

Meteor Mobile Communications Ltd response to Public Consultation on a
Review of the functioning of Regulation (EC) No 544/2009 (the Roaming Regulation)



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on a
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11th February 2011

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Executive Summary

Meteor welcomes the opportunity to respond to the European Commission's Consultation on a Review of the functioning of Regulation (EC) No 544/2009 (the Roaming Regulation).

In our view the Roaming Regulation has met its objectives in respect of voice and SMS roaming services. As such great caution must be applied before implementing further controls in respect of retail prices for these services.

The provision of data roaming services is rapidly evolving. Many operators, Meteor included, are seeking ways to offer attractive, user friendly retail pricing for data roaming services. We believe that continued regulation at the wholesale level will be sufficient to eliminate any concerns regarding high prices for data roaming services.

Meteor remains of the opinion that wholesale intervention is playing and will continue to play a pivotal role in the delivery of competitive retail services. Given the structure of national mobile markets, and the continuing dominance of a number of pan-European operators and alliances, absent the existence of wholesale intervention, it would be all too easy for such operators to again exercise a stranglehold over wholesale roaming access through excessive pricing that would eliminate the competitive rigour imposed by independent operators such as Meteor.

We note the Commission's references in the consultation paper to a single market for roaming services. We do not agree that such a market exists. Roaming services are a component of domestic bundles and as such intrinsically linked to national competitive market forces. We cannot accept that it is appropriate or justifiable to seek to create an artificial single market for roaming services.

Meteor has considered each of the structural remedies outlined in the consultation paper. We do not consider that any of the options outlined can or should be pursued. It is Meteor's opinion that each alternative mechanism proposed would have both an adverse impact on competition in national mobile markets in general and on consumers in particular.

In conclusion, to the extent that further intervention can be justified Meteor strongly believes that the current model should be maintained.

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Meteor Mobile Communications Ltd (Meteor) welcomes the opportunity to respond to the European Commission's Consultation on a Review of the functioning of Regulation (EC) No 544/2009 (the Roaming Regulation). Meteor is the 3rd player on the Irish mobile market. Meteor launched the commercial provision of its mobile services in February 2001. As at end September 2010, Meteor has achieved subscriber share of 20.1% relative to Vodafone (40.5%) and O2 (33.2%). Hutchison 3G (trading as '3') is the 4th entrant and has a share of 6.2%. Meteor is proud to be an independent mobile operator driving competition in the Irish mobile market.

Q.1. To what extent do you believe that the current regulation achieved its objectives in terms of

- a) Contributing to the single market for roaming services?**
- b) Ensuring consumer protection?**
- c) Promoting competition?**

Please explain and substantiate your responses with data where possible

Article 1¹ sets out the objectives of the Regulation to:

- "ensure users..... do not pay excessive prices for Community-wide roaming services in comparison with competitive national prices"

Thereby;

- "contributing to the smooth functioning of the internal market"
- "achieving a high level of consumer protection"
- "fostering competition and transparency....offering incentives for innovation and consumer choice"

It is therefore wrong to request views on whether the Regulation has achieved the objective of contributing to the single market for roaming services as it is clearly not an objective for which the Regulation was established for. The notion of a single market for roaming services is new to us and we question whether such an economic market can be defined. Meteor would argue that subscribers to mobile telephony services access services primarily on the basis of services offered at a national basis, with access to European and international roaming forming a part, but not a distinct element of, overall service provision. In this regard, it should be noted that in the main roaming services are not purchased independently or separately from national mobile services and should not, therefore, be categorised as a distinct market.

In any event the correct question to ask at 1a) is, to what extent do you believe that the current regulation achieved its objectives in terms of:

- a) ensuring users do not pay excessive charges for Community-wide roaming services in comparison with competitive national prices?**

The answer to this question is that the Regulation has achieved the objective in respect of voice and SMS roaming services as evidenced by a comparison of our standard national retail pre-pay² charges and the equivalent caps imposed by the roaming regulation in the following table.

