3 GROUP'S COMMENTS ON THE ERG GUIDELINES ON THE INTERNATIONAL ROAMING REGULATION

(ERG (09) 24 Draft Roaming Guidelines_090602)

This paper sets out the comments of the **3** Group ("the **3** Group") businesses in Europe to the ERG guidelines on the International Roaming regulation. The **3** Group is part of Hutchison Whampoa Limited's telecoms division, and includes the following operating companies in the EU: Hutchison 3G Austria GmbH, Hi3G Denmark ApS, Hutchison 3G Ireland Limited, H3G Spa (Italy), Hi3G Access AB (Sweden) and Hutchison 3G UK Limited (together, H3G).

The **3** Group would first of all like to welcome the ERG guidelines aimed at clarifying some of the provisions of the regulation and thus ensuring more certainty for the operators when implementing their obligations under it. The **3** Group also welcomes the fact that the guidelines seek to maintain some flexibility. Flexibility is in our view of outmost importance in order to ensure good customer experience.

Below are some specific comments on some of the guidelines:

Retail Issues

Paragraph 8

Paragraph 8 refers to customers being able to opt-out of the voice/SMS transparency messages separately to the data transparency messages. The **3** Group would like to point out that this is not technically possible and proposes that one message containing all tariff information is sent at the first arrival in another Member State in order to limit the number of messages the customer receives at this point, and in accordance with the recommendation in paragraph 13 (see also comments below on paragraph 11).

Paragraph 9(e)

The **3** Group is not entirely clear about what is meant by this paragraph. We see it as a duplication of paragraph 8(a) and would therefore prefer if it were removed. It provides the following example: "for a regulated call to a third country". We interpret this to be for regulated calls to another (third) Member State rather than for calls outside the EU and would therefore like the ERG to clarify this point.

Paragraph 11

The **3** Group would like to seek clarification on what is intended by paragraph 11 and ensure that the right level of flexibility for operators is reflected in this provision. In particular, we read the guideline to mean that the information needs to reach the customer when he/she enters a Member State and initiates for the **first time** a data roaming service i.e. not every time he/she initiates a data roaming service. This seems to be confirmed in subsequent references in the guidelines which refer only to the first time of initiating such service.

Furthermore, notifying customers when they begin a data session (for a mobile handset) is extremely difficult and the notification will only arrive after the session has begun and the customer is already being charged. This is something that the ERG also seems to recognise in paragraphs 12 and 13 where it is indicated that an operator should supply data pricing on arrival in the Member State and each time a border is crossed - this is something the **3** Group does already. Therefore, the **3** Group does not see the merits of an additional message. A sensible option which would also avoid an overload of information sent to the customer is to inform the customer before they initiate a payable activity of any sort - and that would be the message they receive on crossing the border and attaching to the foreign network.

Paragraph 22
The **3** Group does not agree with the ERG position on pre pay usage caps. It is the basic principle of a pre pay connection that customers have the ability to select a number of different top up values in order to control their costs. Customers therefore have the possibility to control their expenditure without setting a specific usage cap. A pre-pay account 'cuts-off' by default when the chosen top up value is reached. The pricing information that a customer will receive when entering another Member State and his/her selected top up limit together ensure that there cannot be any risk of bill-shock.

Furthermore, it would be inconvenient for a customer if he/she is cut-off while abroad for reaching the data usage threshold as it is not always easy to top up when travelling. From an operator point of view, treating pre pay in exactly the same way as post pay services would involve significant costs and development timescales since the services are managed by different IT systems.

Paragraphs 28 to 33
The **3** Group takes the view that the requirement to provide notification when the customer reaches 80% of their limit might lead to a bad customer experience. For technical reasons there might be unavoidable delays in the delivery of the notification. In this case, upon receipt of the notification, the customer might have already reached the 100% limit and might have already been disconnected, without having had the possibility to express his consent to continue the data session. It should also be noted that it is technically not feasible for the operator to freeze a data session when the financial/volume limit is reached, in order to allow the customer to retrieve the data at a later stage, with the consequence that when the 100% limit is reached and the data session is interrupted, the customer will loose all data in the process of being downloaded/uploaded which may include business transactions of economic relevance. The **3** Group recommends that sufficient flexibility is allowed in order to avoid any bad customer experience.

Wholesale Issues
Paragraphs 37 to 41
The **3** Group believes that the wholesale caps for voice should be applied on each minute rather than as an average over each 12 month period. This is in effect already the practice via current GSMA operational procedures whereby any individual regulated voice call is required to be equal to or less than the regulated price cap, when calculated on an individual transaction basis or it will be rejected as incorrectly charged.

The **3** Group submits that the above practice should also apply to the implementation of the data wholesale rates, thus avoiding the cash flow issues highlighted in paragraph 40 of the guidelines.

General Issues
Paragraph 27 and 61
The **3** Group considers this provision to be impractical to implement. In particular, if a customer chooses a data volume limit then the fixed price MMS **would not** count towards the **data volume** limit. When a customer chooses a **financial limit** then the MMS cost **would** apply to the limit. In Article 22 customers are given the opportunity to choose either the financial or volume limit and depending on which they choose the operator is obligated to inform the customer how much the the financial limit equates to in volume (MB) or if they choose a volume limit then an operator needs to inform them on how much this equates to in monetary terms.

Article 22 of the regulation states that: "For the default financial limit, providers must make the customer aware in advance of the corresponding amount in volume terms. For the default volume limit, providers must make the customer aware in advance of the corresponding amount in financial terms."

The first requirement above therefore becomes impossible to provide if MMS counts towards the financial limit as the volume of a MMS does not apply to the total. The financial and volume conversions are therefore impacted by an unknown which is how many MMS a customer will send.

The **3** Group therefore submits that MMS should be not count towards the financial limit or volume limit.

We look forward to cooperating with the ERG in the coming months in order to ensure a coordinated approach in implementing the roaming regulation that will allow customers to rip the full benefits of the amended regulation.

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