


Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed 2008/0187(COD)
Electronic communications: roaming on public mobile telephone networks within the Community; regulatory framework for networks and services	
Amending Directive 2002/21/EC 2000/0184(COD) Amending Regulation (EC) No 717/2007 2006/0133(COD)	
Subject 3.30.05 Electronic and mobile communications, personal communications 4.60.06 Consumers' economic and legal interests	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ITRE Industry, Research and Energy	ALDE VĂLEAN Adina	15/10/2008
	Committee for opinion	Rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
Council of the European Union	IMCO Internal Market and Consumer Protection (Associated committee)	PPE-DE KAMALL Syed	10/11/2008
	CULT Culture and Education	PPE-DE MAVROMMATIS Manolis	23/10/2008
Council of the European Union	Council configuration	Meeting	Date
	Employment, Social Policy, Health and Consumer Affairs 2947		08/06/2009
European Commission	Transport, Telecommunications and Energy	2907	27/11/2008
	Commission DG Communications Networks, Content and Technology	Commissioner REDING Viviane	

Key events			
23/09/2008	Legislative proposal published	COM(2008)0580	Summary
09/10/2008	Committee referral announced in Parliament, 1st reading		
20/11/2008	Referral to associated committees announced in Parliament		

27/11/2008	Debate in Council	2907	
31/03/2009	Vote in committee, 1st reading		Summary
03/04/2009	Committee report tabled for plenary, 1st reading	A6-0138/2009	
21/04/2009	Debate in Parliament		
22/04/2009	Results of vote in Parliament		
22/04/2009	Decision by Parliament, 1st reading	T6-0249/2009	Summary
08/06/2009	Act adopted by Council after Parliament's 1st reading		
18/06/2009	Final act signed		
18/06/2009	End of procedure in Parliament		
29/06/2009	Final act published in Official Journal		

Technical information

Procedure reference	2008/0187(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Directive 2002/21/EC 2000/0184(COD) Amending Regulation (EC) No 717/2007 2006/0133(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/6/67815

Documentation gateway

Legislative proposal		COM(2008)0580	23/09/2008	EC	Summary
Document attached to the procedure		COM(2008)0579	23/09/2008	EC	Summary
Document attached to the procedure		SEC(2008)2489	23/09/2008	EC	
Document attached to the procedure		SEC(2008)2490	23/09/2008	EC	
Committee draft report		PE416.697	15/12/2008	EP	
Economic and Social Committee: opinion, report		CES0045/2009	14/01/2009	ESC	
Amendments tabled in committee		PE419.890	02/02/2009	EP	
Committee opinion	CULT	PE416.679	19/02/2009	EP	
Committee opinion	IMCO	PE416.653	13/03/2009	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0138/2009	03/04/2009	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0249/2009	22/04/2009	EP	Summary

Draft final act		03645/2009/LEX	18/06/2009	CSL	
Commission response to text adopted in plenary		SP(2009)3507	25/06/2009	EC	
Follow-up document		COM(2010)0356	29/06/2010	EC	Summary
Follow-up document		COM(2011)0407	06/07/2011	EC	Summary
Follow-up document		SEC(2011)0870	06/07/2011	EC	
Follow-up document		SEC(2011)0871	06/07/2011	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2009/544](#)
[OJ L 167 29.06.2009, p. 0012](#) Summary

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

PURPOSE: to extend, in time and in scope, Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community so as to ensure that users of public mobile telephone networks do not pay excessive prices for Community-wide roaming services.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: in response to persistent concerns over the lack of competitive pressures in the market for international roaming services, Regulation (EC) No 717/2007 (amending Directive 2002/21/EC) introduced a common approach to ensure that users of public mobile telephone networks did not pay excessive prices for Community-wide roaming services, by imposing limits on the charges that may be levied by mobile operators, at wholesale and retail levels, for the provision of voice roaming calls originating and terminating within the Community. The Regulation also laid down rules aimed at increasing price transparency and improving the provision of customer information to users of Community-wide roaming services.

The Regulation entered into force in June 2007 and shall expire on 30 June 2010.

