



Prot. PM/84/2011

Rome, 11 February 2011

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Messrs.

**Implementation of Regulatory Framework Unit (B2), BU33 4/39
DG Information Society and Media
European Commission
B-1049 Brussels
Belgium**

Subject: Response to the “public consultation on a review of the functioning of Regulation (EC) No 544/2009 (the “Roaming Regulation”).

PosteMobile with registered office in Rome, Via Aurelia 866 (hereinafter “PosteMobile”), in person of Mr. Giovanni Maria Lione Head of Legal, Regulatory and Security Department, wishes to provide its response to the above mentioned public consultation.

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PosteMobile is the subsidiary company of Poste Italiane Group (the latter being the oldest Italian provider of traditional mail services to the public) operating in the TLC sector.

PosteMobile is active on the telecommunication market since late 2007 and is specialised in the development of telecommunication services and solutions for the mobile connectivity, also to be integrated with the traditional mail and financial services of Poste Italiane.

PosteMobile is running an agreement with Vodafone Omnitel NV in Italy for the supply of mobile telephony service to the public with its own brand, being an Enhanced Service Provider.

PosteMobile services are distributed by the Poste Italiane offices network, Internet and call centre. On December 31, 2010, PosteMobile reached 1.690.000 customers of its mobile telephony service.

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.

The EU Roaming Regulation has certainly pushed toward the creation of a European single market of roaming services especially the regulation of wholesale prices.

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Nonetheless, the transition is not likely to be completed and objectives of the regulation in force are still far from being fully achieved.

In particular, PosteMobile experienced that the price-cap for roaming retail services fixed by the Commission has been useful for the achievement of the objectives of the regulation in force, but still didn't make the market move to a fully competitive environment.

As the Commission noticed, the difference between national and international tariffs (the latter including the price of international roaming wholesale services) is still sensitive. The price-cap imposed by the Commission didn't increase competition between mobile operators and lead to a situation in which retail prices are all at a very similar level.

For the same reason in such situation also consumers didn't get any substantial benefit, given that the cap fixed by the Commission has become quickly a floor in fact.

This means that one of the main objectives of the regulation (enhance the gap between wholesale and retail prices of roaming services in order to get a more competitive environment for the development of telephony services) has not been achieved yet.

2) Do you consider that regulatory intervention for roaming services is needed beyond June 2012? Please consider voice, SMS and data roaming services separately. In particular, if you consider that 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.

PosteMobile believes that the regulatory intervention for roaming services have to be kept in force far beyond June 2012.

In particular, PosteMobile wishes that the Commission will take sharp remedies over that date with reference to all the three mentioned markets (i.e. voice, SMS and data roaming services).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Such remedy does not appear to be necessary at the retail level, as far as in PosteMobile's view retail prices are sensitive to not temporary price modifications at wholesale level.

In PosteMobile experience wholesale prices are generally kept close to the cap fixed by the Commission. Only in specific case such prices are likely to be discounted, and such cases are intra-group transactions and cross-selling (sales between operators that are able to host each other in the respective Country).

In this scenario it easily arguable that the non-infrastructure mobile operators (such as PosteMobile) will never be as competitive as the Mobile Network Operators, given the fact that these latter are able to exploit the clear competitive advantage of the reciprocity of the relationship that allows to buy roaming services at lower prices.

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?

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?

In relation to question no. 3 we refer to the answer to question no. 2 above.

In addition, as already mentioned, PosteMobile confirms that the correct remedy to be kept in force shall be a price-cap at wholesale level.

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?

PosteMobile agrees that regulation of wholesale prices charged for the roaming service, combined with transparency measures, would be effective, efficient and coherent in light of the single market objective.

[REDACTED]

PosteMobile believes that such remedy would rise immediately benefits that will be passed through to consumers. The degree of the benefits passed through to customers is strictly connected to the achievement of an higher competitiveness of MVNOs business', that represented in the last years the main incentives pushing toward lower tariffs in a sector historically leaded by the MNOs and guided by their conservative behaviours.

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

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

PosteMobile believes that no retail regulation of data roaming prices is needed. The likely market developments post-June 2012 would be in the direction of a deeper competition between undertakings just in the case the Commission will make binding remedies on roaming prices at wholesale level.

Such remedies are likely to produce positive effects also at retail level since PosteMobile's view retail prices are sensitive to not temporary price modifications at wholesale level.

