

INTUG Response to the BEREC Public Consultation on Decoupling and Wholesale Roaming Access

The overriding aim must be simplicity of use and charging for all customers, especially businesses with fleets of devices. A secondary objective is simplicity and minimization of cost and resource for operators, as these measures must only be a temporary expedient paving the way to elimination of premium charging for international use of mobile services.

Mobility is an indispensable part of modern ICT systems. Companies conducting trade across national borders within the European Union are seriously impacted by the costs associated with mobile data roaming in particular, and continue to be inhibited from investing in more efficient and competitive business processes for mobile workers. Roaming charges are a barrier to trade, obstruct achievement of the Digital Agenda and must ultimately be eliminated if a Single Market is to be established. Until this objective is achieved, charges for roaming should be capped by regulation at wholesale and retail level, with an agreed glide path towards elimination, and measures such as decoupling and wholesale access must be developed to introduce more competitive pressure.

Wholesale roaming prices, especially for data, bear no relationship to cost. Retail margins are far too high and are inconsistent in both absolute and percentage terms. New devices have generated an explosion in volumes, with Blackberries generating 72Mb per month, PCs with a 3G card generating 300MB per month and iPads generating 2.5GB per month. Business processes using wireless devices carried by human beings, or embedded within mobile devices, must not be made uneconomic by charges for services which happen to be derived via access networks other than those of their primary contracted operator. One corporate uses mobile applications for service engineers in the US, but uses paper in Europe due to roaming charges. A paint industry corporate banned iPhones in some business units due to roaming costs. Roaming charges have destroyed the business case for international machine-to-machine communications in a major pharmaceutical company.

Bundles are not a solution as they simply represent a gamble about future usage with big penalties for estimating volumes too low and unnecessary cost for estimating too high. The differences between prices inside and outside international bundles have no basis in commercial logic. Mobile data volumes change quickly, as do the bundles offered by operators, so companies need complex tools to optimise bills, adding cost and wasting resource. Companies want consistent, predictable bills and reasonable and charges. Safeguard mechanisms in the roaming regulation have been implemented in different ways, even by the same operator in different countries, confusing companies, who are unsure what guidance to give to employees in each country. Companies don't want all employees to decide to go on with roaming or to stop when the limits are almost reached, nor do they want a collective block imposed when an aggregate limit is reached.

There is a big shift towards Cloud technology in the public and private sectors for online services. Clouds will be international in terms of the applications and the content used. Access to the Cloud must be seamless for those connecting via both fixed and wireless networks. Mobility will be a natural feature of access, and an essential feature of usage.

The Cloud must not be fragmented artificially across national borders arbitrarily.

INTUG welcomes this opportunity to respond to BEREC on two key issues associated with the Roaming Regulation: the choice of decoupling method and wholesale roaming access.

Companies need simple solutions, which are consistent in all countries. Whilst structural solutions may facilitate competition in roaming services, they will add complexity to the contractual arrangements of companies and add cost to mobile network operators. Since regulatory mechanisms should be viewed as interim arrangements pending elimination of the concept of roaming charges completely, INTUG believes that the simplest and lowest cost approach should be adopted to minimise costs for operators, and thus for customers. Decoupling also needs adequate margin between wholesale and retail prices to enable market entry which is another argument for further significant reduction in wholesale tariffs.

Companies don't stop doing business at the borders of the European Union. The ITU, the OECD, and the WTO have all recognized that roaming charges have a damaging impact on economic growth and must be progressively reduced. Many regional initiatives are also being pursued for the same reason, and some innovation in international mobile services is being introduced in other parts of the world, which Europe would be wise to monitor. Some regulators outside the European Union are puzzled that, in the Single Market, roaming charges still apply within the EU, given that it is seen as "intercity" trade. The data safeguard limit in particular should be made global, and BEREC should monitor any waterbed impact on non-EU roaming charges. The annex to this document contains specific answers to selected questions within the two consultation documents:

- Guidelines on the application of Article 3 - Wholesale Roaming Access (BoR (12) 67)
- Choice of decoupling method (BoR (12) 68)

International Telecommunications Users Group (INTUG)

The International Telecommunications Users Group (INTUG) represents the interests of business users of telecommunications. These include some of the world's largest financial institutions, car manufacturers, pharmaceutical companies, fast moving consumer goods enterprises, retail and distribution companies, and small and medium enterprises (SMEs). The INTUG community covers all continents, and includes user associations in European countries such as Belgium, Denmark, France, Germany, Netherlands, Norway, Spain, Sweden, Switzerland and the UK, and the multinational user group EVUA. Each group represents public and private sector customers of communications service providers.