The Commission's Communication on its review of the functioning of Regulation (EC) No 717/2007 concluded that, while implementation of the Regulation has in general been smooth, the structural problems that constrain competitive forces in the roaming market have remained:

- data collected by the European Regulators Group (ERG), which includes all 27 EU national regulators (NRAs), show that prices for voice roaming calls at wholesale and retail level do not vary sufficiently below the maximum levels set by the Regulation to provide evidence of healthy competition;
- billing practices applied by mobile operators to voice roaming calls, whereby calls are often charged on the basis of units of up to 60 seconds, represent a hidden charge to the consumer which the ERG has estimated adds around 24% to a typical Eurotariff roaming bill for calls made and 19% for calls received;
- the analysis of the SMS segment of the intra-Community roaming market also shows that prices at both wholesale and retail levels are not justified by underlying costs and that, for the same reasons as apply to voice roaming, there is insufficient competitive pressure on operators to bring these prices down;
- the review of the data roaming segment of the market concluded that prices for this service were high when compared to the charges for equivalent domestic services or to underlying costs of provision and that this problem was compounded by lack of transparency.

The Commission deems it necessary to take measures to enable roaming customers to understand and control their expenditure on data roaming services more effectively and to prevent bill shocks, as well as to eliminate barriers to the utilisation of mobile data roaming services throughout the internal market and remove appreciable distortions of competition.

CONTENT: this proposal aims to amend Regulation (EC) No 717/2007, in order to further strengthen the single market for electronic communications by ensuring that prices paid by users of public mobile networks for Community-wide roaming services when travelling within the Community are not unjustifiably higher than the charges payable when calling, sending SMS messages or transferring data within their home country and that users have the information they need to understand and control their expenditure on roaming services.

In particular, the proposal:

- provides for the extension in time and scope of Regulation (EC) No 717/2007. As regards voice roaming, the proposal extends the existing Regulation for three more years (until 2013) and sets new maximum limits during the extended period for the charges that mobile network operators may levy for the wholesale provision of regulated roaming calls;

- establishes new maximum limits during the extended period for charges subject to a Eurotariff;
- stipulates that per second billing requirements should apply at wholesale as well as retail level subject to a minimum charging period at retail level of up to 30 seconds for roaming calls made;
- extends Regulation (EC) No 717/2007 to cover intra-Community roaming SMS services, by establishing a maximum limit for the charges that mobile network operators may levy for the wholesale provision of roaming SMS messages sent within the Community and by requiring mobile operators to offer their roaming customers a "Euro-SMS tariff" which must not exceed a maximum price limit per SMS;
- promotes price transparency by extending the obligation on mobile providers to give their roaming customers personalised price information when entering another Member State, to include information on the cost of sending a regulated roaming SMS message;
- bring forward the date provided for the decrease in the price limits for regulated roaming calls at wholesale and retail levels in 2009 from 30 August to 1 July, in order to ensure consistency with the obligations regarding the pricing of regulated SMS messages. In this way, users of both voice and SMS roaming services will be able to benefit from the new tariffs during the period when there is the greatest demand for those services;
- introduces price transparency and safeguard mechanisms for data roaming services, to enable customers better to understand and control their expenditure on these services and avoid bill shocks. In particular:
 - when roaming customers first initiate a data roaming session on entering another Member State, their operator will have to inform them that they are roaming and provide personalised information on the applicable tariffs for that service;
 - operators will also be required, within approximately one year of entry into force of the amendments contained in the proposal, to offer all roaming customers free of charge an opportunity to specify in advance a maximum financial limit for data roaming;
 - as a safeguard mechanism to give roaming providers a level of assurance as to the wholesale costs to be incurred and to avoid appreciable distortion of competition, given the persistence of high wholesale charges (in particular on non-preferred networks) and traffic steering limitations, the proposal sets a limit on the average wholesale charge which the operator of a visited network may levy from the operator of a roaming customer's home network for the provision of regulated data roaming services.

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

This communication concerns the outcome of the review of the functioning of Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC.

