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Looking for the Future Model for Roaming

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Introduction – Avoid legal uncertainty

- Roaming III entered into force two years ago
  - Decoupling of Roaming services into force only last July
  - Evolution of market offers since RIII – very little time to assess implementation, regulatory uncertainty

- RIII should have the chance to follow its due course

- BEREC's opinion on EP first-reading: elements of regulatory uncertainty remain and need to be addressed (e.g. tight timeframe and retention of decoupling obligations)

If RLAH is introduced, carefully plan its timing

- Introduction of RLAH should allow operators to adapt to the new scenario
- Complexity of RLAH implementation – implementation should be made dependent on:
  - The existence of reliable fair use rules and safeguards against domestic market distortion, both at retail and wholesale level
  - Implementation period of 12 to 18 months after the definition of the relevant BEREC guidelines
  - Thorough consultation with stakeholders needed
- Moreover, changes in contract/billing systems would be needed
- A related note: interesting proposal being discussed by EU Member States, to allow operators to offer consumers the possibility to “opt out” of RLAH in return for other advantages offered by the same provider.

If RLAH is introduced, remove decoupling obligations

- Obligation to offer the separate sale of roaming services becomes irrelevant once RLAH is provided by MNOs and should be removed

- Purpose of separate sale of roaming services to increase competition and bring roaming retail prices closer to domestic levels → no need to maintain these structural measures once the aim is reached.

- See BEREC's opinion on EP first-reading → BEREC skeptical as to whether the retention of both decoupling obligations is required, once RLAH is in place

Mitigate the negative side-effects of RLAH on competitive domestic markets

- RLAH requires fair use provisions on retail side and safeguards to the functioning of the wholesale market → otherwise strong risk of negatively affecting domestic markets (fraud and arbitrage).

- ‘Permanent roaming’ offers could be used to distort national competitive mobile retail markets by operators who have not invested in their own infrastructure and spectrum in the given country

- Fair use provisions should also allow operators to fairly balance treatment between heavy roamers, light-roamers and non-roamers.
- Key characteristics fair use provisions should have:
  - Flexible, simple and adaptable to tariff structures; easy to implement (not burdensome); allow operators to differentiate retail strategies

Considerations on the wholesale market

- With RLAH, careful consideration should be given by legislators and regulators to the wholesale market to avoid hampering competition in domestic markets.

- Any intervention should ensure that operators are able to recover costs/investments, avoid the risk of arbitrage and ensure that innovation incentives are in place.

- The wholesale market should allow for fair use policies at wholesale level complementing fair use rules at retail level.

- BEREC should demonstrate that co-legislators proposals satisfy these conditions (impact assessment and consultation with stakeholders' needed)

ETNO observers:

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