criteria. **To secure effective retail competition and ensure that all mobile operators in the**

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Community are able to compete effectively, mobile operators should be under an obligation to provide wholesale international roaming services to all other operators based in the Community upon request.

Or. en

Justification

In order to compete effectively mobile operators should be obliged to provide wholesale international roaming services to all other operators. This will ensure no operator is excluded from access to wholesale roaming services.

Amendment by Sharon Bowles

Amendment 8
RECITAL 15

(15) The most effective and proportionate mechanism for regulating the level of prices for making international roaming calls in accordance with the above considerations is the setting at Community level of maximum per-minute charges at both retail and wholesale level.

(15) The most effective and proportionate mechanism for regulating the level of prices for making international roaming ***voice*** calls in accordance with the above considerations is the setting at Community level of maximum per-minute charges at both retail and wholesale level. ***For data services, national regulatory authorities and the Commission should supervise wholesale and retail data prices, including SMS and MMS charges, and propose regulation should prices not decrease.***

Or. en

Justification

In order to ensure a quick passage for this regulation data roaming should not be directly included in this regulation. However, it remains important that the national regulators and the Commission monitor the roaming costs in this field, assess the results and bring forward corresponding regulation should it be deemed necessary.

Amendment by Guntars Krasts

Amendment 9
RECITAL 21

(21) Providers of international roaming services for calls made while roaming abroad as covered by this Regulation should have a period within which to adjust their retail prices voluntarily to comply with the maximum limits provided in this Regulation. It is appropriate to allow a period of **six** months for this purpose, to permit market players to make the necessary adaptations.

(21) Providers of international roaming services for calls made while roaming abroad as covered by this Regulation should have a period within which to adjust their retail prices voluntarily to comply with the maximum limits provided in this Regulation. It is appropriate to allow a period of **three** months for this purpose, to permit market players to make the necessary adaptations.

Or. en

Amendment by Donata Gottardi and Katerina Batzeli

Amendment 10
RECITAL 26

(26) In order to improve the transparency of retail prices for making and receiving roaming calls within the Community and to help roaming customers make decisions on the use of their mobile telephones while abroad, providers of mobile telephony services should enable their roaming customers easily to obtain information on the roaming charges applicable to them in the visited Member State concerned, **on request and** free of charge. Transparency also requires that providers furnish information on roaming charges when subscriptions are taken out and that they also give their customers periodic updates on roaming charges as well as in the event of substantial changes.

(26) In order to improve the transparency of retail prices for making and receiving roaming calls within the Community and to help roaming customers make decisions on the use of their mobile telephones while abroad, providers of mobile telephony services should enable their roaming customers easily to obtain information on ***the existence of steering agreements between the home provider and the provider of the visited network and*** on the roaming charges applicable to them in the visited Member State concerned free of charge. Transparency also requires that providers furnish information on roaming charges when subscriptions are taken out and that they also give their customers periodic updates on roaming charges as well as in the event of substantial changes.

Or. en

Justification

To improve transparency and competition, the customer should be informed about retail

charges and the existence of steering agreements between the home provider and the providers of visited networks in order to make a choice based on a complete information.

Amendment by Guntars Krasts

Amendment 11

RECITAL 27

(27) The national regulatory authorities which are responsible for carrying out tasks under the 2002 regulatory framework for electronic communications should have the powers needed to supervise and enforce the obligations in this Regulation within their territory. They should also monitor developments in the pricing of voice and data services for mobile customers when roaming within the Community, in particular as regards the specific costs related to roaming calls made in the outermost regions of the Community and the necessity to ensure that these costs can be adequately recovered on the wholesale market. ***They*** should ensure that up-to-date information on the application of this Regulation is made available to mobile users.

(27) The national regulatory authorities which are responsible for carrying out tasks under the 2002 regulatory framework for electronic communications should have the powers needed to supervise and enforce the obligations in this Regulation within their territory. They should also monitor developments in the pricing of voice and data services for mobile customers when roaming within the Community, in particular as regards the specific costs related to roaming calls made in the outermost regions of the Community and the necessity to ensure that these costs can be adequately recovered on the wholesale market. ***The national regulatory authorities should communicate the results of such monitoring to the Commission every six month as from the date of entry into force of this Regulation. The Commission should publish a report on developments within the Community at the end of a period of 12 months following the entry into force of this Regulation. The national regulatory authorities*** should ensure that up-to-date information on the application of this Regulation is made available to mobile users.

Or. en

Amendment by Katerina Batzeli

Amendment 12

RECITAL 31 A (new)

(31a) The application of this Regulation

shall be postponed for Bulgaria and Romania, pending the outcome of a specific impact assessment to be carried out by the Commission regarding those two Member States. In any event the implementation of any cap on roaming wholesale and retail charges should be phased in by means of a glide path for Bulgaria and Romania.

