

## **Public consultation on the application and impacts of the EU Roaming Regulation**

**Common position of the Ministry of Industry and Trade of the Czech Republic and the Czech Telecommunication Office exercised in the public consultation to review the Regulation of the European Parliament and Council (EC) no. 717/2007 on roaming in public mobile telephone networks in the Communities and on amendment of the Directive 2002/21/EC (hereinafter "Roaming Regulation")**

### **Summary**

At the review of effects of the existing, less than one-year functioning of the roaming regulation and the related consideration of its potential extension or even expansion, the Czech Telecommunication Office and the Ministry of Industry and Trade of the Czech Republic believe that:

- After less than 12 months it is too early to assess impact of the regulation and needs of another legislative proposal. Many users, who were in the primary focus, have not still had an opportunity to utilise the impacts of the regulation (summer holidays in 2008).
- The European Commission (hereinafter "Commission") is not obliged to submit the proposal in 2008 – if based on data collection which can be in progress also in 2009 it comes to conclusion that an extension of the regulation is needed, it may submit a regulation proposal at the end of 2009, having enough time for its approval prior to the expiration of the present regulation.
- "Extraordinary measure", as the Commission's proposal was presented at its approval, loses its extraordinary character if it is to be prolonged continuously each three years. The Commission has enough opportunities, if it considers it a serious distortion in the electronic communication market, to propose an amendment during the review of the regulation framework currently in progress.
- Though from the short-term perspective the roaming regulation speeded up a price drop of the international roaming, from the long-term perspective it narrowed/reduced the space for potential other innovative offers of roaming tariffs and services.
- With regard to the high level of competitiveness among mobile operators in most of the EU countries it is unlikely that after the planned termination of the

roaming regulation on 30 June 2010 prices of roaming voice services will rise again.

- We must consider the market of the roaming data services a new, emerging market, where the respective business models and tariff structures are only under development, responding to developing and newly emerging needs and requirements of end customers.

## Annex No. 1

**Question 1:** To what extent do you think the Regulation has met its objectives (as described above) in respect of its following key features:

- (i) Reduction of retail prices to an acceptable level (eurotariff and its opt-out provisions) (Article. 4):
- (ii) Transparency of retail prices ( Article 6):
- (iii) Reduction of wholesale prices ( Article 3); and
- (iv) Control and enforcement of co-operation, also including dispute solution (Articles 7, 8 and 9)?

Low prices were *compulsorily introduced* by the Regulation and therefore any debates on how far it contributed to price reduction or how its objectives were fulfilled in this respect are irrelevant. In spite of the very short period available for the implementation of the Regulation, all mobile operators in the Czech Republic offered the eurotariff to customers and met all the other requirements contained in the Regulation in time and in compliance with the Regulation as such.

As to customer information about the prices of the calls, the information channels that are used (web, price lists, information SMS ...) are the same as those that were available before regulation. Paradoxically, the importance of these measures for customers decreased after the introduction of regulation: the roaming tariffs were unified to a considerable extent and their prices stayed at the level of the price caps and therefore the customers are sufficiently informed about prices (in addition, price levels do not vary much with the roaming tariffs used and even with operators) and may even perceive the "inflation" of always the same information (e.g. receiving an information SMS whenever the customer crosses any border within the EU) as nuisance.

- i) All the three operators introduced the eurotariff with call prices not exceeding the regulated call price indicated in the Roaming Regulation: since September 2007, when the first quarterly batch of data was collected, the number of eurotariff subscribers has grown by almost a quarter (24.2%) and the number of subscribers using other roaming tariffs decreased by a half (51%);
- ii) Information SMS messages are sent to roaming customers; roaming price information is available on the web and in price lists;
- iii) In voice calls within the EU/EEA, average wholesale revenue decreased between the periods under review (April to September 2007; October 2007 to March 2008) by 60%, in SMS by 7.3 %, in data by 50%;
- iv) We have not recorded any disputes in this area.

Nevertheless, it was already before the implementation of the Regulation that mobile operators offered roaming tariffs reflecting the requirements of customers that needed to use roaming more intensively – for customers using these tariffs the calls were cheaper, compared to the present regulated prices.

**Question 2:** What is the extent of unwanted consequences of the Regulation for mobile customers in terms of retail roaming service availability and quality or in terms of the volume of information provided to end users by their respective mobile operators?

