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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.9.2008  
COM(2008) 580 final

2008/0187 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services**

{COM(2008) 579 final}

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{SEC(2008) 2490}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In response to persistent concerns over the lack of competitive pressures in the market for international roaming services and the resulting high charges payable by European consumers for the provision of roaming services while travelling in the Community, on 27 June 2007 the European Parliament and the Council adopted Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC. This Regulation introduced a common approach to ensure that users of public mobile telephone networks did not pay excessive prices for Community-wide roaming services, by imposing limits on the charges that may be levied by mobile operators, at wholesale and retail levels, for the provision of voice roaming calls originating and terminating within the Community. The Regulation also laid down rules aimed at increasing price transparency and improving the provision of customer information to users of Community-wide roaming services.

The European Parliament and the Council decided that the Commission should review the functioning of Regulation (EC) No 717/2007 and report to Parliament and Council no later than 30 December 2008 (Article 11 of the Regulation).

Although Regulation (EC) No 717/2007 only imposed upper limits on the pricing of roaming voice calls, the Community legislators recognised that concerns persisted with regard to the level of prices for data roaming services within the Community, as well as SMS. They therefore specifically charged the Commission with reviewing developments in wholesale and retail charges for the provision to roaming customers of voice and data communication services, including SMS and MMS, and with making recommendations regarding the need to regulate those services, if appropriate.

This proposal accompanies the Commission's Communication to the European Parliament and the Council, reporting on its review of the functioning of Regulation (EC) No 717/2007.

Its objective is to amend Regulation (EC) No 717/2007, in order to further strengthen the single market for electronic communications by ensuring that prices paid by users of public mobile networks for Community-wide roaming services when travelling within the Community are not unjustifiably higher than the charges payable when calling, sending SMS messages or transferring data within their home country and that users have the information they need to understand and control their expenditure on roaming services.

- **General context**

The Commission's Communication to the European Parliament and the Council on its review of the functioning of Regulation (EC) No 717/2007 concluded that, while implementation of the Regulation has in general been smooth, the structural problems that constrain competitive forces in the roaming market have remained. These are principally due to the fact that roaming is only one element in a broader mobile bundle purchased by customers and therefore does not normally dictate their choice of operator.

In addition, data collected by the European Regulators Group (ERG), which includes all 27 EU national regulators (NRAs), show that prices for voice roaming calls at wholesale and retail level do not vary sufficiently below the maximum levels set by the Regulation to provide evidence of healthy competition. The Commission therefore concluded that to preserve its benefits the Regulation should be extended for a further period of three years beyond 2010.

The Commission also noted that the billing practices applied by mobile operators to voice roaming calls, whereby calls are often charged on the basis of units of up to 60 seconds, represent a hidden charge to the consumer which the ERG has estimated adds around 24% to a typical Eurotariff roaming bill for calls made and 19% for calls received.

The Commission's analysis of the SMS segment of the intra-Community roaming market also shows that prices at both wholesale and retail levels are not justified by underlying costs and that, for the same reasons as apply to voice roaming, there is insufficient competitive pressure on operators to bring these prices down. Data gathered by the ERG show that prices at wholesale and retail levels remained stable and high in the run-up to this proposal.

The Commission's review of the data roaming segment of the market concluded that prices for this service were high when compared to the charges for equivalent domestic services or to underlying costs of provision and that this problem was compounded by lack of transparency. This makes it difficult for consumers to understand how much they will pay for data roaming and has resulted in many cases of "bill shock", where travellers unwittingly incur bills of thousands of euros for downloading data while abroad.

On the other hand, the Commission's review showed that while prices may be falling for data roaming services, they continue to be unjustifiably high for wholesale and retail when compared to domestic prices for equivalent services. There is accordingly a clear need for measures to enable roaming customers to understand and control their expenditure on data roaming services more effectively and to prevent bill shocks, as well as to eliminate barriers to the utilisation of mobile data roaming services throughout the internal market and remove appreciable distortions of competition.

- **Existing provisions in the area of the proposal**

The key existing provision in the area of this proposal is Regulation (EC) No 717/2007 itself, which this proposal will amend in order to extend its application in time and its scope.

The existing 2002 regulatory framework for electronic communications, which was amended by Regulation (EC) No 717/2007 to take account of the need for specific measures on roaming within the Community, provides a mechanism for the imposition of ex ante regulatory obligations on undertakings within the electronic communications sector, on the basis of the definition of relevant markets susceptible to ex ante regulation, market analysis and findings of dominance by NRAs. However, for the reasons explained at the time of the proposal for Regulation (EC) No 717/2007, the specific characteristics of the markets for international roaming and the cross-border nature of those services mean that the tools otherwise available under the framework do not offer NRAs an effective means of tackling the lack of competitive pressure and the resulting high prices. These reasons are equally relevant to the extension of the Regulation in time and in scope, to cover SMS and data roaming services.

National consumer protection laws in some Member States also apply to activities falling within Regulation (EC) No 717/2007. For example, a number of Member States have imposed requirements on mobile operators regarding the billing of voice services on a per second basis. This creates divergent regulatory conditions for operators in different Member States which, in the context of a cross-border activity subject to harmonised rules such as Community-wide roaming, is not conducive to the smooth functioning of the single market.

- **Consistency with the other policies and objectives of the Union**

This proposal is in line with the renewed Lisbon Strategy for promoting growth and jobs through greater competitiveness, the Commission's associated i-2010 initiative and the initiative of a "Europe of Results".

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

### Consultation methods, main sectors targeted and general profile of respondents

The Commission departments launched a wide-ranging consultation in May 2008 asking for comments on the review of Regulation (EC) No 717/2007 and its possible extension to SMS and data roaming services. 39 questions were asked on the functioning of the Regulation as well as specific issues such as inadvertent roaming, the effect on smaller operators and domestic prices and the issue of actual vs. billed minutes.

The public consultation was made accessible via the "Your voice in Europe" website.