Confidentiality and Contact information

Nothing in this submission is confidential, and the entire contents can be considered to be in the public domain. The submission will be made available on the INTUG web site at www.intug.org. Comments should be addressed to:

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ANNEX: Responses to Selected Specific Questions

Wholesale Roaming Access

Q1 Do you agree with BEREC's interpretation of the Regulation concerning timing of provision of service?

A1 Yes.

Q2 Do you agree with BEREC's approach to mandatory and optional resale access services and to its approach to pricing?

A2 Broadly speaking, yes, although care should be taken not to allow too restrictive an interpretation of the phrase "wholesale in nature".

Q3a How would your business be affected if the right for direct wholesale roaming access applies to hub aggregators for the purpose of supply of regulated roaming services to EEA customers?

A3a Business users require an open and competitive market in services, available from a range of market players, including MVNOs and services providers using hub aggregators throughout the EEA (and beyond). Giving rights to hub aggregators with EEA scope is therefore helpful. It is important that a distinction is drawn between the impact on individual mass-market end users and business users, who will have a fleet of mobile devices, potentially including those provided to third parties, such as franchise operators and dealers. Business users are, of course, also mass-market end users sharing the same device for personal and work usage.

Q3b How could a distinction between access for such purposes, and access for purposes unconnected with the Roaming Regulation, be applied in practice?

A3b If the same rights are to be extended, a distinction may not be necessary.

Q4a Do you agree with BEREC's general approach to refusal of requests?

A4a Yes.

Q4b Do you have any specific suggestions on how the guidance in this area could be strengthened so as to deter refusals on spurious grounds while not constraining the right of MNOs to refuse to provide on the basis of careful objective justification?

A4b By requiring transparency in the documentation involved in requests and refusals, at least to the extent of notification to the NRA.

Q5 Do you consider that further Guidelines should be developed to deal with the issue of requests for wholesale resale roaming access from market players whose retail services

are otherwise hosted on other networks?

A5 Not at this stage.

Q6 Do you agree with BEREC's views on resale access to unregulated services?

A6 Yes.

Q7a Do you agree with BEREC's general approach to fair and reasonable prices?

A7a Broadly speaking, yes, although the actual prices charged merit monitoring to avoid evolution of inflated prices due to cartel-like behaviour.

Q7b Do you consider that other general principles should be articulated?

A7b Transparency of accounting for underlying cost models would limit the risk of unreasonable price inflation.

Q8 Do you agree with BEREC's proposed basis of charging for resale of incoming roaming voice calls?

A8 Broadly speaking, yes, although only in the context of a continuing reduction in the currently excessive termination charges.

Q9 Do you agree with BEREC's proposed basis for resale charges for termination of outgoing SMS?

A9 Broadly speaking, yes, although volume related charges for tiny items in volume terms, such as SMS, will probably become uneconomic in terms of billing and administration, since the underlying marginal cost is infinitesimal.

Q10 Do you have any comments on BEREC's approach to service level agreements and guarantees or on the regular monitoring of service levels?

A10 SLAs and regular monitoring of service levels are an essential element of ensuring fair and reasonable access without discrimination.

Q11a Please set out your views on what the accepted standards and methods are.

A11a Interoperability, interfaces and protocols must operate to open international standards, which are available to all and published in an implementable form, in a timescale which does not favour any individual provider or group of providers. These will generally be derived from acknowledged international standards organisations, or by publication without charge by developers of such standards.

Q11b Is there any action, which BEREC could usefully take to promote further useful standardisation?

A11b A statement of BEREC's principles as per A11a above would help. The issue of LTE standardization is of particular concern, given the number of spectrum

bands and combinations (19 already) being implemented. Some positive direction from BEREC to promote greater standardization for interoperability would help.

Q12 Do you consider that the Guidelines should include specific provisions on fraud prevention in addition to the generic statements in the draft?

A12 No.

Q13a Do you consider that BEREC should provide more detailed guidance on restrictions of conduct of business?

A13a No, since this would be at risk of subjective interpretation of implied scope.

Q13b Would it be useful to include an indicative list of generally unacceptable restrictions in the Guidelines.

A13b No, since this would be at risk of subjective interpretation of implied scope.

Q14a Do you consider that any current practical “permanent roaming” applications should be considered as an “unfair use” of roaming wholesale access agreements?