Mobile operators currently offer the same basic roaming tariffs and their prices correspond to the maximum regulated prices. As a result, due to regulation within the EC, roaming tariffs have lost much of their sound competitiveness among operators and are therefore able to provide little incentive for offering innovative roaming tariffs and services.

According to our information many initiatives of the mobile operators have been deferred directly as a result of the Roaming Regulation (e.g. '2 countries 1 SIM' product, various 'single rate' tariff allowing customers to pay the same per minute tariff irrespective of whether they are at home or abroad).

**Question 3:** What was the development in outgoing and incoming roaming voice call tariffs other than the eurotariff since the effective date of the Regulation? Are such tariffs more advantageous to customers, compared to the eurotariff offered by the customers' mobile operator? Please, give some data to support your answer.

After the introduction of the eurotariff, operators continued offering "unregulated" tariffs with various combinations of benefits, e.g., in calls within a partner roaming network, longer-lasting calls etc.

**Question 4:** What was the impact of the Regulation on mobile operators in terms of revenue, traffic, profit, innovation etc.?

Roaming revenue and costs decreased significantly in the wholesale part of the market. The specific impact on each mobile operator depends on the roamers / visitors ratio (i.e., on how an operator's own customers use roaming in foreign operators' networks and how foreign operators' customers use roaming in the given operator's network).

A trend of increase is seen in the number of call minutes. Nevertheless, the fall of retail prices is not compensated by an adequate increase in traffic (low elasticity), so that, on the whole, retail sales decline.

**Question 5:** Have there been any requests to terminate wholesale roaming agreements, or threats of such termination, or refusal to negotiate, with reference to the application of the Regulation?

No.

**Question 6:** What measures should be taken to prevent the undesirable impacts of unwanted roaming – voluntary co-operation between operators, or regulatory measure, or legal proceedings?

Under Czech conditions, unwanted roaming is not the subject of any markedly increased number of customer claims (less than ten since the Regulation's effective date). Taking into account the physical regularities of the propagation of radio waves, it is difficult to imagine any solution that is not manifestly unproportional to the nature of the problem identified. In addition, the display of the customer's terminal equipment always indicates the network where his or her mobile set operates at the moment. Very simple way is manual selection of the network, which is always possible.

**Question 7:** If you are an operator, what measures (technical or other) have you taken to address unwanted roaming in terms of prevention and (if prevention fails) in terms of compensation for its adverse effects? How have you improved public awareness of the issue and the potential obligations of part of your customers ?

This is a question to be answered by mobile network operators.

**Question 8:** What was the impact of the implementation of the Order on the mobile service users and providers in terms of roaming in, from, or between the remote regions involved?

**Question 9:** What supplemental measures, if any, were taken by the Czech government or its regulatory body to ensure roaming between remote regions and other parts of the EU?

These two questions do not apply to the Czech Republic.

**Question 10:** What was the financial impact (revenue, costs, profit, operation) of the application of the Regulation after its effective date (30 June 2007) on smaller mobile telephone providers? Please, give financial data and other information, as far as possible (it will be treated as confidential, if so required).

There are no “smaller mobile operators” in the Czech Republic.

In general terms it can be said that small operators might be in a worse position in commercial negotiations with larger international operators. When negotiating on the commercial conditions of co-operation, operators are trying to achieve a low wholesale price level for their outgoing roaming traffic and, at the same time, they seek to gain the largest possible volume of incoming roaming traffic from their roaming partners. Small operators are as a rule unable to offer an attractive volume of traffic because the number of their customers is small. Before the implementation of the Regulation, small operators therefore offered significant discounts from their wholesale prices to encourage their roaming partners to route the traffic to their (the small operators’) networks. At present, due to regulation of wholesale roaming prices, small operators are unable to offer lower wholesale prices and their negotiating position in commercial bargaining has therefore worsened significantly, and so did their ability to compete with large operators.

**Question 11:** Did any operator face problems when trying to enter into wholesale roaming agreements with any operator in another Member State? What kind of problem it was (e.g. interconnection for SMS)? Was the problem resolved at last? Was the national regulator notified of the problem? If yes, what action was taken?

We were not informed about any such problem.

**Question 12:** To what extent is the use of traffic routing accompanied by a lower retail price for the roaming customer? If lower roaming prices are contingent on the use of a preferred visited network, how effective in practice is traffic routing in ensuring that the preferred network is used? Please, give detailed data where possible.

