

Norwegian reply to the Commissions Public Consultation on a Review of the functioning of Roaming Regulation and of its possible extension to SMS and data roaming services

The Norwegian Ministry of Transport and Communications welcomes the opportunity to send comments to the Commission Public Consultation on the Review of the Roaming Regulation. Initially, Norway has some general comments, and thereafter we will offer our views to some of the questions raised by the Commission in the consultation document.

General comments

The Roaming Regulation is implemented in Norway and in general the transition to Eurotariff went smoothly. Today Norwegian citizens benefit from the Eurotariff for voice calls when roaming in other EU Member States or EEA EFTA States, and EU citizens also benefits from the Eurotariff when roaming in the EEA EFTA States.

International roaming is an important issue for Norwegian consumers, and Norway would like to emphasize support for the Commission initiative on reviewing the Roaming Regulation. A revised Roaming Regulation would also apply to Norway. As an overall comment, Norway would recommend to uphold the existing regulation on voice roaming services, and to adopt new measures to face excessive tariffs on SMS roaming services and on data roaming. Based on our experience since the Regulation entered into force, Norway would also propose to include an obligation of per second billing in the Regulation, both at wholesale and retail level.

Question 1: To what extent do you consider that the Regulation has achieved its objectives (as described above) in relation to the following core elements of the Regulation:

- (i) reduction of retail prices to acceptable levels (the Eurotariff and its opt-out provisions) (Article 4);*
- (ii) transparency of retail prices (Article 6);*

It is the Norwegian view that the Regulation has been successful in bringing down the most excessive prices to a more acceptable level. However, Norway has also experienced that roaming in many cases has become more expensive after the Regulation entered into force, especially short calls. For example when roaming in an EU member State with a subscription from Telenor, 60 % of calls of length up to 1 minute and 45 % of calls of length up to 2 minutes have become more expensive¹(see the attached paper). This is due to the fact that Telenor, like other Norwegian operators, has changed their billing intervals. In Telenor's case, the billing interval has changed from per second to per minute billing. There are also of examples of changes from 15 seconds or 30 seconds billing intervals to per minute.

Norway finds the above-mentioned change of charging intervals problematic. According to ERG figures the charging practice has caused end-user prices across Europe to be 20 per cent higher on

¹ The estimates are based on daytime calls for all post paid subscriptions. It is also assumed an even distribution of the length of the call.

average than the regulated price cap when comparing with the actual duration of the calls. The intention behind the Regulation was to lower prices significantly for all calls – regardless of the duration. Judging from the figures from Norway and the ERG figures, it is our view that the current charging practices adopted by operators are undermining the objectives of the Regulation.

Furthermore, Norway believes that the Regulation has successfully increased price transparency. The “Welcome SMS” that roaming customers receive and the fact that prices for roaming within EEA (EU Member States/EEA-EFTA States) are more or less equal, have been important contributions in this matter.

Question 14: *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?*

No, Norway has not identified any effects on domestic prices.

Question 17: *Please provide details of changes from per second to per minute billing for voice roaming services which have occurred since or shortly before the entry into force of the Regulation. Were customers informed of those changes in advance? Have practices for new customers changed? What are the common billing practices for domestic and roaming calls?*

As mentioned above, before the EU regulation the biggest operator in Norway², Telenor, charged all roaming calls per second. When the EU regulation entered into force 15 January 2008 Telenor changed from per second to per minute charging in Europe. This has resulted in many calls being more expensive as the customers must pay for unused calling time.

The second biggest operator in Norway, NetCom³, and all other operators (including MVNOs and SPs) had a mix of different charging intervals dependent on which wholesale operator was used in the visited country (e.g. per second, per 15 second, per 30 second, per minute). After 15 January 2008 nearly all roaming calls are charged per minute at the retail level. As far as we know, the only exception is Tele2 who charge per second for roaming in Sweden and ACN (a SP with less than 0.5 % market share) who charge per second for roaming calls within EEA.

Domestic calls in Norway are charged per second and they have normally a set up charge (about 7 Eurocent).

Question 18: *Do you consider that steps should be taken to ensure that the billing methodology applied to regulated roaming calls guarantees per second rather than per minute billing? If so, what action would be required (i.e. should this be left to the industry to tackle via self-regulation; should the Member States or NRAs intervene under existing powers and responsibilities; or is legislative action at Community level necessary)?*

It is the Norwegian view that longer charging intervals than per second will result in customers paying for unused calling time. This is unfortunate – from the consumers' point of view. The effective price per minute will then also exceed the price cap for most calls. On this background, Norway does not find it consistent that the Regulation should permit charging intervals longer than a second.

Based on our experience since the Regulation entered into force, this issue will not be solved if it is left to the industry to tackle via self-regulation. Neither will improvement of transparency in relation to billing be sufficient to solve this problem of increased end-user prices caused by per minute charging intervals.

In our view, the best solution is to include an obligation of per second billing in the Regulation, both at wholesale and retail level.