Or. en

Justification

The markets in Bulgaria and Romania are relatively immature and need vital investments in network improvements. It is thus essential to have a specific impact analysis on those two new member states before implementing the Roaming Regulation.

Amendment by Andrea Losco

Amendment 13

ARTICLE 2, PARAGRAPH 2, POINTS (E A) AND (E B) (new)

(ea) “new roaming customers” means those roaming customers referred to in point (e) who have signed a contract with a home provider for the first time and with another home provider as before respectively or have purchased a prepaid card after the obligations under Article 4 have come into effect;

(eb) “existing roaming customers” means those roaming customers referred to in point (e) who have purchased a prepaid card or have signed a contract before the obligations under Article 4 have come into effect and have extended their contract with the same provider respectively, as well as new roaming customers who have opted out of the consumer protection tariff provided for in Article 4.

Or. en

Justification

The amendment introduces definitions of ‘new roaming customers’ and ‘existing roaming

customers', consistently with tabled amendments.

Amendment by Guntars Krasts

Amendment 14
ARTICLE 1, PARAGRAPH 2 A (new)

2a. This Regulation lays down rules to increase price transparency and improve the provision of tariff information to consumers in international roaming services.

Or. en

Amendment by Katerina Batzeli

Amendment 15
ARTICLE 3, TITLE

Wholesale charges for ***the making of***
regulated roaming calls

Wholesale charges for regulated roaming
calls

Or. en

Justification

The small and independent operators may have competitive problems and smaller bargaining powers deriving from the imposition of single caps for both large and small operators. Therefore is essential that the Commission prepares a report regarding the economic impact of the regulation on those operators. Depending on the results of that report the Commission may also propose specific measures in order to reinforce the competitiveness of small operators across EU.

Amendment by Antolín Sánchez Presedo

Amendment 16
ARTICLE 3

The total wholesale charge that the operator of a visited network may levy from the operator of the roaming customer's home network for the provision of a regulated roaming call, including inter alia origination,

The total wholesale charge that the operator of a visited network may levy from the operator of the roaming customer's home network for the provision of a regulated roaming call, including inter alia origination,

transit and termination, shall not exceed *the applicable amount per minute determined in accordance with Annex I.*

transit and termination, shall not exceed *the (70 %) of the guarantee retail charge applicable in accordance with this Regulation.*

Or. es

Amendment by Gunnar Hökmark

Amendment 17
ARTICLE 4

Article 4

deleted

Retail charges for the making of regulated roaming calls

Subject to Article 5, the total retail charge, excluding VAT, which a home provider may levy from its roaming customer for the provision of a regulated roaming call may not exceed 130 % of the applicable maximum wholesale charge for that call determined in accordance with Annex I. The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as call set up charges or opt-in fees.

Or. en

Justification

Operators will under the competitive pressure be forced to reduce retail prices, this should not be subject to any regulation. Competition at national level will ensure appropriate pass-through to the consumer of cost savings.

Amendment by Antolín Sánchez Presedo

Amendment 18
ARTICLE 4

Subject to Article 5, the total retail charge, excluding VAT, which a home provider may levy from its roaming customer for the provision of a regulated roaming call may

All European consumers shall have the right to opt for an initial guarantee retail charge for the making of regulated roaming calls, which shall be laid down by

not exceed 130 % of the applicable maximum wholesale charge for that call determined in accordance with Annex I. The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as call set up charges or opt-in fees.

the Communications Committee following a report by the European Regulators Group.

Or. es

Amendment by Katerina Batzeli

Amendment 19
ARTICLE 4

Retail charges for *the making of* regulated roaming calls

Subject to Article 5, the **total** retail charge, excluding VAT, which a home provider may levy from its roaming customer for *the provision of* a regulated roaming call may not exceed **130 %** of the applicable maximum wholesale charge for that call determined in accordance with Annex I. The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as call set up charges or opt-in fees.

Retail charges for regulated roaming calls

Subject to Article 5, the **average** retail charge, excluding VAT, which a home provider may levy from its roaming customer for *making and receiving* a regulated roaming call may not exceed **150 %** of the applicable maximum wholesale charge for that call determined in accordance with Annex I. The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as call set up charges or opt-in fees.

Or. en

Justification

The proposed upper limits on retail prices of call charges are too low and leave no space for creative competition amongst different types of operators and services. Therefore it is necessary to set a single and higher average retail cap in combination with maximum price caps for individual calls, in order to allow more flexibility for the operators and thus better services for the consumers. For the same reason the operators must be given the opportunity to offer contracts to consumers exceeding the proposed caps on retail charges, as long as the consumers' right to return to the regulated prices if and when they decide to is being safeguarded and remains free of restrictions and charges.