### Summary of responses and how they have been taken into account

The consultation exercise demonstrated widespread support from Member States, NRAs, the ERG and consumer groups for prolonging the Regulation and extending it to SMS and data roaming services. Some smaller operators also favoured extending the Regulation to wholesale SMS and data roaming services. While most operators opposed the extension of the Regulation and hence also rejected regulation of SMS and data roaming services, many acknowledged the need to tackle bill shock for data roaming services.

An open consultation was conducted over the internet from 7 May 2008 to 2 July 2008. The Commission received 44 response(s). The results are available at:

[http://ec.europa.eu/information\\_society/activities/roaming/regulation/consult08/contributions/index\\_en.htm](http://ec.europa.eu/information_society/activities/roaming/regulation/consult08/contributions/index_en.htm).

- **Collection and use of expertise**

### Scientific/expertise domains concerned

The Commission commissioned a study on data roaming services which was published in June 2008.

### Methodology used

The study looked into the functioning of data roaming services and assessed what technological requirements are necessary to offer such services.

### Main organisations/experts consulted

Connect2Roam

### Summary of advice received and used

The study compared prices between domestic and roaming services and looked at the cost components specific to the provision of data roaming services.

### Means used to make the expert advice publicly available

The study was published at

[http://ec.europa.eu/information\\_society/activities/roaming/docs/study\\_data\\_roaming.pdf](http://ec.europa.eu/information_society/activities/roaming/docs/study_data_roaming.pdf).

#### • **Impact assessment**

The impact assessment for this proposal examined the following range of options: no policy change, self-regulation, co-regulation, soft law and targeted regulation in four specific areas: voice roaming, per second billing, SMS roaming and data roaming.

Given the underlying remaining structural limitations on competition in the roaming markets, leaving the problems to be addressed by means of self-regulation or co-regulation would not be a viable solution. Given the relative lack of response from the industry to calls for lower SMS roaming charges, the potential for widely differing approaches at national level (to what is a cross-border problem) and the fact that no single NRA has the necessary regulatory tools to address the problem at both wholesale and retail levels, it was also considered unlikely that a soft law approach would suffice to address the enduring underlying problems. Consequently the options of self-regulation, co-regulation and soft law were discarded.

Targeted regulation was therefore considered.

With regard to voice and SMS roaming it was considered that recourse to wholesale regulation or retail regulation alone would not ensure that the objectives would be met. A combination of wholesale and retail regulation was therefore examined.

For per second billing, intervention was considered necessary to ensure consistency across the single market. At retail level the preferred option was to allow operators to charge a maximum set-up fee equivalent to the initial 30 seconds of a roaming call made, followed by per second billing. At the wholesale level it was deemed that per second billing should apply.

For data roaming services, a number of options were also examined. The introduction of strong transparency measures with an accompanying safeguard tariff mechanism at wholesale level to facilitate predictability for operators in the costs to be incurred was considered the best solution.

The Commission carried out an impact assessment as listed in the Work Programme, the report on which is available at:

[http://ec.europa.eu/information\\_society/activities/roaming/index\\_en.htm](http://ec.europa.eu/information_society/activities/roaming/index_en.htm).

### 3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal provides for the extension in time and scope of Regulation (EC) No 717/2007. As regards voice roaming, the proposal extends the existing Regulation for three more years and sets new maximum limits during the extended period for the charges that mobile network operators may levy for the wholesale provision of regulated roaming calls. In order to ensure that the benefits of these reductions are passed on to end-users the proposal also establishes new maximum limits during the extended period for charges subject to a Eurotariff. In addition, the proposal stipulates that per second billing requirements should apply at wholesale as well as retail level subject to a minimum charging period at retail level of up to 30 seconds for roaming calls made.

The proposal also extends Regulation (EC) No 717/2007 to cover intra-Community roaming SMS services, by establishing a maximum limit for the charges that mobile network operators may levy for the wholesale provision of roaming SMS messages sent within the Community and by requiring mobile operators to offer their roaming customers a "Euro-SMS tariff" which must not exceed a maximum price limit per SMS.

The proposal promotes price transparency by extending the obligation on mobile providers to give their roaming customers personalised price information when entering another Member State, to include information on the cost of sending a regulated roaming SMS message.

The date provided for the decrease in the price limits for regulated roaming calls at wholesale and retail levels in 2009 is brought forward from 30 August to 1 July, in order to ensure consistency with the obligations regarding the pricing of regulated SMS messages. In this way, users of both voice and SMS roaming services will be able to benefit from the new tariffs during the period when there is the greatest demand for those services.

In addition, the proposal introduces price transparency and safeguard mechanisms for data roaming services, to enable customers better to understand and control their expenditure on these services and avoid bill shocks. In particular, when roaming customers first initiate a data roaming session on entering another Member State, their operator will have to inform them that they are roaming and provide personalised information on the applicable tariffs for that service. Operators will also be required, within approximately one year of entry into force of the amendments contained in the proposal, to offer all roaming customers free of charge an opportunity to specify in advance a maximum financial limit for data roaming.

Also, as a safeguard mechanism to give roaming providers a level of assurance as to the wholesale costs to be incurred and to avoid appreciable distortion of competition, given the persistence of high wholesale charges (in particular on non-preferred networks) and traffic steering limitations, the proposal sets a limit on the average wholesale charge which the operator of a visited network may levy from the operator of a roaming customer's home network for the provision of regulated data roaming services.

Finally, the proposal amends the term "public mobile telephone networks" to read "public mobile communications networks" where it appears in Regulation (EC) No 717/2007 and in Article 1(5) of the Framework Directive, to ensure continued consistency with the terminology used elsewhere in the regulatory framework for electronic communications, in

the light of the revisions to the framework proposed by the Commission and currently under discussion in the European Parliament and Council.

- **Legal basis**

Article 95 EC

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

The same special characteristics that apply to the voice roaming market and warranted action under Regulation (EC) No 717/2007 also apply to the provision of Community-wide SMS and data roaming services. For all these services action by the Member States would not be effective in resolving the underlying problem of lack of competitive pressure in the roaming market and the resulting high prices and low transparency, given the cross-border nature of the services concerned and the limited regulatory tools otherwise available.

