

Speech prepared for a joint meeting of the Committee on Industry, Research and Energy (ITRE) and the Committee on Internal Market and Consumer Protection (IMCO) of the European Parliament on 16 March 2005.

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Introduction

Mr President, thank you very much. It is a great honour to address this meeting.

The issue of excessive pricing in international mobile roaming has been of primary importance for INTUG since 1998 when the work was initiated by Allan Fischer-Madsen, then our Vice-Chairman for Europe. It has been the subject of many speeches, of many meetings with and documents submitted to public authorities in Europe and beyond.² Not only have we sought a reduction of prices, but the complete abolition of charges for international mobile roaming, in order to create an internal market covering the European Union.

International mobile roaming is one of the most complex market abuses we have ever encountered, one that is slowly mutating, rather than disappearing. It has proved remarkably resilient in the face of regulatory action. The abuse has recently been extended from voice telephony into mobile Internet access.

It is disappointing to INTUG that international mobile roaming continues to be an issue with which we must struggle, that it has proved to be impossible to resolve, despite the passing of so many years. It is an issue which causes so much frustration to users, both individuals and corporations.

Some people continue to believe that Europe is a leader in mobile telecommunications though that has long ceased to be the case. The fastest growing markets are in China and India, adding respectively at least five million and one million customers each month. Japan and South Korea already have respectively twenty and five million 3G customers and substantial additional revenues because of that. Flat rate data pricing, what some people call "all you can eat", is now commonplace in North America and in North-East Asia, while in Europe we must pay by the kilobyte. Europe falls further behind on all the obvious measures.

Some years ago we were told of the death of distance. The annual implementation reports by Information Society Directorate-General show the progressive decline in the costs of national and of international telephony.³ It is also set out in an OECD report from 2003.⁴

In stark contrast to this is the high and often rising cost of international mobile roaming, prices far distant from their costs.

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² <http://intug.net/roaming>

³ http://europa.eu.int/information_society/topics/ecom/all_about/implementation_enforcement/annualreports/10threport/index_en.htm

⁴ OECD (2003) *Trends in international calling prices in OECD countries* OECD, Paris.
<http://www.oecd.org/dataoecd/52/9/23901905.pdf>

The biggest change in recent months has been the appearance of a range of pre-paid charges, at levels significantly higher than any we had seen before. The business rates for voice have been declining, but only very slowly. Additionally, we now have some very expensive data prices.

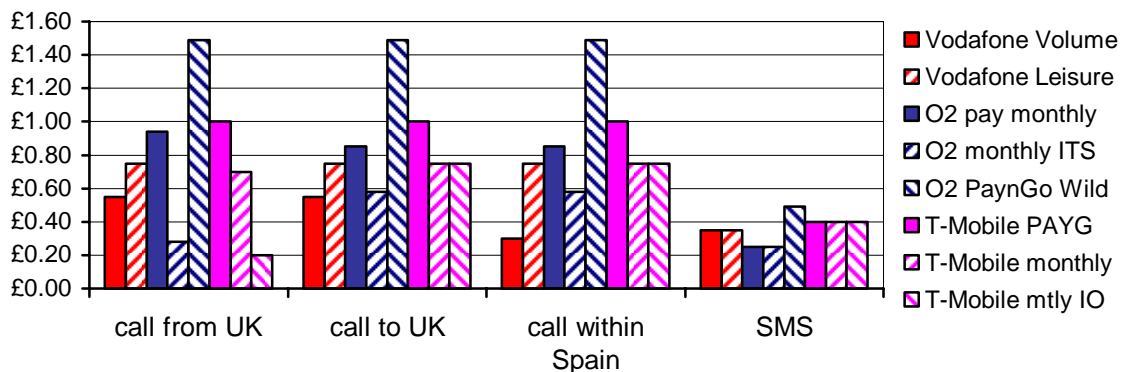
For example, an O2 "Pay and Go Wild" customer from the UK visiting Belgium pays £1.49 per minute for a call forwarded to them and the same for all calls to phones within the European Union.⁵ This is reduced to "only" £0.99 per minute for calls to fixed lines in the UK and to UK customers of O2. Strangely, the reduction does not apply to O2 customers in other member states. These prices are in Pounds and not Euros, in which case they would be €2.16 and €1.43 per minute, prices that reflect the level of call charges long before any liberalisation.

