



Commission for
Communications Regulation

Information Notice

Market Analysis - The wholesale national market for international roaming on public mobile networks

Next Steps following Consultation

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Contents

| | | |
|---|---|---|
| 1 | Introduction | 2 |
| 2 | International Roaming Regulatory Activity..... | 4 |
| | <i>ERG-IRG work</i> | 4 |
| | <i>Ministerial Policy Direction 2004</i> | 5 |
| | <i>European Commission's Sector Inquiry into Mobile Roaming</i> | 5 |
| 3 | Next Steps | 6 |

1 Introduction

- 1.1 ComReg is obliged to conduct a market definition and market analysis process into "the wholesale national market for international roaming on public mobile networks",¹ with a view to determining whether such a market is susceptible to sector-specific regulation because of a lack of effective competition.
- 1.2 On the 22nd October 2003, ComReg issued a consultation document on this market.² In that consultation document, ComReg expressed the view it was arguably possible for it to carry out the market definition phase on the basis of information available to it from public sources and from information gathered from operators in Ireland, it was not possible for it to draw any definitive conclusions as regards market analysis in the absence of at least a minimum level of retail information being made available to ComReg from consumers of international roaming services based in other jurisdictions. ComReg believed that co-operation with other NRAs and / or the completion of on-the-spot consumer surveys conducted on those non-Irish mobile users roaming in Ireland is required in order to carry out a robust analysis.
- 1.3 ComReg was also of the view that the best way to achieve competitive results in this market, for the benefit of all consumers across the European Union, was to co-ordinate an appropriate approach and to determine the appropriate remedies, should they be required, at a pan-European level. This would be most effectively achieved, in the view of ComReg, under the auspices of the International Regulators' Group (the "IRG") or the European Regulators' Group (the "ERG"), both of which represent National Regulatory Authorities ("NRAs").
- 1.4 ComReg consulted on its conclusion that to fulfil its obligations under regulations 26 and 27 of the Framework Regulations that it is preferable to co-ordinate data-collection and approach with other NRAs.
- 1.5 ComReg received four responses to this consultation from:
 - *eircom*
 - Meteor
 - O₂
 - Vodafone
- 1.6 The responses to the consultation varied with two respondents believing that ComReg could complete the analysis without co-ordinating at an EU level while two respondents believed that due to the nature of the market that ComReg should co-ordinate its analysis at a pan-European level. ComReg thanks the respondents for their views and arguments.

¹ Commission Recommendation of 11 February 2003 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC, EC OJ L 114/45 of 8 May 2003.

² ComReg Document No. 03/128 – Market Analysis – The Wholesale National Market for International Roaming on Public Mobile Networks

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- 1.7 Given the level of regulatory activity on international roaming that is at present occurring, as discussed in the following section, ComReg believes that it is appropriate to consider this activity when considering the next steps in the review of this market.

2 International Roaming Regulatory Activity

- 2.1 Since issuing the consultation paper on this market in October 2003, ComReg is aware of a number of regulatory activities that are on-going in this area and which impact upon ComReg's work in relation to this market. These regulatory activities relate to:
- ERG-IRG work on international roaming;
 - The Ministerial Policy Direction 2004;
 - The European Commission's sector inquiry into mobile roaming.

ERG-IRG work

- 2.2 In January 2004, the ERG-IRG work programme for 2004 was finalised and published on the ERG website.³ This includes a high priority deliverable on international roaming for completion by December 2004.

"In 2004, work will be focused on a common view on international roaming services and the development of a Common Position on International Roaming including a joint action plan. The legal, economic and practical potential for joint efforts to reduce excessive international roaming retail charges will be investigated and a framework for the effective enforcement of international roaming regulation will be discussed.

IRG deliverables: *Report to IRG, including an analysis of costs and prices for end-users as well as an analysis of the transparency level of prices for end-users.*

Deadline: *Plenary in December 2004 (at the latest)*

ERG deliverables: *Common ERG Positions on:*

- a) The concept of international roaming (definition)*
- b) A common approach towards regulation of international roaming, if possible*
- c) A proposal for a joint action plan*

Deadline: *Plenary in December 2004*

- 2.3 ComReg believes that the high-priority status afforded on these objectives within the IRG and ERG will ensure that there is sufficient drive within these groups to produce the above deliverables. Common ERG positions on the market definition and proposals for joint action and co-ordination will help ComReg and other NRAs overcome international roaming issues relating to the fact that the wholesale market for international roaming is in one jurisdiction, while the related retail market is in another jurisdiction. ComReg is an active member of both the ERG and IRG.

³ http://www.erg.eu.int/doc/work_progr_2004/erg0403.doc

Ministerial Policy Direction 2004

- 2.4 In March 2004, the Minister for Communications Marine and Natural Resources issued a number of policy directions to ComReg, including a policy direction relating to cross border roaming.⁴

“Cross Border Roaming:

ComReg shall, subject to relevant requirements under European and National law, identify barriers, work closely with operators and OfCom, and use regulatory and enforcement tools to encourage and support initiatives that would: reduce the costs for people on the island making and receiving calls on their mobile phones to numbers within Northern Ireland; reduce or eliminate roaming and other charges on the island between Ireland and Northern Ireland; encourage national call charging on an all-island basis.

The goal is to minimise cross border roaming and other charges on the island of Ireland for mobile phone users, particularly those who live close to the border.”

- 2.5 ComReg is aware of the importance of the cross-border roaming issue to the island of Ireland and intends within the context both of EU and National Legislation to work closely with the mobile operators and Ofcom to encourage and support initiatives to achieve the goals set out in the Policy Direction. Additionally ComReg shall report quarterly to the Minister on the implementation of the policy directions, as per the policy direction.

European Commission’s Sector Inquiry into Mobile Roaming

- 2.6 The Commission launched a sector inquiry as far back as 2000 into international roaming.⁵ While this inquiry is still ongoing, ComReg is aware that the outcome of this inquiry may have a significant impact upon the international roaming market reviews carried out by NRAs. In that regard ComReg believes that it is prudent to better understand the progress of this sector inquiry before proceeding with a review of this market.

⁴ http://www.dcmnr.gov.ie/files/CommsReg_Policy_Directions_2004.doc

⁵ http://europa.eu.int/comm/competition/antitrust/others/sector_inquiries/roaming/

3 Next Steps

- 3.1 Overall, ComReg is cognisant of the need for timely action on this issue and the need for co-ordination within the ERG-IRG. Taking this into consideration ComReg intends to take a two pronged approach.
- 3.2 With regard to the cross border roaming issue as identified within the ministerial policy direction, ComReg will begin a process over the next couple of months to explore how best to work with the mobile operators and Ofcom to encourage and support initiatives to achieve the goals set out in the Policy Direction.
- 3.3 With regard to ComReg reviewing the "the wholesale national market for international roaming on public mobile networks", as obliged under the new regulatory framework, ComReg is mindful of the level of regulatory activity on this market at an international level via the ERG-IRG and the EU Commission's sector inquiry. ComReg believes that a robust and effective market review is only possible once ComReg has a better understanding of the progress and/or the outcome of the work in these areas. In addition, ComReg believes that as cross border roaming represents a substantial volume of the international roaming traffic in Ireland, action on this issue, as per paragraph 3.2 will contribute considerably to ComReg's overall review of the international roaming market. With regard to the ERG-IRG work on international roaming, ComReg is actively participating in these groups with a view to achieving the deliverables as set out in the work programme.