Preferential calling rates when using the partner network abroad are offered by TO2 and T-Mobile.

TO2:

- O2 Travel – preferential rate for calling from a partner network can no longer be activated (from 29 August 2007). An incoming call in zone 1 costs CZK 23.8 (the basic tariff is CZK 29.75); in zone 2 it is CZK 33.32 (the basic tariff is CZK 41.65), in zone 3 it is CZK 52.36 (the basic tariff is CZK 65.45)

T-Mobile:

- Traveller preferential rate – preferential calling rates in the countries where T-Mobile operates. The calling rate of CZK 4.76 (+price for setting up the call) formerly only applied to calls to the T-Mobile network, currently to calls to all networks in the countries involved.

- WorldClass preferential rate – interconnects T-Mobile networks and other partner networks. A uniform rate applies to calls from the WorldClass networks to the WorldClass countries.

We have no information of the use of preferred partner networks outside the Czech Republic by the Czech mobile network operators and therefore it cannot provide information about how effective the use of this service is.

Owing to the effects described above, it is of no practical use to distinguish between roaming call prices according to the network used.

**Question 13:** What techniques are applied to implement roaming in practice? Is the roaming customer informed in advance to that effect, and is the customer able to switch to another network?

The customer is as a rule informed about the partner network abroad (all mobile network operators are members of supranational groups). Manual selection of the network is also possible.

**Question 14:** Did you experience any significant changes in the domestic prices or changes in the operator's tariff structure for voice calls at the national level or for other mobile services after, or shortly before, the effective date of the Regulation? If yes, please explain by giving details of the changes in terms of time, extent and prices.

Mobile operators always come up with new offers but these offers cannot be clearly attributed to the preparation or application of roaming regulation.

For example, TO2 stated in its price list that, starting from May 2008, an SMS to a number abroad would cost CZK 5 (previously the prices of such SMS messages were the same as TO2's tariff charges for SMS messages to another operator's domestic network). Further, the new domestic O2 Neon tariffs are 60+60. And with effect from May 2008, the international calls tariff was changed from 60+1 to 60+15.

**Question 15:** What effect, if any, was exerted by the Regulation on the reciprocal roaming agreements between operators in EU/EEA countries and their counterparts in third countries?

**Question 16:** Has any mobile roaming service provider in the Communities entered into agreements with operators in third countries, addressing a reduction of the wholesale roaming prices comparable to those specified in the Regulation?

After introduction of roaming regulation, the importance of operators outside the EU has increased significantly, as their customers generate much higher average wholesale roaming revenues than the customers of operators within the EU. Currently there are no negotiations with operators outside the EU, aimed at reducing the wholesale prices to the level of the regulated prices.

**Question 17:** Please, give details concerning any changes from per-second billing to per-minute billing for voice roaming services that have happened due to, or shortly before, the entry into force of the Regulation. Were customers informed about these changes in advance? Have any changes been made in practice in respect of new customers? What are the general billing practices for domestic and roaming calls?

Both before and after the Regulation's effective date, roaming calls were charged at 60+60 by all the three operators. No change in tariffs was made in the domestic tariffs. In international calls, only TO2 changed the tariff from 60+1 to 60+15 in May 2008 (the change was indicated in the price list).

TO2 – per minute 60+1; credit 60+30, from June 2008 the O2 Neon tariffs – 60+60; prepaid either 60+1 or 60+30

T-Mobile – per-minute 60+1; credit 60+30; prepaid 60+30

Vodafone – always 60+1

**Question 18:** Do you think that measures should be taken to ensure the application of a regulated roaming call billing methodology that would guarantee per-second billing rather than per-minute billing? If yes, what method should be required (e.g.: should it be left on the industry to resolve this issue through self-regulation; should the Member State or national regulator intervene within the scope of its existing powers and responsibilities; or is it necessary to rely on legislation at the Community level)?

We do not support the idea that call billing needs to be regulated. Such regulation can result in increased prices through the introduction of a price for setting up the call. The 60+60 retail rate corresponds to the 60+60 rate used at the wholesale level.

We believe that in competitive markets, it is right and proper that customers should have choices about different tariffs, including choices about billing methodology.

**Question 19:** Do you believe that it is necessary to maintain the Regulation's measures for retail prices of roaming services – particularly the compulsory eurotariff – for longer than until the end of validity of the Regulation, i.e. June 2010? If yes, then why? If no, then why?

