

**Opinion of the European Economic and Social Committee on the ‘Proposal for a regulation of the European Parliament and of the Council on roaming on public mobile communications networks within the Union (recast)’**

COM(2011) 402 final — 2011/0187 (COD)

(2012/C 24/29)

Rapporteur: **Mr HENCKS**

On 22 July 2011, the Council of the European Union decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

*Proposal for a regulation of the European Parliament and of the Council on roaming on public communications networks within the Union (Recast)*

COM(2011) 402 final — 2011/0187 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 7 October 2011.

At its 475th plenary session, held on 26 and 27 October 2011 (meeting of 26 October), the European Economic and Social Committee adopted the following opinion by 150 votes with 4 abstentions.

## 1. Conclusions and recommendations

1.1 Regulation (EC) No 717/2007, which sets price caps for the wholesale and retail roaming mobile communications markets, will expire on 30 June 2012 without any healthy competition having developed and with users still being forced to pay excessive prices.

1.2 Fresh EU action is thus required if the Union wishes to achieve the target it has set as part of its Digital Agenda for Europe, in particular that the difference between roaming and national tariffs would approach zero by 2015.

1.3 The EESC approves the new measures which it deems proportionate and appropriate for guaranteeing availability and access to a service of general economic interest at affordable prices. The new proposed cuts in price caps are a step in the right direction, i.e. the removal in the medium term of any specific form of roaming price.

1.4 The Committee also agrees in principle with the provision enabling customers to freely access the roaming services of any other interconnected providers of voice, SMS and data services whilst retaining their call number.

1.5 The EESC nevertheless regrets that the Commission proposal has not been accompanied by an impact assessment of the new measures as regards employment and working conditions in the sector.

1.6 As regards the duration of outgoing roaming calls, the EESC calls for the minimum initial charging period, currently fixed at 30 seconds, to be reduced, whilst taking account of developments in this area in certain Member States.

## 2. Background

2.1 Reducing the roaming price of mobile communications for users travelling in the European Union has been part of the EU’s electronic communications and industry policies since 2005.

2.2 Since the Commission’s repeated calls to operators to reduce their excessive charges for roaming mobile calls went unheeded, the EU decided to intervene by regulating prices.

2.3 EU regulation (EC) No 717/2007 introduced a price cap per minute (Euro Tariff) for roaming mobile calls (wholesale and retail markets) as of 1 September 2007. This rate was reduced by EUR 0.03 each year up to 2010.

2.4 Despite the fact that the Euro Tariff was set so as to leave a sufficient margin to allow healthy competition between operators, below the maximum permitted level, the Commission has been forced to conclude that, generally speaking, the average prices applied by operators were not far short of the regulated caps.

2.5 Regulation (EC) No 717/2007 was therefore extended until 30 June 2012, whilst the maximum prices for voice calls continued to be reduced each year. At the same time, a cap on charges for SMS (wholesale and retail) and wholesale prices for roaming data transmission was also introduced, but the retail prices for these data services were not regulated.

2.6 Furthermore, to prevent ‘hidden costs’ for customers, they have been billed by the second after the first 30 seconds for calls made and by the second for the whole duration of calls received since 1 July 2009.

### 3. The new Commission proposal

3.1 Given that Regulation (EC) No 717/2007 will expire on 30 June 2012 and that the report on developments on the roaming market drawn up by the Commission has shown that rates (apart from special price plans) have not shifted sufficiently to guarantee that users are not paying an excessive price compared to competing national rates, the Commission has just launched a new proposal amending the regulation in question.

3.2 Alongside the substantial new reduction in price caps up to 2016 or 2022, the new proposal for a regulation also contains a number of structural measures, namely:

- decoupling the roaming service from the domestic service to allow the customer to choose another operator for roaming services (voice, SMS, data) whilst retaining his call number;
- making it compulsory for network operators to make wholesale roaming provision accessible.

3.3 As regards the provisions on prices, the Commission is proposing extending Regulation (EC) No 717/2007 by 10 years up until 30 June 2022, in the hope that the structural reforms will bear fruit.

3.4 The charge caps for retail prices should be applicable until 30 June 2016, whereas the maximum levels for wholesale prices should be maintained throughout the whole regulatory period, unless competition evolves sufficiently in the near future.

3.5 The retail prices for data roaming services, which are currently the only prices that have not yet been regulated, are still excessive, in some cases seven times the wholesale price.

3.6 A regulation is therefore planned to gradually bring down retail prices per kilobyte for data services up to 2014. Price caps will remain unchanged between July 2014 and July 2016, before being abolished, unless a healthy level of competition develops, making it possible to abolish them sooner.

3.7 Charge caps for wholesale data services will be reduced year on year until 30 June 2015, whereafter they will remain at the same level until the new regulation expires (in theory, in 2022).