Amendment by Katerina Batzeli

Amendment 20
ARTICLE 4 A (new)

Article 4a

Consumer protection tariff

A home provider shall not in any event charge its roaming customer for the provision of a roaming call more than EUR 0.5 per minute for a call made and EUR 0.3 per minute for a call received, excluding VAT.

Or. en

Justification

A safeguard tariff setting the upper limits regarding individual calls is also necessary and more transparent for the customers.

Amendment by Andrea Losco

Amendment 21
ARTICLE 4 A (new)

Article 4a

Consumer protection tariff

- 1. Home providers shall be obliged to make available to all roaming customers, clearly and transparently, a consumer protection tariff complying with paragraph 2.***
- 2. The retail charge per minute (excluding VAT) which a home provider may levy from its roaming customers for the provision of roaming calls may not exceed [EUR 0,48] for calls made and [EUR 0,25] for calls received. These charges shall automatically be reduced by [5] % 12 and 24 months respectively after the entry into force of this Regulation.***
- 3. Existing roaming customers shall be given the opportunity to switch to the consumer protection tariff. The switch shall***

be free of charge and may not be subject to conditions and restrictions pertaining to existing elements of the subscription.

4. The consumer protection tariff shall automatically be offered to new roaming customers taking out a subscription, unless they deliberately opt for another tariff. If they so opt, the customer shall be free to revert to the consumer protection tariff within a maximum period of three months, while retaining the other elements of the subscription.

5. The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as call set-up charges or opt-in fees.

Or. en

Justification

The amendment introduce an obligation for the home providers to make available to all their customers a standard consumer protection tariff to make and to receive calls. At the same time, home providers can make several offers (e.g. packages of several services), providing their own customers with different prices from the consumer protection tariff, if the consumers will deliberately opt for these offers.

Amendment by Katerina Batzeli

Amendment 22
ARTICLE 4 B (new)

Article 4b

Alternative tariff schemes

Home operators may agree with their customers roaming prices exceeding the limits set out in Articles 4 and 4a , provided that such agreement recognises that a customer accepting alternative tariff schemes shall have the right to switch back to the tariff limits provided for in of Articles 4 and 4a free of charge or penalty and with the only restriction being a maximum 30 days' notice.

Or. en

Justification

Operators must be given the opportunity to offer contracts to consumers exceeding the proposed caps on retail charges, as long as the consumers' right to return to the regulated prices if and when they decide to is been safeguarded and remains free of restrictions and charges.

Amendment by Gunnar Hökmark

Amendment 23
ARTICLE 5

Article 5

deleted

Timing of application of maximum retail charge limits for regulated roaming calls

The obligations in Article 4 shall take effect six months after the entry into force of this Regulation.

Or. en

Justification

Operators will under the competitive pressure be forced to reduce retail prices, this should not be subject to any regulation. Competition at national level will ensure appropriate pass-through to the consumer of cost savings.

Amendment by Piia-Noora Kauppi

Amendment 24
ARTICLE 5

The obligations in Article 4 shall take effect **six months** after the entry into force of this Regulation.

The obligations in Article 4 shall take effect **twelve months** after the entry into force of this Regulation.

Or. en

Justification

If and when a retail regulation comes into force, at least 24 months would have passed since the EC made its market analysis and impact assessment on international roaming. Contrary to what we are led to believe, much has happened, is happening, and will happen, in the

markets in the said time period.

It would be reasonable to review the effect of the proposed wholesale regulation on the retail market during a 'sunrise' period. At the same time a sunrise clause would be an instrument to make sure that retail regulation is introduced only when it is demonstrated that wholesale regulation does not work.

Amendment by Antolín Sánchez Presedo

Amendment 25

ARTICLE 5

The obligations in Article 4 shall take effect six months after the entry into force of this Regulation.

The initial guarantee retail charge laid down in Article 4 shall be determined no later than three months after the entry into force of this Regulation and the obligations deriving therefrom shall take effect six months after its determination.

In the event that the agreement referred to in the previous paragraph is not adopted with effect from the entry into force of this Regulation and during the three years in which it applies, operators must apply a minimum reduction of (10 %) to the amount of the charges that were applied on 31 December 2006 and in the same proportion for the two following years if the appropriate provisions or revisions are not adopted.

Or. es

Amendment by Zsolt László Becsey

Amendment 26

ARTICLE 5

The obligations in Article 4 shall take effect six months after the entry into force of this regulation.

