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Public Consultation on regulation of international roaming charges

Ladies and Gentlemen,

The VAT, the Austrian Association of Alternative Telecommunication Operators, represents new entrants on the Austrian telecommunication markets. Our members offer a wide variety of communication services including mobile and fixed line services such as voice telephony as well as narrowband and broadband data services.

With reference to the Public Consultation on regulation of international roaming charges we welcome the opportunity to bring in our comment.

Telephony services is the core business of mobile operators

Roaming revenues and profits cannot be seen in isolation of the full picture of services and subsidies a mobile operator provides. Any kind of regulation of international roaming services will have a deep impact on the core business of mobile operators as they earn their living from offering national and international telephony services to consumers. Turnover from such services is the major part of their business. If mobile operators were forced to offer their services with small or no margins, they risk more (i.e. influence on their product portfolio/tariff scheme and a possible limitation of further investments) than e.g. the banking sector in lowering their rates for international services.

Unlike as for mobile operators, the core business of the banking sector is offering bank lending and deposit services to the consumers. The turnover from rates consumers are charged for e.g. withdrawing money from international cash machines or international money transfers is small in comparison with the turnover made from bank lending services. If prices for withdrawing or transferring money in a foreign country are below costs, banking houses do not risk to go bankrupt.

Therefore, any regulation of international roaming must be evaluated with great care before being imposed as any regulation directly affects the core business of mobile operators.

Roaming services lead to full infrastructure coverage and diminish the geographical digital divide

Particularly in countries where touristic services contribute to a large amount of GDP, full mobile infrastructure coverage is important for touristic and/or seasonal clients coming from all over the EU. In some areas (particular in sparsely populated areas) infrastructure (as e.g. mobile base stations) would never be constructed if tourists do not contribute in financing those base stations with their roaming fees. So, roaming fees contribute to the infrastructure coverage and therefore contribute to diminishing the geographical digital divide.

The effect on full infrastructure coverage of a country must be evaluated before any regulation on international roaming is imposed.

Regulation of international roaming charges should not be targeted on the Retail-level

If any competition problem should be noticed at the respective market, and if such problem can be proportionately solved by regulatory means, any measures shall not be targeted on the Retail-level for the following reasons:

Retail price-regulation diminuates the variety of products offered to the consumer

- Retail price-regulation diminuates the flexibility of the market and hampers the setting of attractive and innovative international roaming pricing offered to the consumers based on their individual needs.
- Retail price-regulation can force operators to sell their products below costs. Retail price-regulation implies the risk, that the cost structure given on the wholesale market cannot be taken into account on retail pricing. Retail price-regulation diminuates the opportunity of offering a greater variety of products to the consumers.

Within the European Union, end-user prices vary to the extent as competition varies. In EU-members where less competition is established, end-user are offered higher prices than in countries where competition is well established and prices are low. Any regulation, targeting on retail prices for domestic calls will therefore automatically lead to a higher margin (and thus higher profit) for inefficient operators, while the margin for efficient operators will always be lower when end-user prices are lower. So, retail price regulation if connected to domestic pricing favours high-cost countries and disadvantages operators acting in highly competitive low-cost countries without leading to any benefit for the consumer.

Therefore, the regulation of international roaming charges should not be targeted on the Retail-level for domestic calls.

Tying international roaming charges to national roaming charges will not lead to the harmonisation of consumer prices and will decrease competition.

A regulatory approach, where international roaming charges shall be tied to national roaming charges will not lead to the desired Europeanwide harmonisation of the consumer's roaming rates as national roaming charges differ for the following reasons:

- "National roaming" is not defined in the current framework and the charge therefore can vary between member states and even within one member state. So, it is unclear which national roaming charges shall be the basis for the calculation of the international roaming charges.

- In some countries national roaming doesn't even exist. So tying international roaming charges to national ones would not lead to any result.
- Seen from a technical point of view, the communications infrastructure used for national roaming differs from the communication infrastructure used for international roaming. So the prices for national and international roaming can never be equal when economic calculation principles are applied. If an equal price approach is imposed for international roaming, operators are forced to sell their infrastructure for a price well below their costs.

Therefore, any regulatory approach, where international roaming charges shall be tied to national roaming charges will not lead to the desired Europeanwide harmonisation of consumer's roaming rates and will force operators to sell its infrastructure below cost.

Consequences affecting the relations to non-EU-countries must be considered

Before implementing any regulation on the mobile roaming market, consequences in international relations between EU and non-EU-countries must be evaluated and carefully considered.

Those consequences need further consideration in order not to risk the competitiveness of the European Union in a worldwide context. Any development of wholesale and/or retail prices for international roaming will have an impact on the wholesale and/or retail prices of non-EU-operators as well. Regulation of international roaming services always implies the risk that EU citizens will continue to pay higher prices in non-EU-countries while customers from non-EU-countries benefit from the low price level in the EU. Likewise, non-EU-operators could impose higher prices for EU-operators if the customers of non-EU-operators will not be given the same favourable conditions as the customers of EU-operators are.

We therefore strongly favour to evaluate the consequences of any regulation towards non-EU-countries and its customers.

Yours sincerely,

VAT – VERBAND ALTERNATIVER TELEKOM-NETZBETREIBER

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