The problem is not specific to one country or to one operator, it is endemic to the system.

Another example, is that a Vodafone Netherlands pre-paid customer is charged €1.25 to call the rest of Europe while visiting Belgium or when in Estonia, it costs them €0.70 to have a call forwarded.⁶

The chart shows the prices paid by customers of British operators when roaming in Spain (see figure 1). The range is considerable and most of these charges must be considerably more than any wholesale price charged by the Spanish operators.

Figure 1 British visitors to Spain⁷ [£1 = 1.45 €1 = £0.69]



In some instances operators have simplified their tariffs. The effect has usually been to increase prices, typically by raising the cost of a local call to the level of a call to the home country. This significantly improves the profit margins for the home operator. The abuse seems to have been repatriated.

One area where we have supposedly made progress is in the regulation of call termination prices on mobile networks, though only after years of stiff, even bitter, resistance from the mobile operators. The NRAs are grinding these prices down to something like cost-oriented levels. However, there is one exception. The loophole is the forwarding of calls to roaming customers.

The French regulator, *l'autorité de régulation des télécommunications* (ART), has set the average termination prices in France from 1 January 2005 to be €0.1250 for SFR and Orange, while for

⁵ <http://travelabroad.o2-uktech.com/location.php>

⁶ http://www.vodafone.nl/Prive/Abonnement_en_prepaid/Internationaal_bellen/Bellen_in_het_buitenland/Prepaid/Wat_kost_het/

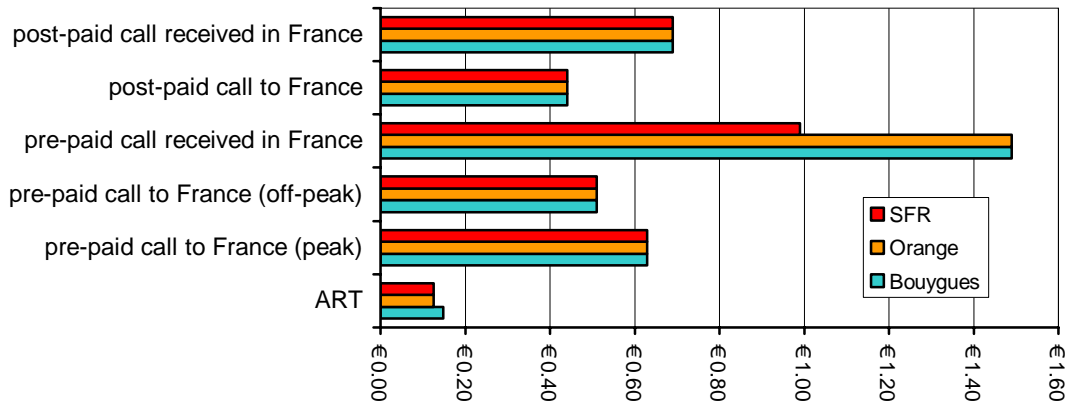
⁷ <http://travelabroad.o2-uktech.com/coverage.php>

<http://www.vodafone.co.uk/>

Bouygues Telecom it is €0.1479.⁸ Yet a visitor to France, on having a call forwarded there does not pay the regulated price, but something vastly higher.

A pre-paid customer of Vodafone Ireland receiving a call while roaming in France pays €1.49 on Bouygues and Orange, but “only” €0.99 on SFR.⁹ For comparison, a simple call from Ireland for the same customer to a mobile phone in France costs €0.51 off-peak and €0.63 peak.¹⁰ For a customer with a monthly subscription, the cost is “only” €0.69 to receive a call in France¹¹ or €0.44 to call a mobile in France.¹² (see figure 2)

Figure 2 *Vodafone Ireland customers calling to and roaming in France*



The excessive pricing abuse has been extended to mobile Internet access using GPRS and EDGE with some quite remarkable prices. The chart shows the prices for customers of Proximus, the Vodafone partner in Belgium, roaming in other member states, plus some potential members and, for comparison, the USA (see figure 3). The range of prices reflects the foreign operator being used.