¹ Regulation EC 544 of 2009 amending Regulation EC 717 of 2007

² Prepay customers account for 85% of our customer base

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Call Type	Cap ³	National pre-pay	Premium over national prices	
Calls made	42.3 ct per min	37 ct per min	5.3 ct per min	Standard national call rate ⁴ prepay
Calls received	13.3 ct per min	15 ct per min	(1.7) ct per min	International call rates, equivalent to call forward ⁵
SMS sent	13.3 ct per SMS	12 ct per SMS	1.3 ct per SMS	Standard prepay SMS rate

We do not consider the premium in respect to Calls made or SMS sent to be excessive and Calls received has exceeded the objective. We are not in a position to comment on whether similar situations exist in other Member States. What is clear is that extreme care must be taken when considering any future retail price caps for voice and SMS roaming services and their potential impact on the competitive functioning of national markets arising from arbitrage opportunities. It is clearly arguable that the current Regulation has achieved its primary objective in respect of voice and SMS roaming and consequently further reductions in retail caps cannot be justified.

b) Ensuring consumer protection

Meteor believes that this objective has been achieved. The elements of the roaming regulation, price control, the provision of tariff information and the various transparency measures introduced in respect to the usage of data, have contributed to improved consumer awareness of pricing of services when roaming. Ensuring that consumers have enhanced information on the charges for roaming services, providing a greater ability to monitor and control expenditure (particularly in respect to data services), is now an accepted element of the provision of roaming services within the Community.

c) Promoting competition

In advance of the adoption of the first Roaming Regulation in 2007, Meteor welcomed and indeed argued for the imposition of wholesale price control in respect to the voice element of roaming services.

It is imperative that smaller operators can continue to compete and offer services in an equivalent manner as those offered by larger, pan-European operators who are able to internalize wholesale costs and to a large extent set retail roaming prices independently of wholesale input costs. In many instances, the provision of roaming is an important element for subscribers when choosing a national service provider and ensuring a safety cap at the wholesale level that goes some-way towards ensuring that smaller operators can make available a competitive retail roaming service will ensure that such operators can continue to compete at a national level. This national competitive element acts as an important dynamic in the delivery of mobile services and should, in turn, support the increasingly important provision of all retail roaming services.

³ Caps as at 1 July 2011, Inc VAT @ 21%

⁴ Meteor Anytime Choice, average call duration approx. 1 minute (29cpm plus 9ct call set-up charge)

www.meteor.ie/plans/pay_as_you_go/#plans-tab

⁵ www.meteor.ie/plans/international_call_rates/

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Meteor would argue, therefore, that the Regulation has played an important role in the promotion of competition, and on the same basis, Meteor can also accept that intervention in the wholesale data market can be justified.

Q.2. Do you consider that regulatory intervention for roaming services is needed beyond June 2010? Please consider voice, SMS and data roaming services separately. In particular, if you consider the Roaming Regulation should expire in June 2012, please explain why, and describe how you consider that the market for roaming services will evolve in the absence of regulation.

Voice roaming services

Meteor accepts that intervention at the wholesale level for voice roaming has ensured that, to date, operators such as Meteor have access to roaming services at a pricing level that enables Meteor to continue to compete with larger, pan-European operators. Intervention at the wholesale level has progressively allowed for a reduction of retail rates, which has contributed to engendering greater consumer confidence in the service. Ultimately operators would like to enhance the level of customer usage of roaming services, and this can only be achieved when the correct balance has been struck between the wholesale cost of service delivery, and a retail level that consumers are willing to pay.

Meteor would argue that the price reductions at wholesale level have ensured that services can be offered to subscribers at competitive levels. We would argue, however, that the imposition of retail regulation has only served to ensure that operators all price at or close to the retail price cap, thereby delivering little or no competitive dynamic in the provision of the service.

The roaming regulation has allowed for a reduction in prices and, we believe pricing strategy for roaming services will become an increasingly important element or variable in future pricing plans and bundled services. It is important, therefore, that artificial retail restrictions, which only serve to restrict competitive behaviour in the delivery of a service, be removed.

As regards continuation of the regulation, Meteor would accept the continuation of wholesale price caps at levels established through the Regulation for 2012. To date, the Regulation has helped establish prices at a level at which consumers are confident and are accessing such services at higher levels than previously witnessed. It is important for operators to build upon this consumer confidence and continue to offer ever increasingly attractive retail rates when accessing roaming services.

