

Brussels,
C(2009) 4214

- 4 JUIN 2009

Dear Lord Roper,

Thank you for sending us your Follow-up Report "Mobile Phone Charges in the EU".

In line with the Commission's decision to encourage National Parliaments to react to its proposals in order to improve the process of policy formulation, we welcome this opportunity to respond to your comments. I enclose the Commission's reply and hope you will find this a valuable contribution to your own deliberations.

I look forward to developing our policy dialogue further in the future.

Yours sincerely,



Margot WALLSTRÖM

Vice-President of the European Commission

Lord Roper
Chairman of the European Union Select Committee
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EUROPEAN COMMISSION

Brussels, May 2009

COMMENTS OF THE EUROPEAN COMMISSION ON A REPORT FROM THE HOUSE OF LORDS

COM(2008)580 - PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) No 717/2007 ON ROAMING ON PUBLIC MOBILE TELEPHONE NETWORKS WITHIN THE COMMUNITY AND DIRECTIVE 2002/21/EC ON A COMMON REGULATORY FRAMEWORK FOR ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES (SEC/2008/2489, SEC/2008/2490)

The European Commission thanks the House of Lords for its report on the proposal for the review of the Regulation on roaming on public mobile networks within the Community. The Commission welcomes the support of the House of Lords in improving transparency and protection for consumers in relation to SMS and data roaming services.

The European Parliament and Council specifically charged the Commission with reviewing, by the end of 2008, the functioning of the current Regulation, as well as analysing the developments in wholesale and retail charges for data communication services, including SMS and MMS, and, if appropriate, to include recommendations regarding the need to regulate these services.

It was on the basis of this review, together with a detailed impact assessment, that the Commission adopted its proposals for amending the Regulation on roaming on public mobile telephone networks. As members of the House of Lords will be aware, the Commission has proposed to extend the regulation in time, for a further period of three years, and in scope to address the high prices paid for roaming SMS and the transparency problems in relation to data roaming services.

Detailed analysis of the functioning of the current Regulation can be found in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the outcome of the review of the functioning of Regulation (EC) No 717/2007 (COM(2008)579). The document is available at the following address:

http://ec.europa.eu/information_society/activities/roaming/docs/regulation/comm_en.pdf

Furthermore, the detailed Impact Assessment on the different policy options envisaged for the review of the Regulation, as well as its Executive Summary, can be found at the following addresses respectively:

http://ec.europa.eu/information_society/activities/roaming/docs/regulation/impact_en.pdf

http://ec.europa.eu/information_society/activities/roaming/docs/regulation/summary_en.pdf

After a thorough examination of the data gathered, the Commission concluded that competition in relation to voice roaming services was at this stage not sufficiently developed and that, for this reason, it was necessary to extend the Regulation for a further period of three years. The Commission notes the House of Lords' concerns regarding the introduction of an absolute price cap, as expressed in the Minutes of Evidence. The Commission considered that the most appropriate solution was to continue the same regulatory approach adopted in the current Regulation, i.e. average prices at wholesale level and maximum price caps at the retail level. As also highlighted by the Minister for Communications, Technology and Broadcasting, the maximum price caps introduced by the current Regulation, as well as by the proposals currently under discussion, are not set at cost-oriented levels, and leave enough room for competition to develop below the caps.

The Commission also evaluated the situation relating to SMS roaming services where no development on prices had taken place. The Commission concluded that the structural problems existing with regard to these services are essentially the same as for voice roaming services and that, accordingly, regulation was needed in order to ensure consumer protection and the development of the internal market. In relation to data roaming services, however, given their evolving nature and the developments taking place in particular at the retail level, it was considered that only wholesale regulation was necessary. In addition, measures to increase transparency and to protect consumers from 'bill shocks' which arise when consumers use data roaming services abroad were also considered necessary.

Furthermore, as stated by the Minister of Communications, Technology and Broadcasting in the Minutes of Evidence, there is no evidence of any adverse effects from the introduction of the Roaming Regulation on innovation in the mobile industry or on domestic mobile prices. This was also the conclusion based on data gathered by the European Regulators Group and was further examined in the detailed Impact Assessment published by the Commission.

The Commission therefore considers that its proposals are proportionate and strike the right balance between the need to ensure consumer protection and to strengthen the internal market.

As Members of the House of Lords will be aware, discussions on the Commission's proposals are evolving rapidly within the context of the co-decision procedure. The Council and the European Parliament agree with the Commission on the need to achieve an agreement at first reading. Some of the points raised by the House of Lords in its report have been discussed in the context of these negotiations, in particular that of a sunset clause.

Already at their meeting in Brussels on 27 November 2008 under the chairmanship of the French Presidency, Ministers in the Telecommunications Council signalled very broad agreement with the Commission's proposal and adopted a general approach.

The European Parliament's Industry, Research and Energy (ITRE) and Internal Market and Consumer Protection (IMCO) committees made some valuable suggestions in their

reports which were discussed with the Council in order to reach an agreement on the amended Roaming Regulation.

As Members of the House of Lords may be aware, the European Parliament's first reading opinion was adopted on 22 April 2009 and political agreement at the Council was reached at Coreper level in late April. The revised measures include an extension of the Roaming Regulation in time until June 2012, and in scope to cover not only voice roaming services but also SMS and data. These measures establish further reductions of the price caps for calls made and received and they also set price caps at wholesale and retail levels for sending an SMS while travelling within the EU. In relation to data roaming services, a wholesale safeguard price cap is introduced and its level will gradually decline on a yearly basis, using a similar approach to that adopted for voice services. Finally, bill shock measures will be put in place to enable consumers to specify in advance the maximum financial limit they wish to spend on data services while travelling abroad.

The Commission will monitor the developments on the roaming sector and prepare an interim report in June 2010. The Commission will also review and report to the European Parliament and Council on the functioning of the Regulation no later than 30 June 2011. The revised Roaming measures are expected to come into force in summer 2009.