The application of Article 4 depends on the findings of a timely review on the possible favourable aftermaths triggered by the wholesale price regulation.

If the retail price decrease does not follow match any possible wholesale price decrease, the retail price cap provision

defined in Article 4 shall be applied.

Or. en

Justification

Price reduction in the wholesale prices should bring about significant decline in the retail prices, accordingly. Therefore it should be more rational to introduce any regulation concerning the retail market prices when a thorough impact study is published on the development of the retail prices in reaction to the wholesale price reduction.

Amendment by Guntars Krasts

Amendment 27
ARTICLE 5

The obligations in Article 4 shall take effect *six months* after the entry into force of this Regulation.

The obligations in Article 4 shall take effect *three months* after the entry into force of this Regulation.

Or. en

Amendment by Gunnar Hökmark

Amendment 28
ARTICLE 6

Article 6

deleted

Retail charges for the receipt of calls while roaming in the Community

The total retail charge, excluding VAT, which a home provider may levy from its roaming customer in respect of the receipt by that customer of voice telephony calls while roaming on a visited network shall not exceed, on a per minute basis, 130% of the average mobile termination rate published pursuant to Article 10(3). The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as one-off charges or opt-in fees.

Or. en

Justification

Operators will under the competitive pressure be forced to reduce retail prices, this should not be subject to any regulation. Competition at a national level will ensure appropriate pass-through to the consumer of cost savings.

Amendment by Katerina Batzeli

Amendment 29

ARTICLE 6

Article 6

deleted

Retail charges for the receipt of calls while roaming in the Community

The total retail charge, excluding VAT, which a home provider may levy from its roaming customer in respect of the receipt by that customer of voice telephony calls while roaming on a visited network shall not exceed, on a per minute basis, 130% of the average mobile termination rate published pursuant to Article 10(3). The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as one-off charges or opt-in fees.

Or. en

Justification

The proposed upper limits on retail prices of call charges are too low and leave no space for creative competition amongst different types of operators and services. Therefore it is necessary to set a single and higher average retail cap in combination with maximum price caps for individual calls, in order to allow more flexibility for the operators and thus better services for the consumers. For the same reason the operators must be given the opportunity to offer contracts to consumers exceeding the proposed caps on retail charges, as long as the consumers' right to return to the regulated prices if and when they decide to is being safeguarded and remains free of restrictions and charges.

Amendment by Antolín Sánchez Presedo

Amendment 30

ARTICLE 6

The total retail charge, excluding VAT, which a home provider may levy from its roaming customer in respect of the receipt by that customer of voice telephony calls while roaming on a visited network shall not exceed, on a per minute basis, 130 % of the average mobile termination rate published pursuant to Article 10(3). The charge limits in this Article shall include any fixed elements associated with the provision of regulated roaming calls, such as one-off charges or opt-in fees.

All European consumers shall have the right to opt for a guarantee charge for the receipt of roaming calls, which shall be laid down by the Communications Committee on a proposal by the Commission and following a report by the European Regulators Group.

Or. es

Amendment by Piia-Noora Kauppi

Amendment 31
ARTICLE 7

Article 7

deleted

Transparency of retail charges

The customer may choose to make such a request by means of a mobile voice call or by sending an SMS (Short Message Service), in either case to a number designated for this purpose by the home provider, and may choose to receive the information either during the course of that call or by SMS (in the latter case without undue delay).

Or. en

Justification

There is a need for transparency in prices. At the same time there is no information that all customers necessarily would like the same solution like 'pull' or 'push' SMS when arriving in other countries. Some would rather experience that they are 'swamped' by SMS with price information and alternative offers.

A transparency requirement must be phrased in a general way so that customers and operators can find the adequate method over time.

It should be underlined that a voice information system means additional costs to the

operators and thus for the customers. Also, it must be noted that any of the ‘real time’ solutions for providing price/cost information would require substantial technical changes to the networks, if at all practically possible.

Amendment by Donata Gottardi and Katerina Batzeli

Amendment 32
ARTICLE 7, PARAGRAPH 1

1. Each home provider shall provide to its roaming customer ***on request*** personalised pricing information on the retail charges that apply to the making and receipt of calls by that customer in the visited Member State.

1. Each home provider shall ***automatically*** provide to its roaming customer personalised pricing information on the retail charges ***and the existence of specific steering agreements with other mobile telephony service providers*** that apply to the making and receipt of calls by that customer in the visited Member State.

Or. en

Justification

To improve transparency and competition, the customer should be informed about retail charges and the existence of steering agreements between the home provider and the providers of visited networks in order to make a choice based on a complete information.