SMS roaming services

As outlined above in respect to voice services, wholesale price intervention (through the establishment of price caps) has played a role in ensuring that smaller operators can deliver affordable and competitive retail offerings. Meteor believes that price intervention at the wholesale level has played an important part in ensuring availability of this service, at price levels that subscribers are comfortable with and reflect the underlying costs of service provision.

As with voice services, Meteor would argue that intervention at the retail level can act as an impediment to the role that roaming services could play in the overall delivery of competitive national pricing plans. As with voice service, the imposition of retail price caps has resulted in the vast majority of operators pricing such services at or near the cap, losing the vital dynamic that differentiated pricing can play in service delivery and national competitiveness. Meteor

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would argue, therefore, that removing retail price caps in SMS could result in greater competition at the national level and would open the service to price competition.

It is important to note that at national level the trend in mobile service provision is particularly sensitive to price competition. Through the introduction of regulation consumers are displaying increased confidence in accessing roaming services, and there is no evidence to suggest that the removal of retail price controls could act as a threat to this growing segment of service provision. It is clear that operators do not wish to undermine consumer confidence in this growing segment of the market. Meteor would argue, therefore, that whilst the Regulation has played an important role to date, retail price regulation can stagnate price innovation and its continued imposition cannot be justified.

Meteor would accept a continuation of wholesale price regulation at current levels.

Data roaming services

An increasingly important element of the delivery of service to Meteor subscribers is the ability to access data, both nationally and when roaming, at competitive retail levels. This is a segment of service provision that has grown significantly in recent years.

As consumers are increasingly accessing data and particularly wish to access data on the move, Meteor would like to be in a position to adequately respond to consumers requirements in this area. This means the delivery of data roaming pricing plans that ensure roamers have the confidence to access and use the service at price levels that more closely mirror the cost of service delivery.

As was argued in respect to wholesale intervention in voice roaming services, Meteor would welcome the continuation of wholesale price intervention in this important service segment, and indeed would wish to see more aggressive wholesale price reductions. As Meteor does not enjoy the ability to price influence at the wholesale level, yet wishes to deliver more cost reflective plans at the retail level, continued intervention by the Commission is to be welcomed.

It should be noted that Meteor is planning to reduce data roaming pricing from €10.20 per MByte to €0.99 per Mbyte in May 2011. This pricing strategy reflects Meteor's ambition to position itself as the best value in the Irish market for roaming pricing. However we are unable to fully realise our ambition because the wholesale charges for data roaming remain too high. In the domestic market our basic mobile data pricing is 69 cts for up to 50Mb usage per day. We recognise that there is a gulf between domestic pricing and our roaming pricing for data services. We are constrained from offering realistic retail data roaming prices to our customers. There is clearly a need for significant reductions in the wholesale data roaming price cap and we would urge the Commission to move swiftly to rectify the situation.

Q.3. Do you consider that the current model of regulation would be effective in the future in light of the desired objectives? Will this approach ensure adequate consumer protection and help stimulate competition? Is it efficient and coherent with EU policies?

As highlighted above we strongly believe that the current model of regulation has achieved its objectives in respect of voice and SMS roaming services. We believe there is a need for tighter regulation of wholesale data roaming price caps in order to facilitate the delivery of more innovative data roaming retail tariffs, fostering the competitive dynamic driven by independent operators in national markets.

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Meteor notes that the desired objective of the European Digital Agenda is to eliminate the difference between roaming and national tariffs by 2015. This desire must, however, be tempered with an understanding of the underlying costs of the provision of roaming services, and the relationship that this service has with services offered at a domestic level. Any regulatory action taken that would fundamentally alter the structure of mobile markets will have implications in the evolution and development of national offerings. It is competition waged at the domestic level that has fundamentally driven price competition.