⁸ <http://www.art-telecom.fr/communiqués/communiqués/2004/index-c101204-2.htm>

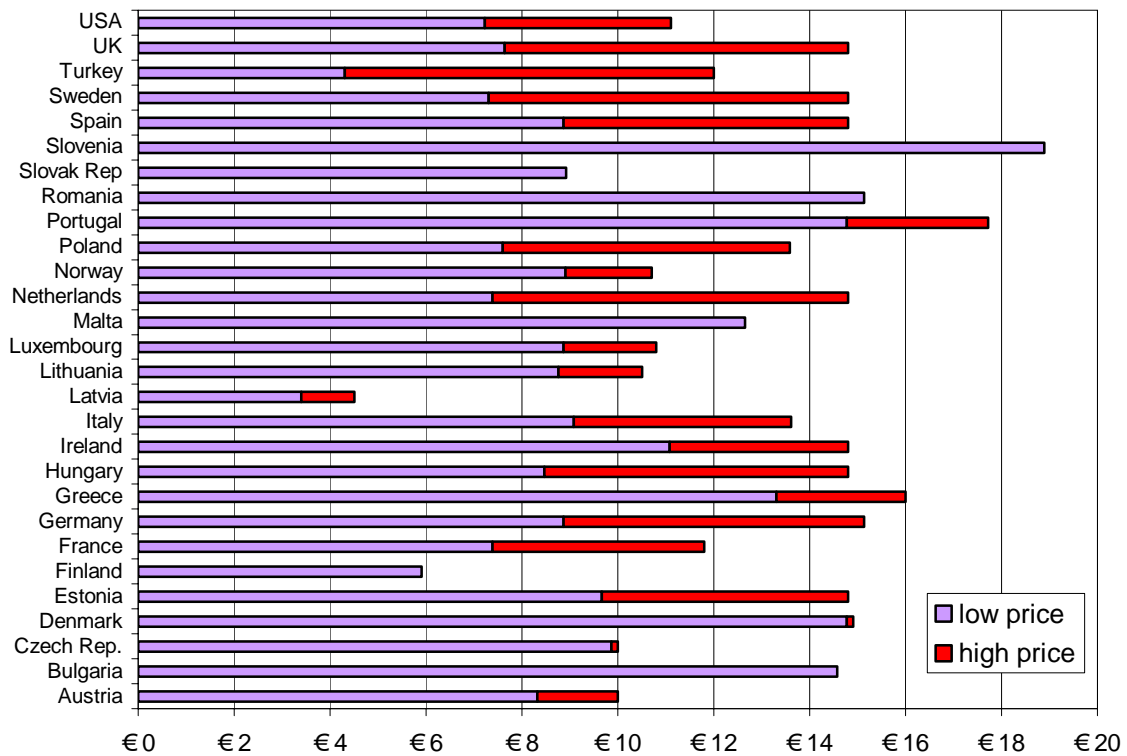
⁹ <http://www.vodafone.ie/roaming/international/vfworld/zone2.jsp?zone=prepaid>

¹⁰ <http://www.vodafone.ie/phonestariffs/ourtariffs/other/international/index.jsp>

¹¹ <http://www.vodafone.ie/roaming/international/vfworld/zone2.jsp>

¹² <http://www.vodafone.ie/phonestariffs/ourtariffs/other/international/index.jsp>

Figure 3 *Proximus GPRS roaming charges for mobile Internet access (per Megabyte)* ¹³



It should be emphasised that this is a universal problem, not limited to one country. For a customer of the Orange network in Romania visiting Belgium, the charge is US\$ 14.28 or € 10.60 per Megabyte and at a similar level in Western Europe, though slightly lower in Central Europe.¹⁴

Not the least problem with these prices is to know what is a Megabyte of data. It seems to be only half full of user data, the rest being “packaging” of one sort or another. So you may want to double the prices in the chart.

International mobile roaming

International mobile roaming dates back to the 1980s, when it was first offered by Scandinavian operators using Nordic Mobile Telephony (NMT). Handsets were made to work in several countries, provided the same technical standard was used and the operators could agree on billing arrangements.

International mobile roaming was incorporated into the GSM protocols in the late 1980s, becoming commonplace by the early-1990s.

International mobile roaming has been further extended by dual-mode “world” phones for CDMA and GSM, and for 3G and GSM. The advent of GPRS opened the possibility of roaming with mobile Internet access, later extended with EDGE and UMTS.

¹³ http://customer.proximus.be/en/download/gprsroaming_en.pdf

¹⁴ <http://www.orange.ro/roaming/countries/belgia-mobistar.html>

Lisbon goals

By engaging in a strategy of divide and conquer the mobile operators have entrenched national markets. They have failed to provide business with the services they need to achieve the Lisbon goals. The operators have concentrated so hard on their own short term interests that Europe has fallen behind.

