

EUROPEAN PARLIAMENT

2004



2009

Committee on Economic and Monetary Affairs

PROVISIONAL
2006/0133(COD)

16.1.2007

DRAFT OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council
on roaming on public mobile networks within the Community and amending
Directive 2002/21/EC on a common regulatory framework for electronic
communications networks and services
(COM(2006)0382 – C6-0244/2006 – 2006/0133(COD))

Draftsman: Andrea Losco

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SHORT JUSTIFICATION

1. Background

About 147 million European Union citizens (37 million tourists and 110 million business customers)¹ are at present affected by the extremely high charges for international roaming by mobile telephony, that is, the opportunity to make or merely receive mobile phone calls abroad.

Such calls are made possible through international roaming agreements between the operator who has the relationship with the customer, and the foreign operator to whose network the customer gains access.

Consumer associations, national regulatory authorities and most political leaders agree that the charge for roaming services has not fallen as a result of the dynamic effect of competition between telephone service operators, although the phenomenon has been shown to apply to national mobile communications. Instead roaming rates have remained unjustifiably high, lacking in transparency and suspiciously similar between the various operators working in a given Member State.

In view of the obvious unwillingness of telephone service providers to reduce their roaming rates, in spite of warnings voiced for several years at national and European level, and most recently by Parliament itself in its Resolution of December 2005, the Commission put forward the present proposal for a regulation in July last year.

2. Main points of the Commission proposal

A. Regulation of wholesale charges

The proposal sets price limits for wholesale charges. For local calls made within the country visited the wholesale price limit is equal to twice the Community average mobile termination rate. For international calls, made by customers to their country of origin or another Community Member State, the wholesale price limit is equal to three times the Community average mobile termination rate.

B. Regulation of retail charges

The price limit for the supply of retail roaming is 130 % of the limit applied to wholesale charges. For received calls, this threshold applies until the entry into force of the new regulation. But for outward calls the retail charge limits will enter into force automatically after six months.

C. Transparency of retail prices

The proposal also encourages price transparency by introducing the requirement on mobile

¹ Commission impact assessment in SEC (2006) 925, p. 19.

telephony service providers to give their subscribers personalised information on roaming charges on request and free of charge, by Short Message Service (SMS) or orally.

3. The proposals

The draftsman is bound to admit to some perplexity at this anomalous proposal for a regulation. He is firmly convinced that the highly acceptable aim of reducing the price of a product should be pursued through healthy competition between market forces rather than by means of a dirigiste intervention for regulating prices directly.

While bearing these reservations of principle in mind, he does recognise that the normal rules of competition have not worked in the case of this particular service of mobile telephony.

In view of the specific nature of international roaming markets and the cross-border nature of such services, the inadequacy of the current legislative framework, the inability of national regulators to intervene effectively, and the fact that in this case wholesale providers are situated in Member States different from the one in which consumers use their services, he agrees with the Commission on the urgent need to intervene by taking exceptional measures.

So within the framework laid down by the Commission, it seems appropriate to propose a few specific amendments, concerning:

A. Retail charges

The draftsman considers that the 130 % margin proposed by the Commission is excessively low. This threshold, which should cover both retail costs and profits, is likely to result in excessive pressure on the very aim of encouraging competition and diversity of supply. Prices are likely to end up uniformly positioned at the proposed upper limit and this could well have an adverse effect on small operators who are not aligned with the major European groups or partnerships, eliminating an incentive to competition, and more generally on the flexibility of charges. It is therefore proposed to set an upper retail price limit of 150 % of the proposed wholesale value.

B. Transparency

It is important to encourage transparency in retail prices by introducing the automatic requirement on mobile telephony service providers to supply subscribers with information on roaming charges when they cross the frontier.

C. A future legal framework for SMS and multimedia message services (MMS)

Finally, it is proposed to include SNS and MMS in the forthcoming review of the legal framework for electronic communications; these services are at present excluded from the proposal but are the subject of real tariff abuses.

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments

in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
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 ***receive*** information on the roaming charges applicable to them, free of charge. ***This information should include the charges for making and receiving calls in the Member State concerned.*** 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.

Justification

To really improve transparency in retail prices, there is a need to introduce the 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. Recital 26 is accordingly amended to be consistent with the proposed changes in Amendments 5, 6 and 7.

Amendment 2
RECITAL 26 A (new)

(26a) In view of the speed of technological change and the growing role of SMS and MMS, it will be necessary to include them in the future review of the legal framework for electronic communications.

¹ Not yet published in OJ.

Justification

In view of the speed of technological change and the growing role of short message services and multimedia message services (SMS and MMS), it will be necessary to include them in the future review of the legal framework for electronic communications, as such services are at present excluded from the scope of the regulation.

Amendment 3

ARTICLE 1, PARAGRAPH -1 (new)

-1. This Regulation lays down rules to increase price transparency and improve the provision of tariff information to consumers in international roaming services.

Justification

The purposes of the regulation should include that of laying down rules to increase price transparency and improve the provision of information to consumers of international roaming services.

Amendment 4

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 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.

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 **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.

Justification

While accepting, in this particular context, the need to introduce the direct regulation of retail prices, it is considered that the upper limits on retail prices of call charges are too low and are likely greatly to reduce the incentives for competition and diversity of supply from which consumers benefit. It is therefore proposed to set an upper retail limit of 150 % of the wholesale charge.

Amendment 5
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 provide to its roaming customer personalised pricing information on the retail charges that apply to the making and receipt of calls by that customer in the visited Member State.

Justification

To really improve transparency in retail prices, there is a need to introduce the 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.

Amendment 6
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). ***The information shall be provided within one hour of entering the visited Member State.***

Justification

To really improve transparency in retail prices, there is a need to introduce the 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. 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.