It should be noted that in the assessment of the roaming market published by the Body of European Regulators for Electronic Communications (BEREC), regulators highlight that, in respect to wholesale provision, there is "not much incentive to compete vigorously on price, especially for larger operators"⁶. Meteor would concur with this assessment and would argue, therefore, that to ensure continued access for smaller operators to attractive wholesale rates, regulation of this service segment should be maintained. This should guarantee that the ability for smaller operators to compete is maintained and larger, pan-European operators or groups do not exercise a stranglehold over wholesale roaming access.

Meteor's planned reductions in charges for voice, SMS and data roaming retail prices in the second quarter of 2011, does, however, reflect the important role that roaming services are beginning to play in an operator's retail pricing strategy. Planned reductions in pricing in all segments will see Meteor using roaming pricing as leverage in the provision of domestic services and should, therefore, enhance Meteor's role as the competitive edge in the provision of mobile services in Ireland.

Q.4. If this model is suitable in principle, what modifications may be required in order to achieve a well functioning single market for roaming services? Should this approach be combined with other options?

Meteor would once again question whether or not it is actually possible to have a single market for roaming services. This would imply that roaming is a distinct market in itself where such services can be purchased independently from other mobile offerings. Meteor would contend that the creation of such a market would fundamentally alter the basis on which mobile services are currently provided at national level and would have adverse implications both for operators and customers alike.

What may be possible, however, with the continuation of specific wholesale regulation, is the development of more competitive mobile roaming service offerings, offerings that better reflect the underlying cost of service provision and enhance the functioning of the European internal market.

Q.5. Would regulation of wholesale prices charged to MNOs, combined with transparency measures, be effective, efficient and coherent in light of the single market objective? Would the benefits of regulated wholesale rates be passed through to consumers?

As highlighted already, we do not accept that the single market objective is appropriate or objectively justified.

⁶ BoR (10) 58, p, 3, point 8.

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In the consultation paper there appears to be a reluctance to trust wholesale regulation alone and the Commission questions whether, in light of the removal of retail regulation, operators would increase retail prices. This argument is further reinforced by BEREC which, in its assessment of the provision of roaming⁷, highlights the fact that there exists very little elasticity of demand for voice and SMS roaming services.

Meteor would contend, however, that experience has proved that regulation at the retail level can have an adverse impact on the competitive dynamic of retail markets. It is clear that, since the introduction of the Roaming Regulation, operators have priced at or near the retail price cap. It is not clear whether this decision has been taken on the basis that roaming services are not price elastic or that the regulation in itself has created a false ceiling which acts as its own impediment.

The world of telecoms is a radically different place than the world where intervention in the market was required in advance of the adoption of the Roaming Regulation. Consumers want, expect, and are now provided with roaming services that more closely reflect the cost of delivery. Volume uptake is increasing and Meteor would argue that this, coupled with consumer requirements for lower roaming prices, should be the basis on which retail prices are established going forward. Indeed, further EU roaming price reductions for Voice, SMS and data services are currently in the planning stages in Meteor with a planned commercial launch in the second quarter of 2011. Rates for voice and SMS will fall significantly below the retail price cap and data retail rates will also follow (data roaming wholesale input costs permitting).

Q.6. Do you consider that retail regulation of data roaming prices is necessary? If not, what are the likely market developments post-June 2012?

Meteor does not believe that retail regulation of data roaming pricing is necessary.

However, we would argue that further regulatory intervention to reduce data wholesale roaming charges is required. This intervention will allow Meteor to introduce more competitive retail data roaming offerings.

It should be noted that Meteor is currently in the process of introducing a 99ct per MByte data roaming rate in the EU (available from May 2011) and in the near future we would like to be able to introduce a vastly lower rate than this for our customers as highlighted in our response to question 2.

With the increase of smart-phones and customers access to data it is anticipated that data usage will increase significantly in the months and years ahead. Meteor customers will expect a similar data roaming experience as they receive domestically particularly in relation to pricing. Responding to this requirement will be the challenge, and one that Meteor believes can only be met through more aggressive reductions in the wholesale rates charged.

⁷ BoR (10) 58, p. 4, point 11.

Q.7. If retail regulation of data roaming prices was necessary, what would be an appropriate model for such regulation?