This Communication reports on the results of the Commission's review of the functioning of Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and explains the main policy changes it proposes to give effect to its conclusions and is accompanied by a legislative proposal for the Regulation to be amended accordingly.

Regulation (EC) No 717/2007 entered into force in June 2007 and will expire on 30 June 2010. The Regulation's stated objectives were to introduce a common approach to ensuring that users roaming within the Community do not pay excessive prices when making and receiving calls.

Achievement of objectives: the report states that the implementation and the transition to the "Eurotariff" in particular went smoothly, with only a few exceptions. Customers have benefited from cheaper roaming tariffs for making and receiving calls. In particular, prior to the entry into force of the Regulation, the average price for making a call was €0.7692 while the price for an incoming roaming call was €0.417. The entry into force of the Regulation meant customers benefited from lower rates for both making and receiving calls since the maximum price limits for the Eurotariff were set at €0.49 (excluding VAT) for making a call and €0.24 (excluding VAT) for receiving a call. These have since been reduced to €0.46 (excluding VAT) and €0.22 (excluding VAT) respectively.

When the Regulation entered into force, 400 million customers benefited from the Eurotariff, making it the standard default tariff in the EU. As a result, consumers under the Eurotariff on average save 36.4% for outgoing calls and 42.9% for incoming calls when compared to prices for EU roaming services that prevailed in early 2007. The Regulation has also succeeded in improving transparency for consumers despite the fact that a minority of operators were unable to resolve technical problems related to the transparency provisions on time.

However, the problems such as switching costs and lack of adequate substitutability that prevail in the voice roaming market have remained intact, competition has not developed and prices have in general clustered around the caps.

Extension of the Regulation in time and scope: despite the results achieved by the Regulation, the dynamics of the roaming market have not changed sufficiently since the introduction of the Regulation to enable the Commission to recommend that the Regulation be allowed to expire in 2010.

The EU market for mobile roaming services can be divided into three segments: voice services, SMS and data services. The Commission lays down the following measures:

1) Voice calls: the fundamental problems which existed prior to the Regulation still remain. There is some competition but these offers have made only small inroads into the market. While the price limits in the Regulation are expressed in terms of amounts "per minute", it has become evident that the billing practices of certain operators, whereby they charge for voice calls by reference to minimum periods of up to 60 seconds rather than on a per second basis, are diluting the effects of the Regulation and that some operators have changed their billing practices since the adoption of the Regulation to increase this diluting effect.

- Proposals: the Commission is proposing to extend the Regulation by a further three years from 2010 to 2013 to ensure that consumers are not charged excessive prices while providing sufficient time for competition to develop. The maximum levels of the Eurotariff for both calls made and calls received will continue to decrease annually in a linear fashion during the extended period of validity of the Regulation. To try and facilitate further competition, the Commission has sought to provide a greater margin at the retail level by reducing wholesale rates more aggressively. This should increase the scope for operators to compete on price at the retail

level, thereby maximising the chances that a properly competitive market will emerge. To tackle the unitisation issue, at the retail level operators will be required to bill their customers on a per second basis subject only to the possibility to apply an initial charging period of 30 seconds for calls made.

2) SMS: Prices for roaming SMS services have shown little movement over the past years, despite political pressure.. The average price for an SMS while roaming in the EU has only decreased marginally from ?0.29 in the third quarter of 2007 to ?0.285 in the first quarter of 2008. Moreover, there seems little prospect of prices decreasing significantly in the future on the basis of industry action alone, given the responses from operators to the public consultation.

- Proposals: the Commission is proposing to extend the Regulation in scope by proposing a price cap at both wholesale and retail levels for SMS roaming. It is also proposing that customers should be automatically alerted, by means of a message service, each time they enter a Member State other than their own, to basic personalised pricing information that applies to the sending of an SMS message by that customer in the visited Member State.

3) Data roaming services: prices for roaming data services continue to be high even though prices at wholesale and retail level have shown a downward trend. There is a particular problem relating to the lack of transparency for data roaming prices and the resulting ?bill shocks?. However, in this case, competitive prices for data roaming are essential in order to remove barriers to accessing mobile Internet services when crossing borders.