Action by Member States alone to address the problems covered by this proposal would risk leading to divergent results, thereby jeopardising the smooth functioning of the single market.

Community action will better achieve the objectives of the proposal for the following reason(s).

The provision within the Community of mobile roaming services such as voice calls, SMS and data transfers affects by its very nature all Member States and touches on the interests of parties in different Member States simultaneously. A harmonised approach at Community level is therefore essential to guarantee consistency of application and to ensure that the interests of consumers and undertakings in all Member States are safeguarded.

For the benefits of the single market to be fully realised with regard to Community-wide roaming services, users of those services should be able to expect the same level of protection and the same benefits regardless of where they are located within the Union.

The establishment of further and/or additional safeguards for users of mobile voice telephony, SMS and data roaming services and for operators of such services on a non-discriminatory basis across the Community cannot be achieved by the Member States in a secure, harmonised and timely manner and can therefore be better achieved by the Community. Moreover, since the proposal requires the amendment of Regulation (EC) No 717/2007 and of Directive 2002/21/EC, this can only be achieved by action at Community level.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.



The regulatory action proposed involves the least interference possible in the commercial behaviour of the undertakings affected. The setting of maximum price limits for roaming voice calls and roaming SMS messages at wholesale and retail levels and price transparency measures, as well as the safeguard mechanism introduced for wholesale data roaming charges, ensures the minimum distortion of competitive conditions consistent with the objectives, since it preserves the freedom of operators to compete and differentiate their offerings within the limits provided. With regard to voice and SMS roaming services, retail regulation is necessary to ensure that the benefit of lower wholesale prices is passed through to retail customers. The proposed action continues to leave the task of monitoring and enforcement to the regulatory authority responsible for electronic communications in each Member State.

Due to the nature and simplicity of the regulatory actions chosen in the proposal and the direct application of its obligations within the Community, the administrative and financial burden on the Community, national governments and authorities will be minimised.

- **Choice of instrument**

Proposed instrument: regulation.

Since it is proposed to amend Regulation (EC) No 717/2007 in a manner contemplated by the Regulation itself and to further amend Directive 2002/21/EC, an amending regulation is the only appropriate instrument.

#### **4. BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

#### **5. ADDITIONAL INFORMATION**

- **Review/revision/sunset clause**

The proposal includes a review clause.

The proposal includes a sunset clause.

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

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**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>3</sup>,

Whereas:

- (1) Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC<sup>4</sup> imposed limits on the charges that may be levied by mobile operators, at wholesale and retail levels, for the provision of international roaming services for voice calls originating and terminating within the Community. That Regulation also laid down rules aimed at increasing price transparency and improving the provision of information on charges to users of Community-wide roaming services.
- (2) The Commission has carried out a review in accordance with Article 11 of Regulation (EC) No 717/2007, where it was required to evaluate whether the objectives of the Regulation had been achieved, to review developments in wholesale and retail charges for the provision to roaming customers of voice and data communications services, including SMS and MMS, and to include, if appropriate, recommendations regarding the need to regulate those services. In its report to the European Parliament and the

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C , , p. .

<sup>4</sup> OJ L 171, 29.6.2007, p. 32.

Council, contained in its Communication of [ ] 2008<sup>5</sup>, the Commission concluded that it was appropriate to extend the validity of the Regulation beyond 30 June 2010

- (3) Furthermore, the Commission found that the scope of Regulation (EC) No 717/2007 should be extended to cover the provision within the Community of SMS and data roaming services. The special characteristics exhibited by the international roaming markets, which justified the adoption of Regulation (EC) No 717/2007 and the imposition of obligations on mobile operators with regard to the provision of Community-wide voice roaming calls, apply equally to the provision of Community-wide SMS and data roaming services. Like voice roaming services, SMS and data roaming services are not purchased independently at national level but constitute only part of a broader retail package purchased by customers from their home provider, thereby limiting the competitive forces at play. Likewise, because of the cross-border nature of the services concerned, national regulatory authorities which are responsible for safeguarding and promoting the interests of mobile customers resident within their territory are not able to control the behaviour of the operators of the visited network, situated in other Member States.
- (4) For this reason the national regulatory authorities, acting within the European Regulators Group (ERG), in its response to the public consultation on the review of Regulation (EC) No 717/2007, once again called on the Commission to act at Community level, both as regards the extension of the Regulation in time and with regard to the regulation of SMS roaming and data roaming services.
- (5) Data on the development of prices for Community-wide voice roaming services since the entry into force of Regulation (EC) No 717/2007, including in particular those collected by national regulatory authorities and reported on a quarterly basis through the medium of the ERG, do not provide sufficient evidence to suggest that competition at the retail or wholesale levels is likely to be sustainable from June 2010 onwards in the absence of regulatory measures. Such data indicates that retail and wholesale prices are clustering at or close to the limits set by Regulation (EC) No 717/2007, with only limited competition below those limits.
- (6) The expiry in June 2010 of the regulatory safeguards which apply to intra-Community voice roaming services at wholesale and retail levels by virtue of Regulation (EC) No 717/2007 would therefore give rise to a significant risk that the underlying lack of competitive pressures in the voice roaming market and the incentive for mobile operators to maximise their roaming revenues would result in a return to retail and wholesale prices for intra-Community roaming that do not constitute a reasonable reflection of the underlying costs involved in the provision of the service, thereby jeopardising the objectives of Regulation (EC) No 717/2007. Regulation (EC) No 717/2007 should therefore be extended beyond 30 June 2010 for a further period of three years in order to ensure the smooth functioning of the internal market by guaranteeing that consumers continue to benefit from the assurance that they will not be charged an excessive price when making or receiving a regulated roaming call while at the same time providing sufficient time for competition to develop.

