

## International mobile roaming

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I think that although this is a panel on fixed networks you would be surprised if I did not make a comment on the present controversy over international mobile roaming. I promise to keep this brief and to move rapidly to fixed networks. I spoke about roaming at some length back in November in Edinburgh<sup>1</sup> and just last week in Addis Ababa, about the need to drive roaming prices down to the price level of VoIP.<sup>2</sup>

I doubt anyone present will expect me to disagree with the basic contentions that roaming prices are obscure, excessive and unrelated to cost. Moreover, the operators have been told this repeatedly for a number of years, at least since 1999 and, arguably, since 1997. The present position of the operators is entirely indefensible.

I have not counted the number of times I have spoken or written about the excessive prices—it is certainly not a new problem. Indeed, it is a very old problem, one the mobile network operators have sustained for much longer than a decade.

The operators have promised us that roaming prices would fall, with the shift from Normal Network Tariffs (NNTs) to Inter-Operator Tariffs (IOTs), with the GSMA Code of Conduct, with the introduction of traffic direction and with the passage of time. It would all be over by Christmas, or was it somewhere over the rainbow?

Charles River Associates (CRA), in work for one of the Austrian operators, has taken data that I was involved in generating and for which I wrote the reports. CRA purports to show that those prices have fallen. I do not think that anyone disputes that *some* retail roaming prices have fallen. That is not the question, it about how many, how far and the overall effect. There are new prices that are very much higher than any reported in 1999.

I would be much less concerned about the voice roaming prices, perhaps inured is a better term, if the ludicrous prices had not been extended to mobile data and if it did not look as if they would be applied to mobile broadcasting. Roaming on the mobile Internet is reserved for the owners of Bentleys, private jets and small Caribbean islands. If you have to ask the price you cannot afford it.

Much has been said about the pro-competitive effects of traffic direction. I am very sceptical. With 90 per cent of traffic being withdrawn from the market it seems extraordinary to suggest that we will see increased competition. I do not think it is plausible to believe that here in Germany E-Plus or T-Mobile can win international mobile roaming traffic from the Vodafone Group or *vice versa*.

I had thought St Patrick had driven out only snakes, but by 15 March we had seen in Ireland the mysterious disappearance of roaming charges, at least when roaming to the United Kingdom. The operators in question, having internalized the traffic, can now admit that there is no significant additional cost.

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<sup>1</sup> [http://www.3wan.net/talks/2005/ES\\_2005\\_11\\_edinburgh.pdf](http://www.3wan.net/talks/2005/ES_2005_11_edinburgh.pdf)

<sup>2</sup> [http://www.3wan.net/talks/2006/ES\\_2006\\_03\\_africa.pdf](http://www.3wan.net/talks/2006/ES_2006_03_africa.pdf)

The national regulators have shown a remarkable timidity in addressing roaming. The accusation of regulatory capture is at least a plausible charge against some of them.

One regulatory option that I strongly favour is a review of the exemptions under Article 81 (3) of the EC Treaty for STIRA and the IOTs. I consider these unjustifiable and would like to see Article 81 (2) applied to strike down those agreements.

The wholesale market was defined years ago and still only one member state (Finland) has notified market 17 to the European Commission and one enthusiastic non-member (Norway). The Directive says the legislation was to have been transposed by 25 July 2003 and the markets analysed as soon as possible thereafter. Even if the analyses failed to name operators with Significant Market Power (SMP), it would be nice to think that they gave us some insights and helpful suggestions, but these have been in very short supply.

One regulator has suggested using Articles 15 (4) and 16 (5) of the Framework Directive. This first requires the European Commission to adopt a decision declaring roaming to be a trans-national market across the twenty-five member states. Then it requires all twenty-five regulators to sit as one body, analyse the market, find SMP by collective dominance and impose remedies. They first would have to define their own procedures, whether by unanimity or qualified majority voting. As if that were not enough, the decision would then be open to separate appeals in each of the twenty-five member states. It is like something out of *Alice in Wonderland*.

The European Commissioner for the Information Society and Media, does not look the sort of person to use a chainsaw, but that seems to be her regulatory style. The outline of the proposed Reding Roaming Regulation (RRR or 3R) was published yesterday.<sup>3</sup> Since the EC will regulate both retail and wholesale it becomes a form of rate of return regulation, something that was supposed to be obsolete. It is almost inconceivable that the 3R can be entirely equitable across so many operators and so many countries.

It is very difficult, for the present, to understand the proposed changes to wholesale prices, but when those are reduced the savings will also have to be passed onto operators in other countries, under WTO rules. This creates a net outflow of revenues from the EU.

A crucial question is what was wrong with the 2002 directives that we require the 3R. My best answer is that the market definition was incorrect.

One lesson emerges very clearly from the regulation on local loop unbundling, it is that a single European legal instrument can create an extremely diverse set of outcomes. That particular regulation was incomplete and required supporting action from NRAs. The Reding Roaming Regulation will have to provide those powers, since the existing directives can only be applied after market analyses and thus cannot support the 3R.

The continued problems in understanding this, admittedly complex, market should be a warning for Next Generation Networks (NGNs). We require much speedier and more effective efforts at analysis and diagnosis.

For me, the most disappointing aspect of the roaming story is the low priority that has been given to the single market. All customers are offered are twenty-five national markets. I would be happy to see a regulation if it took a significant step towards a single market.

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<sup>3</sup> [http://europa.eu.int/information\\_society/activities/roaming/docs/comments/public\\_consultation\\_2nd\\_phase.pdf](http://europa.eu.int/information_society/activities/roaming/docs/comments/public_consultation_2nd_phase.pdf)