



## **INTERNATIONAL ROAMING REGULATION**

### **ERG GUIDELINES 2<sup>nd</sup> Release**

These guidelines are complementary to the provisions set out in the Regulation, and to the 1<sup>st</sup> Release published in July 2007. They are not presented as a legal interpretation of the provisions set out in the Regulation.

#### Minimum/maximum charging intervals

The Regulation does not prescribe a minimum or maximum charging interval for regulated roaming calls. However, charge limits are expressed on a per minute basis. Provided that a provider does not under any circumstances adopt a charging interval that would give rise to a charge exceeding the maximum permitted levels when expressed on a per minute basis, ERG takes the view that the matter can be left to market players to adopt a convenient charging interval.

Nevertheless, the matter is of considerable interest to regulators and to stakeholders. ERG would consider it inappropriate if market players generally exploited the opportunity to increase the minimum charging interval, so as to claw back some of the wholesale price reduction. Where providers adopt a minimum charging interval of multiple numbers of seconds (for example, 30 seconds or 1 minute) the effective rate charged per second will be significantly greater, on average, than the rate implied by the charge limit.

ERG therefore proposes to monitor carefully both the rate charged per chargeable minute and the rate charged per elapsed minute, so as to be able to report on the size of the difference, in particular to the Commission for the purposes of their review of the Regulation in 2008. This will include reporting to the Commission on practices which have clearly changed following the entry into force of the Regulation.

#### Reductions in wholesale charges

The caps on wholesale charges apply to the average charges levied by any one network operator on any other. Charges may differ by time of day and at



different times of the year and must be compliant when assessed on a one-year basis.

This maximum is an average charge to be calculated over a 12 month period. The necessary adjustments should therefore be made to existing wholesale rates to ensure that the average price cap is met by the end of the 12 month period. Network operators should enter into early bilateral negotiations in good faith with a view to adjusting the contractual pricing provisions as soon as possible. The result of such negotiations should provide assurance on both sides that the limits in the Regulation will be respected over the 12 month compliance period. ERG believes that 6 months after the Regulation came into effect should be a sufficient timeframe for such negotiations, which should therefore be complete by the end of 2007. One method of achieving this would be for a provider to implement a unilateral price cut so that charges levied after 30 August are transparently consistent with the Regulation.

In the absence of explicit bilateral agreement, ERG considers that it would be unacceptable for providers to maintain existing prices, inconsistent with the Regulation, throughout much of 2007 and early 2008 with the intention of making a retrospective adjustment at some later stage.

Example: provider A maintains existing charges to Provider B until February 2008. In the absence of explicit agreement between the providers, the rates charged by A for March to August 2008 would need to take account of the above-cap rates in the first 6 months. If, for example, the rate charged for the first 6 months was double the regulated maximum, the maximum permissible rate for the second 6 months would be close to zero (after taking due account of pricing elasticity).

Where it becomes clear to a provider that overcharging of a wholesale customer over the year as a whole is likely, on the basis of expected traffic patterns, immediate remedial action should be taken.

#### Charges in currencies other than the euro

The relevant exchange rate for charges in currencies other than the Euro for the first 12 months is the one quoted in the Official Journal for 30 June 2007<sup>1</sup> (and for following years on anniversaries of that date).

The charge limits for the Eurotariff and the wholesale average charge should be calculated to the maximum number of decimal places permitted by the

<sup>1</sup> Official Journal C 145 of 30/06/2007, p.14



official exchange rate. This sets the maximum that can be charged in the national currency. Providers may wish in practice to quote charges in whole numbers of currency units, especially at the retail level, although this practice is not compulsory. In this case, the numbers should be rounded down. Rounding up of these numbers to above the level of the relevant cap is not permitted under any circumstances.

#### Automatic welcome SMS messages

Unless they have opted not to receive such messages, all customers are entitled to receive a message by SMS on first arrival in a member state during a trip abroad. Such a message must:

- (a) provide roaming tariff information which is personal to that customer;
- (b) specify the maximum charges for roaming voice calls made back to the subscribers home country and within the visited country, as well as for calls received that a customer will pay under his tariff scheme; and
- (c) specify a freephone number from which the customer may obtain more detailed information on voice or data calls

In addition, ERG considers that it would be good practice to:

- (d) where necessary, distinguish between charges which differ by the host networks for that country; and
- (e) specify the maximum rates which a consumer pay for a regulated roaming call made and received, where these are higher than the rates specified under (b) above

There is no requirement for further messages to be sent where the host network changes during a visit to a country. The information relevant to the new host network should have been covered by the initial message, as noted above. In practice, most customers would be likely to prefer not to receive subsequent messages during the same visit.

#### Additional detailed information

Where a customer contacts their home provider regarding further detailed information, the home provider shall ensure that the information is immediately available, regardless of time of day. If using automated machines to comply with the obligation, the home provider shall ensure that the customer can access the required information speedily and easily.



Furthermore, if contacted via SMS, it would be reasonable for the home provider to opt to send only essential personalized pricing information applying to voice calls, SMS, MMS, and other data communication services to its customer, where the detail of charges is complex. In this case, the home provider should make reference in its SMS message to the free of charge number designated for voice calls to get additional information.

#### Scope of regulated roaming call

For the purposes of Articles 3, 4 and 6 of the Regulation, a “regulated roaming call” comprises only voice calls and does not include either FAX or data calls, nor does it include Premium Rate Service (PRS) calls.

#### Roaming calls made to/from ships and planes

The Regulation does not apply to calls made to/from ships and planes using satellite networks.

#### Geographical scope of the Regulation

The Regulation applies to calls made and received within the EU. ERG notes that GSM Europe has published a table outlining its understanding of the inclusion/exclusion of various offshore territories of the EU, including the Outermost Regions defined in Article 299 of the Treaty. ERG has reviewed this table and has no comments on it. However, it should be noted that Article 299 of the EU Treaty sets out the definitive position; market players are strongly advised to consult the EU Treaty in this regard.

The scope of the Regulation is expected to be extended shortly to the EEA. This requires a decision of the EEA Joint Committee to amend the EEA Agreement, possibly followed by enactment of national legislation. No date has yet been set for this process.

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