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- (7) The levels of the maximum average wholesale charges for regulated roaming calls set by Regulation (EC) No 717/2007 should continue to decline over the extended duration of the Regulation to reflect declining costs, including decreases in regulated mobile termination rates in the Member States, in order to ensure the smooth functioning of the internal market while at the same time continuing to meet the dual objectives of eliminating excessive prices while allowing operators freedom to compete and innovate.
- (8) The date provided for the decrease in the maximum price limits for regulated roaming calls at both wholesale and retail levels in 2009 should be brought forward from 30 August to 1 July, in order to ensure consistency with the introduction of the obligations regarding the pricing of regulated SMS messages provided for by this Regulation. In this way, users of both voice and SMS roaming services will be able to benefit from the new tariffs during the period when there is the greatest demand for those services.
- (9) As compliance with the wholesale charge limit established by Regulation (EC) No 717/2007 is measured by reference to the average wholesale price prevailing between any two operators over a 12 months period, it is appropriate to clarify that, the period can be shorter, for example where the date of a scheduled decrease in the level of the maximum average wholesale charge intervenes before the end of the 12 month period.
- (10) The practice by some mobile network operators of billing for the provision of wholesale roaming calls on the basis of minimum charging periods of up to 60 seconds, as opposed to the per second basis normally applied for other wholesale interconnection charges, creates a distortion of competition between these operators and those applying different billing methods and undermines the consistent application of the wholesale price limits introduced by Regulation (EC) No 717/2007. Moreover it represents an additional charge which, by increasing wholesale costs, has negative consequences for the pricing of voice roaming services at retail level. Mobile operators should therefore be required to bill for the wholesale provision of regulated roaming calls on a per second basis.
- (11) The maximum levels of the Eurotariff, both for calls made and calls received, should continue to decrease annually during the extended period of validity of Regulation (EC) No 717/2007 in a manner consistent with the decreases required during the initial period of application of that Regulation, to reflect the continuing declines in domestic mobile prices generally as well as the continuing decreases in the underlying costs of providing regulated roaming calls. In this way, the continuity in the effects of the Regulation is maintained.
- (12) The increased margins between maximum wholesale and retail charges provided for by this Regulation should allow increased scope for operators to compete on price at the retail level, thereby maximising the chances that a properly competitive market will emerge.
- (13) The ERG has estimated that the practice of mobile operators of using charging intervals of more than one second when billing for roaming services at retail level has added 24% to a typical Eurotariff bill for calls made and 19% for calls received. They also stated that these increases represent a form of hidden charge since they are not

transparent to most consumers. For this reason, ERG recommended urgent action to address the different billing practices at retail level applied to the Eurotariff.

- (14) While Regulation (EC) No 717/2007 established a common approach to ensuring that roaming customers are not charged excessive prices for regulated roaming calls by introducing a Eurotariff in the Community, the different billing unitisation practices employed by mobile operators seriously undermines its consistent application. This also means that, despite the Community-wide, cross-border nature of intra-Community roaming services, there are deviating approaches for the billing of regulated roaming calls which distort competitive conditions in the single market.
- (15) A common set of rules regarding unitisation of Eurotariff bills at retail level should therefore be introduced in order to further strengthen the single market and provide a common level of protection to consumers of Community-wide roaming services throughout the Community.
- (16) Providers of regulated roaming calls at the retail level should therefore be required to bill their customers on a per second basis for all calls subject to a Eurotariff, subject only to the possibility to apply a minimum initial charging period of no more than 30 seconds for calls made. This will enable operators to cover any reasonable set-up costs as well as provide flexibility to compete by offering shorter minimum charging periods. However, no minimum initial charging period is justified in the case of Eurotariff calls received, as the underlying wholesale cost is charged on a per second basis and any specific set-up costs are already covered by mobile termination rates.
- (17) As regards SMS roaming services, the market data collected by the ERG and the Commission since the entry into force of Regulation (EC) No 717/2007 have demonstrated that a situation persists across the Community in which wholesale charges for these services have remained broadly stable and have no meaningful relationship with underlying costs. As is the case for voice roaming services, there appear to be insufficient competitive pressures on operators to bring wholesale prices down. Retail prices for SMS roaming services have also remained broadly stable, subject to high margins and priced significantly above equivalent domestic SMS services with no clear justification.
- (18) Just as is the case for voice roaming calls, there is a significant risk that imposing wholesale pricing obligations alone would not result in lower rates for retail customers. On the other hand, action to reduce the level of retail prices without addressing the level of the wholesale costs associated with the provision of these services could prejudice the position of some operators, in particular smaller ones, by increasing the risk of price squeeze.
- (19) Furthermore, because of the particular structure of the roaming market and its cross-border nature the 2002 regulatory framework has not provided national regulatory authorities with suitable tools to address effectively the competitive problems underlying the high level of wholesale and retail prices for regulated roaming SMS services. This fails to ensure the smooth functioning of the internal market and should be corrected.
- (20) The ERG also stated in its response to the Commission's public consultation on the review of the operation of Regulation (EC) No 717/2007 that it considered that

regulation of SMS roaming was necessary, at both wholesale and retail levels, in order to bring prices more into line with costs and with domestic prices. It considered that arrangements analogous to those for voice roaming would be suitable. More specifically, the ERG recommended introducing a cap on the average wholesale rate charged by any one operator to any other operator for SMS roaming, as well as amending the Eurotariff obligation to include an offer of SMS roaming at a rate not greater than a specified maximum cap.