- Proposals: the Commission is proposing measures to ensure that roaming customers are kept adequately informed of the charges that apply for data roaming services by means of an automatic message. By 1 July 2010 at the latest, operators must also provide customers with a facility to set a financial limit in advance for their data roaming. The Commission is also proposing that in order for operators to be able to adopt transparent pricing arrangements with the assurance that they can anticipate with more certainty their wholesale costs, a safeguard wholesale price limit on data roaming services should be set at a level which does not exceed ?1 per MB on average between any two operators. Lastly, the Commission intends to do its utmost to assist the European Parliament and the Council in reaching an agreement on the abovementioned elements in the shortest possible timeframe to ensure that European users of mobile communications services can benefit from these proposals by the summer of 2009.

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

The Committee on Industry, Research and Energy adopted the report drawn up by Adina-Ioana V?LEAN (ALDE, RO) amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council 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 networks and services.

The amendments were the result of an informal compromise negotiated by members of the committee with the Czech Presidency. The main amendments are as follows:

Wholesale charge: the compromise text states that the maximum average wholesale charge applied between any pair of operators shall decrease:

- on 1 July 2009, to ?0.26;
- on 1 July 2010, to ?0.22;
- on 1 July 2011, to ?0.18.

Retail charges: home operators may charge their customers for roaming phone calls:

- from 1 July 2009: a maximum of ?0.43 per minute (excluding VAT) for outgoing and a maximum of ?0.19 per minute (excluding VAT) for incoming roaming calls;
- from 1 July 2010: a maximum of ?0.39 per minute (excluding VAT) for outgoing and a maximum of ?0.15 per minute (excluding VAT) for incoming roaming calls;
- from 1 July 2011: a maximum of ?0.35 per minute (excluding VAT) for outgoing and a maximum of ?0.11 per minute (excluding VAT) for incoming roaming calls.

From 1 July 2009 operators would have to charge their customers by the second but can apply an initial minimum charging period of 30 seconds.

By 1 July 2010, home providers shall not levy any charge on their roaming customers for the receipt by them of a roaming voice mail message. This shall be without prejudice to other applicable charges such as those for listening to such messages.

Transparency of retail charges for regulated roaming calls and SMS messages: the basic personalised pricing information shall include information on the possibility of accessing emergency services by dialling the European emergency number 112 free-of-charge.

Transparency and safeguard mechanisms for regulated data roaming services: home providers shall ensure that their roaming customers, both before and after the conclusion of a contract, are kept adequately informed of the charges which apply to their use of regulated data roaming services. Where appropriate, home providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, they shall explain to their customers, in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

Monthly limits: to prevent ?bill shocks?, mobile operators should define one or more maximum monthly financial and/or volume limits for their outstanding charges for data roaming services (expressed in the currency in which the roaming customer is billed) and which they should offer to all their roaming customers, free of charge, with an appropriate warning message when this limit is being approached. One of these limits (the default financial limit) shall be close to, but not exceeding EUR 50 of outstanding charges per monthly billing period (excluding VAT).

Upon this maximum limit being reached, the customer should no longer receive and be charged for those services unless he or she specifically

requests continued provision of those services. Roaming customers should be given the opportunity to opt for any of these maximum monthly financial or volume limits within a reasonable period or to choose not to have such a limit.

Unless the customers state otherwise, they should be put on a default limit system. By 1 July 2010, the default limit shall be applicable to all customers who have not opted for another limit.

Warning customers: each home provider shall ensure that an appropriate notification is sent to the roaming customer's mobile telephone or other device, for example by an SMS message, an email or a pop-up window on the computer, when the data roaming services have reached 80% of the agreed financial or volume limit.

When this financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer's mobile telephone or other device. This notification shall indicate the procedure to be followed if the customer wishes to continue provision of those services and the cost associated with each additional unit to be consumed. If the roaming customer does not respond as prompted in the notification received, the home provider shall immediately cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

As of 1 November 2010, whenever a roaming customer requests to opt for or to remove a financial or volume limit facility, the change must be made within one working day of receipt of the request, free of charge, and shall not entail conditions or restrictions pertaining to other elements of the subscription.