Meteor would not agree that the retail regulation of data roaming rates is necessary as intervention at the retail level can ultimately damage the development of the market the intervention is, in itself, designed to protect. As outlined above we believe that a significant reduction in the wholesale rate would be a more practical course of action rather than regulation of retail data roaming pricing.

If, however, the regulatory authorities deem such intervention necessary, then the model currently used for voice and SMS regulation would be an appropriate model to follow albeit that retail caps should be set at July 2011 levels.

Q.8. Please indicate the advantages and disadvantages of these approaches, relative to each other and to the current model of price capping, considering also competition aspects such as the possibility of margin squeeze?

(i) *Roaming prices based on domestic prices in the home market*

We do not consider this proposed approach to be appropriate.

This approach is similar in concept to the current model. Under the current model retail price caps are set by reference to, and above, wholesale price caps, thereby preserving the ability for all EU operators to earn a positive margin on roaming services.

The proposed approach would appear to break the link between wholesale and retail price levels. The major concern here would be the scenario whereby if this mark up was regulated it could leave the operator in the position whereby it was not economically feasible to provide roaming services in particular countries or to allow roaming on specific networks. This is particularly relevant in respect of independent newer entrants such as Meteor, placing us at a competitive disadvantage to the early entrants. Newer entrants are the catalyst for competition in national markets. As such newer entrant national retail prices are necessarily lower relative to the incumbent operators. There is a risk, if retail roaming prices are determined on an operator's national retail price plus mark-up, that newer entrants will suffer regulatory margin squeeze. This would lead to a reduction in service provided to end users if the scenario existed whereby the wholesale rate being levied exceeded the domestic rate plus the regulated mark up.

If, following a robust assessment, the Commission concludes there is a continued justification for retail price caps, such caps should be set at a common level for all operators and not by reference to operator specific national retail prices.

(ii) *Roaming prices based on domestic prices in the visited country*

We do not consider this proposed approach to be appropriate.

This approach would require a significant regulatory administrative overhead relative to the current model in order to establish and maintain reference domestic prices for each visited country. Reference domestic prices will vary between each Member State, as they are

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determined by the competitive characteristics of each national market. This approach would be a backward step in terms of promoting consumer transparency as retail roaming prices would vary by Member State.

Q.9. In general, would these decoupling approaches be effective in terms of stimulating greater competition for roaming services? Would all customer segments be able to benefit? Would such increased competition be sufficient to give consumers an effective choice of roaming services at (near) domestic prices?

We do not consider the proposed decoupling approaches would be effective for the following reasons.

Meteor notes that the desired objective of the European Digital Agenda is to eliminate the difference between roaming and national tariffs by 2015. However we have seen no objective justification or analysis to suggest that this desired objective is anything more than a politically motivated aspiration. We also note the Commission's view⁸ that there exists, or should exist, a single market for roaming services. As acknowledged by the Commission elsewhere in the consultation⁹ roaming services are a component of domestic bundles and as such intrinsically linked to national competitive market forces. Until such times as there may be a single market¹⁰ for mobile services we cannot accept that it is appropriate or justifiable to seek to create an artificial single market for roaming services¹¹.

The proposed decoupling of roaming services would fundamentally impact the functioning of national markets creating a risk of inefficient market entry, contrary to the European Communications Regulatory Framework. The Framework sets out a clear, rigorous basis for determining whether access remedies should be imposed on electronic communications markets. The same rigor must be applied here.

In all likelihood the structural approaches under consideration would lead to the creation of a set of large operators who would by virtue of their size be able to negotiate volume discounts (which may or may not be passed onto consumers). This would most likely mean that smaller independent operators would be forced to exit from the provision of roaming services with a consequential dilution of national market competition.

The proposed structural remedies are disproportionate to the alleged detriment. The Commission has not quantified the alleged detriment. As we highlight in our response to question 1 it seems to us that the Commission's objectives to protect consumers from excessive prices and to achieve closer alignment with national prices has been achieved in respect of voice and SMS roaming services. The same can also be achieved for data roaming services under the current model for roaming regulation.