Amendment by Donata Gottardi and Katerina Batzeli

Amendment 33
ARTICLE 7, PARAGRAPH 2

2. The customer ***may choose to make such a request*** by means of a mobile voice call or ***by sending an*** SMS (Short Message Service), ***in either case to a number designated for this purpose by the home provider, and may choose to receive the information either during the course of that call or by SMS (in the latter case without undue delay).***

2. The ***roaming*** customer ***shall receive the information set out in paragraph 1*** by means of a mobile voice call or SMS (Short Message Service). ***That information shall be provided within one hour of the customer entering the visited Member State by all providers of mobile telephony service operating in the visited country.***

Or. en

Justification

To improve transparency in retail prices, there is a need to introduce an automatic requirement on mobile telephony service providers to supply subscribers with information on roaming charges, for making and receiving calls, the moment they enter the Member State they are visiting. In order to make a well-informed choice, the customer shall receive such information from all the mobile telephony providers operating in the visited country. To be useful such information must be supplied with all due speed. Within an hour of entering the Member State visited, the user should receive a voice call or an automatic SMS from their provider of origin containing personalised information on the prices applied in that country.

Amendment by Gunnar Hökmark

Amendment 34 ARTICLE 7, PARAGRAPH 2

2. The customer may choose to make such a request ***by means of a mobile voice call or by sending an SMS*** (Short Message Service), ***in either case to a number designated for this purpose by the home provider, and may choose to receive the information either during the course of that call or by SMS (in the latter case without undue delay).***

2. The customer may choose to make such a request ***and to receive the information at his or her individual request, i.e. to receive this information by SMS*** (Short Message Service), ***or have it made available on the web. Such information may be provided by an individual mobile operator or an organisation that obtains this information from an operator.***

Or. en

Amendment by Gunnar Hökmark

Amendment 35 ARTICLE 7, PARAGRAPH 3

3. ***The information service referred to above shall be provided free of charge, both as regards the making of the request and the receipt of the information requested.***

3. ***General information requested by the customer shall be free of charge, although personalised pricing information may be subject to reasonable commercial tariffs.***

Or. en

Amendment by Andrea Losco

Amendment 36
ARTICLE 7, PARAGRAPH 3 A (new)

3a. The customer may at any time request termination of the above free information service.

Or. it

Justification

To avoid unwanted messages being sent, particularly for transborder customers, there should be an opportunity to opt for a voluntary 'pull system' at any time.

Amendment by Katerina Batzeli and Donata Gottardi

Amendment 37
ARTICLE 8, PARAGRAPH 1 A

1a. National regulatory authorities shall make information pertaining to the application of this Regulation, in particular Articles 3, 4, 4a and 4b, publicly available in a manner that enables interested parties to have easy access to that information.

Or. en

Justification

The results of the monitoring and supervising procedure, as set in paragraph 1 of this Article, should be transparent and public, so as to enable interested parties and consumers to be well informed.

Amendment by Sharon Bowles

Amendment 38
ARTICLE 8, PARAGRAPH 6

6. National regulatory authorities shall monitor developments in wholesale and retail prices for the provision to roaming customers of voice ***and data***

6. National regulatory authorities shall monitor developments in wholesale and retail prices for the provision to roaming customers of voice services, in particular in

communications services, including the Short Message Service (SMS) and the Multimedia Messaging Service (MMS), in particular in the outermost regions of the Community, and shall communicate the results of such monitoring to the Commission on request.

the outermost regions of the Community, and shall communicate the results of such monitoring to the Commission on request.

Or. en

Justification

In order to ensure a quick passage for this regulation data roaming should not be directly included in this regulation. However, it remains important that the national regulators and the Commission monitor the roaming costs in this field, assess the results and bring forward corresponding regulation should it be deemed necessary. The appropriate place for this is in the 'Review' Article 12 – see other amendments.

Amendment by Guntars Krasts

Amendment 39 ARTICLE 8, PARAGRAPH 6

6. National regulatory authorities shall monitor developments in wholesale and retail prices for the provision to roaming customers of voice and data communications services, including the Short Message Service (SMS) and the Multimedia Messaging Service (MMS), in particular in the outermost regions of the Community, and shall communicate the results of such monitoring to the Commission *on request*.

6. National regulatory authorities shall monitor developments in wholesale and retail prices for the provision to roaming customers of voice and data communications services, including the Short Message Service (SMS) and the Multimedia Messaging Service (MMS), in particular in the outermost regions of the Community, and shall communicate the results of such monitoring to the Commission *every six month as from the date of the entry into force of this Regulation. The Commission shall publish a report on developments within the Community at the end of a period of 12 months following the entry into force of this Regulation.*

Or. en

Amendment by Zsolt László Becsey

Amendment 40

ARTICLE 9, PARAGRAPH 1 A (new)

The Commission shall issue guidance on the supervision mechanism pertinent to the implementation of this Regulation in order to ensure the application of a uniform penalty scheme at Community level.