Wholesale charges for roaming data services: with effect from 1 July 2009, the average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer's home network for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of:

- from 1 July 2009: a maximum of €1.00 per megabyte;
- from 1 July 2010: a maximum of €0.80 per megabyte;
- from 1 July 2011: a maximum of €0.50 per megabyte.

Review: the Commission shall review the functioning of this Regulation and, after a public consultation, shall report to the European Parliament and the Council no later than 30 June 2011. In so doing, the Commission shall review, inter alia:

- the extent to which consumers have benefited through real reductions in the price of roaming services or in other ways from reductions in the costs of the provision of roaming services and the variety of tariffs and products which are available to consumers with different calling patterns;
- the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly started operators, including the competition effects of commercial agreements and the degree of interconnection between operators.

Moreover, the Commission shall, no later than 30 June 2010, prepare an interim report to the European Parliament and the Council, which shall include a summary of the monitoring of the provision of roaming services in the Community and an assessment of the progress towards achieving the objectives of this Regulation.

Entry into force: under the compromise, the regulation will expire by 30 June 2012. The existing regulation for roaming phone calls would otherwise expire by the end of June 2010.

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

The European Parliament adopted by 646 votes to 22, with 9 abstentions, a legislative resolution amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council 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 networks and services.

The amendments were the result of a compromise negotiated by the members of the parliamentary committee responsible with the Council Presidency.

The compromise does not fix roaming prices at rates set by the EU, but sets ceilings beneath which mobile operators can compete by offering lower prices.

The main amendments were as follows:

Wholesale charge: under the compromise, the average wholesale charge applied between any pair of operators, decreased to €0.28 and €0.26 on 30 August 2008 and on 1 July 2009 respectively, shall further decrease to:

- €0.22 on 1 July 2010;
- €0.18 on 1 July 2011.

Cutting the charges for roaming phone calls (retail charges): the 2007 roaming regulation lays down that from 1 July 2009 consumers will have to pay a maximum of €0.43 per minute (excluding VAT) for outgoing and a maximum of €0.19 per minute (excluding VAT) for incoming roaming calls.

The new legislative text sets roaming phone call caps for 2010 and 2011 and stipulates that home operators may charge their customers for a roaming phone call:

- from 1 July 2010: a maximum of €0.39 per minute (excluding VAT) for outgoing and a maximum of €0.15 per minute (excluding VAT) for incoming roaming calls;
- from 1 July 2011: a maximum of €0.35 per minute (excluding VAT) for outgoing and a maximum of €0.11 per minute (excluding VAT)

for incoming roaming calls.

From 1 July 2009, operators would have to charge their customers by the second but can apply an initial minimum charging period of 30 seconds.

By 1 July 2010, home providers shall not levy any charge on their roaming customers for the receipt by them of a roaming voice mail message. This shall be without prejudice to other applicable charges such as those for listening to such messages.

MEPs and the Council Presidency also agreed with the Commission that a roamed text message (SMS) should cost a maximum of ?0.11 (excluding VAT) from 1 July 2009.

Transparency of retail charges for regulated roaming calls and SMS messages: the basic personalised pricing information shall include information on the possibility of accessing emergency services by dialling the European emergency number 112 free-of-charge.

Transparency and safeguard mechanisms for regulated data roaming services: home providers shall ensure that their roaming customers, both before and after the conclusion of a contract, are kept adequately informed of the charges which apply to their use of regulated data roaming services. Where appropriate, home providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, they shall explain to their customers, in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

Monthly limits: to prevent ?bill shocks?, mobile operators should define one or more maximum monthly financial and/or volume limits for their outstanding charges for data roaming services (expressed in the currency in which the roaming customer is billed) and which they should offer to all their roaming customers, free of charge, with an appropriate warning message when this limit is being approached. One of these limits (the default financial limit) shall be close to, but not exceeding ?50 of outstanding charges per monthly billing period (excluding VAT).