- (21) Regulatory obligations should therefore be imposed with regard to regulated roaming SMS services at wholesale level, in order to establish a more reasonable relationship between wholesale charges and the underlying costs of provision, and at retail level to protect the interests of roaming customers.
- (22) These regulatory obligations should take effect as soon as possible, while allowing the operators concerned a reasonable period to adapt their prices and service offers to ensure compliance.
- (23) The most effective and proportionate approach to regulating the level of prices for regulated roaming SMS messages at wholesale level is the setting at Community level of a maximum average charge per SMS sent from a visited network. The average wholesale charge should apply between any pair of mobile operators within the Community over a specified period.
- (24) The wholesale price limit for regulated roaming SMS should include all costs incurred by the provider of the wholesale service, including inter alia origination, transit and the un-recovered cost of termination of roaming SMS messages on the visited network. Wholesale providers of regulated roaming SMS services should therefore be prohibited from introducing a separate charge for the termination of roaming SMS messages on their network, in order to ensure the consistent application of the rules established by this Regulation.
- (25) The most effective and proportionate approach to regulating the level of prices for Community-wide roaming SMS messages at the retail level is the introduction of a requirement for mobile operators to offer their roaming customers a Euro-SMS tariff which does not exceed a specified maximum price limit. The Euro-SMS tariff should be set at a level which guarantees a sufficient margin to operators while also more reasonably reflecting the underlying retail costs.
- (26) This regulatory approach should ensure that retail charges for regulated roaming SMS messages provide a more reasonable reflection of the underlying costs involved in the provision of the service than has been the case. The maximum Euro-SMS tariff that may be offered to roaming customers should therefore reflect a reasonable margin over the costs of providing a regulated roaming SMS service, whilst allowing operators the freedom to compete by differentiating their offerings and adapting their pricing structures to market conditions and consumer preferences. This regulatory approach should not apply to value-added SMS services.
- (27) Roaming customers should not be required to pay any additional charge for receiving a regulated roaming SMS message while roaming on a visited network, since such termination costs are already compensated by the retail charge levied for the sending of a roaming SMS message.

- (28) A Euro-SMS tariff should automatically apply to any roaming customer, new or existing, who has not deliberately chosen or does not deliberately choose a special SMS roaming tariff or a package for roaming services including regulated roaming SMS services.
- (29) In order to ensure end-to-end connectivity and interoperability for roaming customers of regulated roaming SMS services, national regulatory authorities should intervene in a timely manner in accordance with the provisions of Article 5 of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)<sup>6</sup> and on a coordinated basis, as well as in accordance with the provisions of Article 8(1) of Regulation (EC) No 717/2007 and Article 21 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)<sup>7</sup>, where a terrestrial mobile network operator established in one Member State complains to its national regulatory authority that its subscribers are unable to send or receive regulated roaming SMS to or from subscribers of a terrestrial mobile network located in another Member State as a result of a failure of the two operators concerned to conclude an agreement.
- (30) An SMS message is a Short Message Service text message, mainly composed of alphabetical or numerical characters but also capable of containing pictorial characters, which can be sent and received on a mobile telephone or other mobile device between mobile numbers assigned in accordance with a national numbering plan. An SMS message is clearly distinct from other messages such as MMS messages or e-mails. In order to ensure that the Regulation is not deprived of its effectiveness and that its objectives are fully met, any changes to the technical parameters of a roaming SMS message which would differentiate it from a domestic SMS message should be prohibited.
- (31) Data collected by national regulatory authorities indicate that average wholesale charges for data roaming services levied by visited network operators from roaming customers' home providers appear to be on a downward trend, although high prices for wholesale data roaming services persist.
- (32) The high level of retail prices for data roaming services remains a concern and indicates that competition in these services is still not sufficient. However, unlike the case for voice and SMS roaming services, competitive constraints exist at retail level, as roaming customers have alternative means of accessing data services when abroad, such as public wireless access to the internet, without associated numbering constraints. It would therefore be premature at this stage to regulate prices at the retail level.
- (33) However, measures should be introduced to improve the transparency of retail prices for data roaming services, in particular to eliminate the problem of "bill shock" which constitutes a barrier to the smooth functioning of the internal market, and to provide

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<sup>6</sup> OJ L 108, 24.4.2002, p. 7.

<sup>7</sup> OJ L 108, 24.4.2002, p. 33.

roaming customers with the tools they need to monitor and control their expenditure on data roaming services.

- (34) In particular, mobile operators should provide their roaming customers with personalised tariff information on the charges applicable to them for data roaming services when they first initiate a data roaming service on entering another Member State. This information should be delivered to their mobile telephone or other mobile device in the manner best suited to its easy receipt and comprehension.
- (35) In addition, in order to avoid bill shocks, mobile operators should offer all their roaming customers, free of charge, an opportunity to specify in advance a maximum financial limit for their outstanding charges for data roaming services, with an appropriate warning message when this limit is approached. Upon this maximum limit being reached, the data roaming service should be terminated unless the customer specifically requests its continued provision.
- (36) These transparency measures should be seen as minimum safeguards for roaming customers, and should not preclude mobile operators from offering their customers a range of other facilities which help them to predict and control their expenditure on data roaming services. For example, many operators are developing new retail flat rate roaming offers which permit data roaming for a specified price over a specified period up to a "fair use" volume limit. Likewise operators are developing systems to enable their roaming customers to be updated on a real-time basis on their accumulated outstanding data roaming charges. To ensure the smooth functioning of the internal market, these developments on the domestic markets should be reflected in the harmonised rules.
- (37) Moreover, the persistence of high wholesale charges for data roaming services is primarily attributable to high wholesale prices charged by operators of non-preferred networks. Such charges are caused by traffic steering limitations which leave operators with no incentive to reduce their standard wholesale prices unilaterally since the traffic will be received irrespective of the price charged. This results in an extreme variation in wholesale costs. In some cases the wholesale data roaming prices applicable to non-preferred networks are thirty times higher than those applied to the preferred network. These excessively high wholesale charges for data roaming services lead to appreciable distortions of competitive conditions between mobile operators within the Community which undermine the smooth functioning of the internal market. They also constrain the ability of home providers to predict their wholesale costs and therefore to provide their customers with transparent and competitive retail pricing packages. In view of the limitations on the ability of national regulatory authorities to tackle these problems effectively at national level, a wholesale price limit on data roaming services should apply. The wholesale price limit should be set at a safeguard level well above the lowest wholesale prices currently available in the market, to enhance competitive conditions and permit the better functioning of the internal market for the benefit of consumers.
- (38) In order to reflect the developments in the market, and the applicable regulatory framework for electronic communications it is necessary to refer to "public communications networks" instead of "public telephony networks". For the sake of consistency Article 1(5) of Directive 2002/21/EC (Framework Directive) should be amended accordingly.