We oppose any extension of the validity of the Roaming Regulation. Roaming prices have been reduced and we do not expect them to increase again when regulation is lifted. In our view the competitive environment is distorted by regulation.

**Question 20:** What is the evidence of competition among mobile voice roaming service providers within the Community in providing such services (other than the eurotariff)? To what extent do such alternative offers meet the needs of roaming customers?

Mobile network operators also offer other tariffs, favouring longer calls and partner networks, or provide a certain number of free minutes. It is for the customer to choose what suits him or her best.

**Question 21:** If the Regulation expires on 30 June 2010, do you think that roaming service providers within the Community will continue using the eurotariff or other retail offers under the price caps prescribed by the Regulation? What evidence do you have to support this view?

We believe that it is not necessary to extend the period of validity of the Roaming Regulation. Roaming prices have fallen and we do not expect them to grow again when the Regulation expires. Under the current practice of Czech mobile network operators, where – although certain domestic service tariffs or packages can no longer be activated – such services continue to be provided to the customers who activated them. Prices for these services are indicated in the price list with a note that they cannot be activated.

Roaming service price offers had already been competitive before the Regulation was issued. The application of the Regulation has worsened the competitive environment. When the price regulation prescribed in the Roaming Regulation is no longer in force and effect, the average price level will not increase and, on the contrary, competitive price offers by the operators will be extended.

Extension of the validity period of the Roaming Regulation would prolong the situation in which effective competition cannot develop and operators are not motivated to prepare innovative competitive offers.

**Question 22:** Should wholesale regulation be maintained and if yes, then for how long? If not, why? What is your estimate of the proportion of the total wholesale roaming capacity generated on the intra-company basis rather than purchased as input from outside?

Regulation should not be maintained. See answers to the previous questions.

**Question 23:** What would be the impact of the termination of validity of retail price regulation if the wholesale conditions set out in Article 3 were maintained (with adequate modifications)? If this were so, then for how long should wholesale regulation be maintained?

We oppose maintaining the regulation. See answers to the previous questions.

**Question 24:** If you consider it necessary to extend the validity of the Regulation beyond 30 July 2010, do you think that the price caps prescribed in the Regulations should be modified to reflect the development of the market and regulation in the mobile sector? If no, why?

We do not agree with the regulation of roaming services after 2010 and do not expect the average level of prices to increase after the expiry of the Regulation. The environment is competitive enough in our view.

**Question 25:** If yes, what do you consider to be the right level and frequency of the modifications of the price caps after the extension of the Regulation's validity?

We do not agree with the regulation of roaming services after 2010.

**Question 26:** With respect to the interest of mobile service users and operators and to the proportionality principle: should the transparency obligations (adequately modified) set out in Article 6 of the Regulation be maintained even in a situation that the pricing obligations are not maintained?

This is not necessary. We do not agree with the regulation of roaming services after 2010.

**Question 27:** Do you believe that the Regulation's requirements for transparency should be improved, and if yes, then how?

This is not necessary. We do not agree with the regulation of roaming services after 2010.

## Data

**Question 28:** There are always very significant differences between the prices for data services in roaming and at the national level. Please, explain how such differences can be justified (using, if possible, data based on current standard and special offers, both domestic and for roaming).

This is a question for mobile network operators.

**Question 29:** To what extent is data roaming service regulation necessary to prevent too high pricing? How strong is the competition in such retail and wholesale services and how far is it possible in data services to use traffic routing to the customers' benefit?

We believe that there is no need to regulate data roaming. The Vodafone Company, for example, reduced (from June 2008) its price for roaming data in the EU from CZK 26 to CZK 17 / 100 kB, i.e. by more than a third. T-Mobile announced (from July 2008) an almost 80% reduction of the data roaming price to CZK 6 / 100 kB in internet access via APN Internet.

Each operator offers a different price for the use of data roaming services and it is for the customer to choose what suits him or her best with respect to the possible use of the service.

The "data roaming service" market is a newly emerging market and as such it cannot yet be analysed or estimated as to its future development. Its potential regulation appears to



be unnecessary. Regulation of data roaming services would only hinder natural development of competition and discourage efforts to prepare new applications and innovative offers.

**Question 30:** To what extent do substitute services build competitive barriers to data roaming services? To what extent may the possible future market or technical development mitigate this issue? Are there any other possible regulatory solutions, other than through prices? If yes, please, explain.

