



**Meteor Mobile Communications Ltd.  
Response to ERG Consultation (09) 24  
Draft Roaming Guidelines**

**17 June 2009**

# Introduction

Meteor Mobile Communications Ltd. (Meteor) welcomes the opportunity to respond to ERG Consultation on the Draft Roaming Guidelines. In advance of publication it is very important to get constructive feedback from operators on how the regulation can and should be interpreted. Therefore, Meteor would request ERG to take utmost regard to all issues raised as they reflect the practicalities of applying the regulation and the architectural constraints of individual operator's networks.

However, from the outset it is important to note that the Draft Guidelines are not presented as a legal interpretation of the Regulation. Whilst Meteor will consider and intends generally to perform its services in accordance with the published ERG Guidelines, it makes no representation or warranty that it will do so, nor that it treats or accepts such guidelines and their interpretation of the amending Regulation as being conclusive, or in way of binding legal effect. All rights to challenge, alternatively interpret and apply the Regulation, or other rights arising or vested in Meteor, are reserved. Meteor shall only be bound and liable to apply the interpretation of the Regulation decided upon by a court or other body of competent jurisdiction.

Although Meteor's reserves its position with respect to the Draft Guidelines, there are a number of issues discussed therein that, if adopted and published in their current form, may lead to confusion both for operators and regulators alike. In addition, a number of points discussed raise serious questions for Meteor both in terms of interpretation and application.

The following document outlines where Meteor seeks clarification from ERG on elements of the draft guidelines, and in certain circumstances, explains why it is not helpful for the guidelines to be prescriptive or indeed published in their current form. In this regard, Meteor would stress that it is important that individual operators, whilst applying the regulation in its strictest form, are granted the space in which to develop a solution that best suits individual operators own network design.

# Points of Interpretation

## General Issues

Meteor will apply all price changes as outlined in the regulation and accepts the additional data transparency measures as outlined. Initial concerns, however, focus on the timelines proposed in the Regulation and interpretation of application.

Many of the regulatory requirements involve the significant development to and upgrade of Meteor's network, in impossible to meet timescales. Meteor will make every effort to ensure that all elements of the Regulation are met, however, as aspects of the data transparency measures require outsourcing a product solution, Meteor is bound by internal development timelines and cannot guarantee that timelines as stipulated within the Regulation can or will be met.

The following outline the main concerns raised in the Draft Guidelines. In advance of publication of ERG's Guidelines, Meteor would ask that the following issues are addressed.

## Basic Personalised pricing information: voice, SMS and data

**Paragraph 6** of the Draft Guidelines states the following:

*Unless they have opted not to receive such information, all customers are entitled to receive at least one automatic message providing basic roaming information for the visited Member State, which is personal to that customer*

However, **Paragraph 19** of the Draft Guidelines, states that:

*ERG understands that the "customer" to be the contracting party, so that a single limit would apply to all of the SIMs within a family contract.*

Meteor would like to highlight the basic contradiction between these two statements. ERG seems to be interpreting all customers as single entities to receive a pricing information message, whilst at the same time grouping all SIMs within a single contract as a "group" to which a single roaming limit would apply. Please note that applying a single contracting party definition to a group account in respect to a financial limit could result in non roaming parties receiving all data transparency measures, even if not actually roaming.

Meteor would request, therefore, that if guidelines are to be published in respect to group contracts, such guidelines reflect the fact that each individual subscriber, within a contracting party, will be subject to a limit amount to that individual roamer.

**Paragraph 8** outlines the types of information that must be provided to roaming customers via a message service when roaming. ERG has interpreted this as extending to charges incurred for sending and receiving a roaming MMS.

Article 6 (1) sets out all basic personalised pricing information that should be included within the message service to be communicated to a roaming customer. The Article states that the SMS should include information on the following:

- Making calls within the visited country and back to the Member State of his home network, as well as calls received; and
- Sending regulated roaming SMS messages while in the visited Member States.

It is also stipulated that the message should include information on the emergency call number 112. A free call customer service number should also be communicated.

Due to the character limitations, operators are restricted in the amount of information that can be included in an individual SMS. Meteor makes every effort to ensure that pricing information for all services, voice, SMS, MMS and data roaming is communicated to subscribers. Meteor would argue, however, that the Draft Guidelines extend the scope of the Regulation and, as such, **Paragraph 8** should be deleted.

**Paragraph 11** stipulates that information on data roaming should be delivered every time the roaming customer enters a Member States other than that of his home network **and** initiates for the first time a regulated data roaming service. ERG goes on to state that this provision requires only one message to be sent when both conditions are met (i.e. entry into another Member States plus initiation of a data roaming service).