- (39) Since the objectives of this Regulation, namely to amend Regulation (EC) No 717/2007 and Directive 2002/21/EC in order to maintain and further develop a common set of rules to ensure that users of public mobile communications networks when travelling within the Community do not pay excessive prices for Community-wide roaming services (be it in respect of voice calls, SMS messages or data transmissions), thereby contributing to the smooth functioning of the internal market, while achieving a high level of consumer protection and safeguarding competition between mobile operators, cannot be sufficiently achieved by the Member States in a secure, harmonised and timely manner and can therefore be better achieved at Community level, the Community may adopt the necessary amending measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is appropriate and necessary in order to achieve those objectives.
- (40) This common approach should nevertheless be maintained for a limited time period but may, in the light of a review to be carried out by the Commission, be further extended or amended. The Commission should review the effectiveness of Regulation (EC) No 717/2007 as amended by this Regulation and the contribution which it makes to the implementation of the regulatory framework and the smooth functioning of the internal market, while keeping in mind its impact on the smaller mobile communications providers in the Community and their position in the Community-wide roaming market.
- (41) Regulation (EC) No 717/2007 and Directive 2002/21/EC should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Regulation (EC) No 717/2007/EC**

Regulation (EC) No 717/2007/EC is amended as follows:

1. In the title "public mobile telephone networks" is replaced by "public mobile communications networks".
- 
2. Article 1 is amended as follows:
    - (a) Paragraph 1 is replaced by the following:

"1. This Regulation introduces a common approach to ensuring that users of public mobile communications networks when travelling within the Community do not pay excessive prices for Community-wide roaming services when making calls and receiving calls, when sending and receiving SMS messages and when using packet switched data communication services, thereby contributing to the smooth functioning of the internal market while achieving a high level of consumer protection, safeguarding competition between mobile operators and preserving both incentives for innovation and consumer choice.

It lays down rules on the charges that may be levied by mobile operators for the provision of international roaming services for voice calls and SMS messages originating and terminating within the Community and for packet switched data communication services used by roaming customers while roaming on a mobile network in another Member State. It applies both to charges levied between network operators at wholesale level and, where appropriate, to charges levied by home providers at retail level."

(b) Paragraph 4 is replaced by the following:

"4. The charge limits set out in this Regulation are expressed in euros. Where charges governed by Articles 3, 4, 4a, 4b and 6a(4) are denominated in other currencies, the initial limits pursuant to those Articles shall be determined in those currencies, in the case of Articles 3 and 4 by applying the reference exchange rates prevailing on 30 June 2007, and in the case of Articles 4a, 4b and 6a(4) by applying the reference exchange rates prevailing on [1 May] 2009, in each case as published by the European Central Bank in the *Official Journal of the European Union*.

For the purposes of the subsequent reductions in the limits provided for in Article 3(2) and Article 4(2), the revised values shall be determined by applying the reference exchange rates so published one month preceding the date from which the revised values apply."

3. In Article 2, paragraph 2 is amended as follows:

(a) In point (b) the term "telephony" is replaced by "communications".

(b) In point (c) the terms "telephone" and "telephony" are replaced by "communications".

(c) Point (d) is replaced by the following:

"(d) 'Community-wide roaming' means the use of a mobile telephone or other device by a roaming customer to make or receive intra-Community calls, or to send or receive SMS messages or packet switched data communications, while in a Member State other than that in which his home network is located, by means of arrangements between the operator of the home network and the operator of the visited network;"

(d) In point (e) the term "telephone" is replaced by "communications".

(e) Point (f) is replaced by the following:

"(f) 'roaming customer' means a customer of a provider of terrestrial public mobile communications services, by means of a terrestrial public mobile network situated in the Community, whose contract or arrangement with his home provider permits the use of a mobile telephone or other device to make or to receive calls or to send or receive SMS messages or packet switched data communications on a visited network by means of arrangements between the operator of the home network and the operator of the visited network;"

(f) Point (g) is replaced by the following:

"(g) 'visited network' means a terrestrial public mobile communications network situated in a Member State other than that of the home network and permitting a roaming customer to make or receive calls, to send or receive SMS messages or to send or receive packet switched data communications, by means of arrangements with the operator of the home network;"

(g) The following points (h), (i), (j) and (k) are added:

"(h) 'Euro-SMS tariff' means any tariff not exceeding the maximum charge, provided for in Article 4a, which a home provider may levy for the provision of regulated roaming SMS messages in compliance with that Article;

(i) 'SMS message' means a Short Message Service text message, composed principally of alphabetical and/or numerical characters, capable of being sent between mobile numbers assigned in accordance with the national numbering plans;

(j) 'regulated roaming SMS message' means an SMS message sent by a roaming customer, originating on a visited network and terminating on a public communications network within the Community or received by a roaming customer, originating on a public communications network within the Community and terminating on a visited network;

(k) 'regulated data roaming service' means a roaming service enabling the transmission or receipt of packet switched data communications by a roaming customer by means of his mobile telephone or other mobile device while it is connected to a visited network. A regulated data roaming service does not include the transmission or receipt of regulated roaming calls or SMS messages, but does include the transmission and receipt of Multimedia Messaging Service (MMS) messages."

4. Article 3 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. This average wholesale charge shall apply between any pair of operators and shall be calculated over a twelve month period or any such shorter period as may remain before the end of the period of application of a maximum average wholesale charge as provided for in this paragraph or the expiry of this Regulation. The maximum average wholesale charge shall decrease to EUR 0.28 and EUR 0.26, on 30 August 2008 and on 1 July 2009 respectively and shall further decrease to EUR 0.23, EUR 0.20 and EUR 0.17 on 1 July 2010, on 1 July 2011 and on 1 July 2012 respectively."