Upon this maximum limit being reached, the customer should no longer receive and be charged for those services unless he or she specifically requests continued provision of those services. Roaming customers should be given the opportunity to opt for any of these maximum monthly financial or volume limits within a reasonable period or to choose not to have such a limit.

Unless the customers state otherwise, they should be put on a default limit system. By 1 July 2010, the default limit shall be applicable to all customers who have not opted for another limit.

Warning customers: each home provider shall ensure that an appropriate notification is sent to the roaming customer's mobile telephone or other device, for example by an SMS message, an email or a pop-up window on the computer, when the data roaming services have reached 80% of the agreed financial or volume limit.

When this financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer's mobile telephone or other device. This notification shall indicate the procedure to be followed if the customer wishes to continue provision of those services and the cost associated with each additional unit to be consumed. If the roaming customer does not respond as prompted in the notification received, the home provider shall immediately cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

As of 1 November 2010, whenever a roaming customer requests to opt for or to remove a ?financial or volume limit? facility, the change must be made within one working day of receipt of the request, free of charge, and shall not entail conditions or restrictions pertaining to other elements of the subscription.

Wholesale charges for roaming data services: with effect from 1 July 2009, the average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer's home network for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of:

- from 1 July 2009: a maximum of ?1.00 per megabyte;
- from 1 July 2010: a maximum of ?0.80 per megabyte;
- from 1 July 2011: a maximum of ?0.50 per megabyte.

Review: the Commission shall review the functioning of this Regulation and, after a public consultation, shall report to the European Parliament and the Council no later than 30 June 2011. In so doing, the Commission shall review, inter alia:

- the availability and quality of services including those which are an alternative to roaming (voice, SMS and data), in particular in the light of technological developments;
- the extent to which consumers have benefited through real reductions in the price of roaming services or in other ways from reductions in the costs of the provision of roaming services and the variety of tariffs and products which are available to consumers with different calling patterns;
- the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly started operators, including the competition effects of commercial agreements and the degree of interconnection between operators.

The Commission shall also assess methods other than price regulation which could be used to create a competitive internal market for roaming and in so doing shall have regard to an analysis carried out independently by BEREC. On the basis of this assessment the Commission shall make appropriate recommendations.

Moreover, the Commission shall, no later than 30 June 2010, prepare an interim report to the European Parliament and the Council, which shall include a summary of the monitoring of the provision of roaming services in the Community and an assessment of the progress towards achieving the objectives of this Regulation.

Entry into force: under the compromise, the regulation will expire by 30 June 2012. The existing regulation for roaming phone calls would otherwise expire by the end of June 2010.

Electronic communications: roaming on public mobile telephone networks within the

Community; regulatory framework for networks and services

PURPOSE: to adopt new rules concerning roaming charges on public mobile telephone networks within the Community.

LEGISLATIVE ACT: Regulation (EC) No 544/2009 of the European Parliament and of the Council 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 networks and services.

CONTENT: following an agreement reached at first reading with the European Parliament, the Council adopted a regulation amending [regulation \(EC\) No 717/2007](#) on roaming on public mobile telephone networks within the Community.

The new regulation provides for an extension of the regulation currently in force which is due to expire in 2010, a further reduction in charges and an extension of pricing limits to cover SMS and data

services in addition to voice calls. The aim is to:

- ensure that users of public mobile communications networks when travelling within the Community do not pay excessive prices for Community-wide roaming services (i.e that prices are not unjustifiably higher than the price paid for making or receiving a call, sending and receiving an SMS message and transferring data in their country of origin);
- improve the transparency of retail prices for data roaming services;
- provide roaming customers with the tools they need to monitor and control their expenditure on these services.

This Regulation lays down rules on the charges that may be levied by mobile operators for the provision of Community-wide roaming services for voice calls and SMS messages originating and terminating within the Community and for packet switched data communication services used by roaming customers while roaming on a mobile communications network in another Member State. It applies both to charges levied between network operators at wholesale level and, where appropriate, to charges levied by home providers at retail level.

The main provisions of the Regulation are as follows:

Wholesale charge: the average wholesale charge shall apply between any pair of operators ? already decreased to ?0.28 and ?0.26, on 30 August 2008 and on 1 July 2009 respectively and shall further decrease to:

- ?0.22 on 1 July 2010;
- ?0.18 on 1 July 2011.