Or. en

Justification

Noteworthy, the Commission shall elaborate a uniform penalty scheme associated with this Regulation, avoiding to emerge different infringement procedures in Member States.

Amendment by Gunnar Hökmark

Amendment 41

ARTICLE 10

Article 10

deleted

Average mobile termination rate

- 1. Average mobile termination rate 1. The average mobile termination rate shall be determined in accordance with the criteria and methodology set out in Annex II, on the basis of information communicated by the national regulatory authorities in accordance with paragraphs 2 and 4.***
- 2. Each national regulatory authority shall communicate to the Commission on request, and within the time limit specified by the Commission in that request, the information specified in Annex II.***
- 3. The Commission shall publish in the Official Journal of the European Union, on a regular basis, the average mobile termination rate determined in accordance with paragraphs 1, 2 and 4.***
- 4. For the first publication of the average mobile termination rate following entry***

into force of this Regulation, the Commission may rely on the latest information consistent with Annex II which has been collected pursuant to Article 5(2) of Directive 2002/21/EC in fulfilment of its task of monitoring the implementation of the 2002 regulatory framework for electronic communications.

5. Undertakings subject to the requirements of this Regulation shall ensure that any changes to their charges which are required to ensure compliance with Articles 3, 4 and 6 take effect within two months from each publication pursuant to the preceding paragraphs of this Article.

6. Amendments necessary to adapt Annex II to technical or market developments shall be adopted by the Commission, acting in accordance with the procedure referred to in Article 13(3).

Or. en

Justification

Many small operators that contribute to increased competition, consumer choice and the development of new and innovative services within the telecom sector may risk ending up in an unfavourable situation with the proposed regulation of the Commission. The establishment of maximum price levels gives a degree of protection to smaller operators.

Amendment by Antolín Sánchez Presedo

Amendment 42
ARTICLE 10

Article 10

deleted

Average mobile termination rate

1. Average mobile termination rate 1. The average mobile termination rate shall be determined in accordance with the criteria and methodology set out in Annex II, on the basis of information communicated by the national regulatory authorities in accordance with paragraphs 2 and 4.

2. Each national regulatory authority shall communicate to the Commission on request, and within the time limit specified by the Commission in that request, the information specified in Annex II.

3. The Commission shall publish in the Official Journal of the European Union, on a regular basis, the average mobile termination rate determined in accordance with paragraphs 1, 2 and 4.

4. For the first publication of the average mobile termination rate following entry into force of this Regulation, the Commission may rely on the latest information consistent with Annex II which has been collected pursuant to Article 5(2) of Directive 2002/21/EC in fulfilment of its task of monitoring the implementation of the 2002 regulatory framework for electronic communications.

5. Undertakings subject to the requirements of this Regulation shall ensure that any changes to their charges which are required to ensure compliance with Articles 3, 4 and 6 take effect within two months from each publication pursuant to the preceding paragraphs of this Article.

6. Amendments necessary to adapt Annex II to technical or market developments shall be adopted by the Commission, acting in accordance with the procedure referred to in Article 13(3).

Or. es

Amendment by Katerina Batzeli

Amendment 43
ARTICLE 10, PARAGRAPH 5

5. Undertakings subject to the requirements of this Regulation shall ensure that any changes to their charges which are required to ensure compliance with Articles 3, 4 *and*

5. Undertakings subject to the requirements of this Regulation shall ensure that any changes to their charges which are required to ensure compliance with Articles 3 *and* 4

6 take effect within two months from each publication pursuant to the preceding paragraphs of this Article.

take effect within two months from each publication pursuant to the preceding paragraphs of this Article.

Or. en

Justification

A safeguard tariff setting the upper limits regarding individual calls is also necessary and more transparent for the customers.

Amendment by Sharon Bowles

Amendment 44
ARTICLE 12

The Commission shall review the functioning of this Regulation and report to the European Parliament and the Council no later than two years after the date of its entry into force. In its report the Commission shall include its reasoning regarding the continued need for regulation or the possibility of its repeal, in the light of developments in the market and with regard to competition. For this purpose, the Commission may request information from the Member States and the national regulatory authorities, which shall be supplied without undue delay.

1. The Commission shall review the functioning of this Regulation and report to the European Parliament and the Council no later than two years after the date of its entry into force. In its report the Commission shall include its reasoning regarding the continued need for regulation or the possibility of its repeal, in the light of developments in the market and with regard to competition. For this purpose, the Commission may request information from the Member States and the national regulatory authorities, which shall be supplied without undue delay.