(b) In paragraph 3 the following subparagraph is added:

"However, with effect from 1 July 2009, the average wholesale charge referred to in paragraph 1 shall be calculated by dividing the total wholesale roaming revenue received by the total number of wholesale roaming minutes actually utilised for the provision of wholesale roaming calls within the Community by the relevant operator over the relevant period, aggregated on a per second basis."

5. Article 4 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. The retail charge (excluding VAT) of a Eurotariff which a home provider may levy from its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR 0.49 per minute for any call made or EUR 0.24 per minute for any call received. The price ceiling for calls made shall decrease to EUR 0.46 and EUR 0.43, and for calls received to EUR 0.22 and EUR 0.19, on 30 August 2008 and on 1 July 2009 respectively. The price ceiling for calls made shall further decrease to EUR 0.40, EUR 0.37, and EUR 0.34 and for calls received to EUR 0.16, EUR 0.13 and EUR 0.10, on 1 July 2010, on 1 July 2011 and on 1 July 2012 respectively.

With effect from 1 July 2009 every home provider shall charge its roaming customers for the provision of any regulated roaming call to which a Eurotariff applies, whether made or received, on a per second basis.

By way of derogation from the second subparagraph, the home provider may apply an initial minimum charging period not exceeding 30 seconds to calls made which are subject to a Eurotariff."

(b) Paragraph 4 is replaced by the following:

"4. Any roaming customer may request, at any point after the process set out in paragraph 3 has been completed, to switch to or from a Eurotariff. Any switch must be made within one working day of receipt of the request and free of charge and shall not entail conditions or restrictions pertaining to other elements of the subscription, save that where a roaming customer who has subscribed to a special roaming package which includes more than one roaming service (i.e. voice, SMS and/or data) wishes to switch to a Eurotariff, the home provider may require the switching customer to forego the benefits of the other elements of that package. A home provider may delay a switch until the previous roaming tariff has been effective for a minimum specified period not exceeding three months."

6. The following Article 4a is inserted:

*"Article 4a*

**Wholesale charges for regulated roaming SMS messages**

1. With effect from 1 July 2009, the average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer's home network, for the provision of a regulated roaming SMS message originating on that visited network, shall not exceed EUR 0.04 per SMS message.

2. This average wholesale charge shall apply between any pair of operators and shall be calculated over a twelve month period or any such shorter period as may remain before the expiry of this Regulation.

3. The average wholesale charge referred to in paragraph 1 shall be calculated by dividing the total wholesale revenue received by the operator of the visited network from each operator of a home network for the origination and transmission of regulated roaming SMS messages within the Community in the relevant period by the total number of such SMS messages

originated and transmitted on behalf of the relevant operator of a home network within that period.

4. The operator of a visited network shall not levy from the home provider any charge, separate from the charge referred to in paragraph 1, for the termination of a regulated roaming SMS message sent to a roaming customer while roaming on its visited network."

7. The following Article 4b is inserted:

*"Article 4b*

**Retail charges for regulated roaming SMS messages**

1. Home providers shall make available to all their roaming customers, clearly and transparently, a Euro-SMS tariff as provided for in paragraph 2. The Euro-SMS tariff shall not entail any associated subscription or other fixed or recurring charges and may be combined with any retail tariff, subject to the other provisions of this Article.

2. With effect from 1 July 2009, the retail charge (excluding VAT) of a Euro-SMS tariff which a home provider may levy from its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any roaming SMS message but shall not exceed EUR 0.11.

3. Home providers shall not levy any charge from their roaming customers for the receipt by them of a regulated roaming SMS message.

4. From 1 July 2009 home providers shall apply a Euro-SMS tariff to all existing roaming customers automatically, with the exception of such roaming customers who have already made a deliberate choice of a specific roaming tariff or package by virtue of which they benefit from a different tariff for regulated roaming SMS message than they would have been accorded in the absence of such a choice.

5. From 1 July 2009 home providers shall apply a Euro-SMS tariff to all new roaming customers who do not make a deliberate choice to select a different roaming SMS tariff or a tariff package for roaming services which includes a different tariff for regulated roaming SMS messages.

6. Any roaming customer may request to switch to or from a Euro-SMS tariff at any time. Any switch must be made within one working day of receipt of the request and free of charge and shall not entail conditions or restrictions pertaining to elements of the subscription other than roaming. A home provider may delay such a switch until the previous roaming tariff has been effective for a minimum specified period not exceeding three months. A Euro-SMS tariff may always be combined with a Eurotariff.

7. Not later than 1 June 2009, home providers shall inform all their roaming customers individually about the Euro-SMS tariff, about the fact that it will apply from 1 July 2009 at the latest to all roaming customers who have not made a deliberate choice of a special tariff or package applicable to regulated SMS messages, and about their right to switch to and from it in accordance with paragraph 6 above."

8. The following Article 4c is inserted:

*"Article 4c*

**Technical characteristics of regulated roaming SMS messages**

No home provider or operator of a visited network shall alter the technical characteristics of regulated roaming SMS messages in such a way as to make them differ from the technical characteristics of SMS messages provided within its domestic market."

9. Article 5 is deleted.
10. Article 6 is replaced by the following:

*"Article 6*

**Transparency of retail charges for regulated roaming calls and SMS messages**

1. To alert a roaming customer to the fact that he will be subject to roaming charges when making or receiving a call or when sending an SMS message, each home provider shall, except when the customer has notified his home provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his home network, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

This basic personalised pricing information shall include the maximum charges the customer may be subject to under his tariff scheme for:

- (a) making calls within the visited country and back to the Member State of his home network, as well as for calls received; and
- (b) sending regulated roaming SMS messages while in the visited Member State.

It shall also include the free-of-charge number referred to in paragraph 2 for obtaining more detailed information.

A customer who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the home provider to provide the service again.

Home providers shall provide blind or partially-sighted customers with this basic personalised pricing information automatically, by voice call, free of charge, if they so request.