Business is faced with excessive charges and the absence of pan-European contracts and Service Level Agreements (SLAs). Consequently, it restricts and delays its use of mobile telecommunications. Employees are less mobile and when mobile have less effective access to telecommunications than the technology would permit. As a result, they are less productive and less competitive. The operators delay the adoption of the technology.

It is difficult to overstate the frustration of business at the refusal of the operators to provide truly pan-European services and prices based on the costs of their networks.

Internal market

For the retail customer, whether an individual or the largest multinational company, there is no internal market for mobile telecommunications. Instead it is a service purchased country by country, it is still a Europe of the 1950s or the 1890s.

Attempts to purchase multi-country mobile telecommunications invariably results in reduced competition and higher prices. This is caused by the very limited "footprint" of any single operator, covering only a few member states, and their refusal to provide pan-European service. The longer the list of countries in which a company needs mobile services, the more certain are the one or two operators that they can avoid discounting prices, since they have no competitors. The result is that European companies have to manage large numbers of national contracts, bills and service level agreements.

We see no reason to expect an internal market in mobile telecommunications in the foreseeable future.

By comparison, in North America roaming charges are entirely avoidable, with the widespread availability of continental tariffs. In the mid-1990s Nextel launched a national mobile service without roaming charges and AT&T Wireless quickly followed. For the last two years, users in the North America have had flat rate data tariffs spanning the continent. As of this week, they also have a guarantee of the quality of the service for mobile Internet access.

European Union legislation

In December 1990 the Council adopted a resolution that identified the need for international mobile roaming arrangements to comply with Community law.¹⁵

Yet today operators exercise collective power over markets with little evidence of competition and all too evident excessive pricing. The tariffs offered to customers do not seem to be compliant with

¹⁵ Council Resolution of 14 December 1990 on the final stage of the coordinated introduction of pan-European land-based public digital mobile cellular communications in the Community (GSM) (90/C 329/09)
<http://europa.eu.int/ISPO/infosoc/legreg/docs/90c32909.html>

European Union law and there are severe structural problems in the market, arising from the exclusive roaming deals struck between the operators.

Article 86 of the European Community Treaty

In directives issued under Article 86 (then Article 90) of the EC Treaty in the mid-1990s, the European Commission sought to remove the special and exclusive rights for telecommunications operators, this was necessary to comply with the EC Treaty.¹⁶

Yet part of the problem is that roaming is limited to operators with GSM and now UMTS licences. Had other operators been allowed access to roaming agreements, then the situation might have been different.

Article 83 of the European Community Treaty

The issue of international mobile roaming was first raised with the Competition Directorate-General (then DG IV) in 1996 when the GSM Association asked for a letter of comfort. This concerned the use of inter-operator agreements relating to roaming, including the Standard Terms for International Roaming Agreements (STIRA). It should be noted that the STIRA remains "commercial in confidence", never having been disclosed to the public. A second letter was requested in 1998 for the Inter Operator Tariffs (IOTs) which was supposed to result in a reduction of roaming prices. Both letters were granted.

The results have not been technical and economic benefits for users of the service, but enormous commercial benefits for the operators.

The acquisition by Vodafone plc of Mannesmann AG resulted in undertakings requiring the former to offer pan-European wholesale roaming.¹⁷ In the event this was never used by any competitor and seems to have had no effect on the market either way.

In early 1999, INTUG first raised the issue of the prices for international mobile roaming being an abuse.¹⁸ There were also significant warnings from the Competition Directorate-General to the operators about excessive prices for roaming.¹⁹

It was not the previous Competition Commissioner, but the one before, Karel van Miert, who launched the sector inquiry into telecommunications in July 1999, with roaming as one of three topics. A working document was published in December 2000,²⁰ which was followed by dawn raids in July 2001.²¹ Following a pause, statements of objections were issued to British²² and to German²³ operators in July 2004 and January 2005. All the indications are that these will be contested by the