With effect from 1 July 2009, the average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer?s home network, for the provision of a regulated roaming SMS message originating on that visited network, shall not exceed ?0.04 per SMS message.

With effect from 1 July 2009, the average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer?s home network for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of ?1 on 1 July 2009, ?0.80 on 1 July 2010 and ?0.50 on 1 July 2011 per megabyte of data transmitted.

Retail charge: the new Regulation intends to continue the reduction of the cost of roaming mobile charges. Currently, from ?0.46 for calls made and ?0.22 for calls received, the new ceilings will be as follows:

- from 1 July 2009 to ?0.43 for calls made and to ?0.19 for calls received;
- from 1 July 2010 respectively to ?0.39 and ?0.15;
- and from 1 July 2011 to ?0.35 and ?0.11 (excluding VAT).

In addition, the new Regulation introduces that:

- with effect from 1 July 2009, the retail charge (excluding VAT) of a Euro-SMS tariff which a home provider may levy from its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any roaming SMS message but shall not exceed ?0.11;
- providers of regulated roaming calls at the retail level should therefore be required to bill their customers on a per second basis for all calls subject to a Eurotariff, subject only to the possibility to apply a minimum initial charging period of no more than 30 seconds for calls made.

Transparency of prices and control of expenditure: in order to avoid bill shocks for consumers, the regulation lays down new measures to improve the transparency of retail prices for data roaming services, and to provide roaming customers with the tools they need to monitor and control their expenditure on these services. To this end:

- home providers shall ensure that their roaming customers, both before and after the conclusion of a contract, are kept adequately informed of the charges which apply to their use of regulated data roaming services;
- the home provider shall make available one or more maximum financial limits for specified periods of use, provided that the customer is informed in advance of the corresponding volume amounts. One of these limits (the default financial limit) shall be close to, but not exceed, EUR 50 of outstanding charges per monthly billing period (excluding VAT). In addition, the home provider may offer to its roaming customers other limits with different, that is, higher or lower, maximum monthly financial limits. By 1 July 2010, the default limit in the second and third subparagraphs shall be applicable to all customers who have not opted for another limit;
- each home provider shall also ensure that an appropriate notification is sent to the roaming customer?s mobile telephone or other device, for example by an SMS message, an e-mail or a pop-up window on the computer, when the data roaming services have reached 80% of the agreed financial or volume limit. When this financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer?s mobile telephone or other device.

Review: the Commission shall review the functioning of this Regulation and, after a public consultation, shall report to the European Parliament and the Council no later than 30 June 2011.

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

The Commission presents its interim report on the state of development of roaming services within the EU, as required under Regulation (EC) No 544/2009 amending Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community (the Roaming Regulation.). Given that the amending Regulation has only been in force since June 2009, this interim report provides a general summary of the latest trends in roaming and an initial assessment of the progress towards achieving the objectives of the Regulation.

Overall, implementation of the amending Roaming Regulation has gone smoothly and operators have complied with the new provisions, while NRAs are ensuring that this continues. Consumers are benefiting from reductions in the prices for voice and SMS roaming services and from increased transparency.

The key points on voice services are as follows:

- prices for voice calls made and received are now around 46% and 55% lower, respectively, than before the entry into force of the first Roaming Regulation;
- average prices for Eurotariff offered by operators and alternative tariffs are clustered around the levels of the regulated caps;
- there is only a small difference between regulated (Eurotariff) and unregulated (alternative) tariffs. There is significant variation across Member States;
- the new billing provisions introducing per-second billing have led to a reduction of 63% in the surcharge caused by the previous billing methods for calls made and to its elimination for calls received.

The key points for SMS services are as follows:

- SMS prices have decreased by around 60% on average;
- prices at the wholesale level and for the Euro-SMS offered by operators are clustered at the level of the regulated caps;
- the average price for alternative SMS tariffs is higher than the regulated cap (€0.14 for Non-Euro SMS compared to €0.10 for Euro-SMS); the Euro-SMS tariff offered by operators is generally the best option for consumers at this stage.