2. In addition to paragraph 1, customers shall have the right to request and receive, free of charge, more detailed personalised pricing information on the roaming charges that apply to voice calls, SMS, MMS and other data communication services, as well as information on the transparency measures applicable by virtue of this Regulation, by means of a mobile voice call or by SMS. Such a request shall be to a free-of-charge number designated for this purpose by the home provider.

3. Home providers shall provide all users with full information on applicable roaming charges, in particular on the Eurotariff and the Euro-SMS tariff, when subscriptions are taken out. They shall also provide their roaming customers with updates on applicable roaming charges without undue delay each time there is a change in these charges.

Home providers shall take the necessary steps to secure awareness by all their roaming customers of the availability of the Eurotariff and the Euro-SMS tariff. They shall in particular communicate to all roaming customers by 30 July 2007 the conditions relating to the Eurotariff and by 1 June 2009 the conditions relating to the Euro-SMS tariff, in each case in a clear and unbiased manner. They shall send a reminder at reasonable intervals thereafter to all customers who have opted for another tariff."

11. The following Article 6a is inserted:

*"Article 6a*

**Transparency and safeguard mechanisms for regulated data roaming services**

1. Home providers shall ensure that their roaming customers are kept adequately informed of the charges which apply to their use of regulated data roaming services, in ways which facilitate the customers' understanding of the financial consequences of such use and permit them to monitor and control their expenditure on regulated data roaming services in accordance with paragraphs 2 and 3.

2. From 1 July 2009 at the latest, an automatic message from the home provider shall inform the roaming customer that he is roaming and provide personalised tariff information on the charges applicable to the provision of regulated data roaming services to that roaming customer in the Member State concerned, except when the customer has notified his home provider that he does not require this information.

Such personalised tariff information shall be delivered to the roaming customer's mobile telephone or other device, when the roaming customer initiates a regulated data roaming service in a particular Member State other than that of his home network for the first time after having entered that Member State. It shall be provided without undue delay and free of charge, by an appropriate means adapted to facilitate its receipt and easy comprehension.

A customer who has notified his home provider that he does not require the automatic tariff information shall have the right at any time and free of charge to require the home provider to provide this service again.

3. By 1 July 2010 at the latest, the home providers shall provide a 'Cut-Off Limit' facility whereby they offer and keep available to all their roaming customers, free of charge, the possibility to specify in advance a maximum financial limit, expressed in the currency in which the roaming customer is billed, for their outstanding charges for regulated data roaming services.

When this Cut-Off Limit is reached, the home provider shall immediately cease to provide the roaming customer with regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

The home provider shall also ensure that an appropriate warning message is sent to the roaming customer's mobile telephone or other device before one or more intermediate charge limits, agreed between the customer and the home provider in advance, are reached. This warning message shall inform the roaming customer that the Cut-Off Limit is about to be reached and indicate the procedure to be followed by the customer if he or she wishes to request the continued or renewed provision of those services.

4. With effect from 1 July 2009:

- (a) The average wholesale charge that the operator of a visited network may levy from the operator of a roaming customer's home network for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR 1.00 per megabyte of data transmitted.
- (b) This average wholesale charge shall apply between any pair of operators and shall be calculated over a twelve month period or any such shorter period as may remain before the expiry of this Regulation.
- (c) The average wholesale charge referred to in point a shall be calculated by dividing the total wholesale revenue received by the operator of the visited network from each operator of a home network for the provision of regulated data roaming services in the relevant period by the total number of megabytes of data consumed by the provision of those services within that period."

12. Article 7 is amended as follows:

- (a) Paragraph 2 is replaced by the following:

"2. National regulatory authorities shall make up-to-date information on the application of this Regulation, in particular Articles 3, 4, 4a, 4b and 6a, publicly available in a manner that enables interested parties to have easy access to it."

- (b) Paragraph 5 is replaced by the following:

"5. National regulatory authorities may intervene on their own initiative in order to ensure compliance with this Regulation. In particular, they shall, where necessary, make use of the powers under Article 5 of the Access Directive to ensure adequate access and interconnection in order to guarantee the end-to-end connectivity and interoperability of roaming services, for example where subscribers are unable to exchange regulated roaming SMS messages with subscribers of a terrestrial mobile network in another Member State as a result of the absence of an agreement enabling the delivery of those messages."

13. Article 9 is replaced by the following:

*"Article 9*

### **Penalties**

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall



notify those provisions to the Commission no later than 30 March 2008 or, in the case of the additional requirements introduced by Regulation [XXXX/YYYY], no later than the date falling nine months after the entry into force of that Regulation and shall notify it without delay of any subsequent amendment affecting them."

14. Article 11 is replaced by the following:

*"Article 11*

**Review**

1. The Commission shall review the functioning of this Regulation and report to the European Parliament and the Council no later than 31 December 2011. The Commission shall evaluate in particular whether the objectives of this Regulation have been achieved. In its report the Commission shall review developments in wholesale and retail charges for the provision to roaming customers of voice and data communication services, including SMS and MMS, and shall, if appropriate, include recommendations regarding the need further to regulate these services. For this purpose the Commission may use the information supplied pursuant to Article 7(3).

2. In its report, the Commission shall assess whether, in the light of developments in the market including the quality of service provided, and with regard to both competition and consumer protection, there is need to extend the duration of this Regulation beyond the period set out in Article 13 or to amend it further, taking into account the developments in charges for mobile voice and data communication services at national level and the effects of this Regulation across different parts of the Community and also on the competitive situation of smaller, independent or newly started operators. In the light of its findings, the Commission may submit a proposal to the European Parliament and the Council."

15. In Article 12 the text "no later than 30 August 2007" is deleted.

16. In Article 13 "2010" is replaced by "2013".

*Article 2*

**Amendment to Directive 2002/21/EC (Framework Directive)**

In Article 1(5) of Directive 2002/21/EC (Framework Directive) "public mobile telephone networks" is replaced by "public mobile communications networks".

*Article 3*

**Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*