2. National regulatory authorities shall monitor developments in wholesale and retail prices for the provision to roaming customers of data transfers, MMS and SMS, including collecting data on average wholesale international roaming prices charged by mobile operators within the Community and shall communicate the results of such monitoring to the Commission 12 months after the entry into force of this Regulation and thereafter on request.

3. On the basis of the data specified in paragraph 2, the Commission shall, within 18 months of the entry into force of this Regulation, report back to the European

Parliament and the Council with an analysis of wholesale international roaming data prices in the Community. If wholesale international roaming data prices have not decreased to levels commensurate with voice roaming after the entry into force of this Regulation, the Commission shall assess the need for a regulation to reduce wholesale prices for the provision to roaming customers of data communication services, and propose an appropriate regulation if necessary.

Or. en

Justification

In order to ensure a quick passage for this regulation data roaming should not be directly included in this regulation. However, it remains important that the national regulators and the Commission monitor the roaming costs in this field, assess the results and bring forward corresponding regulation should it be deemed necessary.

Amendment by Katerina Batzeli

Amendment 45

ARTICLE 12, PARAGRAPH 1A (new)

In view of the particular risks for small and independent operators, especially the newly started, the Commission shall, within the two first years of the implementation of this Regulation, prepare a report analysing the economic impact on their competitiveness, possibly including proposals for future intervention.

Or. en

Justification

The small and independent operators may have competitive problems and smaller bargaining powers deriving from the imposition of single caps for both large and small operators. Therefore it is essential that the Commission prepares a report regarding the economic impact of the regulation on those operators. Depending on the results of that report the Commission may also propose specific measures in order to reinforce the competitiveness of small operators across EU.

Amendment by Antolín Sánchez Presedo

Amendment 46
ARTICLE 12

The Commission shall review the functioning of this Regulation and report to the European Parliament and the Council no later than two years after the date of its entry into force. In its report the Commission shall include its reasoning regarding the continued need for regulation ***or the possibility of its repeal***, in the light of developments in the market and with regard to competition. For this purpose, the Commission may request information from the Member States and the national regulatory authorities, which shall be supplied without undue delay.

The Commission shall review the functioning of this Regulation and report to the European Parliament and the Council no later than two years after the date of its entry into force. In its report the Commission shall include its reasoning regarding the continued need for ***any*** regulation in the light of developments in the market and with regard to competition. For this purpose, the Commission may request information from the Member States and the national regulatory authorities, which shall be supplied without undue delay.

Or. es

Amendment by Antolín Sánchez Presedo

Amendment 47
ARTICLE 12 A (new)

Article 12a

Period of validity

This Regulation shall expire three years after its entry into force.

Or. es

Amendment by Zsolt László Becsey

Amendment 48
ARTICLE 13 A (new)

Article 13a

The Commission, in close cooperation with national competent supervisory authorities,

shall take into account in its review referred to in Article 12 the development of domestic voice call tariffs.

Mobile phone operators with significant market power in the national markets shall be precluded from raising domestic tariffs in compensation for losses incurred as a result of this Regulation.

Or. en

Justification

There is a real danger that the mobile service operators try to compensate their losses incurred from the price cap provisions of this Regulation by means of increasing the tariffs of the domestic voice calls. Upon assessment of the effects triggered by price cap regulation, the domestic market tendencies shall be brought to the scope, as well. It is of paramount importance to preclude any collusive or abusive pricing behaviour between the service providers in national markets.

Amendment by Katerina Batzeli

Amendment 49
ARTICLE 16 A (new)

Article 16a

Derogation

The provisions of this Regulation shall not apply to Bulgaria and Romania.

The Commission shall monitor all developments in wholesale and retail prices for the provision of roaming voice communication services by home operators in Bulgaria and Romania and prepare an impact assessment no later than two years after the entry into force of this Regulation.

Or. en

Justification

The markets in Bulgaria and Romania are relatively immature and need vital investments in network improvements. It is thus essential to have a specific impact analysis on those two new member states before implementing the Roaming Regulation.

Amendment by Antolín Sánchez Presedo

Amendment 50
ANNEX I

The total wholesale charges that the operator of a visited network may levy from the operator of the roaming customer's home network for the making of a regulated roaming call originating on that visited network shall not exceed, on a per-minute basis, an amount equal to the average mobile termination rate published pursuant to Article 10(3) multiplied: **deleted**

a) by a factor of two, in the case of a regulated roaming call to a number assigned to a public telephone network in the Member State in which the visited network is located; or

b) by a factor of three, in the case of a regulated roaming call to a number assigned to a public telephone network in a Member State other than that in which the visited network is located.

