



ERG – Public consultation

on

International Roaming Regulation

Submissions by Portugal Telecom

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This document expresses the position of TMN (PT's mobile operator) concerning some issues raised by the ERG Draft Document on the Guidelines for International Roaming Regulation (ERG (09) 24).

6) 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.

TMN is able to send one SMS providing information about prices for voice, SMS, MMS and data communications. However, in regard of prices for data the information provided is not personal to the customer; at this time, due to technical constraints, TMN can only inform the maximum price that may apply.

7) For data roaming, the information must be sent to the customer's mobile phone or other device, for example if they use a PDA or a laptop with a dongle. The means of sending the information are left to the provider's discretion, for example by SMS, email or a pop-up window. ERG considers it important that the 'information should be delivered... in the manner best suited to its easy receipt and comprehension' (Recital (34)) and in sufficient detail to enable the customer to make a basic, informed purchasing decision (subject to the ability to obtain more detailed information by freephone service). ERG understands that at present, a landing page or a pop-up window is technically difficult to provide for mobile handsets. Nonetheless, for all devices to the extent technically feasible, ERG considers it good practice to provide the information in a way that does not require the customer to navigate away from the data roaming service in order to access it, for example by means of a free of charge landing page that opens when the data session is first initiated, before any data transfer takes place.

TMN is able to send one SMS to the mobile phone/device, with information in respect of the maximum charges a customer might pay for data communications, Internet browsing and access to e-mail. Additionally, the customer may call 12083 (or +351961000083) free of charge in order to obtain additional information on Roaming for the countries covered by EU regulation.

8) The following information must be provided to roaming customers:

a) the maximum charges while in the visited country for roaming voice calls made back to the subscriber's home country and within the visited country, for sending regulated roaming SMS, and for using regulated data roaming services, which includes charges for sending a roaming MMS. Providers must also send information on maximum charges for calls received and for MMS received that the customer will pay under his or her tariff scheme;

- b) the possibility of accessing the emergency services by dialling 112 free of charge; and
- c) a free phone number from which the customer can obtain more detailed personalised information on voice, SMS, MMS or data services and information on the transparency measures in the Regulation, by means of a voice call or an SMS.

Customers have the possibility to opt-out of receiving information on regulated voice and SMS roaming services, 112, and the free phone number for more detailed information on the one hand, and the possibility to opt-out of receiving information on regulated data roaming services, including MMS, on the other hand.

Depending on the device, the following distinction shall be made:

- A) Messages sent to mobile phones, whenever a customer registers on a foreign network, in a Regulated area

As of July 1st 2009, TMN shall send two messages:

- Message 1: this message will include prices for voice calls and SMS, information on the possibility of dialling 112 free of charge and announcement of number 12083, which customers may call, free of charge, in order to obtain additional information.
- Message 2: this message will provide customers with information on charges for data communication for Internet browsing and access to e-mail and also on the charges for sending and receiving MMS.

Message 2 will be sent again by TMN when the customer begins his/hers first data session, with a maximum delay of one hour.

The possibility of opting-out from message reception is available, but due to technical constraints TMN cannot guarantee opting-out in regard to only one of the messages mentioned above.

- B) Messages sent to mobile devices, whenever a customer registers on a foreign network, in a Regulated area

As of July 1st 2009, TMN will send one message giving information on the maximum charges customer may pay for Internet browsing and access to e-mail, whenever he/she registers on a foreign network.

This message will be sent again by TMN when the customer begins his/hers first data session, with a maximum delay of one hour.

19) Article 6a(3) of the Regulation requires providers to make available to their customers one or more financial or volume limits on data roaming use during an agreed specified period, subject to the customer's consent to continue. This is intended to enable customers to avoid

running up bills that are higher than intended or expected. ERG understands the 'customer' to be the contracting party, so that a single limit would apply to all of the SIMs within a family contract.

20) In the period 1 March 2010 to 30 June 2010, providers must allow customers to select a limit (i.e. during this period the limit is 'opt-in').

21) From 1 July 2010 the limit becomes 'opt-out': providers must apply the default financial limit or default.

Until March 1st 2010, TMN will implement the following alerts:

- Customers with packages “Roaming Dados Pacote Diário” (daily plan) and “Roaming Dados Pacote Semanal” (weekly plan): these customers will receive alert messages whenever their consumption reaches 80% and 100% of the plafond included in the package (SIM Alert). Additionally, TMN might include an additional alert when 50% of the plafond is reached.

After the plafond limit is reached (and extra-plafond traffic is generated), customers will start receiving an alert whenever they reach a specific amount of billing. There will be a default financial limit defined by TMN (€50 before VAT, or less), but customers can require another limit.

- Customers with Standard Roaming Data Tariff Plan: customers with standard Roaming Data Tariff Plan will receive an alert whenever they reach a specific amount of billing (SIM alert). There will be a default financial limit defined by TMN (€50 before VAT, or less), but customers may request another limit.

22) The default financial limit must be close to but not exceed 50 € of outstanding charges per monthly billing period (excluding VAT). The default volume limit must have a corresponding financial limit not exceeding 50 € of outstanding charges per monthly billing period (excluding VAT). 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. Note that the limit relates to the accumulated expenditure per specified period, and not per data session.