Meteor would point out that, on the Meteor network, it not currently possible to provide this information on the initiation of a data roaming session. The spirit of the Regulation is to ensure that a subscriber is fully informed of all pricing before any payable activity is initiated. Meteor would argue that providing information on data roaming pricing in the personal pricing SMS message received every time a customer enters a Member State other than the home network, provides the customer with the most preferable solution. Information is thus provided in advance of the commencement of a data roaming session.

Meteor would argue that interpreting the Regulation as outlined in the Draft Guidelines is prescriptive and risks an adverse customer experience.

## **Financial or volume limit**

**Paragraph 22** states that financial or volume limits must be made available to post-pay and pre-pay customers in the same manner as apply for bill pay customers.

Meteor's understanding was that the premise of all data roaming transparency measures was to ensure that customers accessing data roaming services when roaming are not exposed to possible bill shock. As many subscribers argue they are unaware of pricing policy, this measure is reinforced by setting a limit to expenditure and the means to monitor on-going usage.

Meteor would like to point out that Pre-pay services have always been used as a method for individual subscribers to actively control expenditure. This method allows customers to select their own spend limit and, through access to information on outstanding balance, meets the objective of transparency and safeguards, as covered through Article 6a.

As Pre-pay customers by their very definition never experience bill shock, Meteor would question the necessity of extending these measures to pre-pay subscribers.

This assertion is further reflected in the wording of the adopted Regulation as Article 6a (3) refers to a monthly billing period. As a monthly billing period applies only to a post-paid subscriber, the provisions of this Article can only be interpreted as applying to such subscribers and not pre-pay subscribers.

In light of the above, Meteor would argue that **Paragraph 22** of the Draft ERG Guidelines should be deleted.

**Paragraph 24** states that a monthly billing period for a pre-pay tariff should be considered as a period of one month calendar or starting from the latest top-up. In light of the arguments above, Meteor would request that this paragraph is deleted from the Guidelines.

**Paragraph 26** states that for the purposes of Article 6A (3) the volume of data consumed by a fixed price MMS sent or received cannot be counted towards an agreed volume limit. However, **Paragraph 27** goes on to state that fixed price MMS can and should be counted towards an agreed financial limit. Meteor would question this interpretation.

Meteor is aware that the revised Definitions, Article 2 (k), stipulate that “a regulated data roaming service does not include the use of regulated roaming calls or SMS messages, but does include the transmission and receipt of MMS messages”. However, please note that on the Meteor network, an MMS is not defined as a data roaming service. Pricing for access is discrete and related to the sending of an individual MMS and is not volume based. The transmission cost of provision of an MMS is not charged, as an MMS is charged on an individual unit basis. There is also no charge for receipt of an individual MMS message.

In addition, please note that the sending and receipt of MMS messages are also provisioned from a discrete platform. Merging information between the data delivery platform and the MMS platform so as to count fixed price MMS towards an agreed financial limit would involve considerable development work.

As Meteor believes this interpretation extends the scope of the Regulation, and its inclusion would result in unjustifiable development work to merge IT systems, Meteor would request that **Paragraphs 26 and 27** are deleted from the Draft Guidelines.

**Paragraphs 32/ 33/ 34** discuss the implications for data downloading when a data session is interrupted when a regulated data session access period is reached. The Draft Guidelines state that operators should make every effort to preserve data that

was in the course of being downloaded when a financial limit is reached, in order to allow the customer to resume the download.

Meteor would argue that this interpretation of the scope of the Regulation places operators in an impossible position. It is not technically possible for Meteor to guarantee the preservation of data when access is suspended and indeed such a guarantee is impossible to provide as this provision is outside the control of an individual operator. For this reason, Meteor would argue that the Draft Guidelines should be revised.

It would also appear that such a requirement would impose an obligation on operators to retain the content during such access period in order to facilitate the possibility of enabling the resumption of a download. This requirement would therefore expand the requirements of data retention on mobile operators and be entirely inconsistent with the prior EU directives in this area (and indeed with the privacy rights of subscribers), where it has been established that the content of data sessions is not required to be retained – specifically Directive 2006/24/EC and Directive 2002/58/EC.

## **Wholesale Issues: Voice and Data Roaming Caps**

Meteor would argue that the interpretation and guidance outlined in **Paragraphs 38-40** exceed the scope of the Regulation and, in advance of publication, should be removed from the Guidelines.

## **Additional Issues**

Meteor accepts that it is the interest of both consumers and operators to maintain continuing dialogue with national regulatory authorities on all practical implementation issues surrounding the regulation. Detailed discussions will be held over the coming months with the national regulatory authority in Ireland, ComReg, on all issues arising and the specificities of implementation.