⁸ Question 1 of the consultation incorrectly refers to an objective of the Regulation to contribute to the single market for roaming services

⁹ For example section 3.e) of the consultation paper

¹⁰ There are significant national differences that influence domestic competition across Member States including the presence of independent operators such as Meteor. Any measures towards a single market for mobile services must be compatible with preserving the competitive dynamic brought to bear by independent operators.

¹¹ Even if a single market for roaming services could be objectively defined, there is no way that Meteor could be considered to possess Significant Market Power in such a pan European market.

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The cost of implementing the proposed structural remedies are significant for consumers, operators and regulators, and will in our view fail to pass an objective cost benefit analysis.

It is unclear as to how a consumer could educate themselves of the variety of offers that would be available to them. What is meant by these proposals would need to be specified in more detail, particularly what occurs in the default scenario, for example is roaming barred until the consumer makes a choice? At what point do they need to make this choice and for how long are the choices valid for? Consumers will have to establish and maintain separate contractual and billing relationships with their domestic provider and their roaming provider. Taking into account the frequency of travel and the costs associated with credit checking it is likely that roaming providers will enter into pre-pay relationships with consumers. Questions also arise with respect to the length of the contractual arrangement and the responsibilities for termination of contacts.

Consumers will no longer be able to enjoy the simplicity and ease of access of current roaming services. Consumers will have to research and make decisions on a range of factors, not just price. For example coverage is an important consideration. If a consumer makes a decision solely on price this could lead to a situation whereby the consumer could be left with no service if they selected an operator with poor coverage: unlike today's scenario whereby if they are receive poor coverage while roaming they will automatically switch to another operator in the foreign country.

The decoupling approaches would require significant development on the part of MNOs. Under current arrangements signaling verification is undertaken between the visited network and the home network before roaming can commence. For the decoupling approaches to work the home network (the provider of domestic services) systems would need to know the identity of the consumers chosen provider for roaming services and communicate this to the visited network. This is not possible in today's signaling network.

The de-coupling approaches would add considerable overhead in the clearing house processes. Unlike today, where all TAP records (billing records) can be aggregated by home network, in a de-coupled environment each individual TAP record would need to be analysed to identify the responsible billing party. Alternatively this could be done by the domestic operator by processing the incoming TAP records and passing on the appropriate records to the MNO/MVNO (most likely incurring a processing fee which would be passed onto the consumer). It would be the responsibility of the domestic operator to inform the foreign network of the responsible charging partner, this requires extra signaling between operators in order to exchange the information. Charges would need to be levied to the MNO/MVNO's in order to cover the signaling traffic and the extra configuration that would be required to manage this. There are separate traffic cases for Voice, SMS, MMS and Data traffic and each would require different modifications in order to be configured properly. These modifications would probably require the consumer to self configure which would be extremely off putting for most users. In order for some of the de-coupling approaches to work, it may be necessary for the visited network to provision the subscriber on their network elements in order to properly charge subscribers, particularly in the case of prepaid. The de-coupling approach would lead to significant difficulties in providing a prepaid service for subscribers in a foreign network. The subscriber would need to be provisioned on the host networks prepaid system in order to recharge their account. This would result in a significant overhead and unnecessary complication to both operator and consumer. This will also lead to a considerable amount of complication where non national numbers are required to be provisioned on the visited network

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nodes. There would also be considerable complications when it comes to charging for MT events originated in the home network that are delivered while roaming

Q.10. Would such 'structural' approaches be efficient? What are the technical implementation issues associated with these approaches?

No. Please see our response to question 9.

Q.11. How feasible/efficient is the establishment of a spot trading market for wholesale roaming? Would this approach lead to competitive wholesale rates? How effective would this approach be in terms of achieving competitive retail rates?

In our experience bilateral traffic exchanges act in favour of larger operators to the detriment of smaller operators. As such we welcome consideration of an alternative trading mechanism.