A14a No. This issue highlights the impracticality of continuing the whole concept of “roaming” on a permanent basis. Machine-to-machine communications expose the inappropriateness of premium charging for mobile services which cross national borders, when the same does not apply to fixed connections across the Internet. Similarly, a regulation, which applies only to the “island” of Europe, makes no sense in a global context. The whole roaming regulatory era must be brought to an end soon, and the practice of roaming charges eliminated, in order to free up the online economy for unfettered international trade.

Q15 Do you consider that the Guidelines need further detail concerning anti-competitive provisions, which must not be included in the Reference Offer or supply contract?

A15 Broadly speaking, no, although including a list of the known anti-competitive behaviours might help remove room for doubt and/or temptation.

Q16 Do you consider that the Guidelines should cover additional issues or that the draft guidance on issues already covered should be further developed?

A16 The Guidelines should address the issue of roaming ex-EU and ex-EEA, for example from the point of view of waterbed increases in other regional roaming charges and international transmission charges, and should encourage wholesale access arrangements with the maximum geographic scope.

Q17 Do you have any other comments on the draft Guidelines?

A17 As stated in A14 above, the Guidelines should reflect the inevitably temporary nature of the Roaming Regulatory environment, recognizing that such a service and

charging structure is unsustainable long term in a global economy of on-line trade.

Choice of Decoupling Method

Q1a Do you agree that the basic version of LBO should be introduced in July 2014?

A1a Yes, if not sooner.

Q1b What are the elements that may hinder or facilitate the diffusion?

A1b Assuming that “diffusion” means widespread implementation or roll-out, the actual cost and complexity of development and testing may hinder roll-out, whereas simplicity of approach may facilitate implementation.

Q2a Should co-operative efforts be made to develop a more user-friendly version of LBO for subsequent evolution?

A2a Yes, as this will encourage consistency of approach by operators, will reduce testing requirements and cost, and will promote interoperability.

Q2b What kind of efforts would be most productive?

A2b Jointly funded and sponsored developments with published results.

Q2c Can BEREC assist with this process?

A2c Probably not, except as a publisher, due to resource and expertise limitations.

Q3a Are there any measures, which BEREC could consider, to facilitate the ability of MVNOs and resellers to offer LBO?

A3a Multinational licensing would encourage market entry, reduce cost and speed up the process of launching services.

Q3b If so, can you provide clear evidence on the technical feasibility and the costs, which would arise from such measures?

A3b INTUG does not have such information and makes the comment from the viewpoint of commercial logic and economies of scale.

Q4 Do you agree that Dual IMSI should not be implemented in July 2014?

A4 Yes, if the evidence BEREC has makes this seem an unduly onerous deflection of resource and investment.

Q5 Can you provide clear evidence on the feasibility and the costs, which would be involved in making access to traffic steering possible (within the normal limits of steering technology) via Single IMSI+ by 1 July 2014.

A5 INTUG does not have such information, but does have concerns about the anti-competitive risks associated with traffic steering.

Q6 What is your view of the difference in incremental competition benefits achievable, as between implementation of Single IMSI and Single IMSI+?

A6 No comment, but the overriding aim should be to establish a clear path towards an industry structure, which eliminates the concept of premium charging for using mobile services which cross national borders, currently known as “roaming”.

Q7a Do you agree that a version of the Single IMSI family be implemented in July 2014?

A7a Yes, but not with any expectation that this is a final solution (see A6 above).

Q7b Which elements are key to a successful implementation?

A7b Simplicity of use, and transparency of prices, for business customers with fleets of devices, as well as for single mass-market end users.

Q8 If steering is not implemented, do you consider that it would nevertheless be practical to implement systems which would allow decoupling providers to have an option to settle wholesale roaming charges directly with the visited network, on the basis of their own wholesale roaming agreements, as opposed to reliance on a roaming resale agreement with the end user’s home network?

A8 It may be practical, but it must not enable any anti-competitive linked sale or “reciprocal” pricing arrangements, which obstruct new market entrants.

Q9 Do you consider that there could be further enhancements to Single IMSI+, beyond the ones considered in this paper?

A9 No comment.

Q10 Do you agree that the obligations listed in Annex 1 are necessary?

A10 Broadly speaking yes, although potential new market entrants would be better placed to comment.

Q11 Are there any additional necessary obligations or are there obligations that should not be included?

A11 Potential new market entrants would be better placed to comment.

Q12 Do you have any comments concerning future evolution of the decoupling methods?

A12 As stated above, the overriding aim must be simplicity of use and charging for customers of all types, especially businesses with fleets of devices. A secondary objective must be simplicity and minimization of cost and resource for operators,

given that this must be a temporary expedient paving the way to elimination of the whole environment of premium charging for international use of mobile services.