22) ERG understands that the financial or volume limit must be made available to post-pay and pre-pay customers. Although pre-pay customers may not be able to spend more than their credit balance, they do not necessarily expect or intend to spend all of their credit on data roaming. That may be unavoidable if the customer has credit lower than the financial or volume limit provided under Article 6a(3), but ERG considers it important that customers with more significant amounts of pre-pay credit are afforded protection under the Article. Limiting the amount of pre-pay credit to a specified sum (in particular, 50 €) is not a means of complying with Article 6a(3), since the customer might still maintain a wish not to spend all of their credit on data services.

TMN will not establish a correspondence between traffic volume and billing value limit:

- Volume alerts will only be sent to customers with packages “Roaming Dados Pacote Diário” (daily plan) and “Roaming Dados Pacote Semanal” (weekly plan) when 80% and 100% (and possibly 50%) of the plafond included in the package is reached. When the plafond limit associated to the package is exceeded, customers receive a billing amount alert.
- Billing amount alerts will be sent to customers with standard Roaming Data Tariff Plan and to customers of the above mentioned packages who go beyond the traffic plafond.

In the alert message sent, customers will be informed that further information may be obtained at TMN’s website.

Alert messages will be sent both to Pre-Paid and Post-Paid customers.

29) Although the Regulation does not prescribe how the warning has to be sent to the customer's handset or other device, it must be 'appropriate... for example by an SMS message, an e-mail or a pop-up window on the computer'. ERG considers that providers should choose the means that will maximize the customer's chances of receiving and being able to act upon the notification bearing in mind the device and type of data service used.

The alert message sent by TMN will make clear that the limit mentioned refers to data communications and does not include either sending or receiving MMS. TMN considers that this is the most comprehensible method for the customer as MMS are charged per event and not based on volume transferred. Furthermore, the “welcome” message sent to the customer whenever he/she registers on a foreign network will contain information regarding the price of MMS sent and received.

31) Customers can require their provider to stop sending such notifications, and to start again, free of charge.

TMN will assure, free of charge, that no alert notifications will be sent if the customer so requires. In the same way, the customer may ask for the alert notifications to be restored, free of charge.

Customers with “Roaming Dados Pacote Diário” (daily plan) or “Roaming Dados Pacote Semanal” (weekly plan) are an exception, as they will always receive alert messages whenever the pre-established volumes of traffic consumption (80% and 100%, maybe 50%) are reached.

32) When the agreed financial or volume limit is reached, the provider is required to send another notification to the customer's mobile handset or other device. The notification must

indicate how to continue using data services, if the customer wants to, and the cost of any additional data units consumed. If the customer does not respond as indicated, the provider must immediately 'cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the customer requests the continued or renewed provision of those services'. This includes any MMS that are subject to a variable tariff. Providers may continue to provide and to charge for fixed rate MMS, in the same way as voice and SMS roaming services.

Until March 1st 2010, TMN shall implement the procedure to cease roaming data services whenever a SIM card reaches the alert limit (default financial limit or other limit specified by the customer).

In the SMS alert message the customer will be notified that the service is going to be deactivated when the limit is reached. In case the customer wishes to continue to use the service, he/she must reply to the SMS sent by TMN and request for the service not to be deactivated. This control is defined for the billing period (month).

35) By 1 March 2010, providers must also allow their customers to opt for a facility that provides information on their accumulated consumption expressed in volume or in the currency in which they are billed.

Alert messages sent shall pertain the billing period (it will not be possible to send SMS messages with information on the accumulated traffic consumption after the end of each data session) to all customers with Standard Roaming Data Tariff Plan.

As for customers with Roaming Dados Pacote Diário (daily plan) or Roaming Dados Pacote Semanal (weekly plan) packages, alert messages will refer to traffic volume (concerning the usage included in the plafond) and a new SMS will also be sent when the billing limit on traffic goes beyond the plafond.

Customers can access information about accumulated values in the "self-care" option on TMN's website, where all consumed traffic volume and respective billing value can be checked.

45) Article 3 (3) states:

*... with effect from 1 July 2009, the average wholesale charge referred to in paragraph 1 shall be calculated by dividing the total wholesale roaming revenue received by the total number of wholesale roaming minutes actually utilised for the provision of wholesale roaming calls within the Community by the relevant operator over the relevant period, aggregated on a per second basis **adjusted to take account of the possibility for the operator of the visited network to apply an initial minimum charging period not exceeding 30 seconds.***
(emphasis added)

46) This means that at the wholesale level operators must also bill on a per second basis, subject to a minimum initial charging interval of up to 30 seconds.

TMN would like to confirm whether its understanding on this matter is correct: if an operator chooses to set an initial minimum period of 30 seconds the average wholesale price that results from dividing the total revenue by the actual minutes can never exceed €0.26 per minute for the period in analysis, for each pair of operators, that is, an operator that chooses to set this initial period will have to establish a price per minute lower than €0.26, in order to ensure compliance with the price-cap.

50) Article 4(2) prohibits charges for voicemail messages that are deposited in the roaming customer's network mailbox by another caller.

51) The home operator is not prevented from levying 'other applicable voicemail charges', for example when the roaming customer listens to a message left in their network mailbox. The transfer to the roaming customer's network mailbox of any voicemail messages that have been left in that customer's non-network mailbox, for example if the customer uses personal numbering, should be considered as a different service to the one described in Article 4(2).

This Regulation does not establish any restriction at wholesale level, despite prohibiting any "charges for voicemail messages that are deposited in the roaming customer's network mailbox by another caller". TMN considers that imposing such rule at the retail level requires an equivalent measure to be implemented at the wholesale level.