It is difficult to offer a view on the ease of establishing a spot market for wholesale roaming in the absence of any detail on how such a spot market could operate in practice. It is stated by the Commission that bilateral exchanges would be disallowed. It is not clear how this could be enforced as some operators could seek to continue to exchange minutes albeit through the mechanism of the spot exchange. The Commission considers this could be addressed through open trading. This would imply that a purchaser of roaming traffic must be obliged to accept the lowest price offered so that bilateral trading could not be a guaranteed outcome. However this could result in sub-optimal outcomes. For example an operator with limited capacity and / or limited coverage could bid a low selling price and the purchaser would be obliged to accept that price. However the quality of the roaming services would be substandard impacting directly on consumer roaming experience. Other factors are also relevant in the choice roaming supplier such as, does the operator support CAMEL functionality for real time pre-pay billing, how extensive is the operators 3G coverage, is HSPA available etc. Price whilst a significant factor is not the only determinant in the choice of supplier of wholesale roaming services.

For a number of years similar commodities, such as Wholesale International Minutes and Electricity Units, have been trading on spot markets. However, in these cases the spot markets are used in conjunction with private bi-lateral transactions. There is no evidence from these markets that the spot trading market has significantly influenced supply and demand principles used to set the bi-lateral price and / or reduced the bi-lateral agreements.

We would welcome further exploration of the establishment of a spot market trading mechanism, however as noted above, it is not clear to us that a spot market with the necessary prohibition on bilateral traffic exchanges will prove effective in practice. As such the more appropriate remedy, at least in the near term, would be the establishment of tighter wholesale price caps.

Q.12. For each of options (i) to (iii) above please indicate whether such approaches can stimulate additional competition for roaming services. In order to achieve significant reductions in roaming prices do you consider that these 'access-based' approaches may need to be combined with other forms of wholesale price regulation (i.e. between MNOs) and/or retail price regulation? Please explain.

Each of the options presented by the Commission relates to the imposition of MVNO access obligations.

The European Communications Regulatory Framework establishes that the imposition of a MVNO access obligation can be justified only if an operator is determined to have Significant Market Power ("SMP"). This is unambiguously confirmed by the European Commission's comments on a proposal by the Polish regulator to impose a MVNO obligation. In its comments¹² on the Polish notification, the Commission emphasised that such as ComReg have no general ability to impose obligations on non-SMP operators, stating:

"Article 8(3) of the Access Directive, in line with the spirit of the Framework, states that the general rule for imposing any obligation is to conduct a market analysis and SMP assessment. This is also underpinned by Recital 27 of the Framework Directive which clearly states that "it is essential that ex ante regulatory obligations should only be imposed where there is not effective competition, i.e. in markets where there are one or more undertakings with significant market power, and where national and Community competition law remedies are not sufficient to address the problem." Therefore the appropriate way to impose an access obligation as defined by UKE in the notified draft measure is to examine the market for mobile access and call origination and – if results of market analysis show that it is not competitive – impose appropriate remedies, including an access obligation."

Meteor has not been designated with SMP in a market relevant to the Commission's current considerations. We consider that attempts to impose MVNO obligations, absent a market analysis would be ultra vires. As such we have no further views to offer at this time.

Q.13. In the medium to long term, markets and technologies will possibly evolve to the point where roaming services can be provided by different competing technologies. Such developments seem to be unlikely to be sufficient to eliminate or minimize roaming problems within 5 years. Do respondents share this view? Please explain.

It is possible that new services will appear that offer credible alternatives to the existing roaming services. As with any new technological advance the adoption and entry into mainstream will be determined by the ease of use for the consumers and the ready availability of terminals that are capable of utilising such new technology.

Whether WiFi networks will eliminate or minimise roaming problems within 5 years, largely depends on the nature of the perceived problem. From our reading of the consultation paper the Commission appears to consider excessive pricing as the primary problem. The availability of WiFi networks is already extensive in national markets and access is offered on a competitive basis. In our view WiFi networks already offer the potential to act as a credible substitute for

¹² (2007) C/203442

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mobile data roaming services in areas where these are typically consumed (such as hotels, transport hubs, conference centres).

A transition to an all IP network is a considerable time away and will require massive investment on all operators to complete. Operators must be allowed to determine their own investment strategies in the context of competitive national markets.

Q.14. Do respondents think that the Commission should pursue measures to accelerate these developments (e.g. to encourage the massive deployment of interconnected Wifi networks?) What other measures could be considered? What will the impact be of the transition to an 'all IP' environment on roaming services?