Question 19: *Do you think it necessary to maintain the provisions of the Regulation dealing with retail prices for roaming services – in particular the mandatory Eurotariff – beyond the current expiry date of the Regulation in June 2010? If yes, why; and if not, why not?*

Question 20: *What evidence is there of competition between providers of intra-Community mobile voice roaming services in the provision of such services other than by means of the Eurotariff? To what extent do these alternative offerings satisfy the needs of roaming customers?*

The starting point for answering these questions should be the principle of minimum regulation. However, since the Roaming Regulation has covered both wholesale and retail regulation since it was implemented, it is difficult to say whether regulation on wholesale only could be sufficient.

In Norway we have seen a few examples that might indicate some degree of retail competition. Both NetCom and Telenor have for example lower prices for calls within Scandinavia than for calls within other EU Member States. The price is NOK 3,59 including VAT (about 44 Eurocent) within Scandinavia, which is lower than the Eurotariff, and NOK 4,88 including VAT (about 62 Eurocent) within other EU Member States countries.

Another example is Tele2 and their prices for roaming in Sweden. The prices are exactly the same as the prices for national calls, which are of course much lower than the Eurotariff.

On the contrary, the fact that more or less all operators have changed billing intervals to per minute might indicate that the competition on retail level is still very limited.

A thorough assessment of examples of competition on the retail level should form the basis for deciding whether regulation on retail level is still necessary.

Question 22: *Should wholesale regulation be maintained and, if so, for how long?*

Norway has no indications of sufficient competition on the wholesale level, so in our view regulation on wholesale level should be maintained. The existing Regulation will expire 30 June 2010, the Regulation has then lasted for 3 years. We believe about the same duration would be reasonable for an extended regulation.

Question 26: *Taking into account the interests of mobile users and operators and the principle of proportionality, should the obligations regarding transparency contained in Article 6 of the Regulation be maintained in place (suitably adjusted), even if the price obligations themselves are allowed to expire? If so, what adjustments to those transparency obligations would need to be made?*

Norway believes the transparency obligations should be maintained, also if price regulations on retail level where to expire. The transparency obligations will function as a kind of soft regulation and can also support the competition at the retail level and lead to more competition.

Question 29: *To what extent is regulation of data roaming services necessary to tackle the problem of high charges? To what extent does competition exist for such retail and/or wholesale services and to what extent can traffic steering be utilised for data services to the benefit of consumers?*

Question 31: *Can the problem of high charges for data roaming services be tackled by wholesale regulation alone? If wholesale regulation is to be considered, how should it be constructed? For example, should it be based on linear pricing (i.e. a fixed charge per MB or other charging interval) or should it be non-linear, i.e. with declining rates per MB or other charging interval? What charging intervals should it incorporate (e.g. per 100kb, per MB or other)?*

As regards data roaming, Norway is aware that there have been a number of recent moves by European operators to reduce charges for data roaming services. This also includes Norwegian operators like Telenor and NetCom. However, it is the Norwegian view that these initiatives are not sufficient, and that charges are still perceived to be too high. The extensive charges can also lead to “bill shocks” for consumers when travelling abroad. Therefore, this is also a question of transparency for the consumers.

Norway believes that regulation on wholesale level is necessary to tackle the problem of high charges for data services. Limited competition and difficulties with regard to 100 % traffic

steering seems to make wholesale regulation inevitably to reduce excessive prices for data roaming.

When constructing wholesale regulation for data traffic it is absolutely necessary to include obligations on charging intervals. A reasonable charging interval on wholesale level should be byte or kilobyte.

However, regulation on retail level should be assessed carefully. Retail regulation should only be imposed where wholesale regulation is ineffective. And at this stage Norway believes that it is too early to conclude whether or not wholesale regulation can remedy the problem.

Price regulation on retail level could restrict the development of new services. There could also be a number of practical problems with the construction of a sensible price regulation due to the wide differentiation in the billing of data services at retail level. Mobile TV can for example be billed per minute instead of per MB, downloading music can be billed per song instead of per MB etc. New services like these will continue to emerge over the next years. We find it important that the Regulation do not restrict the possibility to charge services in an equal way both at domestic level and when roaming abroad. This is also in accordance with the spirit and the aims of the Roaming Regulation.

Question 36: *Wholesale SMS roaming charges (IOTs) appear to be higher than many retail domestic SMS prices. Are wholesale charges at current levels justified in light of the costs to the host operator for the provision of wholesale SMS roaming services? Please explain using data where possible.*

Question 37: *Do you believe that wholesale SMS roaming charges (IOTs) should be regulated? If yes, what should be the level and parameters of any wholesale charge limit?*

As regards SMS, this is a popular service for Norwegian customers, and the costs of providing an SMS roaming service are generally deemed to be very low. Still, wholesale SMS roaming charges are definitely high above costs. They are also high above domestic retail prices for SMS. The price for sending SMS with a Norwegian subscription when roaming within EEA can be more than 8 times higher than the domestic price.

In the Norwegian view, it seems like regulation at wholesale level is necessary to reduce prices high above costs for SMS. Meanwhile retail regulation should only be imposed if wholesale regulation turns out to be ineffective. However, experience has shown that competition on international roaming is very limited both on wholesale and retail level. Regulation on retail level might therefore be necessary.