



Written response of the KPN Group
to the
Public Consultation
of the
Draft ERG Roaming Guidelines 2009

KPN
attn. dr. Jos Huigen, director Regulatory & European Affairs
PO Box 30 000
2500 GA The Hague
jos.huigen@kpn.com

16 June 2009

Introduction

1. The KPN group welcomes the opportunity to comment on the draft ERG Roaming Guidelines that were sent out for consultation on June 2nd 2009, although we are still not in the possession of the formal text of the regulation and the (binding) translations of the English working texts. Furthermore, operators are likely still in the process of evaluating consequences for their technical and operational systems of some of the obligations and may not be in the position to finally react on technical issues implied by the regulation. We expect the ERG and the national regulators remain open to discussing such issues if they would come up.

‘Basic personalised pricing information’

2. Under the amended regulation the information to be sent to customers entering a visited EU member state will increase enormously, as illustrated by the draft guidelines (par. 6- 13). Customers will likely receive several SMS messages with each border-crossing in order to be informed in accordance with the amended Roaming regulation. Unnecessary information should nevertheless be avoided to prevent an ‘overkill’ of information (and associated number of messages). Many customers would not read the messages in detail or would require their operator to refrain from sending messages at all. This would not serve the purpose of the regulation. Therefore – even if the regulation does not exclude this – we are of the opinion that no information should be sent in relation to services that the customer cannot make use of under his contract (such as voice services with machine-to-machine subscriptions and data services on most prepaid subscriptions). We recommend the ERG to include this in the guidelines.

3. Article 6a will add obligations in relation to information provision on data roaming services. Two elements are specifically relevant in relation to this obligation: (1) the form and (2) the timing of the message.

(1st). As for the form, the draft guidelines rightly presume that e-mail and pop-up windows are technically not feasible (nr. 7). Especially since for data services a large number and a variety of types of terminal equipment is used technical solutions cannot be guaranteed for other means of communications than by SMS. And even by SMS some (f.i. machine-to-machine) communications and applications may be distorted. We will advise in these cases to customers to make use of the possibility not to be informed in this manner. In all other cases SMS is the only viable form of communication to fulfil the obligations of the regulation, even if it would require customers to navigate away from the data roaming service.

(2nd). We fully agree with the statement (par. 11) that the regulation only requires one message, but we are doubtful if that leads to the conclusion in par. 13 (mid page 4) that this message should be sent ‘when the customer subsequently connects to data roaming services’. This is in contradiction to the correct statements made earlier that it is necessary that customers receive the information prior to connecting to data services. The only way to guarantee this purpose is to send the message on data roaming also upon entry in a visited country. Since an SMS (different from e.g. a pop up screen) can be stored on the equipment easily this guarantees that the customer has the information available when relevant. We strongly advise the ERG to amend the draft guidelines on this point, or at least state that this practice is a sufficient way to fulfil the obligations under the regulation.

‘Additional detailed personalised pricing information’

4. Article 6, as amended, details the further obligations in relation to pricing information that should be available to customers when abroad. In par. 17 and 18 of the draft guidelines the ERG quotes several recitals of the regulation that have not lead to the amend-

ment of the material obligations of the Regulation and therefore do not constitute binding obligations. We believe the guidelines should make it more explicitly clear that the statements of the ERG in relation hereto are of a different nature than the paragraphs that describe the obligations resulting from the regulation.

5. The issues described in par. 17 of the draft guidelines mostly are implemented in the general information obligation of article 6a, clause 1, of the Regulation (and not clause 2 where the personalised pricing information is dealt with). The general nature of clause 1 reflects the fact that operators cannot inform the customers in detail on the specific aspects of 'data-downloading, including software updating and e-mail retrieval' since these are not services offered by telecom operators, but are specific to certain software and hardware setups. In general terms operators can inform that some software, such as for example 'Microsoft Update', security updates etc. on a laptop can trigger data-downloads, but telecom operators do not know which software and which setups are used by its customers. 'Requiring consent at the time of subscription' is therefore not a possibility. The regulation does not include an obligation to do so and the guidelines should refrain from suggestions that are not based on the regulation.

Financial or volume limits on data roaming

6. The draft guidelines include statements on the obligations that will be introduced by March 1st and July 1st 2010 (article 6a, clause 3). The implementation of these provisions of the regulation require still much technical and operational investigation, detailed discussions with vendors, etc. before final conclusions on the various aspects of the implementation can be made. It might be that a 'one-size-fits-all' approach in relation to these technical and operational issues may not be available and that specific contacts between regulatory authorities and operators, based on general principles in the guidelines, would best suit the purpose of the directive. As far as we can currently judge we believe the guidelines indeed refrain from unnecessary detailed technical solutions, except for par. 34, where a specific solution is recommended. Such a solution may however not easily be implemented in networks and operational systems of various operators. We believe the guidelines should refrain from such preferences.

With regards to the specific practice – recommended in par. 34 – to 'preserve any data that was in the course of being downloaded' as far as technically feasible, it should be noted that in most cases the possibility to suspend a data session and store incomplete data is not a network functionality, but dependent on the programs or applications that support the download on the enduser equipment.

Charges for voicemail

7. The statement in par. 50 incorrectly reflects the amendment of article 4, clause 2, of the regulation. According to the text available to us the prohibition to charge for voicemail messages that are deposited only applies as from July 1st 2010.