### 4. General comments

4.1 The need to settle the problems associated with roaming in order to complete the single market is also related to the Europe 2020 strategy, the Single Market Act and the Digital Agenda for Europe.

4.2 The EESC points out that electronic communications are a service of general economic interest which, by definition, should be universally available and accessible at affordable prices.

4.3 The EESC therefore approves any measures aimed at ensuring that consumers do not pay excessive rates when making or receiving roaming calls. Moreover, the EESC calls on the Commission to act with the same determination on the excessive profit margins applied by operators of other services of general economic interest with a dominant position.

4.4 One of the main strands of the Digital Agenda for Europe relates to roaming mobile services, where the goal is for the difference between roaming and national charges to be close to zero by 2015 at the latest, in other words, to abolish all forms of specific roaming prices in the medium term.

4.5 However, this stated objective does not appear in the regulation under consideration as a formal provision, although the new cuts in roaming price caps leave hardly any margin between national and roaming rates.

4.6 Although the current approach of imposing rate cuts by creating caps has led to substantial price reductions (see table below drawn up by the EESC), this measure is reaching its limits with the proposal under consideration and is not sustainable.

	Voice calls euros/minute excl. VAT			SMS euros/sms excl. VAT		Data euros/kilobyte excl. VAT	
	Whole-sale prices	Retail prices call made	Retail prices call received	Whole-sale prices	Retail prices	Whole-sale prices	Retail prices
<i>average price before 1.9.2007</i>		0,7692	0,417	—	—	—	—
<b>Regulation (EC) No 717/2007</b>							
max. price 1.9.2007-31.8.2008	0,30	0,49	0,24	—	—	—	—
max. price 1.9.2008-30.6.2009	0,28	0,46	0,22	—	—	—	—
max. price 1.7.2009-30.6.2010	0,26	0,43	0,19	0,04	0,11	1,00	—

	Voice calls euros/minute excl. VAT			SMS euros/sms excl. VAT		Data euros/kilobyte excl. VAT	
	Whole-sale prices	Retail prices call made	Retail prices call received	Whole-sale prices	Retail prices	Whole-sale prices	Retail prices
<b>Regulation (EC) No 580/2008</b>							
max. price 1.7.2010-30.6.2011	0,22	0,39	0,15	0,04	0,11	0,80	—
max. price 1.7.2011-30.6.2012	0,18	0,35	0,11	0,04	0,11	0,50	—
max. price 1.7.2012-30.6.2013	0,14	0,32	0,11	0,03	0,10	0,30	0,90
<b>Proposal for a regulation COM(2011)402</b>							
max. price 1.7.2013-30.6.2014	0,10	0,28	0,10	0,03	0,10	0,20	0,70
max. price 1.7.2014-30.6.2015	0,06	0,24	0,10	0,02	0,10	0,10	0,50
max. price 1.7.2015-30.6.2016	0,06	0,24	0,10	0,02	0,10	0,10	0,50
max. price 1.7.2016-30.6.2022	0,06	Max rate (*) abolished	Max rate (*) abolished	0,02	Max rate (*) abolished	0,10	Max rate (*) abolished

(\*) Provided competition has developed sufficiently.

4.7 Reducing prices will not solve the structural problems that persist on the roaming market. Consequently the EESC approves the fact that, alongside the pricing rules, the new proposal for a regulation also contains structural provisions which oblige domestic operators to allow their customers to access the roaming services of any other interconnected service provider for voice, SMS and data as of 1 July 2014.

4.8 Although the EESC welcomes such a provision in principle, it nevertheless fears that this measure will divert too much traffic to large groups enjoying a dominant position, to the detriment of small operators, particularly as their technical and commercial costs for implementing the proposed measures will be proportionately higher because of fixed costs.

4.9 The EESC calls on the Commission to ensure that transparency for the end customer is guaranteed despite more players being involved in setting up mobile communications.

4.10 Although the Commission's proposal to extend market access for transnational mobile service providers (Mobile Virtual Network Operators/MVNO) could further increase competitiveness, the EESC regrets that the European Parliament's 2005 call for an assessment of the impact of the regulation on smaller mobile telephony providers in the Community and their position on the Community-wide roaming market has gone unanswered.

4.11 Similarly, the EESC points out that the impact study summary and the impact assessment appended to the proposal under consideration provide no details of the expected repercussions of the new measures on employment and/or working conditions in the sector. The EESC thus calls for further studies.

4.12 As regards the duration of outgoing roaming calls, the EESC calls for the minimum initial charging period, currently fixed at 30 seconds, to be reduced, whilst taking account of developments in this area in certain Member States.

Brussels, 26 October 2011.

*The President*  
of the European Economic and Social Committee  
Staffan NILSSON