¹⁶ Commission Directive 96/2/EC of 16 January 1996 amending Directive 90/388/EEC with regard to mobile and personal communications. *Official Journal L 020*, 26/01/1996 P. 0059 - 0066

http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31996L0002

¹⁷ Competition Directorate-General Case M.1795

http://europa.eu.int/comm/competition/mergers/cases/index/by_nr_m_35.html#m_1795

¹⁸ http://www.intug.net/talks/AFM_1999_03.pdf

¹⁹ see for example,

http://europa.eu.int/comm/competition/speeches/text/sp1997_046_en.html

http://europa.eu.int/comm/competition/speeches/text/sp1999_017_en.html

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http://europa.eu.int/comm/competition/antitrust/others/sector_inquiries/roaming/working_document_on_initial_results.pdf

²¹ http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=MEMO/01/2620|RAPID&lg=EN

²² <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/04/994>

²³ <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/161>

operators, if necessary, to the European Court of Justice, with the prospect of a final judgement in 2009.

A common regulatory framework for electronic communications and services (2002/21/EC)

In the debates of the Industry Committee on what was to become the Framework Directive, it was de heer van Welzen who called the GSM operators a cartel. Since that day nothing seems to have changed in the way in which those operators behave.

The political compromise reached by the Council, the Commission and the Parliament was to list the national market for international mobile roaming for review under the "new" legislation. This has given the operators three years to prepare for the market analyses, time they have not wasted.

Given their modest resources the NRAs have been busy analysing other mobile markets. Mobile Termination Rates (MTRs) is one market where they face enormous resistance. In call origination both France and Ireland have been found to be subject to joint dominance. Assuming that the French authorities find the SMS markets to lack effective competition then many NRAs will want to examine those markets.

Roaming has become one problem among many and one where the NRAs know that any action will be fiercely resisted by the operators. It is not at all clear that they possess the correct instruments to remedy the problems we experience as roaming customers.

Purchasing services

Despite the best efforts of European business users, the result is a painfully slow reduction in the prices charged for international mobile roaming for voice and SMS. The prices for mobile Internet access are so high that companies refuse to permit staff to use the service.

One part of the problem is that companies and individuals buy a bundle of services comprising access, call origination, call termination and international mobile roaming. The operators give very little ground on roaming charges and only marginally more on call termination.

The tariffs for international mobile roaming remain obscure and largely incomprehensible, varying by time of day, operator and with warnings concerning currency fluctuations and the vagaries of foreign operators changing their tariffs. Problems the railway companies solved in the nineteenth century.

The most significant change for individuals has been the remarkably high prices for pre-paid customers, for whom the only sensible advice is don't do it, use a telephone shop or a public call box.

Conclusions

I think all of us failed to appreciate just how deep-rooted this particular market abuse is and how hard it would be to remove. This problem goes back half a decade, even a decade and a half. There is very little hope that the problem will go away in the next few years.

The obvious question then is what can we do? At the policy level we must move rapidly to introduce some pan-European competition.

One proposal the previous Parliament considered was to require that prices be displayed on the screens of handsets. It was opposed vehemently by the operators, presumably because it would discourage use.

The national regulators are working through the European Regulators Group (ERG) to analyse the markets in accordance with the legal framework. However, it would be a brave pundit who would forecast that would lead to increased competition or reductions in prices.

Any further regulatory solution will take several years, time which Europe and the internal market simply do not have. It would almost certainly invite national variations, so we would have twenty-five answers to a single problem, further delaying the internal market.

Economic rivals to Europe are pushing ahead with new technologies and new services. They do so with increasing speed and they are achieving economies of scale.

Individually, we must change our behaviour, we must minimise our use of roaming. We must book into hotels which provide broadband Internet access in the rooms. We must use meeting rooms with Wi-Fi in order to have access to electronic mail and VoIP. The institutions of the European Union might offer Wi-Fi in all their meeting room. We must use telephone shops and Internet cafés. We must experiment with applications like Skype.²⁴

Additional spectrum could be licensed to new market players, perhaps for several countries at once. For example, issuing licences for 450 MHz for the Baltic, Mediterranean or the North Sea, covering all the countries around those seas. This could transform the market.

Europe lost its lead in the exploitation of mobile technology because the markets were insufficiently competitive and were too fragmented. The operators, perhaps inevitably, sought to maximise short term profits and revenues, being unconstrained by competitive pressures and being protected by armies of lawyers.

INTUG will continue to report the market developments and the prices charged by the operators. We will continue to support intervention by the Parliament and by the Commission to ensure an end to international mobile roaming charges and the completion of the internal market in mobile telecommunications.

²⁴ http://www.intug.net/views/avoiding_roaming_charges.html