PosteMobile also believes that a big effort shall be made on the side of transparency of prices toward the customers, given that roaming tariffs are often not clear and not easily understandable.

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?

PosteMobile believes that both options rise issues in the light of the fact that it would be very difficult to find out for each mobile operator the national tariff to be used as a benchmark for the quantification of the fair price of roaming, given that the operators offer to the public a wide range of tariffs and options and each tariff has different features.

PosteMobile believes that such issues shall be solved by means of an in depth regulation impact analysis.

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?

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

PosteMobile believes that the decoupling approach is not likely to stimulate greater competition for roaming services since it implies the carry out of a wider range of activities for all the operators involved and the necessity of closing a big number of wholesale agreements. This activities produce further financial and opportunity costs that will be immediately passed through to customers. At the end it is likely to result in a cost increase of the retail service.

The decoupling approach is also not desirable for customers, since it is likely to introduce serious issues related to the management of the relationship with the host operator. The fact that the host operator is involved in a steady relationship with the national operator supplying the service to the customer guarantees that this later is able to manage and solve easily every issue, as for instance claims and requests of assistance.

For such reasons PosteMobile believes that the decoupling approach is not desirable.

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 relation to question no. 11 we refer to the answer to question no. 10 above.

[REDACTED]

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.

PosteMobile completely agrees with the proposed remedies and asks for their introduction.

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With reference to option (ii) PosteMobile believes that it should be combined with option (i).

PosteMobile does not believe that these access-based approaches need to be combined neither with other forms of wholesale price regulation or with retail price regulation for the same reasons shown above.

PosteMobile believes that option (iii) shall be seriously taken into consideration, since it appears to be a very efficient remedy for the structural lack of competition of the wholesale access to mobile networks market.

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.

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?

PosteMobile believes that in at least medium term perspective, markets and technologies are not likely to allow roaming services to be provided on a competitive basis by technologies other than traditional mobile voice telephony services.

PosteMobile agrees on the fact that possible developments do not seem to be likely to be sufficient to eliminate or minimize roaming problems within next five years. Therefore, remedies at wholesale level are highly desirable.

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?

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?

Until today PosteMobile did not experience serious issues related to inadvertent roaming and has not been addressed by its customers of requests related to such problem.

On an hypothetical basis, PosteMobile believes that a useful action to be taken in order to avoid the adverse effects of inadvertent roaming could be the implementation of a duty to give notice to the customer via SMS of the start of the roaming service, requesting to send a reply to the message (free of charge) to confirm that the roaming is voluntary.

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?

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?

Not applicable to Italy.

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).

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?

Until today PosteMobile did not enter in any roaming agreement with foreign operators.

The Company provides roaming services to its customers by means of the host operator and apply to the service the conditions agreed by the latter with its foreign commercial partners.

In any case, as mentioned above, please note that PosteMobile started its activity in late 2007, so it is not able to appreciate the possible financial impacts of regulation entered into force in 2007, given the lack of data for the previous period of time.

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.

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?

As mentioned above, until today PosteMobile did not enter in any roaming agreement with foreign operators and provides roaming services to its customers by means of the host operator. In particular, PosteMobile does not manages directly the procedures for the registration of the SIM card of its customers on the foreign host network.

Therefore, PosteMobile is not able to evaluate the effects of the traffic steering on the retail price.

In any case, as mentioned above, please note that PosteMobile started its activity in late 2007, so it is not able to appreciate the possible financial impacts of regulation entered into force in 2007, given the lack of data for the previous period of time.

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.



PosteMobile did not identify 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.

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?

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?

As mentioned above, until today PosteMobile did not enter in any roaming agreement with foreign operators and provides roaming services to its customers by means of the host operator.

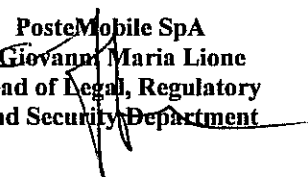
Therefore, PosteMobile is not able to evaluate the impact of the Regulation on reciprocal roaming arrangements between EU/EEA mobile operators and their counterparts in other third countries.



PosteMobile remains at your disposal for any possible further clarification or in-depth analysis and encourages the European Commission to send any communication to the attention of Mr. Giovanni Maria Lione (giovannimaria.lione@postemobile.it; tel 0039 06 96674846).

Kind regards.

PosteMobile SpA
Giovanni Maria Lione
Head of Legal, Regulatory
and Security Department

A handwritten signature in black ink, appearing to be "G. Lione", is written over the printed name and title.