Other wireless data services are developing in a similar way to mobile data services, but the Czech Telecommunication Office does not directly monitor their specific status. However, it can be said that BB connections limited in time, e.g. through WiFi networks, are an alternative to the use of data roaming services.

**Question 31:** Is wholesale regulation the only way to address high prices for roaming data services? If wholesale regulation is applied, how should it be structured? For example: should it be based on "linear billing" (with a fixed rate for MB or any other interval), or should it be non-linear, i.e. with a decreasing price for MB or any other interval? What billing intervals should be used (e.g. 100 kb, MB or any other)?

We do not agree with the regulation of data roaming services.

The newly emerging data applications are complex, as to the structure of both wholesale and retail prices and any insensitive regulatory intervention may have an utterly negative impact on the natural development of appropriate pricing structures. It is difficult at the moment to foresee the future growth of the various services. Different mobile data services will require the use of different prices.

**Question 32:** What are the additional costs (additional to wholesale prices) incurred by operators in the provision of data roaming services?

In addition to the direct costs (in particular, wholesale prices in this case) the respective additional costs related to the provision of the service (e.g. costs of the IT elements, physical network elements, activities etc.) are allocated to data roaming, like in the case of any other service.

**Question 33:** Are the transparency-related obligations of mobile operators sufficient to address the high price issue? What type of transparency mechanism can effectively stop the "bill shock"?

We do not agree with the regulation of data roaming services. Transparency is sufficiently addressed in the Directives and in the national provisions for the European Commission.

**Question 34:** If retail regulation is introduced, how is it to be used, and with what parameters (e.g., fixed price per MB or any other interval, falling price, or a daily/monthly price)?

We do not agree with the regulation of data roaming services.

## SMS

**Question 35:** Do you think that the wholesale charges (inter-operator tariff, IOT) for the provision of SMS services to roaming customers are exposed to competitive pressure? Does such a pressure lead to reduction of wholesale prices? If yes, provide data where possible.

We believe that it is not necessary to regulate the service of sending SMS abroad, because it is exposed to competition. Each mobile network operators offers a different price for the sending of SMS messages and therefore it is for the customer to decide which operator to choose. For example, T-Mobile offers a lower price for SMS messages sent to the countries where it has subsidiaries, and it also offers a SMS package at prices that are lower than in the case of the basic roaming tariff.

The Czech Telecommunication Office does not monitor wholesale roaming SMS prices. The average wholesale revenue from roaming SMS services has decreased by about 7.3% over the previous period.

**Question 36:** The wholesale SMS prices appear to be higher than many retail domestic SMS prices. Are the current price levels justified with respect to the costs incurred by the host operator for the wholesale provision of roaming SMS services? Please explain and support your explanation by specific data evidence, where possible.

As can be seen from the monitoring of the development of roaming prices (see the graphs below), the average revenue from SMS message has not changed much at the wholesale level, and this is so both within and outside the EU/EEA: it ranges between about CZK 4.5 and 5 per message (exclusive of VAT). At the retail level, the average revenue is above CZK 7 per message (excl. of VAT) within the EU/EEA, whereas outside the EU/EEA the average revenue grew to almost CZK 9 per message in the most recent quarter (first quarter of 2008). At the national (domestic) level, the retail price ranges between CZK 1 and 2.50 (excl. of VAT), which is less than half the average revenue for sending a SMS abroad within the EU/EEA. A similar ratio, i.e., less than a half, currently also applies to the relation of outgoing domestic calls to the eurotariff (CZK 6 – 7.90 to 16.70).

**Question 37:** Do you believe that the wholesale prices for the roaming SMS services should be regulated? If yes, what should be the level and parameters of the wholesale price limit?

No. See answers to questions 35 and 36.

**Question 38:** If wholesale regulation is necessary, will the advantages of lower wholesale prices pass from operators to users, or is it only possible to achieve this through retail regulation?

We do not recommend any regulation for roaming SMS services.

**Question 39:** If you think retail regulation is necessary, what should be the level and parameters of the retail price limit?

We do not believe that roaming SMS services need to be regulated. We would also like to point out that there is a pressure to reduce the prices of SMS services (including roaming) even without regulation, because if the differences between the (already regulated) prices of voice services and prices of SMS are too large, customers' interest may spill over from using SMS to using voice telephony.