The key points on data services are as follows:

- significant reduction in wholesale data prices (from € 1.2 to €0.55 per MB), the average price is now well below the level of the regulated cap;
- retail data prices are following a downward trend but the pass-through of the reductions at the wholesale level is still not fully apparent;
- bill shocks are still a concern.

The Regulation has been successful in providing adequate consumer protection and in contributing to consolidate the internal market; this has been achieved mainly through the imposition of price caps. Price developments, as well as the diversity of offers, provide a good indication of the extent to which competition has grown. In this respect, for voice and SMS, the extent to which operators offer prices below the levels of the regulated caps is considered as a key indicator of the level of competition in the market. However, prices for voice and SMS roaming services currently remain clustered close to the levels of the caps. A higher margin between wholesale and retail prices for the regulated caps on voice was introduced by the amending Regulation to allow competition to develop at the retail level, in particular for alternative operators, but this has not yet been translated into greater price competition.

There appear to be a variety of alternatives to the regulated Eurotariff and Euro-SMS tariff. For voice services, there are alternative tariffs with varying pricing structures (i.e. limited in time, with a monthly subscription or with a set-up fee, billed per minute). The average price per SMS under the alternative tariffs is higher than the Euro-SMS offered by operators. In some Member States, alternative tariffs for roaming SMS are significantly higher than the regulated cap.

As for data roaming services, it is not yet clear whether the reductions in wholesale charges will result in competitive retail data roaming services. In this respect, since operators' standard prices remain high, the extent to which customers are benefiting from good-value special packages provides a strong indicator of whether operators are passing through the benefits of lower wholesale data roaming tariffs.

While average prices for data roaming services are falling, the average retail prices still present a substantial margin over the wholesale rates. Operators' standard prices do not appear to have decreased, which means that the fall in average prices may be due to increased and more effective use of existing offers.

It appears that roaming charges are still higher than domestic mobile services; prices for domestic services are generally declining, with increasing availability of flat-rate and bundled offers. BEREC is examining the trends in both roaming and domestic prices with a view to a full analysis in the 2011 review.

It follows from the above that there are not yet sufficient competitive dynamics in the structure of roaming services. The structural problems of the roaming market, stemming both from the absence of competitive constraints on the supply side and from demand characteristics, are still present. In particular, the roaming market presents specific cross-border characteristics that have so far resulted in a lack of effective competition which NRAs have not been in a position to address. Even though the present system of price caps has brought benefits in terms of protecting consumers and furthering the internal market, it has not shown itself to be capable of solving these problems adequately.

At wholesale level, where traffic is balanced between mobile operators, there may not be sufficient incentive to set wholesale charges at a competitive level. Equally, however, average prices for non-group wholesale traffic remain close to the maximum caps, suggesting that the competitive dynamics are not yet strong. In addition, end-users at retail level do not buy roaming services separately but together with domestic services.

Technological developments and/or the alternatives to roaming services, such as the availability of VoIP or WiFi, may render the EU roaming market more competitive. While these alternatives, in particular VoIP services, are increasingly being used at the domestic level, there have been no significant developments in their use when roaming.

In the Commission's view, effective competition is intrinsic to a well-functioning roaming market. Indicators of such competition include average prices which are not clustered around the levels of the regulated caps and the existence of alternative offers showing innovation and competitive dynamics.

The Commission will produce its full review of the functioning of the Roaming Regulation by 30 June 2011.

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

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

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

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

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

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

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

Developments since the adoption of the Regulation: the Commission has been monitoring developments in the roaming market carefully and in its interim report⁵ on the functioning of the Regulation noted that competition was still not strong enough. In that report the Commission found that, overall, implementation of the Roaming Regulation had gone smoothly and operators had complied with the new provisions. Consumers are benefiting from reductions in the prices for voice and SMS roaming services and from increased transparency and protection against bill shocks. However, both average prices for the Eurotariff offered by operators and alternative tariffs are clustered around the levels of the regulated caps.

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

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

This will be done by:

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

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

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

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

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