The charge limits in this Annex shall include any fixed elements, such as call set-up charges.

Or. es

Amendment by Katerina Batzeli

Amendment 51
ANNEX I

The total wholesale charges that the operator of a visited network may levy from the operator of the roaming customer's home network for the making of a regulated roaming call originating on that visited network shall not exceed, on a per-minute basis, an amount equal to the average mobile termination rate published pursuant to

The total wholesale charges that the operator of a visited network may levy from the operator of the roaming customer's home network for the making of a regulated roaming call originating on that visited network shall not exceed, on a per-minute basis, an amount equal to the average mobile termination rate published pursuant to

Article 10(3) multiplied:

Article 10(3) multiplied *by a factor of three*.

a) by a factor of two, in the case of a regulated roaming call to a number assigned to a public telephone network in the Member State in which the visited network is located; or

b) by a factor of three, in the case of a regulated roaming call to a number assigned to a public telephone network in a Member State other than that in which the visited network is located.

The charge limits in this Annex shall include any fixed elements, such as call set-up charges.

Or. en

Justification

The proposed upper limits on wholesale charges are too low and would have serious negative effects on operators especially in tourist countries. Moreover the separate cap for local and other calls will cause big confusion. Therefore a single higher cap equal to the average mobile termination rate published pursuant to Article 10(3) multiplied by a factor of 3.0 would be more adequate.

Amendment by Antolín Sánchez Presedo

Amendment 52 ANNEX II

For the purposes of this Annex, the following terms shall have the following meanings:

deleted

(a) “National Weighted Average MTR” shall mean the average of the Per-SMP Operator MTRs, weighted on the basis of the number of Active Subscribers per SMP Operator;

(b) “Per-SMP Operator MTR” shall mean the average per-minute charge (including set up charges), based on a three-minute-call at peak rate, excluding VAT and in the national currency of the Member State concerned, for the termination of voice

calls in its mobile network applied by each SMP Operator, as determined in accordance with a methodology approved by the national regulatory authority;

(c) “SMP Operator” shall mean an operator of terrestrial public mobile networks which has been designated as having significant market power in accordance with Article 16 of Directive 2002/21/EC in a market for the termination of calls on such network in the Member State concerned;

(d) “Active Subscribers per SMP Operator” shall mean the aggregate of the number of each SMP Operator’s own active subscribers and the number of active subscribers of each other mobile provider which uses the SMP Operator’s network for the termination of voice calls to its customers;

(e) “active subscribers” shall mean active mobile subscribers (both pre-paid and post-paid) determined in accordance with a methodology approved by the national regulatory authority.

(2) The average mobile termination rate published pursuant to Article 10(3) shall be the average of the National Weighted Average MTRs, itself weighted on the basis of the total number of active subscribers in each Member State. It shall be calculated using the information specified in paragraph (3) below which has been communicated to the Commission by the national regulatory authorities in accordance with a request pursuant to Article 10(2) or (4).

(3) The information to be communicated to the Commission by the national regulatory authorities shall be:

(a) the National Weighted Average MTR, and

(b) the sum of all the Active Subscribers per SMP Operator within their Member State,

in each case as at the date specified for this purpose by the Commission in its request.

(4) For Member States with a currency other than Euro, the Commission will convert the notified National Weighted Average MTR into Euro by using the exchange rate published in the Official Journal of the European Union for the date specified by the Commission under (3) above.

Or. es

Amendment by Zsolt László Becsey

Amendment 53
ANNEX II, POINT (1) (B)

(b) “Per-SMP Operator MTR” shall mean *the average per-minute charge* (including set up charges), *based on a three-minute call at peak rate*, excluding VAT and in the national currency of the Member State concerned, for the termination of voice calls in its mobile network applied by each SMP Operator, as determined in accordance with methodology approved by the national regulatory authority.

(b) “Per-SMP Operator MTR” shall mean *the figure-based average (including peak and off-peak time) per-minute charge* (including set up charges), excluding VAT and in the national currency of the Member State concerned, for the termination of voice calls in its mobile network applied by each SMP Operator, as determined in accordance with methodology approved by the national regulatory authority.

Or. en

Justification

The initially proposed price cap regulation does not address properly the definition of the average mobile termination rate at EU level. The original Commission proposal calculate the average termination rate taking into account the three-minute call at peak rate charged by mobile service providers with sizeable domestic market power. Great bulk of Member States does not have regulation applicable to three-minute-call rate in peak time. Therefore price ceiling should be calculated on the basement of the average mobile termination rate comprising more than mere the three-minute-voice calls in peak time.

Multiplying factors defined in Annex I a) and b) and the percentage points determined in Article 4) and 6) shall be modified accordingly.