We do not believe it is appropriate for the Commission to pursue measures to accelerate developments. Such intervention would be entirely disproportionate and give rise to all manner of unintended consequences across national communications markets. Specific measures taken to promote the development of one network technology over another must always be questioned. Whilst there is a role for government and European authorities to play in establishing a level playing field where European industry can grow and compete, specific measures taken by authorities to promote the deployment of alternative technologies so as to alter services offered over mobile, must be questioned.

Q.15. To what extent is the problem of inadvertent roaming still a concern for citizen's living close to borders? What measures could be taken to avoid the adverse effects of inadvertent roaming, whether by means of voluntary co-operation between operators or by means of regulatory or legislative action?

Inadvertent roaming is a concern for a small proportion of customers living in border areas and will always be a feature of the mobile market. Meteor does, however, receive minimal feedback from customers on this issue.

If a complaint does arise, however, Meteor treats each case on an individual basis and every effort is made to ensure that no customer is charged inappropriately. Customers are also advised to make a manual network selection as this prevents customers from accidentally roaming onto a UK network.

Q.16. If you are an operator, what measures (technical or otherwise) have you taken to deal with the issue of inadvertent roaming, both to prevent it happening and to compensate for the adverse effects once it has been shown to have occurred? How do you raise awareness of the problem and the potential remedies on the part of your customers?

Meteor's technical radio engineering team have cells defined as tightly as possible to minimise the occurrence of inadvertent roaming. Specific information is also provided on our website to advise customers to manually select a network, and we provide details of roaming rates via SMS when a customer is roaming.

Meteor Mobile Communications Ltd response to Public Consultation on a
Review of the functioning of Regulation (EC) No 544/2009 (the Roaming Regulation)

Q.17. What has been the impact on mobile users and service providers of the implementation of the Regulation as far as roaming within, from or between the outermost regions is concerned?

N/A

Q.18. What additional measures (if any) have been taken by the Member States or their NRAs to address roaming between the outermost regions and other parts of the EU?

N/A

Q.19. What has been the financial impact (revenues, costs, profits, volumes etc.) on smaller mobile telephony providers of the application of the Regulation since its entry into force on 30 June 2007 and amended in 2009? Please provide financial data and any other information in this respect wherever possible (which will be treated as confidential if so requested)

Q.20. Has any operator encountered problems when seeking to agree a wholesale roaming agreement with an operator in another Member State? What kind of problems were these (e.g. for SMS interworking)? Were they resolved in the end? Was the issue referred to an NRA? If so, what action has been taken or is in train to address those problems?

Of our current EU roaming traffic we have discount agreements in place which covers 94% of our traffic. We have not encountered any issues in respect to wholesale access agreements.

Q.21. To what extent is the use of traffic steering accompanied by a lower retail price for the roaming customer? Where lower roaming prices are conditional upon the use of a preferred visited network, how effective is the traffic steering in practice in ensuring that the preferred network is used? Please provide detailed data where possible.

In our main roaming countries we steer our customers onto our preferred roaming partners. This is achieved using the PLMN list in our SIM cards plus our Steering Platform.

Q.22. What techniques are applied to implement traffic steering in practice? Is the roaming customer informed in advance about the steering and does he have the possibility to override it?

Traffic steering is achieved using the PLMN list (need to explain what this is in greater detail), in our sim cards, in our handsets and our Steering Platform. The customer can also manually select an alternative operator.

Q.23. Have you identified any significant effects on domestic prices or changes in an operator's tariff structure for domestic voice calls or other mobile services introduced after or shortly before the entry into force of the Regulation? If so, please explain providing details of the changes in terms of timing, scope and prices.

No impact. Roaming agreements are dictated by the needs of each operator and their traffic volumes and not by the EU regulation.

Q.24. What, if any, has been the impact of the Regulation on reciprocal roaming arrangements between EU/EEA mobile operators and their counterparts in other third countries?

There has been no appreciable impact.

Q.25. Have any Community-based providers of mobile roaming services negotiated agreements with third country operators concerning a reduction of wholesale roaming tariffs comparable to those set up in the Regulation?

No